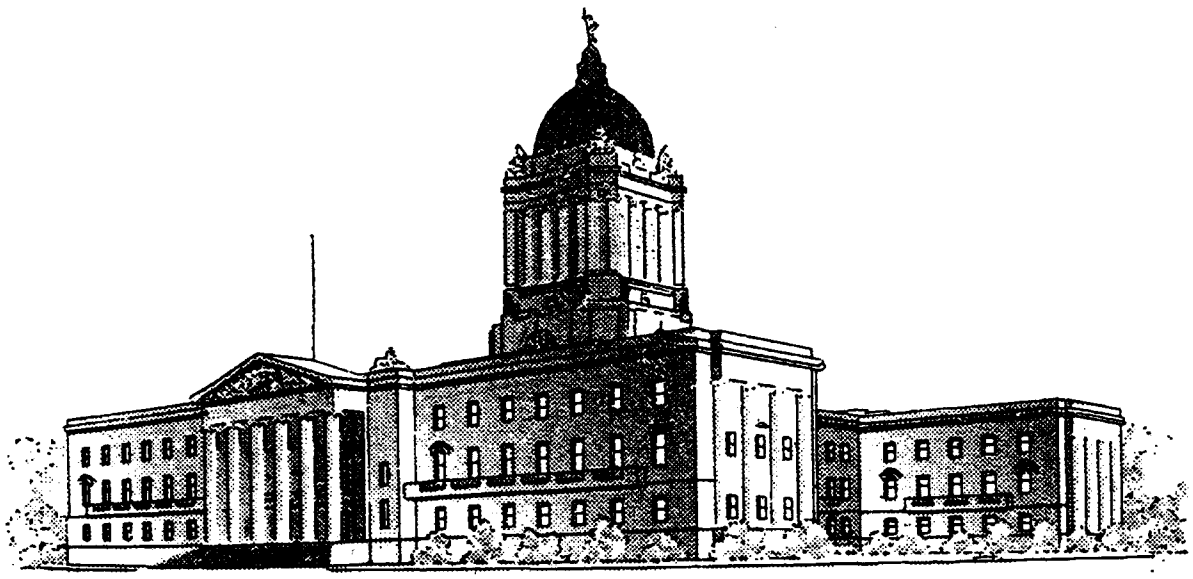
First Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee on Law Amendments

Chairperson
Mr. Denis Rocan
Constituency of Gladstone



Vol. XLV No. 1 - 7 p.m., Tuesday, June 20, 1995

ISSN 0713-9586

LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON LAW AMENDMENTS

Tuesday, June 20, 1995

TIME – 7 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Denis Rocan (Gladstone)

VICE-CHAIRPERSON – Mr. David Newman (Riel)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Reimer, Toews, Hon. Mrs. Vodrey

Ms. Barrett, Ms. Cerilli, Messrs. Helwer, Mackintosh, Ms. McGifford, Mr. Newman, Mrs. Render, Mr. Rocan

APPEARING:

Ms. Marianne Farag, Director, Urban Government and Finance Branch, Urban Affairs
Mr. Gary Kowalski, The Maples

WITNESSES:

Bill 3–The Maintenance Enforcement (Various Acts Amendment) Act

Ms. Denise Veilleux, Réseau
Ms. Denyse Côté, Réseau
Mr. Jules Gareau, Private Citizen
Mr. Don Lee, Private Citizen
Ms. Rosella Dyck, Private Citizen
Ms. Louise Malenfant, Parents Helping Parents
Ms. Marilyn McGonigal, Private Citizen
Ms. Irene LaBrosse, Coalition of Custodial Parents
Ms. Louise Dyck, Private Citizen
Ms. Karen Johnston, The Manitoba Association of Women and the Law
Mr. Mike Brentnall, Men's Equalization Inc.
Ms. Sharon Spinks, Private Citizen
Ms. Kim McCorriston, Private Citizen
Ms. Rhonda McCorriston, Private Citizen
Ms. Michelle Bonnefoy, Private Citizen
Ms. Sue Spiece, Private Citizen
Ms. Judith Cornell, Private Citizen
Ms. Norma McCormick, Private Citizen
Ms. Victoria Lehman, Private Citizen

Bill 7–The City of Winnipeg Amendment Act

Mr. Jae Eadie, Councillor, St. James Ward, City of Winnipeg
Mr. George Fraser, Councillor, St. Charles Ward, City of Winnipeg

MATTERS UNDER DISCUSSION:

Bill 3–The Maintenance Enforcement (Various Acts Amendment) Act

Bill 7–The City of Winnipeg Amendment Act

* * *

Madam Clerk Assistant (Ms. Patricia Chaychuk-Fitzpatrick): Order, please. Will the Standing Committee on Law Amendments please come to order. Before the committee can proceed with its considerations this evening, we must elect a Chairperson. Are there any nominations for the position of Chair?

Mr. Edward Helwer (Gimli): I would like to nominate Mr. Rocan.

Madam Clerk Assistant: Mr. Rocan has been nominated. Are there any other nominations? Seeing as there are no further nominations, Mr. Rocan, you are elected Chair.

Mr. Chairperson: Order, please. Will the Standing Committee on Law Amendments please come to order. Prior to commencing with public presentations, there are a number of administrative matters that the committee must attend to.

As a first order of business, the committee should proceed to elect a Vice-Chairperson. Are there any nominations for the position of Vice-Chairperson?

Mr. Helwer: I would like to nominate Mr. Newman.

Mr. Chairperson: Mr. Helwer nominates Mr. Newman. Are there any other nominations? None. Hearing none, Mr. Newman, you have been elected as a Vice-Chairperson.

Two bills are to be considered by the committee this evening: Bill 3, The Maintenance Enforcement (Various Acts Amendment) Act and Bill 7, The City of Winnipeg Amendment Act.

We have a number of presenters registered to speak to the bills today. It is our custom to hear briefs before consideration of the bills. What is the will of the committee? [agreed]

I have a list of persons wishing to appear before the committee, and I will read the names of the registered presenters aloud.

Persons registered to speak on Bill 3: Jules Gareau, Private Citizen; Don Lee, Private Citizen; Rosella Dyck, Private Citizen; Louise Malenfant, Parents Helping Parents; Marilyn McGonigal, Private Citizen; Irene LaBrosse, Coalition of Custodial Parents; Louise Dyck, Private Citizen; Jill McKosti, Private Citizen; Steve Loftus, Private Citizen; Karen Johnston, Manitoba Association of Women and the Law; Mike Brentnall, Men's Equalization Inc.; Sharon Spinks, Private Citizen; Beverley Abbott, Private Citizen; Denise Veilleux and Denyse Côté, Réseau; Kim McCorriston, Private Citizen; Rhonda McCorriston, Private Citizen; Michelle Bonnefoy, Private Citizen; Paula Prime, MACSW (Manitoba Action Committee on the Status of Women); Darlene Byletzki, Private Citizen; Sue Spiece, Private Citizen; Judith Cornell, Private Citizen; Gordon Gillespie, Private Citizen; Tammy Williamson, Private Citizen.

* (1910)

For Bill 7, The City of Winnipeg Amendment Act, persons registered to speak: Councillor Jae Eadie, Ad Hoc Committee on Election Review; and Councillor George Fraser, the City of Winnipeg.

Should anyone else in attendance wish to appear before this committee, please register at the back of the committee room and your name will be added to the list.

At this time, I would like to remind those presenters who have written copies of their brief to be distributed during their presentations, that 15 copies of the brief are required. Should anyone require assistance to have the sufficient number of copies made, please contact the Clerk of Committees sitting at my right.

Does the committee wish to establish a time limit on the length of public presentations? Committee members? We will review this a little bit later on this evening.

Does the committee wish to indicate which bill it will hear from presenters first?

Ms. Becky Barrett (Wellington): I would recommend that because there are only two presentations on Bill 7, The City of Winnipeg Amendment Act, we hear the presentations on Bill 7 first, followed immediately by the presentations on Bill 3.

Mr. Chairperson: Agreed?

Mr. Helwer: Mr. Chairperson, after we hear the presenters on Bill 7, can we go clause by clause through Bill 7 so we get that one done? It will only

take a few minutes, and then we can go on to the presenters of Bill 3.

Mr. Chairperson: Is it the will of the committee then that we would deal with Bill 7, finish with the presenters, do the clause-by-clause?

Ms. Barrett: Mr. Chair, my understanding is that all members of the committee are here for both bills, and I think it would be, given the number of people who have asked to make presentations on Bill 3, I think it is only fair to them to move as expeditiously through and do the clause-by-clause on both bills after the public presentations.

Mr. Chairperson: Is that the wish of the committee? [agreed].

Bill 7–The City of Winnipeg Amendment Act

Mr. Chairperson: We shall now proceed to hear presenters on Bill 7. Will Councillor Jae Eadie please come forward to make a presentation to the committee. Do you have written copies of your brief for distribution to the committee members, sir?

Mr. Jae Eadie (Councillor, St. James Ward, City of Winnipeg): No, I do not, Mr. Chairman, but I am going to be very brief and to the point. In order to move this down below, will you still hear me?

Mr. Chairperson: Sure, go right ahead and proceed with your presentation, sir.

Mr. Eadie: Mr. Chairman and members of the committee, I first of all thank the committee for considering this ahead of the other bill. I realize there are other presentations.

I want to say, first of all, very briefly that we are in general agreement with the amendments contained in Bill 7. We appreciate one of the final phases, I think, of a number of changes to the election procedures that were started in the last Legislature. We appreciate that just about everything contained in this bill complies with the requests that have been made by City Council over the past couple of years.

There are two items I want to raise with the committee, one on a section of the act that is not contained in this bill and another on a section that is contained in here that we think needs some refinement. The section that is not contained in this bill for amendment is Section 97.2 of the act which provides that the city's electoral officer is obliged to receive registrations by people who wish to run for mayor or council, but the act does not state that the electoral officer may reject such registrations for candidacy if those potential candidates have not filed their statement of election expenses and receipts which is the subject of the other amendment.

We would like to see wording in the act that would also permit or authorize the city's electoral officer to reject candidate registrations if they have not complied with the requirements of filing, if they were a candidate in a previous election and have not complied with the requirement that candidates must supply their statement of election expenses and receipts within a given period of time. I believe our staff at the city have had some discussions with staff in the Department of Urban Affairs about language, and we are hopeful that that particular matter may be rectified in this particular bill so that our city's electoral officer may have the authority to either accept or reject if an applicant is in contravention.

The other provision that I want to speak on, Mr. Chairman, is contained in the bill. It is on page 3 of your bill. It is your Section 7, subsection 2, which is an amendment to subsection 100(3) of the act. The purpose of this amendment is to provide a penalty for those candidates in a previous election who did not file their statement of election expenses and income within the prescribed time. It was intended, and is intended, that those individuals be penalized, as they are not now presently penalized, from running in a subsequent general election or by-election. It was an oversight, I think, in the previous act. I know we appeared here in front of this committee a year ago when you had amendments proposed. This one did not make it at the time.

The wording that you have in your Section 7.2 does really not quite fit the bill. I have a suggestion for you to consider, and I have as a matter of fact 15 copies of

what a Section 100, subsection 3 would read like if you were in a mind to accept some modification to the words. I will read for your information. The section, if you were to accept our amendment, would read as follows:

A person who, as a registered candidate in an election, is not nominated as a candidate in the election, or is nominated and is defeated or withdraws and fails to comply with Section 96(2.1) (time for filing the audited statement) is not eligible to be nominated as a candidate in–and these would be our suggested words–an election for a period of (3) three years from the date prescribed in Section 96(2.1)(a).

That section of the act, Mr. Chairman, prescribes that all candidates, whether they were elected or defeated, must file their statement of election expenses and income no later than May 31 of the year following the election. This amendment would provide a penalty. Those defeated candidates who did not file would not be eligible to be a candidate for city council, mayor or council, for a period up to and including May 31, 1999, taking this year's general election as the election that is next coming up.

We think that this is a worthwhile amendment. It does provide a penalty that is not presently provided in the act. Candidates who win are penalized. If I as an elected city councillor do not file my statement by May 31 of the following year, my seat on council is vacant, and I am out of office. Defeated candidates, Mr. Chairman, have no such penalty at all.

I might tell you that from the last general election in 1992, four out of the 17 candidates for mayor have still not filed their papers. A fifth candidate filed last week—filed his statement of election expenses and returns. Under the present section of the act, that individual would be entitled to be nominated as a candidate either for mayor or council in this year's election. I had to file my statement within 90 days of the last general election or I could not be here today as a member of council. Eight of 48 candidates for City Council still have not filed their statement of election expenses and returns, but under the present section of the act they could file that statement any time between now and nomination day in September and be eligible to be a candidate for City Council and then go through the same exercise of not filing again. They have no penalty.

* (1920)

The proposed wording I have left with you provides our intent, which we talked about last year and which you have gone some way in 7(2) of Bill 7 to address, but you have not addressed it in what we think is clear language and language that shows that there is a penalty, and it very clearly states the period of time in which such an individual would not be eligible to be a candidate for City Council in a subsequent election.

So those are the two suggestions I raise with the committee, Mr. Chairman, as further refinements to Bill 7. If there are any questions, I will try to answer them. By the way, I might add that if anybody is interested, our electoral officer is here and does have the names of those candidates who did not and still have not filed their statement of election expense and income from the last election. If you are interested in seeing them, we have copies available for you.

Mr. Chairperson: Thank you very much for your presentation, Jae. I have known you for several years, and your love for the democratic process and the parliamentary system as we know it today indeed does surpass you, but I just want to thank you on behalf of the committee for coming forward this evening and making that presentation and with your suggestions. Hopefully, the committee will give some serious consideration to what you have just presented.

Do members of the committee have any questions?

Hon. Jack Reimer (Minister of Urban Affairs): I would like to thank Councillor Eadie for coming forth with his suggestions and his two proposed amendments, and I must say that both those will be part of the amendments that we are bringing forth with this bill later on this evening. So both those amendments will be put in, incorporated into the bill.

Mr. David Newman (Riel): Mr. Eadie, is that a typographical error in the first line? Should that "as" be "is"?

Mr. Eadie: No, Mr. Chairman, it is not. Actually, those first few lines are taken right out of the present Section 100(3) of The City of Winnipeg Act. The amended part, what we are suggesting as an amendment is the part that is italicized and underscored. The legal draftspeople can look and see if the "as" should be an "is," but that is what is presently in The City of Winnipeg Act.

Ms. Marianne Cerilli (Radisson): I was wondering if provision for a penalty is something that is included in the act for other jurisdictions municipally or at other levels of government.

Mr. Eadie: I believe there are penalties. I am not familiar with all election law, but I believe there are penalties for defeated candidates in other jurisdictions that do not file their statement of election expenses and income. I think generally what we are proposing here complies with electoral law generally across the country as we know it, and certainly the intent in Bill 7 to provide a penalty for defeated candidates who do not file is a step in the direction that City Council supports. All we are essentially doing here with the proposed amendment that I have tabled with you is to clarify that and to clarify the period of time in which such a defeated candidate would not be eligible to run for election if they failed to meet the terms of the act presently.

Mr. Chairperson: Are there any more questions? Hearing none, I would like to thank you, Mr. Eadie, for your presentation.

Now I would like to call forward Councillor George Fraser from the City of Winnipeg.

Mr. George Fraser (Councillor, St. Charles Ward, City of Winnipeg): Mr. Chairman, I have some copies of parts of the act that I will be making reference to. Perhaps if they were circulated it might help everyone understand.

I am asking for the co-operation of this committee to add to Bill 7 another amendment, and I hope I can explain it quickly. I think it is fairly straightforward.

Mr. Chairman, to begin I would like to read into the record a motion which is motion 495 passed by the City of Winnipeg Council on February 22, 1995. All committee members now have a copy of this. It reads:

WHEREAS the City of Winnipeg currently operates with four Standing Committees and the Executive Policy Committee; and

WHEREAS the Task Force on the Political Restructuring–which is a committee that I am chairing—is looking at alternate decision-making structures to allow improved decision making and increased citizen participation; and

WHEREAS municipalities in other provinces are not bound by similar restrictive provisions;–and you will see a summary on the back of the larger document that I presented with respect to enabling legislation that you would find in British Columbia, Alberta, Saskatchewan, Ontario, Quebec and Nova Scotia–and

WHEREAS–the resolution reads–the Standing Committee on Law Amendments, during its debate of Bill 17 last year, a bill to amend The City of Winnipeg Act, heard representation from myself who advised that as chairperson of that Task Force on Restructuring, the City was seeking flexibility in relation to the number of Standing Committees; and

WHEREAS Bill 17 which received Royal Assent on July 5, 1994, amended subsection 28(3) of The City of Winnipeg Act–which is highlighted there for you–by deleting the specific reference to the prescribed number of Standing Committees "four," however failed to accommodate this flexibility in subsection 33(1);–which you will find on the third sheet in, which is the Standing Committee section of The City of Winnipeg Act.

THEREFORE the Council of the City of Winnipeg resolved that the Province of Manitoba be requested to amend The City of Winnipeg Act by deleting therein any specific references to the number of Standing Committees that Council may by by-law establish.

Mr. Chairman, this was forwarded to the Minister of Urban Affairs, and we understand and we appreciate that this session did not necessarily offer all the opportunities that were there to gather everything together.

The reason I am here today is that we are very near completing the work of the task force, and again we simply appear at this time to request that what might have been an oversight, I will say, as a first statement, that the words, "not more than four" be struck from 33(1) so that it would simply read: council shall by by-law establish standing committees.

As I said when I was here last year, again, the evidence is there across this country that municipal councils have that flexibility to establish their own numbers of standing committees that they see fit will serve their organizational structure.

I would also point out, Mr. Chairman, that the final copies of The Municipal Act review and the proposed legislation has recently been tabled in the House, I believe, and circulated, and that same privilege is there for every other municipality in the province of Manitoba. So it would help us a great deal, and I believe, as I pointed out the last time–and the administration may want to give some advice on this–there may very well be a concern that Executive Policy Committee–there is a reference, if you would return to Section 29(1), which indicates there shall be an Executive Policy Committee comprised of the following persons: the mayor, the deputy mayor and, as it reads now, the chairpersons of standing committees.

We acknowledged last time that this may be where there has to be some amending work that is done to guarantee that Executive Policy Committee is not greater than a quorum of the Council of the City of Winnipeg. I think that would be one provision or safeguard that could be simply inserted that, I think, would perhaps meet the concerns that I have read into the original amendment. But it would at least allow us some reasonable flexibility up to perhaps the number of eight or nine. It could be suggested that the amendment, Mr. Chairman, would read: one less than a quorum of the City of Winnipeg's Council.

* (1930)

Wording like that would be very helpful, and it would allow us, if this were passed during this session, to prepare our new council that will find its way to City Hall in October of this year and allow them to form the number of standing committees that we think would be appropriate within our own jurisdiction.

That is my presentation, Mr. Chairman.

Mr. Chairperson: I would like to thank you for your presentation, Deputy Mayor Fraser. Do members of the committee have questions that they wish to address to the presenter?

Mr. Reimer: I would like to thank Councillor Fraser for coming forth with his presentation. I would like to point out to the council that the implications of this proposal are out of context and out of the scope of the bill that we have before us this evening. The bill before us we have this evening is an elections bill pertaining to The Elections Act of the City of Winnipeg. The proposal that you have brought is out of the scope of this bill, so it is not appropriate for an amendment process under what we are faced with presently, but it is something that possibly could be looked at with further amendments within The City of Winnipeg Act. But under the bill that we are looking at this evening, it is not within the scope of our parameters of discussion.

Mr. Fraser: I guess I have to accept that, but I am simply looking at an opportunity here that was, I think we had an error of interpretation or administration last time around, and that was our intent, to be here this evening, because it is very important for us to have that flexibility to put this in place. I suppose the next opportunity would be at the fall sitting of the Legislature to deal with this, but it may very well–depending on the timing, this is our concern–not be available, and City Council would be creating a new structure that would not fit within the regulations that are currently there under the act. That is the dilemma, Mr. Chairman.

Mr. Reimer: I cannot give you any type of indication of timing as to revisiting this situation regarding the number of committees and the outlook towards them

other than the fact that what you brought forth is worthy of consideration, and when the amendments are looked at again, why then maybe this is something that can be brought forth again at that time.

Ms. Barrett: My understanding, well, I know we have before us in the House Bill 17 which is a broader revisiting of The City of Winnipeg Act, and I am wondering if the minister would entertain to look with his staff and perhaps talk more in detail with City Council as to the possibility of putting this amendment, during the committee hearing stage on the Bill 17, into that process which perhaps could be dealt with in the fall sitting of the Legislature in time for it to be implemented for after the election of the new city council.

Mr. Reimer: I guess it is like anything. Anything can be brought forward for discussion and perusal at the time of not only the debate in the House and the amendment process that is available through the various readings of the bill, and there is always the possibility of discussion and interpretation at that time.

Mr. Chairperson: Are there any more questions? The presenter? Hearing none, I want to thank you, Councillor Fraser, for making your presentation here this evening. Thank you, sir.

Bill 3–Maintenance Enforcement (Various Acts) Amendments Act

Mr. Chairperson: We presently will be proceeding with Bill 3, The Maintenance Enforcement (Various Acts) Amendments Act; Loi sur l'exécution des ordonnances alimentaires - modification de diverses lois.

At this time I would like to ask–there are, I am not too sure how many right now–how many individuals are going to need the services of the translation booth? The reason I ask this is because we have two individuals cooped up in this little pen and the heat in there is unbearable. So I am going to ask those who would like to make a presentation in français in regard to Bill 3, The Maintenance Enforcement (Various Acts) Amendments Act, we will be calling on you first, so would you please make yourselves known to Patricia. Oh, you know them already. Is it only Réseau that is making a presentation here this evening? I am just trying to ascertain whether or not it is simply Réseau that is making a presentation, because the minister will have some opening remarks prior to recognizing the presenters.

Denise Veilleux and Denyse Côté. Bonne soirée, madame. Now, is it fine with the committee that we bring forward those that are going to be making a presentation in français, and therefore we can allow these individuals to retire for the evening? That is agreed? Agreed.

Patricia, you will ascertain who else is–so anybody else who wants to make a presentation en français, please make yourself known to the committee's clerk, Patricia, on my right.

Et vous, madame, vous êtes Denise Veilleux. Denise, pourrais-tu monter ton–mets-le donc sur le podium, s'il vous plaît.

Ms. Denyse Veilleux (Réseau): Certainement. C'est mieux comme ça?

Mr. Chairperson: Merci.

[Translation]

Mr. Chairperson: And you, madam, are Denise Veilleux. Denise, would you please place your—on the podium.

Ms. Veilleux: Of course. Is that better?

Mr. Chairperson: Thank you.

Ms. Veilleux: Monsieur le président, mesdames et messieurs du comité, je vous remercie de l'occasion de faire entendre ce soir la voix des femmes francophones du Manitoba. Réseau est un organisme provincial qui a pour mandat de faire de l'information et de la revendication afin d'améliorer la situation de ces femmes dans les domaines économiques, politiques, sociales, éducatives et culturelles.

Le présent mémoire est le fruit du travail du comité qui réunit des personnes représentant Réseau mais aussi

l'Association des juristes d'expression française du Manitoba et Pluri-elles.

C'est avec beaucoup de satisfaction que le comité a appris l'intention du gouvernement de faire du projet de loi sur les pensions alimentaires enfants, l'une de ses grandes priorités. Nous y lisons un signe d'engagement qui permet beaucoup d'espoir.

Nous avons d'ailleurs appuyé les demandes de Madame Vodrey afin d'obtenir l'aide du gouvernment fédéral par rapport à l'accès aux informations qu'il possède. Nous reconnaissons les efforts du gouvernement actuel en vue d'améliorer le sort de milliers d'enfants du Manitoba. C'est donc dans un esprit de collaboration que nous soumettons les recommandations qui suivent.

Avant de passer aux recommandations toutefois, nous avons jugé bon de proposer trois grandes objectives pour toute législation relative aux pensions alimentaires pour enfants.

La première: assurer le bien-être des enfants en veillant à l'exécution d'ordonnances qui permettent le versement régulier de pensions alimentaires suffisantes pour répondre aux besoins réels des enfants.

Deuxièmement, garantir la perception du montant intégral des pensions alimentaires pour enfants.

Troisièmement, simplifier et accélérer la procédure judiciaire pour l'obtention et la modification des ordonnances alimentaires.

* (1940)

Je passe maintenant aux recommandations. En ce qui concerne les ordonnances et par rapport à la rétroactivité des ordonnances, nous proposons qu'à l'instar de l'Ontario le Manitoba devrait rendre les ordonnances alimentaires rétroactives à la date de la demande.

En ce qui concerne l'indexation, les ordonnances alimentaires devraient toutes contenir une clause d'indexation automatique au coût de la vie afin de réduire les procédures longues et dispendieuses. Il incombrait donc au payeur de demander une modification de cette clause de l'ordonnance s'il y a lieu.

