



Second Session - Thirty-Seventh Legislature

of the

**Legislative Assembly of Manitoba**

**Standing Committee**

on

**Law Amendments**

*Chairperson*  
*Mr. Doug Martindale*  
*Constituency of Burrows*



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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Seventh Legislature**

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**LEGISLATIVE ASSEMBLY OF MANITOBA**

**THE STANDING COMMITTEE ON LAW AMENDMENTS**

**Monday, June 18, 2001**

**TIME – 6:30 p.m.**

Bill 41—An Act to Comply with the Supreme Court of Canada Decision in *M. v. H.*

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Doug Martindale (Burrows)**

Ms. Lorri Millan, Private Citizen

Ms. Nadin Gilroy, Private Citizen

Ms. Carole Boily, Private Citizen

Mr. Gilles Marchildon, Private Citizen

Ms. Kristine Barr, Private Citizen

Ms. Debbie Patterson, Private Citizen on behalf of Karen Busby

Mr. Elliot Leven, Private Citizen

Mr. Roy Purvis, Private Citizen

Ms. Noreen Stevens, Private Citizen

Ms. Donna Huen, Rainbow Resource Centre

Ms. Jordan Kunda, Private Citizen

Ms. Keith Louise Fulton, Private Citizen

Ms. Maxine Hasselriis, Private Citizen

Mr. Timothy Preston, Private Citizen

Mr. Lloyd Fisher, Private Citizen

Ms. Loraine MacKenzie Shepherd, Private Citizen

Mr. Pete Walker, Manitoba Federation of Labour

Ms. Robin Brownlie, Private Citizen

Ms. Sharon Pchajek, Private Citizen

Ms. Maureen Pendergast, Private Citizen

Mr. Thomas Novak, Private Citizen

Ms. Kerry Cazzorla, Private Citizen

Ms. Kim Simard, Canada Family Action Coalition

Mr. Mike Tutthil, Private Citizen

Ms. Kerri Olinkin, Private Citizen

Ms. Susan VanDreser, Private Citizen

Ms. Krista Piché, Private Citizen

Ms. Norma Drosdowech, Private Citizen

Ms. Irene McKenzie, Private Citizen

Ms. Valerie Wadephul, Private Citizen

Mr. Tim Jeffrey, Private Citizen

Ms. Jenny Gerbasi, Private Citizen

Mr. John Mann, Private Citizen

Ms. Karin Erhardt, Private Citizen

Mr. Brad Tyler-West, Private Citizen

Mr. Robert Crittenden, Private Citizen

**VICE-CHAIRPERSON – Ms. Bonnie Korzeniowski (St. James)**

**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Ms. Barrett, Hon. Messrs. Caldwell, Mackintosh, Hon. Ms. Mihychuk, Hon Mr. Selinger

Ms. Korzeniowski, Messrs. Martindale, Praznik, Mrs. Stefanson, Mr. Tweed

*Substitutions:*

Mr. Loewen for Mr. Pitura

**APPEARING:**

Hon. Jon Gerrard, MLA for River Heights

Hon. Steve Ashton, MLA for Thompson

Mr. Jim Rondeau, MLA for Assiniboia

**WITNESSES:**

Bill 7—The Manitoba Hydro Amendment Act

Mr. Paul Moist, Canadian Union of Public Employees Manitoba

Mr. Albert Cerilli, President, Manitoba Federation of Union Retirees

Ms. Michelle Forrest, Private Citizen

Bill 10—The Safer Communities and Neighbourhoods and Consequential Amendments Act

Mr. Fred Curry, Private Citizen

**WRITTEN SUBMISSIONS:**

Bill 41—An Act to Comply with the Supreme Court of Canada Decision in *M. v. H.*

Mr. Ken Mandzuik, Manitoba Association for Rights and Liberties

Ms. Sally Naumko, Private Citizen

Mr. Harry Mesman, Canadian Labour Congress, for Nancy Riche.

**MATTERS UNDER DISCUSSION:**

Bill 7—The Manitoba Hydro Amendment Act

Bill 10—The Safer Communities and Neighbourhoods and Consequential Amendments Act

Bill 41—An Act to Comply with the Supreme Court of Canada Decision in *M. v. H.*

\* \* \*

**Mr. Chairperson:** Good evening. Will the Standing Committee on Law Amendments please come to order. The first order of business before the committee is the election of a Vice-Chairperson. Are there any nominations?

**Hon. Becky Barrett (Minister of Labour and Immigration):** Mr. Chair, I nominate the Member for St. James (Ms. Korzeniowski).

**Mr. Chairperson:** Are there any further nominations? Seeing none, I declare the Member for St. James is the Vice-Chair of this committee.

This evening the committee will be—

**Committee Substitution**

**Mr. Mervin Tweed (Turtle Mountain):** Mr. Chairman, with the leave of the committee, I would like to make the following membership substitutions, effective immediately, for the Standing Committee on Law Amendments: the Member for Fort Whyte (Mr. Loewen) for the Member for Morris (Mr. Pitura).

**Mr. Chairperson:** Is there leave of the committee for committee substitutions?  
[Agreed]

\* \* \*

**Mr. Chairperson:** This evening the committee will be considering the following bills: Bill 7,

The Manitoba Hydro Amendment Act; Bill 8, The Mines and Minerals Amendment Act; Bill 10, The Safer Communities and Neighbourhoods and Consequential Amendments Act; and Bill 41, An Act to Comply with the Supreme Court of Canada Decision in *M. v. H.*

We have presenters who have been registered to make public presentations on Bill 7, The Manitoba Hydro Amendment Act; Bill 10, The Safer Communities and Neighbourhoods and Consequential Amendments Act; and Bill 41, An Act to Comply with the Supreme Court of Canada Decision in *M. v. H.*

It is the custom to hear public presentations before consideration of bills. Is it the will of the committee to hear public presentations on the bills, and, if yes, in what order do you wish to hear the presenters?

**Ms. Barrett:** I would move that we hear all the public presenters on the bills in the following order: Bill 7, Bill 10, Bill 8 and Bill 41.

**Mr. Chairperson:** Thank you. Is the order of bills agreed on? I understand there are no presenters on Bill 8.

**Mr. Darren Praznik (Lac du Bonnet):** Mr. Chair, given that there are just so many presenters on Bill 41, I would ask if the committee would give some consideration to ensure that we do not sit over a reasonable time this evening, so that it does allow those people who wish to make a presentation the full opportunity to do so. I would wonder if the Government House Leader (Mr. Mackintosh) and minister would have a recommendation so that people are not having to stay here till the wee hours of the morning to be heard, and that, as House Leader, he could then reschedule another sitting of this committee so we accommodate people in a reasonable fashion. There is quite a lot of interest in this bill, and presenters should be properly accommodated.

**Ms. Barrett:** Mr. Chair, I think as has happened in the past, I remember a situation just last year where we had a bill that had over 150 presenters. I think what we did at that time was to go through the list once, and anybody who was here and wished to make a presentation we accommodated in the first instance. Anybody

who was unable to stay to the end of the going through the list the first time was moved to the bottom of the list, not dropped, and then was accommodated at a second hearing time to be determined. I think that would allow for people who wish to stay here today and to make their presentations today to be able to do so, while, at the same time, allowing for people who would like to leave at an earlier hour not to lose their opportunity to be able to make a presentation.

As we get further along, I have some suggestions as to ordering of people in the first order of priority for the bills.

\* (18:40)

**Mr. Praznik:** Well, Mr. Chair, I have some concern with running through the whole list at some wee hour of tomorrow morning simply to have people eliminated. As you can see from the crowd, there are many people here who have children with them, and they want to be heard. They have a right to be heard. I am going to move that this committee not sit past the hour of 11 o'clock, and whatever place we have reached on the list at that time, that is where we will end. The House Leader can reschedule the next day so that we are not running through that list.

Just so the public understands what the Member for Inkster (Ms. Barrett) is recommending. Whatever time we adjourn, we run through the whole list, and people will have lost their first call. The custom and rule of our committee is we call them twice. Many people may be eliminated if they cannot come to a second hearing. Given the number of presenters on this, we could have two or three sittings to hear the presenters.

I am going to move for a vote of this committee, and I hope New Democrats will support it, that we not sit past 11 o'clock. We will end the list at whatever point we are at, at that time, and no one will be disenfranchised by having their name called for a first time, unless, of course, they are at that point on the list.

**Ms. Barrett:** I concur with the Member for Lac du Bonnet that we need to be fair. I think that there is an issue of disenfranchisement too.

If there are people who have made arrangements to be here tonight and would be unable to come another night. If we announce that we will be going through the list once and we will be establishing another time. If we also say that people who have children, in addition to our traditional accommodation of people from outside Winnipeg being heard first, that would address a number of issues, I think, and would allow for people who have made arrangements to come tonight to make presentation. If we also do, as has been done in, I know, the agricultural bill this session, which is to announce that anyone who has a written presentation and would like to give that presentation, that will be part of the official record; it will be reproduced in full in Hansard. I think, then, that we have accommodated people.

We have a tradition, as we have shown in the past, of going through the list once to accommodate those who wish to make their presentation tonight.

**Mr. Praznik:** I have no problem with, when we reach the hour of 11 o'clock, anybody who has had their place in the order who has not been here, their name has been called, I have no problem. In fact I will even suggest to this committee that we hear those who are out-of-town presenters, as is our tradition, and those who have children first, as the member suggested.

I do want to move that this committee will adjourn at 11 o'clock tonight. Wherever we have been on the list that is where the list will stay as of 11 o'clock tonight. The House Leader, who is also the minister here today, who has it within his power, can easily call another session with enough notice to accommodate other people.

The point of the matter here is we have some 53 presenters on Bill 41. Those people, I have met many of them coming into the room today, have children. They feel very strongly about this particular bill. They have a right to be heard. I think we should set the game rules early in the game to ensure we accommodate people in a reasonable fashion so that they are heard.

What we are afraid of is that, without having a timeline, this Government will do what they

did on an education bill last year, and they will continue to sit well past midnight and they will wait until there is hardly anybody left, because people have children and they have work tomorrow. Then they will call through the list one time, so all those people have been called once, and then the minister will pick another time to call this committee tomorrow morning, or we will call it for a morning, cannot call it for tomorrow morning, but another night. Many of those people will be disenfranchised from speaking.

I remember sitting here many times, as a minister, when New Democrats made that argument. I think we all arrived at some consensus over the years. I give credit to the Member for Thompson (Mr. Ashton), then Opposition House Leader, where we arrived at some reasonable time frames around the operation of committees. Those have been carried through, generally speaking. I think this is a case where we have many, many presenters where we should do that. People want to feel heard. This is a bill that is of great importance to them, and they should have a right to be heard and not see the bill rammed through.

This Legislature has many days ahead of it, and many opportunities in which to arrange for public hearings. So we simply say if we know 11 o'clock is the hour in which we will adjourn wherever we are on the list at that time, so be it.

The House Leader, who is sitting here in this committee today, can reschedule another hearing. We may take three sittings of this committee to hear everyone, but I think it is important that people get their opportunity to voice their opinion. Many of the people have come here because it is important to them, and we should not be running through this bill at midnight or one in the morning just to accommodate a government's speedy agenda.

So I have a motion. I would move, and I do not believe I need a seconder for this, that the Standing Committee on Law Amendments adjourn at 11 p.m. and reconvene at a later date as agreed to by House leaders, and that is my motion.

**Mr. Chairperson:** It has been moved by the Member for Lac du Bonnet that the Standing

Committee on Law Amendments adjourn at 11 p.m. and reconvene at a later date as agreed to by the House leaders. This motion is in order. Is there anyone else who wants to speak to it?

**Ms. Barrett:** No, vote. I have spoken.

**Mr. Chairperson:** Anyone else want to speak to the motion?

#### Voice Vote

**Mr. Chairperson:** All those in favour of the motion, please say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, please say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Nays have it.

#### Formal Vote

**Mr. Praznik:** I would like Yeas and Nays, Mr. Chair.

**Mr. Chairperson:** A recorded vote has been called for.

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

**Mr. Chairperson:** The motion has been defeated.

**Ms. Barrett:** I would like to move a motion that the Committee on Law Amendments call through the list of presenters and hear any who are in attendance. Those who are not in attendance will be called at a subsequent hearing.

**Mr. Chairperson:** Debate on the motion? Oh, we need it in writing? Mr. Praznik.

**Mr. Praznik:** I just want the present—

**Mr. Chairperson:** Sorry, Mr. Praznik, I need to read it into the record.

Moved by the Member for Inkster (Ms. Barrett) that the Law Amendments Committee

hear all presenters who are—I am sorry, I will start again.

Moved that the Committee on Law Amendments call through the list of presenters and hear any who are in attendance. Those who are not in attendance will be called at a subsequent hearing.

**Mr. Praznik:** I just want the public to be aware that what Minister Barrett is moving is a motion to ensure that everybody who is on the list, some 53 presenters, and normally we get through three or four an hour, will be called through the list at some time in the wee hours of tomorrow morning so that they will have forfeited one call on the list, and that at some time in this Government's good graces, they will reconvene this committee and they will get one more chance. If they fail to be there they will be off the list and denied the right to make a public presentation.

So I want to say on behalf of our members that we will be opposing this motion, which is going to be used ultimately to deny presenters to speak on what is a controversial issue.

**Ms. Barrett:** I do not want to extend this discussion too long but I do need to put it on the record that this has been a practice of the House for many years. This is not something that is new. I just think that it allows people the opportunity to choose to stay, and if they cannot they can come back at a subsequent hearing, which will be held in a very short period of time, as it always is, and also allows for people who have taken the time to come tonight and who wish to make their presentation to be able to do that tonight.

\*(18:50)

**Mr. John Loewen (Fort Whyte):** Mr. Chair, I also wish to indicate that the motion that has been put forward was used defectively last year by the Government to, in effect, force closure on debate and make it very inconvenient for those who wanted to present to various committees to make it inconvenient for them to present. What we are attempting to do here is bring a better measure of fairness to the process, so that the people who have taken time to join us tonight

will get an opportunity to be heard in a reasonable fashion; not be called at three, four, five, six in the morning only to find out that if it is inconvenient for them to stay that late, or if it is inconvenient for them to come to the next sitting of the committee, which as we saw last year was often scheduled during the day to preclude people from attending, that they will have lost their opportunity to present to this committee.

We are simply asking that this Government operate above board and take the time and convene the committee at a time and times when it is convenient for presenters to make their views heard on this very controversial bill.

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** Well, this is a little song and dance that happens before audiences in the committee room for years and years. Instead of listening to ourselves speak, why do we not let the public speak and get on with it? Then the issue becomes moot.

#### Voice Vote

**Mr. Chairperson:** All those in favour of the motion, please say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, please say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it.

#### Formal Vote

**Mr. Praznik:** I would like a recorded vote, please.

**Mr. Chairperson:** A recorded vote has been requested.

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

**Mr. Chairperson:** The motion is carried.

In what order shall we deal with bills tonight?

**Ms. Barrett:** I suggest, or move, whichever is appropriate, that we deal with Bills 7, 10, 8 and 41 in that order. I understand that Bill 8 has no public presenters listed ahead of time, but there may be someone in the audience who would wish to make a presentation.

**Mr. Chairperson:** Is that agreed? *[Agreed]* I will then read the names of the persons who have registered to make presentations this evening: Bill 7, The Manitoba Hydro Amendment Act: Paul Moist, Albert Cerilli, Michelle Forrest; Bill 10, The Safer Communities and Neighbourhoods and Consequential Amendments Act: Fred Curry; Bill 41, An Act to Comply with the Supreme Court of Canada Decision in *M. v. H.*: Kristine Barr, Karen Busby, Elliot Leven, Lorri Millan and Nadin Gilroy.

My apologies, in advance, for mispronouncing any names: Roy Purvis, Noreen Stevens, Donna Huen, Gilles Marchildon, Snake Kunda, Ms. Keith Louise Fulton, Maxine Hasselriis, Timothy Preston, Herb Neufeld, Lloyd Fisher, Loraine MacKenzie Shepherd, Rob Hilliard, Robin Brownlie, Maureen Pendergast, Sharon Pchajek, Brother Thomas Novak, Kerry Cazzorla, Kim Simard, Mike Tutthil, Kerri Olinkin, Kate Tate, Susan VanDreser, Asher Webb, Krista Piché, Donald Teel, Norma Drosdowech, Michael Law, Ken Mandzuik, Irene McKenzie, Karen Boily and Carole Boily, Valerie Wadehul, Tim Jeffrey, Elizabeth Carlyle, Penny Piper, Jenny Gerbasi, John Mann, Sally Naumko, Anne Gregory, Sacha Paul, Karin Erhardt, Harry Mesman, Sarah Inness, Kusham Sharma, Brad Tyler-West, Manny Calisto, Lonnie Patterson, Margaret McKenty, Sara Malabar, Grant Fleming, John Krowina, Brian Hanslip, Robert Crittenden, David Schesnuk.

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

I understand that we have an out-of-town presenter in attendance this evening registered to

speak on Bill 41. Is it the will of the committee to hear from out-of-town presenters first?

**Ms. Barrett:** Yes, I would, and I am not sure if this in order, but I would also like to suggest that we hear the out-of-town presenters, as has been our practice in the past, and that we also hear from people who are here with children, and I understand that we have one request for two presentations in French. So I would suggest that we go through those three categories; rural or out-of-town, persons with children and those who require French translation, first.

**Mr. Chairperson:** Is that agreed? *[Agreed]*

The out-of-town presenter registered to speak is Lonnie Patterson, Brandon University Students Union. Could I ask those persons in attendance who are speaking in French to make themselves known to the Clerk of the committee if you have not already done so?

**Hon. MaryAnn Mihychuk (Minister of Industry, Trade and Mines):** Just for clarification, we are dealing with the presenters on Bill 7 first, then Bill 10, then Bill 8, in that order prior to dealing with Bill 41.

**Mr. Chairperson:** I would also like to inform the committee that a written submission from Ken Mandzuik, Manitoba Association for Rights and Liberties, has been received. Copies of this brief have been made for committee members and were distributed at the start of the meeting. Does the committee grant its consent to have this written submission appear in the committee transcript for this meeting?

**Ms. Barrett:** I would suggest that we accept this one, and also accept any other written presentations that anyone who is registered to make presentation on any of the bills would choose to give in, and then it would be in Hansard as presented.

**Mr. Chairperson:** Is it agreed that any presenter who cannot stay or does not want to present in person, that if they submit their brief it will be included in Hansard as part of the written record of this committee? Is that agreed? *[Agreed]*.

**Mr. Tweed:** Just a note on the submission by the Association for Rights. They have referred to



it as Bill 42 and just to correct the record. I do not know if it can be submitted without the correction.

**Mr. Chairperson:** Is it agreed that we correct the record for the Manitoba Association of Rights and Liberties, that it is actually Bill 41 that they wish to present on. *[Agreed]*

Before we proceed with the presentations, is it the will of the committee to set time limits on presentations?

**Ms. Barrett:** I would suggest that we do as we have done in the past number of sessions and I believe in public hearings this session: have a 15-minute time for presentation and up to 5 minutes for questions from the committee members.

**Mr. Chairperson:** Is that agreed? *[Agreed]*

The out-of-town presenter is actually on Bill 41, since we have agreed to hear out-of-town presenters first, I presume that we will proceed that way. Agreed?

**An Honourable Member:** What is that?

**Mr. Chairperson:** The out-of-town presenters actually on Bill 41 which is not the sequence we agreed to, but we did agree to hear out-of-town first.

\* (19:00)

**Ms. Barrett:** I know that we agreed to hear out-of-town presenters. There are three presenters on Bill 7 and one on Bill 10. The vast majority are on Bill 41. My understanding is that it was the intention of the committee to hear the out-of-town presenters, any presentations from people with children, and any requiring translation as we go through each bill.

**Mr. Chairperson:** Agreed? I have just been informed by the Clerk that the out-of-town presenter, No. 49, has been asked to be removed from the list. I think it was actually another committee that is meeting simultaneously that was the intention.

#### **Bill 7—The Manitoba Hydro Amendment Act**

**Mr. Chairperson:** We will now call presenters on Bill 7, The Manitoba Hydro Amendment Act. First, Mr. Paul Moist representing CUPE.

**Mr. Paul Moist (Canadian Union of Public Employees Manitoba):** Mr. Chairman, members of the committee, it is my privilege to speak on behalf of the 24 000 members of CUPE Manitoba, including 1000 clerical and technical employees of Manitoba Hydro on Bill 7.

We support Bill 7, and we will not need 15 minutes to state it; but we wanted to speak to committee on this important piece of public policy. First and foremost, we believe Manitoba Hydro was created by the people of Manitoba and is owned by all Manitobans.

Secondly, we think Manitoba Hydro is a great success story. We enjoy amongst the lowest, if not the lowest, hydro-electric rates in North America. As we continue to experience rapid increases in natural gas, oil and fuel costs, *The Globe and Mail Report on Business* now refers to the Manitoba Advantage in referencing events in Alberta where electricity rate shocks are causing some businesses to look eastward to our province.

Finally, given the current financial strength of Manitoba Hydro and our potential for further export sales both within Canada and to the U.S., we submit that Bill 7 represents sound public policy, which protects the interests of all citizens.

In terms of why we need Bill 7, we submit that the former government's privatization of the former Manitoba Telephone System in 1996 provides ample evidence regarding the need for Bill 7, vis-à-vis Manitoba Hydro.

The previous government had no mandate from the people of Manitoba to privatize MTS. Indeed, the former Premier denied any such intentions in the Manitoba Legislature, and we cite a passage from Hansard on that.

Manitobans did not elect and did not mandate the former government to privatize MTS during the 1995 provincial election. Indeed, on May 3, 1996, in the *Winnipeg Free Press*, former Premier Filmon said that he admitted yesterday he argued against privatization in last spring's election campaign.

When Bill 67 was introduced in the fall of 1996, there was widespread opposition to the proposed privatization. There were warnings of

rate hikes, including from a prominent lawyer who did work for Manitoba Telephone System. Those articles are appended for you.

The CBC commissioned a Criterion Research poll in early November 1996 finding 67 percent of Manitobans opposed to MTS privatization. A rate of 78% opposition was recorded in rural Manitoba. That poll also, in the articles attended, indicated that people on both sides of the MTS issue wished and wished that they had had a plebiscite on it.

Since privatization, basic phone rates have almost doubled in this province. MTS executive salaries have skyrocketed. MTS workers had to endure a 99-day labour dispute. It is now clear that MTS shares, in the initial offering, were undervalued, and Manitoba brokers have been accused of cheating in the flood of activity associated with the offering. We append numerous newspaper articles to buttress those comments.

In closing, the use of referenda is an important public consideration, one that we think Government ought to carefully consider.

As stated, CUPE submits that the public good in our province will be well-served by Bill 7, requiring that the people endorse such a major public policy question as the privatization of Manitoba Hydro.

As citizens, we may not be able to force political parties to place such important questions before the people in their election platforms. We can ensure through Bill 7, though, that we do not have a repeat of the Manitoba Telephone System privatization. We submit that Manitobans will be well served by Bill 7, and that it ought to receive the unanimous endorsement of this committee and of the Legislature as a whole.

Thank you, Mr. Chairman. If there are any questions, we would be pleased to answer them.

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

Thank you for your presentation.

The next presenter is Mr. Al Cerilli, President, Manitoba Federation of Union Retirees.

**Mr. Albert Cerilli (President, Manitoba Federation of Union Retirees):** Good evening. The Manitoba Federation of Union Retirees is an affiliate of the Congress of Union Retirees of Canada, and it has 500 000 union retirees and their spouses and we wish to commend this Manitoba government and the Honourable Mr. Selinger for placing these changes in Bill 7 to amend The Manitoba Hydro Amendment Act to protect Manitobans from future Manitoba governments selling off the Manitoba Hydro utility.

Unlike the previous Manitoba Tory government, Manitobans woke up one morning and found that they had been duped and the publicly owned telephone system had been privatized and sold. Their core telephone system was no longer a Crown corporation returning the \$108 million profit it was announced recently the system earned in the year 2000: *Winnipeg Free Press*, February 21. In fact, the nerve of the privatized system was to rub salt into Manitobans' wounds and appear by application to the Canadian Radio Telephone and Telecommunications Commission, CRTC, and order a rate increase to have the new name Manitoba Telecom Services Inc.'s taxes paid by Manitobans.

Legislative public hearings are to hear from Manitobans and give their opinion and direction to the Government, and MFOUR will openly relate to this NDP provincial government the reason why this provincial government must proceed with the passing of Bill 7.

MFOUR and CURC believe in the Canadian approach of a mixed economy. Essentials, such as electric power for heating, for work, for health care, transportation, for electronic means of communication, EDI and Hydro, have an unprecedented reliance by society and must not be left to the market. The public must be protected. Bill 7 does that.

MFOUR, from time to time makes presentations, to the three levels of government, boards, commissions and other bodies who deal with public policy. This year, the year 2001, have appeared before the Manitoba Public Utilities Board on March 14 and May 14 and presented evidence on the hardship of high heating fuels prices by the producers on the consumers.

The case before the PUB was an increase requested by the Manitoba Hydro subsidiary, Centra Gas. The one brief and two letters to the Prime Minister of Canada, with copies to opposition parties and others, are attached for your reference. The call for a Canadian price on heating fuel tied to a Canadian energy policy is crucial for Canada. Canadians and Canadian businesses are under extreme added fuel cost pressure. Gas, oil and electricity producers must work with governments to find the solution, and deregulation and privatization of Manitoba Hydro is not the answer. Bill 7, to protect its ownership by Manitobans, is essential and must pass into legislation.

MFOUR will not take this legislative committee on a trip to the U.S. or California to highlight the fact that privatization does not work, nor is it in the best interest of the public or business. MFOUR will, however, take you to our sister province of Alberta, and relate the buy-off by the Alberta government of its citizens, to justify that in the end all lies with deregulation and privatization of government ownership on behalf of the citizens and taxpayers, in Alberta's case, government owned means of hydro production.

\* (19:10)

In brief review, I quote from *The Globe and Mail Report on Business Magazine*, March 2001, an article titled *PowerTrip* by Andrew Nikiforuk and photographer James LaBounty. The article begins, and I quote in part: Ralph Klein promised that deregulating electricity would boost the Alberta Advantage. How did it end up being a province-wide industrial accident?

To quote further from the article: John Davies, a 37-year-old vice-president of Lethbridge Ironworks Co. Ltd., asked of Premier Klein at a fundraiser dinner after stating during the question and answer, he outlined it bluntly. Under the province's screams to deregulate electricity, his company faced a 250% jump in power costs. He explained that such a drastic increase could destroy the competitiveness of a 102-year-old firm, one of North America's leading foundries. "What am I supposed to do," asked Mr. Davies?

For more than the whole article attached, you will find that there are other incidents in the

article that report fact on why deregulation and privatization simply does not work.

Alberta is blessed with oil and gas production, and these producers pay energy royalties to the federal and provincial governments in the billions of dollars. With the recent election, under election pressure, Albertans received generous rebates from the government coffers. With some pain, an election was bought. On rebate, the *Winnipeg Free Press* on April 9, 2001, carried a short article from Edmonton titled *New Gas Rebate*. See the attached. See the *National Post* article on the Alberta Throne Speech by reporter John Cotter, Alberta pledges more gas rebates. Well, they are fortunate to have that kind of money. I do not think the other provinces in this country do.

Manitoba does not have oil and gas producers making mega profits and the Manitoba government does not collect billions of dollars in royalties. One would think that those businesses under the high cost of natural gas from the producers would be here supporting Bill 7, to retain, on their behalf, a level cost of power for their means of doing business. In the event businesses and their organization representatives are here in support of the Manitoba government, to have Bill 7 passed without delay, I personally assure them of my sincere apology. That is if they are here, not like other hearings that I have been to. There has been nothing but dragging their things out in regards to what should happen in a two-tier system of minimum wage and health care and so on.

MFOUR is supporting Bill 7, recognizes it tracks provincially owned utilities and their profits that are returned. In the March 28, 2001, report by *The Globe and Mail*, and I quote: Hydro Québec profits surge above one billion. The article goes on to state: Revenue from the electrical sales to the United States has more than doubled to 2.4 billion. See the attached. Of course Hydro Québec is a Crown corporation.

In the attached brief to the PUB, on May 14, 2001, MFOUR points out, Mr. Chair, that in the haste to make a deal, the Newfoundland Premier of the day signed a power agreement with Québec that was lopsided and did not protect

Newfoundlanders and Labradorians. While the agreement gives guidance for future negotiators between provinces, federal governments and the possibility of the U.S., the need to protect your own comes first.

As in the case of Bill 7, a process takes place if an estranged provincial government decides without citizens' approval, to sell off the assets of Manitoba Hydro. We again commend the minister, Mr. Selinger, and his government ministers, government MLAs and the honourable First Minister, the Premier of Manitoba, Mr. Doer, for pushing for this bill and pushing for the development of a Hydro that will protect the environment, air quality, the water and working for and with the people of Manitoba and First Nations, and proceed to ensure that Manitobans get the best out of all this so that we are protected.

Thank you very much, and I will answer some questions if you have any.

**Mr. Chairperson:** Thank you, Mr. Cerilli. I see no questions. Thank you very much.

**Mr. Cerilli:** I would ask the Chairperson to have the whole brief read into the record for the purpose of information and for the public record. Thank you very much.

**Mr. Chairperson:** It is already part of the public record. The next presenter is Michelle Forrest.

**Ms. Michelle Forrest (Private Citizen):** I am really not good with this cane yet, so you know.

**Mr. Chairperson:** Excuse me, Ms. Forrest, would you like to sit down and make your presentation?

**Ms. Forrest:** No, actually standing is fine. I am going to be two minutes, and then I am leaving. I would like to speak to Bill 7 to the members of the committee.

Good evening. I am here to speak to Bill 7, The Manitoba Hydro Amendment Act, a bill that is designed to prevent any government from selling Manitoba Hydro's core business assets, without a clear mandate to do so from the citizens of Manitoba. First, I am in support of

Bill 7, including but not limited to the following reasons.

Since the privatization of the Manitoba Telephone System, the rates have risen to meet shareholder expectations of returns and to pay income tax for the corporation. This has made a telephone a luxury for many of Manitoba's residents who live on fixed incomes. If privatized, Manitoba Hydro would necessarily follow the same process. Manitobans would lose dollars in payments through federal income taxes and profits would not stay here, or really benefit the residents by providing a subsidization of domestic rates. A good domestic rate is a definite business advantage as we know from *The Globe and Mail*. I did not know that. Citizens would no longer be the owners and therefore the beneficiaries of a corporation that maximizes those advantages in the form of PowerSmart, employment targets for Aboriginal people and the other programs Manitoba Hydro operates.

