

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

*Chairperson*  
*Ms. Marilyn Brick*  
*Constituency of St. Norbert*

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

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**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT**  
**Wednesday, November 23, 2005**

**TIME – 9 a.m.**

Mr. Andrew Wach, Private Citizen

**LOCATION – Winnipeg, Manitoba**

**MATTERS UNDER CONSIDERATION:**

**CHAIRPERSON – Ms. Marilyn Brick (St. Norbert)**

Bill 7–The Architects and Engineers Scope of Practice Dispute Settlement Act (Various Acts Amended)

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

\* \* \*

**ATTENDANCE – 11 QUORUM – 6**

*Members of the Committee present:*

Hon. Ms. Allan, Hon. Mr. Lemieux

Ms. Brick, Messrs. Caldwell, Cullen, Dewar, Eichler, Jennissen, Martindale, Rocan, Schuler

**Madam Chairperson:** Good morning. Will the Standing Committee on Social and Economic Development please come to order. This meeting has been called to consider Bill 7, The Architects and Engineers Scope of Practice Dispute Settlement Act.

**APPEARING:**

Mr. Kevin Lamoureux, MLA for Inkster

We have a number of presenters registered to speak this morning as noted on the list of presenters. Before we proceed with these presentations though we do have a few other important points of information to consider.

**WITNESSES:**

Mr. Michael Flynn, Private Citizen  
 Mr. Matt Kessler, Private Citizen  
 Mr. Rodney McDonald, President, Manitoba Chapter, Canada Green Building Council  
 Mr. Wilmer Koop, Private Citizen  
 Mr. Robert Wrublowsky, Private Citizen  
 Ms. Veronica Jackson, Private Citizen  
 Mr. Charles Bouskill, Private Citizen  
 Mr. Dave Ennis, Executive Director and Registrar, Association of Professional Engineers and Geoscientists of Manitoba  
 Mr. Allan Silk, Private Citizen  
 Mr. John Synyshyn, Private Citizen  
 Mr. Carmine Militano, President, Consulting Engineers of Manitoba  
 Mr. Ken Drysdale, President and Chief Executive Officer, Accutech Engineering Inc.; Accutech Engineering North Inc.  
 Mr. Digvir Jayas, Private Citizen  
 Ms. Cindy Choi, Private Citizen  
 Mr. Brad Thompson, Private Citizen  
 Mr. Kevin Clouston, Private Citizen  
 Mr. Sean Lepper, Private Citizen

First, I would like to note as specified in the committee notice we will be sitting this morning until 12 noon. Also, subsequent meetings have been announced for this committee as follows: Later today from three to five, as well again at 6 p.m., and if necessary, Thursday, November 24, 2005, at 6 p.m.

Second, if there is anyone else in the audience who would like to make a presentation this morning, please register with the staff at the entrance of the room. Also for the information of all presenters, while written versions of presentations are not required, if you are going to accompany your presentation with written materials we ask that you provide 20 copies. If you need help with photocopying please speak with our staff.

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

For the information of the committee I would like to offer the following notes on the presenters lists. Presenters 1 and 2 were on our list last night to call for the last time. They had been called several times yesterday and just prior to midnight when we were about to drop them from the list if they were not present. Presenters 3 through 13 have not been called at all. Presenters 14 through 66 have been called once last night, and presenters 67 and 68 have both been called several times yesterday, but the committee agreed to call them each one more time today. Also, we have just had another new registration this morning, who would appear at the end of the list, No. 69, Tat-Liang Cheam, private citizen. Also, we have a request to switch No. 26 on your list with No. 58 on your list. Once again, just for the committee's information, that is a request to switch No. 26 on your list with No. 58 on your list. *[Agreed]*

I would like to inform the committee, we have had special requests from two other people to speak on this bill. The individuals are Maiya Uprety and Charles Bouskill. We have previously received written submissions from each of these individuals on Bill 7 and they have now asked to be able to also make a verbal presentation. They are not on the list, but if we hear them then they would appear after the current presenters, No. 13. What is the will of the committee regarding these requests?

**Mr. Kevin Lamoureux (Inkster):** Madam Chair, what would typically happen if someone requested to be given a written presentation, does it not appear in Hansard as being produced?

**Madam Chairperson:** It does appear in Hansard.

**Mr. Doug Martindale (Burrows):** Madam Chairperson, I would recommend that we add their brief to the written record.

**Madam Chairperson:** Just for the committee's information, their brief is already in the written record. They are asking to be allowed to speak to their brief, so to be allowed to make a presentation in addition or in substitution.

**Hon. Nancy Allan (Minister of Labour and Immigration):** What are the usual rules in regard to this?

**Madam Chairperson:** The normal practice is that they would do either a written submission or do an oral presentation.

**Ms. Allan:** I would suggest, then, that we put their names on the list, because we are going above and beyond the rules, and I would suggest that we call their names this morning and, if they are not here, their names drop off the list.

**Madam Chairperson:** Is that agreed with the committee? *[Agreed]*

**Mr. Ron Schuler (Springfield):** Just for the record, I think this committee and the minister have been incredibly generous, all of us have been, at these hearings. I do not know of any time that I have been here that a committee has bent over backwards this far to accommodate, and very generous, I think. Certainly, we want to hear from everybody, but I have to admit this is probably the most generous I have seen a committee in the years that I have been here.

**Mr. Lamoureux:** One point and that is that I do think that the—

**Madam Chairperson:** I cannot quite hear you. If you want to—

**An Honourable Member:** Speak into the mike.

**Mr. Lamoureux:** That is a first, let me tell you.

Madam Chair, I would suggest that, given the exception we have made here, the Rules Committee at some point should look at the issue of a submission and then a follow-up request. I do not think it is good precedent, because the official record now will demonstrate that we have had two individuals that have been provided an opportunity twice to make presentation, and that is the first where I have seen that in my 14 years as an opposition. So I do not want members of the public to start to believe that they are entitled to make two presentations on each and every bill.

\* (09:10)

**Madam Chairperson:** Just one moment. If it is the will of the committee, we could have their submission not appear previously in the record and have the submission appear at this point in the record only, if that is the will of the committee, providing they are here this morning; otherwise, their submission would appear as it had previously been submitted at the time it was submitted as a written submission.

**Mr. Martindale:** Well, just to follow up on Mr. Lamoureux's comments, I think it is the will of the committee that we are making an exception; we are

not setting a precedent. I agree with your suggestion. I think the committee agrees with your suggestion.

**Madam Chairperson:** So there is agreement? *[Agreed]* Thank you very much. So we will have their presentations not appear at the time they were submitted, in writing, provided they do present themselves to make an oral submission. Thank you.

**An Honourable Member:** And their names?

**Madam Chairperson:** Their names are Maiya Uprety and Charles Bouskill. They will be after presenter No. 13.

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in committee. The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter, I have to first say the person's name. This is the signal for the Hansard recorder to turn the mikes on and off. Thank you for your patience. We will now proceed with public presentations.

The first individual we have here is Michael Flynn, private citizen.

Good morning, Mr. Flynn. You can proceed.

**Mr. Michael Flynn (Private Citizen):** Good morning, Madam Chairperson, Minister Allan, honourable members of this committee. My name is Michael Flynn and I am an architect practising all over this country.

I request that the minister withdraw Bill 7 and that it not proceed to third reading such that an open and transparent process may be established to address issues of scope of practice between architects, engineers, as well as other professionals implicated by these proposed legislative changes.

My understanding is that the primary impetus for this bill is to address concerns with backlog of permit applications resulting from the ruling by Madame Justice McCawley this past September 16. On Monday, we heard from a number of people stating that there is no backlog. Councillor Peter De Smedt confirmed this. Councillor De Smedt also stated that the reason there is no backlog is because drawings are being sent back to the applicants because they are not compliant. What the councillor neglected to provide was an accurate state of affairs with the plans examination department, the department he is responsible for.

The councillor, speaking on behalf of the City of Winnipeg, had an opportunity to provide clarity on the situation, yet he chose to maintain this veil of secrecy. One can only surmise that the councillor, speaking on behalf of the City, cannot substantiate these claims with factual information to support his concerns, because the most pressing issue facing the City is not dealing with permit applications, but finding a way to mitigate the City's exposure to potential litigation, litigation resulting from the City's negligence in their duty as the authority having jurisdiction in the city of Winnipeg to uphold the law as it is written.

If, in fact, there is a backlog in certain jurisdictions, there are other more effective and less destructive measures than Bill 7 to solve this backlog. As many of my colleagues have pointed out, a short-term injunction to Justice McCawley's decision would address the backlog without trampling the rights of architects. I am certain that the Manitoba Association of Architects would be amenable to this approach if it is in the best interest of all participants in the building industry as well as the public.

As well, on Monday, John Woods, an engineer speaking as a public citizen, though expressing his opinion as a member of the joint board, had the nerve to make light of this proposal expressed by many architects and supported by the MAA. Mr. Woods stated that, if an injunction were all that is required, then there is obviously no real concern to the public's health and safety resulting from the past 15 years of negligence. How incredibly naive, arrogant and short-sighted. Whereas the MAA is being proactive on this issue, Mr. Woods chooses to be flip and self-serving. I am told that Mr. Woods is a well-respected engineer in the community; however, with this attitude and contempt for the profession of architecture, it is no wonder that the joint board of architects and engineers is unable to provide a mutually agreeable solution.

If, in fact, this government's primary concern is to deal with the backlog, then it should do so while respecting the rights, privileges and responsibilities of professionals such as architects and engineers. Bill 7 not only addresses the perceived backlog in a foolish and short-sighted manner, but it also demonstrates a complete disregard for the architectural profession. These proposed legislative changes, which reek of special interest group lobbying, will have a very negative impact on the architectural profession and the quality of our built

environment, our homes, the places we meet and gather to entertain, the places we watch our children play hockey, the places we go to shop and also our places of worship.

There is a general misunderstanding as to what architects do. In fact, most people believe that all we do is draw pretty pictures. Well, some think we design heating systems, that we do the structure, and pretty much everything else. I wish I could spend more time drawing, but the reality is that the role of an architect is far more involved and far more complex.

Whereas most architects are involved in designing buildings, of the 4500 engineers in this province, approximately three percent of these engineers are involved in the design process for habitable buildings. Working with architects, they are part of the integrated process of designing buildings. That leaves another 4300 professional engineers, supported by several thousand other engineers that are not officially part of the association, but could be. Of the thousands of engineers not involved in the design of habitable facilities, very few would have any true understanding of the role of an architect. Why would a chemical engineer know any better than a teacher, a politician, or your neighbour, what an architect does? My mother only has a vague idea of what I do as an architect. Yet they have all lobbied hard for the rights of a dozen, a dozen engineers, that play architect despite not having any formal training. There is power in numbers. APEGM, with its 4500 members, thousands of others in the brotherhood of engineers, and also supported by various other special interest groups, including home builders, design builders, developers, have lobbied for a dozen members that have continued to flout the legislation against the MAA and its 150 members. This government, in trying to pass this legislation, has listened to the loudest voice while ignoring those who are educated, trained and licensed to practise architecture. That is why we are here, architects, students, interns, to protect the integrity of The Architects Act, to ensure that the future generations of Manitoba have the opportunity to enjoy better buildings.

\* (09:20)

I have worked with a number of engineers who like to play architect. Generally, they have no understanding of the subtleties of design as it relates to architecture. As this legislation is written, which

potentially allows engineers to practise architecture in Manitoba, is to make a mockery of the six years of university education followed by three years of internship and a series of nine exams that are administered across North America. There is nothing comparable in the engineer's university education. Society has an expectation of competency, which is established by the understanding of a formal education and training. I can assure you that very few, if any, engineers have the slightest of formal architectural training within the university's engineering curriculum. Yet all engineers potentially pertain to be competent architects because a handful of engineers have done so in the past, contrary to current legislation.

Now, if you question my authority of this matter, I must tell you that prior to studying architecture I studied engineering for two years at McGill University. I spent two miserable years grappling with linear algebra, calculus, mechanics, discrete structures, and I can assure you that very little of this has prepared me to be an architect. Engineering is a science-based process, whereas architecture is assisted by science, but science is most definitely not its foundation, and therein lies the challenge we as architects have struggled with for years. Architecture is not about mathematical formulas and it is not about pretty buildings. It is about the totality of our efforts, architects working with engineers to create better, sustainable building and cities.

It is very disturbing that this government, in its haste to solve a perceived problem, the backlog in permits, the doomsday scenario of severe increases in construction costs or the bust of the booming construction industry, none of which has been proven, is willing to create legislation that is absolutely wrong, is not in the best interests of society, that has never been tried in other jurisdictions and which will have serious implications on a profession that, in all likelihood, it does not understand.

I ask you, as is your mandate as a standing committee, to urge the government to do the right thing. Shelve this proposed legislation and address the real issues in an expedient but fair manner and take the time to understand the role of an architect.

**Madam Chairperson:** Thank you. Are there any questions for the presenter?

**Mr. Schuler:** Sorry to disappoint you. It is probably more of a comment than a question.

Michael, first of all, thank you very much for being generous and allowing us all to go home at midnight last night and agreeing to be our first speaker. I certainly appreciate the information you have put on the record.

The committee will be going line by line and the minister has indicated that she will be putting a lot of points of clarification on the record in regard to what the intent is. I certainly encourage you and everybody else to look at the minister's comments because that will be very important to the legislation. The committee should be interesting as we go line by line, but I certainly appreciate the fact that you came back this morning and made the presentation.

**Mr. Flynn:** It is a pleasure to be here. Can I use that as a question? [*interjection*] Then I will, thank you.

As you say, the committee will be going line by line and one of the issues that has been brought up over the last couple of days is market forces. Let me take the opportunity to expand on that because I think that is something that will be, potentially, in the legislation. I am a true believer in free enterprise and market forces. However, if all were left to market forces, we would not have a symphony, the museums, and we would not have facilities such as the MTS Centre. This is not to suggest that the government subsidize architecture and engineering professions but that a framework be maintained to allow better design to flourish.

Twelve years ago, the Department of National Defence chose to build new facilities using a process called design build. Design build essentially teams up the design professionals with the builder, or more precisely, forces the design team to work for the builder. Now, I am not talking about most of the design build projects that have been discussed by other members. These are larger scale. In the past year, several large new facilities using design build have been constructed in Winnipeg, for example, at 17 Wing and in Shilo.

I have been involved in several dozen similar facilities across the country. In all these projects, the builder is in charge because he controls the money. The resulting projects are driven by market forces. The builder must make a profit, market forces dictate that, and I do not begrudge the builders for it. However, when architects and engineers are essentially controlled by the building industry, the builders' profits take precedence over good design. Once again, I have to clarify, I am not suggesting that these professionals provide bad design, but that

generally cost and profit dictate at the discretion of the builder.

To give you a simple example, and there was an article about this in the paper today, ten years ago, most new homes were built with electric baseboard heaters. Now, that may be a wise choice these days, but at the time, a gas forced-air furnace was the better solution all be it more expensive to install but cheaper to operate in the long term. It is called life cycle costing and is a critical element of better design, which will be exemplified in the new Hydro building which is under construction. Yet, when market forces dictate, better design suffers at the hands of short-term profit. Interestingly, the Department of National Defence is now going back to more traditional methods of designing and building facilities because they realize that otherwise they lost control of the design process.

Market forces are wonderful. Do not get me wrong. They keep us agile and they keep us on our toes, but they cannot be the only criteria in determining scope of practice. As I have discovered in the building industry, you pay too little now, you pay a lot more later.

**Madam Chairperson:** Thank you, Mr. Flynn. Seeing no other questions, we thank you for your presentation.

The committee calls Matt Kessler, private citizen. You can proceed Mr. Kessler, if you could just raise the mike up a little bit, though. Thank you.

**Mr. Matt Kessler (Private Citizen):** Honourable members of the committee, I am before you today in full support of Don Oliver and his request to delay the third reading of this bill. I do not believe this bill is in the best public interest—

**An Honourable Member:** Is his mike on?

**Mr. Kessler:** I graduated in May 2005—

**Madam Chairperson:** You have to, yes, just—

**An Honourable Member:** I cannot hear.

**Madam Chairperson:** They cannot hear you.

**An Honourable Member:** Sorry, I am older and I cannot hear.

**Mr. Kessler:** Okay.

**Madam Chairperson:** See if you can bring it up a little bit more, the mike, okay? Just from here. Right.

**Mr. Kessler:** I graduated in May 2005 from the environmental design program at the University of Manitoba. It was my seventh year of school. During my extended undergrad, I completed first year engineering, first year computer science and two years of arts. Environmental design differed greatly from these other disciplines. The educational focus was not on what we know, as in facts and formulas, but how to think critically. We were taught to design a building as a whole and not a collection of parts.