Montant suffisant: afin de favoriser le versement de pensions alimentaires suffisantes pour répondre aux besoins réels des enfants, nous recommandons d'établir une grille fixant un montant minimal nécessaire. Cette grille servirait de guide pour les avocats, les bénéficiaires et les juges. Le ministère de l'agriculture du Manitoba publit déjà une telle grille, en passant. Il faut toutefois s'assurer que les montants fixés dans cette grille ne soit pas inférieurs aux montants actuels déjà insuffisants.

Afin d'assurer des pensions alimentaires suffisantes les avocats devraient être tenus d'informer les bénéficiaires de l'effet fiscal des pensions alimentaires pour enfants. J'ajoute que c'est d'autant plus important que la cour suprême a maintenu l'imposition des pensions alimentaires pour enfants. Ceci, c'est-à-dire, le fait d'informer les bénéficiaires, pourrait être attesté par un certificat que les avocats signeraient après avoir informé leurs clientes.

En ce qui concerne les payeurs assistés sociaux: lorsque les parents non-gardiens reçoivent de l'aide sociale, une portion même minime de leur prestation devrait être déduite puis versée directement aux parents gardiens. À notre avis il s'agirait d'une mesure d'incitation à trouver un emploi plus rapidement mais surtout une reconnaissance de l'obligation morale et légale des parents non-gardiens envers leurs enfants.

Programme d'exécution des ordonnances: il faudrait améliorer la collecte des statistiques par le programme d'exécution afin de permettre une évaluation de son efficacité et des services offerts. Le formulaire utilisé devrait comporter une question sur la langue parlée à la maison afin de déterminer plus facilement le groupe ethnique, ce qui permettrait de déceler des particularités et des tendances s'il y a lieu.

Pour faciliter le travail d'exécution du programme, nous appuyons les demandes du ministère de la justice afin d'avoir accès plus facilement aux informations du gouvernement fédéral qui permettraient de retracer les payeurs en défaut et de connaître leurs actifs réels.

Lorsque le fonctionnaire désigné demande des renseignements sur les parents non-gardiens à une tierce partie celle-ci devrait être tenue de les fournir par écrit. À l'heure actuelle les payeurs doivent donner ces renseignements par écrit. Ceci devrait donc s'appliquer à notre avis aux tierces parties.

Il faudrait en outre prévoir des amendes pour refus de fournir les renseignements en question. La loi ne parle pas actuellement de sanction en cas de non-respect. Il faudrait en outre prévoir un méchanisme permettant d'enregistrer les ordonnances alimentaires auprès du bureau des sûretés mobiliaires afin de pouvoir grever les biens meubles des payeurs en défaut. Cette mesure est déjà possible pour le bureau des titres fonciers. Elle devrait donc être élargie.

Je vais maintenant céder la parole à Denyse Côté, président du comité sur les pensions alimentaires. Merci.

[Translation]

Ms. Veilleux: Mr. Chairperson, ladies and gentlemen of the committee, I would like to thank you for giving the voice of Francophone women in Manitoba the opportunity to be heard this evening. Réseau is a provincial organization whose mandate is to provide information and to lobby so as to improve the status of Francophone women in Manitoba with respect to economic, political, social, educational and cultural issues.

This brief is the result of the work of a committee which includes representatives of Réseau as well as the Association des juristes d'expression française du Manitoba [Manitoba Association of French-speaking lawyers] and Pluri-elles.

It is with great satisfaction that the committee learned of the government's intention to make the bill respecting child maintenance one of its priorities. We see this as a sign of the government's commitment, and it gives us great hope.

We have, in fact, supported Mrs. Vodrey's requests to obtain the federal government's assistance in accessing the information contained in its files. We recognize that the current government is making efforts to improve the situation of thousands of children in Manitoba. It is therefore in a spirit of co-operation that we submit the following recommendations. Before moving on to the recommendations, however, we felt it appropriate to propose three major objectives for all legislation respecting child maintenance.

Firstly, to ensure the well-being of children by providing for the enforcement of orders that require regular and adequate maintenance payments to meet the real needs of children.

Secondly, to guarantee that the full amount of maintenance payments for children is collected.

Thirdly, to simplify and accelerate the legal proceedings involved in obtaining and varying maintenance orders.

I will now go on to the recommendations. With respect to the retroactivity of orders, we propose that Manitoba follow Ontario's example and make maintenance orders retroactive to the date on which the application was made.

With respect to indexation, maintenance orders should all contain a clause that automatically indexes them to the cost of living, in order to avoid long and costly proceedings. The onus would thus be on payers to apply to have that clause of the order varied if need be.

In order to ensure that maintenance payments are adequate and meet the real needs of children, we recommend the establishment of a schedule that sets the minimum amount necessary. This schedule would serve as a guide for lawyers, payees and judges. The Manitoba Department of Agriculture already publishes such a schedule, by the way. It is important, however, to ensure that the amounts set by this schedule are not lower than the current amounts that are already insufficient.

In order to ensure adequate maintenance payments, lawyers should be responsible for informing payees of the tax implications of child maintenance payments. I should add that this is all the more important given that the Supreme Court has upheld the taxation of child

maintenance. The fact that payees have been informed, could be attested by means of a certificate signed by lawyers once their clients have been informed.

With respect to payers who receive social assistance, when noncustodial parents receive social assistance, a portion of their benefits, even if only a small portion thereof, should be deducted and paid directly to custodial parents. This would, in our opinion, provide an incentive to find employment more quickly, but it would above all represent a recognition of the moral and legal obligation of noncustodial parents toward their children.

The gathering of statistics by the Maintenance Enforcement Program should be improved in order to assess its effectiveness and the services it offers. The form used should include a question on the language spoken at home, in order to more easily determine the ethnic group in question, which would help determine certain characteristics and trends.

To facilitate the enforcement work of the program, we support the requests of the Department of Justice for easier access to the information kept by the federal government, in order to track down payers in default and to determine what their assets truly are.

When a designated officer requests information regarding noncustodial parents from a third party, the latter should be required to provide such information in writing. Currently, payers must provide information in writing and this should, in our opinion, therefore apply to third parties as well.

Fines should be imposed on those individuals who refuse to provide the information in question. The bill does not currently provide for sanctions in the event of noncompliance. A mechanism should also be established for the registration of maintenance orders with the Personal Property Registry, in order to create a security interest in the personal property of payers who are in default. This measure has already been implemented with respect to the Land Titles Office and should be broadened. I will now call on Denyse Côté, Chairperson of the Maintenance Committee, to address this legislative committee. Thank you.

Ms. Denyse Côté (Réseau): Monsieur le président, moi je vais adresser la section sur les arrièris et le droit d'appel. Nous nous interrogeons sur la nécessité d'enlever aux bénéficiaires le droit d'en appeler d'une décision sur l'établissement du paiement de l'arrièri.

Sur le non-paiement délibéré la définition de non-paiement délibéré devrait préciser ce qui constitue une preuve suffisante pour attester le bien fondé de l'incapacité par exemple, lettre de médecin, d'employeur, de compagnie d'assurance, effort régulier pour prouver de l'emploi par le payeur. Cette dernière exigence existe déjà pour le régime d'assurance-chômage.

Effacement de la dette alimentaire: les arrièris au titre d'une ordonnance alimentaire devraient être effacés seulement lorsque tous les actifs du payeur ont été entièrement liquidés. Ces actifs devraient comprendre les crédits de pension, les RÉÉRs et cetera. Dans le cas de liquidation d'un RÉÉR pour rembourser les arrièries de pensions alimentaires pour enfants il faudrait retirer le montant maximal admissible sans impôt afin de réduire les effets fiscaux pour les deux parties et de faire ainsi profiter les enfants de l'argent qui leur est dû.

Intérêt sur les arrièris: le projet de loi devrait prévoir le paiement d'intérêt autour des emprunts bancaires sur tous les montants arrièris de pensions alimentaires pour enfants. Ainsi les payeurs seraient incités à payer plus rapidement. De plus il n'est pas juste que les bénéficiaires sans dette paient de l'intérêt souvent pendants des années pour ne recevoir ensuite que le montant des arrièris. En agissant ainsi le gouvernement accorde sans le vouloir un prêt sans intérêt aux payeurs en défaut. De plus l'endettement des bénéficiaires qui n'est pas compensé par des intérêts en conséquence a des répercussions directes sur la qualité de vie des enfants.

Paiement d'amende: lorsque des amendes sont imposées aux parents non-gardiens elles devraient être versées par la suite aux parents gardiens afin de profiter aux enfants. Une autre solution pourrait être de s'assurer au moins que les fonds provenant des amendes soient ajoutés au budget du programme d'exécution des ordonnances alimentaires.

Aide juridique: pour éviter le recours abusif à l'aide juridique par les payeurs qui cherchent à faire modifier à la baisse d'ordonnance des ordonnances alimentaires l'aide juridique devrait être tenue d'adopter une politique obligeant les avocats à justifier les requêtes à répétition.

Si nous reconnaissons le droit absolu des payeurs à l'aide juridique pour présenter leur cas nous tenons néanmoins à souligner le tort immense fait aux enfants. Lorsqu'il y a un usage abusif de cet organisme public il n'est pas normal que les fonds publics servent à contester de façon répétée et injustifiée l'ordonnance d'un tribunal qui lui aussi est financé par des fonds publics.

Si ce n'est pas déjà le cas les montants dûs pour les pensions alimentaires ne devraient pas êtres inclus dans le calcul du revenu des bénéficiaires afin de déterminer leur admissibilité à l'aide juridique.

Code de la route: lorsque les dispositions du code de la route sont invoquées au tribunal des ordonnances alimentaires le conseiller-maître devrait exiger la remise immédiate des plaques et du permis de conduire. Lorsque les payeurs se servent de leur véhicule pour gagner leur vie il faudrait toutefois prévoir un méchanisme pour qu'ils puissent continuer à l'utiliser mais à cette fin seulement.

Réexamen de la loi et du programme: étant donné l'impact des mesures proposées sur les enfants et toute la société le gouvernement devrait former un comité consultatif pour étudier les statistiques accumulées et les décisions judiciaires rendues afin d'évaluer l'impact et l'efficacité des modifications apportées à la loi et au programme d'exécution des ordonnances alimentaires.

Information du public: pour favoriser une meilleure connaissance et compréhension de toutes les dispositions relatives aux pensions alimentaires pour enfants le gouvernement devrait verser des fonds afin d'informer le public en général et les femmes en particulier. Les organismes communautaires seraient d'excellents moyens de faire circuler cette information sans trop de frais. De plus ils sont plus près de la population donc plus aptes à communiquer avec elle.

Afin de permettre des changements à long terme dans les attitudes nous recommandons gouvernement d'envisager d'intégrer au programme scolaire les informations sur les droits et devoirs moraux et légaux des parents envers leurs enfants. Il va sans dire que les informations et les services offerts par le gouvernement et les autres organismes devraient être aussi disponibles en français. Nous nous interrogeons sur la possibilité de présenter des recommandations additionnelles par écrit suite à cette auditience publique. Merci, monsieur le président.

* (1950)

[Translation]

Ms. Denyse Côté (Réseau): Mr. Chairperson, I will be dealing with arrears and the right to appeal. We question the need to deny payees the right to appeal decisions concerning the determination of arrear payments.

With regard to deliberate nonpayment, the definition of deliberate nonpayment should specify what constitutes adequate proof of a payer's inability to pay, for example letters from a doctor, employer, insurance company, regular efforts to find employment. This last requirement already exists for the unemployment insurance system.

Arrears under a maintenance order should be cancelled only when all of the payer's assets have been liquidated (these assets should include pension credits, R.R.S.P.'s, et cetera).

In the case of the liquidation of an R.R.S.P. to pay child maintenance arrears, the maximum amount allowable should be cashed-in free of taxes, in order to minimize the tax consequences for both parties, and ensure that the money that is due to the children goes to them.

The bill should provide for the payment of interest at the rate of bank loans on all child maintenance arrears. This would motivate payers to pay more quickly. In addition, it is not fair that payees become indebted and pay interest often for years, only to receive the amount in arrears. By acting in this manner, the government

unintentionally grants an interest-free loan to payers. Moreover, the indebtness of the payees, which is not compensated by interest, has direct repercussions on the quality of life of the children.

When fines are imposed on non-custodial parents, they should be paid to the custodial parents for the benefit of the children. Another solution would be to ensure at least that the funds collected are added to the budget of the Maintenance Enforcement Program.

In order to avoid the excessive use of Legal Aid by payers seeking to have their maintenance payments lowered, Legal Aid should adopt a policy requiring lawyers to justify repeated applications.

Although we recognize the absolute right of payers to legal aid in order to present their case, we do however wish to emphasize the injustice done to children as a result of the excessive use of this public agency. It is unacceptable that public funds be used to repeatedly and without justification challenge the order of a court which itself is funded with public monies.

If this is not already the case, the amount owing for maintenance should not be included in the calculation of the income of payees when determining their eligibility for Legal Aid.

When the provisions of the Highway Traffic Act are invoked in court with respect to a maintenance order, the master of the Court should require the immediate surrender of license plates and driver's licence. When payers use their vehicle to earn their living, there should however be a provision that allows them to continue to use their vehicle, but only for this purpose.

Given the impact of the proposed measures on children and society as a whole, the government should establish an advisory committee to study the statistics gathered and the court decisions that are rendered, in order to assess the impact and effectiveness of the amendments made to the Act and the changes to the Maintenance Enforcement Program.

In order to foster a better knowledge and understanding of all the provisions respecting child maintenance, the government should earmark funds to provide information to the public in general and women in particular. Community organizations would provide an excellent means of distributing this information at a reasonable cost. Moreover, they have closer links with the general public and are therefore in a better position to communicate effectively with the public.

In order to allow for long-term changes in attitude, we recommend that the government consider integrating into school curricula information concerning both the moral and legal rights and obligations of parents toward their children. It goes without saying that the information and services provided by the government and other organizations should also be available in French. We are also wondering if it would be possible to submit additional recommendations in writing following the public hearing. Thank you, Mr. Chairperson.

Mr. Chairperson: Les meilleurs mercis, Denise Veuilleux et Denyse Côté, pour votre présentation et nous avoir adressé la parole.

[Translation]

Mr. Chairperson: Thank you very much, Denise Veilleux and Denyse Côté, for your presentation.

Do any committee members have any questions for the presenters?

Mr. Gord Mackintosh (St. Johns): I had a question on the proposal to change the PPSA system. I wonder if you could just outline that again. I missed it in my notetaking.

Ms. Côté: I do not think we addressed that issue. The Personal Property Security Act?

Mr. Mackintosh: Yes, I believe in the earlier submission there was a suggested change to the PPSA to give maintenance orders some security or some priority.

Ms. Côté: Alors quelle est votre question exactement par rapport à ça?

[Translation]

Ms. Côté: What is your question exactly in this regard?

Mr. Mackintosh: Could you just repeat what the recommendation was regarding the Personal Property Security Act.

Ms. Côté: Il faudrait prévoir un méchanisme qui permettrait d'enregistrer les ordonnances alimentaires auprès du bureau des sûretés mobiliaires afin de pouvoir grever les biens meubles des payeurs en défaut. Cette mesure est déjà possible pour le bureau des titres fonciers. On a donc accès aux biens fonciers des payeurs en défaut à l'heure actuelle mais on voudrait pouvoir avoir aussi accès aux biens meubles, c'est-à-dire, par exemple, des voitures, des choses comme ça. Et d'après nous c'est possible puisqu'il y a déjà un exemple avec le bureau des titres fonciers . Ça va?

[Translation]

Ms. Côté: A system for the registration of maintenance orders with the Personal Property Registry should be established in order to create a security interest in the personal property of payers who are in default. This is already possible with the Land Titles Office. It is currently possible to access the real property of payers who are in default, but we would also like to be able to access personal property, such as, for example, cars and things like that. In our opinion, this should be possible since there is already a precedent with the Land Titles Office. Does that answer your question?

Hon. Rosemary Vodrey (Minister of Justice and Attorney General): I would just like to take a moment to thank the presenters from Réseau. You have brought a number of issues for consideration, and many of them will involve long-term consideration, I will be honest with you. It is a great deal of information for us to integrate at this point, but you have brought important information which I will promise to you that we will have a look at over the next while.

I also want to thank you for your support in dealing with the federal government and some of the changes which will be required from the federal side and also for raising the issue of what is produced by Agriculture interms of what a family might live on or what support might be. Yes, I am aware of that. We have had a look at it, and I appreciate your comments in relation to it. Thank you very much for your presentation.

Ms. Marianne Cerilli (Radission): I also want to thank you for that excellent presentation. There is a number of very good recommendations, and I want to ask you a question about the recommendation to have deductions on non-custodial parents if they are collecting social allowance benefits. Am I correct in understanding that currently there are deductions made from custodial parents on social allowance who are to receive maintenance?

Ms. Veilleux: I would not know for sure, but just in case they were not [interjection] -- so there are already some deductions. Are they sufficient to be an incentive and to recognize? -- because our point was also to recognize the obligation, so some of the other presenters, I think, will have more on that topic.

Ms. Cerilli: So I am just flagging that, then. It is a bit of a double standard if there is deductions from those custodial parents on social allowance who lose money from social allowance if they get their benefits and when they get the benefits, but there is no deduction from social allowance benefits for non-custodial parents. Thank you.

Ms. Veilleux: Thank you.

Mr. Chairperson: Are there any more questions for the presenter? Hearing none, j'aimerais remercier Denise Veilleux, Denyse Côté pour nous avoir adressé la parole. Bonne soirée. Merci.

[Translation]

Mr. Chairperson: Are there any more questions for the presenter? Hearing none, I would like to thank Denise Veilleux and Denyse Côté for their presentation. Good night. Thank you.

Ms. Côté: À la fin de ma présentation j'ai demandé si on pouvait faire d'autres recommandations additionnelles par écrit. Vous n'avez pas répondu à ma question.

[Translation]

Ms. Côté: At the end of the presentation, I asked whether it would be possible for us to submit additional recommendations in writing. You haven't answered my question.

Mr. Chairperson: J'excuse.

[Translation]

Mr. Chairperson: I'm sorry.

Ms. Côté: Est-ce que c'est possible après cette audition publique?

[Translation]

Ms. Côté: Will it be possible following this public hearing?

Mrs. Vodrey: By all means, we would be very pleased to look at additional recommendations, but I will be honest with you, as I said in my opening comments. We really do not want to hold up the bill for longer study and continuing inclusion. We believe that it is really important to make sure that at least some steps are taken with this bill. However, it does not mean that this is the final and forever form of the bill.

We will be more than happy to look at additional recommendations that you would like us to see and happy to talk about them with you also.

Mr. Mackintosh: Can I just add, I want to thank you for the submission. It was very well researched, well presented, and I think you do particularly the women and children in Manitoba and everyone in Manitoba proud with that presentation.

We have looked at many of the issues that you have raised and support them, and we will be seeking amendments to the bill to incorporate many of the changes that you proposed here tonight.

Mr. Chairperson: Is there anybody else in the audience that would need the services of the French translator, because I will be dismissing the translators right now? John and Don, I guess you are excused for the evening. I want to thank both you gentlemen very much for putting up with us in that little booth.

Now, I will move along to the persons registered to speak, starting with No. 1, Jules Gareau. Do you have written copies of your brief for distribution?

Mr. Jules Gareau (Private Citizen): Yes, I do. I am two copies short, though.

Mr. Chairperson: Okay, we will get them. Again, anybody else needing photocopies, please let Patricia here know.

Please proceed with your presentation, Mr. Gareau.

Mr. Gareau: Good evening, ladies and gentlemen. I am sorry that we are here on such a hot and humid night, but this is probably very symbolic of the anger I feel toward the justice system as it pertains to child maintenance, custody and visitation.

This speech was particularly written to address one person. That person is Rosemary Vodrey, whom I have been trying to get an audience with for the last two months, but, I guess, because it was a majority government, she is no longer interested in hearing my personal problems.

My beef is with not what the bill contains, it is with what is does not contain. I am all for deadbeat dads getting their just desserts. I am the father of a three-year-old child and currently going through a divorce. We are still into the court proceedings, and we do not have an official maintenance amount written in stone yet. I thought we had a verbal agreement of $400 a month. I guess the verbal agreement does not stand, or maybe she forgot exactly what the amount was, but now the amount is currently under review. That is why we are going to go to this paper that I just gave you. The facts and figures are numbers quoted from the cost of living that we were supposed to present when we went for the divorce.

* (2000)

If you look on the top left-hand side, you will notice the amounts. Forget about the Department of Agriculture. This is hard-core dollar amounts that we brought up, not statistical studies from Canada wide. This is one person in Manitoba speaking with an average, everyday, paying job. So when we look to the top left-hand side, these are figures that we took from her cost-of-living expense form, and they are exact dollar amounts. When you see the percentages, that means the amount that she claimed which is particular to my child. When you look over to the top right-hand side, that is the amount that I claimed and the amount that is particular to what I have to pay for when the child is in my custody.

Now when we look into the middle left-hand side, you notice that it shows exactly what she pays per month, the amount that she receives from me, and then we add on the taxes that she would be taxed on, because child maintenance of course is taxable. On the right-hand side, the same follows except with my facts and figures. Now when you look at it, the actual out-of-dollar expense paid is–

Mr. Chairperson: Excuse me, sir. Just one second. Mr. Gareau, would you clarify for the committee, did you indicate to us that this matter is presently before the courts?

Mr. Gareau: Yes, it is presently before the courts, but—

Mr. Chairperson: Mr. Gareau, just one moment, please. In that event, I will just give Madam Minister here just one brief opportunity just to make a statement to you, sir.

Mrs. Vodrey: Mr. Chair, I just would like to make it clear to the presenter that certainly for myself, as Minister of Justice and Attorney General, I am able to listen to your presentation this evening. I am not able to provide you with a response. It would really be inappropriate for me to do so with your case before the court.

Mr. Chairperson: Mr. Gareau, would you please carry on, sir, with that understanding in your presentation, sir?

Mr. Gareau: Oh, yes, I understand. Basically, I understood that this committee would have no effect on what might be enforced, but I had to get it off my chest. Sitting behind a judge and watching what they have said and knowing that what I say does not have any relevance to her decision, it was really perturbing to me, and I had to come to here and speak on my behalf. I have realized that it may fall upon deaf ears, but I must air my griefs here.

So when we get back to it, you will notice that her amount that she pays, out-of-pocket percent of the child's per-month expenses, is 32.6 percent, and mine is 68.4. Now when we correlate that to the monthly income, you notice that the figures almost match. Now that is not even considering that this is a gross amount on the monthly income, and because my income is so much higher that this does not represent the true amount, the true percentages of the take-home pay.

Now, when I went to court just last week, it was kind of upsetting to hear the judge order–not order, but kind of steer my ex-wife's complaints to $600 a month. Now that would change the percentages drastically into her favour. All I am here for is I do not mind paying child support; I feel it is an obligation of every father to pay child support. But I want to pay an equitable amount, a percentage of what it costs to raise that child as proportional as it is to my wage earnings. I would like the child maintenance branch just to come up with a guideline, a system similar to the criminal system, where they tell you how much time an offence is punishable by. At least it is my hope, my prayings, my wishes that the child maintenance branch finally comes up with a guideline such as that, which looks at your wage and looks back toward her wages and comes up with an equitable amount. That is all I have to say.

Mr. Chairperson: Thank you very much, Mr. Gareau. Are there any questions at all for the presenter? No.

Mr. Gareau, a remark that you made, not to say that it falls on deaf ears, each one of these committee members, sir, takes the time this evening to listen to all the presentations that are being presented. Okay. So, you know, we welcome you. You should be thankful for the opportunity that you have, sir, to come forward and make a presentation. The members will consider the arguments that you have made. As you indicated, you wanted to get it off your chest, and I hope you have been able to do that.

Mr. Gareau: Well, it is just, you know, the facts and figures from the Department of Agriculture are nowhere even close to the figures that come from a person, just an ordinary citizen. I think the facts and figures were quoted as $7,200 a year. I could be wrong on that statement, but, if you look at the amount for a child, it is nowhere near that.

Mr. Chairperson: I would like to thank you very much, Monsieur Gareau, for appearing before the committee.

I would now like to call on Don Lee. Don Lee, would you please come forward, sir. Do you have written copies of your brief, sir, for distribution to the committee members? You do. The Page will get them. Please proceed with your presentation, sir.

Mr. Don Lee (Private Citizen): Good evening, Mrs. Vodrey and other honourable committee members. I believe the provisions of this bill will do nothing to decrease child poverty in Manitoba. I also believe there are a number of things the government could do to address the problem. I am a noncustodial father who has made maintenance payments since December 31, 1991. Since August of 1992, I have virtually not seen my children or had a hope that I will ever see them again, despite nurturing my children for 14 years. My daughters are now both over 18 and say they do not want to see me.

Since September of 1992, their mother has been very vindictive because I could not gain full-time employment as a teacher and could not pay the high maintenance payments she wanted. For years, she has traumatized my children into thinking I do not love them and I am not a worthy father for them because I cannot afford to give her more money. Meanwhile, I have tried to gain full-time employment near my children for the last four years by substituting for Winnipeg School Division No. 1.