The Board of Manitoba Hydro is responsible to all Manitobans and must reflect the views of the citizens. I personally like that part. It is my belief that as electricity is produced by utilizing a resource, in this instance, water, that is recognized as a public resource, it is unethical to place the advantage of ownership into a few hands. Manitoba Hydro is a fully developed corporation with a large infrastructure, built by public workers, funded by public dollars. Therefore, the benefits of this should be there for future generations, not simply sold to make a profit for a few.

The legislation sections that provide protection regarding the sale, that is sections 15.1(2), 15.1(3), 15.1(4), et cetera, seem straightforward and protect Hydro in joint venture situations. Section 15.1(5) describes under what circumstances the subsidiary receives a loan or obligation guarantee, and to assure that it is in the best interests of the citizens. Section 15.3(1), (2), (3) and (4) outline the procedure for a referendum concerning the privatization of Manitoba Hydro. Section 15.3(5) describes the costs, 15.4(1) the amendment or repeal of the bill, and 15.4(2) the requirements regarding a hearing. It is to these sections I wish to address the majority of my remarks.

The procedure for a referendum is to follow, to the extent possible, a general election under The Elections Act and abide by the provisions of the act with necessary modifications. The question to be put to voters shall be determined by order of the Lieutenant-Governor-in-Council at the commencement of the referendum process. My recommendation is that the bill should state what the commencement of the referendum process actually means. Is it the date that the referendum writ is dropped, or the date the Government begins to think of selling Hydro?

A government can have a very strong communication plan in media, softening the public about selling Hydro, without ever mentioning that they want to sell or that there will even be a referendum on the matter. I remind you that the Tory government under Gary Filmon promised they would not sell MTS, but simultaneously they attempted to soften public opinion regarding the selling of MTS in the media before it ever came to a standing committee.

\* (19:20)

Recommendation 2: Please state in the bill that the question shall be stated in plain English, and by that I mean the very definite legal definition of plain English. Not the language, but how sentences are structured, with an appropriate literacy level to meet both the educational and the ESL needs of our communities. It would also be good to require the question to be put in the common languages of Manitoba, with special attention paid to First Nations languages, but still using the plain language model. That is just because I work often with people who are living on reserves, and English is not their first language. It is very difficult for them to understand questions that are not in their original tongue.

I am glad to see a provision in the bill governing the preparation of the voters' list, and the limiting and reporting of expenses incurred and contributions made. However, I would like to see a guideline that limits what dollar amount a government can spend on persuading the people of the rightness of its cause. For instance, a percentage of the cost of a general election.

Section 15.3(5) states that the cost of the referendum under this section shall be paid for

from the Consolidated Fund. I would like this section to be expanded to include intervener groups. In my work in research on referendums, and I have a long history with referendums, it became to me very apparent that a citizens' group or coalition would not be able to mount any kind of "no" campaign or any other campaign. The resources that are available to a government are overwhelming and vastly outweigh what is available to a citizen, both in dollars and in staffing. Governments have huge communications staffs. Citizens' groups do not usually as a for instance. A government has an added advantage of knowing that the referendum will be put forward and can organize accordingly. Citizens' groups never really have that knowledge until a government decides to make it public.

Because of these huge advantages, fairness is impossible to achieve, and the resulting cynicism on the part of the public becomes endemic. In the United States, there are a great many states who use referenda as a way of achieving public policy. When you are a citizens' group or an environmental group or a public policy lobbyist, whoever you are, most public groups are defeated just by the process itself. They are not defeated because they are not organized or because they do not care or because they do not vote. They are defeated because the government has an overwhelming advantage and that is what I wanted to be really clear about.

Please include funding for citizen opposition that could help offset the costs of at least media and advertising or to mount any kind of campaign. There are examples of intervening funding in environmental review processes that could be explored as a way of achieving something that helps a citizen group, and I have to say I was vehemently opposed to the selling of MTS. I spoke before a committee, and I know that we would not have achieved what we managed to achieve even though we were not able to prevent a government from selling it because the NDP, as a party, was committed to a public process. They were committed to public utilities. Without them, we would not have been able to get the media. We would not have been able to do the organizing. We would have failed much worse, is what I am trying to say. I do not believe that by providing a referendum procedure, a government is ensuring that a full

discussion is achieved. I have only to reread and summarize reports from the last Québec referendum to prove my point. If it is the desire of a government to protect a public corporation from privatization, then it seems that providing intervenor money to citizens' groups is a way of helping to ensure that protection.

The sections on amendment or repeal of this bill and the requirements set out for hearings on the matter seem adequate and underwrites the public right to know of and speak to these issues. I am very pleased to see that included.

Overall, Bill 7 is a strong attempt to prevent another strip mining of a public utility, as occurred with MTS. I also see Bill 7 as an act of respect to the people of Manitoba, allowing each citizen a voice in the future of a valued public utility.

Thank you for your attention and time.

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** Thank you very much, Michelle, for your presentation, and I thank all three presenters for their support of Bill 7, as well as Manitoba Hydro as a public utility. I will just pass on that Mr. Selinger is expected to be here around eight o'clock, but we will be passing on the documents that have been provided to us. I thank you as well for your recommendations which were very well thought out. I know Minister Selinger will consider those recommendations.

**Mr. Chairperson:** Are there any other presenters on Bill 7? Seeing none, we will proceed to the next bill.

#### **Bill 10—The Safer Communities and Neighbourhoods and Consequential Amendments Act**

**Mr. Chairperson:** This is Bill 10, The Safer Communities and Neighbourhoods and Consequential Amendments Act. Presenter Fred Curry.

Please proceed.

**Mr. Fred Curry (Private Citizen):** Thank you, Mr. Chairman. Thank you to the members of the

committee for agreeing to hear me. First of all, I want to say I am very happy the bill exists. I have some concerns that flow from my anticipation of what it is going to be like trying to put it into practice. I have two big concerns, and I have a few small ones. I should not need the whole 15 minutes to deal with them.

The first concerns deal, the two big ones, with advocacy and confidentiality as it relates to advocacy. I have included two anecdotes here, two stories here.

About three weeks ago, a woman on assistance was moved out of her house because the landlord refused to repair the place and it was closed down. She picked up her moving expenses and she also did not get her damage deposit back. She had to move the five kids during school. Fortunately, she found a place that was in the same catchment area for the schools. She could call Residential Tenancies, but she is not going to, simply because she is not up to dealing with the bureaucracy that is involved in doing that. I am saying she needs someone to advocate for her.

Last week, a young fellow got off a bus in the inner city. Three guys jumped them. It was on a busy street and they kicked the tar out of him. There were witnesses to this. None of the witnesses are prepared to come forward and say anything. They are not so much afraid of having to go to court, although they are afraid of that. They are afraid of being seen talking to the police. These people need some way of protecting their confidentiality that will allow them to come forward.

If any of us do go to court, we are always encouraged to have somebody to act as an advocate for us. The reason for that is that the law system, by itself, whatever its virtues are, does not look after our particular interests for us. We have to look after them for ourselves.

The same thing is true of the bureaucracies that we set up to help people. As an example, when the current mayor was a city councillor he used to have his assistant do advocacy work for people on welfare. She was the last speaker. She was actually supporting advocacy for the bill that she was addressing. I am asking for advocacy for this bill here.

The other systems that we have set up, Residential Tenancies, Workers Compensation, Children's Aid, and a bunch of other ones, all have informal advocacy groups that help people that have to deal with them. The trouble is they are hard to find and it is hard to recruit them to help you.

People like the woman I spoke of in the first case, do not take advantage of the protections that are available to them under the law because they cannot deal with the bureaucracy.

The current bill deprives the people complaining of an advocate and substitutes a bureaucracy. It is common knowledge that most people find dealing with the political bureaucracy to be a daunting task. The people who are most successful at getting what they need out of bureaucracy are those who are the most successful at getting what they need out of society. Even these people come away from encounters with the political bureaucracy shaking their heads.

The system that is proposed in this bill—is supposed to help those in society who are less successful at making society work for them. I do not think it is any secret that most of the neighbourhoods that are going to benefit from this bill are in the inner city and the older part of town. Of those people in our society who forgo wants or needs simply to avoid dealing with government and dealing with bureaucrats, it is those people in those neighbourhoods who are most likely to do that.

I should say that, in many of these neighbourhoods, there are people who act as advocates for them. I can tell you that being an advocate is kind of a specialized business. You get good at dealing with a particular bureaucracy. You are not good at dealing with the others. If you have only got one or two people in your neighbourhood who are going to go to bat for you, it is hard for those people to cover all the particular needs that are present. So I am saying that we need an advocacy built into this bill.

\* (19:30)

Now the second thing is that there is a problem with confidentiality. Anybody dealing

with the legal system wants confidentiality, and that is especially true in areas where there is a risk of violence associated. Your bill allows confidentiality of the complainant, which I think is a great thing, but the failure to respect this confidentiality is not an offence for which there are penalties. So this makes me suspect that the requirement for confidentiality is not taken that seriously.

So, if you want people in the high-risk areas to benefit from this bill, make it easy for them to use. Create a system that provides advocacy. An advocate provides a greater sense of confidentiality, and the models for this, I would suggest, are the Legal Aid system and especially the Public Interest Law Centre. This bill will have a much greater chance of succeeding if it built an advocate into the legislation.

Now I have several small concerns which I just want to deal with. I put in my presentation, I put the sections from the bill in there so it is easy to refer to them. Now the first one is that I have a concern about the definition of property as it applies to whoever it is that owns the property. In 1(2)(b), which is in the middle there, it uses the words "whether the property is privately or publicly owned." So that means if somebody is doing something that is interfering with my right to enjoy a piece of property, that piece of property can be public or private. But when it is talking about the activities that are interfering with me, it does not make the same kind of reference.

So I have two questions. First of all, what happens if the owner of the offending property is the Manitoba government? I know from door-knocking downtown that some of the places that people have problems with in their neighbourhood are owned by Manitoba Housing. Is that public property? Is that included in the kinds of things that are going to be subject to this bill, or not? It is not clear from a reading that it is.

Also, does this definition include public parks, boulevards and other city-owned property as the offending property? Sometimes the problems that occur in neighbourhoods associated with the activities mentioned are not tied to a particular piece of private property.

Sometimes hookers and drug dealers hang out on the proverbial street corner. It is not clear from the definition or from the wordings of section 2(1)(a) and (b) that this sort of scenario will be covered. It is clear that the affected property can be public, but it is not clear about the offending property.

Now that concern carries over a little bit into my next issue. I have listed the sections there. There are several of them, but they are to do with the notion of who is the respondent. It says in 5(2): "The application shall name the owner of the property as the respondent." Under 11(1) further down, it says: "After a community safety order or an order under section 8 is made, the director shall, without delay (a) serve a copy of the order on the respondent . . ." Then, in 11(3) right after that, it says: "After the respondent is served . . ."

So I have three questions. Is serving the respondent, the property owner, a necessary condition for the process to go forward? If it is, the process will stall in situations where it is not possible to find out who the respondent, the property owner, is or more likely, those situations in which it is hard to locate him. One of the problems getting housing cleaned up in older neighbourhoods arises because of the difficulty finding owners, or sometimes, even in finding out who the owner is. What if it is difficult to find out who the owner is? What if that difficulty arises in the context of section 7(1) which is an emergency situation? So, if we cannot find the owner, does that mean this process stalls before it gets started?

The second concern that I have is: Who is the respondent for property owned by the City or housing owned by the City or the Province? What if the owner is Manitoba Housing? Should not the person receiving the complaint, who, I am assuming, is a member of the government bureaucracy, such as this have an arm's-length relationship with the Government?

My third concern, again, it is a little repetitive, but it is a slightly different point. Hookers use street corners, parks and parking lots and leave needles and condoms and disturb the neighbours. Their relationships to any property owner are irrelevant in these

circumstances. So I do not think that situation is covered in the bill either.

Now the next section that I have a concern about is section 3(3) and 13(1). Section 3(3) requires the director to "notify the complainant in writing if he or she decides not to act on a complaint . . ." Section 3(3) should require the director to make his or her report in a timely fashion, or state some period of time after which the non-notification can be lawfully construed as a refusal to act, because if there is a situation that the neighbourhood thinks is of a concern and they are prepared to move forward, we would not want it to be stalled because the director was not able to respond in a timely fashion. The need for also this is more apparent if you consider sections 13(1) and 13(2). The complainants cannot pursue the matter on their own until the director refuses to act or abandons an action already in process.

Surely, it is possible to specify a length of time after which these conditions shall be presumed to be met. This would be less important if you had assigned an advocacy role to someone in this process, as they would look after the interests of their client on that basis.

The last concern I have deals with the confidentiality, and I have already talked about that. I just think most people are a little daunted, a little intimidated about having to deal with the Government. Most people, even when there are assurances, and I have been in the position of being involved and being told what I said would be confidential, and then I heard the guy who was investigating the complaint explain to the person I had complained about, that I was the one who had made it.

So people have concerns about these things. I am suggesting that an advocate who is acting on behalf of the person making the complaint is in a better position to protect the confidentiality of that person than somebody in the Government is. It would restore my confidence a little bit more in this process if it was made an offence or penalty to betray the confidentiality of the complainant, which it is not right now. Thank you.

**Mr. Chairperson:** Thank you for your presentation.



**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** Thank you, Mr. Curry, for your thoughtful presentation. Indeed, you have made your views known on other matters and I have appreciated that, particularly with regard to child pornography.

But we will look through your points. You have obviously done a very careful reading of this bill. I might just say, initially, one of the main thoughts behind the bill was indeed to create an advocate in the office of the Director of Public Safety, someone that would work with the complainant and take carriage of it. We will certainly take your views into consideration, and we may want to discuss these matters further with you. So thank you very much for an excellent presentation.

**Mr. Chairperson:** Are there any other presenters on Bill 10 that have not registered, but wish to present?

Seeing none, we will proceed to Bill 41. We have two presenters that have children, so we are going to call presenter—Ms. Mihychuk.

**Hon. MaryAnn Mihychuk (Minister of Industry, Trade and Mines):** I just asked through the Chair to call if there are any presenters for Bill 8—

**An Honourable Member:** Yes, agreed.

**Ms. Mihychuk:** —and then we can dispense with that bill.

**An Honourable Member:** Agreed, and then it is done.

**Mr. Chairperson:** Are there any presenters on Bill 8, The Mines and Minerals Amendment Act? I do not think we have any presenters on that bill, so we will proceed to Bill 41.

#### **Bill 41—An Act to Comply with the Supreme Court of Canada Decision in *M. v. H.***

**Mr. Chairperson:** We will call two presenters that have children to go first. First of all, Lorri Millan and Nadin Gilroy, and then presenter 39, sorry, the second presenter is No. 33, after this one. Please proceed.

**Ms. Lorri Millan (Private Citizen):** Dear committee members, my name is Lorri Millan.

My partner, Nadin Gilroy, and I would like to speak to you tonight about Bill 41 and its shameful inadequacies.

I am an artist. I moved here from Toronto 12 years ago and was attracted to this fine province because of its progressive social history, the friendly people and Winnipeg's active and vibrant cultural life. My work in video, film, performance, publishing and public art is largely fuelled by the everyday injustices faced by women, homosexuals and visible minorities. By this I mean my work reflects the experiences of myself, my friends and chosen family, and the community at large.

Every day I am outraged at the ignorance and bigotry we face, and the subtle and not so subtle ways in which society makes it difficult for us to lead our lives. I am inspired, however, by the people that make up my community. Their courage, commitment, activism and joy, and the small and large ways in which they make this a better world in which to live. Lesbian themes figure prominently in my work. Because of this, my work has been called controversial and much, much worse, simply because of the presence of lesbian experience.

\* (19:40)

I have even had one project not shown because of gay content, and have had to resort to action through the Manitoba Human Rights Commission. To have one's art, one's work, belittled and disregarded for the mere presence of homosexuality is painful and insulting.

Nadin and I have been together since 1997. This relationship from the beginning has been characterized by struggle against forces outside a relationship. Nadin, a Swiss citizen studying in England, decided that in order for us to be together, she would immigrate to Canada. For nearly two years, we engaged in the arduous and, at times, ridiculous process of same-sex immigration. We were obliged to prove the legitimacy of our relationship by providing letters, phone bills, photographs, statements from friends and colleagues attesting to the validity of our relationship, and personal declarations of our love and our intent and need to be together. This exhaustive and expensive process which culminated in travelling to

London, England, for an interview, was insensitive, invasive and stressful. Heterosexual couples, having the privilege of marriage, need not experience this. These difficulties were thrust upon us for no other reason than the fact that we are lesbians.

As our commitment and love grew, we decided to have a child. I would be the biological parent with the full participation of Nadin. We travelled hundreds of kilometres together each month to the donor's home town. Together we enjoyed and endured the ups and downs of pregnancy. When I suddenly became ill and was rushed to the hospital, it was with Nadin at my side at every moment. Throughout the traumatic days that preceded the birth of our son by emergency C-section and the birth itself, my partner, Nadin, was with me.

During the first week of Xavier's life, when we did not know if he would live or die, she stayed at the hospital around the clock with the two of us. In the following three and a half months, Nadin and I spent all day, every single day, at the hospital with Xavier, determined to give him everything we had, to do everything within our power to make him well and strong.

Since coming home, he has continued to require special medical care. Despite the exhaustion and stress, our child has provided us with unending rewards and happiness and yet, under the law, Nadin cannot legally adopt our child, cannot be legally recognized as Xavier's mother. To be told that Nadin is not a parent for no other reason than the fact that she is a lesbian is painful and insulting. It is intolerable and blatantly unfair and most definitely not in the best interests of our one-year-old child.

**Mr. Chairperson:** Excuse me, just before you begin speaking, for the purposes of Hansard recording, I need to acknowledge that the next person speaking is Nadin Gilroy. Please go ahead.

**Ms. Nadin Gilroy (Private Citizen):** I am Nadin Gilroy, Xavier's mom and Lorri's life partner. My concerns regarding Bill 41, for very personal reasons, focus mainly around the rights to adoption by lesbian and gay couples. Having gone through all the difficulties, and overcome all the barriers that were put in the way of our

relationship starting with the, at times, extremely intrusive process of immigrating to this country as the same-sex partner of a Canadian citizen and culminating at this point with this Government's decision to exclude so many issues from this bill, especially the right to adoption, leaves me at times, exasperated and exhausted.

As Lorri has mentioned, we have lived through an extremely difficult year. The experiences of this year have made me very much aware of the fact that I have no rights whatsoever when it comes to my son and family; that, in fact, in a way, I am nonexistent; and that when I am acknowledged by, for example, health care professionals or other people as Xavier's mum, it is their personal choice to do so and not law or society that includes me, as it does others.

I have been asked many times in the last weeks: Why do you think you should have equal rights? I would like to give this question back to you. Why should I not be treated equally?

It fills me with great anxiety and fear to think about the moments in the hospital in June 2000, when at first we did not know if either Lorri or Xavier were going to live. The event of his birth has made me very much aware of the possibility of death. Should Lorri die, not only would I lose my life partner, but also, I would see myself faced with the struggle to keep my son, Xavier, in my life.

This sort of stress is no small thing to live with and it takes great strength every day to not let it dominate my life, and, by that, the life of my family in a detrimental way.

As the law currently stands, I am not entitled to make medical decisions regarding my child. No authority recognizes my role in his life. Should I want to travel to Switzerland with Xavier to visit his grandmother, great-aunt and family friends, I am not allowed. It is illegal for me to travel with him alone. When he reaches school age, I will not be recognized as a parent. Bill 41 was a chance for this Government to finally do the right thing, to say, yes, we want to acknowledge lesbians' and gays' lives and bring our laws in tune with reality.

Instead, Bill 41 is completely inadequate. Same-sex adoption is only one of dozens of

ways in which this legislation completely ignores the reality of our family and a great many others. I cannot begin to express to you how demoralizing it is to have a government supposedly sympathetic to causes of social justice, introduce a bill that perpetuates harm and inequality against so many Manitobans. Does the inclusion of gays and lesbians in the Charter of Rights and Freedoms mean nothing to this Government? Does playing politics mean more to you than improving the quality of life of citizens of this province? Same-sex adoption is allowed in four other provinces. Must Manitoba remain, shamefully, with its head in the sand?

**Ms. Millan:** This bill continues to deny Nadin and me, and countless other people, full rights as parents and citizens of Manitoba. This bill continues to deny our son the full rights and protection that every child in Manitoba deserves. This bill continues to deny thousands of Manitobans their basic human rights.

Do not force the needless expenditure of a small fortune in taxpayers' dollars on litigation that is already a foregone conclusion. Do not force us to fight for rights that the Supreme Court of Canada has already acknowledged. Amend this bill now. Include The Adoption Act and all the other statutes that include the word spouse and exclude gays and lesbians. You can do this now. What possible benefit could there be to leaving this issue hanging over the heads of so many concerned people? Enjoy your summer holidays knowing that you have made the lives of many, many Manitobans better today. Please act now. Thank you.

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** Thank you very much for that powerful presentation. I was pleased to meet you earlier today. I thank you for sharing your insights, which are, of course, very personal by their nature, with Manitobans and sharing the challenges that you are facing as a result of the current legal regime.

You began, of course, by talking about the rights of parents. Of course, the issue of The Adoption Act also concerns the rights of the child and obligations of parents to the child. On the issue of medical decisions, you stated earlier that you had encountered some difficulty in getting medical attention. Is that right?

The formal requirements of the law are one thing, and they are certainly of concern to us. As well, I am concerned as to what the extent of reliance on those formal matters are by, for example, health care professionals. Are you asked, for example, to see adoption papers? Are those questions having to be dealt with by yourselves?

**Ms. Millan:** We have been very fortunate to have benefited from the generosity and professionalism of most of the medical care providers in our lives. However, it does not in any way detract from the fact that should something happen to me, Nadin would be unable to take over the authority and responsibilities that a parent should be able to do. For instance, Xavier was recently quite sick. The question could have come up at any point as to whether or not he needed to be returned to the hospital. If I was working while that happened, Nadin would be treated technically as a stranger. She would be a friend of the family, at best. We have never been asked directly to produce adoption papers. As I said, we have just had very good fortune, I think, in our interactions. It does at no level detract from the need for the official recognition of our relationship and our family and the legal benefits that amending this bill would give us.

\* (19:50)

**Mr. Darren Praznik (Lac du Bonnet):** I, first of all, want to thank the presenters for coming here this evening to tell their story, because what often gets lost in these public debates from time to time on rights is what it really means to people in their everyday life. I think it was very commendable that you came. I just really ask one question, the comments you were making are really about children, are they not? They are really about the rights of children with respect to the people who are caring for them.

**Ms. Millan:** That is precisely right. Right now he does not have the benefit of the protection of the law. It seems very simple. The governments, whatever ilk, are always talking about the importance of the rights of the child. I think there is no more obvious a place in which the rights of the child should be protected but in The Adoption Act.

**Mr. Chairperson:** Thank you. The next presenters are No. 33, Karen Boily and Carole

Boily. These presenters are also presenting en français.

**Ms. Carole Boily (Private Citizen):** Bon soir. Je tiens à vous présenter ma famille, ma partenaire Karen et notre fils Simon.

Quelques jours après la naissance de Simon, une collègue de travail m'a demandée quand j'étais pour adopter Simon. Elle est restée incrédule quand je lui ai dit qu'il est illégal pour le parent non-biologique d'un couple du même sexe d'adopter son enfant.

Simon est arrivé dans notre famille grâce aux bons services offerts par une clinique de fertilité ici à Winnipeg. Si un couple hétérosexuel a recours aux services de cette même clinique à cause d'une déficience du côté du mâle, le parent non-biologique devient automatiquement un parent légal à la naissance de l'enfant. Dans mon cas, je ne pouvais même pas mettre mon nom sur le formulaire d'inscription de mon fils.

En nous niant le droit à l'adoption, le gouvernement du Manitoba nous encourage à quitter notre province natale pour rechercher une reconnaissance légale dans une province plus accueillante et ouverte.

La naissance de Simon a été un événement magnifique. Nous avons reçu et continuons de recevoir l'appui de nos familles, nos amis et amies, nos collègues de travail, notre médecin de famille, nos consultantes d'allaitement, notre physiothérapeute et j'en passe. Alors pourquoi ne pouvons-nous pas recevoir cette reconnaissance de notre gouvernement provincial? Si mon fils avait besoin de soins médicaux et sa mère biologique n'était pas là, légalement je ne pourrais pas diriger ses soins.

En amendant le Projet de loi 41 pour inclure l'adoption par les couples du même sexe, vous pourriez me donner le droit de veiller pleinement aux intérêts de Simon.

Merci de votre attention.

#### **Translation**

*Good evening. I would like to introduce to you my family, my partner Karen and our son Simon.*

*A few days after Simon's birth a work colleague asked me when I was going to adopt Simon. She was incredulous when I told her that it is illegal for the non-biological parent of a same-sex couple to adopt her child.*

*Simon arrived in our family thanks to the good services provided by a fertility clinic here in Winnipeg. If a heterosexual couple turns to the services of this same clinic because of a deficiency on the side of the male, the non-biological parent automatically becomes a legal parent upon the birth of the child. In my case, I could not even put my name on my son's registration form.*

*By denying us the right to adoption, the Government of Manitoba is encouraging us to leave the province of our birth to seek legal recognition in a province that is more welcoming and open.*

*Simon's birth was a magnificent event. We received and continue to receive the support of our families, our friends, our work colleagues, our family doctor, our breast-feeding consultants, our physiotherapists and others. So why can we not receive this recognition from our provincial government? If my son needed medical care and his biological mother were not there, I could not legally direct his care.*

*In amending Bill 41 to include adoption by same-sex couples you could give me the right, fully, to look after Simon's interests.*

*Thank you for your attention.*

**Mr. Chairperson:** I am sorry I did not acknowledge you at the beginning, but the person speaking was Carole Boily. Are there any questions?

**Mr. Praznik:** Do the presenters have the translation equipment?

Vous comprenez l'anglais?

#### **Translation**

*Do you understand English?*

**Ms. Boily:** Oui, en anglais.

**Mr. Praznik:** Merci.

I want to thank the presenters again for coming with their story and I want to ask them this question: In their view, the amendments that they seek, in their opinion, they are really about the rights of children, are they not? I ask them for their view.

**Ms. Boily:** Well, of course, it is the rights of the children. I mean Simon recognizes me as his parent, and I think I should have every legal opportunity to see to his best interests. I think that is pretty easy. It is interesting to note that there is a common knowledge, or, people think that this is legal. The vast majority of society out there actually approves of this. I think it is time the province and the laws got in line with people's thinking.

**Mr. Praznik:** Merci beaucoup.

**Mr. Chairperson:** Thank you for your presentation. Are there any other presenters with children who would like to present at the present time? If so, please just come forward.

The next presenter then is No. 8, Gilles Marchildon.

**Mr. Gilles Marchildon (Private Citizen):** Alors, Mesdames et Messieurs, je vous remercie de l'occasion qui m'est donnée de vous adresser la parole, et en français, au sujet du Projet de loi 41 qui vise à éliminer la discrimination pratiquée contre les couples du même sexe. Le Projet de loi 41 voit le jour suite au jugement rendu en mai 1999 par la Cour suprême dans la cause *M. c. H.* Dans sa décision, la Cour reconnaissait que les membres d'un couple du même sexe avaient des droits et des responsabilités l'un envers l'autre lorsqu'ils étaient en relation conjugale.

D'autres que moi, surtout ceux et celles qui pratiquent le droit, démontreront bien mieux que moi les faiblesses de ce projet de loi et son contexte juridique. Pour ma part, en tant qu'homme d'affaires et journaliste, j'irai droit au but de ma présentation.

L'approche du gouvernement est trop minimaliste et entraîne de sérieux problèmes. Elle est discriminatoire et elle nuit à des familles et à des enfants manitobains qu'on vient d'ailleurs d'entendre, et elle ouvre la porte, voire

même elle invite de futurs appels devant les tribunaux, ce qui représente une perte de temps et d'argent pour tout le monde.

J'exige que le Projet de loi 41 soit modifié avant son adoption finale au moins afin d'inclure la possibilité que les couples du même sexe puissent adopter des enfants. J'inviterais aussi les législateurs à considérer l'amendement d'autres lois dont celle sur les tissus humains et aussi celle sur les successions.

On peut comprendre qu'un gouvernement agisse avec prudence lorsqu'il est question d'introduire de nouvelles lois qui peuvent toucher de façon importante la vie quotidienne des citoyens. Or, il m'apparaît que le Projet de loi 41, en exerçant une prudence exagérée, causera bien plus de dommages en limitant son impact aux dix lois qu'on propose de modifier, plutôt que de modifier les 40 lois manitobaines qui définissent de façon discriminatoire un conjoint comme étant une personne du sexe opposé.

J'ignore si c'est la prudence qui a guidé le gouvernement dans ce cas. Le gouvernement n'a donné aucune indication quant à sa raison ou ses raisons de procéder ainsi, à savoir de modifier seulement le quart de ses lois qui sont discriminatoires. Son approche minimaliste tombe bien en-dessous de la barre déjà établie par d'autres gouvernements. Quatre autres provinces canadiennes, soient l'Ontario, le Québec, la Saskatchewan et la Colombie-Britannique, ont fait preuve de vision et de bon sens pratique en adoptant un projet de loi plus global. De plus, au niveau fédéral, la Loi C-33, adoptée l'été dernier par le Parlement canadien, démontre également une approche globale et bénéfique pour les citoyens.

Il est déjà possible pour des individus homosexuels d'adopter. Si les autorités en question jugent qu'un individu homosexuel peut offrir à un enfant des conditions favorables à son bien-être et à son développement, pourquoi n'en serait-il pas autant, sinon davantage, pour un couple homosexuel? En laissant la Loi sur l'adoption telle qu'elle existe, c'est-à-dire faisant preuve de discrimination, le gouvernement laisse traîner des situations difficiles pour les couples du même sexe qui élèvent des enfants. Le parent

non-biologique dans ces couples risque de ne pouvoir ni venir en aide, ni donner sa permission, ni assumer ses responsabilités face aux enfants, ce qui entraîne des difficultés tant sur le plan matériel que psychologique et affectif.

Certes, les torts possibles causés aux enfants sont les plus pénibles à constater. Or, les autres lois qui pourraient demeurer sans changements causent elles aussi et causeront à l'avenir des difficultés particulières. Un adulte ayant constitué un héritage au cours de plusieurs années de vie commune avec son conjoint pourrait, au moment du décès de son partenaire-conjoint, se retrouver sans aucune reconnaissance à cause des lois. Dans une situation de crise médicale où des décisions vitales s'imposent, souvent dans de très courts laps de temps, un conjoint du même sexe pourrait voir balayées de côté les intentions de son partenaire qu'il connaît pourtant si bien.