The skills we were taught have been evolving within the architectural profession for thousands of years, handed down from master to student. Our curriculum represents the precise collective manifestation of what is most important in the discipline of building design.

In a similar fashion, the engineering curriculum precisely represents what is most important in many very specific areas of systems design. Engineers and architects are professionals and invest a significant portion of their lives to achieve those designations. Any erosion of the lines separating them undermines both professions and is not in the best public interest.

I would now like to briefly revisit some of the concerns the MAA has already made known. Primary scope of practice, amendments to subsection 15(1.1) and 25(1) of The Architects Act. This amendment gives definitive control of the scope of practice of architects to the Building Standards Board. This will give the private sector great control over what architects can and cannot do.

Part of my training and part of all architects' training is that we are given importance on having a social conscience and, as all professional bodies, should be allowed to define for ourselves what our scope of practice is. One of the projects we did, involving West Broadway, if we did not take into account the social plight of the people, we would fail. There is nothing that is comparable to that in engineering.

Terminology in draft table for professional designers to be included in the Manitoba Building Code. The draft table uses the term building area as opposed to gross area. I ask the definition of gross area to be included in both The Architects Act and the Manitoba Building Code and that all references to 600 square metres, previously 400, refer to gross area.

Changing the size at which an architect is required takes away some of what I would call the

architect's bread and butter. These are the projects, these are sort of the fuel, that allow the architecture industry to continue to further projects and research and development such as energy efficient buildings. If you take that away, then you compromise the entire profession.

I am going to skip ahead. Many of these points have been covered at great length.

\*(09:30)

Particularly, I would like to bring up the engineering exemption clause. The MAA has already drafted a potential framework for the exemption that the engineers have been asking for and I ask that, if necessary, it be implemented in its form by the MAA.

I would like to respond to a couple of issues that APEGM has raised. In the first night of presentations, the dean of engineering at the U of M mentioned that architects in some projects do not add value. Value is a subjective term, first off, and I guess if the dean means that it provides profits for private developers, then that could be true. We are busy talking about a better urban landscape. I believe an architect adds value to any project. Manitoba should lean toward more architect involvement and not less.

I would also like to address the slogan of APEGM, Building a Better Manitoba. Bill 7 does not facilitate building a better Manitoba. It facilitates private sector profits through reduced red tape and circumventing architectural fees. It reduces emphasis on good design. This may build a better Manitoba for some, but not for the general public. The slogan should more appropriately be Building a Faster and Cheaper Manitoba and Maximizing Profits for Developers.

I also have some other issues I would like to offer for the consideration of the committee. Bill 7 allows someone who is not trained in the design of buildings to decide whether or not they are qualified to engage in building design. This is extremely dangerous, as engineers do not know what they do not know about building design. Engineers are trained in somewhat of an inside-out perspective to building design, whereas architects are trained with a holistic approach.

Sun-X and Terracon are just two of many large commercial developers named who have chosen not to involve architects. They are also responsible for what I would consider poor design. With your best



judgment, I ask members of the committee would these buildings be better or worse, in terms of design, if they were constructed with an architect. You may include in your assessment the additional cost that would have been incurred through using an architect and determine whether the cost is a good or a bad investment.

Over time, Bill 7 will take money away from the architecture professions and, as I mentioned before, will compromise the research and development. APEGM states that Bill 7 allows the client to choose an architect or engineer. This is really not the case, since most mid- to large-sized projects require the services of an engineer by default. The choice that will be allowed would be whether or not to have an architect.

Engineers are not taught the social or human aspects of building and APEGM cites the permit logjam as a reason to expediently pass Bill 7. Don Oliver stated that the perception of the severity of the jam is inaccurate and that only a handful of projects are held up. Regardless, the permit jam is a transient problem and should not be remedied with a permanent solution, such as Bill 7. Transient problems need to be treated with transient solutions or, in some cases, no solution at all, if the problem is seen to resolve itself in time. The construction industry will adjust to the enforcement of The Architects Act and the permit logjam will disappear. There is no cause here to pass a bill.

I am concerned that APEGM might not be the only body who has special interest in seeing Bill 7 passed. For 15 years, authorities having jurisdiction have been illegally issuing building permits for projects without the required architect involvement. Should one of these buildings fail and a lawsuit be filed by the owner, an engineer's insurance may not cover them. An architect serves as more than just a building design expert. They are also the first to be held liable for any building failure. Architects carry much more comprehensive insurance than an engineer, as required by their insurer. An engineer practising outside of their self-declared scope of work may not be covered. In this event, the engineer could blame the authority who issued the building permit, who could then become liable for the building's failure. Bill 7 could potentially absolve the authority of any liability as it proposes the necessary extensions to allow these buildings to fall within an engineer's scope of work and then grandfathers them for the past 15 years.

APEGM also cites increased development costs as a reason to pass Bill 7. They say these costs will be borne by the population of Winnipeg and will cause an economic downturn. I fully understand what the construction industry means to the Manitoba economy. In one extreme, anything good for the construction industry is good for the economy. In another extreme, no construction is much better than that which is poorly planned and designed. A lesser-regulated construction industry may realize short-term economic gains, but a province whose building stock is poorly designed will suffer major economic problems in the long run. These extremes need to be balanced in order to have a prosperous economy. Too much emphasis either way compromises both.

A comment made, I cannot remember the gentleman's name, but the president of Ladco said that if his development costs go up, they will be passed on to the renters, which will pass them on to the consumer, which will increase costs and decrease the standard of living. Ultimately, at the end of the day, an architect's fees are 10 percent maximum, \$5,000 on a 25-year mortgage is \$33 a month. If we take that amount of money, which on a million-dollar project could be up to \$100,000, and we parcel it out amongst a strip mall and then each renter splits that up amongst their products, we are probably working at around one or two cents more per chocolate bar. It is not going to end a major problem for the industry.

What we build is our legacy. This echoes many comments we have already heard. It is the single most important inheritance the next generation will receive from us. I echo Dave LaLama's statement when I say that what we leave for the next generation must be as good or better than what we inherited.

In the average 100-year life of a building, the extra cost put into design and extra time spent in the process will pay for itself over and over again.

Again, I ask of the committee to delay the third reading of Bill 7. Thank you for the opportunity to speak today.

**Madam Chairperson:** Thank you. Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Eric Loewen, private citizen. Once again, the committee calls Eric Loewen, private citizen. Mr. Loewen's name will now be taken off the record.

The committee calls Elliott Garfinkel, private citizen. Elliott Garfinkel, private citizen. Mr. Garfinkel's name will be taken off the record.

The committee calls Don Petkau, private citizen. Just one moment.

**Ms. Allan:** For clarification, I know this is getting incredibly complex because we have bent over backwards to accommodate speakers, but my understanding is that 3 to 13 have not been called before, so they should not be removed from the list.

**Madam Chairperson:** Thank you, Minister Allan. You are correct, when we refer back to the list. So I just want to correct that previous, Mr. Loewen's name will remain on the list and will be dropped to the bottom of the list. Mr. Garfinkel's name will stay on the list and will be dropped to the bottom of the list.

Once again, the committee calls Don Petkau, private citizen. Mr. Petkau's name will be dropped to the bottom of the list.

The committee calls Stephanie Shaw, private citizen. Stephanie Shaw, private citizen. Ms. Shaw's name will be dropped to the bottom of the list.

The committee calls Rodney McDonald. Thank you, Mr. McDonald.

**Mr. Rodney McDonald (President, Manitoba Chapter, Canada Green Building Council):** Good morning, committee members, and thank you for the opportunity to be here this morning.

I am here to talk about something that I think may be lost in these discussions and that is something called integrated design. From my perspective, the future of all building is green building, and thus the future of building design is integrated design.

Good morning. My name is Rodney McDonald, and I am here in my capacity as the president of the Manitoba Chapter of the Canada Green Building Council. I am the founding president of the Manitoba chapter,

\* (09:40)

Also, to provide you with some background of my professional background, I have an undergraduate degree in Economics, a Master's in Environment and Management from Royal Roads University. I was the author of the first graduate thesis in Canada on the economics of green building. I am the president of a company called McDonald &

Hardess Sustainability Group, providing advice to design professionals and architects on green building. At the same time, I am also an associate of something called the Natural Step Canada. The Natural Step is an international sustainability framework which is being used by companies such as IKEA and communities such as Whistler.

I am also the sustainability and standards specialist at Manitoba Hydro. In that capacity, I am chair of the Manitoba Energy Code Advisory Committee, making recommendations on cost-effective energy efficiency requirements to the Minister of Energy, Science and Technology (Mr. Chomiak). It is a 15-member committee. I am also a member of a number of interdepartmental committees on sustainability and green building and a member of a technical advisory committee for West Broadway Development Corp., which is establishing some green indicators for their community. I am also a member of the City of Winnipeg's Civic Environment Committee and a member of their green building subcommittee. Lastly, I am here today in my capacity as the president of the Manitoba Chapter of the Canada Green Building Council.

For some background information, the Canada Green Building Council is a two-year-old sister organization to the 10-year-old U.S. Green Building Council. Membership in the Canada Green Building Council is growing at 10 percent per month and currently stands at about 1000 organizations. Membership in the Manitoba chapter of the Green Building Council is growing at greater than 10 percent per month, and there are currently 200 individuals in this province associated with that chapter. The U.S. Green Building Council has 5500 organizational members, and at their recent conference in Atlanta earlier this month there were 12 000 delegates there to learn about green building.

LEED is a green building rating system which is the premier product of the green building councils. It identifies a green building within five categories of sustainable sites, water, energy efficiency, materials and indoor environmental quality. There are four certification levels in LEED, all the way from certified to silver, gold and platinum. LEED has been adopted as a standard by many U.S. government agencies as well as U.S. states and municipalities and is now a standard that has been adopted by Public Works and Government Services Canada, as well as the cities of Vancouver and Calgary. The City of Edmonton is also considering adopting LEED as a

standard for all municipal construction, which will leave Winnipeg as the only major city in western Canada to not do so. There are a number of LEED-registered buildings in Winnipeg. The Mountain Equipment Co-op building on Portage Avenue was our first LEED building, LEED gold here in Manitoba, but the Smith Carter Architects and Engineers office is also going to be LEED-certified, as well as the Manitoba Hydro building, the Winnipeg Humane Society new facility and I understand that there is the potential that the new Airport Authority terminal will be a LEED building. Although the City of Winnipeg has not adopted this as a standard yet, Manitoba Health has recently indicated that they will strive for all of their new buildings to be LEED buildings, and I understand that a number of other departments are considering this as well.

Literature and anecdotal experience as well as my own research indicate that the key to cost-effective and thus, of course, successful green buildings is integrated design. There is a growing body of green building literature on the economics of green building and the value of green building and, of course, the importance of integrated design to these benefits. In terms of the benefits of green buildings compared to conventional buildings, one is that green buildings offer lower operating costs. They use less energy and they produce few green house gas emissions and fewer wastes.

Green buildings provide increases in employee productivity. Some studies show that, and, of course, anecdotal evidence also demonstrates, there can be an up to 30-percent increase in employee productivity, both in the professional and manufacturing sectors. Large companies in North America, such as the Bank of America, are building green buildings because they increase productivity. Even Honda Motor Company in the U.S. has built a green manufacturing facility which is increasing their productivity. And, of course, the Manitoba Hydro building, they anticipate a conservative increase in productivity.

Green buildings also increase recovery time for patients in hospitals, resulting in shorter hospital stays. As well, green buildings can increase academic performance. Some studies in the U.S. show that students can perform as much as one grade higher on academic tests. And green buildings have also shown to increase retail sales. Even Wal-Mart in the United States has a couple of stores that they are

testing a green building concept, and they are seeing that the retail sales in those markets are higher.

Integrated design, just to provide you with a definition, compared to conventional design, which is a very linear process whereby the client hires a design professional, they design the building and then it is built, an integrated design process brings everybody to the table as early as possible to discuss every issue. If done properly and well, integrated design facilitates the design of better buildings with no or little and, in some cases, reduced capital cost compared to conventional construction. Natural Resources Canada's experiences that projects that report using integrated design are generally the projects that achieve the highest energy performance levels, and are the projects that often report no incremental capital cost. Interface Engineering, which is a company based in Portland, is among the top 40 mechanical and electrical engineering firms in the U.S. They recently published a report titled *Engineering a Sustainable World*, describing North America's largest and newest LEED Platinum building, built on a conventional budget. The key, according to this engineering firm, was the use of integrated design.

In the June 2005 issue of a publication entitled *Canadian Consulting Engineer*, there was an article titled the "1000 Tonne Challenge," authored by a fellow who is the chair of the U.S. Green Building Council and also sits on the board of the Canada Green Building Council, and the previous president of Keen Engineering, which was recently acquired by Stantec engineering. In that article, he talked about that the key to reducing energy use and ghg emissions from buildings in the future and achieving buildings that use 50 percent less energy than conventional buildings, the only key to that is integrated design. They called for the academic community to begin integrating integrated design into their curriculums. Also, the American Society of Heating, Refrigeration and Air-Conditioning Engineers, also known as ASHRAE, recently issued a strategic plan for the years 2005 to 2010. Their goal is to advance integrated design and principles.

My concluding comments, a bill that proposes to legislate professional silos is a bill that will slow the development of green building here in Manitoba. A bill limiting the involvement of some professionals in the design process supports higher costs for buildings, lower productivity for building occupants; it limits the learning capacity of students and will

result in longer learning times or healing times for people. With mounting interest in sustainable design, a bill limiting the involvement of some professionals in the design process may send a signal that Manitoba is not the place to build or transplant a career, a career for those who want to participate in the future of building. This disagreement between two respected professions does require swift resolution, however, I encourage the committee members to not enact a remedy in haste that is, in effect, a poison pill to good green building practice, innovation in design process and our collective ability to participate and compete in the North American building industry.

I conclude with three recommendations. The first is I ask you to legislate integrated design for all projects in Manitoba over 600 square meters. Secondly, I ask you to sponsor a professional training program for integrated design through a program delivered by Red River College and thirdly to support the University of Manitoba in establishing a Chair in integrated design, similar to what the University of Calgary is doing right now, to train architecture and engineering students and effecting knowledge transfer to practising professionals. The Manitoba Chapter of the Canada Green Building Council is prepared to help in whatever way we can.

Thank you very much.

**Madam Chairperson:** Thank you.

**Mr. Schuler:** Yes, thank you very much for the presentation. We achieved, you know, getting to hear a little bit more about what some of the acronyms actually stand for and what you are trying to do with them. We have heard over the last couple of days some of them and have not had them explained as well as you have.

Just to get to the practicality of it, I am not quite sure where you stand. Is it thumbs up for the bill or thumbs down? Do you think it should be proceeded with or should it be held back? I mean, it is not quite that clear.

**Mr. McDonald:** Yes, thank you. I think it is clear that any legislation that would limit the involvement of a broader group of design professionals in a building project would limit integrated design which is something I feel is important for the future of green building in this province.

**Mr. Schuler:** So is that a yes or a no?

\* (09:50)

**Mr. McDonald:** I am trying to remain neutral. The Manitoba Chapter of the Green Building Council, we are an organization that was created on May 16 of this year and, as I said, we are already at 200 members and those members represent a cross-section of the design industry: architects, engineers, interior designers, developers, building owners, building managers. So I am here simply to advocate for the interest of integrated design and that integrated design is key to Manitoba being a part of a sustainable green building future. Thank you.

**Madam Chairperson:** Thank you.

The committee calls Wilmer Koop, private citizen. You can proceed, Mr. Koop.

**Mr. Wilmer Koop (Private Citizen):** Thank you very much. Madam Chair, I want to thank all members of the committee for the long hours devoted to the cause of resolving the issues that have been presented thus far. I want to especially acknowledge the presence of my MLA, Jim Maloway, and of Doug Martindale, a.k.a. the speaker of the house, as emblazoned on his hard hat, with whom I worked on the 1993 Jimmy Carter work project, and on several Habitat for Humanity blitz builds.

I want to state that I am not an associate of the MAA, not even registered as an intern, although I have my Master of Architecture, and did not hear what Don Oliver said, so I cannot honestly say I agree. The MAA has, however, allowed me to participate in their golf tournaments.