I teach in some of the roughest inner city schools, schools where about 70 percent of the children do not have a positive male role model in their home, never mind a father. My hopes of becoming employed full time with the division have been low since January 1993 when the division passed an employment equity policy. This policy promotes the preferential hiring of women when over 80 percent of the division's elementary school teachers are women.

Meanwhile, I try to gain employment here and elsewhere and cannot get a full-time position, even though I am 40, have eight years teaching experience and have a wealth of experience from helping First Nation communities gain control over their local education services. I have taken additional training as a teacher, and it has not made a difference. My most promising hope is to be retrained and become a welder. As it is, I am having great difficulty surviving myself, never mind paying maintenance payments. I have little to confiscate; I am broke.

Both my children and myself have suffered from our separation. No doubt they, like myself, have had to cope with a loss of appetite, inability to sleep, inability to concentrate, a deep sense of loss, loneliness, sadness and anger at various times. I miss them terribly and resent that they have been allowed to have been turned against me so horribly in my absence. It is possible that nothing can repair the damage. My ex-spouse has even had the nerve to write "deadbeat dad" on the back of my maintenance cheques. She has used my inability to pay much maintenance as a tool to destroy the bond between my children and myself.

I would like to now review how I attempted to deal with this situation in the best interest of my children. In late August 1992 my children and I visited my parents for their anniversary. My mother was fighting a losing battle with cancer. After this weekend, she would only see my children once before she died a year and a half later. I was with my children for three days.

This is the most I saw of them since May 1992. When I asked them if they would like to live with me for half the time in a month if I secured a home close to their school, they said they would enjoy that.

* (2010)

In September of 1992, I informed my lawyer that I had been unable to secure full-time employment and would be unable to make the maintenance payments I had agreed to. He did not advise me to seek a variation order as he should have. When I informed my ex-spouse that I would not be able to pay the full amount I had agreed to, she stated that I would not see my children again until she received $800 a month. When I expressed my desire for both of us to raise our children through a joint custody agreement, she refused to consider it. My lawyer stated that it would be impossible for me to gain joint custody with a hostile spouse, despite my children's wishes. It is interesting to note here that my lawyer's actions on my behalf only increased my ex-spouse's hostility towards me.

Nonetheless, I secured a two-bedroom apartment near their school and furnished it so my children could live with me. Later in September 1992 my lawyer sent my petition for divorce to my ex-spouse. Meanwhile, my ex-spouse denied me access to my children, an action she has continued to the present day. When I phoned, she interrupted my conversation with my children with put-downs, obscenities and death threats. I stopped phoning my children and began communicating with my children solely through letters to prevent my ex-spouse from turning any contact I had with them into negative experiences.

In the winter and spring of 1993, I tried to negotiate access to my children with my ex-spouse through provincial family mediation services. This got nowhere when my ex-spouse refused to attend mediation sessions. In February of 1993, my ex-spouse filed a statement of claim based on my inability to have been able to pay $800 a month maintenance from September 1992 to February 1993 amounting to $5,000. My lawyer was not able to suggest a defence against this, other than by filing a long affidavit in response. I dropped his counsel in disgust and was able to secure Legal Aid counsel. My first lawyer would then bill me for services I had already paid for. This was the start of my legal battle with him that was not settled until after the divorce was granted. Since January of 1992–or December 31, 1991–I have continued to regularly pay maintenance based on what I could afford up to the present day.

In the spring of 1993, my ex-spouse sought a restraining order to prevent me from attending my daughter's Grade 9 graduation ceremony and to restrain me from having any future contact with the teachers who would later teach them. After talking with my children, I agreed that I would not attend their graduation ceremony to ensure their day would go as they had planned, even though I was not pleased with that arrangement. When the judge heard the motion for a restraining order, she was informed that I had agreed with my children to not attend the grad.

The judge turned down the motion for the restraining order. The judge then stated that the main problem, as she saw it, was my lack of access to my children. She suggested that my ex-spouse, children and myself be referred to the Access Assistance Program. I accepted, my wife's lawyer accepted and the judge made the appropriate order. While I regularly attended the Access Program every two weeks for months, my wife attended a couple of times and eventually stopped attending. My children would attend only once or twice.

Eventually the provincial government withdrew funding from the program, and the program, along with my hopes for legally gaining access to my children, was terminated. While we were involved with the Access Assistance Program my mother died after a battle with cancer. She saw them only once since September of 1992. When my children attended the funeral, they did not talk to me or acknowledge me in any way. They hugged my father and brother and sisters as they left, and they passed by me like I was thin air.

The divorce went through in March of 1994. I had to pay $2,500 to settle the statement of claim before the divorce settlement was reached, an amount of money that I did not even have or had not made at all at that

time. I have been emotionally and financially and mentally drained from this ordeal that has no end. I have had to stand aside and see my ex-spouse emotionally abuse me in the hearing of my children. I have seen my children turn from happy children who did well in school into bitter, angry, depressed young ladies who are failing all their courses in their Grade 12 year. My youngest daughter, who once dreamed of going to university and becoming a lawyer, engineer or scientist when I was involved in her life, now does not plan to go to university.

They have suffered for years of hearing me called a loser and someone who does not love them because I no longer have the income I once did. My ex-spouse has brainwashed my children, turned them against me, deprived them of my love and care, and by withholding them from me, has used them to emotionally cripple me.

I have gone for counselling for years to try and reconcile with my daughters. I was advised to quit trying to see them and let them come to me. I did so, and when they did contact me, my ex-wife again interfered in the conversations and made it impossible for me to communicate comfortably with them. I have received little information about my children over the years with the exception of their school grades. I have heard that they have been involved in counselling, but I have not heard why they have failed so miserably in their school work this year.

I feel a great deal of sadness for them, because they have had the support of one-half of their extended family shattered and have been taught to despise their father. They are about to enter their adult lives as emotional cripples. I have been legally unable to prevent the emotional abuse they have suffered and will have to live with the rest of their lives.

It is apparent to me that countless other families will suffer the same fate that myself and my children have gone through. At present there seems to be no awareness by judges or the legal system that children need to have the rights to see both their parents after a separation protected by law, or for noncustodial parents to have their rights to see their children protected by law. As our system works now a custodial parent can do whatever they please and know that they can get away with it. After a divorce the noncustodial parent is usually too financially saddled to be able to afford a legal battle over access and too emotionally and physically exhausted to stand up for their rights and the rights of their children.

Some provinces have friendly parent legislation. Under this legislation, custody is awarded to the parent who will provide the most access to the other parent. A parent who denies access to the other parent can have their custody awarded to the other parent. That is truly legislation that works to the benefit of the best interests of the children.

As it is now, there are a majority of divorce cases that are settled amicably by both parents or partners. Fair settlements are reached and fair access provisions are made. The problem divorces are those where the divorce is contested. Both parents end up getting lawyers to fight legally for their respective rights. Money that should be going to support the children ends up in a lawyer's pocket. To make matters worse, many divorce lawyers only aggravate the situation and prolong the agony of the divorce proceedings. The more incompetent they are, ironically, the more money they make.

There is also the ethical dilemma of turning the lives of a family over to two lawyers to haggle over. The lawyer's bottom line is to make as much money as possible for themselves. They are not concerned for the lives of the people they are acting for, nor are they much concerned when justice is not done. They can walk away at the end of a divorce. Those caught in a messy divorce remain stuck in the situation. There are probably some divorce lawyers, too, who collude with the opposing lawyers to prolong and aggravate divorce proceedings solely to increase their own fees. In short, our divorce act was written by lawyers for lawyers.

In the event of contested divorces, a far better solution would be eliminate divorce lawyers working in an adversarial fashion and replace them with one male and one female mediator working as a team with each couple. The mediation team would help each parent come to an agreement that both would support and that would be in the best interests of their children.

After the agreement is reached, one lawyer would draft and file the agreement with the court. After the divorce was granted, each parent would still have recourse to vary the agreement in case their circumstances change but would first have to take their proposals to the mediation team. Such an arrangement would go a long way towards helping separating couples get over their angry feelings and work together for what is best for their children.

I believe that the provisions of Bill 3 will not work for the betterment of the couples and children it is designed to assist. First, it takes as its premise the idea that having one custodial parent and one noncustodial parent is in the best interests of the children. Such a situation is not in the best interests of the children, because children need the nurturing, caring and love of both parents on an equal basis as well as equal financial support. Joint custody should be regarded as the arrangement that is in the best interests of the children and of both parents. In such an arrangement, both parents have time to care for their children and time to build a new life for themselves. Both parents are responsible for financially providing for their children, and both parents have the incentive of developing their careers.

* (2020)

As it is now, there is a tendency for women with custody to treat their children as an easy meal ticket. There is no incentive for them to be employed or develop a career, because a great part of their income could be derived from their partner. With the employment equity policies now in place, women have even greater opportunities than men for getting a job and being financially independent.

I believe that the provisions of Bill 3, The Maintenance Enforcement bill, reflect the lack of research and understanding that has gone into the bill. Indeed, the bill is simply a rubber stamp with the suggestions proposed by the Coalition of Custodial Parents, a group organized by the defeated incumbent for Osborne, Norma McCormick. Her actions placed her in a conflict-of-interest position. Together the proposals are draconian, invasive, unprecedented and self-defeating, and are more informed by maliciousness than by reason and research.

Gordon Sinclair Jr. writes on May 7, 1994, of his interview with Irene Young of the province's Maintenance Enforcement branch. Miss Young stated that 58 percent of the cases it handled were in arrears, but that is not a truly representative statistic, because that includes people who are even one day late on a payment and others who lose their jobs and simply cannot pay, and that she has seen relatively few deadbeat dads in Manitoba, and that furthermore, when I look into the files, 90 percent of the time there is a good reason why that person did not pay.

Any attempts to improve maintenance enforcement should be based on finding solutions to the good reasons that people cannot make their support payments. Taking away a person's vehicle will not make it easier for them to make their child support payments. It is more likely to cause a person to lose their employment or limit their employment opportunities. Taken as a package, if a person is not in a position of being able to make child support payments, they are more likely to liquidate their assets and move away or kill themselves rather than be humiliated by impossible demands on them. In short, the legislation will lead to greater nonpayment of maintenance, higher child poverty and greater animosity between couples.

If the government is serious about decreasing child poverty with this legislation, it should be broadening its idea of a child's needs to be emotional, intellectual and spiritual as well as financial. Children suffer from the absence of their father as well as from a lack of monetary support. If the government is truly serious, it would be looking at other jurisdictions where they have superior lower rates of the nonmade payments of child support payments. The state of Michigan has the lowest rate of delinquent child support payments. This is attributed to the state's access enforcement legislation. The legislation prevents a vindictive custodial spouse from denying their partners access to their children. It appears that the more contact a person has with their children, the more they are able to financially support their children.

Another aspect of Bill 3 that will be harmful to Manitobans is the higher social costs that will be necessary to implement and maintain the provisions. More staff will have to be hired to determine whether a person's vehicle, et cetera, will be taken from them. More staff will be necessary to fully implement the confiscation of people's assets. The fascist overtones to such occurrences should be enough to disgust anyone who believes in common decency, freedom, democracy and justice, much less the people who have to administer such actions.

Many of these actions may be contested in the courts, further clogging the overburdened situation the Family Court is presently experiencing. Such legal actions would further drain money away from child support payments and to lawyers' fees. Surely, the extra financial costs of the administration plus Legal Aid costs plus the costs of the social repercussions of this legislation far outweigh the dubious benefits of the process. Considering the past and present economic conditions, there simply is not much money out there to confiscate. Ideally, the Maintenance Enforcement branch should be looking at helping couples come to workable solutions between themselves, so that recourse to maintenance enforcement is not necessary and the costs to the taxpayer are decreased.

Another aspect of the problems separating couples experience that this bill does not address is the root cause of the problem, an alarmingly high divorce rate. It seems our institutions have failed to provide young people with the tools to create loving, permanent relationships with their partner or to provide the skills to choose who that partner will be. Clearly, courses focusing on relationships and how to make them work should be developed and implemented as a mandatory course for all Manitoban high school students. Some engaged couples have found it helpful to take marriage courses together before getting married. These courses are offered by some churches. The province should at least be examining and adapting these for the general public either as a service or as a mandatory requirement before couples can get married. These two measures focusing on education would go a long way towards lowering our future divorce rates and the enormous social costs associated with them.

The government should also acknowledge that the high child poverty rate in Manitoba is related to the shortage of meaningful employment that provides people the wages to provide the essentials to their children. As it is now, men and women are fighting for jobs that do not adequately remunerate people to raise children. Raising the minimum wage higher is one thing the government could undertake immediately. Making daycare free to those who cannot afford it is another step the government could undertake to alleviate the child poverty problem in Manitoba.

Lastly, the government needs to work out a long-term strategy for creating employment that will provide more Manitobans with sustainable, meaningful and well-paying jobs. People are starving in one of the most resource-rich areas of the world. We should be looking at creating processing plants to process more of our crops into foodstuffs and developing an inland fishery to offset the decline of the Atlantic and Pacific fisheries. Surely some of the lottery money that is being raised, that has an adverse affect on the family, could be used to implement measures to help our families. As it stands, Bill 3 seems to blame poor underemployed men for the high child poverty rate rather than considering the failure of private business leadership and government leadership in creating adequate jobs for Manitobans.

In summary, I believe the government should drop its plans to pass Bill 3 and should work to pass legislation that will:

1) define joint custody in family law as the situation that is in the best interests of the children as a guide for judges hearing divorce/separation hearings,

2) pass "friendly parent" legislation in Manitoba to guide judges who must award sole custody to one of the parents,

3) amend the divorce act so that mediation for embattled parents is set up instead of having traumatized couples drain their resources fighting each other with lawyers,

4) pass access enforcement legislation for noncustodial parents who presently do not have access to their children,

5) develop mandatory courses on relationships for high school students,

6) develop mandatory marriage courses for engaged couples,

7) raise the minimum wage so poor men and women are able to raise their children with some measure of human dignity,

8) increase the daycare subsidy for parents who cannot afford daycare, and

9) create more resource-based, sustainable, well-paying jobs for Manitobans.

In closing, I would like to remind you that I am only one of many men who have had their lives ruined by the family law provisions that affect the breakup of families in Manitoba. Other men have had their ex-spouses abuse the law to get sole custody of their children through unnecessary restraining orders, false domestic abuse accusations made under the zero-tolerance policy and false sexual abuse allegations. These women go unrecognized and unpunished when their accusations are proved to be false. Such a situation constitutes the state-sanctioned kidnapping of children by women who have shown themselves to be morally reprehensible.

Bill 3 is only more of the same injustice and doubtlessly will be abused by people who think they are helping children. How many people here could accept getting thrown out of the lives of their children? How many here could put up with the injustices this system perpetuates? How many here could call this a just and honourable society? How many here would survive the pain of these injustices? I know some who did not. They are called dead deadbeat dads. Some men are so traumatized by the loss of their children and the impossibility of seeing them again that they kill themselves to escape the daily pain they experience. This situation may be part of the reason that men commit suicide eight times as frequently as women do.

This bill must be stopped, because it continues to deny the basic fact that vindictive mothers are part of the problem of delinquent child support payments and must be part of the solution. On January 22, 1995, Pat Doyle quotes Armin A. Brott, author of the book, The Expectant Father, who points out that for the most part divorced dads who become deadbeats do so because of custodial laws and that the correlation between child support payment and visitation is clear and inescapable. Mr. Brott points to research that found that only 1.9 percent of noncustodial parents with access to their children did not make their support payments. When access is denied, however, the nonpayment percentage is over 60 percent.

* (2030)

He also states that often it is the mother who creates the problem of refusing their ex-spouse court-ordered visits with their children. He points to research that found as many as 50 percent of custodial mothers routinely and actively tried to sabotage father-child meetings.

I would like to know whether the government is going to pass bills whose provisions are based on the study of our best research studies and the successful legislation of other jurisdictions. Also, when will this government pass bills to protect the equal rights of fathers to equally share in the nurturing and care of their children? Thank you, committee members.

Mr. Chairperson: I would like to thank you, Mr. Lee, for your presentation. Do members of the committee have questions they wish to address to the presenter? None?

Mr. Lee: [inaudible] two of the articles that I mentioned and one other page that I mentioned.

Mr. Chairperson: Yes, we saw them attached. I want to thank you very much. Seeing no questions, being none, we would like to thank you for appearing before this committee, sir. Thank you very much, Mr. Lee.

I would like to now call on Rosella Dyck. Rosella, would you please come forward. Do you have written copies of your brief for distribution to the committee members?

Ms. Rosella Dyck (Private Citizen): Yes, I do.

Mr. Chairperson: Okay, the Page will pick them up.

Ms. Dyck: I have to apologize for the quality of the copies. I am not much of a typist. It took me eight hours to type this up, and then I tried to print it off, and I had hours of trouble with the printer because I do not know how to use it, and then I tried to photocopy it, and the photocopies did not come out very well. So I hope that you are able to read it.

At any rate, I would like to say, first of all, that I think basically Bill 3 is a good idea, and I want to congratulate the government with coming up with it. We need all the help we can get to provide for our children.

I would just like to make a bit of a comment on the previous presentation. I do realize that Irene Young was quoted as stating that 90 percent of defaulters have a good excuse for defaulting. I have this one question to ask: What is a good excuse to not feed your children?

I think it is very important for us to really realize that at the heart of this difficulty with collecting maintenance, we must be concerned with the children, because the children are the ones who are suffering the most. Over and over, custodial parents do give up all kinds of things for their children, and they sacrifice all kinds of things for their children to provide for their children, but there comes a time, of course, when that sacrifice is simply not enough to get what the children need. At that point, it is the children that suffer the most because, as custodial parents, we are used to sacrificing things, and we do it over and over. We are good at it, and so it does not bother us as much, but the children are not used to it.

(Mr. Vice-Chairperson in the Chair)

I would just like to start with a comment also about the bill itself. I am here as a personal citizen, and so I will be speaking mostly to my own situation. However, in the bill, I have noted that there is a difficulty. To me, at least, it seems like quite a difficulty. It appears that the rights of the payee, what little rights I as a payee have, at present, in the system, are being taken away. For some reason, under the new bill, there will no longer be any possibility that I can appeal a decision. Now, this is interesting because, last September, I had a difficulty with a decision a master made in Maintenance Court, and I did write to Chief Justice Hewak. He sent a reply stating that I could make an appeal. Now, unfortunately, by the time I got that response and realized I could appeal it, the 30-day limit was over.

Collection of child support has to be considered a major social policy issue because, what is happening here in Manitoba, my understanding is, there are 25 percent of our children living in poverty and 62 percent of single-parent families in Manitoba live in poverty. That is an awful lot of people, and I suspect that the number of noncustodial parents living in poverty is much, much lower. I understand it to be something like 10 percent.

At present, there is an awful lot of money owing to the children in Manitoba. By the way, speaking of the Jets, you know, the recent thing to do with the Jets, it occurs to me that I would like to see $37 million donated to children in Manitoba in a similar fashion. Our children are very much deserving of it. By the way, they do not make any money of their own, and they do need support.

In 82 percent of cases, 92 percent for children below the age of 13, according to Stats Canada, the custodial parent is female. There is a gender-based issue here because of this, and women's wages are generally only 66 percent of men's wages. A recent court-based study done by the Manitoba Association of Women and the Law found that the wage gap was much greater for women who had child care responsibilities, and I quote from their publication, Fairness in Family Law. It states: The women's average gross income, including

child support, was $15,104, median of $12,000; whereas the men's average income was $45,457, median of $42,000.

There is a very large issue here in how are these women who make so much less money going to provide for their children if they do not get adequate and regular child support payments? Repeatedly, large numbers of noncustodial parents are allowed by our justice system to choose not to support their children. Yet 100 percent of custodial parents have no option but to support their children whether or not they receive support payments and no matter how low their incomes. Even those on welfare are expected to spend 37.5 percent or $3,530 on one child.

In 1992 the Manitoba welfare rate for a single employable person was $6,191. The rate for a single parent with one child was $9,721. This is, of course, far from adequate, but it occurs to me that if a single parent on welfare is expected to spend over $3,500 for one child, why is it that custodial parents who make often $30,000, $40,000 a year cannot afford to spend a couple of hundred dollars? Why are they excused for it?

Going back to Manitoba Agriculture's standards, which I guess some people do not agree with, they estimate that a five-year-old child costs $9,656 for basic essentials. Only that is the updated 1995 statistics. In my experience, that is far from adequate. That does not even cover my child's basic expenses.

The basic Manitoba foster care rate for '93-94 for a similar child was $6,956.90, not including work-related child care. In other words, there was no child care involved for work situations. Custodial parents are expected to go to work. They are not allowed to sit at home, generally speaking. If they do try that, it does not work for very long. Every foster parent can count on the support money arriving on time and in full, unlike the custodial parent.

About 65 percent of custodial parents do not even have a support order. Many do not seek orders or pursue payment because they fear retaliation from their ex-spouses, many of whom have been abusive. Under the present system, payers are continually allowed to further the abuse by withholding support and demanding unreasonable concessions. Some women make too much money to qualify for Legal Aid, but they cannot afford to seek a court order for their children. The costs are great, especially when the other parent repeatedly files for variations that lower the payments. This is a common situation, even though the average initial support payment in Manitoba is only $325 for the entire family.

* (2040)

You have to remember too, of that $325, the custodial parent will be lucky to see $175 after taxes. You know, how does that provide for the children? A huge amount of money is wasted by noncustodial parents on fighting child support orders, and the custodial parent is left to defend the child's interest alone with little or no funds. The child can only receive the amount of legal representation that the mother can afford to buy. Most women must choose between feeding their children with their own meagre funds or giving the food money to the lawyer to defend the child's right to maintenance, that, if ordered, will most likely be inadequate and not received anyway.

More than half of present maintenance payments are in arrears. Once an order is made, chances are that the noncustodial parent will renege on the payments repeatedly, then file court motions to delete the accumulated arrears and reduce the payments, preferably to zero. This again will cost much in legal fees to the custodial parent if the child's right to support is to be defended–more money for lawyers, poverty for children.

Every child has a right by law to be supported by both parents. Repeatedly, Legal Aid funds are used to defend defaulters. I see them all the time in maintenance court, and I have been there almost 20 times in the last three years. Generally speaking, the only people who have a lawyer to defend them there are people who qualify for Legal Aid, unless they are, of course, people who are quite wealthy.

As a result, children suffer great socioeconomic disadvantage. It seems to me that a publicly funded Legal Aid system should have some social conscience

and should not defend those who oppose their children's right to live a reasonable life. As far as I am concerned, every child should qualify for legal aid to ensure that this right is honoured. Children have no income of their own. They are not able to support themselves. Child support is for the child. What case could be of greater merit than the child's? If the payer is well-to-do, well, perhaps Legal Aid could try to recover their fees from the payer through the legal system. Perhaps they would have more luck with it than recipients do in the courts.

I really find it so amazing that the legal system seems to expect me, as a custodial parent, to spend thousands and thousands and thousands and many, many thousands of dollars to defend my child's right, our child's right, to support, and somehow they encourage and they support the children's father in directly opposing the rights of the child.

Repeatedly, courts ignore the child's very real needs in favour of the payer, who, after all, is an adult who should be able to look after himself and even to obtain extra jobs if necessary. Many custodial parents are forced to do that. Too many men voluntarily quit their jobs or reduce their incomes to avoid paying child support. I do realize that there are some people who get laid off through no fault of their own and that there are people who do fall on hard times through no fault of their own, but I am just amazed, in the last year, how many cases I have heard of where the payer has deliberately quit a job or deliberately reduced their income to avoid paying child support. I used to think it happened only to me. I realize now that it is a very common situation.

Children must still be maintained even if the parent is not working. If courts insist on excusing the payer then I think the government should pay the child support amount. Reluctant payers will not take their responsibility seriously until the court and the government takes it seriously and holds them accountable for their actions and their obligations towards their children. Courts must realize that if payers really want to support their children they will do it without waiting for the court to order them or to enforce it.

I was really quite amazed in Maintenance Court last year in May, a man had actually offered to liquidate his RRSP to pay his child support arrears. Amazingly, the master said, oh, no, you might need that money as a tax deduction. Do not liquidate it. Do not pay those arrears. I mean, I really was amazed. It is just ludicrous as far as I am concerned, but perhaps the master was impressed because this man was offering to do this. It seems to me that if this man really, really wanted to support that child he could have gone and liquidated that RRSP immediately and not waited for any court to force him to do it.

True willingness translates into action. Courts must always put the needs of the child first. Why should the custodial parent be forced into great debt in order to make up for support not received or to pay legal costs the payer repeatedly forces them to incur to the great disadvantage of their children?

One excuse that is often given why men do not pay is because they have access limitations, but according to some information put out by a local men's group last year, 10 percent of men who have joint custody do not pay their support, though it is usually the mother who bears the brunt of the physical care and financial costs even in joint custody situations. According to this men's group, 21 percent of men with visitation also do not make their support payments. I do not understand why. I have to support my children 100 percent of the time. If I do not I will be charged with negligence. I will lose my children. I could very well never see them again.

Maintenance should never be considered a reward for visitation. Supporting one's children is an inherent obligation of parentage for both parents. Children should never be forced to choose between seeing a parent and being supported.