D'autres exemples pourraient être donnés mais je sais très bien que le ministère de la Justice a déjà dressé la liste des lois qui ne seront pas touchées si le Projet de loi 41 est adopté dans sa forme actuelle.

Les membres de la communauté gaie et lesbienne, comme d'ailleurs ceux de la communauté francophone, ont dû souvent faire respecter leurs droits en portant leur cause devant les tribunaux. Déjà certains couples du même sexe qui ont présentement des enfants ou qui voudraient en adopter sont en mesure de présenter leur cas devant la justice. Il n'est pas question de menaces. Je déclare simplement les faits. Des avocats ont préparé des dossiers solides juridiques qui, à la lumière des récentes décisions des tribunaux, ne manqueront pas de décrocher de nouvelles victoires au chapitre des droits égaux et de la pleine reconnaissance des homosexuels et des couples du même sexe.

Ce serait dommage que dans une province gouvernée par un gouvernement supposément progressiste, des individus aient à dépenser du temps et de l'argent non pas sur leurs familles mais sur des batailles juridiques. Or, ces individus sont néanmoins prêts à le faire, vu l'importance des droits en question.

\* (20:00)

Les ressources considérables qui seront déployées par le système judiciaire pourraient plutôt être dirigées vers d'autres buts si les lois bêtes étaient amendées aujourd'hui, comme cela vous est possible de faire. Je crois que l'histoire portera un regard assez critique sur les législateurs contemporains s'ils laissent passer l'occasion de faire preuve de vision et de bon sens. Je ne veux pas suggérer qu'un gouvernement doit gérer l'état en fonction des sondages d'opinion. Au contraire, il est plutôt à souhaiter qu'un gouvernement propose des programmes et des modifications aux lois qui lui paraissent nécessaires et bénéfiques, même si celles-ci ne reflètent pas nécessairement l'opinion publique. D'ailleurs, tous les trois, quatre ou cinq ans, le public a le droit de se prononcer face à cette gestion du gouvernement. Or, si les législateurs préfèrent suivre assez fidèlement l'opinion publique, ils et elles peuvent être tranquilles. Ils constateront que les sondages ainsi que les journaux influents favorisent les droits égaux pour les gais et les lesbiennes, notamment la pleine reconnaissance des couples du même sexe.

Le *Winnipeg Free Press*, journal pour lequel j'ai eu le privilège d'écrire deux articles pour la page éditoriale, prenait clairement position le 5 juin en faveur de permettre aux couples du même sexe d'adopter des enfants. J'ai attaché une copie de l'éditorial à ma présentation.

De plus, il y a quelques mois, le magazine d'actualités canadien *Maclean's* publiait les résultats d'un sondage d'opinion qui démontrait l'ouverture des Canadiens et leur appui assez important pour la reconnaissance des personnes et des couples homosexuels. Je crois donc que le gouvernement pourrait refléter la même ouverture d'esprit de ses citoyens sans trop craindre les répercussions politiques d'une minorité de gens qui s'opposent aux droits des personnes homosexuelles.

Tant qu'à faire votre travail de législateurs, il vaut mieux bien le faire et non pas à moitié. Le Projet de loi 41, dans sa forme actuelle, représente un pas dans la bonne direction mais un pas incomplet. Je vous prie d'y apporter les modifications tandis qu'il est encore relativement facile de le faire. Notamment, comme les quatre personnes qui ont présenté avant moi, je vous

demande d'inclure la Loi sur l'adoption afin de permettre aux couples du même sexe d'adopter des enfants. Sans modifier le Projet de loi 41, on continue à imposer des difficultés aux citoyens homosexuels du Manitoba. De plus, si le Projet de loi 41 n'est pas modifié, la discrimination pratiquée à l'égard des couples du même sexe sera attaquée devant les tribunaux dans les mois qui suivent. Cela entraînerait ou entraînera une dépense de temps et d'argent pour les citoyens et pour les contribuables. Ce sont nous tous qui finançons le système juridique et qui serons saisis de ces cas devant les tribunaux. Donc enfin les législateurs pourraient faire preuve de vision et de bon sens en apportant des changements aux lois qui sont semblables à ceux qui ont été faits dans quatre autres provinces canadiennes.

Je vous remercie de votre attention et de votre considération, et je suis prêt à répondre à vos questions.

#### **Translation**

*Ladies and Gentlemen, I thank you for the opportunity that I have been given to speak to you, and in French, on the subject of Bill 41 which is intended to eliminate the discrimination practised against same-sex couples. Bill 41 has been drafted in response to the Supreme Court decision handed down in May, 1999, in the case of M. v. H. In its decision, the court recognized that the members of a same-sex couple had rights and responsibilities in relation to each other when they were in a conjugal relationship.*

*Other persons, especially those who practise law, will show far better than I can the weaknesses of this bill and its legal context. For my part, as a businessman and journalist, I will go straight to the point of my presentation.*

*The Government's approach is too minimalist and creates serious problems. It is discriminatory and harmful to Manitoba families and children, as we have just heard, and it opens the door and even invites appeals before the courts in the future, which represents a waste of time and money for everyone.*

*I insist that Bill 41 be amended before being passed, at least to include the possibility for same-sex couples to adopt children. I would also invite the legislators to consider amending other*

*laws, including those respecting human tissue and successions.*

*It is understandable for a government to act prudently when introducing new laws that may have an important effect on the daily lives of citizens, but it seems to me that Bill 41, in exercising excessive prudence, will cause far more damage by limiting its impact to those 10 laws that it proposes to amend rather than amending the 40 Manitoba laws that, in a discriminatory fashion, define a spouse as a person of the opposite sex.*

*I do not know whether it is prudence that guided the Government in this case. The Government has given no indication as to its reason, or reasons, for proceeding this way, that is, in amending only one-quarter of its laws that are discriminatory. Its minimalist approach falls well below the standard already set by other governments. Four other Canadian provinces, Ontario, Québec, Saskatchewan and British Columbia have shown vision and common sense by passing broader legislation. Furthermore, at the federal level, Bill C-33, which was passed last summer by the Canadian Parliament also shows an approach that is broad and beneficial for citizens.*

*It is already possible for individual homosexuals to adopt. If the authorities consider that an individual homosexual can provide a child with conditions that are favourable to his or her well-being and development, why would this not be the case, or even more so, for a homosexual couple? In leaving The Adoption Act as it is now, that is to say discriminatory, the Government is allowing difficult situations to persist for same-sex couples who are raising children. The non-biological parent in these couples may not be able to assist, to give his or her permission and/or to assume his or her responsibilities to the children, which creates material difficulties, as well as psychological and emotional ones.*

*Certainly the potential damage to children is the worst aspect to consider. But the other laws that might remain unchanged also cause and will cause particular difficulties in the future. An adult who has built up a legacy in the course of many years of life together with a spouse could, when his or her partner-spouse dies, be placed*

*in a position of no recognition because of the laws. In a situation of medical crisis where vital decisions are required, often within a very short time frame, a same-sex spouse could, despite knowing his/her partner so well, see the partner's intentions swept aside.*

*Other examples could be given but I know very well that the Department of Justice has already drawn up the list of laws that will not be touched if Bill 41 is passed in its current form.*

*The gay and lesbian community, like the Francophone community, by the way, have often had to take their case to the courts in order to get their rights respected. Already certain same-sex couples who now have children, or who would like to adopt, are in a position to present their case in court. This is not a threat. I am simply stating the facts. Lawyers have prepared solid legal arguments which, in the light of recent court decisions, will not fail to obtain new victories in the area of the legal rights and the full recognition of homosexuals and same-sex couples.*

*It would be unfortunate, in a province ruled by a supposedly progressive government, if individuals had to spend time and money, not on their families, but on legal battles. However, these people are prepared to do so, given the importance of the rights involved.*

*The considerable resources that will be deployed by the legal system could instead be directed towards other objectives if the foolish laws were amended today, something which you are in a position to do. I believe that history will look quite critically at today's legislators if they allow the opportunity to show vision and common sense to pass them by. I do not wish to suggest that a government should manage the state on the basis of opinion polls. On the contrary, it is to be hoped that a government proposes programs and legislative amendments that it considers necessary and beneficial, even if they do not necessarily reflect public opinion. Furthermore, the public has the right to express its view of the Government's management every three, four or five years. But if the legislators prefer to follow public opinion fairly closely, they can rest easy. They will note that the polls, as well as the influential newspapers, favour*

*equal rights for gays and lesbians, particularly the full recognition of same-sex couples.*

*The Winnipeg Free Press, for which I have had the privilege of writing two editorials, clearly took a position on June 5, in favour of allowing same-sex couples to adopt children. I have attached a copy of the editorial to my presentation. Also, some months ago, the Canadian news magazine Macleans published the results of an opinion poll that showed the openness of Canadians and their quite significant support for the recognition of homosexual persons and couples. So I believe that the Government could reflect the same open-mindedness shown by its citizens without much fear of the political repercussions from a minority of people who are opposed to the rights of homosexuals.*

*It would be better for you as legislators to do your work well, not halfway. Bill 41, in its current form, represents a step in the right direction, but an incomplete step. I ask you to make the amendments to it while it is still relatively easy to do so. Particularly, like the four people who have presented before me, I ask you to include The Adoption Act in order to allow same-sex couples to adopt children. Without amendments to Bill 41, difficulties will continue to be imposed on Manitoba's homosexual citizens. Furthermore, if Bill 41 is not amended the discrimination practised against same-sex couples will be attacked before the courts in the coming months. That would involve, or will involve, a waste of time and money for citizens and taxpayers. It is all of us who finance the legal system and who will be impacted by these court cases. So to conclude, the legislators could show vision and good sense by making changes to the laws that are similar to those that have been made in four other Canadian provinces.*

*Thank you for your attention and your consideration, and I am prepared to answer your questions.*

**Mr. Mackintosh:** Thank you very much for your presentation. A couple of matters I will just raise at this point: We certainly recognize that there are many statutes, as you do, that are problematic and have serious, well, certainly



have anomalies, to say the least, in terms of how they deal with same-sex relationships.

Of course, there has been a different approach to those challenges in the different jurisdictions of Canada. Indeed, in some provinces as a result of *M. v. H.* they brought in an amendment to one act, for example, I think it was in New Brunswick or Newfoundland, and then over 60 in other jurisdictions like Ontario. Mind you, Ontario has been quite roundly criticized as introducing a discriminatory regime as well and additional hurdles for same-sex common-law partners attempting to get joint adoptions, for example.

Having said that, with regard to adoptions, we know that Saskatchewan recognized joint adoptions in '89, and Québec, I think, in '91, and B.C. in '96. So the different provinces have started in different places, but we recognize that we have to move forward.

I think it may be commonly known, but not accurate, that *M. v. H.*, Bill 41, is our only view, if you will, on same-sex issues, and it is not. Last session we introduced amendments to The Income Tax Act, which eliminated discrimination for common-law partners there. As well, The Victims' Bill of Rights will set out, when it is proclaimed, a non-discriminatory regime for compensation and right of individuals to information. As well, this session we have changes to The Highway Traffic Act in terms of parental consents and the right to pass on a vehicle to a deceased's partner.

Having said that, we also know there is a lot of work that lies ahead, but we see Bill 41 as part of a strategy of beginning this task. Indeed it is a task that lies ahead and must be dealt with.

**Mr. Praznik:** The Minister of Justice just referenced the victims' rights bill, which passed the Legislature unanimously last year, and we are still waiting for it to be proclaimed into law. In fact, the minister has only said he has a schedule for implementation we should get in August. So I would not hold too much out there.

I would just like to ask the presenter: In his opinion, I take it he would expect if this bill is not amended that the issue will likely then go to the Supreme Court of Canada again and likely

we will be back here at some time in the future making further amendment. Would that be his comment and observation to this committee?

**Mr. Marchildon:** Oui, c'est exact. D'après les gens à qui j'ai parlé dans notre communauté, je puis quasiment assurer le comité qu'il y aura des cas qui seront déposés, qui éventuellement feront leur chemin jusqu'à la Cour suprême, au besoin.

**Translation**

*Yes, that is correct. According to the people with whom I have spoken in our community, I can practically guarantee the committee that legal proceedings will be initiated, which will eventually make their way to the Supreme Court as necessary.*

**Mr. Chairperson:** Thank you for your presentation. We are now going to start at the top of the list with No. 1, Kristine Barr. Please proceed.

**Ms. Kristine Barr (Private Citizen):** Honourable Chair and committee members, thank you for the opportunity to speak to you here tonight regarding Bill 41. This has been an important struggle that I have been involved with in the community. Bill 41 is an important piece of legislation, which means a lot to the gay and lesbian community.

I think that Bill 41 represents this NDP government's commitment to equality, human rights and the respect and dignity of all Manitobans. I think it is a progressive piece of legislation, and I wanted to start out my comments in that vein. It addresses many financial inequities, and extends rights and responsibilities to same-sex couples. It is about time that this has come forward, and I am proud that you have introduced this piece of legislation.

I am also very pleased to see that Bill 41 creates a new category of relationships in Manitoba defined as the common-law partner. This common-law partner definition applies to both opposite-sex and same-sex couples. I believe this is a much better way of defining common-law partnerships than what some provinces have done, where they have actually created a third distinct category for same-sex

couples, because gay and lesbian couples do not want special rights, we just want equal rights.

The Manitoba NDP government has taken an important first step forward toward full equality for gay and lesbian Manitobans by amending 10 legislative acts. However, this legislation does not go far enough; 10 acts is not full equality. I do not understand why Bill 41 stops at only partial equality.

I have been a New Democrat for the past 10 years, basically since I was old enough to vote and I joined the NDP because I believed that the NDP is a party of principles. New Democrats have always been the ones who have stood up for equality, social justice, and respect and dignity of all Manitobans. I fight for equality and human rights issues on a day-to-day basis through my role as a school trustee, my work with youth, my church involvement and my volunteer commitments, and I am proud to be espousing those NDP values in every aspect of my life.

\* (20:10)

The NDP in Manitoba has a true record of many achievements, whether that be in fighting for medicare, pensions, labour, education, the environment, or seeking justice for women and multicultural groups and others, who are disadvantaged in our society. In fact, it was an NDP government that amended The Human Rights Act to include sexual orientation as a prohibited ground of discrimination, and I am proud of that fact. The NDP has always been a leader, speaking out for Manitobans, and it is not too late for us to continue on in that fine tradition and provide vision and leadership with regard to same-sex benefits in Bill 41.

The NDP has always spoken out for equality issues and especially when we were in opposition, but I believe that now that we are in power, we have a responsibility and a great opportunity to live our values and help to change discriminatory laws and practices which have been on the books for a long time.

I know, as I look around this room, that this is a very personal and heartfelt issue for each and every committee member that is here tonight. I am confident that equality issues are a

commitment that each member of our Government takes very seriously. So I really ask you to look within yourselves. You know when you first entered politics why you were taking on that role. This could be the most important decision that you ever have to make. Extending full equality to gays and lesbians appears to be one of the last frontiers of human rights and it is an opportunity to take a true stand on equality.

I believe it was an error in judgment of this Government not to introduce an omnibus bill that amends all legislative acts that discriminate against those in same-sex relationships, but the greatest omission was The Adoption Act. Gay and lesbian couples who are raising children should have legal rights and responsibilities, and this community—the gay and lesbian community—was expecting The Adoption Act to be included. We have been waiting for it and it is unfair to kids in those relationships not to include The Adoption Act in Bill 41. You have already heard some stories from same-sex couples who are raising children and I know that you will hear many more passionate stories about the day-to-day impact that this omission has on their lives. I know that you are listening and I hope that you are open to changes.

I am very concerned that this Government, my Government, has chosen not to include adoption rights. It is not too late, and you have the opportunity to make some history.

There is also a very clear precedent around adoption rights for same-sex couples. Many of the jurisdictions in Canada have included The Adoption Act when responding to the federal *M. v. H.* ruling. Same-sex couples can now adopt children together in Québec, British Columbia, Saskatchewan and Ontario. Those clear precedents have already been set. Let us not force parents to take this Government to court at their and taxpayers' expense to gain basic human rights.

Gord, you mentioned earlier that this may not be the final piece of legislation in this area and this Government is committed to equality issues for same-sex couples, but my question to you is, why wait? We have the opportunity right now to take leadership and to stand up for what is right. I think these committee hearings are that

opportunity. This committee itself has the capacity to amend this bill to include The Adoption Act.

Earlier today, a group of gays and lesbians and parents who are raising children in same-sex relationships presented a petition with over 2000 signatures on it, that was tabled in the House by Attorney General Gordon Mackintosh. These signatures came from all walks of life. Basically, all of these people were asking for this amendment because they believe in true equality. These 2000 signatures were all collected in under 10 days. I think that that is a very significant step forward for anyone who has ever worked on petitions. This is an issue that, I think, if you read the public opinion out there, the support is there. It is an equality issue and it is around basic human rights and it is time for this to take place now. Already, hundreds more petitions have been flowing in. So we will be back to see you probably in a couple of days' time to present even more in the House.

Amending Bill 41 is the right thing to do. It is a basic human rights issue. It is consistent with NDP party policy and all of our values. The time is now to extend equality and human rights to same-sex couples who are raising children. I am proud of this NDP government and I am confident that you will do the right thing. Amend Bill 41 to include The Adoption Act. You have the opportunity to end discrimination, stand up for equality, fairness and justice now.

So I thank you for the opportunity to speak here tonight and I would be happy to answer any questions that the committee has regarding my presentation.

**Mr. Mackintosh:** Thanks, Kristine, for your leadership and advocacy on this important issue. I know the particular focus of what is not before the Legislature right now, are our amendments to The Adoption Act. I just want to raise some other issues that will have to be carefully considered. Those are other areas that we find anomalies in.

One is, for example, the property of partnerships after the dissolution of the partnership. There certainly is a lot of divergence of opinion, I understand, as to whether marital

property division should apply for people that are in common-law relationships. In fact, in Nova Scotia, that has gone now to the Supreme Court of Canada, and Nova Scotia has acted in the meantime with a registration process. I do not know if you want to comment at all on the registration process or not.

I will just go to another area where there are a number of statutes in Manitoba. I think there are at least 12 that deal with conflicts of interest by people on public boards. Ontario changed the conflict-of-interest laws in that province in response to the case law and said that, where one is in a common-law relationship of the same sex, one would have to declare. In other words, you would be legislatively forced to be outed because, presumably, there were public interest concerns there.

So those were other areas aside from adoptions that do pose challenges to Manitoba legislators and the Manitoba community in terms of where there are frontiers in this area. I do not know if you have any comment on that, Kristine. I certainly welcome that either now or at another point in time.

**Ms. Barr:** I think that you raise a good point. As I pointed out, over 40 legislative acts, maybe as many as 70, that could have been amended, have not been. I think some of those acts, those concerns, could be raised, but I do think that, as we are here asking for equality and for rights, responsibilities do come along with those rights.

I think for same-sex couples—for myself, I am an elected school trustee. If I am in a relationship where my partner is a principal in the school setting, I have a responsibility to declare that as a conflict of interest when it comes to promotions and when we are selecting our staff. If I have not declared that, I do not think I am acting in the public trust.

I think that it is important to recognize that, yes, there are gay and lesbian couples within our community who are not out and open about their sexual orientation. But, if this becomes the law, perhaps they will make different choices and decisions regarding whether or not they cohabitate. I think that that is a consideration that would have to come into play when we recognize what the law is and the responsibilities

that we have in declaring conflicts of interest when they do arise.

**Mr. Mackintosh:** Thanks very much. That is an important view to have on the public record and have that as part of the public dialogue. I just received the Manitoba Association of Women and the Law report and I am sure you have seen that as well. They have different views on that. They think that legislation should not require outing. We will have to look at that issue. I think it is an important one, but I wanted to ask you because you are a public official on a school board.

Thank you very much. I certainly appreciate the insights that you have offered here.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Karen Busby.

**Ms. Debbie Patterson (Private Citizen):** I am not actually Karen Busby. She is away on—

**Mr. Chairperson:** Excuse me. Is there leave for this person to present on behalf of Karen Busby? Is that what you want to do?

**Mr. Praznik:** Just for the record, if she is presenting on behalf of one of the presenters, just explain that, just so that people do not think that is queue hopping, that is all.

\* (20:20)

**Mr. Chairperson:** Go ahead.

**Ms. Patterson:** All right. My name is Debbie Patterson and I am presenting on behalf of Karen Busby.

**Mr. Chairperson:** Is there leave of the committee? *[Agreed]* Please proceed.

**Ms. Patterson:** I am presenting a letter that is dated June 13 from Karen to the committee.

I have just been advised that Bill 41, which was introduced into the Legislature just a week ago, went to second reading yesterday and that your committee will commence hearings on this bill in less than a week. The Supreme Court of Canada's decision in *M. v. H.* was nearly three years ago and, given that this Government has

been slow to respond to that decision, I must question why this Government is now proceeding with such haste. Like others I know who would have presented orally at this hearing, I will be away on holiday next week, therefore I have asked someone to read this letter to the committee's record.

History of discrimination: During the committee hearings I expect that you will hear evidence of the long history of discrimination against sexual minorities in Canada. This discrimination has been reinforced by Canadian and Manitoban laws both in the formal provision of these laws and in their application. I have attached an excerpt from Kathleen Lahey's book, *Are We 'Persons' Yet? Law and Sexuality in Canada* (1999), which provides a succinct history of discrimination against queer folk in Canada. I would highlight that, for example, lesbians and gay men have had to work hard to challenge vicious stereotypes about the nature of our sexuality. The Criminal Code criminalized same-sex sexual activity until 1968, and the discriminatory provisions around the age of consent remain in the code to this day.

Canada Customs has for years treated materials on queer sexuality in a discriminatory manner by restricting their entry into Canada. We have fought Canada Customs on this issue for 11 years now and that battle is not yet over. Discriminatory beliefs and stereotypes about queer sexuality are still at the root of resistance to full, legal and social equality for us. Through the 1970s, we fought for the right to get liquor licences so that gays and lesbians could create social spaces where we were less likely to face discrimination. We have had to work hard to claim our right not to be fired from a job, or lose an apartment or have access to services that most take for granted, simply because we are lesbians or gay.

This committee hearing and the debate over the last few weeks is reminiscent of the reluctance of an NDP government to make amendments to the Manitoba Human Rights Code in 1987, to prohibit discrimination on the basis of sexual orientation. I was not living in Manitoba when that debate occurred, but, as someone listening to that vociferous debate from afar, and listening to the fear that it engendered in my friends, I seriously questioned whether I

would return to the seeming backwater of Manitoba once I finished my graduate work. But at least that government did the right thing and made the amendments without waiting, as the Alberta government did, until a court forced them to do the right thing.

Now we are fighting to have our intimate relationships recognized in law and to ensure that our families are protected by law. We are asking for nothing more than the recognition, obligations and protections which most Manitobans, heterosexual Manitobans, simply take for granted. The word "spouse" appears in more than 80 Manitoba statutes. Most, if not all, of these statutes could affect the legal relations between the same-sex partners or how these relationships are recognized or accommodated in public life. Yet Bill 41 amends only 10 Manitoba statutes concerned with eligibility for pensions, death benefits, and some private and public supports benefits. The statutes amended by Bill 41 will, if this bill is passed, treat same-sex partners the same way that opposite-sex common-law partnerships are treated. Both kinds of relationships will be defined using the same terminology, common-law partnerships. I am pleased that this Government did not create a separate and therefore potentially unequal category, like same-sex partners, or registered partnership to govern same-sex relationships.

While I have been and remain critical of what Bill 41 does not do, I would be remiss if I failed to note that the statutes being considered for amendments, if amended, will make a concrete difference in the ability of gay and lesbian Manitobans to plan for the financial security of our families, especially for our children and as we age.

The amendments proposed by Bill 41 are the bare minimum requirements to bring Manitoba law into compliance with the Supreme Court of Canada's decision in *M. v. H.* I expected, however, that Manitoba's NDP government would do more than what was minimally required of them. Moreover, Bill 41, titled An Act to Comply with the Supreme Court of Canada's Decision in *M. v. H.* does not comply with the spirit of the *M. v. H.* case. It is unfair to make gay and lesbian Manitobans wait any longer and to require us to spend time, money

and energy litigating cases on legal matters which courts will, in the end, grant to us. In this brief, I want to provide an overview of just a few areas of provincial law concerning queer partnerships and families which this committee should recommend that the Legislature amend before the third reading of the bill. If our government has the courage to stand up to those whose homophobia is in the way of our ability as gays and lesbians to fully participate in society, it will promise to make these amendments as soon as possible.

### Legal Recognition of Our Relationships

Many lesbians and gay men want to be able to marry their life partners. Anyone on the committee who has been married themselves, who has taken the step of asking their family and friends to join with them to witness their mutual vows to love, honour, respect and care for each other, should be able to understand why the ability to make this commitment and to have it recognized in law is equally important to gays and lesbians. This Government like the NDP government in British Columbia could: join litigation to have the federal Marriage Act declared unconstitutional and urge the federal Minister of Justice to take steps to amend this act.

This committee should recommend that Bill 41 amend the current Manitoba Marriage Act to make it explicit that it will issue marriage licenses to same-sex couples.

For most purposes in Manitoba law, common-law relationships are only recognized after the parties have cohabited for three years. Other jurisdictions have a shorter time period. In Ontario and British Columbia only one and two years, respectively, of cohabitation are required. Federal law including the Income Tax Act only requires one year of cohabitation. As you will hear in these proceedings, the different time periods required to create a common-law relationship could lead to anomalies in how relationships are treated for federal and for provincial purposes.

More importantly, most opposite-sex couples, if they wanted to have their relationship recognized sooner, could simply marry.

However, as gays and lesbians cannot marry, we will always have to wait three years. This long time period will create problems especially for aging gays and lesbians who many not meet the cohabitation requirement before, for example, pension benefits accrue. This committee should recommend that, Bill 41 be amended to shorten the period of cohabitation required to recognize common-law relationships from three years to one year.

#### Adoption Rights

Many people including parents who are not eligible to adopt the children they are raising will speak to this committee on adoption rights, and therefore I will keep my comments on the failure to include adoption rights brief.

Six years ago, in *Re (K)* [1995] Ontario Judgements, page 1425, an Ontario court held that the Ontario legislation which prevented same-sex couples from adopting children together was unconstitutional. The Ontario government did not even attempt to appeal this decision, because it was clear that this law violated the equality provisions of the Canadian Charter of Rights and Freedoms, and that the government could not justify this violation. I have no doubt that Manitoba's current adoption law would also be declared to be unconstitutional and most, if not all, constitutional scholars in Canada would agree with this opinion. I would ask this committee: Why is the Manitoba government forcing Manitoba parents to litigate to have this law declared unconstitutional? This committee should recommend that, Bill 41 be amended to include the necessary amendments to the Adoption Act to allow same-sex partners to adopt children together."

#### Health Care Decisions and Dying

Many Manitoba acts give spouses the ability to participate in making or to make health care decisions concerning their partners when that person is or may be unable to make decisions for themselves. All lesbians and gays are familiar with stories about families who have institutionalized queer family members to cure them of their homosexuality while friends and lovers were helpless on the sidelines. Gays and lesbians who have lived through the difficult

years of the '80s and '90s, watching our friends and partners as they lived with AIDS, learned sooner than we should have about the legalities of dying. As many queer people have a distant, even strained and hostile relationship with their family of origin, we all know stories of how members of our friends' and partners' families excluded chosen family members, including partners, from participating in health care decisions and even prevented contact during a dying person's last days.

\* (20:30)

Manitoba has at least two acts which permit family members to be involved with proceedings relating to a deceased person, The Fatality Inquiries Act and The Victims' Rights Act. Acts like The Anatomy Act and The Human Tissue Act have provisions on the delicate issue of dealing with human remains. The Human Tissue Act, for example, permits a spouse to agree that a deceased partner's organs may be removed and donated.

Those most intimate with an incapacitated person should have the ability to participate in health care decision making on their behalf, and to instigate and participate in proceedings concerning death, and to make decisions about what to do with remains. Given that these decisions often have to be made on an emergency basis, under circumstances which are emotionally difficult and where the relationships between partners and in-laws may be strained, it is essential that legislation concerning gay or lesbian partner's rights to participate and make decisions in the same way as an opposite-sex partner can make these decisions, be clear and unambiguous. This committee should, therefore, recommend that Bill 41 be amended to include amendments to legislation concerning health-care decisions like The Mental Health Act, The Vulnerable Persons Living with a Mental Disability, The Health Care Directives Act and The Powers of Attorney Act to make it clear and unambiguous that same-sex partners have the same participatory rights and decision-making powers as opposite-sex partners; that Bill 41 be amended to include amendments to legislation concerning proceedings investigating or relating to death, like The Fatality Inquiries Act and The Victims' Rights Act, to ensure that same-sex

partners; and that Bill 41 be amended to include amendments to legislation concerning decision making around human remains, like The Anatomy Act and The Human Remains Act to ensure that same-sex partners have the same decision-making power and obligations as opposite-sex partners.

There are many other areas of law which I would like to consider in this brief, like those concerning the passage of property on a partner's death, the protection of various property rights, including, but also in addition to, marital property rights, laws related to declarations of conflicts of interest involving family members for those, for example, in public office, and a range of statutes on the status, rights and obligations of spouses concerning corporate and commercial matters, but I have run out of time.

Yours truly, Karen Busby, Professor of Law.

I would like to ask if you have any questions about this material to please direct them to Penny Piper, who is here to answer questions on Karen's behalf, as best she can.

**Mr. Chairperson:** Is there leave for Penny Piper to answer questions?

**Some Honourable Members:** Leave.

**Mr. Chairperson:** Leave. I do not see any questions. Thank you for your presentation.

Before I call the next presenter, I need to inquire as to whether there is anyone else that wishes to present en français. If not, we will let the translator go home.

**Mr. Praznik:** I concur if there are no further presentations tonight. Can we have the Government's assurance that, should someone at a subsequent hearing of this committee wish such service, it would be made available?

**Mr. Chairperson:** Is that agreed? [*Agreed*].

I will call the next presenter then, Elliot Leven. Please proceed.

**Mr. Elliot Leven (Private Citizen):** Thank you, Mr. Chair, and members of the committee.

Firstly, one correction to my written submission. In the title, I have incorrectly referred to this committee as the Standing

Committee on Justice, and, of course, it is the Standing Committee on Law Amendments. So I would ask that that be noted.