In addition to primarily residential building experience predating the real *'70s Show*, my education consists of a BA in Philosophy and Developmental Studies from the U of Winnipeg in 1978, and a Master of Architecture from the U of M in 1986. Since graduating with a Master of Architecture, I have been involved often in the role of a project architect or project manager in the following projects, most now long-established buildings, and this is a partial list: single-family houses in Winnipeg, and in Laguna Beach in Malibu, California; multi-family housing in Thompson and Peguis First Nation; family shelter housing for abused families, Peguis First Nation; a hotel, design in progress, Buffalo Point First Nation; fully accessible apartments in Brandon for the Canadian Paraplegic Association; personal care homes in Gladstone, Killarney, Ste. Rose du Lac, Manitoba; hospital renovations in Winnipeg; supermarkets in Westbank, B.C., Ponoka and High River, Alberta;

conference centres in Winnipeg and Dryden, Ontario; day care in Grassy River First Nation, Ontario; office buildings and administration centres in Winnipeg, Steinbach, Norway House; a biotech commercialization centre in Winnipeg; a pharmaceutical pilot production plant in Winnipeg; a fire truck manufacturing/office/heavy equipment service/retail centre in Winnipeg; infrastructure fire protection for three MTS exchanges; ambulance and school bus garages in Gladstone and Rosseau, Minnesota—we are soon nearing the end here—places of worship in Steinbach and Winnipeg; and the maximum security wing in Headingley, Manitoba.

By the way, I would like to appeal the time I spent working on the jail design, drawings and construction, as it vastly exceeds two years less a day.

Along the way, it has been my privilege to work with and co-ordinate the efforts of architects, interior designers, interior designers, landscape architects, civil, structural, mechanical, electrical and process engineers, as well as communicated extensively with the authorities having jurisdiction.

I also wanted to say that I worked as a draftsman for a local design built firm for roughly one year, producing drawings for, and again, a partial list: shopping centres; a legion; a museum; a curling club; fast food chains; big box retail outlets; chemical storage warehouses, three of those; a freezer warehouse; and conversion of in excess of 100 000 square feet of warehouse to multi-tenant use.

I want to add to my written presentation that, in preparing the drawings for this local design built firm, I never had contact with professional engineers other than the in-house structural engineer. Indeed, there was no time to think, let alone to meet, or to plan.

In spite of the fact that my architect employers have consistently shown full confidence in my abilities to manage these projects, and have often sought out my advice on matters in which I have experience, I am not permitted to represent myself to the public as someone who practises architecture. Just because I have neglected to fully establish my credentials and thoroughly log my experience, I am ineligible to write the nine examinations dealing with, among other things, structural, mechanical and electrical systems design. Guess I am short of luck.

Furthermore, because I know precisely what goes into creating buildings, and I want to stress this,

I fully support the MAA in requiring that the most rigorous standards be met before anyone, myself included, can lay claim to doing architecture. Like any complex and highly specialized area of endeavour, whether a profession or a trade, it only makes sense that experienced practitioners of that endeavour judge not only the abilities but the conduct of those purporting to engage in it.

I am adding to my written presentation, but I am sure that I heard a representative of the certified engineering and architectural technologists of Manitoba state last night that they fully support the passage of Bill 7 in its present form so that the technologists can continue to design buildings. What is up with that? I thought Bill 7 was to resolve questions of scope between the professions of architecture and engineering. Is it the case that there is an entirely separate sub-group that has also been designing buildings that would gain by the passage of Bill 7 in its present form?

I want to leave you with one other thought. The process that you are involved in: designing legislation to address complex issues and apparently contradictory parameters and interests, legislation that will be workable, sustainable, and perhaps even be a source of pride in the years ahead, is very much like the process of envisioning, designing, defining, detailing and supervising the construction of a building for a difficult program or a client. So, with that in mind, here are a few things that I have learned over the years.

This hastily conceived sketch of mine may appear to be the answer to life, the universe and everything. Those who have seen *The Hitchhiker's Guide to the Galaxy* know that the answer is 42, but the devil is in the details. The expedient answer rarely yields the long-term solution. The convergent or "zeroing-in" solution follows many divergent solutions. It is very difficult for me to accept criticism of the design that I have devoted countless hours, blood, sweat and tears to, especially once I really believe that I have nailed it now. When the mechanical engineer tells me the structural engineer will be okay with it, I really should confirm that with the structural engineer. If the structural engineer is ecstatic but the mechanical engineer tells me he cannot work with this mess, I have not nailed it. It is back to the drawing board. If the electrical engineer is delighted but the interior designer tells me she cannot work with it, ditto. Back to the drawing board. When my consultants appear to be at odds, it

is always worthwhile to try to understand their issues and suggest ways to resolve them. If in frustration I take over the design of their systems, I will embarrass myself. My clients are at odds and the building committee cannot come to a consensus, so I butt in, ditto. I am going to embarrass myself. It will always be easier, cheaper, and much less painful to erase the line and redraw it than to correct the error after contracts are signed and it is built.

My fervent hope is that this legislation be thoroughly reviewed, with close attention to detail, a sincere effort at balance and a heartfelt audit of whether its design really matches the designers' intentions. Might there be unintended consequences?

Please use tools appropriately: regulatory measures to address administrative issues and legislative measures to address issues of principle.

Thank you for listening.

\* (10:00)

**Madam Chairperson:** Thank you very much. Are there questions for the presenter? Seeing no questions, we thank you for your presentation.

The committee calls Dorothy Taylor, private citizen. Once again, Dorothy Taylor, private citizen. Ms. Taylor's name will be dropped to the bottom of the list.

The committee calls Matt Vodrey, private citizen. Once again, the committee calls Matt Vodrey, private citizen. Mr. Vodrey's name will be dropped to the bottom of the list.

The committee calls Robert Macdonald, private citizen. The committee calls Robert Macdonald. Mr. Macdonald's name will be dropped to the bottom of the list.

The committee calls Robert Wrublowsky, private citizen. You can proceed. The only thing I have to ask you is just come centre to the mike, if you do not mind, and you might have to bring it up a little bit. Thank you.

**Mr. Robert Wrublowsky (Private Citizen):** How is that? Is that okay?

**Madam Chairperson:** You can proceed, Mr. Wrublowsky.

**Mr. Wrublowsky:** Thank you, Madam Chair, Minister Allan and members of the Legislative Assembly for the opportunity to speak in front of you today on the topic of Bill 7.

My name is Robert Wrublowsky, and I am a member in good standing of the Manitoba Association of Architects, as well as a licensed architect to practise in three other provinces. I am a managing principal of MMP Architects, which is a firm that is now enjoying its 71st year of practice in Manitoba.

I would like to state, for the record, that I support my colleagues on their position that Bill 7 is a flawed piece of legislation, and I call upon the minister and this committee to delay Bill 7 from proceeding to the third reading.

It is at times like this that I really wished that I possessed the eloquence of some of my peers, and while I do not, I badly need to be here today to express my disdain and my contempt. I am here today to inform you of my opinion about how offensive I find not only the language of Bill 7, but, also, in the process that it has been forced upon myself and my colleagues without the proper dialogue, understanding, and appreciation of the detrimental impact it will have on this province.

The fact that the province disregarded the Witty Report after ensuring that the findings would be adopted, and further disregarding the Court of Queen's Bench decision that determined that engineers were, in fact, practising outside of their domain, and that the City of Winnipeg was issuing building permits illegally only tells me that there is no due process here. The province will just keep hammering away at this until they obtain the answer that they need. There is no other word to describe this act other than corrupt, and this offends me.

For the City to send Peter DeSmedt up here to tell us that the City supports Bill 7 is another example that greatly annoys me. The City needs Bill 7 to pass, because this would clear them of any wrongdoing for the past 15 years, and if the bill does not pass they may be subject to litigation for negligence for illegal practise after the findings of the Court of Queen's Bench. So, when Councillor Peter DeSmedt struts up here and claims that the City supports this bill, it is not because they need to clear up the backlog of permits, but rather more likely to prevent any possible further litigation against the City. Their position on this bill is totally predicated on their potential legal exposure and therefore should be disregarded.

Now, one of the early presenters you heard from was Jim Orlikow, principal of LM Architects, who described the renovation to the Victoria Hospital

project as a project that under Bill 7 would not require an architect. I was particularly interested in Minister Allan's response after the presentation when she attempted to correct Mr. Orlikow and inform the rest of the assembly that an architect would indeed be required on this project.

It was pointed out to Minister Allan that, under the language of the proposed bill regarding alterations, an architect was not required at the discretion of authorities having jurisdiction. This tells me that we have an obvious discourse between the intent of the proposed bill and the language of the proposed bill, as Minister Allan believed that an architect would in fact be required. Minister Allan went on attempting to recover from her mistake by offering that the alteration exceeded 600 square metres, again, mistaken because, as you now have learned, it would be possible to plan virtually any size of building through the strategic use of fire compartments.

Was the intent of the bill to mean that once a building gets to a certain size and complexity then an architect must plan and design it? Which incidentally is the intent of every other jurisdiction across Canada, and Ontario actually safeguards this intent. I will explain that later.

We have to assume this intent is correct because Minister Allan used this logic in her rebuttal to Mr. Orlikow's statement that an architect would not be required. Minister Allan believed the language of the bill supported the requirement of an architect. Does this not alarm anybody? Is it not obvious that the language of the bill is out of sync with the intention of the bill? If Minister Allan believed an architect was required on this project then the bill is flawed. It has to be, and the third reading must be delayed, plain and simple.

Incidentally, another piece of legislation that is badly flawed is the Building Code itself. We seem to continue to keep coming back to this end-all and be-all document that has been evolving since the early sixties. This document does not define what we are. This document is a tool that defines a minimal standard of acceptance and does not even begin to approach the definition of architecture and the necessary value that we bring to the project.

The Building Code itself is a working model of where we begin, complete with all its flaws and inconsistencies. We need to stop looking at this document, as we have heard so often in the presentations in the last few days, as the bible that

proscribes us. I assure you, it is really not that good of a read.

Ontario has recognized many of these inadequacies within the code and has produced their adapted building code that seems to allow architects and engineers to define their roles without conflict. The code has recognized problems with the definition of "building area," and it has addressed it with a separate clause not found in the Manitoba or National Building Code. This is the Ontario Building Code here, certainly more robust than the National Building Code which the Manitoba Building Code follows. There are a number of articles, additions and supplementary guidelines that the Ontario Building Code uses that clear up a lot of confusion that we are seeing in these proceedings.

I am just going to paraphrase the quotation specifically where I quote section 2.1.3.1 of the Ontario Building Code. What this section says is that you are not allowed to use fire compartments, i.e. fire walls, to divide a building up for the sole purposes of getting around the intent of the gross area of a building. It is very crucial to the legislation. We need to have a similar type of legislation included in our discussions here today. It is paramount.

You have now heard strongly from my peers that the training between the architect and the engineer is vastly different. This is not opinion; it is a fact that cannot be disputed. What Bill 7 effectively does is determine that this architectural training, examination, certification and regulation means nothing. This is a conclusion that you have reached as fact, and, as you have heard from my colleagues, in order to practise architecture in Canada you must be certified as competent through a rigorous national standard that sets the bar.

I am not deemed competent until my association says I am competent through quantifiable measures. It sounds pretty tough and I assure you it is. For engineers, well, to quote from the dean of engineering that we heard from earlier, he said, "We as engineers have the right to define ourselves." This is okay with the Province to have these self-assessed individuals plan and design buildings.

\*(10:10)

With a skill set that is so foreign to their formal training, what about the potential liability that the Province may carry for issuing a permit when engineers' insurance may not cover them from

practising outside of their expertise? Professional insurance coverage excludes coverage when a professional provides services not usual or customary to their profession. That is the language of professional liability insurance, "not usual or customary to their profession."

This typically is not a problem in other provinces because other provinces do a much better job at defining the limitations of scope of services between the two professions. Yet this province says it is okay. Well, you may not choose to listen to 150 architects, but you may find yourselves back here in six months having this very same discussion with the insurers of the industry.

Remember John Woods, who was past president of APEGM, who said their code of ethics would prevent an engineer from practising beyond his domain of expertise, or Robert Morrisson who said that Manitoba Health would not go to an engineer to design a health centre? Well, that is irrelevant because the law will say that they can.

In summary, I am completely embarrassed to even have to be up here defending a position that my 10-year-old daughter has a better grasp on than this committee. Immediately after Minister Allan incorrectly interpreted the language of the bill from the intent of the bill we should have shut the proceedings down on this merit alone. This is a flawed bill and it needs to be fixed, and anything short of delaying the third reading would only be compounding the many indiscretions and poor judgment already committed.

I am asking you, no, I am imploring you, you must stop and take a deep breath and ask yourself if you really want to be the authors of a bill that legislates the profession of architecture out of existence from this province. Thank you very much.

**Madam Chairperson:** Thank you.

**Ms. Allan:** Thank you very much for your presentation. I just wanted to clarify that, when I spoke the other day in regard to an architect being required on the project, I did not realize that it was in regard to renovations and alterations. So I just wanted to clarify that.

This has been a complex bill for me. I am not an architect. I am not an engineer. I am not a lawyer. I am not trained—I am not an interior designer. I am not a technologist. So I just wanted to clarify that I just got a bit confused. I just wanted to make sure

that you understood that that is why I made those comments the other day.

**Mr. Wrublowsky:** I understand that. The fact that your first impression that, because it was a hospital and it was of sizeable complexity, you jumped to the conclusion—or, that is improper wording—you came to the conclusion that an architect would be required tells me that you do value the requirement of an architect on a project as complex as this. That tells me that you have had the best intentions in drafting this bill, and I believe that you have, but the language is flawed.

If you really believe that a building such as the alteration to the Victoria hospital was as complex as you just said that it was and does require an architect—I would like to make sure I get this exactly correct, so you did not say the hospital was a complex project? I just want to be very clear on this because I do not want to mislead anybody.

**Ms. Allan:** Thank you for the opportunity to clarify. I did not say the Victoria hospital was a complex project. I said the bill is complex. You have heard from many people who have spoken over the last couple of days. I am sure you have been here and you have heard many people. You have heard architecture students say that this is a complex issue, that the bill is complex. There are many, many issues in this bill. It is complex.

All I said to you was I wanted to clarify to you that I got confused for a moment and that I did not realize when I made my comments that we were talking about renovations and alterations.

**Mr. Wrublowsky:** I accept that. May I ask you: Do you believe that the hospital renovation is a complex renovation?

**Ms. Allan:** I am not commenting on the Victoria hospital. I am clarifying what I said the other day.

**Madam Chairperson:** Any other questions from the committee?

**Mr. Wrublowsky:** I am not finished answering that question.

**Madam Chairperson:** We have to ask you a question. Are there any other questions for the presenter? Seeing no other questions, we thank you very much for your presentation.

Excuse me. I am sorry. There can be no participation from the members in the gallery. We have the same rules as we do inside the House.



The committee calls Veronica Jackson from the Manitoba Association of Architects.

**Floor comment:** I am sorry. There was applause for one of the presenters earlier in the discussion.

**Madam Chairperson:** We have maintained that same rule as we have gone along.

Veronica Jackson from the Manitoba Association of Architects.

**Ms. Veronica Jackson (Private Citizen):** Thank you, Madam Chair. Just to clarify, although I am the legal counsel for the Manitoba Association of Architects, I am actually speaking as a private citizen, so.

**Madam Chairperson:** Okay, so you want to be registered as a private citizen. Okay.

**Ms. Jackson:** Yes. I am sorry if I was not clear.

**Madam Chairperson:** So the committee calls Veronica Jackson, private citizen. Thank you.

**Ms. Jackson:** Thank you, Madam Chair, members of the committee.

As I indicated, I am the legal counsel for the Manitoba Association of Architects and am savouring a very hollow victory in the Court of Queen's Bench several months ago. What I have provided to you, just at the outset, let me say, are some proposed amendments to Bill 7 which address and, from the MAA's perspective, to a large degree, clarify and repair some of the concerns that you have heard other MAA members indicate they have, specific concerns about Bill 7, such as the delegation of scope of practice, decision-making authority to the Building Standards Board, the use of building area and the potential consequences of that as opposed to gross area, the alteration-renovation issue and the potential consequences of the way that Bill 7 is drafted now, the grandfathering issues, and the professional control of corporations, which is something that you have not heard but which is addressed and which there have been discussions about between the Department of Labour and the MAA. So that is kind of a how to fix it, and I hope I have time to read that to you at the end of my presentation.

I first want to just say about the injunction, there have been a few people who have said that the injunction has been the be-all kind of *I Ching*, the genesis of the problems that have led to Bill 7. I am disheartened to hear that, as the MAA took action in

the City of Winnipeg case because it understood that there were a handful of engineers who were sealing architectural drawings, who were practising architecture. In fact, one of those engineers has been described in, I guess, this discipline of engineering as a generalist. An agricultural engineer had sealed not only the architectural drawings but also the structural, mechanical and electrical drawings for a building.

The MAA felt that to have an engineer practising architecture was problematic, and, since it is charged with the responsibility of watching over the practice of architecture in the province, it took the step it did. It is unfortunate that that has been seen as somehow taking action that was contrary to the public interest.