It is unusual for a man who wants access to be denied it in the courts even in child abuse cases, and I can tell you of situations. Children should be allowed the right of deciding whether or not they wish to see their parent. They should not be forced to tolerate a situation where they may be at risk. A child's right to safety and personal integrity must take precedence to a parent's right to see the child. In the case of a child who refuses to see the other parent, it is quite likely that the custodial parent should receive additional support

rather than reduced support, because she gets no relief from her constant duties as a parent.

Most custodial parents really would like to have a break now and again. It is really not usually their idea that the children should not see the father. Any withdrawal of support harms the child the most, and it seems to me that maybe a good thing to have in Maintenance Court would be the child's victim impact statement. Maybe that would help to clarify the situation. The only person who is listened to there is a defaulter. No one else has a voice.

Every possible avenue of payment should be pursued and as quickly as possible. I do not understand why defaulters are given lots of time to make their excuses. Why are they allowed to make all their kinds of excuses when their children are not allowed to have decent food and clothing? Why are defaulters allowed to go on welfare to avoid payment? Much of the default activity is done with a mindset of vindictiveness and to control the other parties. No one should be allowed to treat other people in such a disrespectful manner. The courts and Legal Aid should be doing all they can to aid the victims of the defaulters rather than aiding the defaulters in their despicable pursuits.

The family law system should actually insist that the priority be the best interests of the child as maintenance legislation states and requires, and they should stop encouraging men to directly oppose their child's best interests. They should stop forcing the custodial parent to pay all the costs of attempting to ensure that the child's best interests are honoured.

I also believe that the custodial parent should be allowed to bring forth any evidence she may have in Maintenance Court and to participate in any decisions made that might affect the well-being of the children. No arrears should be deleted without her explicit and informed consent, and I will tell you that that happens an awful lot. I spoke to another person just the other day who had many thousands of dollars wiped out, and she did not even know it.

The recipient should always have a right of appeal by way of a new trial. I would also like to say that I fully support a document that was put out by the Coalition of Custodial Parents regarding this. It has many more recommendations. I just want to say a little bit about my own personal situation because it is through my own situation that I have learned what I know. If I had not gone through it, I would have no idea.

I was in an abusive marriage for 18 years. To friends and neighbours, he was a quiet, unassuming, helpful man, but my husband controlled us in many ways–physically, emotionally, psychologically, financially. He controlled me with threats of various sorts. Many were veiled threats. He was very jealous and made very many unfounded accusations of me. As a result, I was very isolated and could not go out without him, except to work. I was afraid to leave because I was convinced that if I did, he would find us and would likely kill me, and then who would look after the children? That was my biggest concern.

* (2050)

After my daughter was born–I should just say that he was not always like that. Before my daughter was born, for some reason he got along very well with my son and took care of him, et cetera. He really did well with him. But for some reason, after my daughter was born he seemed to basically ignore the children except to yell at them if they dared to interrupt his TV shows. What I did not realize was that he was regularly beating the children when I was at work on weekends and evenings. I did not suspect him because he was not involved in disciplining the children. He refused to have anything to do with it. I knew they had some bruises, but I thought that they were falling. I did not know at the time that he has a history of physically and sexually assaulting family members.

(Mr. Chairperson in the Chair)

In November 1990 my husband attempted to strangle my daughter while he was yelling, I am going to kill you, and you should never have been born, and things like that. As you can imagine, she was terrified. He was upset because she had to practise her piano lesson and he wanted to watch TV in the same room.

He finally agreed to go to counselling. That was the only way I would allow him to stay in the house at that point. I realized that I had to protect my daughter. He seemed to become a reasonable person for a while, but then he started making threats again. In March 1991 he tried again to kill my daughter. He called it a joke. She did not. She was terrified of him, and she was suicidal. I feared for her life. I thought either he would kill her or she would kill herself, and we had to get out.

Over the next few months, he threatened us numerous times. Well, what he did mostly at that time was threaten to quit his job and go on welfare to avoid paying child support. He did not physically threaten us at that time. In June 1991 he agreed to a consent order for maintenance, and, on August 29, it was signed by the judge. Of course, until then, if I wanted any payments, I had to go and collect them personally from him. On September 6, he deliberately quit his job, and, a few weeks later, he received $15,000 from the sale of our home, and guess what? By mid-October, he was on welfare. Soon after that, he was on legal aid because now he qualified. You know, when you are on welfare, you qualify for legal aid.

Then he threatened to continually take me to court until he had forced me to spend $30,000 in legal costs, and he said that it would cost him nothing because he would be on legal aid. He also refused to apply for various jobs. He said he could not afford to live on the amount of $10 an hour or whatever. He did not think of how his children would live.

Over the next few years, he harassed us in various ways and forced his presence upon us. He showed up at my place of work in the middle of the night in the dark, and there were other things as well. My daughter has refused to see him because she is terrified of him, and I believe that she should have that choice. I do not believe that any court or any judge has the right to tell her that she should see this person whom she is afraid of. My husband, I might add, goes around and tells people that she will not see him because I will not let her, but this child is older, in her upper teens, and it seems to me that if she really wants to talk to him, even if I would be so stupid as to try to prevent her from seeing him, she can surely go to the telephone at the school and dial his number and I would not be the wiser. I have never in any way tried to influence whether my children see him or not. However, I do feel that if my daughter insists in not seeing him, I need to support her in that.

At one point in December '92 he showed up at a place where she was spending some time, and she was just really terrified. As a result of that she filed an affidavit stating why she did not want to see him. Meanwhile, by the way, he had filed a motion asking for a home assessment. He said that she is not safe with me. Sometime later he started to stalk her on her way home from school. She was so frightened that she could not sleep or concentrate on her studies. She missed several months of school and she has been struggling ever since. She has not even been able to complete her high school subjects and she is of the age where she should be pretty close to finished.

She is afraid to be home alone because she fears that he will show up. She is not afraid of the burglar on the street. She is afraid that her father will show up. After many struggles with the police over enforcing my restraining order and finally obtaining a more restrictive restraining order at my own cost, the physical harassment ceased, but the financial and legal abuse continues and it is accelerating. There is no zero tolerance on this type of abuse. In fact, the present legal system encourages and supports it.

When my husband quit his job in '91 he was a steelworker. He went on welfare, qualified for legal aid. After eight months he was finally called into Maintenance Court. Guess what? A month later he had a job. So it did help. Unfortunately, he immediately filed a motion to delete all maintenance and arrears on legal aid funds. In June, Maintenance Enforcement finally started to garnishee his wages after a number of letters from myself and from my lawyer. I had to pay her for that as well. He then asked his employer to lay him off so that he could go on welfare. His work became very shoddy, and he was doing much damage to clients' homes and to the business. Finally he was fired. He had just signed another consent order for maintenance. He went back on welfare. A few weeks later he filed another motion to delete all child support and arrears, again on legal aid.

In the past three years he has been in Maintenance Court nearly 20 times, always represented by his Legal Aid lawyer. Almost every time he has been adjourned. He has been given a lot of time and opportunity to think of creative defences and methods of avoiding payment. He has had three show-cause hearings. Once he was sent to jail because the master decided that he was not really looking very hard for work.

However, last September in Maintenance Court he explained to the master under oath that he was working half time instead of full time, that in fact he could be working at the very same job for twice the amount of money at full time but he chose not to because he needed the extra time to find another part-time job. I laughed. I actually thought that was kind of funny. I mean, I could not have come up with that kind of an excuse myself. I would not have thought of it. Then he went on to explain that he had actually applied for two jobs in the last eight months. The master said–not in these words but very similar–you poor man, you should not have to pay all those arrears you owe. You are probably paying too much maintenance anyway. What you should do is take this to trial and have your arrears deleted and your support reduced. The master did not tell him that he should try to support his children. The master did not tell him that he should go out and find a decent job, work at the job that he could be doing full time and try to support his children. She did not say anything of the sort. She was not at all concerned for the children.

This should not come as any surprise. A couple of weeks later, he quit that job as well. The chief master did not take his obligation seriously, and so, why would he? Some time later he got another job, a contract position this time. He cannot possibly be garnisheed at this job because, you see, he has written his contract in such a way that he only does the work; he does not get paid. The cheques are all made out in his girlfriend's name. Maintenance Enforcement tells me that they cannot do anything about that. It seems to me that they ought to have some recourse.

* (2100)

Now, quite likely, they do not have the time or the resources to do this kind of work, but it seems to me that they should be given sufficient resources that they can follow up on stuff like that. I mean, it is crazy, if you want my honest opinion. In the past four years, I have been forced to spend more than $6,000 on legal costs because of my husband's actions. We are not even divorced. It is because of the actions that he keeps bringing up in court. Any money that Maintenance Enforcement has managed to collect has been claimed by taxes on the child support amount and by my lawyer. There has been no money for the children.

My children have received no benefit from the child support collected since our separation more than four years ago. My husband now insists on going to trial. Chances are, he will go to appeal as well. Why not? It is free for him. Legal Aid will cover it. It costs him nothing. It will cost me many thousands of dollars. Most likely, I will simply have to give up all my children's rights to support. I cannot afford to go to trial. Pretrial is coming up in August. I will probably have to go and try to represent myself. I think that is a very unfair thing. Why should he have a lawyer there when I cannot afford to have one? I have incurred debts of $10,000 in the past three years to pay legal costs as a result of my husband's actions, to pay taxes on the child support amount received and to provide for my children while support was not forthcoming.

I have to pay interest on my debt. His child support debt is interest free. I do not know why it is interest free. It does seem to me that most people, when they have a number of debts, if they have an interest-free debt, that will be the last one to be paid. The child support debt is interest free and also provides him with a hefty tax deduction if he chooses to use it, that is. For two years, he did not choose to use it. He chose not to file his income tax returns because he was afraid the money would be garnisheed and it might go for the children. Finally, in '93, he filed for bankruptcy. As a result of that, all the refunds for the income tax returns for the past two years went to the trustee in bankruptcy. They went to help pay the trustee's fees, and a little bit of it went to Visa. The total of his debt, by the way, was $2,700. At the time that he went bankrupt, the amount that he owed in child support was less than his 1992 income tax refund. It seems to me that my children should be able to benefit from the money that

went into the trustee's account, but the official receiver in bankruptcy refuses to allow it to happen.

I have spent thousands of dollars trying to settle out of court. It is now clear that my husband will settle for nothing less than to have all the arrears wiped out, preferably all the maintenance as well, plus he will take half my pension. By the way, that is exactly what he filed in his trial motion, to have all his arrears wiped out and to take half my pension.

Now it seems kind of ludicrous to me because I have been trying since last September to settle–I kept trying to propose, you know, things that hopefully he would agree to. It seemed to me that I would be willing to wipe out his child support debt if he would leave my pension alone. He owes me more than my pension is worth, so I would still be the one losing in the situation. However, he refuses to negotiate. Why should he? He can go to trial, he can go to appeal, he can go to whatever. On Legal aid money he can force me to spend all kinds of money on legal costs, or he can force me simply to give up my pension, the arrears, et cetera.

I think it is very unjust, but what really bothers me the most is how my children have suffered as a result of all this. In the last four years we have been living on a shoestring so much of the time. We have struggled. I have had to find extra work trying to provide for my children. I have been fortunate, very fortunate to hang on to my regular job, by the way. It is in health care, and with all the health care cutbacks in the last few years, the only reason I managed to keep my job is because it happened to be a night position and nobody else who was bumping wanted to work nights. So my children have been very fortunate in that I was able to keep my job, but I do think that something has to be done very soon about what is happening in the legal system regarding children.

I do believe that judges have to stop wiping out those arrears. I am afraid that this bill is going to come too late for me, because probably the arrears will all be gone before the pension provisions will come into effect. They will be wiped out before the pension provisions will come into effect.

I have one other suggestion to make on the pension part. It seems to me that there should be a provision in this bill–and I do not see one there–stating that he should not receive my pension as long as he owes any money in arrears. Thanks.

Mr. Chairperson: I would like to thank you very much, Ms. Dyck, for your presentation. Do members of the committee have questions that they wish to address?

Ms. Diane McGifford (Osborne): I would like to thank you very much for your presentation, Ms. Dyck. Many of the hardships that you have suffered would be addressed in the amendments that we wish to suggest to Bill 3. We would really like to thank you for sharing your personal story. I know it must be very difficult for you to speak publicly about some of the things that you have done tonight. Thank you very much.

Mrs. Vodrey: Mr. Chair, I just wanted to say as well, thank you very much for your presentation. We have had the opportunity to speak and to speak in person, and I know many of your recommendations and concerns I believe have also been passed on through a group you belong to and also to the Maintenance Enforcement branch. Thanks a lot for coming tonight. It was nice to see you.

Mr. Chairperson: Are there any more questions for the presenter? Seeing none, I would like to thank you for appearing before the committee. Thank you.

Prior to calling our next presenter, I would like to inform the committee members that we presently have 23 presenters left to appear before the committee. At the rate we are going right now, we are going to be here till about seven o'clock in the morning. I think in the best interests of all these individuals who have come and they want to make a presentation to this committee–we understand it is very hot, humid and muggy in this room–is it the will of the committee to put a time restriction on the length of time for the presentations? Any suggestions for a time limit? Compromise. Somebody suggest a time. Fifteen minutes? We will put it on the record.

Ms. Becky Barrett (Wellington): I would suggest 20 minutes.

Mr. Chairperson: A 20-minute time limit has been suggested. Is that good? Agreed upon?

Mr. Edward Helwer (Gimli): I feel a 15-minute time limit would be sufficient.

Mr. Chairperson: A 15-minute time limit has also been suggested. Fifteen minutes for presentation, five minutes for questions. Is that acceptable? A good compromise. Done. That is agreed?

Mr. Gary Kowalski (The Maples): I have no problem with the time limit on the presentation but I do on the limitation on questions in case there is a presenter and some members may be excluded from asking questions if the time runs out. So I am opposed to putting a limit on the time for questions.

Mr. Chairperson: So what we have before us right now is 15 minutes for presentation and approximately five minutes or thereabouts for questions. Is that agreed upon? Agreed? Okay.

Mr. Mackintosh: I am wondering even with the limitation given the number of presenters, if we should not be looking at a reasonable time to rise tonight. Otherwise, we will be here until the sun comes up.

* (2110)

Mr. Chairperson: The other thing I would like to–and I am going to ask the indulgence of the committee–this committee does have the power now, if certain individuals who want to make a presentation and if this committee decides to agree to it, we can dispense with the reading of your presentation if you so choose. We can have it inserted in Hansard. This is a recommendation I am going to put forward to the committee right now, that any individuals in the crowd here this evening who would like to dispense with their reading–[interjection] Norma, you know we do not have telephones in here.

If they want to dispense with the reading of their brief, we will deem it to have been read. We can put it into Hansard. My recommendation to the committee would give you an opportunity of five or 10 minutes to summarize what is in your brief. That will give the members an opportunity to ask questions of the individuals.

Ms. Marianne Cerilli (Radisson): I would like to test the floor of the presenters with respect to that recommendation before we make a decision.

Mr. Chairperson: No, I think what we are doing, Marianne, is giving them that opportunity, if they would so choose–

An Honourable Member: If they want to.

Mr. Chairperson: That is right, if they want to do it. That was my recommendation to the committee, to the presenters, because there are an awful lot of people. There are 25 individuals who want to make a presentation here this evening–so in the best interest and the time that is allowed right now.

Would that be acceptable to the committee right now? If anybody would like just to present their brief, we can dispense with the reading of it, put it into Hansard and give them a five or 10 minute time allocation to summarize their brief.

Floor Comment: I do not have a written presentation. I have a brief verbal one.

Mr. Chairperson: That is fine. We are just talking about those who will come forward with a written brief. We have had several. You just indicate to the committee when you come forward that this is what you want done.

Ms. Barrett: Mr. Chair, I think we do not want to discuss this too long, but what you are saying is presenters with briefs have an opportunity to summarize the brief. It will still be recorded in its entirety in Hansard, and that will allow us to read the brief, listen to their summary and ask questions.

Mr. Chairperson: A very good point, Ms. Barrett. That is exactly what we would like to do. I thank you very much for that.

Ms. Barrett: I think that is an excellent idea.

Mr. Chairperson: Does the committee agree to that?

Some Honourable Members: Agreed.

Mr. Chairperson: Agreed. Good, so be it. Thank you very much.

Mr. Mackintosh: Just to follow up on the earlier issue of the time for rising tonight, there is always a debate as to whether it is more onerous to keep people up until two or three in the morning or for them to come back on another day. My experience has been that people would rather go home and get some sleep around midnight and come back, as long as another meeting was scheduled. I would suggest that the committee make a decision that we rise at a particular time. I would suggest that midnight is plenty late for anybody–particularly a lot of the people here have kids.

Mr. Chairperson: On that point that was just raised, this committee does not have the power, Mr. Mackintosh, to set its time and date when it will meet again. We do not have that power. I think what we are going to do with the sort of little bending of the rules that we have done here tonight–maybe it might just speed up the process a little bit. We will find out.

Now I would like to call upon Louise Malenfant, Parents Helping Parents, please come forward. Please proceed with your presentation.

Ms. Louise Malenfant (Parents Helping Parents): I guess by the fact that the committee is now receiving the presentations, then I cannot assume that you have seen them already. I would like to ask, what you just said, that it be read into the committee minutes or whatever you do. I would just like to speak on my own and on the cuff and try to summarize for you the work that you see before you right now.

I guess what we have heard tonight so far is largely some of the women who are experiencing some serious problems with the implementation of maintenance in their lives and how it cares for their children. I would just say that the current maintenance enforcement bill, No. 3, as it is written, does not in any way try to recognize what the problems are with maintenance enforcement. In short, it is merely trying to create further punishments, which will penalize men who are not paying maintenance without recognizing any of the underlying reasons why some men do not pay.

It has been a really difficult time to take a look at these issues. I sometimes wonder why there is so much enthusiasm for certain kinds of issues like the Winnipeg Jets and gun control and yet there seems to be a veritable silence on the kind of support that is coming out in opposition to this particular bill. I think it has something to do with the trauma that is experienced by people who are going through divorce in the province of Manitoba.

I think the people of this government need to look at the trauma imposed upon individuals as a result of the family policy of this province. For 10 years we have been moving towards annihilation of the family. I do not think this is what the government is designed to do.

I think the reason why Manitoba's family policy is so painful and so hurtful to the individuals of this province is because instead of recognizing that many of the issues are interconnected and interrelated, we are just taking them piecemeal, such as we are doing tonight with the maintenance enforcement bill, and saying, we will fix this problem, not recognizing that in fixing this problem you are creating a myriad of other problems in other areas of life.

In particular, on maintenance enforcement, I think it needs to be recognized that a growing number of men–and the number continually grows–are not paying child support because they are humiliated by a refusal of access after divorce. It is not to say that men wish to pay for the privilege of knowing their children. No, what I say, and certainly the voices I have heard–and I cannot speak for all voices. I can only speak for those stories that I have heard. That is, when you are deprived of the right to know and love your child, you find it humiliating as a noncustodial parent to hand over money. Now we recognize that of course this is harmful to the children, but we also must recognize that humiliating fathers, destroying fathers is also extremely harmful and painful to children.

Indeed, I sometimes wonder why we always think that the punitive maintenance enforcement policies that

are being considered by this province are going to somehow create a kinder, gentler landscape for family policy here. The opposite is true. What it is doing is empowering one group at the expense of and at the complete ignorance of the experience of the other group.

* (2120)

I think we can all admit that maintenance enforcement is largely a woman's issue and access enforcement is largely a men's issue, because most of the time the courts still use the gender doctrine of maternal preference in order to ensure that women get the children after divorce. This is still happening in spite of changes in the Canadian Divorce Act, which are trying to become gender neutral, are trying to recognize that the state should be trying to bring friendly parent ideas into the law, because right now the hatred and the anger and the animosity is destroying lives. It is not just men who suffer, it is the children who suffer.

I do not think you can say that only women can speak for the well-being of their children. I think we have to recognize that there are some situations where the anger is so severe that people do things they might not otherwise do. For example, they may manipulate their children in order to empower themselves in a divorce situation. As a result, the father loses all rights to know his children for many years. Make no mistake, the cases I have seen, 24 cases of sexual allegations in divorce, these cases have been going on for two to four years and there is no end in sight, no evidence required, nothing proven, and yet these men are deprived of relationships with their children.

I know traditionally we believe that women care more about their children, but I do not believe that is true. I believe that as men began to change and as women began to change and take a part in the workforce, that men cared more about the family. Their emotional well-being and their social well-being was enhanced by a greater commitment to the well-being of their children and their families.

I do not think that we should overvalue one gender's love for their children over another's. This is why I feel that the maintenance enforcement bill will not help Manitoba's family policy. It will cause tremendous pain. It will create one powerful group and it will silence another very, very weak group, and that is the men in this society.

Men cannot speak any longer. We are creating a world where women are incapable of being seen as possibly manipulating the system, as possibly manipulating their children or lying. Women are incapable of this according to Manitoba's family policy. I just think that when you create a policy that is reliant upon the concept that women are incapable of doing bad things, you are going to literally create an environment for false allegations. Whether it be sexual abuse, domestic violence or even chilly climate, these are all allegations that require no evidence in Manitoba in order to be successful and in order to silence men and empower women.

I think that my brief will certainly give you a more in-depth view of what I feel is a real problem with The Maintenance Enforcement, Bill 3. I hope you will have the opportunity to read it.

I would also just like to add a couple of things before my–two minutes? All right.

When you look at maintenance enforcement, you know, Manitoba is not an island. We do not live in isolation from the rest of the world. There are many, many other jurisdictions that have taken a look at maintenance enforcement, and they had this to say. For example, the census bureau report, which I believe was referred to, recognizes that the more access a man has to his children, the more often he is likely to pay maintenance. Now this is not because he is paying for the privilege of knowing his children. It is because he is being treated with the respect and dignity that is demanded of a person who is the father of a child, and as a result of that, the relationship over the course of years with the ex-spouse is better and maintenance is paid.

In Australia, they examined divorce issues in 1987 and they concluded the following. If the arguments put forward truly represent the feelings of access parents, then the strengthening of maintenance enforcement by

government collection schemes will provoke considerable resentment unless either access enforcement is strengthened at the same time or access denial is treated as a mitigating factor in maintenance enforcement or both.

In Ontario, again, 1987–this is like eight years ago now–Ontario passed a maintenance enforcement bill, but that province recognized the need to enforce access as well. Attorney General Ian Scott at the time had this to say: Parents with problems enforcing access may feel unfairly treated when automatic enforcement of support and custody begins in Ontario. Custodial parents will have access to enforcement at no cost while the access parent has a slow, technical, cumbersome, ineffective and expensive enforcement method. I think many men can attest to that.

Finally, I will just tell you that Michigan also, which is the state that has the highest rate of payment of child support in the country of the United States, has this to say: Michigan's unique visitation enforcement provisions have provided an incentive for the noncustodial parent to maintain child support payments. This may be the significant factor which has made Michigan No. 1 in collections for many years.

Senator Debbie Stabenow was addressing the children's rights council in Washington in 1992, and she said that in practice only a small amount of resources are spent in actually enforcing visitation. Most problems are resolved with a letter to the custodial parent.

I would just ask the committee, in closing, to please make an effort to read the submissions that I have made. I know they are long, but they represent six months of work that I have conducted in the province of Manitoba on the family policy issues here. Manitoba is the worst place in Canada to raise a family, and The Maintenance Enforcement bill currently being implemented will only make that situation worse. Thank you.

Mr. Chairperson: Thank you very much, Louise Malenfant.

* * *

The Gender Politics of Manitoba's Maintenance Enforcement Bill #3 (1995)

Submitted to the Committee on Maintenance Enforcement by Louise Malenfant, Parent Advocate, Parents Helping Parents.

Manitoba is a funny place, that is, if you do not have to live here. Being in Manitoba is sometimes like being Alice in Wonderland, where nothing is as it seems to be and everything is topsy-turvy. In this province we have a Premier who calls himself a conservative politician, yet he imposes a radical left agenda on social policy. This is no doubt a politically expedient means of silencing the traditionally left-leaning opposition of the House so as to gain the freedom to implement a fiscally conservative agenda without too much trouble.

We have politicians who have been screaming about fiscal restraint for the past five years, yet they find $100 million in a sock somewhere to support a national hockey team. We have a Liberal Party that seems to have forgotten what liberalism means and instead tries to be all things to all people, a political strategy that was trounced at the polls. Justice, freedom, equality, that is what liberalism means, and these qualities are desperately needed in Manitoba's current political climate. Perhaps if Liberals became liberal again, they would be reasonably represented in the Manitoba Legislature.

You really enter the twilight zone of the Legislature when you begin to look at Manitoba's family policies. While it is usually a given that a strong family is the fundamental building block of a strong society, in Manitoba the family is slowly being tortured by the short-sighted family policy law enacted in this province over the past 10 years.