As a courtesy to those waiting, instead of going through my entire presentation, I will give this committee a one-minute highlight package and then enter into any questions that might arise. I do not have to tell this committee what the *M. v. H.* decision was. It was a Supreme Court decision dealing with one Ontario law. Both before and after, some provinces and the federal government have introduced omnibus laws. Those laws have their own strengths and weaknesses, but they have been to date omnibus. They have included a large number of statutes; until Bill 41, that is. Bill 41 only includes 10.

Now firstly, I would commend the Government and applaud the Government for introducing a bill that would amend those 10 statutes. That is certainly a step in the right direction. However, there are many other Manitoba statutes that discriminate against same-sex spouses. I will not get into a numbers game. Some estimates have it that up to 80 statutes need attention. Other estimates are lower. What I think we can all agree on is that there are a number of other Manitoba statutes, including The Adoption Act, that explicitly distinguish between same-sex spouses and opposite-sex common-law spouses. My submission is simply that all of those statutes should be addressed in a single omnibus bill.

In addition to *M. v. H.*, there have been other cases dealing with other laws, adoption laws. Laws dealing with intestate succession have been struck down as unconstitutional. I think the legal trend is now pretty clear, putting aside for the moment the issue of marriage, which is a separate legal issue. Courts will strike down any laws that discriminate against the same-sex spouses. I think that trend has now become crystal clear.

Bill 41, in its current form, would not amend The Adoption Act. It would not amend The Human Tissue Act, and I make some comments in my written submission about The Human Tissue Act as well. I have no question in my mind that if the relevant Manitoba statutes were

challenged in court, they would be struck down, one by one, if necessary.

Now in the Supreme Court decision in *M. v. H.*, Mr. Justice Iacobucci made a comment about litigation as an option to legislation. He points out that although the court was only dealing with one Ontario law, many other laws also had discriminatory definitions of spouse. He pointed out that the Legislature might wish to address the other laws, and then Mr. Justice Iacobucci noted: If left up to the courts, these issues could only be resolved on a case-by-case basis at great cost to private litigants and the public purse.

I think that applies here in Manitoba and I would ask the committee to give that thought some consideration. Private litigants will challenge each Manitoba law, one by one, if necessary. The process may take years. The process may cost Manitoba taxpayers many, many dollars and it will certainly cause individual litigants a lot of grief and anxiety as well as expense. That should not be necessary. An omnibus bill should be an omnibus bill. It should be comprehensive. There is no need to wait for tomorrow when the comprehensive bill can be brought in today. We are not asking the Manitoba government to do anything new. We are not asking to break any new ground. Other provinces and the federal government have introduced omnibus bills. The courts have made it pretty clear what the law is. Let us obey the law and let us obey it today.

Finally, one last note. The honourable Minister of Justice has referred to conflict-of-interest legislation and has posed the question as to what might happen to a gay or lesbian who is in the closet, so to speak. My response to that query is simply this: the solution for a person who wants to remain in the closet is very simple. Stay out of conflicts of interests and then you will not have any trouble.

Those are my comments subject to any questions from the committee.

**Mr. Mackintosh:** Thanks, Elliot, for an excellent brief that will be very useful. Looking at this Manitoba Association of Women and the Law report again, and there, by the way, it looks like they say that where an act confers the

responsibility it must be publicly and openly fulfilled, same-sex couples should be excluded. They do go on however, Elliot, I note here, to say in the alternative, acts which have public disclosure requirements should be amended in such a way that only same-sex couples who publicly represent themselves as a couple should be included.

But you would not support either the main thrust of that recommendation or the alternative, I take it.

**Mr. Leven:** My personal view, and I do not purport to speak for anyone but myself, is the law is the law. We have to have one law. We have to have one law for everyone. Our human rights code now prohibits discrimination on the basis of sexual orientation. If the code is violated, a Manitoban can file a complaint. If you want to stay in the closet, stay out of conflicts of interest. Otherwise the same law should apply to everyone, gay, lesbian or otherwise.

\* (20:40)

**Mr. Mackintosh:** The other recommendation made by the Manitoba Association of Women in Law was that amendments of Manitoba acts, and I quote them here: Should be done on an act by act basis. Each piece of legislation has a different effect on gay and lesbian couples. This effect must be taken into account when amending legislation has developed or there is a risk that substantive equality will be lost while formal equality requirements are satisfied.

What is your take on that? To your mind, is that saying that there should not be omnibus legislation?

**Mr. Leven:** With respect to the organization in question, I cannot for the life of me imagine what they were thinking. The idea of bringing in a separate bill for each and every statute, first of all, would take up the Legislature's time from here to doomsday, and second of all, would make individual Manitobans wait for a long time for their rights. I think even this organization which has lumped Manitoba statutes into different categories, those which explicitly distinguish between same- and opposite-sex couples, those which distinguish between married couples and common-law couples, those



which talk about spouse, but do not define it. I think that the most minimal logical conclusion that one could draw is that the 17 Manitoba statutes that explicitly exclude same-sex couples should be amended as part of a single omnibus bill. Bill 41 deals with 9 of those 17. So, at the very least, the minimal logical conclusion would be that Bill 41 should be expanded to include those other laws, the other 8 Manitoba statutes.

**Mr. Chairperson:** Thank you, Mr. Leven. Before I recognize the next speaker, presenter No. 44, Harry Mesman, has a written brief which he has asked to have included as part of the record of this committee hearing. Is that agreed? *[Agreed]*

The next presenter is Mr. Roy Purvis.

**Mr. Roy Purvis (Private Citizen):** Mr. Chairman, members of the committee, Attorney General, I speak in favour of Bill 41. I feel it is a very important act, and one that should have been taken years ago. I would like review a little bit of history.

*Ms. Bonnie Korzeniowski, Vice-Chairperson, in the Chair*

On April 17, 1982, Queen Elizabeth signed the Canada Act of 1982 as the Constitution of Canada. Part 1 of the Canada Act is the Canadian Charter of Rights and Freedoms and section 15.1 of the Charter says: Every individual is equal before and under the law and has the right to equal protection and equal benefit of law without discrimination.

Now it has taken some 19 years since that law was proclaimed, and that section 15 came into effect on April 17, 1986.

In 1986 I was employed by the government to investigate all the practices and laws pertaining to education and recommend the changes that should be made at that time. This I did, and the government over the last 10 years or 12 years has put many of these into effect. I am surprised that this has not been done with all other laws. I am very disturbed to find that in the presentations today that there are maybe up to 80 laws that need amending in order to bring about equality just for this one group.

I would ask that the minister look very carefully at the laws and include in the omnibus

bill all of those that require amendment to provide that equality without discrimination.

I am particularly concerned about The Adoption Act. As a person who worked in adoptions 50 years ago, as a person who adopted our eldest child back in 1967, as the grandfather of an adopted child, I know the great joy of people who are able to adopt and to bring members into their family that they would not otherwise have. This joy continues for many, many years. It is therefore really a punishment to deny the right to apply and take legal responsibility for a child.

I know from my own experience that waiting for the adoption papers to come were a very stressful time. I know we only had to wait a year when we were adopting, but it still was stressful that we did not have the legal rights to do the things that needed to be done for that child. Should there be an emergency, we were not sure what our position would be with the hospitals.

You have heard some very powerful presentations here this evening from parents of a child who one parent cannot adopt. I think that goes with every parent who adopts or every parent who is living in a situation where one parent does not have legal rights with the child. I think that these need to be remedied as soon as possible, immediately. I think the rights of the child are most important here. Only through adoption can those rights be sustained. That is all I am going to say tonight. Thank you very much for listening.

**Madam Vice-Chairperson:** Thank you, Mr. Purvis. The next presenter is Noreen Stevens.

**Ms. Noreen Stevens (Private Citizen):** Good evening. My name is Noreen Stevens. I am making this presentation on behalf of myself and my partner, Jill Town. Jill and I are foster parents of a 10-month old girl who has lived with us since birth. We are also awaiting placement of a child for adoption in our home.

To begin with, I would like to speak generally about equality for gays and lesbians as it relates to Bill 41. There are many more Manitoba statutes which impact the lives of gays and lesbians than the 10 that are being amended in Bill 41. My question to the committee is: Why

only 10? I realize that this Government's very narrow interpretation of the *M. v. H.* decision affected only those 10 laws, but I am asking the question philosophically. Is the discrimination of gays and lesbians and their children acceptable in Manitoba or is it not? If the answer is no, then Bill 41 does not go far enough because until all the laws are changed it is as if no law has been changed. Until all the laws are changed gays and lesbians and their children still fall short of full and equal citizenship in this province. I am asking this Government to have the courage to reform legislation that discriminates against gays and lesbians and our children, not simply because a Supreme Court ruling requires compliance, but because it is the ethical thing to do. Specifically, I am asking the Government of Manitoba to amend Bill 41 to include changes to The Adoption Act which would permit Jill and me to adopt our children together.

\* (20:50)

When Jill and I got together about six years ago, we discovered a shared interest in including children in our lives. We applied to adopt through Winnipeg Child and Family Services. Over the course of many months we worked with our social worker to create a detailed profile of ourselves as potential parents.

We explored our backgrounds, our childhoods, family lives past and present, household routines, community involvement, our interests, our work lives, our relationship, our parenting philosophy and our shared vision of family. Throughout this process Winnipeg Child and Family Services affirmed our relationship, even within the limitations of The Adoption Act. Unofficially we were acknowledged as a couple, but officially, at least when it comes to adoption in Manitoba, Jill and I are not recognized as a couple. This exhaustive home study of our lives as a couple was filed with the adoption registry under only one name. When a child is placed with us, he or she will have only one legal parent.

Imagine for a moment that your child has brought home a report card and you have to pass it over to your spouse for a signature. Imagine having to carry documents in which your spouse gives you permission to travel out of the country with your child. Imagine that your spouse dies,

her parents consider your relationship an abomination and believe you are unsuitable to parent their grandchild who you have raised from birth. They are going to fight you for custody. Or imagine that you and your spouse have separated and you are denied access to your child, perhaps told by your spouse that you are not a parent anymore or never were.

These scenarios range from the inconvenient to the lamentable to the tragic. They will continue to be played out in Manitoba by gay and lesbian parents and their children until The Adoption Act is changed.

Fourteen years ago Manitoba's NDP government at the time was leading a wave of change for gays and lesbians across this country by amending The Manitoba Human Rights Act to guarantee protection from discrimination based on sexual orientation. By contrast the current Government is dragging its feet on this latest wave of change to legalize adoption by both members of a same-sex couple.

The people of Ontario, Québec, B.C. and Saskatchewan did not have to wait for these changes and neither should Manitobans. While our children grow up before our eyes, gay and lesbian parents in Manitoba need to know that The Adoption Act will be changed and that it will be changed now. Otherwise we are left no choice for the sake of our children but to challenge this legislation through the courts.

Finally I would like to comment briefly on any opposition to these proposed changes. I understand there has actually been very little. I realize that some MLAs have personal concerns or they perceive some opposition among their constituents to the extension of human rights to lesbian and gay parents and their children.

It is important to keep in mind that the majority of opposition regarding changes to The Adoption Act is rooted in a fundamental belief that gays and lesbians should not be parents at all. This is not the issue we are debating.

In Manitoba, same-sex couples are raising children, both birth children and those placed with them for adoption. We are not asking for the right to raise our children. We are already doing that. What we are asking is that lesbian and gay people and their children be acknowledged in the laws of Manitoba.

At the beginning of The Adoption Act it reads: The purpose of this act is to provide for new and permanent family ties through adoption, giving paramount consideration in every respect to the child's best interests. Surely it is in the best interest of every child with two parents to have two legal parents. Thank you.

**Ms. Chairperson:** Thank you for your presentation. Are there any questions?

**Mr. Mackintosh:** Thank you, Noreen. When you began your remarks, was I right in hearing that you say that you and your partner are fostering right now?

**Ms. Stevens:** Yes, we are fostering.

**Mr. Mackintosh:** Is the fostering done on a joint application basis? Clearly you are jointly fostering. Does the province recognize that it is a joint fostering relationship in the formal documents and process? Do you know?

**Ms. Stevens:** I believe they do. We are both foster parents. We both carry foster parent cards. I believe the distinction between fostering and adoption is that in fostering Child and Family Services is the guardian of the child. Or in some situations, for example voluntary placement, the birth parents would actually continue to be the parents of their child even though the child was placed for foster care.

**Mr. Mackintosh:** This is very interesting. What you are saying, though, is that for the purpose of fostering you are joint parents according to the formal documents and recognition of the state.

**Ms. Stevens:** Yes. That is my understanding.

**Mr. Mackintosh:** You talk about the process that you went through with Child and Family Services for the purposes of the adoption process. There was a formal evaluation of your home circumstances and the love that you can give, the nurturing that you can provide. They came to the conclusion that there were no barriers with the nature of the sexual orientation of parents or the sex of the parents during this process. Is that right? I think that was the gist of what you were saying in that paragraph. Is my summary accurate?

**Ms. Stevens:** Yes. Their assessment was favourable in every respect.

**Mr. Praznik:** I would like to also thank the presenter for her presentation. I am particularly pleased that you made the point that this debate is not about the issue of whether or not gay or lesbian people can adopt. It is about other laws, can they adopt jointly, and what rights and responsibilities go with that. There are some who have commented on this bill thinking that the latter was the case. I am glad you pointed that out.

I just want to say to the presenter as well that you also make a point that I certainly feel for when you make the point that here in this case we hear a review with Child and Family Services and with the agency that you are both assessed and yet only one under our current law can adopt, and the point you make about in a custody fight or a death that the other person would not have a legal right as a matter of guarantee. That must be of great concern to people who are in that position and certainly a concern to a child as well.

**Ms. Stevens:** Absolutely. I feel personally that what this government is asking me to do or asking my partner to do is to be single parents. In the eyes of the law, that is what we would be. That is not what we want to do. We do not want the responsibilities of being single parents. It simply does not reflect our reality.

**Mr. Praznik:** I think Doctor Gerrard had some questions. I defer to him.

**Hon. Jon Gerrard (River Heights):** You refer in your presentation to the fact that if The Adoption Act is not changed, then you feel you will join in a challenge through the courts. What you are saying, I presume, is that you feel that without making the change in The Adoption Act, that Manitoba really will not comply with the *M. v. H.* decision and have achieved the compliance with the Supreme Court decision. Is that right?

**Ms. Stevens:** What Karen Busby said—I do not believe that Bill 41 complies with the spirit of *M. v. H.*, and I guess what I am asking, and what I think many of the presenters are asking, is that you consider the spirit of *M. v. H.*, not just the letter of the law.

**Mr. Mackintosh:** Noreen, when you say in your presentation that if the legislation is not changed

you would be left with no choice but to challenge the legislation through the courts, did you mean that you, as a couple, would consider that as a necessity, or were you talking in general?

**Ms. Stevens:** I was speaking specifically about ourselves. It is our intention to proceed as quickly as possible once this legislative process has revealed itself. Whether changes are to be made or not, it is our intention to proceed immediately. If I could just add "we." We are in a position unlike Lorri Millan and Nadin Gilroy, for example, who already have a child. We are in a situation where we would like to see these changes in place before we have a child, so that child from the word go has two legal parents.

*Mr. Chairperson in the Chair*

**Mr. Chairperson:** Thank you for your presentation. The next presenter is No. 7, Donna Huen. While we are waiting for this person to come forward, maybe I should restate for those who did not hear or understand the procedures at the beginning. We will be calling every name once this evening, and those who want to present will have the opportunity to present. Those who are unable to stay will present at the next hearing of this committee, which will be announced in the House tomorrow. It will be shortly. Also, if you are unable to present tonight or come back another day this week, you have the opportunity to submit your written brief, and it will become part of the official record of this committee. Please proceed.

**Ms. Donna Huen (Rainbow Resource Centre):** Thank you, Mr. Chairman, and members of the committee. I am here before you today representing the Rainbow Resource Centre, serving Manitoba's gay, lesbian, bisexual, transgendered and two-spirited communities, formerly the Winnipeg Gay-Lesbian Resource Centre. I wish to speak to Bill 41, An Act to Comply with the Supreme Court of Canada Decision in *M. v. H.* This act recognizes same-sex partners as common law in the following acts: The Civil Service Superannuation Act, The Court of Queen's Bench Act, The Dependants Relief Act, The Family Maintenance Act, The Fatal Accidents Act, The Legislative Assembly Act, The Pension Benefits Act, The Manitoba Public Insurance

Corporation Act, The Teachers' Pension Act, The Workers Compensation Act.

While we are pleased to see this Government taking action to amend these acts that are presently discriminatory towards gay and lesbian relationships, we have grave concerns about the omissions that are not being addressed in the proposed act. There are many laws which concern the creation, recognition, support or breakdown of gay and lesbian relationships that are not addressed in the proposed amendments. In particular, we are concerned that those acts that recognize relationships such as The Adoption Act, The Child and Family Services Act, et cetera, are not being amended at this time.

Gays and lesbians are presently unable to jointly adopt children. This potentially can cause problems when only one spouse has parental rights. In the event that the adoptive parent is unavailable the other parent should be able to consent to necessary medical attention but under the present laws are not able to do so.

When permission is required by daycare centres and schools, either parent should be able to consent to field trips and other activities. Under the present amendment, in the event of family breakdown, both partners are equally responsible for the welfare of the child. Therefore, the law should be changed to include joint adoption by both partners.

We are also concerned that those laws relating to the passage of property on death, funerals, and remains, such as The Intestate Succession Act, The Wills Act, et cetera, are not being amended at this time.

\* (21:00)

Because of the widespread homophobia still present in our society, many gay and lesbian couples are estranged from their families of origin. In the event of the death of one person in a same-sex couple, the law should recognize property rights as belonging to the other person in the family unit.

In addition, division of property on the breakdown of a common-law relationship is a concern. Same-sex couples need the same protections under the law that heterosexual couples presently enjoy. We are asking that all

acts relating to spouse be amended to include same-sex partnerships. Thank you.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Jordan Kunda.

**Ms. Jordan Kunda (Private Citizen):** Honourable Chair and members of the committee, I will keep my comments brief.

I wanted to begin by telling you the story of two couples who both have children and the impact that the current laws governing adoption and parental rights have on them.

The first couple are two friends of mine, two women who were in an intimate relationship for seven years. Three years into their relationship, they had a child together. For the last eleven years they have raised this child together, sharing all parenting and financial responsibilities for their daughter equally. Four years ago their relationship as lovers broke down and they separated. So for the last seven years they have shared joint custody of their daughter, both moms continuing to contribute equally in all aspects of raising their child. In every respect they are both fully mothers to their daughter except one. The non-biological mother has no legal rights or obligations to their child. When their relationship broke up, the biological mother could have chosen and still could at any time to deny the other mother access to their daughter. The non-biological mother would have no legal recourse.

Similarly, the non-biological mother could have walked away with no obligation to provide any sort of child support. In both of these scenarios it would have been the child as well as the parents who would have suffered. Because of their commitment to put the needs of their daughter first, this couple has chosen to surmount their differences so that both parents could remain fully involved in their daughter's life. Not all children are this lucky.

Three years ago my brother and his partner of six years split up. At that time their daughter was three years old. The break-up was ugly and involved several legal proceedings, including a custody battle over their daughter. My ex sister-in-law was determined to claim sole custody of my niece, thus severely restricting my brother's access to his daughter.

However, because my brother is legally recognized as the child's parent, he was able to contest this in the courts and won shared custody. Had theirs been a same-sex couple, my brother would have lost his daughter, I would have lost my niece; my parents would have lost their grandchild; and, perhaps most tragically, my niece would have lost a significant portion of her family.

The denial of parental rights and obligations to both parents in a same-sex couple violates the human rights not only of the parents but also of their children. When parents have no legal rights and obligations to their children, the children they are raising, it is the children who lose the most. They lose family members when a relationship breaks up. They lose financial support. They lose the right to inherit from their parent. They lose the right to travel freely with their parent. They lose the safety and security of parental support following traumatic loss.

It is often during times of significant transition and loss such as a death or a relationship break-up that the full impact of the denial of these rights takes its toll. So the failure to recognize the parental rights and obligations of both parents in a same-sex relationship robs children of the support, comfort and benefits that they deserve precisely when they are most in need of it, thus adding significantly to the suffering these children experience. When parents are not legally recognized as parents of their children, everyone loses out: the parents, grandparents, aunts and uncles, our society, which places so much value on the family, and most of all, children. Thank you.

**Mr. Praznik:** I want to thank the presenter. I know there are other statutes involved besides adoption rights, but I take it the point you make very, very strongly is that there is a portion of this issue that is about children and their rights, and the obligations they should expect from those who parent them. I take it that is a point that you want to make very strongly in your presentation.

**Ms. Kunda:** Yes. That is the point I am making.

**Mr. Gerrard:** Thank you for your presentation. You talk about the denial of parental rights and obligations to both parents in a same-sex couple.

One of the things about this bill is that it will amend The Family Maintenance Act, which, in fact, provides for, or expresses and demands, the obligations component, but it does not provide for the rights component. I wonder if you would comment?

**Ms. Kunda:** Well my first response is how sad. Well, I think that speaks for itself. I mean if a parent is a parent, if they have a legal responsibility to a child, how can we turn around and say that they do not also have a legal right to the child that they have this responsibility for?

**Mr. Praznik:** Just to pick up on this point. In your view, is it possible under Mr. Mackintosh's legislative scheme that you could have a parent, the non-legal parent, for lack of a better term, having a responsibility to pay maintenance support, but not a right to have custody or access or any of those other things that flow from parenthood?

**Ms. Kunda:** Well, I am not as well versed perhaps in the details of the legislation, so I do not think I want to speak to what could or could not arise.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Ms. Keith Louise Fulton.

**Ms. Keith Louise Fulton (Private Citizen):** Mr. Chairman and members of the committee: I am a citizen, I am a lesbian and I am a mother. I am here to speak to you tonight about Bill 41. I feel very fortunate to be here, to be able to participate in a democratic process, to have a voice. But that is not enough. What I am here to ask for is for full equality for myself and for my children.

In 1987, I spoke to a committee on The Human Rights Act. That was such a frightening experience to me, that, in fact I had to stand only on one leg because the other one was shaking so badly that I was not able to read the paper that I was holding.

I feel a little better about it this evening, but I still know that it takes a really extraordinary effort to do something that requires courage and integrity, and that is what I am asking of the

Government tonight. When I presented at those hearings for The Human Rights Act and sat through the five days or so of presentations, I really learned why, in fact, I needed human rights. In a lot of my day-to-day interactions with people, it seemed that I was treated equally enough. I had been fortunate not to brush too often with hatred and discrimination.

\* (21:10)

Today, however, I have come to speak to you because I want to provide my children with something that I could not ask for in 1987. I came then asking for human rights protection for myself as an individual, for other individuals. My children are now 23, 27 and 29 years old. I am finally able to speak for them. They are young adults. Sally Pappo, my partner, Kevin, Carl, Emily and I have lived together as a family for 14 years. Sally and I did not choose to co-parent. In fact, the choice was not there for us. We were not allowed to co-parent.

When my work took me away from home, when I travelled, Sally was the adult. She was the loving caregiver. She was the responsible person for these children. We just kept our fingers crossed and called morning and evening that nothing would happen that she could not handle, because, in fact, she had no legal right to the work that she was doing. We made arrangements. We discussed possibilities: what would happen if I were to be killed? Who would look after the children? How would she continue the relationships that we had begun? We did not have legal arrangements for these. We were lucky. Nothing like that did happen, and my children have grown up. They have grown up with entirely private arrangements. Even if we had chosen not to be legal co-parents of these three children, if the choice had been there, we could have taken it at any point. We would know it was in the realm of possibility. That provides for some wellbeing.

There are a lot of young parents now, children much more vulnerable because of their age than my children are. Amendments to Bill 41 could provide for these children some measure of safety and security that my children had to do without. It is within the range of the Government to provide safety and security

through equality and adoption rights to gays and lesbians and to their children.

While I spoke to this Government of Manitoba in '87 for human rights, I am speaking now to the Government of Manitoba asking for the rights of our children. Do not prevent us from having secure families. Do not refuse the children of gay and lesbian parents legal protection of a parent. I ask you to use the leadership you have to provide for our full equality. Thank you.

**Mr. Mackintosh:** Thank you, Keith, for your pioneering spirit in this frontier, which continues to be a frontier. Thank you very much for your profoundly insightful and caring presentation here today. You are being listened to.

**Mr. Praznik:** I was not a member of the Legislature back in 1987. I want to thank you for your presentation. I hope you found it an easier one today, your second time up. Thank you for sharing your thoughts with us.

**Mr. Chairperson:** Thank you, Ms. Fulton. Doctor Gerrard has a question for you.

**Mr. Gerrard:** Thank you for your presentation. One of the things which you emphasized, and I just wanted to ask you to expand on a little bit—the importance, this time around, of the rights of children. A number of other presenters have talked to the rights of children, and you have talked eloquently about the rights of children. Maybe I could ask you to sort of expand a little bit in sort of clarifying what you see as the specific rights of children which are so critical here.

**Ms. Fulton:** I chose to speak to you tonight from my experience as a lesbian mother, and not to try to, I guess, be the lawyer that I am not. There is quite a range between formal rights and, I guess, a sense of cultural belonging. But when we do not have formal rights, when my children, for example, Kevin, Carl and Emily, and I have to say I have never named them here, even though I have had somewhat of a pioneering spirit as you put it. I have not dared to name my children. I have kept them out of it. They are grown now. I admire the courage of these parents who speak with their children in their arms while those children could be taken from

them. I am speaking to you now because you cannot take my children from me now. They have grown up.

So I wanted to speak to you about what it might have meant for us had a cultural belonging had been available because formal rights existed. I think if there had been a possibility, if it had been known that it could happen that a partner of mine, a woman whom I have loved for a long time and hope to love for a long time more, could choose to be their adoptive parent, and they could choose to have that, that would have made a difference in our lives. That is there as a possibility. It is a legitimizing of our choices. That is what I wanted to speak to you about.

**Mr. Chairperson:** Thank you. The next presenter is Maxine Hasselriis.

**Ms. Maxine Hasselriis (Private Citizen):** Thank you for the opportunity to speak at last. I must admit I do not take too much notice of gay and lesbian rights or the lack of them. Most of the time I am just enjoying all my civil rights, and because it is so easy to do, I forget that there is a group of second-class citizens who do not have all the rights that I do. However, I was recently presented with two petitions by the same person, and asked to show my support for the causes by signing the petitions. I am not fond of petitions. It is too easy to phrase an unworthy cause in enticing words, and too easy to sign a petition mindlessly. I often do sign petitions because it is usually easier to do than refuse, but I always read a petition carefully so I fully understand the cause and whether I support it before signing.

\* (21:20)

One of the petitions was in support of adoption rights for gay and lesbians, and the other was in support for saving the Eaton's building for posterity. I read both petitions carefully and immediately refused to sign one. I do not understand the situation with the Eaton's building well enough to know whether it should be saved from the wrecker's ball. My first reaction to the adoption rights petition was, sure, why not? Then when I read the petition I criticized the wording. After all, one of the claims is to the effect that all children raised by gays and lesbians are happy, well-adjusted and

successful. That is ridiculous. No demographic group is perfect. I am sure some gays and lesbians are poor parents, and even some of the best gay parents raise maladjusted children. Why would homosexual parents and their children be any different from heterosexual parents and their children?

Well, I signed that petition in spite of its poor wording because I support the principle of adoption rights for gays and lesbians. But then I became incensed that a fellow human being had to ask me to help persuade our Government to include adoption rights in Bill 41. What about the principle of equal rights for all human beings? Who am I to be in a position to exclude or include others from laws made for citizens? The exclusion of adoption rights from Bill 41 affects not only homosexuals but also their families. You know, all gays and lesbians have families. They have parents, grandparents, siblings, aunts, uncles and cousins. When a gay or lesbian is denied the right to adopt his or her partner's child or to adopt a child with his or her partner, there is a chain reaction. The child in question is denied the right to have two parents equally responsible for him. There are potential grandparents who are denied their legal rights to the child. There are prospective aunts and uncles who are denied the right to welcome the child into their family legally. The child is denied the important feeling of security which comes from knowing one is truly a member of both parents' extended families.

When Bill 41 was introduced, I was pleased with my Government. When I realized that the bill was less than comprehensive, that it extends only the rights it must, by law, rather than the rights it could, by conscience, I was embarrassed for my government.

So I am here this evening to say to you that there really should not be a need to extend rights to gays and lesbians. Gays and lesbians are citizens, just as I am. Of course, we should all be enjoying all the rights and privileges extended to citizens. Who am I, and who are you, to pick and choose who, among all citizens, goes to the back of the citizenship bus?

In 1929, the Supreme Court of Canada decreed, in the Famous Persons case, that

women were persons for legal purposes. The judicial committee of the Privy Council called the exclusion of women from public office a relic of days more barbarous than ours. My dictionary defines "discrimination" as a distinction, as in treatment, especially an unfair or injurious distinction.

In Canada, in 2001, discrimination based on sex, religion, colour, national or ethnic origin, or disability is generally prohibited. As we are here debating the inclusion of homosexuals in our adoption laws, it certainly seems to me that we are tolerating, even condoning, discrimination based on sexual orientation. Surely, such discrimination is a relic of days more barbarous than ours. There is no excuse for discrimination. It is time to do the right thing. It is time to have the same adoption rights for all Manitobans, no more and no less. Thank you.

**Mr. Chairperson:** Mr. Loewen.

**Mr. John Loewen (Fort Whyte):** Thank you, Maxine. On behalf of the committee I would like to thank you for your presentation tonight. It is certainly very powerful. Maybe later we can discuss Eaton's building.

**Mr. Mackintosh:** Maxine, they sure asked the right person to sign the petition. Thank you for coming.

**Mr. Gerrard:** Maxine, thank you for your presentation.

You talk about the importance of the adoption rights, not just for parents, but for grandparents, aunts, uncles and cousins. This is really a broad question for extended families, and that is one of the reasons why it is so important to change The Adoption Act.

**Floor Comment:** That is right.

**Mr. Chairperson:** Ms. Hasselriis, I need to acknowledge you first.

**Ms. Hasselriis:** Someone has, I think, brought this up previously, but do you realize that if there are two partners of the same sex who share a child but one of them is not the legal parent and that partnership splits up, there is a whole



family which loses that child and has absolutely no rights to go and say, just a minute, that was my grandchild that you just took, or that was my niece or my nephew. People are forgetting. Only one person out of the last, what have we had, 15 people, even acknowledged that gays and lesbians have extended families.