In any event, I believe in fact that the minister completely understands the concerns that the MAA has presented. I believe that she has a firm grasp, and I believe the committee does, of the concerns that you have heard over the last two days. Whether or not there is a will to address those concerns remains to be seen; I am hoping that there is.

I am going to speak on three points. The first is equality, which is a notion that is near and dear to my heart in every sphere, but it even now appears to be cropping up in the construction context, in terms of engineering and architecture and, let me say, professional engineering, because I think that is an important distinction that sometimes gets lost when we just refer to engineering. Equally valued professions, equally integral professions in the design of buildings, equal but not the same. Architecture is not engineering; engineering is not architecture. So my concern is only that the two professions be acknowledged and valued equally but that the mistake not be made of treating them as the same. I think acknowledging the distinctions delivers and acknowledges, for both professions, the level of respect and appreciation that their respective areas of expertise involve.

Second, market forces. There has been a lot of comment about business interests and market forces, and the MAA does not take the position that the regulation of professions takes place in a vacuum. We know that this is the construction industry. We know that these buildings get built and that there are other issues. The position has always been, though, that you cannot allow the administration of the construction industry to drive what protections

government wants to put in place in terms of the professionals required.

\* (10:20)

Business, although not always solely motivated by cost factors, is often motivated by cost factors, again, not solely. A number of the presenters expressed the belief that architects should not be required because this would result in an increased cost. While, in any event, I dispute that fact, even if it were true, the cost would be minimal, and there is another issue. Lower cost means lower professional involvement. There are two aspects to that. It is whether you have two designers, or three, in other words, an architect, an engineer, an interior designer, but it is also within the individual areas of professional involvement, if it is only an architect, or if it is only an engineer, making sure that the professional has the required level of involvement.

There was a reference made to the Pestrak and Denoon case, which was one of the earlier cases that the MAA brought. It was a prosecution against an engineer, and it was the Revenue Canada building that was involved. That was built, by the way, by one of the presenters here, Precon, who went on at length about costs and so forth. The facts before the court in the Denoon case were that Mr. Denoon had absolutely no involvement with designing that building. He sealed drawings done by a draftsman.

Now, the practice of architecture requires a significant level of involvement. That is the standard of their profession. I am suggesting that whatever Bill 7 looks like in its final form and whatever government presents, it is important to make sure that, even if only an architect or only an engineer is present, there is the appropriate level of professional involvement from either or both professions.

Andrew Skelton, who is a plan examiner architect, or was, the only one in the province, from what I can ascertain, made reference to the Station Square development. It was a Save-on-Foods store in Burnaby, B.C., which on its opening day celebration caved in. Luckily, nobody was injured. I raise this not to say—it was apparently a structural engineer issue, but I raise that not to say that structural engineers cannot design structurally sound systems; that is their job. The issue in that case and the reason I raise it was because the commissioner found that market forces had led that engineer to provide less professional time to that project, with the consequence that he did not catch his error. Now, that can happen in architecture or engineering. I do

not mean to say, again, by raising that, that that was only an engineering issue. We have the leaky condo situations in B.C., in which both professions of architecture and engineer are involved.

My last point, the role of the architect. It is not lost on Madam Minister or members of this committee that architecture is not saying safety is the only issue involved here. Both professions, architect and engineer, know how to deal with and maintain code compliance. I am taking the position that engineers do not say that that is all they do either. Code compliance is not all engineers bring to a project. They design solutions for systems. Likewise, architects bring something else to the project.

I have confidence that the minister and everybody else at this table appreciate that. I guess the question is whether or not government wants to value what architects bring, in addition to a safe building making it the appropriate building. They do not just take safe buildings and make them pretty, and I know you guys know that. Architecture is the creation of a built environment fit for and responsive to human life, every Manitoban's life, old, young, et cetera. You have had presentations from people on that.

When I was looking at all of the things that I wanted to touch on, the one comment that kept coming back to me was the one made by Terracon or Precon, I cannot remember, about how the dry cleaning depot does not need to be an inspiring building. I thought back to when my colleagues, my high school friends and I worked in dry cleaning shops. We spent 20 hours, you know in a 20 by 20 room for 8 to 10 hours a day, and I thought I was actually valued more than that.

This government has taken a lot of initiatives on occupational health and welfare, which are to be congratulated. The Non-Smokers Health Protection Act protects workers. Requiring an architect serves the public, including the workers in all of those buildings. It is not just for pretty buildings. It is for buildings responsible to human assembly, the buildings that we work in, worship in, live in, day after day.

Now, if I could take you to the document which I provided, this—

**Madam Chairperson:** You do have 10 seconds left.

**Ms. Jackson:** Ten seconds?

**Madam Chairperson:** Yes.

**Ms. Jackson:** Okay, well, read really quickly the document provided—

**Madam Chairperson:** Yes, we could do that.

**Ms. Jackson:** It addresses the issues that you have heard from the presenters over the last several days and specific language solutions to those, and when I say this, I do not mean to insinuate that the drafting, by the very competent Legislative Counsel lawyers is not good, but I am suggesting this fixes the errors that we have identified.

**Madam Chairperson:** Thank you. Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

**Ms. Jackson:** I wonder if it is possible to have this presentation deemed read in, since I did not get to it.

**Some Honourable Members:** Agreed.

**Madam Chairperson:** Agreed, although normally that would come from a committee member.

**Ms. Jackson:** I appreciate the indulgence.

**Madam Chairperson:** Thank you.

### **1. SCOPE OF PRACTICE WITH REFERENCE TO MANITOBA BUILDING CODE FOR EXCEPTIONS**

*Amendments to Subsections 15(1.1) and 25(1) of The Architects Act and Part 2 amendments to The Building and Mobile Homes Act (both sections) and Draft tables for Professional Designers Required (2.3.1.3(1) and Alterations (2.1.7) to be included in the Manitoba Building Code*

#### **PROPOSED REMEDY:**

1. Adjust Subsection 25(1) of The Architects Act to:

- a) revise clause (a) to change "400 m<sup>2</sup> in area" to "600 m<sup>2</sup> in gross area";
- b) revise clause (c) to change "any grain elevator or grain warehouse" to "any building to which The Buildings and Mobile Homes Act does not apply"; and
- c) add a clause (d) to address renovations that may be undertaken without any licensed professional, which is reasonably consistent with definitions which exist in other jurisdictions, as follows:

" the preparation or provision of a design for interior space for a building, including finishes, fixed or loose furnishings, equipment, fixtures

and partitioning of space, and related exterior elements such as signs, finishes and glazed openings used for display purposes, that does affect or is not likely to affect:

- (i) fire safety systems;
- (ii) life safety systems;
- (iii) fire compartments;
- (iv) the structural system;
- (v) environmental separation systems
- (vi) heating, ventilation, and air-conditioning systems; or
- (vii) the usable floor space through the addition of a mezzanine, infill or other similar element of the building."

- d) add a clause (e) to introduce flexibility for other determinations made in accordance with a decision of the Joint Board and as outlined in the Manitoba Building Code, if appropriate. It could read as follows:

"(e) any other building or function that might be exempt as a result of a determination made in accordance with Subsection 33(4) and as outlined in the Manitoba Building Code, if intended to alter or clarify any of the express provisions under this subsection."

- e) revise the existing Subsection 25(2) to read:

#### **Limitation**

**25(4)** No person or firm engaged in the planning of, or in the preparation of any plans, drawings, or specifications for, or in any architectural work in connection with, any of the buildings mentioned in subsection (1), or a person or firm engaged in any work mentioned in subsection (2) or (3), shall style or hold himself or itself out as an architect, or architects, unless that person or each member of the firm is a registered architect.

2. Amend Subsection (1) of The Architects Act to add a definition of gross area which reads:

"**gross area**" means the total floor area of all floors above grade measured between the outside surfaces of exterior walls

3. Delete clause 15(1.1) and 15(1.2) of the existing proposed amendments and replace it with a new Subsection 25(2) and 25(3) as follows:

**Work by a professional engineer**

**25(2)** Nothing in this act prevents anyone entitled to engage in the practice of professional engineering under The Engineering and Geoscientific Professions act from

- (a) engaging in the practice of professional engineering of the system components of a building that is not exempt under Subsection 25(1) of this act; or
- (b) undertaking the preparation or alterations of plan, drawings, or specifications for, or any architectural or engineering work in connection with the alteration of a building that is not exempt under Subsection 25(1) of this act, provided that it does not affect or is not likely to affect:
  - (i) life safety systems;
  - (ii) fire compartments;
  - (iii) the usable floor space through the addition of a mezzanine, infill or other similar element, of the building; or
- (c) undertaking the preparation or alteration of plans, drawings, or specifications for, or any architectural work in connection with the erection, construction, enlargement, or alteration of, a building which exceeds 600 square metres in area or three storeys in height and that is used or intended to be used as an industrial occupancy as those expressions are described in the Manitoba Building Code established and adopted under The Buildings and Mobile Homes Act, provided that no other major non-industrial use in the building exceeds 600 square metres in area or three storeys in height.

**Work by a Restricted Practitioner**

**25(3)** Nothing in this act prohibits a restricted practitioner from performing architectural work in accordance with the scope of practice that is specified in the restricted licence issued by the association, in accordance with the provisions of Section 34.

4. Amend Subsection 33(4) of The Architects Act and Subsection 68(4) of The Engineering and Geoscientific Professions Act to read:

**Clarification on Scope of Practice**

**33(4)** Where any question arises or clarification is required by an architect, professional engineer, client, authority having jurisdiction,

Department of Labour or other relevant party as to

- (a) the jurisdiction of either of the associations referred to in subsection (1) in respect of the regulation of persons registered under their respective enactments;
- (b) the right of any persons registered with or licensed by either of those associations to perform any function or type of work;
- (c) the right of persons who are not registered with or licensed by either of those associations to perform a particular function or type of work or to undertake a particular project or type of project; or
- (d) any matter respecting relations between those associations or any persons registered with or licensed by them

the matter must be referred to the Joint Board, which must consider it in a timely manner and, if possible, make a joint determination that will respond to the question or required clarification and provide it to the council of the Manitoba Association of Architects and the council of the Association of Professional engineers and Geoscientists of the Province of Manitoba.

The proposed amendment to Subsection 33(5) of The Architects Act and Subsection 68(5) of The Engineering and Geoscientific Professions Act must be expanded to include the following: "provided that such determination does not supersede or contravene the complaint and disciplinary processes of either of the associations."

5. Tables incorporated into the Manitoba Building Code would reflect the appropriate provisions.

**2. DEFINITION OF ARCHITECT**

Subsection 1(1) of The Architects Act

**PROPOSED REMEDY;**

Leave as is. (Engineering definition contains supervision not review).

**3. RETROACTIVE VALIDATION AND EFFECT**

Amendments to Subsection 15(2) of The Building and Mobile Homes Act and most of the amendments in Part 4 relating to validation and retroactive enactment

**PROPOSED REMEDY:**

1. Leave retroactive validation of permits.

2. Delete other retroactive provisions.

#### **4. GRANDFATHERING**

Section 34 in *The Architects Act* and

Subsections 68.1(1) through 68.1(12) of *The Engineering and Geoscientific Professions Act*

1. As previously indicated, Subsection 15(1.2) should be deleted and replaced with the following:

##### **Work by a Restricted Practitioner**

**25(3)** Nothing in this act prohibits a restricted practitioner from performing architectural work in accordance with the scope of practice that is specified in the restricted licence issued by the association, in accordance with the provisions of Section 34.

2. Section 34 should be deleted in its entirety and replaced with the following:

##### **Restricted Practitioners**

**34(1)** The purpose of this section is to address the provisions and standards that are applicable to restricted practitioners. A restricted practitioner is a professional engineer that has been issued a recognition certificate by the association to continue to practise within a specific restricted scope of work that is not exempt under Subsection 25(1) or (2) of the act, based on a body of work that was completed in a particular building type and size prior to September 16, 2005, and a competency which has subsequently been demonstrated to the satisfaction of the association on or before March 16, 2006.

##### **Limitation of Practice**

**34(2)** A restricted practitioner is not authorized to engage in the practice of architecture beyond the specific restricted scope of practice identified in the recognition certificate issued by the association on or before March 16, 2006.

##### **Seal**

**34(3)** Every restricted practitioner shall have a seal, the impression of which shall contain:

- a) the name of the restricted practitioner;
- b) the words "Restricted Practitioner" and "Manitoba Association of Architects" and
- c) the words "Scope of Practice noted on Recognition Certificate" and the number of the recognition certificate

which clarifies the specific scope of practice in which the restricted practitioner is entitled to engage in accordance with the recognition certificate that has been issued by the association

##### **Application of Seal**

**34(4)** Every restricted practitioner shall stamp all plans, working drawings and specifications issued by that individual, for use in the province, with the seal issued by the association and attach a copy of the recognition certificate to such documents, clarifying the extent of the scope of practice to which the seal applies. The personal engineering seal that has been issued to the individual by the Association of Professional Engineers and Geoscientists in the province of Manitoba must also be applied to such documents.

##### **Standards of practice and professional conduct**

**34(3)** Although not a member of the association, a restricted practitioner is subject to the same standards of practice and professional conduct, as it relates to the restricted scope of practice in which they engage in accordance with the recognition certificate that has been issued, as if the practice were carried on by a registered architect.

##### **Fees**

**34(4)** Each restricted practitioner shall pay such annual dues as are prescribed by the association, in accordance with the provisions of Subsection 12(7), provided that such annual dues shall not exceed the annual dues prescribed by the council with respect to a registered architect.

##### **Termination of Recognition Certificate**

**34(5)** The recognition certificate shall automatically be terminated, should the restricted practitioner:

- (a) cease to be a professional engineer, resident in the province of Manitoba; or
- (b) fail to remit annual dues.

#### **5. PRIME CONSULTANT**

Subsection 32.1 in *The Architects Act* and

Subsection 66.1 in *The Engineering and Geoscientific Professions Act*

**PROPOSED REMEDY:**

1. Delete provisions (business issue – not regulatory).
2. Alternative: delete provision from APEGM legislation or replace with:

"Nothing in this act prevents a person or partnership from being the prime consultant in respect of the construction or alteration of an engineering work, system or operation."

**6. FIRM REGULATION**

1. Delete the proposed definition of "firm" under Subsection 1(1), since this merely confuses the distinction between partnerships of individuals and partnerships of corporations.
2. Retain the proposed amendments outlined for Subsections 15(5), 15(6) and 15(7), since these represent improvements to the current provisions.
3. Delete the proposed amendments outlined for Section 16, Subsection 16.1(1), Sections 18 to 21, Section 22 and Section 24 and leave the existing provisions as is.
4. Introduce a series of new subsections providing for a Joint Firm Certificate, as follows:

**Practice in engineering or joint firms**

**16.2** Notwithstanding subsections 15(1), 15(6) and 25(4), a registered architect may engage in the practice of architecture in a firm which is comprised of:

- (a) a partnership of members of the Association of Professional Engineers and Geoscientists of the Province of Manitoba who are professional engineers; or
- (b) a partnership of members of the Association of Professional Engineers and Geoscientists of the Province of Manitoba who are professional engineers and registered architects;

provided that:

- (i) the firm holds a certificate of authorization issued under The Engineering and Geoscientific Professions Act which entitles it to engage in the practice of engineering;
- (ii) the practice of architecture will be carried on by or under the direct

personal supervision of one or more of its partners or permanent employees who are registered architects and who will have professional responsibility for the practice;

(iii) the firm has professional liability insurance in such minimum amounts and containing such terms and conditions as may be prescribed from time to time by council; and

(iv) the firm obtains a joint firm certificate from the association.