In this province we have a Justice minister who says "We will be tough on youth crime." She just does not get it. The tougher we are, the tougher they get, and that is why Manitoba has the highest rate of juvenile crime in all of Canada. We have a family minister who claims to act in the best interests of Manitoba's children, yet this province turns more children into foster kids, into orphans with living parents, than any place in Canada. Manitoba has the highest per capita foster care rates in all of Canada, 100 percent higher

than the next closest province. Manitoba also has the highest rate of child poverty in all of Canada. All of these issues are family policy, yet our attempt to deal with each of them in isolation is the primary cause of our failure. By these measures it is not unreasonable to say that Manitoba is the worst place in Canada to raise a family.

Now the Manitoba government plans to "get tough" on the enforcement of maintenance payments. For the past year we have discussed the issues arising out of the trauma of divorce with the rhetoric of "deadbeat dads". The implication given here is that men who do not pay child support will suddenly see the light if only we can humiliate them enough so that they will hand over their cash and be too fearful of society's approbation to ask for a little dignity. In addition to the blame, shame and guilt game, Manitoba's proposed legislation, Bill 3, will punish wayward fathers by taking away the drivers' licences and pension plans of any dads who refuse to pay up. The only thing missing in this legislation is a proposal to hang fathers upside down on a conveyor belt so that we may empty their pockets in a more efficient manner.

Manitoba was one of the first provinces to institute a Maintenance Enforcement Program (1980), and it was so successful that it became a model for other provinces to follow. Canadian feminist Susan Crean claims that within a year of introducing the scheme, "the default rate (for maintenance payments) in Manitoba dropped from 85 percent to 15 percent." Today, the default rate of maintenance payments in Manitoba is back up to 60 percent.

Instead of trying to understand the failure of maintenance enforcement in this province, Manitoba will enshrine a divorce policy which treats fathers like "walking wallets", and fails to consider some of the reasons why men do not pay. As a society we refuse to understand or learn the fundamental reason why some men will not pay. We venture to say that more than 50 percent of child support problems would disappear if men were allowed reasonable access and visitation to their children after divorce.

Parents Helping Parents is an organization which arose in the province of Manitoba in order to bring attention to the problems imposed upon families by the inefficient and notorious operation of the Child and Family Services. It was not long after commencing our operation that we soon began to take on the appearance of a club for divorcing fathers who had serious allegations made against them by their ex-wives. For this reason, PHP has become concerned by the sexist approach to the issues of divorce that is becoming the standard practice of Manitoba's government.

In most jurisdictions, access has become an issue and maintenance enforcement has become a problem, because fathers are reacting to a court system which always gives mothers custody and makes no effort to enforce access. In creating a draconian policy for maintenance enforcement while at the same time ignoring the problems of access, Manitoba is discussing these issues in a vacuum that ignores similar debates that have taken place which recognize the connection between maintenance payment and access.

For example, the U.S. Census report of 1990 shows that 87 percent of fathers with joint custody pay child support. It also notes that only 44.5 percent of fathers with neither visitation nor joint custody pay the child support due.

When Australia examined divorce issues in 1987, they held Senate hearings which heard the position of both custodial and access parents. The Senate concluded the following:

> *"If the arguments put forward truly represent the feelings of access parents, then the strengthening of maintenance enforcement by government collection schemes, will provoke considerable resentment unless either access enforcement is strengthened at the same time . . . or access denial is treated as a mitigating factor in maintenance enforcement . . . or both."*

Similarly, Michigan's unique visitation enforcement provisions have provided an incentive for the noncustodial parent to maintain child support payments. State Senator Debbie Stabenow noted in her 1992 speech to the Children's Rights Council in Washington that "(visitation enforcement) may be the significant factor which has made Michigan number

one in maintenance collection for many years." She further noted that in practice only a small amount of resources were spent in actually enforcing visitation; most problems are solved with a letter to the custodial parent. Nevertheless, recognition of the tie between maintenance and visitation has given Michigan a rate of maintenance payment that is the envy of most states, at 90.2 percent.

In 1987, Ontario passed a maintenance enforcement bill, but that province recognized the need to enforce access as well. Then Attorney General Ian Scott had this to say:

> *Parents with problems enforcing access may feel unfairly treated when automatic enforcement of support and custody begins in Ontario . . . Custodial parents will have access to enforcement at no cost, while the access parent has a slow, technical, cumbersome, ineffective and expensive enforcement method.*

It has been said that nonpayment of child support should not be a valid defence for visitation denial; similarly, visitation interference should not be a defense for nonpayment of child support. However, when there is a coercive maintenance enforcement program which is free to the user and only an inefficient, costly program addressing access deprivation, it becomes an illegitimate policy which is gender biased. Almost everyone will freely admit that maintenance enforcement is a women's issue while access denial is a men's issue. A child maintenance advocacy group in Ontario has stated that "97 percent of the ex-spouses who don't pay are men." Put another way, we can say that 97 percent of the time it is women who have control of the children after divorce.

Gender-based ideologies about motherhood have played a historical role in subjecting women to diminished opportunities and restricting their influence to the family sphere of life. It is disconcerting to note that the successful movement to eliminate gender stereotypes is now being drawn back by feminist thinkers who would like to continue the drive for equality in the public sphere while maintaining a special preference for women in the private sphere. Yet the ideology of motherhood has excluded men from the family, particularly in family laws governing divorce outcomes, and we will suggest that this attitude fails to recognize the many changes that have taken place in the value systems of men as a group.

We would argue that, just as women are exploring their talents and striving to take their places in the public world, so, too, have men been changing and exploring their nurturing abilities and looking for their places in the family world that a macho ideology has for too long excluded them from. The entire discussion about gender in our province seems exclusively preoccupied with the role of women and fails to recognize that men are changing right alongside women and discovering the human lotion of caring, personal interaction, love and emotionalism, all attributes traditionally restricted to women. Now when men ask to be seen as legitimate parents to their children it is viewed as encroachment on the female world instead of the progress that was once envisioned. We believe that this narrow view of gender is the primary cause of the many tortured outcomes of divorce in this province.

The broad generalizations about the personalities and behavioural traits of men and women hold up rather poorly when individual adults are studied. Many men display traits stereotypically associated with women. As well, women have no special attributes that so especially suit them for child rearing that they merit a preference in custody disputes simply because of their gender. Instead of turning the clock back to glorifying motherhood and demonizing men, we need to recognize the serious harm caused to children by the standard deprivation of fathers that is taking place in Manitoba. We need to value parenthood in the developing lives of our children instead of choosing sides and creating policies that further entrench the gender war taking place in family law.

It is suggested here that many men are protesting their exclusion from the lives of their children by the only means at their disposals, and that is by refusing to continue paying maintenance to ex-spouses who are humiliating them after divorce by a studied manipulation of the control of children. While it is true that the deprivation of resources is harmful to children and perhaps the cause of Manitoba's status as the child

poverty capital of Canada, depriving children of fathers is no less traumatic. It is also true that draconian punishments will only mask the problem and offer no solution at all. Perhaps we would rather not know the truth about men who do not pay child support, because it would destroy our comfortable stereotypes about men. We suggest that the way social policy treats fathers in this province is the leading cause of nonpayment of child support. As other jurisdictions have discovered, where a connection is made between maintenance enforcement and access there is a natural resolution of nonpayment.

It is ironic that there appears to be a commitment to gender equality in the public worlds of government and business and at the same time a desire to maintain a gender preference in favour of women in the private sphere of the family. The early feminism of the 1960s strove to end gender difference stereotypes which relegated women to the roles of wifedom and motherhood. These women of the '60s fought to demonstrate that there were no relevant differences between the sexes and thus no basis for treating women unequally before the law.

In modern times custody and access issues are well recognized by feminist writers as a significant issue for women. Many of their efforts are concerned with how to maintain the fight for equality in the public world while maintaining a maternal preference in the private world. For example, Susan Boyd writes:

> *. . . to the extent that family law provides a link between public and private ideologies concerning the labour of women and men, (feminists) must work towards encouraging the valuing of women's child care labour in legal decision making, without reinforcing the ideologies that have negative implications for women in the labour force, such as the ideology of motherhood . . .*

Though it is argued that for most of human history it was men who were favoured as custodial parents after marriage dissolution, by the 19th Century women were favoured as custodial parents based on what is known as "the Tender Years Doctrine". The doctrine was instituted in common law in 1889 and it created maternal preference based on the gender stereotype that women were the more nurturing, loving parent and that children of tender years (seven years and under) required the maternal affections. In the 1980s an emphasis on gender-neutral family law occurred in part as a result of feminist agitation, which demanded the destruction of gender stereotypes. This nevertheless had the effect of calling into question the desirability of the presumption that children belonged with their mothers.

It appeared that if you argued for the difference of treatment of women in the family sphere, then this argument could be used to support treating women differently in the marketplace. In other words, explicit gender rules may assist women in the family sphere, so they should be maintained even if they are based on rigid gender stereotypes.

The maternal presumption flowed from a patriarchal view of motherhood which was based on biological determinist ideas about men and women. The maternal presumption, says Crean, "may have been based on Neanderthal attitudes towards women, but it nevertheless had the advantage of paralleling reality." In short, the ideology of the tender years doctrine strengthens a women's position in custody disputes but weakens the argument that women must be treated equally to men in public life. Modern feminist arguments are occupied with the problem of how to maintain public equality and private inequality by legitimate argument. We suggest that this is an impossible argument to make and that, just as women demanded equality in the public world, men too are wanting to be recognized for their nurturing qualities and are demanding equality in the private world of the family.

Fineman argues that custody reforms in the U.S. which have been fashioned according to the ideal of equality works "to the disadvantage of women and children." She goes on to add that, "as the rules of equality and gender neutrality have been incorporated into custody decision making, such old, tested, gendered rules that permitted predictable, inexpensive decisions without protracted litigation, have been set aside." It is not difficult to see that the feminist arguments against gender-neutral, affirmative action in the family sphere are not to the liking of the feminist writers on this issue.

This is why the effort depicted in the feminist literature on the custody issue is so startling, as it gives the appearance of an effort to return to the gender stereotypes as arguments for legitimizing the obvious preferences still enjoyed by women in family law. For example, one author writes, ". . . mothers may have more psychological investment in parenting than fathers, (and so) the application of a principle of equality to child custody is misplaced for the time being at least." Another author writes:

> *"The unwillingness to accept the fact of mothering's more nurturing role in child rearing within the context of custody policy, conforms to the popular gender neutral focus at the expense of reality."*

There are those who argue that if men and women are equal in the workplace, they should have equal rights to their children after divorce. For the past decade it has been successfully argued that disadvantaged groups such as women require a special advantage in order to become equal in result to the position of men in society. For example, it was not enough to create rules which treated the genders equally, because women had not been oppressed for so long that it would take centuries to undo. Equality in this sense does not refer to the same rules of treatment but rather it is defined as focusing on the quality of result. Such a focus then suggests that different rules need to be applied to different groups until equality of result is achieved. As Fineman eloquently summarizes,

> *"Equality as we know it does not take into account the structural difference between groups, so it becomes necessary to treat groups differently so that they end up the same."*

This affirmative action in the marketplace, in education and in the political sphere is considered a necessity for the equality of women. Yet those who argue most vociferously for affirmative action are vehemently against the same policy as translated to the family sphere where women are obviously advantaged over men. Affirmative action rhetoric in family law is not argued by the feminist camp, says Fineman, because it would mean that rules would need to be applied that ensured the equality of result for men and women in the custody arena.[19] In general, feminist reformers are more likely to advocate for the application of result equality in the public sphere but call for the application of a pure rule equality model in the family context.

Indeed the rhetoric gets downright vicious in response to the growing movement for fathers' rights, a trend that is growing in direct proportion to the march for gender equality. As women become more visible in those worlds traditionally reserved for men, the gender difference in the family sphere is all the more glaring.

In perhaps no other area is this more apparent than when the Canadian "Friendly Parent Rule" is discussed. Sections 16(10) and 17(9) of the Canadian Divorce Act (1986) is intended to promote friendliness between divorcing parents. This component of the law is predicated on the noble idea that it is in the best interests of children to have a relationship with both parents. It instructs the court to pursue the following principle:

> *". . . a child of the marriage should have as much contact with each spouse as is consistent with the best interests of the child, and for this reason, it should take into consideration the willingness of the person for whom custody is sought to facilitate such contact."*

The spirit of the law is intended to promote a spirit of co-operation between divorcing parents, and further it is supposed to ensure that if one parent exhibits prominent antagonism towards the other, then custody should go to that parent who will be more likely to provide access to the other parent. While other jurisdictions in Canada have recognized the implications of this law, Manitoba can in some ways be seen as rewarding the parent who can come up with the most malicious accusations against the noncustodial parent.

We say especially here, because in this province our Child and Family Services is often drawn into the divorce process and this has the effect of drawing cases out for years at tremendous cost to fathers. Though

touched on only briefly in this report, we refer interested readers to our report on this insidious problem. In the past several years Manitoba has made admirable commitments to reducing violence against women as well as against the sexual exploitation of children. The policy development in Manitoba is rather naively based on the assumption that no woman would ever subvert the intentions of these systems by making spurious allegations in order to further her own ends in a divorce battle.

Yet it is widely recognized throughout the literature on sexual abuse that there are definite self interests at play when an allegation is made during a divorce. Though certainly not all allegations made in this context are false, it is recommended that both parents are carefully scrutinized to determine the truth or falseness of an allegation. Estimates of the frequency of fictitious sexual abuse claims in custody or visitation disputes range from 8 to 30 percent, with claims as high as 55 percent reported by one author. The impact a false allegation has on the child cannot be underestimated. Some have likened it to growing up in a war zone where the child exhibits excessive anxiety, depression and fear.

The rhetoric about the friendly parent rule is vicious in its attacks, claiming that if the courts recognize the rule then it will silence women from protecting themselves and their children. Crean notes that implementation of the rule, "will effectively move the burden of proof in most custody cases from fathers to mothers - from men to women." It is argued that women who are the victims of violence or who are protecting their children from sexual abuse are harmed by the friendly parent rule. Crean writes:

> *"Suppose you are the weaker party in an abusive and destructive relationship. If (the friendly parent rule) law is implemented, then the law would no longer allow you to refuse access; you would have to convince a court that your decision was justified and "prove" to the satisfaction of the judge that your ex-husband could be trusted with legal authority over his children."*

We suggest that a society based on justice would demand that such heinous allegations as the sexual abuse of a child or violence against women should have to be proven; anything less constitutes gross miscarriage of the principles upon which a free society is founded. In Manitoba these rules have been suspended in favour of the illusion of the ideal female. Geraldine Waldman answers to the charge that some women are using the system for their own gains with this,

> *"I don't think women make such accusations for vindictive reasons . . . as women and mothers, you fight no matter what for your kids . . . How can anyone actually believe that (women) would actually go to such lengths to be so vindictive."*

The Canadian Advisory Council on the Status of Women wrote that "provisions in the Divorce Act which express the view that it is in the best interests of children to have maximum contact with both parents, is harmful to women and children, and recommends that they be removed from the act. Without seeing any problem with this cryptic assertion, the council also denounces the idea that any women would make false allegations against men during divorce. They write,

> *The CACSW is concerned with the use of the terms "probable" and "improbable allegations of child sexual abuse". The CACSW recommends that family law policy makers re-focus its inquiry to determine why women do not report sexual abuse because they feel pressures not to report.*

The assumptions of ideal womanhood have had tragic implications for men when an allegation of sexual abuse of children is made against them in the context of divorce. Manitoba's CFS does not recognize the special circumstance of divorce and its implications when an allegation of sexual abuse is made in this context. Like all allegations of sexual abuse, the Manitoba CFS fully supports the accusing parent and brings all of its considerable resources to bear against the accused parent.

It is impossible to determine how often the CFS is drawn into divorce in Manitoba, because statistical figures are not kept on this sinister and growing phenomenon. All we know is that Manitoba has the highest rate of sexual abuse confirmations in the

western hemisphere, as shown in the latest statistical figures on the foster care population, where it is alleged that 51 percent of Manitoba's children have been sexually abused. Compare this to the U.S. national rate of 14 percent of reported cases, 60 percent of which are determined to be unfounded.

The high rate of validation obtained for sexual abuse allegations in Manitoba has a double impact when such allegations are made during divorce. While figures are not available for the prevalence of sexual abuse allegations in divorce, PHP has advocated for 24 such cases in Manitoba. It must be kept in mind that PHP is a small unfunded organization that is difficult to find and has operated in Manitoba for only six months; yet 24 fathers who have had sexual abuse allegations made against them in the context of a divorce have found the assistance of this organization.

These men should be viewed as heroes, for they refuse to give up the dream of one day having a normal relationship with their children. Without evidence against them, without the right to be heard in a legitimate court process, without support from the social policymakers who quietly ignore these horrors, these men are, and always will be, fathers in every sense of that word.

Men accused, abused, manipulated and humiliated are now again being asked to ignore their own pain. It is difficult to understand how some can make statements like the following: "Unpleasant though it may be for some to hear, fathers are more obviously disposed to play power games through their children." Speakers such as this ask us to ignore the undisputed fact that it is women who control the children after divorce, and it is women who are more likely to manipulate that power as a result. Somehow we take flight from reality and expect these men to bow down further and hand money over to such women and to a society who would deprive them of the simple human dignity that comes with loving your own children. Can we not find it in our hearts to understand that if we as a society do not begin to recognize the causes of male alienation we will have no chance to end some of the social problems, including maintenance enforcement, that are the inevitable outcomes of divorce? If we believe that further punishments such as those that are proposed will solve the problems of maintenance enforcement, we are only fooling ourselves.

Conclusions

Some feminist writers suggest that the growth of fathers' rights is merely a new attempt to re-establish patriarchal supremacy. Reforms in the maintenance enforcement area in particular spurred the formation of fathers' rights groups who demanded the reciprocal right to maintain quality relationships with their offspring after divorce. Still this cause is demeaned by some who claim that feminist arguments of equality "have now been appropriated." There seems to be no embarrassment attached to making the claim that women somehow own the trademark on equality.

There are some who say that access has been made into an issue in spite of the fact that studies show that few women deprive their ex-husbands of access to children after divorce. Crean noted that a 1986 informal survey conducted in Winnipeg by the Attorney General's office showed that only 15 percent of court-ordered access parents reported problems. As a result of this study, Manitoba instituted an access facilitation program, but funding for the program was killed in 1990 with no explanation given for the elimination of this program. We suggest that if it is indeed only a small problem affecting a small percentage of divorces, then why is there any objection to recognizing the importance of access to children under similar terms of recognition given to maintenance enforcement? We suggest that access deprival is a far more significant problem than this informal study suggests, especially in Manitoba.

These writers even go so far as to suggest that the fathers' rights groups have arisen "as a forum for expressing backlash to some of the successes of the feminist movement." We would argue that the so-called fathers' rights movement is not homogenous and in fact represents both men and women who feel that family law has gone too far in favouring women to the exclusion of the rights of men and their children who deserve a paternal relationship. For example, Crean says that the fathers' rights movement should really be called the men's rights movement, "since it is only incidentally about fathering and has more to do with

the assertion of male superiority and privilege." The debate about family issues is often painted as a fight between good and evil with the idealized female and the demonic male as prototypes in the classic struggle. As Crean states,

> *"Custody is, in fact, fast taking on the proportions of a major political encounter between the forces of reform, and the patriarchal backlash . . . between the new values of feminism, and the old prejudices of privilege and masculine power."*

In short, any criticism or political discussion about family law is immediately reduced to a gender war. It is no surprise that this has resulted in a silence that ensures we cannot discuss these issues with any rationalism. Anyone who dares raise their voice, particularly a male voice, about the growing discrepancy between men and women in the family realm is relegated to oblivion. Should a man speak, he is automatically stereotyped as a knuckle-dragging, beer-swilling sexist pig who has nothing remotely relevant to say. It is largely for this reason that the author of this essay, a woman, feels the need to say what no man would dare. It is with sadness that the observation is made that the feminism which promised so much is now losing many of those women who made a commitment to advancing the cause of gender equality. With the hateful, divisionist discourse that now consumes the once-cherished notions of feminism, there are some of us who are still committed to gender equality. There are still a few who condemn what is becoming a new brand of gender domination that silences men and glorifies women. This was not the way it was supposed to be.

While feminists have clearly shown that men benefited by the patriarchal social order, they successfully showed that these gender mythologies which dictate sex roles are painful to both genders. More importantly, the politics of gender difference creates a discourse of adversarial gender relations. The extreme policies that exclude men will not create a kinder, gentler masculinity. On the contrary, the politics of difference has become a negative and socially painful experience for men. Further implementation of antimale policies, such as the maintenance bill now being considered, will turn men away from caring, and men will develop into mechanical cyborgs, socially malfunctioning if not haemorrhaging from their cultural exclusion from the mythical human heart.

Feminism like any other social movement is capable of developing a damaging fundamentalist variant which is dangerous and undeserving of the support properly owing to the main progressive tendencies originally intended. We suggest that protest to the feminist agenda has not arisen in response to the equality achieved by women in the economy and in politics. Protest has formed because feminism is not about equality any more. It is fast becoming a female domination effort which is twisting our social policy into torturous forms for those affected by it.

Manitoba is not poised to make a mockery of fairness, but worse, its punishing maintenance enforcement bill is guaranteed to increase the pain and sorrow of divorce in this province. The politicians of this province must pause and take a sober thought before it enacts a law which will further decimate the families who will be the ultimate victims of its shortsightedness. These past several years Manitoba has come forward with policies that have far-reaching implications for gender relations. Unfortunately this has not always had the effect of reducing gender antagonism, though it is no doubt well intentioned.

For example, when the zero-tolerance policy on male violence against women was first made into law in Manitoba there was little objection from any quarter. Most of us believed that any man who physically abused a woman should know repercussions for it, but what few of us anticipated was that there would be a small percentage of women who would use the false allegation of a domestic dispute in order to empower themselves in their divorce negotiations. We suggest that these women are ridiculing society's compassion and may one day have the effect of eroding our commitment to addressing this serious problem. Because there is now no need to produce material evidence to substantiate an allegation of domestic violence and because the Manitoba police must pursue all such allegations without considering the presence of evidence, we have created a naive policy which is predicated on the assumption that no woman would

wilfully make a false allegation for the purpose of revenge or empowerment. In Manitoba, women are incapable of manipulation and men are all potential violent, sexual predators.

Men will not go back to the way it was before; they want to be let into the comfort, love and emotion that only the family can provide. If Manitoba's politicians believe that they are being progressive with their extreme feminist policy intentions, we can only say that the legal case law shows that Manitoba is at least five years behind its neighbour Ontario and at least 15 years behind policy developing in the United States. It is crucial that we allow men to be human and prevent the further entrenchment of the attitude that they are merely "walking wallets" who can make no contribution to the emotional and social well-being of their children. If we fail to stop this law from coming to force, we will only enhance our reputation for being the worst place in Canada to raise a family.

While divorce may separate adults, that does not mean that children should be separated from either parent. Give men back their dignity, recognize their experience of divorce, and the problem of maintenance enforcement will become a thing of the past, as it has in other jurisdictions.

We implore you to give thought to what you are about to do. Even though there may be little objection to your plans, it is hoped that this argument will bring a note of reason to your deliberations that is not hampered by the fear of being labelled sexist. All we ask is that Manitoba recognize that, just as children are entitled to fair economic support, they are also entitled to a loving, reliable relationship with their fathers as well.

Thank you for your attention to our last-minute plea for sober thought.

Mr. Chairperson: Do members of the committee have questions that they wish to address to the presenter?

Mr. Mackintosh: Ms. Malenfant, I have two questions. Can you describe very briefly what Michigan's visitation enforcement scheme is?

Ms. Malenfant: Basically, what they have done is they have combined maintenance enforcement and access enforcement in the same office. They also take care of variances there. Basically, it is a court diversion methodology of dealing with these traumatic issues.

What they have done is that access and maintenance are conducted in the same office, in the same bureaucracy. Basically, as the senator said, most of the time, if a custodial parent is approached by the state saying, you have to provide access here or there will be repercussions, the custodial parent normally acquiesces to that. They also have included in that, it is like a one-stop shopping for divorce in the state. They also have their–what do you call it?–counselling services for parents. So all of these things are all in one bureaucracy in the State of Michigan.

Mr. Mackintosh: I could be wrong. Is it Michigan that also has the automatic pay cheque deduction on maintenance payments?

Ms. Malenfant: Yes, it does. It has a very serious–[interjection] It has a very significant maintenance enforcement program. Do not get me wrong here. Maintenance enforcement is very, very important. Nobody disputes that, and, certainly, I support it as well, but, if you do not enforce access as well, it is a gender-sexist issue.

Mr. Mackintosh: The second question–we recognize that custody and access battles can have significant ramifications and scarring for children.

Ontario, about three years ago, began a series of pilot projects, I think, of 10 supervised access centres using existing facilities, for example, daycare centres, to allow one parent to come with the child, and then the child would be supervised. I believe that there had to be a court order in place. Have you looked at that kind of model, and what are your thoughts on that as one way of dealing with this challenge?

Ms. Malenfant: Well, I think, you know, my–

Mr. Chairperson: Ms. Malenfant.

Ms. Malenfant: Thank you, I am sorry. I should be recognized by the Chair.

Mr. Chairperson: You will get used to it.

Ms. Malenfant: I have never done this before, so I apologize.

Mr. Chairperson: That is all right, no problem.