I noticed everybody is concerned about the adoptive parent or the natural parent and so on and the child, but nobody has really taken it past that. Many people will love and support a child, support it legally, of course, financially and in many other ways. Thank you.

**Mr. Chairperson:** Thank you. The next presenter is Timothy Preston.

**Mr. Timothy Preston (Private Citizen):** Good evening. Thank you very much for the privilege of being able to address you this evening. My name is Tim Preston. I am speaking here tonight to encourage our province to craft a comprehensive definition of spouse that includes same-sex relationships, eliminating the distinction between opposite-sex and same-sex relationships.

As you have heard, and again I will not get into a numbers game, but there are over 40 statutes that still define the word "spouse" in terms of opposite sex. All of these acts need to be amended to include same-sex relationships.

Bill 41 as it now stands is compliant with the mandate of the Supreme Court, but let us look for a moment at the words, the pith and substance of what the Supreme Court has said. They have held that sexual orientation is a protected ground within the section of the Canadian Charter of Rights and Freedoms, section 15, which guarantees equality rights.

Section 15 of the Charter reads that every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination. In *M. v. H.* the denial of the spousal benefit violated the equality sections. I would like just to read for the record some of what the Supreme Court said. They held that the exclusion of same-sex partners from the benefits promotes the view that individuals in same-sex relationships generally are less worthy of recognition and protection. It

implies that they are judged to be incapable of forming intimate relationships of economic interdependence as compared to opposite sex couples without regard to their actual circumstances.

Discrimination exists—and this is still the Supreme Court talking, not me—discrimination exists because of the exclusion of persons from the regime on the basis of an arbitrary distinction, sexual orientation. Such exclusion perpetuates the disadvantages suffered by individuals in same-sex relationships.

\* (21:30)

These are very powerful words and they are a clear mandate to end inequality on the basis of sexual orientation.

Discrimination on the basis of sexual orientation is not tolerated at any level of our court system. This Province has the opportunity at this point in time to bring equality to same-sex relationships in all legislation where the word "spouse" is mentioned. This Province has the chance to recognize and affirm our values of tolerance, diversity and inclusion, a chance to embrace the diverse social fabric that makes up our province.

The honourable Minister of Justice (Mr. Mackintosh) has referred to the Manitoba Association of Women and the Law, which outlined a number of acts which exclude same-sex couples when they are defining a spouse. There are at least 16 acts that exclude same and cohabiting heterosexual couples. There are 15 acts that do not define the word "spouse." I will, if I may, just turn to one of these acts, which currently is not contemplated or covered by Bill 41. That is The Intestate Succession Act. What that act does, as you know, is set out a formula for the distribution of an estate of someone who dies without a will. If there is a surviving spouse and no children, the entire estate devolves to the spouse.

The problem for people in same-sex relationships is that the act does not define the word "spouse" but refers indirectly to another act, which is The Homestead Act, which seems to imply that what "spouse" means in that legislation is a married couple.

So a gay or lesbian person cannot rely on this act to direct their estate to their partner. The

act is therefore in conflict with the decision of the Supreme Court. Costly legal actions have been necessary in the past to try to remedy this situation. There are people whose stories you will probably hear tonight where they have direct knowledge of people who have been shut out from their partner's estate upon the death of the partner.

This legislation that I am talking about, The Intestate Succession Act, that is just one example of having no provision for same-sex relationships. We are not really concerned here with those individuals who are sophisticated enough to draw up their own will, draw up a health care directive, draw up a power of attorney to protect themselves. We must concern ourselves with people who are unprotected, disenfranchised and left stranded, the people who are least able to take care of themselves.

It is my submission that this is as a historic window of opportunity to legislate equality in our great province, which has such a history of progressive movements. I am encouraging the committee to create a definition of "spouse" that includes same-sex relationships, because this province after all owes its strength to a unique, diverse blend of cultures and people. Surely our core values are, amongst others, equity, justice, tolerance, and inclusion.

We can create through omnibus legislation a province where same-sex relationships can feel secure and protected under the law. I would ask that this committee take a second look. It is your opportunity to bestow equality upon those many people who are in same-sex relationships now, living as spouses, who will continue to live as spouses and who are only asking for equal protection under the law. Thank you very much for your time.

**Mr. Mackintosh:** Thank you, Tim.

On the issue of The Intestate Succession Act, that is a very timely issue. It is being challenged right now in the courts. We see it bound up with the other property division statutes, whether it is The Marital Property Act or The Homestead Act, as you mentioned. We know, of course, in *M. v H.* the court there said very clearly that they were not touching at all the

issue of property division. They wanted to make that absolutely clear. Our view of the plain reading of that act is that it dealt with financial support. It is an issue that is now being looked at.

I understand from Nova Scotia, where their legislation was challenged, that was the marital property legislation, they went to a registry for the first time in Canada where same-sex couples would have to register if they wanted to gain the benefit of property division. Have you had any formed view on that yet, Tim, in terms of whether you think that that is an appropriate response or not, or do you think that sets in place another barrier, or does that afford actually a recognition of rights of people outside of a marriage relationship?

**Mr. Preston:** The thrust of my submission is that equal treatment and protection are required. That is one avenue which I would not ask this Government to explore, that the Government create within the statutes that exist a definition, not a separate category.

**Mr. Gerrard:** First you mentioned over 40 statutes that need to be changed. Is that in addition to the 10 that are being changed in Bill 41?

**Mr. Preston:** As I say, members of the committee, the numbers that have been used in different studies do vary, but they are as high, by some estimates, as 80 statutes. By my quick calculation, it would appear close to 40 statutes that still are not covered.

**Mr. Gerrard:** It has been said, I think, Ontario amended something like 60 statutes. Maybe you could compare with what Ontario did with what is needed here. Can you give us a comparison?

**Mr. Preston:** The thrust of my submission is that Ontario's bill was an omnibus bill, which dealt with a very great number of the types of legislation that we are discussing here tonight. Although they created a separate category of same-sex partner, they still did make those amendments. It was an omnibus bill. The bill, as it stands today, I would not define as an omnibus bill.

**Mr. Gerrard:** In your assessment, Manitoba has gone sort of about a fifth of the way that Ontario has gone, something like that. Is that right?

**Mr. Preston:** On a sheer numbers level Manitoba has not gone as far as the lead that Ontario has created. I would encourage this province to look closely at the number of acts that specifically exclude same-sex relationships, and specifically include it at this point. Take the opportunity at this point to do it.

**Mr. Gerrard:** You made the point that the changes here would bring Manitoba into compliance with *M. v. H.* Depending on the interpretation, one might argue that more should have been done even to bring it into compliance. Would you not agree?

**Mr. Preston:** In terms of the logic behind *M. v. H.* and the articulated quotes that I provided you, it appears that the Supreme Court is certainly mandating that discrimination on the basis of sexual orientation be taken out of the kinds of legislation that we are dealing with tonight.

**Mr. Gerrard:** The essence of *M. v. H.* would suggest that Manitoba should go much farther than Bill 41?

**Mr. Preston:** I would encourage the Government to take another look at the wording in *M. v. H.*, which, it is our submission, opens the door to protecting people on the basis of discrimination because of sexual orientation.

\* (21:40)

**Mr. Gerrard:** Others have suggested, and I would just like your opinion here, that if Manitoba does not go substantially further, then Manitoba law is likely to be subject not only to challenge, but that challenge is likely to be successful given the intent of *M. v. H.*

**Mr. Preston:** It appears, members of the committee, that costly litigation would ensue and it would be my submission that litigation to end discrimination on the basis of sexual orientation would be, as it has been up until this point, entirely successful.

**Mr. Rondeau:** Thank you for your presentation.

Bill 41 uses a three-time period in terms of common-law spouse in definition. What is your opinion as to this length of time?

**Mr. Preston:** It appears that the length of time is parallel or analogous to an opposite-sex, common-law relationship and I have no particular gripe about that, although, you have heard from other people that can prejudice those who are not able to marry. That would be the same-sex relationship.

**Mr. Mackintosh:** I know what we do. We have to watch, I think we have seen a caution about using a numbers game. I just refer to what a gal said in Ontario following the introduction of Ontario's Omnibus Bill. They said it was an affirmation of their prejudice. They said this does not conform with the Supreme Court decision. There were obstacles put there for same-sex, common-law partners that were not there for other common-law partners. So, we have to be very cautious about using just straight numbers, recognizing, of course, that Bill 41 cannot represent the work of this Government in addressing this issue, absolutely.

**Mr. Chairperson:** The next presenter is Herb Neufeld. Is Mr. Herb Neufeld here?

The next presenter is Lloyd Fisher.

Mr. Praznik.

**Mr. Praznik:** Mr. Chair, I know you called the other gentleman, but there are a number of people in the hallway. Perhaps you could ask the Clerk to check, and if Mr. Neufeld is in the hallway, he may be allowed to speak after this gentleman.

**Mr. Chairperson:** That is a good suggestion. We will get the Clerk to check the hallway. Please proceed, Mr. Fisher.

**Mr. Lloyd Fisher (Private Citizen):** Mr. Chair, members of the committee, thank you.

When the Supreme Court of Canada decreed that same-sex couples be granted the same spousal rights as heterosexual couples and that the provinces were to amend their statutes in their legislation, I was pleased because I assumed it would apply to all statutes where the word "spouse" appears.

I am disappointed now to learn that the proposed Bill 41 will amend only a small

fraction of the statutes in question. I am aware of numerous examples of friends and acquaintances who have suffered anguish and material loss because their long-term relationships were not legally recognized.

I recall the case of a friend who died five years ago. His partner of 21 years had been unable to make funeral and burial arrangements. These were made by a brother who is estranged from the deceased. In addition, because no will could be found, the estate of the deceased was awarded to the brother, and only after long and expensive litigation did the same-sex partner receive a portion thereof.

In another case, a friend who had been in a same-sex relationship for 50 years, was barred from being in the room where his partner lay, dying. The dying man's relatives, on the pretext of suspected poisoning, had obtained a court order to keep the partners apart.

Personally, my partner and I have been in a stable relationship for more than 30 years. We feel that we should be responsible for any decisions regarding each other's health care and ageing concerns. In the event of death, our final wishes as to funeral arrangements and burial should take precedence over those of other relatives. We do foresee a possible conflict of wishes, since we have both stated that we wish to be cremated, whereas siblings are opposed to cremation on religious grounds.

I am also concerned about the rights of same-sex couples to adopt. As a retired schoolteacher, I have always considered children's welfare a top priority. It has always seemed to me that single-parent children are at a disadvantage compared to those having two parents. If the single parent becomes unavailable to the school or hospital, for example, there is no one legally responsible to replace him or her. To deny the right of same-sex couples to both be official parents is to deny those children the human basic right to have two parents. This is cruel punishment of innocent children.

This Government, whom I consider to be progressive and proactive rather than conservative and reactionary, has an opportunity to become a leader in providing a better society. I

encourage you to seize that opportunity. Thank you.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is No. 15. This minister is pleased to recognize a minister colleague, a little pun there on the use of the word "minister." We are not ministers of the Crown, but we are both ministers. Please proceed.

**Ms. Loraine MacKenzie Shepherd (Private Citizen):** I speak to you as a United Church minister, and also as adjunct faculty at the University of Winnipeg, as the Rev speaking about the new benefits of same-sex couples and the question of adoption rights.

In essence, I have come to talk about family values. First, value around the importance of family values in their ability to offer a commitment to a secure, supportive, and loving home for children, who can be assured of their parents' presence, protection, and provision for their needs. Secondly, that which threatens the security and provision for our children is at odds with family values.

With these two premises in mind, let us look now at the question of adoption rights. Presently, single people can adopt regardless of their sexual orientation. However, a lesbian or a gay partner cannot adopt his or her partner's children. This means that children who have two moms or two dads may be prevented by law from having the full protection and support of both parents. This threatens the security and provision for our children and is therefore at odds with family values.

After talking with a few lesbian and gay couples who have children, and as many of you have heard tonight with the stories that have already been said, I have learned that the following horror stories will continue if adoption rights are not recognized by this Province.

One story: If the legal parent is out of town, the other parent cannot make medical decisions for their children, should one of the children end up in the hospital.

Second story: If the other parent dies, the children would not be entitled to survivor benefits or inheritance rights.

Third story: If the legal parent dies, the other parent may not be granted legal guardianship. Extended family members could have the children removed from their own home while they are grieving the death of one of their parents.

Fourth story: If the child dies, the other parent may not be granted bereavement from work.

Fifth story: If the child is sick, the other parent may not be granted time off work to care for the child.

Sixth story, which happened just a few weeks ago: This year the government offices denied a new-born child a hyphenated name that included the last names of both parents.

Seventh story: If the couple should separate, support payments are not required for the children.

\* (21:50)

It is clear from successful court challenges to cases such as these across Canada that lesbian and gay couples will receive adoption rights. The question for us today is whether or not we want to waste taxpayers' money, as well as the money, time and energy of lesbian and gay couples, as has already been mentioned tonight, to achieve these rights. Will adoption rights be granted through slow and expensive litigation case by case, or will they be granted quickly at no cost through legislation?

I appreciate this Government's willingness to hold hearings into this very important matter. I also realize that there is pressure not to grant adoption rights. However, my contention is that if we are truly concerned about the welfare of all of our children, we will set aside religious intolerance and personal beliefs that deny some children the full confidence of their parents' presence and protection. We will risk losing the support and votes of some, while gaining the votes of others, in order to ensure all children the legal securities and responsibilities of their families.

Therefore, I urge Manitoba to follow the lead of Ontario, Saskatchewan, Québec and

British Columbia by recognizing adoption rights for lesbian and gay couples. Let us truly support family values.

Thank you for your attentiveness and I welcome any questions you may have.

**Mr. Mackintosh:** Thank you, Loraine. I am particularly interested in your summary here, the number of points that you make on the first page, because what you have done here, I think, has summarized many of the issues that have been raised in other presentations we have heard tonight, and as well, you are talking about the Government offices denying a new-born child a hyphenated name that included the last name of both partners. That is quite instructive, but I think what you have done here is you have made a very powerful presentation, in a very few words, about how this can impact on children. So we will certainly be paying attention to that and discussing these examples, because I think the examples speak arguably louder even than the philosophical discussions, although both certainly are critical elements of this public debate. Thank you.

**Mr. Gerrard:** Thank you for your very clear presentation. You talk about the horror stories and it seems to me that you are telling us that you have heard of these personal horror stories, each of them. Is that right?

**Ms. Mackenzie Shepherd:** Yes, some of them I have heard of personally. Others I have heard of through newspaper stories.

**Mr. Gerrard:** Just to emphasize the importance, maybe you could speak a little bit to what you have seen in terms of the emotional impact on the children and the families as a result of these sorts of horror stories.

**Ms. Mackenzie Shepherd:** I have heard, on a couple of different occasions, of the difficulty in hospitals. I was a hospital chaplain at one point in a hospital for sick kids and, while working there, heard of people who, for one reason or another, had medical staff denying the right of the non-biological parent to be present with that child and the family in the room. So they were forced to be outside the room when there was a very serious situation happening with one of the children. That is one example.

**Mr. Gerrard:** In the paragraph where you talk about the successful court challenges to cases elsewhere which would ensure, in fact, that adoption rights are coming in Manitoba, are you referring to what happened in Alberta, or elsewhere? Maybe you could expand a little bit just to clarify that point.

**Ms. Mackenzie Shepherd:** I am more familiar with what has been happening in Ontario, having lived there the last seven years until moving here three years ago. I am thinking more of cases there. I am also acquainted with some lawyers. I am not a lawyer. I speak as a theologian, not as a lawyer. I want to be clear about that. I have spoken both with lawyers and have again read about court cases in the newspapers where in fact slowly, on a case by case basis, some of these laws have been overturned. I think you have heard enough examples tonight from lawyers who are giving specific scenarios around that.

**Mr. Praznik:** I want to thank the presenter for her presentation. In reading your very brief and well-put presentation, you are really making the point. This is not about adoptive rights. That exists. People have the right to adopt, not only one parent. This is really about all that entails, having two parents, having all that goes with that, and it is the everyday kind of issues, from your experience and people raising children, that this is about. Would that be a fair assessment?

**Ms. MacKenzie Shepherd:** Yes. It cannot be simplified to one issue.

**Mr. Praznik:** I say this, that when I read through this list, these are all the day-to-day issues that parents would confront under our current law, that one more additional set of issues with which they have to deal despite all the other issues we have as parents, a lot of them are inconvenient and troublesome, and many of them affect the rights of those children to care and inheritance and support. Would that be a fair assessment?

**Ms. MacKenzie Shepherd:** That would be a fair assessment, yes. I would hope, from your concern, that you would therefore support the inclusion, not only of questions around adoption rights, but also the other many legal statutes that need to be changed as well.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Rob Hilliard.

**Floor Comment:** Pete Walker on behalf of Rob Hilliard of Manitoba Federation of Labour. Rob is in Saskatchewan today on fed business.

**Mr. Chairperson:** Is there leave of the committee for Mr. Walker to present?

**Some Honourable Members:** Leave.

**Mr. Chairperson:** Leave. Please proceed.

**Mr. Pete Walker (Manitoba Federation of Labour):** The Manitoba Federation of Labour is the province's principal central labour body, representing some 90 000 working men and women through their Canadian Labour Congress affiliated unions. Our policies are determined by general convention, held every three years and attended by elected delegates representing the workers who are members of our affiliated unions.

The Canadian Labour Movement has an elevated consciousness about the diversity of the members of our unions and the need to ensure that all workers are welcome and safe within our structures, their workplaces and our communities. This diversity is vital to the union movement and society, both for today and the future.

The union movement has established democratic structures that provide members of vulnerable groups a forum to address critical issues and develop strategies to deal with them. These structures are an attempt to meet the needs of retired workers, women, workers of colour, Aboriginal workers, young workers and workers who are gay, lesbian or bisexual, and workers with disabilities.

There are important roles played by these structures within the union movement. They serve to identify critical emerging issues for the union movement and its leadership at large and to provide education for workers and the community. They also provide invaluable advice and strategies on how to ensure that fairness and equity are earmarks of our movement and society. Among these issues are those facing members of the gay, lesbian and bisexual communities.

\* (22:00)

On May 20, 1999, the Supreme Court of Canada made public an important decision in the matter of *M. v. H.* In essence, this decision rules that partner support provisions in an Ontario statute were in violation of the Canadian Charter of Rights and Freedoms. This statute held that the dependant opposite-sex common-law partner could seek support from the other partner while a dependant same-sex partner could not. The decision was welcome throughout Canada's labour movement. The Supreme Court decision has caused provincial legislatures to review legislation under their jurisdiction with the aim in mind to comply within the spirit of *M. v. H.*

The MFL is gratified to see the substance of Bill 41, which is meant to bring 10 Manitoba statutes in compliance with *M. v. H.* According to the accompanying news release, it is meant to recognize the obligations to dependant partners and the right to partner support and pension and survivor benefits for persons in same-sex relationships. This is fine insofar as it goes. What is puzzling to the MFL is what Bill 41 fails to do.

When the Government drafted Bill 41, it seemed motivated to just meet the test established by *M. v. H.* rather than using the opportunity to insure all relevant Manitoba legislation, those statutes where the word "spouse" appears recognizes the rights of partners in same-sex relationships. This would be in keeping with the quote attributed to Attorney General Gord Mackintosh in the Bill 41 news release. It is important that Manitoba, like other provinces, respect the law as well as the dignity, rights, and security of all its citizens.

It is our understanding that only about 80 statutes, and the list is in your appendix, contain the word "spouse" making the appropriate amendments to respect same-sex relationships, while time consuming, would not be onerous. Perhaps it would not even be time consuming if all it took was an omnibus recognition that relationships included same-sex relationships.

One of the amendments not accomplished by Bill 41 concerns adoption rights. Members of the gay, lesbian and bi-sexual community within

the labour movement describes this as a hot issue and one that is extremely important.

This is an issue that need not be dealt with at another time. We urge the Government to amend Bill 41 to recognize the adoption rights of same-sex relationship partners as being the same as opposite sex relationship partners.

We are confident that a court challenge on this point will inevitably succeed. There is no point to the Government going to the expense and futility of defending an indefensible position in court, and, at the same time forcing Manitobans to spend hard earned money on unnecessary procedures.

As it stands now in Manitoba and the rest of Canada, gay and lesbian individuals are able to adopt children in the same way that a heterosexual individual is able. Opposite-sex partners in a relationship can adopt a child together, but same-sex partners cannot.

The discriminatory nature of this situation has been recognized from Ontario, Québec, British Columbia and Saskatchewan and their laws were amended to remove the discrimination. Surely Manitoba can do no less.

Minister Macintosh has been quoted as saying such an amendment now may be seen as the Government trying to sneak in legislation. The whole point of the public hearing process for all legislative initiatives that is unique to Manitoba is to allay that fear. The very process that we are engaged in tonight makes legislative change transparent and public in a way that no other jurisdiction, in Canada, enjoys.

Not including adoptive rights in Bill 41 is, in our view, out of step with the spirit of mainstream human rights values in Canada and Manitoba. It is most likely in violation of the Charter of Rights and Freedoms. It is clearly not in step with the spirit of *M. v. H.* However, by being inconsistent with the provinces who have taken a more progressive approach to the issue other considerations were also raised. For example, if same-sex relationship partners adopt a child in Ontario, as they are legally able to do today, what happens if the family moves to Manitoba? Would the adoption be respected here? Would the parents be able to make important legal decisions such as emergency

health care treatment? Would the parents experience difficulties while travelling outside of Manitoba with their child?

The remedy is obvious. Amend Bill 41 to include adoption rights with this other amendment and undertake to amend other provincial statutes where a reference to "spouse" is made, to recognize the rights of partners in same-sex relationships. It will not be more timely or easier to do at a later date. Delaying these amendments delays the recognition of fundamental human rights.

**Mr. Praznik:** I just wanted to thank the presenter for his presentation, and if he could tell Mr. Hilliard that he was certainly well represented here at the table. I would just make this observation. I have been an MLA since 1988, and I have heard the MFL speak on many subjects and certainly you have been consistent on this one of your presentation. I say this tongue-in-cheek, and I am sure Mr. Hilliard would appreciate this if you can take it back. I sat here when we debated Sunday openings, and the MFL opposed that, and we just noted the absence on the Sunday liquor presentations last week at committee. I think Mr. Hilliard would appreciate my comments. Thank you again for your presentation, and you certainly represented him well here today.

**Mr. Gerrard:** Thanks for your comments. I would just follow up on one point, and that is your comment that if same-sex relationship partners adopted a child in Ontario, as they can do right now—I guess that would also apply in B.C. or Québec or Saskatchewan or Alberta—and then move to Manitoba, what rights would they have? Would they be considered to fall under The Adoption Act here, and be considered parents? I wonder if you have looked at this issue, and whether you could explore this in terms of whether you have a view on what would happen.

**Mr. Walker:** The same questions would arise no matter where the parent couple, or the couple who are recognized as parents, came from to Manitoba. Exploring those issues was not something that I have done.

**Mr. Chairperson:** Thank you, Mr. Walker. The next presenter is Robin Brownlie.

**Ms. Robin Brownlie (Private Citizen):** Thank you for this opportunity to share my views with you today. I have been out as a lesbian for 17 years and have lived most of that time, until last August, in fact, in Toronto, Ontario. So I am new to Manitoba, and I am excited to play a part in the debate that is happening here today over the proposed changes to legislation related to same-sex relationships.

In the 17 years that I have been out as a lesbian, I have seen a lot of changes. Through educating, agitating, lobbying and litigating, gays and lesbians have achieved a great deal. We have made major gains, acquiring legal rights we did not have before, approaching legal equality with heterosexuals and changing public attitudes about us. It is much less difficult than it used to be to live openly as a gay or lesbian person, and to acknowledge our relationships publicly and in more private settings such as the workplace or family. At my own workplace, my six-year relationship is treated with full respect, and my partner has been generously welcomed by my colleagues. I do not take this for granted.

The fact that Bill 41 is being tabled here, at all, in Manitoba is testimony to the great distance Canadian society has travelled. Although I am not entirely happy with the bill, I would like to say, at the outset, that I see in it one considerable virtue, and this is one that other presenters have mentioned. That is the fact that it places same-sex relationships in the same category as common-law, opposite-sex relationships. It thus avoids the deliberate insult delivered by Ontario's same-sex spousal legislation, which created a separate category for our relationships, thus carefully maintaining the ideological separation between same-sex and opposite-sex relationships. I consider that distinction to be a false one, designed to remind everyone that there is some fundamental distinction between these two types of relationships, and thus, Mr. Chair, implicitly, to uphold the old moral hierarchy which has been the foundation of hatred and discriminatory treatment against gays and lesbians. This is an important issue and is a feature of Bill 41 that I want to see retained.

\* (22:10)

I also have issues with the bill, which I wish to raise now. To my mind, a series of court



judgments, culminating in the Supreme Court ruling in *M. v. H.*, have combined to show a strong consensus among judges about the implications for lesbian and gay rights of the Canadian Charter of Rights and Freedoms. The Canadian judges have indicated clearly and repeatedly that the Charter protects us from discrimination and demands that our relationships receive equal treatment before the law. For this reason, I am very disappointed with the narrow and strictly limited focus of the legal amendments proposed in Bill 41. I am doubly disappointed that the New Democratic Party, a party with a history of strong support for progressive social policy, should have chosen such a timid course in interpreting the meaning of the judgment in *M. v. H.*

I have never voted for any party but the NDP, and I have consistently voted for NDP candidates because they have consistently demonstrated a commitment to social justice, to generosity and to progressive social change. The NDP, in various parts of the country, has often been the first party to embrace lesbian and gay rights, and I have always felt that, when the party did so, it was moved, not by political necessity or expediency, but rather by the conviction that lesbian and gay rights were a matter of fairness and justice. When I was hired at the University of Manitoba last year and knew that I would be moving to Winnipeg, I was delighted to exchange the oppressive and regressive political atmosphere of Mike Harris's Ontario for a province run by the NDP and a city headed by an openly gay mayor.

So I felt dismayed when I found out how few statutes were to be amended by Bill 41 and how many important matters it left unaltered and apparently unconsidered. The most important issue that was left out is the right to adopt, and I think that issue has been addressed very eloquently by a number of speakers tonight.

I want to speak about some other laws that badly need to be amended to include same-sex relationships, but that are left out of Bill 41. I will speak about the laws that shape what happens when one party to a relationship is severely injured or falls seriously ill and also those that determine what happens to the property and person of someone who dies leaving behind a same-sex partner. My own

greatest fears concern the kind of nightmarish scenarios that can unfold for the partner in such emergencies. At such moments, same-sex partners have no guaranteed standing in Manitoba as family members and can be excluded from decisions about their partner's medical care and about their partner's financial affairs and property, among many other items. They can be shunted aside in favour of those related to their partner by blood, who can theoretically shut them out and secure to themselves full decision-making powers, and again we have heard examples of that tonight. Same-sex partners can even find themselves denied information from hospital authorities about their partner's condition. Imagine, for a moment, how this would feel.

I would like to relate some stories, of which I have personal knowledge, about what can happen and actually has happened in these situations. One set of events occurred to a lesbian couple in Toronto. Several years ago, one of the women, her name is Robin, was involved in a terrible cycling accident. She was struck by a garbage truck turning the wrong way on a one-way street and was rushed to hospital. Her distraught partner, Kelly, was denied any information about her condition by hospital authorities on the grounds that she was not a blood relative. In fact, Robin was very badly injured, and she died of her injuries within a short time. The insurance company that insured the driver of the garbage truck paid compensation to Robin's parents, but not to Kelly, even though Robin's own family was in favour of Kelly receiving compensation. As an unrecognized spouse, Kelly was entitled to nothing on the death of her partner. She subsequently went to court in a Charter challenge against the insurance company and won.

Another series of events occurred to two lesbians in British Columbia before the laws were changed in that province. One of the women became ill with a degenerative and fatal disease and was hospitalized. Her father and brother attempted to assert authority over decisions relating to her health care and finances and to shut her long-time partner out of these decisions. The partner, Gail Meredith, went to court and succeeded in convincing the court that she was the best person to make these sorts of

decisions. Although her rights were eventually recognized, again, Meredith had to go to court to win the right any heterosexual partner would have to make medical decisions for a critically ill spouse who was not in a condition to make their own decisions. She had to spend her time and energy fighting with the family and authorities at a time of tremendous distress and anxiety, with her partner lying slowly dying in a hospital.

This is not a time when anyone should be going to court to explain and justify their relationship in order to have a voice in their partner's medical care. Yet Bill 41 will not prevent these situations from occurring, and so they will probably continue to occur in Manitoba.

These sorts of emergencies are the most painful, traumatic and difficult situations anyone can face. The last thing anyone needs to be doing in these situations is fighting with others or landing in court to assert the basic rights of a partner.

Imagine the prospect of having to take legal steps in order to make medical decisions for your partner in the midst of coping with the many other consequences of their illness. Imagine going to court in order to prevent your recently deceased partner's family from entering your home and taking away their possessions. This, too, is an eventuality against which Bill 41 does not protect us. It is not a mere abstract possibility. Many gays and lesbians experienced rejection of their relationships by their immediate families, and those families can be very punishing. Without legal protection, such families can take advantage of our legal exclusion to assert property rights to the detriment of an unrecognized same-sex partner.

Who makes decisions for an ill and/or incapacitated person, their same-sex partner or their biological family? Who decides what happens to a deceased person's property and even to their body after death? Well, if I were to make a will and sign a health care directive specifying my partner as the decision maker and sign a power of attorney, in advance, to insure that my partner will have the necessary say, if I were to do all of these things, and perhaps a few others, I could be reasonably assured that my

partner would retain her rights if anything happened to me, but, if not, there are various possible outcomes. I am 37 years old. I think about these things, but I have not yet signed any of those documents. I have a preformulated will package at home, which has been in my possession for one and a half years and which I have every intention of completing, but I have not done it yet. Like many other people in this province, my provisions for frightening eventualities are sketchy in places. As long as that will remains uncompleted, and I am hoping to complete it tomorrow, my partner's claim to my property and effects will be uncertain, and my biological family may have a claim to some of my property in the event of my death. Without wishing to cast any public aspersions on my family or my partner's, I cannot say that I am 100 percent certain about what would happen in that case.

My sexual orientation has been a very vexed issue with my immediate family, and I cannot be positive that my partner would receive the treatment I would wish her to receive. Unfortunately, the same is true if the circumstances were reversed. I do not know what treatment I would receive from my partner's family.