**Practiced by joint firm corporation**

**16.3** Notwithstanding subsections 15(1), 16(1) and 25(4), a registered architect may engage in the practice of architecture in the name of a corporation if

(a) the practice is carried on under the direct personal supervision and responsibility of one or more permanent employees or shareholders who are registered architects and who will have professional responsibility for the practice;

(b) the beneficial ownership of a majority of all issued voting shares in the capital stock of the corporation is vested in persons who are:

(i) members of the Association of Professional Engineers and Geoscientists of the Province of Manitoba who are professional engineers and registered architects; or

(ii) members of the Association of Professional Engineers and Geoscientists of the Province of Manitoba who are professional engineers;

(c) the majority of directors of the corporation is composed of:

(i) members of the Association of Professional Engineers and Geoscientists of the Province of Manitoba who are professional engineers and registered architects; or

(ii) members of the Association of Professional Engineers and Geoscientists of the Province of

- Manitoba who are professional engineers;*
- (d) *at least one of the officers of the corporation is:*
- (i) *a member of the Association of Professional Engineers and Geoscientists; or*
- (ii) *a registered architect;*
- (e) *the primary and customary business of the corporation is the practice of engineering or the practice of engineering and architecture;*
- (f) *the corporation has professional liability insurance in such minimum amounts and containing such terms and conditions as may be prescribed from time to time by council;*
- (g) *the corporation holds a certificate of authorization issued under The Engineering and Geoscientific Professions Act which entitles it to engage in the practice of engineering; and*
- (h) *the corporation has obtained a joint firm certificate from the association.*

**Issuance of a joint firm certificate**

**16.4** *The council must issue a joint firm certificate to a firm or corporation that*

- (a) *applies for it in the form prescribed by the council;*
- (b) *pays the applicable fees prescribed by the council;*
- (c) *satisfies the council that*
- (i) *it has met the requirements of subsection 16.2 or 16.3; and*
- (ii) *its practice of architecture will be carried on by or under the direct personal supervision of one or more of registered architects who are partners, shareholders or permanent employees and who will have professional responsibility for the practice;*
- (d) *provides evidence satisfactory to the council of professional liability insurance that meets the requirements prescribed by the council; and*

(e) *meets all other requirements, if any, prescribed by the council.*

**Holder of joint firm certificate to provide association with information**

**16.5** *The holder of a joint firm certificate must file with the secretary, at the times prescribed by the council, the following information:*

- (a) *the names and addresses of each registered architect who directly and personally supervises the practice of architecture by the holder of the certificate and assumes the professional responsibility for it;*
- (b) *proof of professional liability insurance that meets the requirements prescribed by the council;*
- (c) *any other information prescribed by the council;*
- (d) *any changes in the information previously filed under this section.*

**Joint and several liability of joint firm**

**16.6** *The joint firm shall be jointly and severally liable with the registered architect, under whose direct supervision the architectural work of the joint firm is undertaken, for any errors or omissions made in the practice of architecture.*

**Plans, etc. issued by joint firm**

**16.7** *When the practice of architecture is undertaken by a joint firm, as permitted under subsection 16.2 or 16.3*

- (a) *all plans, drawings, specifications, reports or documents shall be signed by and sealed with the stamp of the registered architect, who is responsible for them and who supervised the preparation thereof; and*
- (b) *those plans, drawings, specifications, reports or documents referred to in clause (a) shall bear the name and address of the joint firm.*

**Madam Chairperson:** These next two people have previously registered, as we talked about. They have given us written submissions. If they do appear here, their written submissions will be removed from the previous record and be submitted at this point.

Maiya Uprety. As previously agreed, Maiya Uprety's written submission will remain in the position it is now.

Charles Bouskill. Yes, the submission is already in from previously, so you can proceed, Mr. Bouskill.

**Mr. Charles Bouskill (Private Citizen):** Madam Chair, Honourable Nancy Allan, members of the Legislature, ladies and gentlemen, I would first like to apologize—

**Madam Chairperson:** Mr. Bouskill, I have to ask you to bring your mike up a little bit and maybe just a little closer to it, if possible. Your voice is not quite carrying.

**Mr. Bouskill:** Do you want me to start over?

**Madam Chairperson:** Yes, okay.

**Mr. Bouskill:** Madam Chair, Honourable Nancy Allan, members of the Legislature, ladies and gentlemen, I would first like to apologize to Minister Allan for having inadvertently misspelled her name on my presentation.

My name is Charlie Bouskill. I thank you for the opportunity to make this presentation to you on Bill 7. I apologize for a little misunderstanding. I had not intended that it be a written presentation and not an oral presentation. I had simply asked if I had not been able to be present that it become a written presentation.

I am a registered professional engineer and wish to speak in favour of the passage of Bill 7, possibly with some modifications. I am a 1952 graduate of the Engineering Faculty of the University of Manitoba and have been a registered member of APEGM continuously since 1956.

By way of background so that you may understand my background with relation to the comments that I am about to make, I would simply like to indicate to you that I have been an active member of the association and served on the committee for five years and as president in 1956. I have been continuously and actively involved with the discipline process for about 28 years, the admissions process for 34 years and the development of the Code of Ethics of the profession over a period of years commencing in 1967. I practised industrial engineering for a period of 35 years.

By the way, I am digressing slightly from my written presentation, but it is not my intention to attempt to discredit or downgrade the practice of architecture. I believe both architects and professional engineers bring valuable skills and knowledge to the development of the buildings.

However, I do wish to address what I perceive to be a couple of misconceptions which were presented to you on the evening of Monday.

\* (10:30)

Firstly, that architects are the only professionals with expertise in the area of designing buildings with human occupancy, health and welfare as prime concerns. Secondly, it was implied that an engineer considering himself or herself to be entitled to design buildings because he or she believes himself or herself to be so qualified.

With regard to the first matter, industrial engineering is an engineering discipline which is concerned with human factors and human interaction with the work environment. Industrial engineering involves such factors as workplace safety, life safety systems, appropriate lighting, the impact of repetitive tasks, worker fatigue, individual work station design, interaction between individual work stations, ergonomics, et cetera.

The skills employed by an industrial engineer and the knowledge on which they are based are neither the unique purview of industrial engineers nor of architects. It has been said that engineers design buildings around equipment and process installation. This is true but it is equally true that buildings are designed around places where people work and interact that are carefully and thoughtfully designed by industrial engineers.

My written presentation included an analogy to expand on the role of industrial engineering which does not have direct application to buildings. Therefore, in the interest of time conservation and recognizing the adage that the mind can absorb only what the seat can endure, I suggest that I leave that paragraph for you to read at your leisure.

With regard to the second matter, the implication that an engineer can decide for himself or herself that he or she is qualified to design buildings is false. It has already been noted that there are many disciplines in engineering. It should also be noted that the graduate from an engineering faculty must undergo an internship or period of training under the supervision or mentorship of a registered professional engineer for a minimum of 48 months. Progress of each individual during this period is monitored on a semi-annual basis by an experienced review committee consisting of registered professional engineers.



The Code of Ethics for the practice of professional engineering or geoscience to which each member and each member-in-training is obliged stipulates in part, and I quote, "Each practitioner shall regard the physical, economic and environmental well-being of the public as the paramount responsibility in all aspects of professional engineering work. Specifically and without limiting the generality of this statement, each practitioner shall possess the training, ability and experience necessary to fulfil the requirements of any engineering work undertaken."

An engineer is not the sole judge of his or her ability to design a building or any other works that he or she might undertake. The engineer will have been trained, experienced and will have shown his or her ability before being registered and is obliged to undertake only work for which he or she is qualified.

It is incumbent on all of us, you as legislators, and us as practitioners to recognize that we are living and practising in the 21st century, in an era in which practices of architecture and engineering are evolving at an ever increasing pace. Progress is not static, it is dynamic. We must establish a framework within which all professionals may develop and evolve in the best interests of all Manitobans, not a framework which will stifle or restrict the progress or development of any profession.

Although both architects and engineers consider the proposed Bill 7 to be flawed and imperfect, we engineers consider many aspects of the bill to be progressive and are willing to endeavour to work effectively with other professionals within this framework. In the interest of prudence, fairness, equity and progress, and recognizing that members of both professions are sincere in their desire to work together to resolve differences and to define their respective scopes of practice that both engineers and architects have brought to your attention a number of perceived flaws in the bill and that some amendments to the bill may be appropriate.

I would encourage you, as legislators, to pass Bill 7 retaining, at the very least, the following two features. Firstly, an exemption clause similar to that included in The Engineering and Geoscientific Professions Act of 1998, amended in 2004. Secondly, a clear statement to allow those who retain our services to choose as their qualified prime consultant either an architect or a professional engineer. Thank you, again, for this opportunity to address you regarding this important matter.

**Madam Chairperson:** Thank you very much. Are there any questions for the presenter? Seeing no questions, we thank you very much for your presentation.

**Mr. Bouskill:** Thank you.

**Madam Chairperson:** For the information of the committee, the names I will now call out, starting with No. 14 on your list, have been called once last night.

The committee now calls Dave Ennis, Association of Professional Engineers and Geoscientists. You can proceed, Mr. Ennis. Did you have a written submission?

**Mr. Dave Ennis (Executive Director and Registrar, Association of Professional Engineers and Geoscientists of Manitoba):** No, I do not have a written submission. I concluded that the committee has enough paper, and we might as well save it for your children.

**Madam Chairperson:** Please proceed.

**Mr. Ennis:** Good morning, Minister Allan, members of the Legislature, ladies and gentlemen. I have been through this process with you pretty well all the time, and I suggest that in the future you might donate your bodies to science because the endurance you have shown is highly laudable.

As I said, my name is Dave Ennis. I am a professional engineer in the civil engineering discipline—

**An Honourable Member:** Do you mean after we die?

**Mr. Ennis:** Probably not before noon. I am also the executive director and registrar of the Association of Engineers and Geoscientists of the province of Manitoba, and I have been in that position for 16 years.

While I do not have the full history of the issues between architects and engineers in this province, I do have considerable experience. I am advised by some past presidents of APEGM that the history extends at least 30 years. More recently, I have been involved in the opposition to the injunction, which was referred to by Veronica Jackson, the effect of which continues to compromise the Manitoba economy. I have also been on the periphery of discussions that Manitoba Labour and Immigration has had with APEGM and the Manitoba Association of Architects that led up to Bill 7.

There has been considerable questioning and comment on the rush to resolve the situation. It is worth remembering that the issues have been festering for 12 years. Bringing closure after that amount of time hardly seems to be a rush. If you do decide to delay, I ask you to think about this: Do you actually want to subject your colleagues to this ordeal all over again?

I am here as the representative of APEGM because the schedule of both the APEGM president and past president were such that they might not have been able to present today when their opportunity came up. Fortunately, they are here.

For the record, APEGM supports Bill 7 and encourages your committee and the Legislature to adopt it without change and have it proclaimed expeditiously. You have our media release which was provided on Monday night; it goes into the position further.

For the record, too, and despite Mr. Wrublowsky, I note that the City of Winnipeg has lent its unconditional support to the bill. It is also important that the regulations provided for under the proposed amendments to The Buildings and Mobile Homes Act, distributed on November 7, will be implemented quickly.

Others have said that Bill 7 does not accomplish everything that would be conducive to the Manitoba public having the freedom to choose a design professional to develop their buildings. However, it is a substantial improvement and will, at least in my opinion, bring the building construction industry in Manitoba back to near what was common practice prior to September 16.

\*(10:40)

The bill also recognizes that there is an overlap in the scopes of the two professions. It establishes an enhanced mechanism through the joint board that the Legislature established in 1998 to help deal with issues that might arise in the future. Remember, too, that the activities that are in the overlap area constitute the practice of engineering just as much as they do the practice of architecture. I can comment that a number of engineers are quite unhappy that a branch of engineering is being called architecture, but they recognize too, or at least I have quelled them, that it is okay for the purposes of getting through this bill.

If the public of Manitoba, operating through the Cabinet, which is the only body with the authority to

amend the Manitoba Building Code, sees fit to rule on the boundaries, then for me that is okay. There has also been a suggestion that grandparented engineers would be regulated by no one. In that regard, I note that the engineers' Code of Ethics is called for by The Engineering and Geoscientific Professions Act. It has the force of law and has a prescribed process to deal with complaints that do not necessarily have to come from the public. I note that in the references to agricultural engineers, sealing drawings, there has not been a complaint received by the Association of Professional Engineers and Geoscientists.

Others have provided you with a copy of our Code of Ethics and others have cited sections from it so I will not go into that. What I will comment on are some issues that you have heard about, the first one being that professional designers are required as set out in the table for the Building Code. I just point out to you that Group A, Assembly Occupancy, is architect and engineer; Group B, Care and Detention Occupancies, architect and engineer; Group C, Residential Occupancies, architect and engineer other than the 600 square metre section; Group D, Business and Personal Service Occupancies, architect and engineer other than the 600 square metres; Group E, Mercantile Occupancies, architect and engineer other than the 600 square metres; Group F1, High Hazard Industrial Occupancies, architect or engineer and Groups F2 and F3, Medium and Low Hazard Occupancies, architect or engineer.

I submit to you that that does not mean that everything is going to be done by engineers. Secondly, there is the question of the 600 square metres and multiples of which might be used to circumvent the intent of the legislation. I can suggest to you from having many questions from authorities having jurisdiction, I cannot imagine an authority having jurisdiction in this province that would succumb to being duped by that process.

Next is the determination of architecture involvement through the Building Code and the apparent ominous power of the Building Standards Board. I note that the Building Standards Board first is comprised of members of the public. It makes recommendations to the minister and the minister makes recommendations to the Cabinet. If there are any issues that the two professions feel that they should have, that is something the joint board could deal with. The joint board would certainly, or the two professions would be aware of changes coming up

since they have representation on the Building Standards Board.

Another issue you have heard about ad nauseam here is that young architects are destined to leave the province because of this bill. I can tell you there are about 200 engineers that graduate from the University of Manitoba every year, and approximately 120 of them stay in Manitoba. If the situation that has prevailed in this province is a problem, that is only because the money is better in Alberta.

The next problem point you have heard about is the extension of education that the architects receive. Yes, I believe there is very extensive education. Yes, I would say that education is necessary if you are going to do a project like the museum of humanity, however, face it, I come from the country too. There are buildings in Manitoba that are not intended to compete with the tourist dollars that are going to Barcelona to see the wonders there.

The last point here is there has been much made of the matter of professional liability insurance. I point out to you that there are only two suppliers of professional liability insurance in Canada. They sell the policies which are fully knowledgeable of the scope of work that the policy holders are going to undertake. I have reviewed many of those policies. Indeed, the one provider has the word. The title of the policy is architects and engineers Professional Liability Insurance policy.

With regard to the bill itself, if I had my way I would change some of the wording. Primarily, I would say that the public interest in establishing criterion decisions be taken into regard. The engineering act is focussed on public interest and it has a definition. Public interest means the well-being, convenience and concern of the public at large. However, I am comforted that it also reaffirms the authority of the government to make day-to-day ongoing adjustments to the involvement of professions and others and deliveries of services to future amendments to the Manitoba Building Code.

Again, APEGM supports Bill 7 and encourages your committee and the Legislature to adopt it without change and have it proclaimed expeditiously.

**Madam Chairperson:** Thank you.

**Mr. Schuler:** Thank you very much, and in the six years that I have been in the Manitoba Legislature, all of them as Labour critic, which is kind of like

purgatory in this building, it prepares you for greater things.

Mr. Ennis, you and I have worked on a lot of legislation over the years, and I certainly have appreciated your professionalism. I appreciated the fact that you have always made yourself available. Perhaps in the beginning you were more a teacher than a lobbyist. You certainly helped explain a lot, which the organization does. Like my wife pointed out to me when I was appointed Labour critic, "What do you know about labour?" and I appreciated all your patience—[interjection]—as she points out.

I do want to just make a personal comment and do not want to go into it in too much depth. On behalf of myself personally and on behalf of the committee, would you take along to your replacement, Grant Koropatnick, my personal condolences and those of this committee, if I may, at his personal loss. We understand that he will not be here. Would you please convey that on our behalf, and we look forward to working with him in years to come and wish you all the best as you step back, but if you would take our condolences along we would really appreciate that. Thank you very much for your presentation.

**Mr. Ennis:** I am sure Mr. Koropatnick will appreciate that very much. Thank you.

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

The committee calls Allan Silk, private citizen. Mr. Silk, you can proceed.

**Mr. Allan Silk (Private Citizen):** Minister Allan, committee members, it is a great privilege to be able to speak to you today.

My name is Allan Silk. I am a professional engineer with Manitoba Hydro. My practice involves the determination of transfer capability on the high voltage system, and I am also the immediate past president of the Association of Professional Engineers and Geoscientists for the province of Manitoba. It is from this vantage point that I make my comments today.

Architecture and engineering should be two equal professions in this province, but over the past number of years a turf war has developed between our two professions. Many on both sides will say that this is an oversimplification of this problem, that there are safety issues involved, but in reality the basis of the disagreement has always been who should be allowed to design and construct buildings

within Manitoba. This is not to say that there are not safety issues involved in this process; there are. But we are dealing with two highly trained and skilled professions who know the boundaries of their capabilities; therefore, the risk to the general public in this dispute is minimal.

Make no mistake about it, Bill 7 is required, and it is required now. The reason it is required now is because of the injunction placed against the City of Winnipeg in September of this year.

*Mr. Vice-Chairperson in the Chair*

Many in the province, and not just engineers, believe that the impacts of this injunction will be detrimental to the building industry and, by extension, to the economy within Manitoba. I personally believe that this is reason enough for legislative review at this time. However, I believe that there is one point that has been missing from this discussion which on its own makes immediate legislative review necessary, and that is the point of legislative intent.