Ms. Malenfant: Okay, I wish I knew more about that, Mr. Mackintosh, but I will say this about that proposal.

I think that it is fundamentally necessary, particularly in this province, that we begin to ensure that there is a legitimate court process to review allegations that are made in the heated moment of divorce. I cannot tell you the kind of trauma that I have seen. I have looked into the heart of darkness; it is horrid. You cannot know what people will do in order to ensure that the fathers never get to see those children again. I cannot tell you.

For example, in Manitoba, I have looked at 24 cases. Of those, four cases I could not deal with because I could not support the cause. In all of the other ones, without exception, those children were under four years old. Now what does that mean? That means that these children have been dependent on their parents for their entire lives, they have not entered into any school system where they are going to get some kind of support from society. Instead, once the divorce begins or the separation begins, the father is annihilated with an allegation and the mother has all the power.

Some women, not all women, some women are using that power to completely destroy the lives of these children. They are exhibiting signs of being raised in a war-torn society. The anxiety is incredible. Will these children ever be the same again? We will know in 10 years.

* (2130)

Mr. Chairperson: Are there any more questions for the presenter?

Mrs. Vodrey: Really just some comments to say thank you very much for your presentation. I found it very interesting just to listen to you talk about the issues. Thank you very much.

Ms. Malenfant: Thank you, Madam Minister, because for the past year and a half I have been communicating with you as a politician, and I can say that I thank you for giving my voice at least a hearing. You just recently responded to a submission that I made to your office, and I hope that I can continue to do my effort to communicate with your office of an alternative view. Thank you.

Mr. Chairperson: Thank you very much. We would like to thank you for appearing before the committee.

I would now like to call Marilyn McGonigal to please come forward.

Ms. Marilyn McGonigal (Private Citizen): Mr. Chair, Madam Minister–

Mr. Chairperson: Do you have a written presentation you want to present?

Ms. McGonigal: No, I do not. I have not got a written presentation, and I hope I will be brief, one of the shorter presentations.

Mr. Chair, Madam Minister and members of the committee, I would first like to speak in favour of this legislation and the revisions that you are presenting. I want to also commend the personnel who administer the program. Any criticism offered is not meant to reflect on the people who are involved in attempting to collect child support in accordance with the intent of this legislation. I think that while they do their best to carry out the provisions of this legislation, the program however is a little more user-friendly to the lawyers. I have been practising for a long time and I have always had no difficulty with the program when I require information or assistance in general, although there are problems with access by telephone and so forth for information.

I have to inform this committee that I have heard from many, many clients who are payees that the

system does not appear to be as user-friendly for the payees of child support, that is the custodial parents, when they want to find out things or have actions taken and so forth. I think we should not overlook who this legislation is primarily to benefit–first of all, the children, of course, but also the payees. It should not in any way take away any rights that payees have or treat them like they are not important in the process. I would like to make some points just quickly and to plant ideas I think are important here.

Previous speakers, payees largely and custodial parents, have made certain points, and I support the idea that custodial parents should not bear the burden of the costs of court process as much as they do when they do not qualify for legal aid. I would support some kind of a measure in legislation or in the Legal Aid program to expand eligibility to parents for that purpose. I do not want to see cases fragmented, but I think that this is a very, very important point that has been made, that the costs of litigation have wiped out the benefits of child support in many, many cases that I have seen. They have also wiped out the marital property and the assets of the payee. I find that to be just incredibly sad, even if the issues to be heard are legitimate and so forth.

Court is very simply a very, very expensive process, and, along those lines, I would also support an expanded mediation program in Manitoba for the potential mediateable issues.

While a lot of statistics are stated, I believe the actual percentage of high-conflict divorces and situations that you have heard described tonight, where access is denied or parents refuse to visit the opposite parent, the noncustodial parent, the situations like that are very small in number, and we could perhaps look at the savings to be made, as well, in the cost if we looked at child support as something government will support mediation for. Other issues, too, could be supported that way, but that is one for sure.

The concerns that have been raised in my office by clients about access to the program or information or enforcement of orders and so forth indicate to me that there is a need for increased personnel and to speed up the action and in fact to respond to payees who know, who have information that is of use to the enforcement office and which should be acted upon more quickly. I obviously see that that requires more people.

Also, simply because Legal Aid does not support a lawyer for the payee after the case is finished in court, it is necessary for the system to have an investigative function and a follow-up function for these orders, in my view. I believe, at least I was informed, I do not know how accurately, that there has been a reduction in the investigators available, or the sheriff's officers and investigators available, to the enforcement program, and I think that that should be redressed if it is so. If not, then, based on the complaints I have received, I believe you should increase the number of people dealing with investigation and enforcement issues.

I believe that sole parents cannot do this. They have too many responsibilities when they have the 24-hour care of the children, whether or not they are employed, and, again, I repeat that Legal Aid does not allow them lawyers for follow-up and enforcement. So it is up to us to do it.

I would like to deal with a couple of substantive issues in addition to what is in the legislation. As I say, I compliment the government on bringing this legislation forward and the ideas in it. However, the one large issue I would like to address briefly is interest on arrears. It seems to me that we should have legislation that allows the master to assess interest on arrears. To me, it is a more effective and more appropriate measure than, for instance, a heavy fine, because the money collected by way of a fine does not go to the custodial parent. Although I do not think a thousand dollars is excessive by way of a fine and may be, in fact, necessary in some circumstances. Where there is, in fact, plenty of money, you could have a very high fine, but, where there is a limited amount of money, I believe that things like costs that are supposed to be incentives for compliance and fines are not the way to go, and the money is required and is so limited for children.

Certainly, I think interest should be added where the child support is wilfully withheld by the payer or where the payment is delayed without cause and particularly

where it is habitually delayed without cause. The payee is very often paying interest on commitments for the household. You know, just the Zeller's account, whatever, has got high rates of interest attached to it; and, when the money is late, these payments are not made and interest and penalties accrue. I think some responsibility should be assessed there to do that, to redress that.

The other substantive legal issue that I would like to address has to do with the pension benefits legislation. You have addressed the issue of attaching pension benefits that belong to the payer, under 31(1), and those ideas are good. What has not been addressed but was raised by a previous speaker, Rosella Dyck, is the sharable pension benefits of the payee and how we should deal with that in legislation.

* (2140)

I have the following suggestion to make about that: first of all, the right to a share of the payee's benefits or of a spouse's benefits may be waived under The Pension Benefits Act, but a judge may not order that it be waived, so we have to deal with that in the context of child support. And I suggest that where the payee has pension credits that have not been shared with a payer, pursuant to The Pension Benefits Act, or the payer has not received the pension credits due to the payer, pursuant to a settlement or a judgment, or the payer has a potential claim on the share of the payee's pension's credits arising out of the marriage or previous marriage relationship with the payee and the payer has not exercised a waiver under the act, and further that–or if the payer's share has already been transferred out of the payee's plan to the benefit of the payer of child maintenance, such pension benefits should be subject to either attachment, although I am not suggesting that you can garnish the payee's pension benefits. I think that we need the correct legislation here, but they should be subject to, for instance, suspension or court-ordered waiver of rights up to the amount owed in child support when the application is made for a transfer of these rights, these credits.

It seems to me that can be done in some manner that is similar to the present amendments you have made to 31(1) having regard to the payer's pension benefits. Again, I do not suggest garnishment, for sure, but I do suggest that something be done about allowing the court to intervene so that pension credits are not transferred while there are arrears of child support.

Another point then–I move along, having made that–there is an issue that has been raised about the right of payees to appeal, which has been changed now to a review. I believe that is regarded as a housekeeping measure, Section 57(7) of The Family Maintenance Act.

My concern here is also that the payee have a right to have new evidence heard or evidence that was not heard by the master or the designated officer when the matter comes up for review at any time. Basically, if you exclude new evidence in this review that is done by the Queen's Bench judge of any previous order, you force a new hearing if things have changed. If there is one thing I know from my family law practice, changes in circumstances are frequent. Although we need certainty in law and we know that and all that historically, we also need to have the flexibility in law to deal with changes in circumstances on a regular basis. It seems to me that if this right of appeal from the master's order to the Queen's Bench is now going to be an appeal on the record only, it may be fair enough that we do not have a complete new hearing, but there should be room for new evidence to be heard at the time of that appeal. Sometimes they are going to take a long time, and a lot of changes can take place in that time.

The next point I want to make is one that has been raised by the man who spoke, you know, rather movingly about not seeing his children for years. I know that matter and that case is before the courts, but I would like to speak about an issue that is outside this particular legislation–yes, I am nearly finished, Mr. Chair. I think there should be an Access Assistance Program in this province, and I think that it was too bad that it was discontinued. It is very important that we not mix access and maintenance issues in terms of having them equated or related in any way. I think that the law is correct as it is in separating those issues. I do not agree with the presentation that says they should have one dependent on the other or in any way related. We need an Access Assistance Program for people, and

we need programs in this province to deal with high-conflict divorce and children who refuse to visit the other parent. In that regard, I think that there is room for expanded mediation opportunities for many, many parents at any stage of the process that should be free and accessible to all parents in Manitoba. Thank you, Mr. Chair.

Mr. Chairperson: I would like to thank you, Ms. McGonigal, for your presentation. Do members of the committee have questions that they wish to address to the presenter?

Mr. Mackintosh: Thanks, Ms. McGonigal, I appreciated every one of your comments. First of all, four issues, very quickly. It is your information that the sheriff officers have not been as available to the maintenance office for investigations lately. Is that your understanding, and how did that information come to you?

Ms. McGonigal: I believe I have been advised that there was a reduction in the staff made available to the enforcement office some time in the past year or so. I am not familiar with the specifics of that.

Mr. Chairperson: Any other questions?

Mr. Mackintosh: We will be proposing the interest on arrears be included in the legislation, and perhaps you could have a look at that draft with us.

It is odd that the legislation would say that now the payee can access the pension benefits of the payer, but, by golly, just a little way down the road the payee has to split now her pension credits or benefits and give half of them, or whatever the amount would be for the period of cohabitation back to the payer. It does seem odd, and I agree that has to be looked at. Of course, there has been a principle that we have fought long and hard for that the pension benefits have to be split 50-50 for the period of cohabitation. I think you have a very strong argument there, as Ms. Dyck does, and we will look further at that.

My last comment. You say there has been an Access Assistance Program in Manitoba. You said it was discontinued. Can you describe what that was and when it was?

Ms. McGonigal: Yes. I believe it is about a year and a half ago that it was discontinued, and it was available for parents who were having difficulty with access and the program–I guess I cannot describe it in detail–was there in the Woodsworth Building as part of the Family Law department. They set up meetings and that between the parents to try to resolve, facilitate more than mediate, facilitate access issues after court orders are made and where parents are having difficulty with access issues. I think that was a good program, and I think it should be reinstated.

Mr. Mackintosh: We will pursue more information on that, and thank you very much.

Mrs. Vodrey: Mr. Chair, just to provide a little bit of information. First of all, the sheriff's officers. There were three sheriff's officers who did locates. Those sheriff's officers have now been converted into designated officers of the Maintenance Enforcement Program. They now have a wider and more effective duty. So we still have sheriffs who are in fact operating to do locates, but those three sheriffs have now been moved directly into the Maintenance Enforcement Program, and we believe that their time now is spent in a more effective way. So that may answer that question for you when people raise that with you as well.

You have raised a number of possible amendments. Many of them are very complex. They are complex not only for the purposes of this bill but for the other bills which they affect. So there are certainly suggestions and recommendations which we are more than prepared to continue looking at, but I would like to say for the record, we recognize that, again, they are very complex and we want to be careful that in anything that we do we are not creating more difficulties. We want to be thoughtful in our approach.

* (2150)

May I also make a quick comment on the access program. Yes, there was, and the reason that program, to my knowledge, is no longer in existence is because the federal government withdrew its funding. Apart from those three answers on three areas which I hope will be helpful to you in your practice, I want to thank

you very much. It has really been a very, I think, important presentation with a number of very considered–as you said, some are very substantive issues which you have asked us to consider, and others are issues not quite as substantive but equally as important. So thank you very much for all your work in bringing that forward to us.

Ms. Cerilli: Thanks for your recommendations. One of the things that you mentioned was reduction in staff availability or the problems with staff having the ability to do the legwork to investigate. I think I am aware that the caseload in Manitoba is 1,100 files per person and in other provinces it is about 450. Then you talked about how the system has to be made more user-friendly for the payees. I am just wondering if you could elaborate any more on how that could be done other than simply having more staff there.

Ms. McGonigal: Yes, I think that we should be careful in reviewing legislation like this that we not take away any payees' rights, such as the appeal and so forth, but I was referring to accessibility. I just hear from so many clients that they feel they are not getting any satisfaction from the enforcement office, and I do recognize the problem with having to communicate with so many telephone callers. I know the policy, for instance, of answering calls only in the morning and not in the afternoon so that they can get their work done, and I believe there is a system being put in to answer basic questions, which is a good idea, by voice mail or whatever it is called. That is a good idea.

I think the payees should have–I think maybe they should have more directive rights because they do not have a right to legal aid and they are not going to court for variations. They do not want to vary the order. They want to enforce it so that they should be involved in that enforcement process. When they receive the summons, they are told in the summons that they need not attend because in fact the program is acting for them and the children to collect the child support. However, if that is the case, then they should be invited in an organized way of some sort to bring forth the information they have for the hearings, and of course they should have a right to a hearing themselves if the order is not satisfactory, the default order that is made in one of the lower courts.

Mrs. Vodrey: I do not really want to prolong this because I understand this is not a time for debate; it is an opportunity for presenters to provide us with information. But it is a concern to me when information which is in fact not accurate is put on the record as if it is and goes unchallenged, and that is the caseload of our maintenance enforcement workers which the member for Radisson has suggested was a number somewhere over a thousand. I would just like to say that that number is quite incorrect. The number is approximately 750. It is the second lowest in Canada. That number has been spoken about aloud by me on many occasions.

One other issue that has come up several times in this presentation and in others is this denial of access to appeal. I just want to say, as I am sure you know, Ms. McGonigal, as a practitioner, that the conduct of the maintenance enforcement is done by the officer, and it is done for a very particular reason. It is to avoid the payee being put in a position where the payee could be pressured or could be subject to abuse by the payer or by others and forced to make decisions where they might give up rights or they might make decisions based on the pressure that they are receiving. That is why this amendment corrects the one area that was outstanding in the bill and does what all other conduct of cases does, and that is it puts it in the hands of the Maintenance Enforcement officer.

Now, it does not remove the influence of the payee in that the payee still has the opportunity to request that there be an appeal, but all of that is done by the Maintenance Enforcement officer, and that is to avoid the individual who is the payee being the subject of any pressure or any threats, and that the finger, if one is being pointed, will be pointed in the direction of the Maintenance Enforcement officer who is a third party.

So I just wanted to clarify that issue as raised by other presenters as well. I was looking for an opportunity to clarify, and I thank you for the opportunity, Mr. Chair.

Mr. Mackintosh: To continue in the spirit of keeping the record straight, I know the minister uses the number of 715 cases per officer. I think she would agree or

clarify that was an average of the cases per officer across the Maintenance Enforcement office. I think she would also admit that some officers have over 1,000 cases, particularly the REMO officers.

Mr. Chairperson: Are there any more questions for the presenter? Seeing none, we would like to thank you very much for your presentation.

I now call Irene LaBrosse, Coalition of Custodial Parents, to please come forward. Do you have written copies of your brief? Do you want to dispense with the reading of them and have them inserted into Hansard and summarize your brief?

Ms. Irene LaBrosse (Coalition of Custodial Parents): Yes.

Mr. Chairperson: That is what you would like to do. All right, we thank you very much. Please proceed with your presentation, ma'am.

Ms. LaBrosse: I am here on behalf of the Coalition of Custodial Parents of Manitoba. A group was formed in May 1994, and our memberships represents over 11,000 single custodial parents who are concerned about the maintenance enforcement system allowing the collection of child support to accumulate to more than $28 million in arrears for the children of Manitoba.

We have prepared a brief for submission to the committee that describes our views and concerns regarding amendments to Bill 3. In this brief we have indicated three main reasons why the Manitoba Maintenance Enforcement system and the justice system has created the highest poverty rate in Canada.

1. Our child support awards are too low. The Manitoba Association of Women and the Law found in their recent study that the average child support award for all the children in the family is $325 per month.

2. Manitoba Maintenance Enforcement is ineffective in their collection procedures, and lawyers write court orders that are worded in such a way as to be nonenforceable. Up to 75 percent of the support orders in Manitoba are presently in arrears. Enforcement and collection for orders that span provincial or international borders are extremely difficult, if not impossible, to enforce.

3. Nearly half of custodial families do not even have support orders due to fear of retaliation from their ex-spouses and because many custodial parents are not aware of their rights to receive support.

If a custodial parent does not provide for her children, she is guilty of criminal negligence. The defaulter in child support should likewise be considered guilty of criminal negligence. Maintenance Court is ineffective, useless and an unnecessary drain on the taxpayers. Rather than provide a court for payers to bring their excuses to, the law should simply be enforced. The payer should not be allowed to hold court orders in contempt.

* (2200)

We have addressed other concerns in the brief by including 23 more provisions and suggestions as to how to ensure enforcement, and we have devised a formula that can be used as a method for the collection of arrears. I am not going to go into those 23 suggestions.

We are pleased to see some improvements to strengthen enforcement strategies for the collection of child support, and we agree to absolute passage for Bill 3. But no matter how many words are changed, added and deleted, we know that if the provisions are not utilized, then nothing will change. Maintenance Enforcement has failed to send a message that child support is a serious responsibility, one where nonpayment should be pursued as aggressively as every other failure of civil responsibility. The enforcement system has been acting like a social work enterprise instead of a hard-nosed collector.

We the members of the Coalition of Custodial Parents believe that the only system of child support collection that will work is to have the government take over the payments by prepaying the child support to the custodial parent and following through to collect this amount from the payers. The single custodial parent in our society has been viewed as the ex-wife who gets it

all and that the ex-husband is left poor. This misinformation has been fed to us by lawyers. The lawyers are also misinforming their clients who are about to become single custodial parents that no matter how much money has been awarded to them to raise their children, the justice system, the welfare system and the tax system have been put in place to take this money away.

I have seen the child support that I have received periodically over the past 13 years going everywhere else instead of being used for the purpose it was intended for. The child support was paid to the legal system three times in the first six years following my divorce in 1981. The Maintenance Enforcement Program in the early '80s was very different. I could tell by my ex-husband's reaction that he was afraid to miss a payment. You could also talk directly to your designated caseworker, and the telephone lines were never busy. My biggest regret was that I believed in the court order and that child support was guaranteed income.

(Mr. Vice-Chairperson in the Chair)

In 1981 my ex-husband's earning capacity was three times mine, and I was awarded $200 per month for each child which was later increased to $300 per month. I would include this monthly amount to determine how much rent I could afford because with just my secretary's salary alone, I was not able to afford decent housing for my two sons. By 1986 I do not know if the fear to not pay left my ex-husband's mind or that the Alberta maintenance enforcement system was useless or that Manitoba Maintenance Enforcement was overburdened, but the payments stopped for one and a half years. During that time I was forced to create new debts. Since I could not afford to pay the rent with my salary, I then had to borrow $1,000 to buy out the lease or get evicted. My sons and I moved in with a friend for a while, then to a one-bedroom apartment. I sold furniture, consolidated debts into a bank loan and found two more jobs. I went to three different jobs every day for one and a half years, and I have never been in a financial position to be able to give up a second or third source of income ever since. I received the arrears from the 1986 fiasco in 1989, and I used that child support money to pay for all the new debts I was forced into.

Then my ex-husband moved to Ontario and it took four months of missed payments before I found a human being in Ontario to inform me that he was placed on the automatic payment deduction system. A percentage of the arrears owed was added to the regular monthly child support payments spread over a number of months throughout the year. I thought the Ontario system was going to improve the pattern of late and missing payments, and I knew that the source of income was deducting the amount regularly, but Ontario Maintenance has many administrative problems that continued to cause many delays in missing payments.

Over the past nine years, I was ignored and disregarded by Manitoba, Alberta and Ontario maintenance enforcement systems. I was able to keep the systems moving because I wrote letters to Justice ministers in all three provinces. The worst part for me was not knowing if a cheque would arrive every month. There was no warning, no monitoring and no communication from any of the three systems.

By 1989, even though today my take-home pay equals the poverty line for a family of three, my gross salary plus whatever child support I received placed me into a rich person's tax bracket, according to Revenue Canada. In my case, I had to pay just more than 56 percent back in taxes of the child support. Therefore, I started taking out loans for the next three years to pay taxes, which meant that I only could use the child support to pay for my monthly tax loan payments, and again none of this money ever did get to my sons. In 1993, I owed $5,400 to Revenue Canada for 11 months of child support received and four months of arrears missing from the previous year.

If the child support was later missing, I could not afford to make the loan payment and buy food and pay rent from my pay cheque. In January 1995 there were two months of child support missing. I owed $8,000 in loans. I owed another $8,000 to Revenue Canada. The bank refused to lend me any more money unless I had a co-signer so I made a decision to claim bankruptcy. I also opted out of the Maintenance Enforcement

Program. My two sons, 23 and 19, still live with me and have been working since they were very young. We have moved 12 times in 15 years due to financial problems, and we have never been able to afford to take a vacation. By choice, my sons' father has not communicated with his sons in over 10 years, not even a birthday card.

After working at two and three jobs for 15 years, all I owned was a 10-year-old car and used furniture, and I lost all of this in March 1995 due to bankruptcy. So this should give you a clear picture explaining just exactly where the child support goes and how trapped we feel in the system. I may have lost furniture, my car and my credit rating is ruined for the rest of my life, but if my story can help to change the laws, it would at the same time help to minimize the fact that I have lost everything but my kids. Thank you.

Mr. Vice-Chairperson: Thank you, Ms. LaBrossse.

* * *

A Submission Regarding Bill 3 Amendments, The Maintenance Enforcement Act

Introduction

The Coalition of Custodial Parents of Manitoba was founded in May 1994. Our membership represents over 11,000 single custodial parents, 62 percent of whom live in poverty according to Stats Canada 1992, (25 percent of all Manitoba children live in poverty). Some of the reasons why these families live in poverty are:

1. *Inadequate amounts of child support awarded. The Manitoba Association of Women and the Law found in their recent study that the average child support amount for all the children in the family is $325 monthly in total.*

2. *Up to 75 percent of support orders in Manitoba are presently in arrears. Manitoba Maintenance Enforcement is ineffective in their collection procedures and lawyers write court orders that are worded in such a way as to be nonenforceable. Orders that span provincial or international borders are extremely difficult to enforce.*

3. *Nearly half of custodial families do not even have support orders due to fear of retaliation from their ex-spouses and because many custodial parents are not aware of their rights to receive support.*

If a custodial parent does not provide for her children she is guilty of criminal negligence. The defaulter in child support should likewise be considered guilty of criminal negligence. In no other type of criminal activity does the excuse that they cannot pay in any way relieve a criminal of the obligation to right the wrong they have done. Maintenance Court is ineffective, useless and an unnecessary drain on the taxpayers. Rather than provide a court for payers to bring their excuses to, the law should simply be enforced! Payers should not be allowed to hold court orders in contempt.

Response to Bill 3

The members of the Coalition of Custodial Parents have studied the proposed Bill 3 to enhance maintenance enforcement and are pleased to see improvements such as: increased information gathering, reporting of child support debt to credit agencies, highway traffic act provisions, improvement to the garnishment act to make maintenance debts the priority, garnishing of joint assets and pension benefits, requirement that the burden of proof for wilful default be upon the payer.

If effectively utilized, these improvements could positively affect children's lives. Unfortunately, the most useful provisions of this bill do not come into effect until some unknown date to be proclaimed in the future. These provisions are totally meaningless until proclaimed. Also, some provisions such as garnishing of joint assets will be easy for payers to avoid.

We do have some concerns regarding the bill and believe it does not go far enough in promoting the best interests of the child. Further measures are necessary to ensure that reluctant payers take seriously their moral and legal responsibility to provide properly for their children and to ensure that the courts take

seriously the well-being of the children and effectively impress upon the payer the gravity of their obligation. Custodial parents have no option but to support their children, no matter how low their income. Noncustodial parents should have no option either.

Rights of Payee

This bill increases the powers and protection (Section 61.1 pp. 11) of designated officers, but it decreases drastically the recipient's ability to address the issues. Provisions on pp. 6 and 7 of Bill 3 will render the recipient powerless. Section 56(4)(b) plus 56(5) rescind the present right of the recipient to object to arrears orders made by the deputy registrar. This right is removed from the payee and the decision to appeal is left entirely to the discretion of the designated officer. At the same time, the deputy registrar is given greater powers in Section 56(2)(c) pp. 6 in that the arrears orders made by the deputy registrar are no longer considered to be interim but permanent orders. In effect, this order is then a variation procedure but does not allow the input of the payee or her counsel, as would be the case in a regular variation procedure. Furthermore, even if the designated officer does decide to appeal the order made, the new bill ties the hands of the Queen's Bench judge to whom the appeal is made. Section 57(7)(b) pp. 8 removes the right to a new trial; therefore, new evidence or evidence not mentioned by the Crown in the maintenance hearing cannot be introduced. Thus the Queen's Bench judge is merely conducting an administrative review of the procedure used by the deputy registrar or master or judge presiding at the maintenance hearing. The right of the payee to appeal by way of a new trial to a Queen's Bench judge should be retained and funds should be set aside for this purpose.