\* (22:20)

The sad truth is that gays and lesbians are much more likely than heterosexuals to have problems with their biological families, to suffer disapproval or exclusion because of their relationships, or even to be partly or fully estranged from their families. This is part of being gay or lesbian in this society. Many, many gays and lesbians I know have never used the term "gay" or "lesbian" to describe themselves to their families out of fear that explicit naming would lead to rejection. They allow their families to regard their life partners as friends or room mates even though these terms drastically understate the importance and intimacy of their relationship.

Their fears are well founded. Because of this, gays and lesbians are much more in need of protection than heterosexuals when their partners become seriously ill or when they die, yet only heterosexuals have this protection. As long as the law allows biological families to step in and

push aside a same-sex partner, there will be situations in which they will do so.

In many cases, one can have recourse to the courts, at a significant financial and emotional cost, and a sympathetic judge may decide in favour of the same-sex partner, but I do not feel sufficiently protected by this fact. I do not want to be dependent on the good fortune of drawing a sympathetic judge, especially not in a world where many people, including some judges, still cling to the notion that my relationship is undesirable or morally wrong. I believe that the decision in *M. v. H.* was a clear declaration that I should not have to be dependent on the mercy of a judge, indeed, that I should not have to resort to a judge at all. I believe that the implication of that ruling is that governments are required to pass legislation to protect the rights of same-sex partners in the event of illness or death. Only someone who truly hates us could wish us to be placed in this kind of position. The Manitoba government is in a position right now to change the law to protect same-sex partners from unjust treatment in the kinds of situations I have described. You are in a position to unburden my mind of my recurrent fears of finding myself in a similar situation. I ask you to consider these issues carefully as you examine the implications and the exclusions of Bill 41.

Should the NDP choose not to improve and expand this legislation, it is participating in the marginalization and exclusion of gays and lesbians in Manitoba. The message that all other Manitobans will hear is that gays and lesbians really are not equal to them, that our relationships really are not equally valid and do not deserve equal recognition and protection under the law. The reality will be that lesbians and gays are better treated in some provinces than in others. It will mean that we will be forced to continue spending our energies on fighting for the basic rights that were already affirmed in *M. v. H.*, and that governments in Canada have a legal responsibility to ensure. Worse, it will mean that some Manitobans will be forced to spend a lot of time and hard-earned money of their own, as well as the tax money of the rest of Manitoba, gaining those rights through the courts.

This is unfair, unjust and unreasonable. I appeal to you to take another look at this bill and

think about its larger meaning for the many Manitobans who are living in same-sex relationships. We want to be included. We want to be equal, and we want to stop fighting for our basic rights. There are many other important projects in Manitoba that I would like to be part of instead of having to spend my energies in the struggle for the spousal rights that heterosexuals take for granted.

**Mr. Chairperson:** Excuse me. I am sorry to interrupt you, but, unfortunately, we do not have the last couple of pages of your brief. I do not know how close you are to the end, but you are running out of time, so please quickly conclude. Thank you.

**Ms. Brownlie:** All right. I think I have three sentences left.

In my Canadian history courses at the University of Manitoba, I teach my students about the historical role that the NDP has played in introducing progressive social ideas that have had an enormous impact on our society. It seems to me that you have an opportunity right now to add to that long honourable history of contributing to the welfare and well-being of all Canadians, especially those who have been marginalized and dispossessed. I hope that you will take that opportunity. Thank you.

**Mr. Mackintosh:** Thank you. This is a very meaty, brief presentation. There are a few points I just wanted to make. First of all, just to reiterate. It is certainly not this Government's intention or plan that Bill 41 represents the extent of this Government's dealings with the need for fairness for same-sex relationships, partners. I just wanted to reiterate that again. We have attempted to make that very clear all along.

We have talked a lot and had a number of presentations dealing with the impact of the current regime on children in common-law relationships of same-sex individuals and couples. As well, though, you have gone and talked about the impact on adults. I think, too, when you say: "Many gays and lesbians experience rejection of their relationships by their immediate families, and those families can be very punishing. Without legal protection, such families can take advantage of our legal exclusion to assert property rights to the

detriment of an unrecognized same-sex partner." I think that is an excellent summary of a number of what I would call tales of injustice. I think these experiences and the insights you have shared—your advocacy is very helpful in explaining to Manitobans, and, indeed, members, of the need to address these statutes.

**Mr. Chairperson:** Mr. Gerrard for a brief question, please.

**Mr. Gerrard:** Just in your comment that you believed that *M. v. H.*, the Supreme Court decision basically requires governments to pass legislation to protect the rights of same-sex partners in the event of illness or death. The NDP have interpreted *M. v. H.* decision much more narrowly than that. I would just like you to sort of expand a little bit why you think that this really does fall within the context of *M. v. H.*

**Ms. Brownlie:** I am not a lawyer, but my understanding of *M. v. H.* is that it tends to have a fairly broad wording, and makes some fairly general statements about the need to change laws so that they do not discriminate against same-sex partnerships. That is why I think, and I think others tonight have also talked about the spirit of *M. v. H.*, which, I think, clearly implies that same-sex relationships should be granted full legal equality.

**Mr. Chairperson:** Thank you, Ms. Brownlie. The next presenters are Maureen Pendergast and Sharon Pchajek. Could the person who is speaking please identify yourself by name, for the record?

**Ms. Sharon Pchajek (Private Citizen):** Sharon Pchajek.

**Mr. Chairperson:** Thank you. Please proceed.

**Ms. Pchajek:** I have just a very brief presentation with this, maybe a slightly different way of looking at my situation. I have never taken the step of presenting my concerns about any issue at government hearings before, but your Government's Bill 41 has prompted me to do so. I am appearing before the legislative committee hearings on Bill 41 to urge you to broaden the scope of amendments to this Legislature.

It is crucial to expand the legal recognition of people in same-sex relationships. I want to talk briefly about how amendments, as they stand, fall short of what I need from my government. I want to urge you to include, at a minimum, The Adoption Act in this bill.

I am a chartered accountant and a financial advisor. My partner, Maureen, and I have been together for 14 years. She is a property manager and developer who owns her own business, and who is working right now to try to revitalize the deteriorating downtown housing. We are both out, to our workplaces, to our families, to our friends.

We are particularly close to one of my sisters and brother-in-law and their two children, Kara who just turned three on Friday, and Gregory who is five. My sister and her husband have requested that we be named legal guardians of their children in the event of their deaths. We have agreed whole-heartedly to fulfil this role, should it ever become necessary.

In the event that we did become guardians, we would want to formally adopt Kara and Gregory in order to fulfil all the responsibilities placed upon us with a minimum of problems. The law, as it stands now, forbids us from assuming that responsibility fully. Bill 41 does nothing to correct this situation, and so it means that the law fails me, my partner, fails my sister and brother-in-law, and fails the children. This concerns both my partner and me greatly. We cannot imagine how awful it would be for everyone involved were circumstances to arise that caused us to assume our commitment as guardians. But your Government's failure to remove roadblocks in the way of this transition would no doubt cause even more pain to the people involved.

\* (22:30)

What would we do to fulfil our obligation that we both take so seriously? Move to Ontario, Québec, British Columbia or Saskatchewan, provinces who have included the adoption act in their legislation? This would mean removing the children from their grandparents and their other aunts and uncles. Although difficult, it may be something that we would have to consider, even though I love this province and have already moved back here once. The interests of the children have to come first.

Maureen and I have both agreed to assume this responsibility. We both should have the legal rights and duties that accompany it. Withholding recognition of one guardian as parent just because we are of the same sex is not logical or humane. It hurts the children.

I urge you to rethink your approach to amending the many statutes that interfere with our ability to be recognized as a couple. Our families and our extended families would be better served by this rather than by the tightly focussed approach of Bill 41 as it has been submitted. You need to do more.

Thank you for your consideration.

*Madam Vice-Chairperson in the Chair*

**Ms. Maureen Pendergast (Private Citizen):** My name is Maureen Pendergast. Like my partner and many people tonight presenting to this legislative committee into hearings on Bill 41, I have never been moved to take the step of addressing my Government directly about a problem, and it shows because I called Gord Mackintosh the Justice Minister, not the Attorney General. I did not address this to the committee, but we will manage.

Anyway, I am doing so because this problem is too big to let pass without speaking out. For the first time I am coming here to a session like this because I am urging you to acknowledge the court-sanctioned rights of same-sex couples in Manitoba by broadening Bill 41 to amend as many statutes as need be to conform with the spirit, as well as the letter, of the Canadian Supreme Court ruling, *M. v. H.* Bill 41 is at best a half measure, and it falls far short of respecting me as a citizen.

For more than a quarter century, various levels of government have forced people in my community to fight for their rights through the courts. The time and money spent on securing basic legal rights and recognition and protection have been enormous. Your Government is taking a piecemeal approach to statutory reform, and Bill 41's narrow focus is going to force yet more court challenges. You will lose many of these challenges, and you will tie up court time and

squander litigation resources in doing so. As a taxpayer, this is a waste of my money.

But, most importantly, you are going to force me and others in my community to once again view some laws as irrelevant. Gay and lesbian people have always had the courage and the strength of spirit to live their lives in ways that affirm themselves as people, whether or not the law sanctions them. In the tradition of Gandhi and Martin Luther King, we evaluate laws based on their inherent justice. And, when the law is unjust and you force people to live outside it, you bring justice into disrepute. This is what you are risking by refusing to re-examine Bill 41.

I am a law-abiding person. I run a company that employs up to a dozen people on a seasonal basis. I create jobs. I pay my taxes. I am a good neighbour. I serve on charity boards, including the Winnipeg Blue Bombers and the Rainbow Resource Centre and the Winnipeg West Broadway Development Corporation because I want to contribute to my larger community. I am mainstream Canada, and I am tired of being implicitly told that somehow I am a second-class citizen. Do not be intimidated into thinking there is going to be some kind of backlash against you as a government for simply recognizing the inevitable. Do not let yourself be hijacked by groups with their own narrow agenda. Instead, show the leadership that all of your citizens want by doing what you know is right and fair. I urge you to review Bill 41, and make it into a bill that takes us all forward as a community.

Thank you for your consideration.

**Madam Chairperson:** Thank you for your presentation.

**Mr. Praznik:** I just want to thank the presenters for bringing a very real life dilemma for them and situations for them with respect to the guardianship of a family, and to the latter presenter for a very straightforward way of putting her case. It was appreciated. Thank you for coming.

**Madam Chairperson:** Thank you both. The next presenter is Brother Thomas Novak.

**Mr. Thomas Novak (Private Citizen):** For over the past 35 years, the Parliament of Canada has

been struggling with the issue of capital punishment. I say struggling because, at least during the early years of the debate, public opinion polls constantly seemed to show that the majority of Canadians seemed to favour the use of state executions for at least some kinds of offences. However, despite the polls and in the face of an outspoken public lobby in favour of the death penalty, step by step parliament moved to abolish capital punishment until over just a year ago. Finally, just one year ago, the Canadian Parliament removed execution as a potential penalty for the last remaining category of offence.

What is even more remarkable is that, until the advent of the Reform and Alliance parties, all leaders of the major parties were united in their opposition to state executions. The New Democratic Party of Canada was particularly notable for its prophetic and unanimous support of abolition.

This is all the more remarkable when we see how social issues such as this one can be so skilfully manipulated to stir up public passion as a cheap way to win votes. What has accounted for this remarkable difference in Canada?

I believe this rare unanimity came about because, at least on that issue, the leaders of Canada's major political parties understood that there are some issues whose implications strike to the very heart of what kind of society we are trying to build. Those who in the face of a fierce pro-execution lobby opposed capital punishment, clung onto a couple of ethical principles.

Among them, that any society which wishes to contain and eliminate violence cannot do so by having regular recourse to the ultimate violence. And, more importantly, that western democracy and our cherished tradition of liberty is founded upon the infinite and uncompromisable value we give to each and every human life. If we agree on nothing else, we agree on the ultimate sacredness of every human life.

In the 1980s the Pawley government, imbued with the same spirit that inspired national legislators to abolish capital punishment, passed ahead of just about every

government in Canada, and in the face of public opposition, including from some of the major churches, legislation that ensured that, under the law, gays and lesbians would be accorded the same rights as all other Manitobans. It appeared that the Pawley government had courageously decided that they were going to govern with both eyes firmly fixed on the vision of the kind of society they wanted to build, even at the risk of losing popularity. It appears that they had a desire to govern according to the principle that a government must strive to be a government for all of the citizens it represents; but with a particular concern for the smallest and most powerless: the ones with smaller voices, the most vulnerable among us.

In that same spirit, the Pawley government introduced legislation that would have restored some of the rights that had been unconstitutionally stripped away from our province's francophone minority. The Pawley government really did seem to take seriously the adage of the true measure of a society is how it looks after the rights and needs of the most vulnerable in its midst.

Just about one year ago, I stood before another committee of this House to argue in favour of a bill which made some minor adjustments in Manitoba labour laws. That law, in my own analysis, went some way to restore a more appropriate balance between the needs of employees and the needs of employers. One of the principles I invoked for supporting that legislation was the same one that I want to invoke now: The needs and rights of the weaker must always be valued above the stronger. And so Jesus declares that it is the poor who are blessed and who must be valued most highly in the Christian community. And so, his mother Mary exults in God who has brought down the powerful from their thrones and has lifted up the lowly.

The Supreme Court of the land has recognized that there are still those who are stronger and those who are weaker in our nation. There are still those who are lowly in relation to the majority of men and women in Canadian society. In the spirit of the Charter of Rights and Freedoms, it has acted to restore that balance, at

least in this one dimension of our communal life. It has acted to force governments to live up to the fundamental principles upon which, we Canadians believe, our nation has been progressively put together, and that is to assure that spouses and same-sex relationships are treated with equal dignity and responsibility as spouses in opposite-sex relationships.

\* (22:40)

How disappointing it has been that this Government does not share its predecessor's passion for the construction of an evermore just and compassionate society by not following the lead of other Canadian provinces, and by not immediately changing all the affected statutes, according to the spirit of the Supreme Court judgment. Rather, it is taking a remarkably parsimonious approach to the restoration of human rights. In this case, proposing to amending only 10 of the 60 or so statutes which await amendment, the bare minimum.

Having grown up gay, I know from personal experience that lesbians, gays and other social minorities, such as the transgendered, still tend to be numbered among the lowly more than among the secure and powerful. Unfortunately, the children of gays and lesbians, through no fault of their own, must inevitably share in the marginalization and rejection that their parents must often face.

I guess that some people would propose a simple and quick answer to this painful situation: simply disallow gays and lesbians from having children, a solution remarkably similar to the one proposed by many powerful people in our society for the elimination of poverty. Change the bar. Make it so that someone has to be living in total destitution before society is ready to classify her or him as poor. Legal fictions cannot hide or deny lived realities. Lived realities cannot always wait for the perfectly opportune political moment.

As people will continue to be poor, lesbians and gay men will continue to live in situations where they come face to face with the injustice of the current statutes. Gay men and lesbian women will continue to face the possibility of not being able to inherit the property they have shared with their long-time common-law spouses. They will, unlike other spousal couples,

continue to face the possibility of having to testify in a court of law against their own common-law spouse, and they will continue to pay less taxes than heterosexual common-law couples.

Whether the statutes are changed or not, lesbians and gay men will continue to raise children, children to whom they might be denied visitation if the child ends up in intensive care, or for whom they might not be legally able to make responsible critical medical decisions. But, more seriously, these children will continue to grow up in a society where, according to the law of the land, their family is classified as somehow of less value than other families, where their parents are still, under the law of the land, deemed lesser people than their heterosexual neighbours.

Growing up gay, I experienced all too well what it means to be seen as lesser, as unequal. It means that when someone is frustrated or angry, there seems to be an unofficial public permission that you can take out your frustration or anger on one of those others whom society has deemed to be somehow of less value than the rest of us, be those others of a different race, ability or sexual orientation.

I used to be afraid to walk home from school at night. I used to feel that I could never talk about my experience and feelings the way my classmates and straight friends could. I used to think I could never have the career I chose for myself if I revealed publicly who I was. Since I came out of the closet, I have made it the paramount goal of my life to work toward the creating of a society where there would no longer be the mighty and the lowly, the normal and the lesser, the valuable and the forgotten. This ambition, this dream, I have happily realized, is at the very heart of Christianity, Aboriginal spirituality, and many more of the world's great spiritual traditions. It has even been at the heart of the programs of many political movements, political parties, and governments. I dream that this vision might someday also find a home in the chambers of this mighty building, whatever the official colours of the party in power. Thank you.

**Madam Vice-Chairperson:** Thank you for your presentation. The next presenter is Kerry Cazzorla.

**Ms. Kerry Cazzorla (Private Citizen):** I feel Bill 41 discriminates against homosexuals as well as heterosexuals. I do not think this bill is about equality. It is a blackmail bill. I have relatives who are not actually relatives. I have gay friends who are very, very concerned what this is going to do to their life should the partner that they have been with, although they have not been sexually active with, try to take them to court. This bill is going to put this person who does not want to be outed into a legal position to be in a public court. That is one aspect of this bill that I do not agree with.

It discriminates against 98 percent of the population by not allowing benefits to those who are not involved in a sexual relationship. What about the niece taking care of the aunt? What about my mom when she is a senior? I am not going to collect any benefits for her, although I will take care of her. Why will I not be able to collect any benefits? Why would my niece who takes care of her not be able to collect any benefits? That is discriminating against me, my mom.

What about a sister who takes care of a sister, or a brother who takes care of a brother? This bill does not even cover the vast majority of our population, and if you are going to implement this bill, it should be expanded to cover all of us. That is true equality.

The percentage of the population that is talked about is firstly based on Kinsey's report. Kinsey has been proven to be a fraud, based on a man's deviant lust. Kinsey was a pedophile, and he based his figures on forced sexual encounters with children. The portion of homosexuals who actually want these changes is small. I have a great deal of friends who are homosexuals. They are very concerned with this bill. They really do not want it. They do not want the marriage; they do not want to be put in a forced compliance position. That is exactly what this bill will do.

Any amendments to this bill for adoption will challenge the federal court's Bill C-23 by violating the definition that this Liberal government has made of marriage as being that between a man and a woman. This bill will put children at risk because there has not been an in-

depth study done of what the long-term results will be should you enter into adoption.

I just recommend to you, do you want to use children as guinea pigs? There are studies out there. I recommend that this committee take a good look at them before they even consider putting this bill in.

This bill will reduce the adoption rates, as parents have open adoption information, and statistics prove that parents opt for heterosexual families. This bill will complex the lives of children by redefining family. Why would a biological parent relinquish his/her rights and allow his/her child to be adopted, should his/her ex-spouse go into a same-sex relationship.

\* (22:50)

Then we ask the question: What about transgender people? Where do they fit into this scheme? How are they going to be? Is this going to be same-sex relation? Are we going to have to just keep adding to this bill, adding different definitions, sexual orientations?

I will go into a study that was done and it says, under intense political pressure, the American Psychiatric Association normalized homosexuality in 1973. Yet, four years later, 69 percent of those same professionals still believe that homosexuality was usually a pathological adaptation as opposed to the normal variation. Only 18 percent believed it was normal, and is paedophilia the next perverse to be normalized?

We have had doctors who have come out. There is a Doctor Spitzer—there is a study. One of the delegates mentioned decriminalization at the border for the gay people. This is the situation with Little Sisters bookstore. Part of the material that had been picked up was child pornography and that is why it was stopped at the border. Yet the community down there in homosexual lifestyle deemed this as part of their culture. Is that where we really want to go?

*Mr. Chairperson in the Chair*

This bill causes selective elitism of a group, which is divisive in nature. Because it does not represent the majority of the population, because



it segregates, it is divisive. A greater portion of the population is no longer being listened to. This bill truly does not represent what is best for children by giving children balance in their relationships, having a male and a female.

This Government, as far as I am concerned, is out of touch with the general public and it is pandering to a minority group. Why does this Government consider altering societal norms that have proven to work in the past. Even evolution teaches that male and female are designed to procreate with the best of their kind to build a stronger species? This bill mocks educated studies.

I have included information to back up my concerns and I hope you will read it with honest eyes. I hope that this whole brief will go in for public record. Any changes to our laws will affect your lives as well. Are you ready to take the risk for your children or for your grandchildren's future?

To end off, we all know that what is being preached about most same-sex relationships is based on a lie, Kinsey's lie. Propaganda by some activists continues to keep many people in ignorance. I ask you: How long will this or any other form of government continue to be led astray? The Ancient of Days has taken his seat and the court sits. Thank you.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Kim Simard.

**Ms. Kim Simard (Canada Family Action Coalition):** Good evening Mr. Chairman and members of the committee. My name is Kim Simard, and I am a wife and mother of three beautiful young children. I am speaking on behalf of the Canada Family Action Coalition, which is a pro-family citizen's action group. We have heard much discussion this evening from the most outspoken in the homosexual movement. Unfortunately, some have taken a few liberties with the truth and it is our hope that the legislators in our great province will not base their decisions on unverifiable data and blatant misrepresentations.

I have put together a few facts that may help when sorting through the issue.

1. Bill 41 is unnecessary. The Supreme Court of Canada's decision with regard to *M. v. H.* does not force the Manitoba government to bring forth any such bill. Firstly, *M. v. H.* was a decision for the province of Ontario; and secondly, the issue of laws read into our Charter instead of Parliament-approved leaves a legal question unanswered. As the writers of the Charter specifically excluded sexual orientation and as sexual orientation has never been passed into the Charter, then we argue that it is foolish, irresponsible and undemocratic to now use read-in clauses to base further decisions on.

Because of the broad precedence set by the court in *M. v. H.* and several other recent cases in the area of family law, the Manitoba government now wants to use this as a basis for more faulty law changes. Basing more decisions on a faulty decision compounds the problems.

2. Opposition to Bill 41 does not promote hate towards a segment of our population. Those who engage in homosexual activity warrant the respect and compassion that all people deserve, but real compassion is not shown by pretending that homosexual behaviour is normal and healthy. We are not expected to relate to alcoholics by glorifying their alcoholism or to drug addicts by celebrating their addiction.

3. No one is born homosexual. Homosexual activists in our schools tell our children to experiment as they may not know if they are homosexual or not unless they try it. It sounds like a choice to me. Thousands of people who were formerly enraptured by homosexual sex have left that behaviour behind and lead well-adjusted lives as heterosexuals. You cannot ignore this.

Additionally, the group that promotes pedophilia, known as NAMBLA, ridicules the modern gay movement. They state that a person's sexuality is ever changing. Today, you like preadolescent boys; tomorrow, you like middle-aged women; then next week, you may like teenage girls, et cetera. It is about sexual freedom and promiscuity.

4. Homosexuality is a behaviour, not an identity. Dennis Altman, a homosexual activist, stated in the *The Homosexualization of America:*

The greatest single victory of the gay movement over the past decade has been to shift the debate from behaviour to identity, thus forcing opponents into a position where they can be seen as attacking the civil rights of homosexual citizens.

5. Gays and lesbians make up less than 2 percent of the population and those in long-term committed relationships a fraction of that.

6. Studies show that homosexuals are more likely to molest children. Using men as the example, one girl is molested for every eleven heterosexual males versus three to five boys for every homosexual male. This is from a study called *Crafting Gay Children* by Dr. Judith Reisman. Doctor Reisman states that the incidents of homosexuals molesting children is up to 40 times greater than heterosexuals.

7. The natural family is the fabric or cornerstone of our society. The United Nations calls it the basic unit of our society. If you destroy the family, you are destroying our country. All public policy should be developed based on its impact on the family, whether positive or negative.

8. The institution of marriage is deserving of special status and support over and above other relationships. These are the words of Justice LaForest, from the Egan decision in 1995. Marriage of one man and one woman has from time immemorial been firmly grounded in our legal tradition, one that is itself a reflection of long-standing philosophical and religious traditions, but its ultimate *raison d'être* transcends all of these and is firmly anchored in the biological and social realities that heterosexual couples have unique ability to procreate. Most children are the product of these relationships and they are generally cared for and nurtured by those who live in that relationship. In this sense, marriage is by nature heterosexual. For these reasons, Parliament must give special support to the institution of marriage.

Those are the words of Justice LaForest writing for the majority in the Egan decision in 1995. He stated that heterosexual marriage is unique and, therefore, should exclude other

forms of relationships. There exists a purpose behind every public policy. Governments have always given special support, recognition and protection to the institution of marriage because of its unique contribution to society in the raising of the next generation. Additionally, encouraging marriage has benefits for the citizens who choose to enter into the covenant.

According to Linda Waite, "the consequences for the individuals involved have been unambiguously positive: better health, longer life, more sex and more satisfaction with it, more wealth and higher earnings and therefore greater tax revenue for government." You can see Waite's paper on demography, November 1995.

9. Common-law relationships are not equivalent to marriage. They simply mimic it in some key aspects. The relationship is conjugal and, therefore, potentially procreative. It does provide many of the benefits of marriage mentioned above, although to a lesser degree. But common-law relationships lack commitment, especially of legal variety, and this leads to instability. The lack of stabilities in these relationships, when compared to marriage, is startling.

According to Statistics Canada, a 1998 study from National Longitudinal Survey of Children where only 12 percent of married couples with children break up within 10 years, a whopping 63 percent of common-law couples with children break up within 10 years. The effects that parental break-up and single parenthood have on children are well documented, and the phenomenal instability of common-law relationships undermines any attempt to recognize or support these relationships and public policy. It is now time to admit that the two-decade-long social experiment granting public benefits and recognition to these relationships has been a failure.

\* (23:00)

10. Homosexual relationships differ greatly from marriage and common-law relationships in function. These relationships are neither conjugal nor procreative and therefore cannot produce children. Additionally, they are incapable of raising children like a heterosexual couple is. They will lack, by definition, the

ability to father or mother a child. It would also appear, from numerous studies, that homosexual relationships are even more unstable than common-law relationships. Unfortunately, in Ontario, a few judges have decided to overlook these facts and have allowed homosexuals to adopt children.

The Appeal Court decision on this issue reached in 1995 was not appealed to the Supreme Court of Canada by the Government of Ontario. This has resulted in more than 100 adoptions by homosexuals, not by democratic consent, but by judicial fiat. It is sad for children to think that now Manitoba NDP socialists want to do more of the same that jeopardizes and harms children, while their claim is to be caring and compassionate. They have caved in to homosexual political correctness.

Public policy should prefer the best option for society, especially children. Clearly, in the area of family law, marriage provides a superior family environment for the raising of children. It provides greater contributions to society, and it better promotes the happiness of the individuals involved. While individuals may choose to live in other forms of relationships, government should not in any way promote or support these relationships.

As the Government of Manitoba develops new laws and policy, we are suggesting that they are not required to do so by any ruling in a Canadian court. There is no legal obligation to do so. Alberta has taken steps to override the courts by reading into family amendment a clause using notwithstanding as permitted by the Charter for just such cases. The only reason for proposing these changes then must be one of a narrow-minded social agenda driven by those who are trying to advance a larger agenda. This agenda certainly does not put a child's rights and best interest first. All research shows that children do best in a home where a mother and father raise the children.

It is our position that to promote any other social construct is dangerous and irresponsible, and the Government and its agencies should be held responsible for any harm done to any child. We suggest that legal action could be taken if the government of Manitoba harms one child

through policy known to be detrimental to social, mental and spiritual development of that child. Knowing that a child is up to 40 times more likely to be molested by a homosexual male than a heterosexual male is reason enough to say no to homosexual adoption or fostering.

Please note that the homosexual community is split on this issue. For every *M*, there is an *H*. I urge you to think long term. Please consider the future impact that every decision you make will have on children and the family, as they are what make this country great.

I want to read a quote by a gentleman named Lynn Wardle. He was elected the Secretary General of the International Society of Family Law in 1994. He says that heterosexual unions provide the optimal environment for nurturing and raising children. Even if the homosexual couple makes more money, has a better education, provides better opportunities, they do not provide for children what a heterosexual union does. Children need to grow up knowing how to relate to both men and women. They need to see two people of the opposite sex relating to each other and getting along.

I would like to direct my final comments to the Stuart Murray, Progressive Conservatives. Manitobans need a conservative alternative to a socialist government. That is democracy. We are looking to the PCs to fill this gap. We are very disappointed with the liberal behaviour of the PCs on this issue and federally. Mr. Murray was quoted in the local news media as saying that it is important, in a democratic society, that you have an opportunity to speak what is on your mind.

We assume that several MLAs have been muzzled over Bill 41 as we spoke to many during the election in 1999 and asked them about homosexual adoption. CFAC distributed over 5000 voters' guides to families and individuals reporting the results. In it, some MLAs in your caucus, in Stuart Murray's caucus, agreed with the following statement: It is not in the best interest of children to allow homosexuals to act as foster parents or to adopt.

I would encourage the PCs to be conservative and better represent conservative

Manitobans or consider joining the Liberal or NDP parties. Thank you for your time.

**Mr. Chairperson:** There do not seem to be any questions. The next presenter is Mike Tutthil.

Just before he comes to the podium, is it agreed that presenter No. 40, Sally Naumko, who wishes to have a written presentation made part of the record—is that agreed? *[Agreed]*

Please proceed.

**Mr. Mike Tutthil (Private Citizen):** Good evening. It is Mike Tutthil, just for the record.

I just want to go back to Bill C-32. When that bill came forward from Ottawa, I walked into the office that morning and saw the front page of the *Brandon Sun* and almost felt like a citizen. I almost felt like a citizen because I felt that pieces were missing from that document that were vital to including me as a full and equal member of society. Following that bill, the Manitoba government came forward with Bill 41. Once again, when Bill 41 came forward, I was proud to be a New Democrat. The New Democrats were moving forward on this issue. However, I was disappointed that many, many statutes were missing from this important piece of legislation.

As a New Democrat, I am disappointed the Government did not go further on this. I feel that, if the premier to the east of us can go as far as he did, New Democrats here can do the same thing. We have talked about problems with the changes that were brought forward by Harris's government. I am confident that an NDP government can rectify those changes.

I also want to tell a story that goes back a year ago today. I was sitting in front of the Legislative Assembly on Pride Day with my same-sex partner, Chris. Two days later, he died, taking his own life after suffering with mental health issues for six months. When this bill came forward and I did not see The Mental Health Act included, I became more and more angry. Oftentimes, when suicide is involved, people would say to me: Do you not ever ask why, or how come, or what if?

I do not ask why. I do not ask how come. I know that Chris was sick from a mental health

issue, and he could not take the pain anymore. I do not ask what if, and I do not ask why. I do ask what would happen if he was still here, if we had remained in that relationship and he had ended up in care. Once this bill came forward, I realized that once again I would have no say in what that care would be or have a right to information on what is happening with Chris's care in that case.