\* (10:50)

In her finding, Madam Justice McCawley appeared to base her findings on legislative intent. She determined that the reason that there is no legal overlap between the two professions was, in part, the fact that there was an exclusion clause in The Engineering and Geoscientific Professions Act which allowed architects to practise architecture, but there is no exclusion clause found in The Architects Act to allow engineers to practise engineering. The fact that this interpretation was made does not mean that this was the actual intent of the legislature of the day. It could be that the interpretation was not correct or that the legislation did not capture the intent. The very fact that the intent read into legislation by Madam Justice McCawley was significantly different than the accepted practice of the day makes this clarification necessary. The fact that the livelihood of many professionals and not just engineers was put into jeopardy demands that this clarification happen now. We have all heard the question, "What is the rush?" In my opinion, this is the rush.

Bill 7 is the clarification of intent. It is not what engineers had asked for, however, after deliberating on the legislation proposed by the Ministry of Labour, the Association of Professional Engineers and Geoscientists of the province of Manitoba concluded that support for this legislation was in the best interest of all Manitobans.

This is a large step for engineers to make. Bill 7 is, in my opinion, an implementation of Dr. Witty's recommendations to solve the jurisdictional issues between architects and engineers. Dr. Witty, the Dean of Architecture and the chair of the engineering and architectural joint practice board, proposed recommendations after consulting with members of the joint practice board. These recommendations were twice rejected by the Association of Professional Engineers and Geoscientists, however, once the proposed legislation was brought forward and the Department of Labour assured us that they had sought input from a broad base of stakeholders, the Association of Professional Engineers and Geoscientists of the province of Manitoba felt it was necessary to re-examine our position with the view of trying to make this solution work.

This solution may not be perfect but, in my opinion, it is well-designed. It brings meaning back to the building code. It allows private interior design companies to continue their work. It allows engineering firms to design industrial buildings. The purpose of many of these industrial buildings is to house engineering systems. If public safety issues arise, as some would have you believe will, the government has the ability to effect changes in very short order to eliminate those safety issues.

This is a compromise solution, and I know believe it to be a compromise that will work. I also believe that it has broad-based support from most professions and stakeholders within the province. Had events unfolded differently, we may have had more time to find the perfect solution, assuming one exists. However, the court has spoken for the Legislature and, as many careers hang in the balance, it is imperative that this Legislature speak swiftly and clearly to clarify the situation. Bill 7 does this and I urge you to support it, as is.

Thank you.

**Mr. Vice-Chairperson:** Are there any questions for the presenter? Thank you, Mr. Silk.

The next name is John Synyshyn, private citizen. Do you have copies of your brief?

**Mr. John Synyshyn (Private Citizen):** I will hand them out after. Not my brief, no.

**Mr. Vice-Chairperson:** Please proceed.

**Mr. Synyshyn:** Good morning. My name is John Synyshyn. I am an architect living in the province of Manitoba and duly licensed to practise architecture.

I am here to oppose the bill.

**Mr. Vice-Chairperson:** Excuse me, Mr. Synyshyn, can you speak into the microphone a little more?

**Mr. Synyshyn:** I did not think I was that short. Is that better? Okay, thank you. Do you want me to begin again?

My name is John Synyshyn. I am a licensed architect in the province of Manitoba. I work in Manitoba. I live in Manitoba. I do not work anywhere else or live anywhere else. I think that Manitoba has a lot to offer to its citizens, and I believe that architects have a lot to offer to its citizens.

This committee, the standing committee, is the Social and Economic Development Committee. There are two words in that line, "social" and "economic" that are important. It is one of the—what is it?—it is the sixth largest United Nations pact for developing all countries and all nations. We have been focussing on economy and we have been focussing on social development. We have been focussing on architecture and we have been talking about engineering. As once, and it was brought up a while before, a few presentations back, it was said that Vitruvius quoted to Caesar the theory and practice of architecture in 65 A.D. It essentially clears everything up.

There are those of us who signify things and there are those of us who give it significance. Engineers signify things. Engineers count. Architects give it significance. Architects care.

Economy: This province has to grow. I do not believe myself or any other architect or any other citizen does not want it to grow. We want to implement statutes, legislation, bills that will help us grow, so why would you think that us as architects would want to stop that? Who is coming up with this?

We want to be able to perform our services to the people and the citizens of Winnipeg and Manitoba. I think we work together well. I work closely with my partner, who is an interior designer and tells me never to preach. I work very closely with engineers of all kinds, and we will sit around the table, and I will not use the same language as previously, before, because I think everybody has been fairly eloquent and clear as to the education, the training and the time we take to become an architect or an engineer. I think if you listen to that anymore, you might ask for registration yourself.

Seriously, there is a push right now, and we want to see our economy grow and we want to see our industry grow. We want to see our province grow, but, as I stated earlier as significant, do not let mediocrity grow. That is the difference. Mediocrity breeds mediocrity. It is an old, old term. I would want for my province and for my profession to see something in the towns and villages that I work in and that I grew up in as a boy—not here but in Alberta, you can tell by my neck—like the monasteries and the church buildings and the main street facades of our heritage that were put up by people who cared about what was being put up. I believe strip malls have a life cycle of 15 years.

Let us see, when I was a boy, before—I was actually in high voltage electrical transmission before I started into architecture, I really thought that what we do is to increase our social significance. This is one half of this committee, our social development. We want to grow from children to adults. We want to become sophisticated and we want to present to our children and our youth and the generations after us significant buildings.

The economic argument is we got to do it quick. We have to do it fast. We want this province to grow. We do not want to stop that. I do not think anybody does, but you cannot forget that in that growth, we have to take some care.

I want to present a letter to a colleague of mine, Ray Wan, from a client, Longboat Capital Group, to be recorded into the record.

\*(11:00)

It states that, "Ray, I consider the role of the professional architect in the building process to be of utmost importance in value. The services provided are critical to the success of any project. One may find a way of doing a project through other sources, but the resulting product will be of less value to the client and the community. I fully support your efforts in promoting the architectural profession. Sincerely, Jeffrey Chipman, President, Longboat Capital Group."

I would like that recorded into the—are my 10 seconds up yet?

**Mr. Vice-Chairperson:** You have about three and a half minutes left.

**Mr. Synyshyn:** I will leave you to it.

Design a good bill. Design good buildings. Leave us to do what we do. We will help you write

and design a good bill with the engineers and interior designers and whoever else wants to get involved but remember that there are differences between us, and those differences make us all equal in this province. I am rambling. Thank you very much. Good morning. Have a great day.

**Mr. Vice-Chairperson:** Are there any questions of the presenter? Thank you, Mr. Synyshyn.

The next name is Andrew Sinclair, private citizen. Andrew Sinclair. That name is dropped off the list. Next presenter is Carmine Militano, president, Consulting Engineers of Manitoba. Please proceed, sir.

**Mr. Carmine Militano (President, Consulting Engineers of Manitoba):** Minister Allan, Mr. Chairperson, honourable members, ladies and gentlemen, my name is Carmine Militano and I am a professional engineer. I received my engineering degree from the University of Manitoba in 1980 and received my P. Eng. in 1982. I have had the good fortune to spend my entire life in Manitoba. I am currently president of the Consulting Engineers of Manitoba and a vice-president with CH2M Hill.

The Consulting Engineers of Manitoba is a vibrant association that represents 35 member firms who collectively employ over 1200 people in this province. We contribute in excess of \$130 million to the economy of this province. CH2M Hill is one of the world's largest full-service engineering, construction and operations firms. We have 200 offices on six continents with revenues in excess of \$3 billion U.S. and approximately 15 000 employees. We are the largest employee-owned consulting firm in North America.

In 2005, *Engineering News-Record* ranked CH2M Hill, among project delivery firms, as being first in construction management for fee, first in project delivery. I will not bore you with the details of the entire and extensive list. Among design firms, first in waste water treatment, second in water treatment, first in food processing, first in manufacturing. The list goes on and on and on.

In 2004, the employee owners of CH2M Hill decided to open a permanent office in Winnipeg. I am proud and I am pleased that my colleagues chose to open an office in Winnipeg given, that we were in internal competition with many other locations throughout the world, and it speaks to the vibrancy of the Manitoba economy. Along with Earth Tech,

CH2M Hill is currently designing the new water treatment plant for Winnipeg, a plant that will affect the lives of all Winnipeggers each and every day of their lives. We are fortunate to have some of the best minds in the world, particularly Dr. Bill Bellamy, working on this project. I can assure you that it is being designed with the health and welfare of all Manitobans in mind.

But I stand before you today as president of CEM to speak in support of Bill 7 as it currently stands. We wish to thank the government for taking quick and decisive action. Throughout these proceedings, it has been suggested that the bill has been rushed and therefore is flawed. We respectfully disagree. We understand and appreciate that the preparation of the bill was, in fact, fast-tracked. It was made a priority. Appropriate resources were applied to deal with it in a timely fashion and for that we, and in fact all Manitobans, are grateful.

We do not see the doomsday scenario that has been articulated throughout these proceedings. I am saddened to see and to hear young architects who believe that they must leave the province and that they are making this decision on the basis of speculation and innuendo. To them, I say wait. Wait before you make your decision. Bill 7 will restore equilibrium to the marketplace. Do not forego your opportunity to work with some of the best architects in Canada on the basis of something that may and most likely will never happen.

The Consulting Engineers of Manitoba supports Bill 7 on the basis that it meets the tenets of being in the public good on at least five counts. It aligns legislation with due democratic process. It is a made-in-Manitoba solution. It brings clarity to the industry. It ends a long-standing dispute that has consumed some of the best minds in Manitoba for years on end. Most importantly, it enables both professions to move forward and collaboratively deal with a number of issues that affect us both.

Firstly, we concur that legislative amendment is, indeed, necessary. Justice McCawley ruled that The Architects Act informs the Building Code. In other words, a self-serving act sits over top of legislation. In a democratic society, it is unacceptable that any professional act stand between you, as elected representatives, and the people of Manitoba to whom you are accountable.

Bill 7 restores the primacy of the Building Code and restores the integrity of the democratic process. The bill needs to be a made-in-Manitoba solution, a

made-for-Manitobans solution. It must acknowledge the market realities that exist in a province where approximately 70 percent of the population live within the capital region.

The grandfathering clause is an example of making Bill 7 a made-in-Manitoba solution. We know that the intent of the grandfathering clause is to respect market realities that have existed for decades. We know that those who wrote the clause were deeply committed to protecting the integrity of the acts and, in particular, The Architects Act. It should not be forgotten that this clause has an expiration date and that the mechanics of the clause have been referred to the joint board for resolution.

We support that the legislators have taken this opportunity to settle a long-standing dispute through this legislative amendment. In part, this is being achieved by amending The Architects Act to include an exemption clause for engineers, while not as broad as the exemption clause contained in the engineers act and by introducing a table to the Building Code that mandates the participation of architects and Building Code classifications A through E with the exception of arenas up to 1000 seats with group F remaining architect or engineer. The table, by necessity, represents a compromise and there is no doubt that some of our members will be negatively impacted. We accept this as being a necessary compromise to bring clarity to the marketplace.

Although the bill was fast-tracked, many hours were spent in consultation with both professions culminating in a bill that although not perfect, is indeed acceptable. You see the bill cannot be perfect. We know that because the joint board toiled for 12 years to find a solution that was perfectly acceptable to both professions and it could not be done. The bill, by necessity, includes a number of compromises. It is not and should not be a winner-take-all solution.

We, the engineering community, see Bill 7 as a building block to moving forward. We, the architects and engineers, face many similar challenges including encouraging young people to join our honourable professions, achieving gender equity in our respective professions and, particularly, in the engineering community, encouraging increased participation by young women and men from the Aboriginal community, the respectful and effective integration of immigrant professionals and resisting the pressures to commoditize our services. Bill 7 will allow us to focus our energies on these and other

emerging issues rather than engaging in a war of attrition.

*Madam Chairperson in the Chair*

On behalf of CEM, I respectfully ask this committee to move Bill 7 forward to third reading and beyond as quickly as possible. In anticipation of your favourable response, I personally commit to work to establish a joint CEM-MAA task force to develop a communication strategy to ensure that the appropriate message is delivered to all stakeholders and, most importantly, to begin the healing process. Thank you.

\* (11:10)

**Madam Chairperson:** Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Terry Cristall, private citizen. Terry Cristall, private citizen. Mr. Cristall's name will be removed from the list.

The committee calls Colin Reed, private citizen. Colin Reed, private citizen. Mr. Reed's name will be removed from the list.

The committee calls Ken Drysdale, Accutech Engineering. Good morning, Mr. Drysdale.

**Mr. Ken Drysdale (President and Chief Executive Officer, Accutech Engineering Inc.; Accutech Engineering North Inc.):** Good morning.

**Madam Chairperson:** If you could just raise your mike up a little bit. Thank you, you can proceed.

**Mr. Drysdale:** Minister Allan, honourable members, ladies and gentlemen, my name is Ken Drysdale. I am a professional engineer and am registered in Manitoba, Ontario, Saskatchewan, Alberta, Northwest Territories, Nunavut and Minnesota. I am currently president and chief executive officer of Accutech Engineering and Accutech Engineering North. As a company, we employ some 15 technical persons in Winnipeg.

I was a member of the joint board that helped to negotiate the memorandum in 2003. On Monday, when I first came to these committee meetings, I was prepared to simply voice my cautious support for Bill 7. However, having listened to some of the inflammatory statements made by some of the members of the MAA, I cannot just voice my opinion on Bill 7, but also must address some of these statements.

Bill 7 is far from perfect and the engineers are giving up a lot of scope to the architects. I am concerned about the complexity of the bill. In my opinion, the bill should simply place an exemption clause in The Architects Act that allows engineers to practise engineering. This would be a simple step and it would force the MAA to come back to the negotiating table.

Over six years ago, the MAA and APEGM came to an agreement on scope of work and signed a memorandum of understanding. This MOU took years to negotiate. Within a few months of signing the MOU, the architects rejected it. A second time, when the interdisciplinary board was established, after three years in negotiations, a new memorandum of understanding was unanimously approved by the board. Once again, the MAA rejected it.

The MAA has a long history of not wanting to negotiate the scope of work. They have created the current crisis and the need for the government to act quickly. The MAA initiated the injunction against the City of Winnipeg during the time that the MAA and the engineers were in arbitration over the scope of practice with Dr. Witty. How can this be considered negotiating in good faith?

I also want to speak a little bit about the Witty Report. The Witty Report is a seriously flawed document. The process that was undertaken by Dr. Witty was contrary to the terms of reference that were established for the joint board and Dr. Witty was in serious conflict of interest and never should have been appointed chairman. He not only was the Dean of Architecture at the University of Manitoba, but was also a member of the Royal Architectural Institute of Canada. The RAIC is a special interest group that lobbies on behalf of architects in Canada. How could Dr. Witty be considered a fair and impartial chairman? In future, given the new powers that would be granted to the board, it is imperative that the chair is fair and impartial.

There has been a significant deficit of truth in many of the presenters supporting the MAA's position in these last few days and I would like to address some of them. Many of the presenters stated that an agreement of the nature contemplated in Bill 7 is unprecedented in Canada. This is false. The representative of RAIC from Ottawa stated this and, when questioned by the committee, stated that he understood it to be so in Québec and Ontario, but was not really sure about the rest of Canada and thought maybe B.C. was so.

I have always suspected that Ottawa considers Canada to be only comprised of Ontario and Québec; it appears so does the RAIC. In fact, Alberta, B.C. and New Brunswick all have agreements of scope between engineers and architects. Saskatchewan is in a similar situation to Manitoba prior to the injunction and Nunavut has no restrictions.

One of the architects stated that the legislation in Saskatchewan could not be compared to Manitoba because engineers in Saskatchewan are specifically licensed for areas of practice. This statement is false. I am a member in Saskatchewan and this is simply not the case.

The members of the MAA have talked about how this bill will take business away from them and they will not be able to make a living. This statement is false. Over the last 30 years in Manitoba, the engineers have been providing complete service on many projects. In the late 1960s, Spantec, an engineering practice, was designing and managing many major projects. This bill will restrict engineers from providing these services, these services that the Manitoba economy has depended upon for over 30 years.

The architects have said that there are only 12 or so engineers engaged in areas of business that they consider to be architecture. This statement is false. First, I want to state that engineers do not practise architecture, they practise engineering. There is an overlap between the two professions. Engineers practising in this overlap area are practising engineering, not architecture.