Arrears

There is no provision in this bill to prevent the deletion of arrears. At present, default is too easily excused and arrears forgiven at the expense of the children. Bill 3 also gives defaulters additional time to prepare various defences and allows for longer adjournment periods, which further compromises the well-being of the children (Section 56(2)(d) pp. 6). Default is default whether willful or not, and whenever there is default, children suffer the most. When a person murders another person, they are charged and must pay consequences, whether it is willful or not. It is abusive to withhold support money from your children.

Placing the onus upon the payer to prove that his default is not willful is excellent, but can only be effective if judges or masters require substantiated evidence. For example, saying, "I have been on sick leave for three months due to surgery," is not sufficient. This statement should be substantiated by all of the following:

1. *a certified letter from the surgeon specifying the type of surgery performed and the actual time loss necessary to recover.*

2. *a certified letter from the employer confirming the sick leave and specifying the amount of money paid as sick pay.*

3. *certified letters from any insurance companies paying for sick time and benefits.*

4. *the absence of any other sources of income or deposits of money or assets that could be tapped or liquidated to pay the support amount if there is not sufficient sick pay.*

5. *verification that the payer is doing all he can to ensure an early return to work.*

If any of the above conditions are not met, then the default should be considered willful and consequences should be applied. A similar procedure should be followed in cases of unemployment and underemployment, or when a payer has reduced his wages. At times, payers may voluntarily reduce their incomes and thus endanger their ability to support their children. Judges and masters should be obliged by legislation to apply these tests and should ensure that all of these conditions are met before allowing any arrears to be deleted. Judges should consider that recipients do not receive increased support during their sick periods and likewise payers should not easily be excused from their responsibility. Children must still be provided for even when their parents are ill or unemployed. There should be a requirement in place

for payers to prove their job-search effort on a regular basis. If they cannot prove with substantiated evidence from their employers and potential employers that they are without fault in the matter, then they should be found in willful default.

Arrears should not be deleted in any but the most desperate of circumstances. Payers should be forced to prove that their unfortunate circumstances were not of their own doing and that they are indeed doing all possible to improve their circumstances, i.e., really looking for work, making a real, serious, intensive job-search effort.

No arrears should be forgiven or orders varied down as long any assets, including pension benefit credits, have not been applied against the order or the arrears. Women are continually forced to liquidate all their assets, including marital property, to provide for their children when support orders are inadequate or are not paid. Surely noncustodial parents can do the same.

Any arrears should be paid as quickly as possible, not as small payments over a number of years. The children have suffered great disadvantage as a result of the arrears and should not be forced to continue to suffer unnecessarily. If anyone must suffer, it should be the adult whose responsibility it is to support, not the child who needs to be supported. For example, where an RRSP or other asset is owned, it should be promptly liquidated to cover arrears rather than have arrears paid over a number of years. The payer should be required to sell his car or take out a second mortgage on his house if necessary in order to pay arrears promptly. Interest should also be charged on any arrears at bank or credit card rates to encourage prompt payment and to compensate women and children for the disadvantage they have suffered. Women repeatedly are forced to go into great debt because support is not received, and they pay interest on their debt.

Other Issues

Another matter that must be addressed in this legislation is the age limit. Children are often still dependent beyond the age of 18; however, because the program automatically assumes orders are to cease at age 18 unless specifically stated, recipients are forced to incur further legal costs on behalf of their children in order to receive assistance to support them. The age limit should be raised to age 25 (or as long as the child remains in school or is not self-supporting) so that the custodial parents are not forced to incur these further legal costs to provide for their older dependent children. All orders should be made retroactive to the date of application as is done in Ontario. Awards should also be automatically indexed. Furthermore, all legal costs required to obtain or defend support orders for children should be paid by Legal Aid on the principle that children must be properly provided with the necessities of life. The money that is now used by Legal Aid to defend defaulters should be redirected to ensure children's welfare instead.

Another difficulty that will be encountered by many custodial parents if the above measures do bring a lump-sum payment of arrears is that a great percentage of the money will go to taxes on the child support amount. Many custodial parents are forced to endure unavoidable financial problems for the months and years of arrears and then are penalized when the arrears are collected with the present tax system. A good analogy would be if an MP or an MLA were to have their pay withheld for four years and would have to go into debt to cover the expenses during that time and suddenly in the fifth year would receive payment for the last five years in one large lump sum. The MP then would lose more than 50 percent of the lump sum to taxes since it must be claimed all in the year that it is received, plus they would have to pay for the debt they have incurred plus interest.

We recommend that changes must be made to Revenue Canada regulations to allow for the support amount to be claimed only for the years in which it was due. The most equitable method and the most beneficial for children is that no tax be payable on child support.

We note that in numerous areas in this bill the term "shall" has been replaced with "may." Legally, there is a drastic difference between the two words. The word "may" must be replaced with "shall" throughout the bill to ensure the designated officer or the court is obligated to enforce all the provisions of the act to the extent necessary to ensure that all money owed is

collected and forwarded to the custodial family as expeditiously as possible.

Recommendations

Provision must be made to prevent judges from deleting arrears or varying orders down in all but most desperate situations. It should not even be considered until all possible avenues of payment have been exhausted and then only if the payer can prove that the children will not suffer.

The actual cost of raising the children must be the first and foremost factor in all maintenance and variation orders and the tax consequences must always be plainly taken into consideration for both parties.

Child support orders should be automatically assumed to continue until the age of 25 or as long as the child remains in school or is not self-supporting.

When a child-support order is signed by both counsel, the disposition paper should be copied and given to enforcement so that collection on the order can begin immediately.

The law should provide an automatic basic entitlement for all custodial families that would be available and enforceable without a court order. This would not remove the right to greater support amounts for the custodial parent by negotiation.

Penalties must be applied for false information or anything less than full disclosure both in Family and Maintenance courts. The enforcement program and the Crown should have the funding and resources available to do thorough investigations.

The collection of child support arrears must be the first priority in all garnishments. The child-support debt must be the first debt paid. It must be paid in full before any other creditors are paid.

In addition to the provisions in Sections 13.5(2) pp.17, bankruptcy funds must be garnisheed for child-support arrears. At present this is not being allowed, on the grounds that the maintenance debt survives the bankruptcy. However, in criminal cases (i.e. fraud), a debt that is incurred through illegal activity survives the bankruptcy but is still paid out of bankruptcy funds. Child-support debts should be the first debt to be paid out of bankruptcy funds.

In the case of the custodial parent owning a pension and when pension splitting occurs after marriage breakdown, the payer of child support who is in arrears should not be allowed to obtain the custodial parent's pension. It should not be split until the children are no longer dependent and no arrears are owing. Furthermore, no marital property should be removed from the custodial parent while any arrears are owing.

To prevent NSF cheques from being issued, all cheques should either be certified or be made payable to the program. The program should immediately issue a government cheque to the payee. A payer is much more likely to honour cheques if they are made payable to the program rather than to the payee. The risk should be borne by the program not by the children.

When The Highway Traffic Act provisions are invoked in Maintenance Court we believe the master should demand the driver's licence and vehicle registrations from the payer, on the spot, as is done for criminal cases.

Professional licences should be revoked, as well.

Interest should be charged on all overdue accounts. Custodial parents must pay interest on the debts they incur as a result of missing or late payments.

An automatic payment system should be instituted using Revenue Canada as a database to assist in the collection of child-support payments. This system has been successful in Massachusetts where they have a 90 percent collection success rate. All provincial and federal data banks and enforcement programs should be linked by computer to increase effectiveness.

Employers should be obliged to promptly inform the enforcement program of any changes in the payer's employment situation (i.e., new people hired, people who have left the employer, increases in salary, etc.).

A maintenance advance prepayment system is the most effective means of getting support monies to children. This system would require the government to pay the support to the recipient and then collect these monies from the payer. In this manner, children would be able to benefit from the support money continuously and the payer would be much less likely to incur arrears. If the money came from public coffers, the government would also have a much greater incentive to enforce payment and would apply even greater effort to do so. The cost would be offset with significant savings from social support programs.

An amendment to the Legal Aid act should be included in the legislation mandating Legal Aid to secure reasonable support orders for all children. All children should qualify for legal aid. Every child's right to support should be defended by Legal Aid on a matter of principle. This would greatly enhance a child's likelihood of receiving an adequate child support order and of not having that order varied down. At present many women are forced into low or no child support agreements and variation orders because they cannot afford to spend money on legal costs but do not qualify for legal aid. They are being forced to either take food out of their children's mouths to pay lawyers or to give up their children's right of support because they cannot afford to pay the costs. Child support is for children, not for lawyers.

An amendment should be made to The Social Allowances Act to the effect that all support money collected for recipients on welfare be paid directly to the children rather than to the welfare system. At present the money is being clawed back so that the children do not benefit.

When an able-bodied payer is on welfare, a portion of his welfare cheque should be garnisheed for child support. At times, payers go on welfare to avoid child support. Even a token payment of $50 a month would encourage the payer to find a job and would give the children the benefit of knowing that parent is helping to support them. The child support obligation should not cease even though a parent is on welfare.

We suggest that a noncustodial parent on welfare should be considered a parent for purposes of welfare and that the additional amount allowed for children (i.e., $3,500 for one child) of parents on welfare should be automatically paid directly to the custodial parent for child support by the welfare system.

The legislation must provide for an automatic review within three years so that amendments will be made to improve the legislation on a regular basis.

This legislation should be truly directive. This will leave less discretion with the courts. However, it will ensure that children are better cared for in the long run. The courts and the Maintenance Enforcement Program should be forced to pursue all possible avenues of payment. Every time they are lenient on the payer, they are being very harsh on the child.

All provisions of this bill, except the parts limiting the rights of the custodial parent, should be put into effect immediately. We are concerned that the provision in Section 45(2) pp.31 could render this bill useless, that children will be forced to wait indefinitely, or for a very long time, before they actually see any of the benefits that this bill purports to provide. An early target date should be set to enact these provisions.

Suggested sequence of applying enforcement measures

1. *The preferred method of ensuring that the children are supported regularly is a maintenance advance system. Until that becomes a reality, we recommend that arrears be addressed in the following sequence:*

Solution to arrears in the present system:

1. *Immediately apply interest charges and report to credit agency.*
2. *Garnish any and all assets, wages and contracts.*
3. *Garnish pensions.*
4. *Apply The Highway Traffic Act provisions.*
5. *Apply financial penalties and make them payable to the children, not to the government.*
6. *Jail. This is not our preference, although it may help some parents to recognize their*

responsibilities. What our children need is adequate and regular support.

Conclusion

This legislation is generally an improvement on the present legislation and will see more children better cared for if it is effectively utilized; therefore, we recommend that this legislation, except the provisions limiting the right of the custodial parents to appeal by way of a new trial, be passed without delay. However, we believe that other areas (please refer to our recommendations in this document) must also be included in this legislation, preferably before it is passed, which will further enhance the effectiveness of the act and the welfare of the children of Manitoba. Children must be the priority for all parties.

Rosella Dyck
Irene LaBrosse
The Coalition of Custodial Parents of Manitoba

* * *

Mr. Vice-Chairperson: Questions?

Mr. Mackintosh: One statement that you make I think is so important, so critical, and I think it speaks to the underlying philosophy that has to be instilled, particularly in decision makers, and that is that the collection of child support arrears or collection of child support is the most important amount owing and the most important debt owing and the legislation has to reflect that principle. There is no more important debt point in our society than to the children. I commend you for putting that in the brief.

Did you want to respond to that?

Ms. LaBrosse: No, you have said it all. Thank you.

Mr. Mackintosh: The second issue that I wanted to raise, I guess highlight through your presentation was where on the last page you have concerns with the fact that the bill will come into force on proclamation rather than once it is passed or gets the assent of the Lieutenant-Governor. I think you know the history of this bill, the recent history of this bill. It was introduced just before the election, and now we have undertaken to do what we can to see that the legislation is enacted as soon as reasonably possible, but we are left with this nagging doubt as to when in fact the legislation will become effective. We are sitting here tonight at this hour in part because we hope the legislation will be effective as soon as possible. So I commend you for making that observation and we will continue to make that tonight with the committee and the minister.

Mr. Vice-Chairperson: Any further questions?

Mrs. Vodrey: I just want to thank the presenter for the information that was given to the committee and also for her speaking about her own personal experience and the effect of maintenance enforcement programs across the country on her own personal situation.

This is a bill which we believe will make a difference, but as I have said to other presenters tonight, there are more ideas coming forward. We want to proceed, we want to get something going and we want to get some changes enacted. Other suggestions which are coming forward this evening are certainly suggestions which we will continue to look at. We want to improve the system and make it the best system it can be. We recognize some of them, though, again, are very complex and have other effects, and we want to be very clear on exactly what we are doing. We do not want to put something into place for one purpose and find that it harms another. We certainly will continue to take many of the suggestions from yourself and others into consideration.

I just wanted to make one more comment on enforcement across the country because I agree and raised this most recently at the ministers responsible for the Status of Women conference because that was my most recent opportunity. There was very strong agreement by those ministers across the country. I believe at the time that I raised it, four of us were also Justice ministers. There was certainly an agreement that those who were not ministers of Justice that they would take this to their home provinces and ask within their home provinces that we really try and look at how we can break down barriers to the enforcement of maintenance orders where somehow they were not getting the attention that they should be getting.

So I just wanted you to know that that is a very active issue that has been considered at the ministerial level. There was also written into our minutes that we consider that very specific issue at the last conference which actually was only, I believe, three weeks ago. Thank you very much.

* (2210)

Mr. Vice-Chairperson: Excuse me. Ms. McGifford had another question.

Ms. McGifford: I do not really have a question; I would like to make a comment. I would like to thank the speaker for her very fine written and personal submissions. I do not know whether your remarks will change lives, but they certainly remind me again of why I am involved in politics and particularly why I am involved in this struggle affecting the lives and rights of women and children, so thank you very much.

Mr. Vice-Chairperson: Thank you for your contribution.

Louise Dyck? Do you have a written submission? Are you going to present it, or did you want that inserted in Hansard as written?

Ms. Dyck: I will summarize.

Mr. Vice-Chairperson: Wonderful, thank you.

Ms. Dyck: Actually, I am not sure I am going to summarize. Some of what I have said has already been addressed, and so I do not want to readdress it. I am actually coming to you from a little bit of a different angle. I have not yet experienced Maintenance Enforcement, and after some of the women I have talked to, I am dreading it.

I did try to call them once and the line was busy. I called about 20 times in the morning; I never got through. When I finally did get through, I had about 10 minutes of being on hold when I had to leave. So that is my experience so far with Maintenance Enforcement.

A couple of things that I wanted to speak to just in terms of my story–one is the cost of our legal system. I think it is really, really important that we get–first of all, I want to support the bill. I think it is very, very important that we get this through for a very personal reason. I would like you to pass this tomorrow so that I can go after my husband for my half of the RRSPs that he wants for his arrears. I have already spent $6,000 in legal fees, and we only have an interim order; we have not even started divorce proceedings. I would really like to see, once this bill is through, that really good guidelines come in that provide an equitable division of the family income–not that you just look at the payer, but that you look at the total income and that you make sure that the two families have an equitable standard of living.

I have sent a letter to Minister Vodrey about this; the formula I have is in there. Basically, I was looking at welfare guidelines. In my situation, one person gets $15,900 at the top of the poverty level, four people get $30,500, so you give him that, you give us the $30,500-—I have three children–and what is remaining out of the total family income, you split five ways and he gets one, and we get the rest of it. It seems to me that makes an equitable standard of living for all of us.

Now Men's Equalization will say, that is terrible; we are already giving lots of money. In my particular situation that means out of a combined income of $78,000, he would get $22,000 and we would get $56,000, and that sounds absolutely horrible, but it does work out to an equitable standard of living. I think if you have guidelines like that that are in place, then you do not have this squabbling between lawyers. It is cut and dried.

My husband and I went to a mediator to begin with. We worked out an agreement. My husband refused to sign the agreement because he did not want to pay that much. He did for the first year, and then we had to fight through lawyers. We have now gone to an interim agreement, and she said, pay what you first agreed on. In the meantime, I have had $6,000 in legal fees, and so has he. Fortunately, she also waived 1994's taxes for me, so I did not pay the taxes. I have been lucky so far.

Over and over again, women have been talking about how we have been putting out the money in legal fees instead of getting the money for the children. If you have guidelines that can be followed that are fairly cut and dried, then it would certainly reduce the amount of money that has to go out in legal fees.

Access, I do want to just address that, because while we have heard a number of times about the fact that arrears and nonpayment is made because access is denied, my husband will get up here and say the same thing to you, because my two older children refused to see him. He says it is my fault, I have turned the children against him. When we told my children that he was going to be moving out, my son followed me into the bedroom and went–that was at the point of separation. I did not turn them against him. They did not have a positive relationship with him before he moved out, but he refuses to accept that, and he put in the court order that he would like to have the right to arrange visitation with the kids without my interference, which I agreed to.

As a custodial parent with three children on her hands 100 percent of the time, I would be very glad if he would take them off my hands and give me a break. It would be nice not to always be worrying about where the other two are when I am taking one some place. The youngest one has Down's syndrome. He is 11 years old, and of course he is not entitled to refuse to see his father. I have taken him screaming, hollering, clinging to me, put him in my husband's car and shut the door and said you have to go and visit Daddy. Yet he says I deny access.

So when you hear these stories about denying access, hear the other side too, because it is not always true that the women are denying access. There is often a reason in there that–and I am not ready to cry, I am just nervous–the women are not trying to deny access. The kids honestly do not want to see the father, and there is a reason for it.

Often, as they get to be teenagers, it is because they are busy with their own peers. They do not want to spend time with me either. They certainly do not want to–my husband has now moved 30 miles out of Beausejour They do not want to go spend a weekend out on some farm 30 miles the other side of Beausejour, they want to be with their friends.

The other thing–I lost my train of thought–okay, we will get back to what I have written here. I am not going to talk about a lot of what is written. I have mentioned "may" instead of "shall," I am concerned about what the designated officer in the bill is going to choose to do. He "may" do something rather than he "shall." If there is something wrong it seems to me that he "should" do something.

The removal of the custodial parent's rights–I have been in discussion with Rosella, and Marilyn McGonigal, so I too am concerned about that, because if I end up in Maintenance Enforcement, I do want to be able to go after some money. What I am concerned about now is I want the bill in really quickly, because in spite of a maintenance agreement, instead of an interim court on May 11, on June 1 he gave to me a cheque for $500 instead of $1,500. So the very first cheque was one-third of what it should have been.

When I called my lawyer, I said, why did this come to me? She said, well, you might as well cash it, because Maintenance Enforcement will not even know about you yet. I said that was three weeks ago. She said, oh, yes, but the court order has not gone yet, and once Maintenance Enforcement does know about you, it will take another month to get processed. So I said to her you mean I went two months with no pay, no support, before I came to you and said we need to start legal action, he is not paying anything. It took another six weeks after that to get a court date. At the next month he still could have given me nothing. He did give me $500. I am going to have to wait until July until Maintenance Enforcement even knows about it. By then I am past my property tax time, and I do not think the government is going to forgive me my property taxes simply because my husband has not supported us.

I am concerned about time issues. There are a number of places in the bill where a payer is given a long time to come up with excuses why he has not paid or a long time to come up with how he is going to come up with payment for the arrears. I just ask you to look at all those times and see if it is really reasonable to ask

a woman who is trying to support her kids to go six months before something finally happens, because that, in effect, is a position I could be in. If I were not at least earning some money, I would be in severe trouble. Actually, I would be in trouble if I did not have a good tax rebate from last year in order to pay my property taxes; otherwise, I would have the government down my back.

I have also mentioned the arrears. I do not think arrears should ever be allowed to reach–I have read stories where arrears are $78,000. I find that incredible. My arrears right now are at about $3,000 because he had not paid for several months and so he was ordered arrears.

* (2220)

I think the whole process needs to be speeded up so that the arrears are paid, that they are paid off through RRSPs, through assets, through pensions, whatever. There is a clause in here, 57(3)(d), where a man can go back to court and he can say, well, I do not have the money. So the court will say, okay, you do not have to pay it.

My husband could do that because he really does not have the money; he honestly does not. He has moved out with another woman and her two kids from two other fathers to the other side of Beausejour, and he wants to support them. He spent the money. He does not have it. That is why I think it is so important that pensions and assets be garnishable, because I mean he could go and he could get it forgiven–and then he gives me some money and I need that to live on. Come tax time next year, I will not have the tax money and I am left holding the bag.

The payment system, it seems to me that as soon as the court order was made, if an employee's income were garnished immediately, that there was upfront deduction, you would get out of this whole mess of arrears. You would save yourself a lot of maintenance enforcement time and money and effort and court. Why do you wait until a man is in arrears before you say, now we will start going through this, and you have all the court hassle? When the court order goes, it should go to the employer and he should be deducted immediately.

The last thing that I was concerned about when I read the bill, No. 6, the hidden agenda–and I do not mean to be nasty in this, but I am a little concerned. I tend to be cynical, as most people are, about politicians. I am concerned that there is a hidden agenda in here to get money back for government use, in that, if you garnish a pension, somebody who is not supporting his children, and the custodial parent is on income security, then that money that is collected is reduced–it reduces the amount of income security that she has so that the government, in fact, is the one who is benefiting and not the custodial parent and the children. I am really concerned about that.

I would like to suggest to you that, if you had really good guidelines, if you want to save money in the government, do not let the woman go on welfare in the first place, make really good guidelines so that the woman does not go on welfare. Then the federal government has to come up with the child tax credit instead of the provincial government, and you are off the hook for the whole welfare bill rather than just whatever the portion was that the child support payments were supposed to be. I am just asking, can we not get into cahoots here and save each other a little bit of money?

The other thing, as I was reading through the bill, I do not know if the intent is that the sequence that would be followed is what is in the bill. I have written in here what I think the sequence ought to be in the collecting of defaulted payments or arrears. I do not think taking away a driver's licence is really beneficial. I think it is a good threat and should only be used–and jail terms–as a last resort. I think garnisheeing and going into assets should be done first.

The thousand-dollar fine, I think it is ludicrous for the government to levy a fine and take the money when it is the custodial parent and the children who have been out the money. Make it a penalty. Make him pay an extra thousand dollars to the custodial parent and the children. Believe me, there is not a lot of money to go around when you split up a family income.

I have also mentioned in here the interest. I think, any person who has several loans to make is going to not make the one that does not have any interest attached to it. If there is automatic interest for any arrears, they may be a little bit more likely to support it.

Mr. Vice-Chairperson: Thank you very much, Ms. Dyck.

* * *

Response to Proposed Bill 3

I wish to support in principle a bill which allows MEP to have greater powers to pursue noncustodial parents who are defaulting on support payments. I think it is imperative that assets, RRSPs and pensions be garnishable. I believe, in the interests of children, this should be enacted into law as quickly as possible.

However, I have some concerns about this particular bill that I would like to address.

1. *The stripping away of the rights of the custodial parent to succeed in getting support payments due.*

   a) *The repeated use of the word "may" instead of "shall" when it comes to actions to be taken by the designated officer. If the officer only "may" undertake certain actions, the custodial parent is left without the right to have it done for certain. This occurs many times in the following sections:*

   page 2, section 54(2.1)
   page 3, section 55(2)
   page 4, section 55(2.2)
   page 5, section 55(2.5)
   page 7, section 55(4)
   page 9, section 59.1.(2)
   page 10, section 59.1(5)
   page 10, section 59.1(6)
   page 11, section 59.2
   page 21, section 14.2
   page 22, section 14.2(5)

   In all these places, the designated officer should be obligated to carry out steps outlined in order to secure payment. It should not be an option.

   b) *Removal of the custodial parent's rights to make request of new trial, or for the setting of time allowances, or for a new trial, or to ensure the designated officer is fulfilling his responsibilities fully on her behalf.*

   page 6, section 56(2)
   page 7, section 56(4)(b)
   page 8, section 57(8)(5)
   page 11, section 61.1

2. *The incredible length of time everything takes and the time provided to the defaulting parent to continue to avoid making payments is not in the interests of the children.*

   You have actually increased times in several situations. I think the following sections should be carefully examined for the length of time allowed:

   page 6, section 56(2)(d)
   page 9, section 59.1(3)
   page 16, section 13.2(5)
   page 20, section 14.1(8)
   page 24, section 273.1(2)(a)

3. *Arrears issues not addressed in the bill at all.*

   a) *Arrears should never be allowed to hit the $1,000 level. Steps should be taken immediately when a payer defaults. The support is desperately needed by custodial parents and children.*

   b) *There should be automatic deduction of support payments at source as soon as the court order is made.*

   c) *Interest should be automatically assessed for all monies in arrears. The government will not accept that I cannot pay my income tax, or my property tax because my support payments*

   have not been made. I get charged a penalty and interest. So should the payer.

   d) *Arrears should not be allowed to be forgiven in court.*

e) Pension or large lump sum paid for arrears owing cause a great financial burden on the custodial parent. Arrangements need to be made with Revenue Canada so that the tax can be calculated as though the money came in the year it was supposed to have been paid.

f) Pension or RRSP money garnished for ongoing support or support in arrears should be rolled into RRSPs in the custodial parent's name if she/he so wishes, rather than be removed from a pension in one lump sum.