As well, when I look ahead, I think: What would happen if this had happened later? What if Chris had children and I was unable to adopt them? What would happen to those children? What would happen to my family being cut away from those children? It is with great passion that I speak before this committee and bring up this important part of my life. Going through trauma is a difficult thing. At this point in time, while I am remembering this, I am thinking a lot about this bill and what that would have meant to my relationship had it come forward and had we been co-habiting at the time of his death.

In closing, I just want to say that some of my best friends are straight, and they do support this legislation.

**Mr. Chairperson:** Thank you for your presentation.

The next presenter is Kerri Olinkin.

**Ms. Kerri Olinkin (Private Citizen):** Good evening. I am here this evening to speak on behalf of the innocent children whose lives are being decided by this bill that would allow same-sex partners to adopt children. My personal belief is that this is wrong. I have come to this conclusion through careful consideration of many factors. First, I personally come from a family of four children, and all of us were adopted by my parents. Being the oldest, I have experienced adoption from a child's perspective. My two brothers were adopted as infants, and my sister was adopted at the age of five, as was I.

Adoption is not an easy adjustment even under the best of circumstances. I have also experienced adoption from a child caregiver's perspective. I started working in the child-care

field in the summer of 1984, 17 years ago. At that time I was only 18, and I had no clue how I impacted these children every day that I worked with them. These children trust us with their innocence every day. During the first year of working in the child care field, I spent eight to nine hours a day, five days a week with two pre-school children who were newly adopted, and I listened as they shared their feelings on their new families. I could really identify with one of them who was a big sister and could not understand why her parents wanted another child when they already had her.

Children have a basic need to feel loved and accepted. They need to have a father and a mother who can show them how to relate to each other and to become well-rounded individuals. I also looked at this bill from another perspective. I lived, worked and socialized with both male and female homosexual couples. Many, but not all of these people, I would say, are hurting or running away from something or someone in their past. Again, in many, but not all, cases, there is an unhealthy overtone of sexual innuendo in their everyday lives. A lot of homosexual people are so busy trying to prove to society that they are normal that they do not even see what they are doing is different. Homosexual activists say that they only want tolerance. I believe that they are being dishonest about that. They are quite intolerant of anyone who disagrees with them.

\*(23:10)

During my time in the homosexual community I became friends with many of them. Some of these people I still call my friends today. We had become friends during a time in my own life when I was a hurting person, and we have remained friends as my values and opinions have changed. They are fully aware of my revised views of homosexuality. However, I love and cherish each of these people, but not their choices of sexual orientation. Thirteen years ago, if you had asked me of my opinion on this issue, I would not have hesitated to agree with this bill. I thought all a child needed were people who loved and nurtured their child. I was wrong.

I am now a single parent with a 12-year-old son. In my son's inquiries over the years I have

tried to explain to him why he did not have a father. My explanations have always included the fact that he is unconditionally loved by myself and the people in his life, but the internal need for a father is still there. For the majority of my son's life, I have tried to provide positive male role models for him. There are special bonds between a mother and her child and a father and his child. Each bond is unique. As much as I attempt to fulfil both roles in his life, I know that the male role models I have provided for him will help fulfil that father-son bond that I cannot provide. It was most important for him to know what a healthy family relationship looked and felt like, and that is one of the many reasons why I have chosen to live with my parents. This will allow my son the opportunity to see and imitate what a healthy marriage is. He will be able to see first-hand what the relationship of a husband and wife is. His grandfather also provides that dad quality that I cannot personally provide.

I am now going to try not to sound preachy. However, a great responsibility has been placed in your hands, and I need to know that you are prepared to make an informed decision. Our society has too often been led by people who just look at an opinion poll result and go with the majority. The majority is not necessarily always right. Sometimes we need to stop ourselves and think about where the majority is getting their information from. How many of those people are just reacting to the squeaky wheel before they cast their vote, and how many of the majority have actually thought through, thought about whether the squeaky wheel just needs to be oiled or if it requires recycling. Too often the majority has given in to that squeaky wheel because they do not want to hear it anymore, not because the decision that needs to be made was the moral or right thing to do.

I am sure most of you have heard the saying that a child learns through imitation. The best way to determine what a person is like is to look at their children. A child's perception of right and wrong is a direct reflection of what their parents view as right and wrong. Children model the behaviour of their parents. Why, then, would we be surprised that kids in a homosexual household might try homosexual sex? After all, if mom and mom are doing it, or dad and dad,

then why not the kids? This is a threat to children. It is a way to lead them into a destructive behaviour that will diminish their lives.

Their view is also heavily influenced by society's public declaration of what is morally acceptable. The public education system and the child care community teach and preach that educators should show acceptance of all people, regardless of whether their actions are morally right or wrong. Children are already being taught in school that homosexuality is normal. How can they be taught otherwise if we set aside status and privileges that put homosexual relationships on par with marriage? My question to you then becomes one of morality and what perception you believe is in the best interest of the child.

In the beginning, our country's laws were written according to the laws found in the Bible. I am certainly not a scholar when it comes to knowing the Bible. However, I do know and believe that it is God's word, the Bible, what is in there is the truth. Most people know or have heard of the story of Creation. In the beginning, on the sixth day, God created his family, a man and a woman in his likeness. His instruction to them was to be fruitful and multiply. For those of you Bible scholars who would say that is from the Old Testament and does not bear any weight, I would like to point out that in the New Testament Paul writes about homosexuality being shameful and the result is being given up by God to vile passions.

Society's values are being clearly demonstrated through all sources of today's media. Generally, people will give into a squeaky wheel, in this case it is the homosexual community, because they are tired of hearing them. However, it is time to stand up for the voiceless children and recycle that squeaky wheel. Kids do not care about being politically correct. They just want a mommy and a daddy. Children deserve to have the people in power to stand up for their moral rights and say no to this bill. Send a clear message to our children and let them know that their safety and well being are more important than pleasing the immoral passions of a small community.

Our future family units will be defined by what this generation of children observes as the

normal or moral family unit. We need to send them the appropriate message. Thank you.

**Mr. Chairperson:** Seeing no questions, thank you for your presentation.

The next presenter is Kate Tate, No. 24. Is Kate Tate in the room? [*interjection*] Okay, we will go down to the next one. Susan VanDreser. Please proceed.

**Ms. Susan VanDreser (Private Citizen):** Good evening, Susan VanDreser. I thank you for this opportunity to come before you and the rest of the citizens who have gathered here to speak to Bill 41 that is before you. I come as a citizen of Manitoba. I come as a mother of two daughters who were taught that homosexuality is normal. I come as a minister of the Unitarian Universalist Church, and, perhaps most importantly, I come as a heterosexual. I come to urge you to amend Bill 41 to include the rights of gay and lesbian and bisexual people to adopt children, to adopt the children of their partners, in particular, as all heterosexual partners are allowed to do.

Now, rather than say to you all the things I have written here, which are what everyone else has said more eloquently, what I would like to say is this. Those of us here who are heterosexuals have been confronted in very graphic and moving ways with our invisible rights and privileges. We have been confronted by that tonight as we have listened to the various people who have talked to us. We have the rights that we do not think about, like a voice in our partner's medical care, like a voice in how our children are cared for, spousal rights, parents' rights. We have wonderful voices. We have the right to marry the person whom we love. We have the right to love as we are moved to love without having it judged by the rest of society.

I, as a minister, perform weddings and memorial services and dedications for many, many people, and one of the greatest privileges of my kind of work and my kind of life is to enter into the lives with people in these special occasions. It has been a great privilege of mine also to enter into the lives of gay and lesbian people as they decide to honour their unions, as they decide to dedicate their children, as they decide how to plan the memorial services of

those people that they have loved. This bill, as you have structured it, is one step. One step toward making sure that the people in this world who are born gay, lesbian, bisexual have those privileges that we who are heterosexuals have taken for granted in our lives. It is the question of equality. It is the question of honouring the humanity of the adults and the children of those adults fully, honourably and with respect for their lives.

So I stand before you tonight asking you to recognize the privilege and the grace of that privilege. As I close, I call to mind the words of Martin Buber, an Hasidic writer, story gatherer. I do not know the exact quote, but I paraphrase it this way. Martin Buber said that our greatest sin is not that we commit transgressions. Our greatest sin is that, when we realize what we are heading for, we do not turn around.

Here is a time for us to turn around and walk clearly and carefully, with leadership, toward what is right to do by amending Bill 41 as fully and completely as possible and certainly with regard to adoption rights. I urge you to turn around and to do that.

\* (23:20)

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Asher Webb. Is Asher Webb in the room?

The next presenter is Krista Piché. Please proceed.

**Ms. Krista Piché (Private Citizen):** Just before I get into the written part of my presentation, I would like to say how proud I am to be a member of my church and of my community. Tonight they have really done me proud. I am not much of an activist. I rarely speak out on anything. I feel that a lot of people have stood for my rights and my children's rights tonight. I wish I would have been able to write this presentation as we were sitting here because I think there are a whole bunch of things I would have liked to have added, including thanking the committee for being here tonight. As you, I would rather be at home with my children and my family.

I am here tonight in an attempt to have Bill 41 amended to include same-sex couples' rights

for adoption under The Adoption Act. My partner and I have been in a domestic relationship for approximately six years now and, after our Holy Union ceremony, felt that we wanted to have children. As we were both in the Canadian forces at the time, the military supported our decision to become parents, and they found the appropriate medical services and paid for the procedures as they would any other military couple who are infertile.

When our first son was born, we attempted to have my name put on the birth certificate but were denied. I was so surprised by this, as our relationship and parenthood was so accepted by the federal government, but not by the province of Manitoba.

So we then sought out other ways of making my role as the other parent legitimate, but again were faced with still more obstacles. The lawyer told us that the only way I could adopt my own child was to have my partner give up her rights. My partner has since made a provision in her last Will and Testament for custody of our children to be given to me, but it is still a possibility that they could be taken from me if someone were to contest the Will, however unlikely that may be. Even without someone contesting the Will, it is my understanding that social services could take the children, at least until the Will is finalized.

Though we have a contingency plan if my partner dies, we are still faced with the living problems. My lack of legal rights to my kids, whom I have been with since the point of conception, has become a problem in several circumstances. Some of these challenges include: at the hospital, crossing the border, getting on an airplane, various pre-school occasions, signing for a library card, signing up for swimming lessons, and a variety of other things most parents take for granted. These are my children, and I cannot even sign a release form.

God willing, we will stay together for life, but if for some reason there is a breakdown in our relationship, we have no legal provisions for custody or parental support. I am the sole income provider for our family and though I want to pay for my children, some others in the same situation may not. My partner is also a reasonable person, and I believe would think of

the best interests of the children and would provide me with access to them. But again, this may not always be the case. If we split up, my children could end up living in conditions below what they are used to and without their other mother.

My partner and I are willing to fight to have the law changed, but like most middle-class families with a single income and a couple of kids, we do not have the financial means to pursue a court decision as *M. v. H.* have. When an NDP government was elected, we heaved a sigh of relief since we believed they would legislate parental rights for same-sex couples. Today, I have to stand up and request my rights to adoption be included.

The Manitoba government has a responsibility to uphold the Supreme Court's ruling in the case of *M. v. H.* and to interpret the ruling to include same-sex partners in all legislation, as four other Canadian provinces have done. It is commendable that the Manitoba government has tabled same-sex legislation. My concern is that if all legislation is not included now, it may be years before further legislation is included. It also seems to be fiscally irresponsible for the Government to have to introduce multiple bills when the issue could be laid at rest with one piece of blanket legislation.

My reasons for being here today are for my children. I think the Province should own some of the responsibility to protect the children of same-sex parents, as it does with any other child whose parents are opposite-sexed or single. The facts are very simple, in my estimation. We are families. We are Manitobans. We pay the same taxes as everyone else. Therefore, we should have equal rights in the eyes of the law. Anything less would be discriminatory.

In conclusion, I am asking the committee to recommend that Bill 41 be amended to include The Adoption Act, so that it includes the ability for same-sex couples to adopt children jointly. I am certain that there are a lot of reasons for people to argue both for and against the inclusion of The Adoption Act, and I believe that all people have valid points, but the facts are that these circumstances do exist and that the children would be the ones to benefit the most

from the inclusion. Again, I respectfully ask the committee to recommend that The Adoption Act be included in legislation to be amended by Bill 41. Thank you.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Donald Teel. Is Donald Teel in the room or nearby? I think they are going to get him. No Mr. Teel. Norma Drosdowech.

**Ms. Norma Drosdowech (Private Citizen):** Good evening. Honourable Chairman and members of the committee, it has been a long evening, but it is good to be here and to participate in this process.

My name is Norma Drosdowech, and I speak to you tonight as a concerned citizen of the province of Manitoba. I am a mother, a new grandmother—I do have pictures—a former teacher, school counsellor and family life educator. I have just completed a six-year term as a chaplain of the Unitarian Universalist Church of Winnipeg. All of these aspects of my life have influenced my strongly held belief that we must be an inclusive society, one in which the Government is constantly searching for ways to uphold the rights of those in our society who have been excluded from it over the years. Tonight, then, I speak on behalf of the gay, lesbian, bisexual, two-spirited community to urge this Government to ensure that both people in a committed relationship have the right to the adoption of the children who will enter their family circle.

This decision, then, is not one to be considered solely from the demands of the law, from fear of controversy or from political expediency. It is only from the perspective of these children and of the nature of their families that the decision can be made. It is true that, for many of us, the definition of family has broadened over the years. I grew up in that traditional family depicted in *Dick and Jane*, with a father who worked, a mother who stayed at home, two children, a boy and a girl, and a wire-haired terrier named Perky. It was a sheltered existence, with many secrets in the families of Norwood that remained unknown to me as a child, homes in which the children daily faced a troubled existence from alcoholism,



family violence, child abuse, incest. Children were either legitimate or illegitimate, and the latter were generally placed for adoption. Young adults were encouraged to date and marry within their culture, their religious faith, their socio-economic class. Divorce was scandalous, and single women struggled to eke out an existence for their families. Homosexuality was a grave sin, and homosexuals lived in hiding for fear of rejection by their families and society and of legal reprisals.

\* (23:30)

As an adult, I became increasingly aware that I had been kept in ignorance, and having myself given birth to four girls, I wanted to ensure that they gained both the knowledge and the skills necessary to become responsible, caring adults. My involvement in family life education and my subsequent studies to become a school counsellor were keys to my own personal development as I read about, met and worked with gay and lesbian activists. As I personally came under attack for supporting a school program which spoke openly and positively of different sexual orientations, I experienced a little of what gay people endured as part of their everyday lives.

Attempts in the family life curriculum to look at different families met with strong criticism from a vocal minority, whom we have heard tonight, who felt that schools should still acknowledge only the "normal" family. Even today, in schools which supposedly support the acceptance and understanding of different families, many things remind our children that they do not fit the norm: books that do not represent the different cultures of the students who read them; motherless children encouraged to write poems for Mother's Day; abused children who are asked to make cards for Father's Day; adopted children and foster children who are asked to draw their family trees; children of gay and lesbian couples whose own teacher has to go to court for permission to share her sexual orientation with students.

Yes, I am aware of the argument that sharing one's sexual orientation is supposedly unnecessary for both heterosexuals and homosexuals, yet I did not have to go to court to

seek permission for my students to know that I was dating the male vice-principal or to hide the engagement ring or to not talk about my plans for the wedding. I was not then, as the lesbian couples for whom I have had the privilege of performing Services of Holy Union, forced to keep all these things secret from my colleagues at work, my family, my neighbours, all who might judge me harshly simply for loving another human being and wanting to create a home and a family that will endure. Neither my church nor my society found my love a sign of depravity or a sin, although detractors of family life education program did preach against me as the tool of Satan.

When I returned to teaching, I knew that I could bring my husband to staff parties, have family pictures on my desk and use my children's lives to illustrate issues in my family life lectures and counselling sessions. If there were a family emergency, I felt secure in the knowledge that the school could contact either Peter or me. Two parents. Two decision makers. Two legal guardians.

This past month, I was angered, then, to read about the failure of this Government to support this important concept of two parents in all families, both empowered by the law to act in the best interests of their children. When my daughter recently gave birth to our grandchild, both she and her partner, the father of the child, filled out registration forms which will legally acknowledge both their rights and responsibilities to their daughter.

I want for all children what my children and my grandchildren will have: The respect of society and all the legal rights that ensue from that. Children have the right to be protected by the law. Yet, the decision that you are going to make goes beyond issues of safety, accurate record keeping or even legal liability. The right of both parents to adopt a child speaks as well to meeting that child's social and emotional needs. Every child needs to know that their family is accepted and respected by the community in which they live.

I was so certain that an NDP government would know and act on these beliefs and values, that I still feel a profound sense of disappointment in its failure to follow the

precedence set by four other provinces, including adoption in this legislation. I had thought better of this Government. So I urge you to take this opportunity to act immediately in support of this issue for all those involved, but most especially, for the children. I thank you for your attention.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Michael Law.

The next presenter is Irene McKenzie. Please proceed.

**Ms. Irene McKenzie (Private Citizen):** Mr. Chairman, in 1987, my husband John and I attended the Human Rights Hearings as Bill 47 was to specifically include a section protecting all people, including gay and lesbian persons, from discrimination under the law. John made a presentation in support of the bill. Our interest in this section was due to the fact that we have a lesbian daughter and we had great fears for her, given the ugly rhetoric that was around at the time. Indeed, our fears were magnified at the hearings as we experienced the venomous hatred in the room, which has been referred to already tonight, which sadly was then justified in the name of Jesus Christ. Times have changed. I do not feel this hatred in the room today.

Today, we are grandparents of a wonderful five-year-old granddaughter who has two loving mothers. She has doting grandparents on both sides of the family and a host of aunts, uncles and cousins. Fortunately, her parents live in a jurisdiction where their relationship is legally recognized. By the miracle of artificial insemination, one of these young women became pregnant and gave birth. This was a much-planned happening by a couple who loved each other dearly and wanted to love and cherish their little one together. The non-biological mother was able to apply for and adopt this child, our granddaughter. Both of these parents have peace of mind knowing that if one should die or be, in a position by accident or illness, unable to make collaborative decisions in the best interest of their child, then the other partner has legal rights to carry out their joint responsibilities. If a separation ever came about, it would be the interest of the child that would be front and centre in determining custody, not the

fact that one parent had more rights than the other.

Not all children are so lucky. In this province, gay and lesbian parents have unequal rights, and this puts a tremendous strain on the relationship. The non-biological parent is always under the stress of not really knowing what will happen in case of death, illness or separation. Who will make the important decisions for their child? Who will have custody? As we all know, most of us do not have that particular stress in our lives.

\* (23:40)

Two of our five children were adopted, at ages five and seven. Adoption is a privilege and a huge responsibility. We were easily given that privilege for a task that we found extremely hard. How much harder it would have been had we not equally shared that legal responsibility. We felt that this legal and moral responsibility in addition to our loving and caring for our children gave us strength in raising them. We had gay friends who were foster parents, having been given that responsibility by Child and Family Services. They are giving a child an experience of what it is like to be a part of a family where love and respect are foremost.

This couple would love to adopt a child but are unable to do so. Why should the law discriminate against them? We are no more worthy of adoption rights, and yet we can assume that we have that privilege. It is disappointing to find that a government that appeared at one time to be proactive and progressive has turned out to lack backbone in this important area of human rights.

In conclusion, I would urge the committee to amend Bill 41 to include adoption rights for gay and lesbian persons so that the rights of all children will be protected, whatever the sexual orientation of the parents. Thank you.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Valerie Wadephul.

**Ms. Valerie Wadephul (Private Citizen):** I hope everybody is not ready to fall asleep

because I am. I am here to speak on behalf of children's rights to have parents of both genders. Society today is more complex than yesteryear. Some of these complexities are positive and beneficial while some are detrimental. We all know the positive things that home computers give us, with access to hundreds of useful categories filled with information useful to help us run a more successful, healthy home, et cetera.

Unfortunately, some complexities have proved a source of difficulties and pain. The complex results of the increasing number of multiple marriages, divorces and remarriages resulting from relaxed divorce laws have made families with children from three to four parents under one roof, a yours-mine-and-ours picture, where children are shuffled about like pawns on a game board. The pressure many children experience today was never intended or envisioned when relaxed divorce laws were passed. The short-sighted saw an immediate release in a difficult friction-filled marriage and assumed the resulting emotional well-being was a win-win situation for all. It turned out it was not, especially for the children caught in the middle.

Please do not twist my statements. I am not saying all children from easy or any divorce are negatively victimized, but there is a huge percentage who are and whose parents will not admit it and turn a deaf ear to their child's comments. I know many adults over 35 who have come from such divorce situations and only a very small minority say the divorce was best for the family. Most, married now themselves, say it could have been worked out, but mainly pride and stubbornness prevented it. As a result, the family dynamics was shattered.

The gay community would label me as intolerant and discriminating against them in my opposition to their demands. May I point out that Mother Nature herself is discriminating and intolerant, and that no matter how aggressively two homosexuals try, their sexual expressions to each other will not produce offspring. This is blatantly obvious in humans, as well as lower-life forms. Horticulturists will concur even plants need male and female organs to reproduce themselves.

People will say this is a human rights issue, but whose? What about the child's human rights to have parents of both genders? Children need role models of both sexes to expose them to the diversity of thought it produces. I need go no further than this committee to illustrate that it is a good idea to have both genders hearing our presentations. Yes, children need role models of both genders. That is why nature made it necessary for both genders to produce offspring.

Recent in-depth studies have shown that a father's interaction with his daughter can produce a deeper positive impact than ever before realized; likewise, a mother to her sons. In years past, it was stereotyped that mothers raised the daughters and fathers raised the sons, with the assumption that the opposite-sex partner had a very minor, almost negligible role of important influence. Today, specialists in the field of human development have discovered this is no longer found to be so.

Children need both parents, and a surrogate female dad does not produce the same balanced psychological well-being as two-gender parents. This very real need can be illustrated by the boy, Clayton Giles who, at age eight, was given in sole custody to his divorcing mother. Today, he is cycling across Canada asking the courts to give children the right to access to both their parents, if the child so chooses. When a father of a young child or children is killed, there is great sympathy that the dad's future input is now lost. Why would we as a society deliberately deny a child the influence of a father or mother?

Another aspect of a one-gender parented family which should not be dismissed lightly is the school years. Statistics bear out that the vast majority of children have two-gender parents, even if some live in separate homes with shared custody. So in school from kindergarten on, on Mother's Day and Father's Day, there is a painful event of not having a real parent of that gender to make a card or gift for. In New York, they are looking at doing away with such activity so as not to offend those concerned. After all, they say, 10 percent is a lot of people.

Well, I say 90 percent is a lot of people, and I would like to know when the minority is going to stop ruling the majority. We are Canadians,

not Americans, and I believe following many of their leads has not been the best idea for our country. Is rep by pop dead? Even if such activities in school were abolished, social commercialism advertisers promote Father's and Mother's days. Are we going to abolish their advertising or the days themselves? Children are being picked up from school alternately by moms and dads. There would be a constant reminder to a child in a home of homosexual parenting that they do not have either a real dad or a real mom, as the case may be. This may be a small thing to adults who want a child and are focussing on their wants, but most child psychologists will cite the painful, emotional internalizing the child helplessly endures. We all know how small children, right through their teens, magnify and maximize much of what they experience and feel, especially the negative. This is their nature at those ages.

Children all too often are at the mercy of people who have forgotten what it is like to think and act and feel like a child. Children allowed to be adopted as is being requested will be helplessly entrapped by well-meaning people who will regularly tell the child verbally how they love him or her, though these same people deliberately and wilfully place this child in a lifestyle contrary to the majority of the children he or she will be exposed to during their most crucial formative years.

As I am sure, you may well know, the waiting lists to adopt children into a heterosexual family are unusually long due to the extremely high number of single girls who abort or opt to keep their children.

The gay argument may be that we will give the child a loving home, and that both our parents accept our partner, so the adopted child will have the male role model of our fathers as their grandparents. So they will not be deprived of the male role model in their life.

That very argument turns on itself because a grandparent is not a primary caregiver and may not survive the child's growing years due to the usually advanced age of grandparents. Also, the child will eventually want to know: Mom, how come you could be raised by a mother and father and I cannot? Also who is my real father,

because in sex-ed class I learned it takes a female egg and a male sperm to conceive a baby? So who, where is my dad?

Children have not only a need, but also a right to a two-gender parenthood to nurture them. Nature deemed it so, and I urge Minister Mackintosh and this committee not to collapse from the pressure of a small select group crying prejudice or discrimination.

It seems these two words or related words stop politicians or committees dead in their tracks, and they bend over backwards to prove they are not any of those words by making decisions that go against everything they believe in that has stood the test of time. You would not be any of these things if you decide not to relax adoptive rights to same-sex couples; on the contrary, you would be putting the best needs of the adopted child first.

\* (23:50)

Whenever selfish people want what they want without contemplating what is best for the majority of others, and when they do not get it, they cry human rights violation, bigot, or similar accusations. I implore you not to succumb to such low tactics and be blindsided by them. Two women are not a mother and father, and two men are not a father and mother.

Our relaxed laws are allowing things which were considered wrong and immoral to be accepted and even protected by law. Today there are groups pressuring for no age-of-consent laws so that even infants and toddlers may be fair game for sick, lecherous adults. The NAMBLA illustrates this in their acronym which knowledgeable people know stands for North American Man Boy Love Association which advocates sexual trysts between men and young boys. These people, too, say that they and their lifestyles are being discriminated against. Should we give in to their demands? Where will we draw the line in the name of tolerance to what is acceptable behaviour? Will we continue to condone blatantly non-traditional behaviour, even legalizing it and protecting it.

I might point out that in most societies worldwide the traditional heterosexual family of

two married faithful people is considered proper. Even most primitive cultures revere and respect what constitutes a traditional family. With our relaxed pornography laws and acceptance of adult video stores, we have more sexual predators and offenders than ever before in history. For centuries pornography was deemed smut and something good people did not engage in or support. At least consenting adults can choose to reject it or choose hard- or soft-core publications.

Children will not have a choice of being adopted by straight or gay parents. Many girls who choose to put up their child for adoption do so because they do not wish to marry the father, and want the child to have a traditional family. Will we be opening another can of worms or a Pandora's box if we relax these laws? I believe so.

I want to point out that I have not put forth any Bible quotes or religious arguments to state my points. I have only used studies, facts and observations that I have seen or read. Please prevent further deterioration of our collective social psyche by making a wise, pragmatic decision. Thank you.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Tim Jeffrey. Oh, Mr. Loewen.

**Mr. Loewen:** Mr. Chairman, I have a motion for the committee.

**Mr. Chairperson:** Go ahead.

**Mr. Loewen:** I move,

THAT the Standing Committee on Law Amendments adjourn at this time and reconvene at a date and time to be determined by the House leaders.

**Mr. Chairperson:** The motion is in order.

*Motion presented.*

**Mr. Loewen:** Mr. Chair, it is now approaching 12 o'clock. We have heard a considerable number of presentations. The hour is obviously late. I think the members of the committee are

tiring. Certainly, the citizens who are here deserve the respect of the committee in allowing them to come back at a more realistic time. We are not in the final days of this sitting in the Legislature. As we all do know here, I do not think there is any need to rush this bill through the committee process at this time. I think, out of respect for the people who have given up their time to come to this committee and make their views known, that we should schedule another meeting at a time that the House leaders negotiate, perhaps even announce tonight, and I think that is something that we can easily accommodate and still meet the time frame of the legislative sitting. I would be willing to accept an amendment if there are presenters in the room who feel tonight is the only time that they have available and want to make their presentation tonight, but other than that, I think we should adjourn these proceedings at this time.

**Hon. Becky Barrett (Minister of Labour and Immigration):** Mr. Chair, I know that we debated and discussed this issue at the beginning of the evening when I would assume virtually every person who is still in the room was present, and it has been announced several times during the evening that we would stay here until we heard all of the people who wished to make a presentation tonight. I think we started hearing the first presentations at 7:35. That is the time we started to hear the first presentation and people have been waiting. I think it would only be fair, since we did pass that procedure, to ask those in the room how many would still like to make a presentation tonight, rather than stopping it at this moment.

**Mr. Praznik:** I remember as Government House Leader, many times the then Opposition House Leader, the Member for Thompson (Mr. Ashton) who is here tonight, made the point, and it took some time for us in government to appreciate it, that when you have a number of presenters, a large group of presenters, it is far better to adjourn at a reasonable hour. *[interjection]*

Well, you see, the Minister of Labour says from her seat, we lost the argument. Is this about her or is it about the presenters in this committee? Is this about having a reasonable

time to hear presenters? I have gone through this on both sides, Mr. Chair, and I will just tell you the Member for Thompson (Mr. Ashton) always used to offer this advice. He always said that, when we have time, we can hear the presenters to a reasonable hour. If there are a few people here who cannot come back at another time, then we should hear them tonight. But, if the other presenters would prefer to come back and make their presentations at a more reasonable hour when the committee is fresher to hear them, when they may be fresher to make them, why would we not accommodate that as reasonable people in a democratic society? We have the time to manage this bill. Many bills are moving through the Legislature on a reasonable course, so we hear the presenters.

The Member for Thompson also used to make the point that, if it takes two or three sessions to hear all the presenters, we should also then not do clause-by-clause until we have had a chance to reflect on them for the day, a day or two, and then come back with any amendments that we want to make.

Now I would hope it was the Government's intention to respect this process, which is to give reasonable opportunity to hear people on reasonable hours, and this committee to have a reasonable chance after hearing presenters to consider amendments that this committee may want to make. The alternative, which the public should be aware of, is a government who will try to ram through a bill. I would hope that, after the many discussions and comments I heard from the New Democrats in power, they would respect what I think is a reasonable approach. By the way, we did most of the time, and when we did run through later in the evening, it was usually after we had had several sittings on a particular bill.

So, Mr. Chair, I would really urge the Government's members I think there is a willingness, if there are presenters who have to present tonight because there is not another opportunity, we will hear them. I think we should ask the Clerk to canvass the presenters who are remaining and see who would like to be able to present tomorrow or another evening, as opposed to see this Government ram through

because they are afraid, what, of having too many presenters on the bill? They are afraid that they might hear from the public. I am very, very disappointed in the attitude this party has taken in government, compared to what they used to do in opposition.

**Mr. Gerrard:** Mr. Chairman, I think the points are well taken, that the wise consideration of laws is best done when people are alert and not after midnight. Quite frankly, I think that the advice that the member from Lac du Bonnet has given in terms of having a canvass of presenters—*[interjection]* I think I would counsel that we adjourn at this point after hearing those who could not come back another night.