Under the current injunction, the engineers cannot provide even the most basic services without the assistance of an architect. For example, to get a permit to replace a boiler in a school, an engineer now has to engage an architect. There is no value added here except to the architect's receivable ledger. Prior to the injunction, the MAA tried to restrict engineers in many areas. For example, I personally was approached by a small day care in rural Manitoba to design a three-foot high wooden wheelchair access ramp. I provided the design and the ramp was constructed in accordance with the Building Code and to the owner's satisfaction. Subsequent to that, I received a letter from the MAA threatening me with legal action for practising architecture. Given these real-life examples, which engineers are not practising architecture according to the MAA?



The architects also speak about their education, verification and testing and how it is far superior to the engineers. This statement is false and inflammatory. Engineers spend five years in university studying many aspects of design and construction. Upon graduation, engineers spend four years as an engineer-in-training working under the direct supervision of an engineer. This constitutes approximately 8000 hours of on-the-job training compared to 5000 required by MAA. Engineering training is rigorous and, in many instances, more demanding than architects. The MAA says that their members are required to write the NCARB exams and, therefore, they are all tested. This statement is false. Most registered architects have not written these exams. These requirements were only recently enacted and all other architects were grandfathered. Therefore, most of their members were not tested by the NCARB exams.

The architects say that engineers are not specifically licensed, and it is left up to the engineers to make a decision as to whether or not they are qualified, unlike architects. This statement is false. Engineers, just like architects, must exercise professional judgment to only practise in areas that they are qualified to do so in. For an example, it would be ludicrous to think that an architect who has spent his career designing houses can all of a sudden go out and design a multi-million-dollar hospital. The MAA leaves it up to a particular architect to decide, just like engineers do. The statement made by many architectural presenters is that you only need to see that they are a registered architect and that they are qualified to design any building. This statement is not only false but it is dangerous. Very few architects, if any, in Manitoba are experienced to design high-hazard industrial buildings. Engineers design these buildings because of their specialized knowledge and training. It is a great concern if the architectural profession feels they are qualified to design these types of buildings simply because they are architects.

Also, the MAA has been touting the Ontario example as one that should be followed in Manitoba. When asked, architects stated that the Ontario example was working fine and there were no problems. This statement is false. In fact, recently, Ontario has such fears about the qualifications of designers that they have implemented a mandatory independent testing for all designers in the province. The architects have stated time and time again that the university training they provide to the students

qualifies them to do everything: building design, management, supervision, et cetera. This statement is preposterous. It is not possible to think that a student gets anything but a brief introduction to the complexity of design in any university course that usually lasts 36 to 40 hours of instruction. This is confirmed in MAA's own internship program which lasts for two and a half years following graduation.

The MAA representative said there is no rush in getting Bill 7 passed. In fact, a number of them said that MAA would be willing to temporarily set aside the injunction. It now appears that the MAA feels that they can set aside or postpone a Court of Queen's Bench ruling. It appears that they now have judicial powers before the court. There is an urgency in getting this injunction lifted. The injunction is costing the Manitoba economy in terms of delays and lost opportunities due to the uncertainty. The MAA have caused this problem and they proceeded with an injunction in order to gain additional scope of work for their members. Let us be clear, this is the only motivation. There are no safety issues. There is no public outcry. There is only the MAA trying to line the pockets of their members at the expense of Manitobans.

Finally, I wish to protest in the strongest manner the defamatory statement made by one of the architects on Monday night when he compared engineers to backlane abortion doctors and second-class designers. These types of statements have no place in this forum. These types of inflammatory statements have no place in this discussion and I find this tactic disgusting and personally repugnant. I feel strongly that a retraction of these statements are needed and an apology is required.

In summary, I would like to thank the minister and staff for putting together a fair and pragmatic approach in Bill 7 to solving the long-standing dispute. Although the engineers have made significant concessions, we feel that the proposed legislation gives both of our professions a basis to move forward to serve the public and the economy in the province of Manitoba.

\* (11:20)

**Madam Chairperson:** Are there any questions for the presenter? Seeing no questions, we thank you very much.

The committee calls Grant Koropatnick, private citizen. Mr. Koropatnick's name will be taken off the list.

The committee calls Digvir Jayas, private citizen. Dr. Jayas, did you have a written submission you wanted to circulate?

**Mr. Digvir Jayas (Private Citizen):** No, I do not have a written submission.

**Madam Chairperson:** Okay, you can proceed.

**Mr. Jayas:** Good morning, Minister Allan, honourable members, ladies and gentlemen. I am Digvir Jayas, a registered professional engineer since 1986. I am the Canada Research chair in Stored Grain Ecosystems, distinguished professor at the University of Manitoba and currently associate vice-president of research at the University of Manitoba. Also, currently, I am president of the Association of Professional Engineers and Geoscientists of Manitoba.

Other perspectives have been presented by those who have been actively involved in resolving this issue over the years. I am speaking as a private citizen with my experience as a teacher of food processing plant design at the University of Manitoba and as a client of two major building projects on the campus which I led from the concept to completion.

First, I state that engineers and architects are two groups of professionals who have to work together for the benefit of the public of Manitoba. Also, these two groups have distinct training, which complement each other. Although there are practice areas which are distinct for both groups, there certainly is an area of overlap. This is not unique to these groups. It is true for other complementary professions. For example, physiotherapists and chiropractors complement each other but, at the same time, do have an area of overlap and different ways of alleviating the concerns of the patients. Both can function in their expertise in that overlap area. The same is true for engineers and architects and both groups should be allowed to practise in this overlap area. The kind of activities which can be done in the overlap area are dictated by each group, by their training, experience and code of ethics. Both groups go through extensive academic and experience of training. You have been told by many about the MAA training regime.

I want to point out that the engineering program at the University of Manitoba and at other Canadian universities is very demanding and takes almost five years to complete. Many students in other faculties at the university will confirm the heavy demand placed

on the students by the engineering programs at the university. All engineering programs are accredited by the Canadian Engineering Accreditation Board. You can ask any dean of engineering across Canada. He or she will confirm the need to meet the high standards before earning accreditation.

After graduation from this demanding program, the students register as a member-in-training and are supervised by a professional engineer for four years. During these four years, the members-in-training must do design work and be exposed to managing projects, to supervising people and to learn the impact of their work on the social, environmental and economic well-being of people of Manitoba. Towards the end of the EIT period, they must pass a professional practice and ethics examination, which is national in its scope, after which they get licensed.

It is this formation of engineers that gives them the right to practise their profession, which has been given to them by the Manitoba Legislature. No other professions should be able to take that right away. I have been teaching food processing plant design and my students are well versed through training and experience to design, to supervise the construction and commissioning of these food-processing facilities, whether they are located in the city or in the rural area or whether they are larger than 600 metres square or not.

Yesterday, one of the architect presenters spoke about the work done by an agricultural engineer. APEGM has the disciplinary process to investigate and discipline people who practise outside their area of competence. As Mr. Ennis pointed out, there has not been a single report filed to the APEGM about that situation or any other situation. That comment was hearsay and fearmongering.

Another architect presenter made a statement that passing this will mean any engineer, any building, anytime. This is absolutely not correct. I draw your attention to the draft table 2.3.3(1) Professional Designers Required, on November 7. As Mr. Ennis outlined, this clearly states that all group A, B, C, D, E buildings, except smaller than 600 metre square in building area or arenas less than 1000 people, will require an architect and engineer. Both professions are required to design those buildings. The only group, F-1, F-2, F-3 buildings will have the option of being designed by an architect or an engineer.

The court decision was based on the absence of an exemption clause in The Architects Act.

Engineers are supporting the addition of an exemption clause to ensure that they can practise their scope of practice obtained through rigorous training and experience and as guaranteed by this Legislature without fear of prosecution.

As a client, I have led two building projects from the concept to completion. The amount of time I and my team has spent in providing input to the design of these two buildings sometimes make me wonder who really designed the buildings: architects or clients? I say both. In reality, it is both who design the buildings, and we should not lose sight of this.

At the same time, I want to make clear that I am speaking as a client. Although I have a PhD and a P.Eng., I did not design these buildings myself. I hired both architects and engineers because I did not want to practise outside of my scope of practice.

There is another concern raised by several architect presenters about leaving the province. If we make our provincial industry non-competitive, then we can lose industries to other provinces.

After over a decade of discussions, there was an MOA arrived by the joint board in 2003 which was endorsed by APEGM and rejected by MAA. As these two groups cannot come to an agreement on the overlap area, and it is the legislation which has to clarify the intent of the act, I commend the Legislature for standing to its rightful responsibility and proposing these changes. With these act changes, engineers are compromising a lot, but in the public interest I respectfully submit that this Bill 7 be passed expeditiously. With sincere thanks.

**Madam Chairperson:** Thank you very much. Are there any questions for the presenter? Seeing no questions, we thank you for your presentation.

The committee calls Dave Bone, private citizen. The committee calls Dave Bone, private citizen. Mr. Bone's name will be taken off the list.

The committee calls Doug Ruth, private citizen. Doug Ruth, private citizen. Mr. Ruth's name will be removed from the list.

The committee calls Cindy Choi, private citizen. Good morning, Ms. Choi.

**Ms. Cindy Choi (Private Citizen):** Good morning.

**Madam Chairperson:** Did you have a written submission?

**Ms. Choi:** I do not, just what I have in my hand.

**Madam Chairperson:** All right, please proceed.

**Ms. Choi:** Thank you for allowing me to speak to the committee today. I admire and applaud you for your perseverance and the stamina in these proceedings. I know this is no easy task, but much appreciated.

My name is Cindy Choi. The list says private citizen, but I might say concerned citizen. I am a lifelong resident of Manitoba, formerly of Brandon, currently of Winnipeg where my husband and I own our home. I feel strongly that I am privileged to live in a great place like Manitoba, and with that privilege I have a responsibility to live here conscientiously and work towards making Manitoba a better place. To this end, I have contributed where I can as an architectural intern, a community adviser to the Winnipeg Building Communities initiative, a member of the Manitoba Round Table for Sustainable Development, founding director and chair of programming for the Manitoba Chapter of the Canada Green Building Council and here speaking before this committee to contribute my opinion to the proposed amendments to The Architects Act.

\* (11:30)

There is a crisis in Manitoba's building industry. It is not a backlog of projects awaiting building permits; it is a crisis of building performance. We Manitobans spend one third of our lives sleeping in buildings, one third of our lives working in buildings, a good lot of the rest of our lives in buildings living the rest of our lives. That is a lot of time to be spending in buildings. We do so because living in Manitoba's climate means we need shelter from the elements. It stands to reason, with as much as three quarters of our lives spent in buildings, we would strive to ensure that the buildings we inhabit must be places that at minimum do not cause us harm, make us sick or otherwise reduce our life experience. That is minimally. Indeed, as responsible citizens we should expect that these buildings go well beyond the minimum and perform to the maximum to enhance the lives and health of all Manitobans.

There is another crisis in Manitoba's building industry and it is not a turf war between design professionals. It is a crisis of the environment and the contribution of our building activities to the destruction of our planet. We Manitobans, through

the design, construction, renovation and operation of our buildings, eject vast amounts of greenhouse gas emissions into the atmosphere, throw tonnes and tonnes of waste material into our landfills, introduce toxins into the environment from which we draw our drinking water and grow our food. These are big problems. These are huge problems. These are the problems in Manitoba's building industry and they strike at the heart of our collective health and survival.

They are complex, multifaceted, multi-disciplinary problems, and the good news is that they can be addressed through the concerted effort of both architects and engineers trained in building design and technologies. Previous speakers for the MAA have addressed the specific skills of each profession, and I will not restate their cases except to say that I support their presentations. They have also outlined the possible eventuality that under amendments as proposed by Bill 7, larger, more complex buildings could be designed and constructed without the benefit of an architect. In these instances, the standard of design required of those left to practise architecture in the absence of an architect will be set at the minimum performance level as defined by the Manitoba Building Code. The Building Code gives minimum requirements for building performance, but it does not provide guidance for optimum building performance or best practices. As a concerned citizen, the crisis in Manitoba's building industry, as I have defined it, cannot be adequately addressed under these circumstances. Engineers do not have the training to address the overall building design as an architect can, just as architects are not trained to design detailed building systems as engineers can. These are specific skills which in isolation cannot address the crisis in building and environment.

I want our government to step up and do the right thing and require our buildings to perform to the highest standards on all fronts. This can only be achieved if we take advantage of all the skills and knowledge that each of the building design professions can offer and bring to bear. We must push them to the limits of their ability to create complete solutions for the long-term sustainability of human beings and our environment. We should be legislating to demand even better standards for our buildings and from our design professionals, not allowing market conditions to dictate performance to the least requirement or "good enough" for the sake of convenience. We can do more. We can do better.

We deserve better. The crisis we face will not be resolved if only an architect is involved. The crisis we face will not be resolved if only an engineer is involved. In the complex environment in which even small buildings are planned and constructed, complexity is a given.

Now, I am just going to go into handwritten notes, so if I slow down it is because my writing is terrible.

I will at this time comment on the idea of integrated design as presented and supported by Rodney McDonald. Green building and the LEED process are mechanisms that directly address the crisis in building that I have described to you. Integrated design is core to this process. It is the idea that the project design team process involves all stakeholders from the outside of the building to the inside of the building. Architects, structural engineers, electrical engineers, mechanical engineers, the owners, financiers, contractors, all the stakeholders participate in problem solving. Green building is even more inclusive than our existing processes and recognizes that each stakeholder brings valuable insights to the development of sustaining, nurturing buildings. Green building is the way of the future. Bill 7 is a step away from the future.

Manitobans can only benefit from the contribution of both professions in our built environment. What I ask is that you seek to do the best for Manitobans, not settle for the minimum, and that you work beyond the threat of temporary backlogs and turf wars. The real crisis is too important to leave to minimal standards, undertrained practitioners and incomplete project teams.

Minister Allan, I urge you and the committee to reconsider and not take the amendments proposed in Bill 7 to a third reading. The Architects Act, as it is written, ensures the participation of architects in the design and construction of buildings intended for human occupancy. Architects are trained to coordinate the great complexities of buildings in the midst of this crisis. Keep your eye on the bigger picture. Work towards a better future where engineers and architects contribute to problem solving, to solving the crisis in Manitoba's building industry together and creating a more complete and sustaining environment for Manitobans. Thank you.

**Madam Chairperson:** Thank you. Were there questions for the presenter? Seeing no questions, we

thank you very much and we thank you for changing spots.

The committee calls Brad Thompson, private citizen. Good morning, Mr. Thompson, did you have a written submission you wanted to circulate?

**Mr. Brad Thompson (Private Citizen):** No, I do not.

**Madam Chairperson:** Please proceed, Mr. Thompson.

**Mr. Thompson:** Good morning, Minister Allan, honourable members, ladies and gentlemen. My name is Brad Thompson. I have a diploma in civil technology from Red River community college and a degree in engineering from Lakehead University in Thunder Bay, Ontario. I am a member of professional engineering associations in the provinces of British Columbia, Alberta, Saskatchewan, Ontario, New Brunswick and, specifically, with Manitoba since 1985. I currently work for a local design-built construction company and the majority of my work experience has been in the industrial sector with projects all across Canada, including inland grain terminals, feed mills, flour mills and cement storage facilities.

With design-built, our own field crews construct the projects that I design, and there are numerous times where the life safety of the workers must be taken into account. The binding thread within our engineering act is to put public safety first and foremost. So, whether the governing body is Human Resource Development Canada or Workplace Safety and Health, the life safety systems adhere to these strict guidelines which we account for in all our projects.

I have not had the pleasure of working directly for or with an architect while working on these industrial projects, so I have found the September 16 court ruling requiring an architect's seal on all construction projects rather puzzling. Prior to September 16, the architect was not needed on these projects, and they were all completed to the governing codes and to the satisfaction of our clients. There is no doubt that it is the intention of both the architects and engineers to provide Manitobans with safe, functional structures. I just do not think it is fair to Manitobans that these types of projects require a by-law to pay for the services of an architect when they may not be required.

The company I work for will very often call upon the services of an architect for projects within

our commercial department and, as far as I know, the relationship has been a good working relationship, and I expect with the proposed Bill 7 this relationship can continue.

In closing, I support the efforts the government has undertaken to bring forward Bill 7, and I thank you for the opportunity to speak this morning.

**Madam Chairperson:** Thank you. Are there any questions for the presenter? Thank you very much.

The committee calls Mike Ferber, private citizen. Mike Ferber, private citizen. Mr. Ferber's name will be removed from the list.

The committee calls Dylan Elliott, private citizen. Dylan Elliott, private citizen. Mr. Elliott's name will be removed from the list.

The committee calls Herbert Enns, private citizen. Herbert Enns, private citizen. Mr. Enns's name will be removed from the list.