\* (00:00)

**Hon. Steve Ashton (Minister of Transportation and Government Services):** Mr. Chairperson, I was awfully tempted when the Member for Lac du Bonnet (Mr. Praznik), whom I have considerable respect for, was talking about what I have said in committee, to remind him what I said the night that the Conservative government rammed through the sale of MTS at 3:30 in the morning and read off all the names. In fact, I saw in the room actually a couple of people who were there that night. In fact, Kristine Barr, who was the first presenter on the list tonight, was there. I just want to comment. This is the part of the committee where we talk for about half an hour or an hour about how we want to hear from the public.

We just went through an agriculture committee. What we did there is that we did not shut it down at 11, 12 o'clock in the morning. We listened to farmers till 2:30 in the morning, but it was based on what the farmers and the people of rural Manitoba wanted to do. I suggest what we do is to ask who wants to present today and stick around to listen to them. People who want to come back next time, we will do it. The member's motion basically is calling for an adjournment. Instead of giving the great speeches here, I think let us do that. That is the normal procedure in this House, and I think we can all agree on that. Let us hear whoever wants to stay, and after people sitting here for five hours, I think that is the least we can do.

**Mr. Chairperson:** We will now vote on the amendment. Sorry. We will now vote on the motion.

**Voice Vote**

**Mr. Chairperson:** All those in favour, please say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, please say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Nays have it.

\* \* \*

**Mr. Chairperson:** The next presenter is Mr. Tim Jeffrey.

**Point of Order**

**Mr. Praznik:** Do I understand from the government member's comments that the members of the public will be canvassed, and those who want to present tonight, will; those whose preference is to come back at another time, will be so accommodated?

That is what the Member for Thompson (Mr. Ashton) said; that is what I had suggested. I would like to know, Mr. Chair, is that the consensus of the committee? Will you be undertaking that as this Chair of this committee?

**Mr. Chairperson:** In response to your point of order, it is my understanding that we will proceed according to a decision that was made earlier, and that is, that every name will be called and everyone who wants to present may present tonight. It is not a point of order.

\* \* \*

**Mr. Tim Jeffrey (Private Citizen):** Thank you, Mr. Chairman, members of the committee. My name is Tim Jeffrey. I am a gay male. I live with another gay male, whom, two and a half, almost three years ago now, I married in front of 75 members of the community: gay, lesbian, straight. My parents, straight; my brothers, my sister-straight; their children; my partner's siblings and their children. These people all

recognize us as being married. I do not call him my partner. I call him my husband. So do my family, so do our friends. I am simply asking that you do the same. This is the man whom I plan on sharing the rest of my life with. I have had other partners. I have not taken the step of performing a ceremony because I did not feel that it required that, the same, as I am sure, some of you dated before you decided to marry the person you are now married to.

On a completely different point, by the way, I am not a member of NAMBLA, never have been, never wanted to be. I did want to adopt children; however, my husband does not like children. So we are not going to adopt children. I am not going to adopt a child and have a partner who does not like children help to raise them, whether or not that partner is recognized by the Government. That would not be fair to the child. If he wanted children, then we would fight for that right which we should not have to fight for. The laws are all there that say that we are the same as everyone else. You simply have to enforce those laws and give us our rights. Thank you very much.

**Mr. Chairperson:** Thank you for your presentation.

Is there leave of the committee to have Krishna Lalbiharie present on behalf of Elizabeth Carlyle, if she is present. Is there leave? *[Agreed]* Is Krishna Lalbiharie present? Okay.

The next name is Penny Piper. Is Penny Piper present?

The next name is Jenny Gerbasi.

**Ms. Jenny Gerbasi (Private Citizen):** Mr. Chairman, members of the committee. It is nice to be here.

I guess I am here with a number of hats on, as well as a number of other speakers who have been here tonight. I am here as a mother. It is interesting that some of the hateful presentations, actually, even hated divorced women, and single women, and all kinds of other people. So I guess I am part of the hated people among the group tonight. I am starting to know a little bit of what

it feels like to be prejudiced against which I am not accusing this Government of, because I know this Government are my friends and my party and my people. I know where your hearts are, and I know what you believe. I am with you in that, and I am pleased that this bill has come forward today. I do not think it has gone far enough, and that is what I am here to tell you, at which you will not be surprised.

I am also a politician, so I am somebody who has power, like you do, of a certain kind. I do not see a lot of straight people here in the audience speaking, except for the hateful ones, and there are a few. I am also here as a Unitarian Universalist. I think the whole church is here. I think we should have a service, but other than that, there are not a lot of straight people here and there are not a lot of politicians here to speak to you. I think we should be here. One of the reasons I think I will mention why is when Nellie McClung got the right to vote for women, the only way it actually happened was the men at the time who had all the power, agreed to give it to women. I guess that is what we straight people have to do, or it ain't going to happen. Those of us who have the power have the responsibility to address basic human rights issues. That is what this, and that is why I am here today.

Another thought came to my mind. There is a story, and I am just paraphrasing it. It is a fable about the Holocaust and it talked about how, when they came for the Jews, I was not a Jew so I did not say anything. This is what I learned at the Unitarian Church, and when they came for the Catholics, I did not say anything because I was not one; and when they came for gypsies; when they came for the homosexuals and on and on, and then they came for me. I think really it is difficult because you have, and you are worried about, I am not quite sure who you are worried about, a backlash, because the only opposition here has not been all that impressive.

So I guess I really do not have that much to say. I think you have heard the arguments very, very eloquently about why we need adoption rights for children. I think you all understand that. It is just a matter of getting it done, and I think you could do that. You know, just have the courage to admit you did not quite go far

enough; you need to go a little further; you need to do what is right; and you can do it now. Thank you.

\* (00:10)

**Mr. Chairperson:** Thank you for your presentation. I would just like to identify the source of your quote about the Holocaust. It is not a fable. It was by Pastor Niemöller.

**Ms. Barrett:** On that same line, and the last line was: and when they came for me, there was no one left to speak for me.

**Mr. Chairperson:** The next presenter is John Mann.

**Mr. John Mann (Private Citizen):** Good morning. I think this is coercion. Thank you for this opportunity. My name is John Mann, and I am a retired steelworker from Thompson, miner. I am slate, but I have a label. I am a member of colour, or something. I know what discrimination is. I know what losing rights is. I know how you feel when you get kicked out of your own home or you leave your own home because you get harassed so much by the authorities.

My father was an assistant to Mahatma Gandhi. At age seven, we had to leave our home and go and stay with my maternal side. We were very poor. He came back after India's independence, became the bank manager, which he had quit. I got my BA degree, became a school teacher, taught for a while, came to England. It was a natural thing for me to join the Labour Party because, in my opinion, it was a Labour Party which put an end to colonization, Mahatma Gandhi included. I became an active member of the party. I had been to see Harold Wilson about racism. He brought in the Resolutions Act in 1966. In the '60s, it was a history of the homophobia too. Sixty-five years of my life I lived in the last century and I saw the social changes. I saw the economic changes and I saw the technological changes too. I saw Gandhi from very close.

I did not see Hitler, but I felt what he did. It was Hitler, his butchery, which brought the world together, which brought the bill of rights, which made this world into a united nations, one country, one world. It was also his aftermath.



which started the cold war. I remember in the '60s in England, M16, KGB, CIA. They steal military personnel from each other, seduce them into homosexual activities, take their pictures and force them to become spies. The British were smart enough to recognize that.

We have got to allow it. You know something good came out of what Hitler did. I have seen homosexuals treated worse than the blacks in the workplace. I have seen them beaten up. I have seen them assaulted. I have seen them quit their jobs out of fear. It took Hitler, finally, to bring them out— the cold war and the human rights legislation in England, of which, perhaps, was the start all over the world.

To me, that is the part of history I lived in. I came to Canada in 1972, walking on main street in Vancouver. Somebody comes in a racing car with a convertible roof, points to me. I thought the guy was lost. Maybe he needs pointers where to go. I was new. I did not know, but I knew the avenues go east and west and the streets used to go north and south. So I thought: Maybe I could help. I go to him; he spits at me and drives away. I stand up. I shout at him. I was amazed at his act. Welcome to Canada.

Inco picks me up; brings me to Thompson. I have had it by then. I wanted to go back to England. That was where my family was. I had come on holidays to see my uncle. I hear of the union hall. Somebody brought a motion: Stop the hiring of the Pakis. We will cross the picket lines. Two years later, I said: Look, I am going to stay here. In '74, I led a wildcat. In '83, I got a Manitoba award from the Steelworkers, even Man of the Year for the city of Thompson. There were only two in the '80s.

So I know where this is coming from and I know for me which party was the natural party to go to. The party that fights for justice, fairness, equality. There will always be some people more equal than the others, but the fight will carry on because I believe that Christ fought for that too. Ghandi fought for that. Nelson Mandela did it. Martin Luther King did it.

I want to go back to the history of this party. In the '30s, CCF could have won the B.C. vote but they goofed up. They wanted the Asians to have the right to vote. That was not a proper

thing to do. So they lost the election, but they did not give up their agenda.

I am going to answer my own questions so that my party people know. In 1947, Tommy Douglas brought in a bill of rights. It was not imposed on him by the courts. To my left was a picture of Schreyer. He brought human rights legislation here in 1974. He was preceded by Barrett in '73 in B.C. In '87, Howard Pawley, he improved it, and you know federal Liberals were the last ones in '78 to bring in human rights legislation. All I wanted to say is I hope my party is listening.

Plus, I want to make a statement on another statement. Some sister named Turner said: I voted for the NDP. It makes me angry to think that their philosophy is for the people and that I have been left out. This is Sunday's *Sun*. Sister Turner, if you are around, this New Democrat stands in solidarity with you. Thank you.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Anne Gregory. Is Anne Gregory here? The next presenter is Sacha Paul. Is Sacha Paul here? The next presenter is Karin Erhardt.

**Ms. Karin Erhardt (Private Citizen):** Good morning. You have heard it all before but I am here so I am going to read mine.

I am speaking to you tonight on behalf of myself and my partner, Shelley Turner, who was just mentioned to you. As citizens of Winnipeg and life-long Manitobans I would like you to imagine these scenarios and place yourselves in them for just one minute.

Imagine that you and your partner have been together for a number of years, and, after much thought, you have decided to have a child. Image that your family shares all the things that other families do in Manitoba. Time spent at our beautiful lakes, sports, bundling up for a cold winter day walk, enjoying our super hot summer afternoons at The Forks and paying provincial and school taxes here.

\* (00:20)

Imagine the unimaginable. Your spouse or partner dies, leaving you with a young child to

care for. You are left to deal not only with your own grief, but to comfort a child who is missing their other parent. Image the horror when some distant relative of your spouse's or partner's family comes to take your child to live with them, and they do and they can, because it is the law here in Manitoba. Being a resident of Manitoba you were not able to adopt your child together with your partner.

What good can possibly come from tearing a child away from someone that has for years provided a secure, warm and nurturing home? What good can come from tearing them away from school, friends and community? Sending them to live with distant relations or, worse yet, placing them in the care of Child and Family Services at the expense of the child's well-being and the expense of the province is cruel and inefficient, to say the least. Is it not ludicrous that each individual in a partnership can bear and/or adopt a child, but the non-legal partner, regardless of the fact that they provide all the same ingredients in the child's life—a safe home, love, education, guidance and nourishment of all kinds—is not legally recognized as the entity known and cherished as "the parent"? The non-legal parent, upon the death of the partner or the demise of the relationship, is absolved, as it were, by current Manitoba law of any obligation to any children that have resulted from that partnership.

If the partner in a common-law heterosexual pairing in the same kind of scenario were to "absolve" themselves of these responsibilities, there would be outrage from both the left and right end of the political spectrum. That individual would be sanctioned by their community, penalized financially and, possibly, even incarcerated because they are legally bound to continue providing care for that child. Is it not ludicrous to legally deprive children of that care, so willingly given by the non-legal parent in one situation, and punish the parent in the other scenario for shirking those legal obligations? It is a situation that is beyond ridiculous. Who suffers the most? Clearly, it is the children.

Recognizing that we have outlined some of the extreme possibilities facing same-sex partners with children in Manitoba right now, imagine all those day-to-day parental tasks that

have been spoken about before that our heterosexual counterparts take for granted: writing that note for a school field trip; picking up a child from school when there is an emergency at home; or visiting a child who has been hospitalized. A same-sex partner although wholly capable of managing these seemingly ordinary duties may be denied the right to perform these by the exclusionary nature of current Manitoba law. Currently, we, as same-sex partners in Manitoba, do not have the same rights as other residents of this province. We voted for this current government as their philosophy has always been one of social justice and equality for all people. We find it disappointing that they have shown reluctance to support equality before the law for same-sex partners and their children, and we stress children.

There are four other provinces that do include legislation for same-sex adoptions, and we would seriously, but reluctantly, consider these provinces as potential homes should we choose to expand our family. We believe that gay and lesbian Manitobans should enjoy the rights and obligations available to all Canadians and be able to adopt our children together. We urge this committee to amend Bill 41 to include changes to The Adoption Act. Thank you.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is Sarah Inness. This was read into the record. The next name is Kusham Sharma. Is Kusham Sharma here? The next presenter is Brad Tyler-West.

**Mr. Brad Tyler-West (Private Citizen):** Well, good morning, everyone. My name is Brad. Some of you at the table I know in other capacities. You are going to get to know me as the gay guy tonight. I am going to talk to you about a number of different aspects. You have all heard eloquent speakers go on about points of law. Well, what I am going to do is make the law personal. I am going to talk to you about power.

Unlike a lot of people who have come before you tonight, I have never been disengaged from power. I was raised in an affluent, white Roman Catholic family with a mother and a father. I went to a very exclusive school in Australia. My parents paid over

\$10,000 a year in the '60s and '70s to have me educated. It never occurred to me that I should sit at the back of the bus. It never occurred to me that anyone would ever look at me and not deem that I should have a position of whatever I desired. After all, I was white, I was affluent and I was male. I had the all-powerful penis card in my hand to lay on the deck, should I ever be questioned.

Now I was raised by a heterosexual family unit. My father impregnated my mother and that was basically it. As my grandmother said, any animal can make a child. It is what you do after conception that makes you a parent. My mother left my first father. She remarried. We moved on.

When I became an adolescent, I discovered that I was gay. I was about 13, and, unfortunately, I was not recruited by a lecherous older man, although I desperately wanted that to happen, as most teens would. In fact, I had to search high and low when I was 20 to find my first gay person. So we still have not figured out in my family who quite recruited me, because everybody in my world was heterosexual.

I am the youngest of seven children. My family accept me. They accept my partner. However, like most people who were gay, I decided to hide. So I married. I married another affluent white girl. We were the heterosexual powerful family unit, and we propagated as we were biblically instructed. We have a child. However, I had gone on a journey, because I want to talk to you about power. I was raised as Catholic, not knowing that I was Jewish. My Jewish heritage was hidden because of anti-Semitism that my grandmother's family experienced in England. So, when they migrated, they assumed the role of the powerful. In Australia, they became Catholic.

Once I discovered my Jewish heritage, it struck me as rather odd because suddenly now I was one of them, the strange ones who did not eat pork, who worshipped on a different day. Then, when I went through Auschwitz and I went through Dachau and I looked at the devastation that was reaped upon people whom I later found out actually were my blood relatives, I was incredibly moved. I knew then that

because of a point of law had I lived in Nazi Germany or Nazi-occupied Europe, even though I had been raised a Roman Catholic, I would have been shipped off to the camps because the Nazis searched back seven generations for traces of Jewish blood. My separation was only two generations. I and my wife and my child would have been sent to prison. My child definitely would have been gassed.

\* (00:30)

If you go to the Holocaust Memorial Museum in Washington, D.C., or the one in New York and you walk around, you will see what the price of silence, misplaced ignorance, and well-meaning people did to create such devastation. You do not kill seven million people without the silence of a huge amount of people. If you walk around there and you remove the word "Jewish" and you add the word "gay," you have a frightening similarity to North American society today.

I have since divorced. I am now in a same-sex unit. I have a partner. We have been together for four years. We have a will. We have a living will. We have a power of attorney. We have done everything legally possible to protect us, and if anyone should ever try to come between me and my legal rights, I will chase their asses so far into court, and I will sue them, and I will take them, and I will win, because I am committed to protecting my rights.

Now I am here not to ask or implore. I am actually here to demand. As a citizen, I demand you not only to add in adoption laws but to expand this bill because if you do not you will be sued again. There are people in this community with means and passion who will take you to court, and you will lose, as people who have opposing laws have consistently lost in Canada. Yes, you may turn around and grab a few political Brownie points and say, well, we did not push any legislation through, but 58 percent of the Canadian population support adoption rights for same-sex couples as showed by the latest Ipsos polls. Even the *National Post* talks about how ludicrous this is. So why are you afraid of doing this? I assume that you are afraid because it was not included in the initial bill. It surprised everybody, most of all the die-hard NDP supporters. I voted NDP in the last

election, although traditionally I am a Liberal, and the reason I supported NDP was because of the fact that, as a gay man, I want a government that is going to support me in my legal, ethical, moral responsibilities.

Now I am going to talk about my child, because we have all talked about "won't someone think of the children." Well, yes, let us think of the children. She has a mother and she has a father, and she has two stepdads. She is a typical year-2000 kid. The family unit has changed. We can lament. We can moan. We can flagellate ourselves. We can do whatever, but reality is the family unit has changed. Deal with it. Bring the laws in line.

My ex-wife, who is the mother of my child, has made provisions in her will that, should she die, she supports the adoption of my daughter by my same-sex partner. I do not want her husband, my daughter's new stepfather, stepping in and fighting that. As it stands legally now, he would have that ability. Because he is a heterosexual unit, or half of one, he has more rights. We would fight, but that would be very devastating for my child. I want her rights to be assured so that when she grows up and however she chooses to live her life, whether she chooses to live it as a Christian or as a Jew, whether she chooses to live as a heterosexual, or as a lesbian, or a bisexual, or as a transgendered, or true-spirited, or whatever label you wish to put on it, whether she chooses to be a single mother or a married mother or no mother at all, I want her rights looked after.

It seems absurd to me that I stand here, a felon, because I have broken the law. How? Well, I have had my same-sex partner pick up my daughter from school. You see, we are not closeted in our life. Even though he is a teacher, he is out at his school. His students know and nobody has ever dragged him off or accused him of pedophilia. So I am sorry about the statistic there. That is probably not relevant, but anyway he has signed forms, obviously breaking the law. I did not know. As teachers, when the parents are removed, they have the *parentis*. They become *in loco parentis*. So with my wife living in the States and my daughter staying with us for extended periods of time as she does, it just seemed natural, and I emphasize the word

"natural," that he be *in loco parentis*. If I cannot be there, then he needs to be able to be there.

My daughter has known and loved him for five years. She is now nine. She introduces him to her friends as "my other dad," and if they ask questions, she explains it just how all children do: Well, I have my mommy and I have my daddy; then I have my dad and then I have my other dad. I am a lucky kid. I have a lot of people who love me.

It does not cause her trauma. It does not cause her scarring. It does not cause her deep angst.

Power is what you as politicians are invested with. I ask you to do the moral, ethical and legally responsible thing by expanding this bill to include all the statutes that have not been covered, least of all, adoption.

I also understand the political game. My family in Australia are involved politically, and it is my intention one day to also run for public office, because I was raised with the idea that to be a citizen you had rights and you had responsibilities, that you need to give back to your community, and I will. So let me assure you from a political aspect, if you do not include adoption rights, or if you do just include the adoption rights and nothing else, there will be a backlash. Oh, yes. There were many, many people, myself included, who walked on doors, who made phone calls, who helped you get into these halls of government, and we will remember every single vote that you struck against us.

I think it is ironic that the quote from the Pastor Niemöller from the walls of Auschwitz was brought forward, where it talks about when they came for the Jews, I said nothing because I was not one of them, and then they came for the homosexuals, the gypsies and the deviants. Again I said nothing because I was not one of them. Then they came for the Communists, and I said nothing because I was not one of them. Then they came for me, and there was no one left to say anything. He scratched that on the wall in the wee hours before he and hundreds of other Jews were marched into the gas chambers and murdered. Their sole crime was being who

they were, or their grandmothers were who they were, or their great grandmothers, or back seven generations.

So, if you make my child wait in a hospital room, traumatized, because she cannot get access to my partner because I am out of the city and her mother lives in another country, and you do that because the law does not cover me because of who I am, you bet I am going to be angry, and you bet I am going to make you remember. I have a history and I have a legacy that cries out to me, and every single person who has been here tonight has a history and a legacy that cries out to them. As politicians, you may think this is a small deal or you may think this is a large deal, but let me assure you that we stand united, we stand convinced and we have passion. So I ask you to do this the easy way as opposed to the hard way. Put in the adoption. What the heck. Put it all in, because you know what? No one can accuse you of sneaking legislation in. You have had public committee hearings and, as some people say, well, why do it all at once?

You know, my oldest brother is a doctor. He treats cancer patients. If he is on the operating table and he opens up the patient and he discovers a little bit of cancer in the liver and he removes that, but then he sees the kidney has cancer, but he wraps up, saying: Well, I am sorry; the form said we are operating on the liver here; come back next week and, hopefully, we will get it all then. He would be sued for malpractice. People would cry out that it was inhumane, unjust.

I say the same thing. If other provinces in this country have interpreted the laws liberally, the Supreme Court has reinforced again and again that gays and lesbians are equal in the eyes of the law. They are not separate. They are equal, and any law that discriminates against them is unconstitutional, and needs to be removed. I urge you not to be unjust and not to be inhumane. Thank you.

**Mr. Chairperson:** Thank you for your presentation.

The next presenter is Manny Calisto. Is Manny Calisto in the room? The next presenter is Lonnie Patterson. No? The next presenter is

Margaret McKenty. Is Margaret McKenty here? The next name is Sara Malabar. Is Sara here? The next name is Grant Fleming. Is Grant Fleming here? The next name is John Krowina. Is John Krowina here? Next is Brian Hanslip. Brian Hanslip. Next is Robert Crittenden. Please come to the mike.

**Mr. Robert Crittenden (Private Citizen):** I guess I was supposed to hand out a few of these.

**Mr. Chairperson:** Please proceed.

\* (00:40)

**Mr. Crittenden:** My name is Robert Crittenden, and that is a hard act to follow. I admit I am at a little bit of disadvantage. I do not know all the laws. I do not know all the issues. I do not declare to know everything about raising children. In stating that, I would like to say I do not think anyone in this room can say that they know everything about raising children.

However, over the past eight years I have had the privilege of being a husband and a father to two wonderful boys. I have had an opportunity to share my social, cultural and moral values with my children, an opportunity that I greatly appreciate.

During that time, I have had the opportunity to meet many single parents, male and female, who are trying to raise their children on their own. Having heard comments repeatedly to the effect that, oh, how I would appreciate having a male figure in their life to teach them about whatever, or a female figure, has made me appreciate the gift of having a family even more. To look at this situation where a child is brought up in a home where there are two parents of the same sex, it puts the child in the same situation. There is a distinct disadvantage that only they can have one side of the picture.

How do you deal with a male child when he asks the basic question about how do people have sexual relations? For the partners in a same-sex relationship, it is a choice. You have a choice to be with that person. For the child, you have taken away that choice, their rights, their ability to see and learn from both sexes equally. I am a parent. I have been asked the questions,

and I truly believe this is where the focus should be on, is on the children. I believe that the courts and the Government should look at these on a case-by-case basis. Putting in sweeping changes that go against the majority of Manitobans' beliefs is not right.

In summary, I would like to state that I am against the rephrasing of the bill and other related bills to fit a select few. Thank you.

**Mr. Chairperson:** Thank you for your presentation. The next presenter is David Schesnuk. David Schesnuk. We have had four more people register to present, and I will call their names, as well, the next being John McKenzie. Is John McKenzie still here? John McKenzie. The next name is Henry Makow, Henry Makow. Next is Joann Gorham, Joann Gorham, and No. 60, Lorraine Waldner, Lorraine Waldner.

Okay, everyone's name has been called once, and will be called a second time the next time this committee meets.

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**Mr. Chairperson:** Shall the committee rise?

**Some Honourable Members:** Rise

**Mr. Chairperson:** Committee rise.

**COMMITTEE ROSE AT:** 12:45 a.m.

#### **WRITTEN SUBMISSIONS PRESENTED BUT NOT READ**

Submission for The Manitoba Association of Rights and Liberties on Bill 41: An Act to Comply with the Supreme Court of Canada Decision in *M. v. H.*

The Manitoba Association for Rights and Liberties (MARL) is a provincial, non-government, non-profit volunteer organization established in 1978 as a human rights and civil liberties advocacy body. MARL is the primary organization assuring volunteer participation in the advocacy and protection of human rights and civil liberties in Manitoba.

MARL is pleased to offer its comments on this bill. While we are happy to see that some changes are being made to modernize the statutes of Manitoba, we are not happy at greater steps are not being taken at this time. In spite of the changes being made by Bill 42, there are a number of Manitoba statutes that still discriminate against couples in a same-sex relationship. MARL respectfully submits that rather than amending legislation to simply "comply" with a Supreme Court of Canada ruling, it would be more progressive, and would eliminate potential challenges to court, to erase the legislated discrimination now.

The Charter of Rights and Freedoms recognizes and guarantees the equality of Canada's citizens. Section 15 of the Charter has been held to apply to same-sex couples, as was seen in the *M. v. H.*, (1999) 2 S.C.R. 3 case that apparently led to the changes set out in this bill. The obvious question is why changes have not been made to more (or all) of Manitoba's legislation that continues to treat people differently based on their sexual orientation. This is no place for "incremental steps" to the recognition of the equality rights of same-sex couples. There is no obvious reason for changing some legislation and not all of it. With respect, it would be disheartening if these changes were being made only because the government was effectively "forced to", and not because it recognized the equality of all Manitobans.

MARL urges the government to take the necessary steps to recognize the status of same-sex couples in all of Manitoba's legislation. Equating same-sex couples with "traditionally" defined common-law couples will not answer all of MARL's concerns, however. There are vast differences between the rights and duties of married couples and common-law couples, property rights being only the most obvious. To be sure that unintended obligations are not forced on same-sex couples, and to ensure equality for same-sex couples wanting the same rights and obligations of married couples, the legislation should recognize the choice of same-sex couples: some will want to be treated as "common-law" couples, and others will want to be treated as "married" couples. This could be accomplished through a simple registration of "married" same-sex couples.

MARL submits this issue is much bigger than The Adoption Act. This is an issue of fundamental freedoms for a large number of Manitobans. With respect, this government should go so much further than it has in this bill.

Submitted by Ken Mandzuik

\* \* \*

I would like to open by saying that my being here is not motivated by hatred nor even dislike of the gay community. In fact, my faith in God gives me a deep love of all people. What adults choose to do in their bedrooms is their own business. However, when these same people use their sexual preferences as an agenda to change laws, it becomes a concern to all of us. It is out of my duty to serve God, and as a citizen of Winnipeg that I am here to speak.

In reference to any amendments to Bill 41, it is my personal belief and the belief of many that this will undermine the values of the traditional family. Yes, homosexuals do have the right to the same legal protection as all other citizens; however, it is something else entirely to grant them the same legal privileges as heterosexual couples. To base these amendments upon sexual behaviour and/or preference is unconstitutional. In the case of common-law relationships consisting of male and female partners, there is the consideration of children born of the union. This is not possible within the homosexual combination.

Passing of these amendments will give credence to the homosexual union, and open the door to same-sex adoption of children. Children have the inalienable right to be raised the way God intended. If you are not a believer, you still have to acknowledge the fact that the very nature of procreation requires a male and female, as does the nurturing of a child. To raise a child in an environment of emotional confusion is tantamount to child abuse.

I am well aware of the fact that many children are raised by single parents, some having no contact at all with one or the other of the parents. However, in such circumstances, these children are not forced to accept aberrant sexual behaviour as normal.

If we as a society are forced to accept homosexuality as the norm, then soon enough we will be railroaded into doing the same for other fringe groups such as pedophiles. This may sound absurd, until one takes into account the court ruling allowing pedophiles to possess child pornography.

Already our children are having the gay agenda forced upon them in school, where they should be learning about reading, writing and arithmetic. I remind you of the horrendous incident of 14-year-old girls being shown pornographic lesbian material at our university right here in Winnipeg, without parental knowledge, much less permission, and under the unassuming label of "Women in Art." Children should be allowed to maintain their innocence as long as possible. Instead, under the guise of "teaching tolerance," their innocence is torn away from them, and they are left with confusion.

If same-sex couples are given the same rights as male-female couples, we are sending the message to the children of tomorrow that there is no moral code, that anything goes. When morals get tossed out the window, chaos ensues, in the hearts and minds of our children, and in society as a whole.

We should all be greatly concerned for the future of our children, because our children ARE the future.

This is not about tolerance, but about a tiny group seeking to use the law to impose its version of morality upon everyone else.

Sally Naumko

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Dear Premier Doer,

On behalf of working people across Canada, the Canadian Labour Congress has repeatedly argued for the extension of human rights protections at the workplace and in the broader society.

Specifically, we have lobbied strenuously and repeatedly for human rights laws to protect gay

and lesbian citizens. Last year, for example, the CLC participated in federal House of Commons and Senate hearings on Bill C-23, which was ultimately brought into law amending some 68 federal statutes.

We understand that your government is in the process of deliberating on needed amendments to a number of pieces of legislation to provide equal rights and responsibilities to gay and lesbian citizens in your province. Congratulations on this important initiative. We would also encourage you, however, to listen to the voices of progressive human rights advocates and ensure that your amendments provide full rights for lesbian and gay couples, including the right to adopt children. Failure to be fully inclusive or to recognize such a basic right as adoption, will leave you open to legal challenges, not to mention to charges of discrimination. Gay and lesbian people are every bit as capable of being loving caring parents; there is no reason to preclude them from legally adopting children. Same sex couple in Manitoba deserve the same recognition now granted in a growing number of jurisdictions.

We are encouraged by the introduction of forward looking legislation in Saskatchewan and now in Manitoba, which will bring both provinces into line with other provinces and the federal jurisdiction.

We would be very pleased indeed to see NDP governments take proactive steps to move the human rights agenda forward and follow the proud anti-discrimination tradition of our party.

If there is anything we can do to support you in this initiative, we would be happy to assist.

Sincerely,

Nancy Riche  
Secretary-Treasurer  
Canadian Labour Congress

cc: Manitoba Federation of Labour  
CLC Solidarity & Pride Working Group  
CLC Human Rights Committee  
Winnipeg Lesbian & Gay Resource Centre