The committee calls Wins Bridgeman, private citizen. Wins Bridgeman, private citizen. Mr. Bridgeman's name will be removed from the list.

The committee calls Kevin Clouston, private citizen. Mr. Clouston, you do not have a written submission, right?

**Mr. Kevin Clouston (Private Citizen):** No, I do not.

**Madam Chairperson:** You can proceed.

\* (11:40)

**Mr. Clouston:** Thank you. Chair, Madam Minister, members of the committee, ladies and gentlemen, I want to thank you very much for your time and patience that you have all shown the last several days. I know it is definitely a difficult issue that you must be faced with, wrestling with this problem, trying to balance both sides, and given the strength of both presentations on both sides that have been here.

I do not have a written presentation and I have changed my presentation since most of my points that I was going to make have been made in subsequent presentations so I will not bother rehashing those items. I am left with a couple of questions which I will go into in a moment.

I have not introduced myself. My name is Kevin Clouston. I am an architectural intern with the Manitoba Association of Architects. In addition to that, I sit on the Manitoba Association of Architects

continuing education program. I have been, in the past and currently, a sessional instructor, I have been in the past an instructor at North Dakota State University in the field of architecture and am currently a sessional instructor at the University of Manitoba for the Faculty of Architecture. I am also a Manitoban and I am concerned about this province.

I have a number of issues, more questions, that I wish to, as I mull over in my own mind, share with you and I hope that you will do the same. We have all heard a number of comments here. I am not going to get into the debate of what is architecture or what is engineering. Clearly, there is some lack of agreement on what the definitions are. But what I do know from having taught at the university is—well, sorry, let me back up. I also want to make reference to one of the speakers yesterday, a student who was a current student in the Faculty of Architecture and is previously a graduate of the Faculty of Engineering, an honours student, clearly gifted and competent. He explained already the difference between the two programs, architecture being generalist, engineering tending to specialize, especially in your chosen profession in the latter three years. I also know, having taught in both a bachelor and a master's setting, that as you move from one to another, moving to a master's program tends to mean increased specialization, not less. So, when we hear stories of even engineers with master's degrees being involved with projects, to me that means greater education but also greater specification, not less. More generalized is what I meant to say. So I do have appreciation of that.

The other question I have is, when I look at the structure of the programs we have at the Faculty of Architecture, we have an architecture program. All people wanting to become architects go through that program. My question is, that I mull over in my mind, for the engineers, if we have a situation where, with respect to some of the previous speakers, it does seem to be what they are proposing is, any engineer, any building, anywhere, they are saying if they can have the expertise to develop the ability to address architectural-related problems, if that is the case, I kind of wonder why they have a department of electrical engineering, a department of mechanical engineering, a department of civil engineering, a department of petrochemical. Clearly, they are not the same; otherwise, there would be a Faculty of Engineering with a core product. Clearly, they are different, and they have yet to explain how they pick up the other expertise in these things.

I have heard of projects where we have engineers of a particular discipline that have stamped mechanical, electrical, et cetera, for the same project. So I kind of wonder where the expertise came from. Having said that, I also have the greatest respect for engineers. I work with them on a daily basis in our project in all disciplines, so I do not want to besmirch their abilities. They all have their specialties and architects recognize the need for them, but there is that.

Another issue I want to share with you was prior, or as the Faculty of Engineering was preparing to do fundraising projects for, I think, largely completed renovation facelift, we were approached when I was with the Faculty of Architecture by the dean and the assistant dean of the Faculty of Engineering to assist them in conjunction with the capital funding for the university with their fundraising, and we were specifically approached by both the dean and the assistant dean, and this was reconfirmed on many occasions in meetings with them. They realized the architecture students and the training were different from the engineers; skill sets that we had, that we could bring forth to their problem, were not what their students had. There is clearly a difference by people from the university. I sort of wonder about that. Why are we told that they can do it?

I know I am short of time, so I will just proceed. Also, another question I had is we have been told by a number of speakers that sometimes when they are doing these projects, and they list a number of them, churches, being one, I cannot remember if it was schools, but they talked about community facilities, retail facilities, et cetera. They talked about that they did not need the services of an architect because the client came to them already with an idea of what they wanted. I do not have a problem with that, but I have a question and I am hoping it is a question that you are asking yourselves as well. That question is what the client has brought to them, saying he or she knows what they need, is that what that definition of the problem is?

What is in the best interest of not just the inhabitants of the building because it is clear that they are not just going to be building it for themselves if you are doing a church or a school or a health care facility? Is it in the best interests of the employees or is it in the best interests of the users, other users, outside users, and is it in the best interests of the community? I have yet to hear any mechanism that the engineering community has

brought forward to say how they decide that when the client comes forward, they know. Clearly, as architects, we have liability that forces us. I do not see the same on them so that is another question I have.

I also do recognize that there have been a number of, just to go back to the profession of the engineers, that there have been some professions that have been identified as generalists, and I accept that. I know cases have been made just recently by a previous speaker about industrial engineers and agricultural engineers. I am not going to get into a debate about that. There are issues of scale, there are issues of complexity, of industrial facility versus a school, hospital, et cetera, et cetera, and I think we are all familiar with enough, even though we do not know the intimate details of all of these, that we do not need to do a point by point comparison of the two. That leaves outside of that all the other professions of the engineers: petrochemical, mining, et cetera. Clearly, some of these ones will deal with construction but whether or not the training and the expertise that they have, and they clearly have from those professions is transferable and appropriate to some of these other building types, I question.

Without having some means of properly certifying that, we are taking them at their word, the whole purpose of something like consumer watchdogs or consumer protection or some sort of body watching over these things is that there is some way of verifying these. Currently, under the current legislation there is nothing. So, again, I question whether that is available.

At that point, I will conclude my presentation. Again, thanking you for your consideration, I ask you to contemplate some of the questions I have raised. I do not have all of the answers. I do not think they are readily apparent, and because of that, I think they do have an impact though on this legislation and I propose that. I implore the committee to keep the bill from proceeding to third reading and becoming law without, I think, some significant modifications. Thank you.

\* (11:50)

**Madam Chairperson:** Are there any questions for the presenter? Seeing no questions, we thank you for your presentation.

The committee calls Jamie Kozak, private citizen. Jamie Kozak, private citizen. Mr. Kozak's name will be removed from the list.

The committee calls Sean Lepper, private citizen. You can proceed.

**Mr. Sean Lepper (Private Citizen):** Thank you. Good morning, Honourable Minister Allan, Madam Chairperson and committee members. My name is Sean Lepper and I am a professional engineer registered to practise in the province of Manitoba. I am employed by Behlen Industries. We are a pre-engineered steel building manufacturer based in Brandon, Manitoba, where we employ more than 250 Manitobans.

We are involved in and support the construction industry across Manitoba and Canada. Many of our buildings are designed and erected by design build companies with only the help of an engineer. We also supply many projects which are designed and tendered by the architectural community. We work with both the architectural and engineering communities on an ongoing basis. Both professions have their merits and each has their areas of expertise, and I do not believe one should be placed in front of the other. Both are well-trained and competent professionals.

The dispute between the architects and the engineers has left the companies undertaking the construction project out in the cold. This is the individual who is purchasing the professional services of either an architect or an engineer. The purchaser of the professional services is the driving force behind the construction industry and this person is not getting addressed. The purchaser of the professional services has their own preference and project-specific requirements which determine the professional they will choose. The issue here is not public safety. The issue here is money and control and both of these should be left with the end user.

The system prior to September 16, 2005, was working well and it should have been left alone. The injunction created a legislative playing field which is not level and gives the advantage to only one player. The effect of the injunction has been seen already and has needlessly increased costs, stretched time lines and, most importantly, decreased the purchaser's choice in the marketplace.

The issues between the engineers and architects in Manitoba have been long-standing and need to be addressed and concluded as soon as possible. We need to allow Manitoba construction companies to get back to what they do best, build. This needs to happen quickly so that the recent prosperity we have seen throughout the construction industry can

continue and Manitobans can reap the benefits of a strong economy.

Bill 7 is not perfect, but it covers enough of the key issues that I will lend it my support. I am hopeful that it can be passed quickly through the Legislature to allow construction companies in the province to get back to working efficiently and keep our economy moving, whether that means working with an architect or an engineer or a combination of the two.

Please move Bill 7 through to the third reading as expeditiously as possible. Thank you for the opportunity to speak.

**Madam Chairperson:** Thank you. Are there questions for the presenter? Seeing no questions, I thank you very much for your presentation.

The committee calls Greg Porth, private citizen. Greg Porth, private citizen. Mr. Porth's name will be removed from the list.

The committee calls Chris Roszell, private citizen. Chris Roszell, private citizen. Mr. Roszell's name will be removed from the list.

The committee calls Ron Brako, private citizen. Ron Brako, private citizen. Mr. Brako's name will be removed from the list.

The committee calls Malcolm Symonds, private citizen. Malcolm Symonds, private citizen. Mr. Symonds' name will be removed from the list.

Andrew Wach, private citizen. Before proceeding, is there leave from the committee if Mr. Wach's presentation exceeds a little bit beyond noon to hear his presentation in its entirety? *[Agreed]* You can proceed, Mr. Wach.

**Mr. Andrew Wach (Private Citizen):** Thank you. Madam Minister, committee members, when legislation is undertaken to change an act, a statement is made about the act being changed. In this case, a statement is made about architecture and the role architecture will have in the future of our province. The statement being made is architecture is no longer a priority in Manitoba. Further, a statement is also made about a relationship between the legislation and the stakeholders considered in the new legislative form. The statement being made is only the economic stakeholders are to have their voices heard in this new legislation.

This legislation then emphasizes economic issues and uses the proposed changes to The

Architects Act to create a form of economic distribution between identified stakeholders. It has limited the scope to the economics of the construction industry and thereby it has reduced the very complex undertaking of the construction of the built environment to a table of distributed economic influence. This distributed influence defines the territories in the construction industry to each of the economic stakeholders. To manage the distribution of wealth, the legislation has nominated the Department of Labour to act as the administrator and referee to ensure that everyone plays fair within the department rules. This response is a result of the current court ruling, a ruling which definitively states that the City of Winnipeg and the Province of Manitoba erred by ignoring the requirements to the current Architects Act, an act which is 90 years old and fully consistent with every other jurisdiction in North America and an act that has served this province well for the first 75 years of its existence.

Bill 7 is an attempt to protect the government from itself, but The Architects Act is not about economic distribution. It was not structured with that intent. It is not practised with that intent. The Architects Act is about the social dialogue between society as it exists and what society intends to become.

Architects build the physical environments that bridge society's need to reconcile its social and its economic priorities. It is important to understand that the stakeholders are both economic and social.

Bill 7 is indifferent to the considerations of society, at least that part of society that is concerned about social issues. It has removed the social component from these discussions, focussed upon the economic issues it perceives to be real and, as a consequence, it has defaulted to the ordinary, an ordinary argument of economic distribution.

I am here to speak against Bill 7 as a citizen, as an individual who believes in social responsibility, as an architect, and as the regional director of the Royal Architectural Institute of Canada. I am against Bill 7 because it is a rather ordinary piece of legislation that makes an extraordinary statement. It states that the social values and needs of this province's citizens will not be considered in the design of this legislation. It presents a matrix of what appears to be sturdy economic sense, but with its emphasis on economics, it creates a document that is socially indifferent, indifferent because it does not recognize or contribute to the social dialogue and ignores the



social stakeholders. It is indifferent to the issues of the everyday.

In its current form, Bill 7 is sufficiently distant from current social issues and needs and intently destructive to The Architects Act that it effectively makes social issues an irrelevant discussion and The Architects Act an irrelevant document. What is the cost of this social indifference when the building of the everyday becomes indifferent to the issues of the everyday?

The current Architects Act at its best advocates for a social equality within the built environment and aspires to construct to emerging social orders. It advocates for a fair economic distribution within social needs, and it is bound by economic controls placed by society, but it does not advocate for economic distribution of construction wealth, and it should not accept an approach to architecture which simply reduces the profession to a participant in an economic distribution.

At the beginning of the 20th century, the professional acts were developed. They were introduced to an ever-increasing complexity in the professions and to the needs of the society and its social system. The social system needed to be protected from the charlatans. This enlightenment and understanding of the ever-increasing complexity of life has now expanded dramatically in the 21st century. The Western world has, of course, embraced this change and it has responded by affirming and refining the acts which govern the professions. In Manitoba, Bill 7 will extinguish this enlightenment. But it is possible to have a sensible relationship between ideas and action, between social and economic concerns. It is possible to build a bridge between social need and economic necessity.

\* (12:00)

Over the course of these presentations you have heard descriptions of agreement reached on these issues by various committees, agreements that have contained promise but failed once presented to membership. The 2003 agreement has been referenced. It was an agreement independent of the association's membership conceived behind closed doors through in-camera discussion. It was an agreement rejected by the architects. What has not been mentioned is that the agreement was, in fact, illegal under the terms of the current acts. There is no sense in spoiling a good story with the actual facts.

There is the Witty Report, February 2005, mandated and designed by the Department of Labour. Unconditional in its terms, the recommendation of the Witty Report would become the solution. The terms were agreed to by the engineers and the architects in form and structure. The negotiations were held. The report was completed. The conclusions of the report were accepted by the Manitoba Association of Architects in accordance with our promise and in terms of the agreement. The Association of Professional Engineers rejected both the report and the mediator.

Why is the Witty Report not reflected in the legislation? Can we stand aside for a moment and really step into the real world? In practice there is never a question of who does what on projects. Everyone knows their area of expertise and everyone actually does collaborate. The very detailed presentation from Precon construction confirmed this. This is the very nature of the industry.

With this in mind, consider the 1998 agreement and the origin of the joint board. In January of '98, after lengthy discussions, and it may have been '97 by the way, with a mediator from Rhode Island, the Manitoba Association of Architects and the Association of Professional Engineers of Manitoba entered into an informal agreement that proposed the following. Buildings over 600 metres in gross area, three stories in building height, would require an architect and an engineer. A joint board would be formed composed of engineers and architects. Petition could be made to this joint board to seek relief from the inclusive requirement for those projects deemed to not require one or all of the professionals designated. The joint board would be required to respond to the request within a short time, five working days, upon the request made. The application criteria to the board was not restricted. The system was professionally inclusive but allowed for a reasoned exclusion that would be determined by the actual practitioners.

It was consistent with actual practice. It was anticipated through this process that a set of project types would be defined that required special consideration and, from this set of special projects, the industry could anticipate future revisions to requirements. The approach was dynamic. It allowed for immediate change to address circumstance in the small set of projects that did not fit well with the inclusive requirement, while responding to the vast majority of projects which have a full complement of

professionals and where each profession assumes the appropriate role.

The solution was simple, it was elegant, easy to execute and consistent with actual practice. It would provide clarity to authorities and yet allow for immediate mediation for specialized projects. Yet, it was responsive to existing acts and public interest. It also built in professional liability for every project at inception. What happened? By the time the joint board was defined and structured, the initiative was lost. The joint board became a place to argue the relative merits of each profession.

So we are, in the fall of 2005, trying to design a social contract as it relates to the construction industry, and if these presentations are any indication, we will be unsuccessful. Trying to modify three provincial acts in two months is impossible even for the smartest in the Department of Labour. Ask the Consulting Engineers of Manitoba, that group of approximately 150 engineers who actually work on building construction. Ask the 150 resident architects in Manitoba, those who actually work on building projects. Both groups will tell you the 1998 structure most closely reflects the operational reality of the construction industry; it was a fair and responsible solution; and it did not compromise either organization. It responded to both the social and economic needs of the province.

It was a sensible relationship between ideas and action, between social and economic concerns. It

should be reconsidered. The issues of prime consultant, grandfathering, firm registration, exemption clauses, alterations and exceptions are housekeeping; they can be resolved once the core issue is addressed. Reasonable people will do reasonable things. Thank you.

**Madam Chairperson:** Mr. Wach, I am sorry, I will have to stop you. You will have to just conclude.

**Mr. Wach:** Okay. Thank you.

**Madam Chairperson:** Thank you. Please do not participate from the gallery, though.

**Mr. Schuler:** With leave from the committee, could we have the rest of the report as if read?

**Madam Chairperson:** Agreed? [*Agreed*]

Thank you very much for your presentation. Any other questions? No. Thank you.

The time being 12:05, and just before committee rises, if you could please leave your act here. We will generate another list. We do meet again at three o'clock this afternoon, and then, if required, we will meet again at six o'clock this evening. The time being 12:05—

**An Honourable Member:** You are locking the door, right?

**Madam Chairperson:** The doors will be locked, yes. Committee rise.

**COMMITTEE ROSE AT:** 12:05 p.m.