4. The issue of the fine of $1,000. This should be a penalty automatically levied against the defaulting payer and paid directly to the custodial parent for the children. They are the ones who have been shorted the support. Paying a fine to the government is ludicrous.

5. Sequence of steps to be taken by designated officer:

a) Report the defaulting payer's credit rating.

b) Levy the $1,000 penalty, garnish wages and assets.

c) Garnish RRSPs.

d) Garnish pensions.

e) Take away driver's licence.

f) Jail term.

6. Hidden Agenda.

It seems there is the possibility of an agenda other than helping custodial parents and their children. It is that of helping the government to gather more funds. Since any payments garnished from payers to custodial parents on income security only serve to augment government coffers, there is grave concern that the main thrust of the work done by designated officers, already overloaded by their caseloads, will be done to claw back more money for the government rather than have it go where it is desperately needed.

A suggestion that would benefit both custodial parents and their children, as well as the government, would be to institute guidelines which provide a reasonable income for the custodial parents so that they would not have to resort to income security in the first place. Then the federal government would have to provide the child tax credit and the province would be off the hook for the income security.

Good guidelines means taking the full cost of raising children into account and making sure that the total family income is equitably distributed between the two separated households. The guidelines being considered at present do not do this. In fact, they are dismally short in the income they expect a family versus an individual to live on.

If a family income was equitably divided and support payments automatically deducted at source, much of the money, time and effort spent by custodial parents could go into raising their children. Much of the money presently spent by custodial parents could go into raising their children. Much of the money presently spent by the government in the MEP could be spared since the defaulting in payments would never occur in the first place and monies presently spent on income security would be spared.

Louise Dyck

* * *

Mr. Vice-Chairperson: Any questions or comments?

Ms. Cerilli: Thanks very much for an excellent presentation.

You raised an issue that I have had some concern about with respect to case work that I have done. I just want to ask you to clarify, when you were talking about your own situation, the fact that your ex-husband is paying for a family that are not his children, if that has been used as a reason for him not paying his child support in any way in the system.

Ms. Dyck: He has said it to me. He has not brought it up in court. What he said to me was: I am moving out into the country, and it is going to cost more money, so I am not going to be able to pay you as much.

That is when he drastically started to reduce his payments to me. Then, after a couple of months, he stopped because he was mad because we did not have a written agreement, and I would not unilaterally sign that he was giving me money. I wanted him to sign that he would continue–like make it a proper agreement. When he found out he was out of pocket for '93 taxes, he got mad and refused to pay any more.

Ms. Cerilli: Then there is a concern, if he is entering a new relationship where there are children, that likely those children are also owed child support from their father and that we could be–

Ms. Dyck: They are getting child support from their fathers.

Ms. Cerilli: I appreciate you clarifying that.

Mr. Vice-Chairperson: Are there any other questions or comments?

Mrs. Vodrey: Mr. Chair, I would just like to thank Ms. Dyck for her presentation and for the issues that you have raised this evening and appreciate your support to get at least the bill through and to then take the opportunity to consider other issues which have been raised, but we have to make a start.

I just wanted to comment also on your concern about the length of time it takes to get orders referred to the program and to say on the record as well–but to you personally–that we are interested in that too. We are looking at ways. As a matter of fact, we are actively now in the process of looking at ways to try and speed up orders actually getting through to the program. We understand sometimes the length of time really depends on counsel, but we are looking at ways to try and speed that up. I just wanted you to know that there is already a recognition of that issue, and we are actively working on it.

Thanks very much for your presentation.

Mr. Vice-Chairperson: Thank you very much.

Ms. McGifford? Ms. Dyck, she has another observation.

Ms. McGifford: I wanted to say that I share your concerns regarding forced visitation. It must be extremely painful for you, as you described, to put your screaming son in the car of your husband. I know that in most cases where visitation is a problem, it usually is that children have decided for very good reasons that they do not want to see their father. I have heard many of these stories, so I really share your concern and sympathize with the pain you must feel when these things happen.

I also wanted to tell you that our party shares your concerns and many of them are reflected in our amendments to Bill 3, so we are on your side, we hear what you are saying and thank you very much for your presentation.

Mr. Vice-Chairperson: Ms. Jill Mickosti? If Ms. Jill Mickosti is not present in the room, we will move to the next one, and then I will call it again at the end of the list.

Steve Loftus, please. Steve Loftus? Mr. Steve Loftus not being here, Ms. Karen Johnston?

Do you have copies of your written presentation? Were you going to read it or did you want to have it read into the record?

Ms. Karen Johnston (The Manitoba Association of Women and the Law): I will read it, but I am just going to change the order of it. I was going to speak first about the aspects with which we are fairly pleased with, but I am going to instead first speak about the criticisms and things that we would like to see added, just if I could get that priority in.

Mr. Vice-Chairperson: So did you want it deemed to be read into the record then?

Ms. Johnston: No–well, yes.

Mr. Vice-Chairperson: Okay, and then you will be commenting on it.

Ms. Johnston: My name is Karen Johnston and I am here on behalf of the Manitoba Association of Women and the Law. This presentation has been prepared by myself and also by Mona Brown, the chairwoman of our association.

The Association of Women and the Law is an organization composed of lawyers and law students. We are committed to the pursuit of equality between women and men. Our association has considerable experience commenting on legal issues with respect to their impact on the lives of women.

We are very pleased to have the opportunity to give our input to this bill and we commend the minister and the government for recognizing the importance of child and spousal support and of maintenance enforcement. Without effective enforcement measures, the most just maintenance order may be of no effect whatsoever. When support orders are not paid, families go without, as we have heard here tonight, and former spouses are driven onto social security.

The Law Reform Commission of Canada has estimated that up to 75 percent of all maintenance orders involve some measure of default. A Statistics Canada report in 1992 found that 60 percent of all support awards in Canada are in arrears. We are obviously pleased that attention has been devoted to this clearly crucial issue in this bill.

While we endorse the act in principle and a number of its excellent provisions, there are aspects of the act which in our view leave room for improvement or suggest further measures.

The increase in fines and periods of incarceration are positive, but we question whether $1,000 is sufficient as a maximum fine for wilfully refusing to pay or even to take responsibility for one's maintenance obligations.

* (2230)

It is our view that this act does not go far enough. In addition to enabling suspension of vehicle registration and drivers' licences, fishing and hunting licences and, in particular, trade and professional licences should also be suspended when defaults in maintenance are not addressed. Enabling registration of maintenance defaults with credit bureaus, under Section 6(6) of the bill is an excellent measure which we support fully; however, we feel strongly that interest should also be charged on arrears.

What incentive is there for the payer spouse to pay his maintenance regularly when interest accumulates on every debt but for this one? At the same time, as we have heard again tonight, the spouse entitled to receive maintenance payments for herself or for her children needs this money to live. She must pay interest on outstanding taxes, on credit card balances and on loans and lines of credit while waiting for the maintenance payment to which she is entitled. It is profoundly unfair that interest is not accumulated on all support arrears and we strongly urge the government to remedy this situation in this bill.

I may also suggest that charging interest on arrears is not unduly complex to implement, and I would urge the government to try and include that in this particular bill and not to wait on that issue. We would also support the introduction of automatic payroll deductions of maintenance to prevent the accumulation of arrears before they develop. Where arrears have accumulated, it is our view that forgiveness of arrears should be restricted to extremely exceptional circumstances.

There has also been some comment tonight with respect to access to the Enforcement office and the office being short staffed. I just wanted to add a comment, I know in Newfoundland they recently added an automatic answer system, so that persons entitled to receive support could call in, and using a telephone touch-tone system, could find out the status of their account.

An Honourable Member: We have that.

Ms. Johnston: Sorry. Well, perhaps some more phone lines could be added so that it would be easier to get through to the system.

In addition to these additions, we would like to see added to the bill, there are certain aspects of the existing scheme which in our view are inappropriate

and should be reconsidered. In particular, Section 53(3.1) of The Family Maintenance Act requires the written consent of both parties in order to file a separation agreement as well as a provision within the agreement permitting it to be filed. Given that subsection 3.2 enables the designated officer to refuse to file an agreement which is ambiguous or otherwise unsuitable for enforcement, it is our position that subsection 3.1 is neither necessary nor appropriate. As filing is a prerequisite to bring separation agreements which are not court ordered into the enforcement provisions, this is an unnecessary hurdle.

In light of the hostility towards enforcement we have heard today, it is not difficult to imagine that a person who had agreed to pay support would then refuse to file that agreement in order to avoid the enforcement provisions.

We are also critical of the anomalous distinction between monetary and nonmonetary security deposit provisions in which nonmonetary security deposits may only be applied to the payment of the order as it exists currently but would not be applicable to subsequent increases in the order. This restriction has been maintained and clarified in the new act under Section 8(1) in clauses (e) and (f). It is our concern that this restriction may dissuade persons entitled to support from seeking increases in their support so as not to invalidate the security deposits.

The costs involved in seeking new maintenance orders are prohibitive enough without this arbitrary distinction which appears to deny the fact that a court-ordered increase in a maintenance order is just as valid and binding as was the original order or filed agreement.

Finally, we have significant concern with Section 8(4) of the act which would require that enforcement hearings which are adjourned after evidence has been adduced could only be continued before the same judge or master. This provision could create scheduling delays which might easily be exacerbated or manipulated by a party seeking to delay the process, given that this provision would apply to adjournments for the purpose of enabling the person in default to obtain counsel, to provide additional information, or to make specified payments. For persons waiting to receive support to which they are entitled, time is certainly important and any unnecessary delays should be avoided.

If I can turn now to just a few of the provisions of which we are particularly pleased. We strongly support the new and very significant disclosure rights which are afforded to designated officers under Section 6(1) of the bill. Enabling designated officers to obtain a broad and detailed picture of defaulters' financial and personal lives would greatly assist in the enforcement of support orders and agreements and may also deter inappropriate forgiveness of maintenance arrears when the full picture can be seen.

We are pleased that the variety of information which may be requested under this section is sufficiently broad so as to aid in the enforcement of orders against self-employed persons which is often difficult to do.

The ability to garnishee jointly held funds is another very important addition to the enforcement provisions which will curtail what has been an easy way of protecting funds and evading enforcement techniques to this time.

The ability to garnishee pension benefit credits in addition to pension benefits themselves is another significant improvement. This is an appropriate means of enforcing maintenance which will provide access to significant funds and which will also send a strong message as to the overriding importance of support obligations.

Indeed, we are pleased that all of these provisions and the numerous other measures in the act, while directly assisting in enforcement effort, will also have a second indirect benefit in sending a message that maintenance is an important legal and moral obligation and that maintenance avoidance is socially unacceptable. It is my position that this public perception is an essential aspect of the effort to ensure compliance with maintenance orders.

To conclude, I would just like to say that there has been talk earlier this evening about the unfairness of enforcement efforts and the difficulties they place on

payers, and I would just like to say that these are not enforcement measures which are arbitrary, which will come into effect when a person pays a day late, when a person incurs a sudden emergency and takes reasonable measures to accommodate that emergency. For the most part, these provisions would take effect, as you will know, when a person has refused to agree to a reasonable repayment plan or even to go before a judge in order to receive a court order of reasonable payment plan. These are not arbitrary measures, and they are certainly not unfair.

I would just like to again commend the minister and the government for recognizing the importance of effective maintenance enforcement and to thank you for the opportunity to comment.

Mr. Vice-Chairperson: Thank you, Ms. Johnston. Questions or comments?

Ms. Cerilli: I want to thank you for that excellent presentation. There are a number of excellent recommendations for improvements to the bill, specifically with the sort of legal systemic barriers and issues.

I want to ask you a question about the automatic payroll deduction. I am pleased to see that you support that and you have considered that. We also have recommendations for amendments that would include a provision for that in the bill.

I want to ask you if you have considered it to the extent of looking for any legal arguments or other arguments against having that kind of provision in the bill, if you have had any reasons given to you why that would not be in the bill, because I think one of the things that we can be critical of in this bill is that it is all punitive and there is not anything proactive and preventative to ensure that we do not have to spend even a greater amount of money on the enforcement side of it.

Ms. Johnston: Yes, I have not heard anything from anybody else or I could not say even a legal argument, but for myself I can certainly see personal arguments against that. It is quite intrusive, and for somebody who is paying their support, perhaps they might wish to structure their finances in a particular way other than payroll deductions or they may not wish that sort of public intrusion in what they may feel is a private aspect of their life. For somebody who is paying regularly, I would understand that, but I guess you have to weigh how big an intrusion is that considering the very significant enforcement problem which we have in Manitoba and throughout Canada.

I know they have that system in Ontario and I believe it works well there. I think there are downsides, but I think overall it is a good idea.

Ms. Cerilli: Just to clarify then, that type of system though is in place in other jurisdictions and there are no legal arguments then against it.

Ms. Johnston: To my knowledge, there are not, but I do not know for sure.

* (2240)

Ms. Barrett: Another excellent presentation, but I do not think in here is anything about what I understand is the inability of a person to appeal the decision of the designated officer. Did you decide not to respond to that part of the legislation or do you have any response to that?

Ms. Johnston: No, I do not. I was not actually aware of that factor, but if that is indeed the case, I would certainly feel there should be a need to appeal.

Mrs. Vodrey: I would like to thank you for the work and the effort that you and your committee and particularly you and Mona have put into the development of your paper. I am interested in all the issues that you raised. I just want to take a quick moment to comment on two issues which you raise.

One, you spoke about nonmonetary securities, and you were wondering about that issue. I would just like to clarify for you, though you may already know, by and large, the nonmonetary security we would be asking for something like a postdated cheque which would be applied then to the order as it exists. So if that clarifies that particular issue for you, that may help.

Just a comment on your concern about the same judge or master hearing the enforcement hearing. This

is our effort to remedy what had been identified as a problem when they got different ones. So this was our effort to recognize that in some cases one judge had only heard part, another judge came in, had to read a transcript and sometimes it led to dismissals, and that was seen as a problem.

So this was put in in an effort to avoid that problem, and often there is an adjournment before the hearing starts, so that it generally, or, by and large, should not to lead to a problem and, in fact, was placed in here to assist and to provide that continuity and the full amount of information which seems to have been a problem in the past when it was not available all at one time or to one person; so just a little bit of explanation, otherwise thank you very much for your presentation.

Mr. Vice-Chairperson: Thanks, Ms. Johnston.

Next, Mike Brentnall. Do you have copies, Mr. Brentnall, to circulate?

Mr. Mike Brentnall (Men's Equalization Inc.): Yes, I do, 15.

Mr. Vice-Chairperson: Is it your intention to treat that as being read in and then summarize it?

Mr. Brentnall: I would like to read the entire brief as it stands now.

Mr. Vice-Chairperson: As long as it can be done within the 15-minute time span.

Mr. Brentnall: I will try my best.

Before I proceed, I would like to say that I acknowledge a lot of the concerns that have been brought forward by various other participants here, and it is my intention to acknowledge these with the idea of alleviating some of these difficulties, so I do understand some of these problems.

To go into by my brief, it is more theoretical in overview and it does touch a bit upon day-to-day living or, you know, mundane activities. Having said that, I think I would like to proceed reading it.

I thank the Legislative Assembly and the honourable members of this committee for the opportunity to present this brief regarding Bill 3, the proposed Maintenance Enforcement Act, formerly Bill 16.

Within this brief are several ideas for the benefit of the honourable members of this committee. It is hoped that these ideas will provide some background information vital to the understanding of the range of dynamics regarding family matters and family breakup, certain consequence related to these dynamics and an appeal to further study the methods concerning a more equitable means of collecting court-ordered child support payments. This action, I believe, could help to shed some light on this act and, hopefully, long before it is passed into legislation.

This proposed legislation, brought originally before the members of the House of the spring session of 1995 as Bill 16, has previously generated next to no formal extraneous or supplementary data from outside sources relating to the concerns of men who are to be involved with the possible implementation of this act. The reason why no previous organized body has come forth to present concerns to the members of the Assembly earlier is because there are no advocates currently in place to officially represent men and their specific and unique problems.

As a citizen of Winnipeg with no children of my own but with an interest in preserving family values and men's dignity for the betterment of Canadian society, I submit this brief as a representative of Men's Equalization, Inc. as a means of addressing overlooked areas of family-related matters concerning Bill 3. I urge the honourable members to carefully consider the ideas contained herein before passing legislation that would further hamper already strained relations between men and women, husbands and wives, and punish the many for the actions of a very small few.

One of the issues at hand here in this current Assembly deals with the so-called deadbeat-dad bill. The common title to this act is not only sexist in connotation but also misleading in accuracy. When we look to other areas of this continent for in-depth review, we find that the term "deadbeat dad" is confirmed as

being a rather sexist and derogatory title used to foment ill feelings toward dads and primarily men.

According to the Institute of Research on Poverty, Discussion Paper No. 982-92, Custodial Fathers, Myths, Realities and Child Support Policies, published in 1993, we find that of the noncustodial mothers who were ordered to make maintenance payments by the courts, less than 20 percent actually did so, even when their payments were made less to substantially less than their male counterparts, who default in total of the full payment 27 percent of the time.

Further to the above study, the Office of Income Security Policy, Technical Analysis Paper No. 42, October 1991, from the U.S., stated that less than 30 percent of custodial fathers receive a child support award, whereas almost 80 percent of custodial mothers do. About 47 percent of these mothers who are ordered to pay support totally default on their obligation. Another study, 1991 Statistics of Child Support Compliance from the Office of Child Support Recovery in the State of Georgia also reports that mothers ordered to comply with child support payments default.

North American society varies marginally from province to province and state to state. We can therefore dispense with the sexist label of "deadbeat dad" and replace it accordingly with the term "deadbeat parent." The term "deadbeat" invokes a negative reaction and a mindset in a society where commerce and debt payment are traditionally an integral function of daily existence. Those who can pay their debts should certainly do so. However, abolished in 1842 in the United Kingdom, the Marshalsea once served as a prison for debtors. The court of justice in the U.K. later abolished this practice of imprisonment for debtors in 1849, but some of the sad lessons from history repeat themselves.

Currently, in some states of the U.S., noncustodial parents who default on their child support payments are jailed for their noncompliance and some for their arrears. Without understanding why some parents default on their maintenance, jailing them suggests a spirit of meanness that, only one can hope, is not emulated here in Manitoba. While an enforced garnishment proceedings put forth in the proposed Bill 3 is currently not subjecting defaulters to imprisonment, it is still overseeing a debt that may or may not be able to be paid and reduces a noncustodial parent to involuntary servitude or slavery. Garnishment may very well provide a strong disincentive to compliancy with support payments and may provide an equally strong incentive to seek freedom from such harsh restrictions.

A public outcry to collect child support from noncustodial, nonpaying parents had initiated a popular response for a crackdown on defaulters, and let us, here, look at the manner by which this popular opinion gained in its momentum. In the 1980s, widely cited census bureau statistics reported that approximately 50 percent of child support orders were paid in full. Approximately 25 percent were paid in part, and approximately 25 percent were unpaid. Sanford Braver and Associates [phonetic] co-authored a report, quote, Noncustodial Parent's Report of Child Support Payment, published April 1991 in Family Relations, and found that the accuracy of child support compliance figures of the census bureau report relied heavily on only the testimony of the mothers who were awarded custody.

The census bureau did not ask the men what they actually did pay or how often. Do the honourable members of this committee and of the Assembly think that it would be proper to at least ask the men of this province why they may not be able to pay their child support on time or in full before Bill 3 is passed?

* (2250)

In Manitoba, the father generally is relegated to noncustodial status in about 85 percent of court decisions and, by that fact alone, is cause for scrutiny and review, but not at this point. The majority of court ordered child support payments fall on men, and there are several conditions that may precipitate nonpayment of child support. Here we will begin to briefly examine some of these conditions. Research from other jurisdictions around the continent have reported that some of the deadbeat dads are actually dead, deceased. The Florida Department of Revenue general accounting office, in a 1992 report entitled, Mothers Report Receiving Less Support from Out-of-State Fathers,

GAO/HRD-92-39FS, found that as many as 14 percent of fathers who owe child support are deceased. I ask: out-of-state fathers? More like out-of-body fathers. That is, unless some brave soul devises a method to extract blood from a corpse, we will not be able to collect anything.

The report goes on further to state that 66 percent of fathers who owe support "cannot afford to pay the amount ordered." But the 17th Annual Child Support Report to Congress in the U.S. reports that over 70 percent of current child support is made. Other contributing factors relating to defaulting on child support payments may also include incarceration. Having no obvious means of generating an income for themselves, many of these incarcerated men cannot provide for any children. These men have even more difficulty in working for pay once released from jail due to the stigma associated with having been incarcerated. How many men who are incarcerated become a deadbeat statistic and fall further into arrears?

In the U.S., Vietnam veterans who comprise a large number of the homeless, who suffer with debilitating psychological and physical limitations, are painfully being recognized as part of the deadbeat problem. In Canada, Vietnam vets are few, but the vets of the U.S. contributed to the myth and stigma of the nonpaying, uncaring dad in Canada. Here in Manitoba, the Maintenance Enforcement Branch is on public record in pointing out that there are relatively few deadbeat dads and that some of those that are deadbeats have reason for being so.

What are some of these reasons? Are some of these men drug addicts, alcoholics, disabled, mentally incapacitated, homeless, unemployed or financially unable to make payments, or what? Does anyone in Manitoba have official record of this problem? If somebody is keeping official record of why payments cannot be made and if these reasons are legitimate, what on earth is the legitimate reason for Bill 3?

Mr. Vice-Chairperson: Excuse me. I just wanted to point out, Mr. Brentnall, that you are less than a third of the way through, and two-thirds of your time allotment is up. You may want to summarize, and certainly we can treat this and have it put into Hansard to the extent that you do not read it all in. So you may wish to summarize in the last five minutes, and the rest can be put into Hansard as is. I leave it up to you.

Mr. Brentnall: I have approximately five minutes left?

Mr. Vice-Chairperson: Right.

Mr. Brentnall: Summarization.

There is A Fair Share Formula for Child Support written for Child Support Guidelines: the Next Generation and prepared for the U.S. Department of Health and Human Services. The author, Donald Bieniewicz, employed by the U.S. Department of the Interior prepared the following guidelines for determining child support payments. I mention that because there are some people that absolutely cannot make their payments, for reasons cited earlier. We therefore have to acknowledge that there can very well be legitimate reasons for nonpayment.

In these guidelines: Step 1, determine the gross income and net income of each parent; Step 2, determine the cost of providing for the children; Step 3, determine what fractional share of the cost of the children each parent will pay in proportion to their net income. Unfortunately, for the people on welfare, that would also mean their income. Step 4, determine the fractional share of the cost that the noncustodial parent is paying directly; and lastly, Step 5, determine the child support payment.

When I attended an issue discussion workshop at the December 4, 1993, Summit on Youth Crime and Violence held at Vincent Massey, the topic of father absence in the home was cited as a contributing factor and root cause to escalating crime and violence. In my brief I have supplied documented evidence of studies that support this claim. It is my recommendation that there be an equitable means of not only distributing wealth upon divorce but also having the children receive care and interaction with both parents. We are talking about mothers and fathers. In summary of the evidence regarding father-absent homes and its relation to escalating crime, it has been found that when poverty is considered, or lack of poverty considered, these

problems do escalate. In other words, poverty is not a factor when determining the root cause of violence. It is more like father-absent families. I do urge the committee members look into this and provide a means to help divorcing couples separate amicably without any kind of animosity between the two.

A study also contained within that particular brief says that compliance to child maintenance payments rises when there are friendly relations between the two upon breakup. The access information not only has been stated previously, but joint custody as a means of collecting child support is a widely known fact according to the census bureau in a 1991 report. The State of Michigan also is helping to contribute to the idea of joint custody and visitation, which leads to greater maintenance payments.

I would like to have read the whole thing. I probably could have.

* * *

Some men cannot actually make their full maintenance payments because of poverty and unemployment. Some men are employed and belong to unions that occasionally strike for conditions that leave men without full regular earnings for the month to fall into arrears and therefore become a statistic at the Maintenance Enforcement branch. Some men spend considerable amounts of money for legal fees just trying to obtain more than a mere two-hour, biweekly visit with their estranged children and incur debts for legal advocacy that leaves them virtually with little or no money.

Some men lose all the capital that they have worked for and others lose their businesses to pay for legal representation that may or may not leave the best interests of the family intact. Some men with dim employment prospects enrol themselves in school to improve their lot in life, have their support payments reduced, still are forced into arrears and then comprise the deadbeat statistic. Other men, already living through the rigours and restrictions of court orders that usually rule against them, end up physically and emotionally exhausted and unable to function properly. Of these men, some are driven to the point of breakdown. These are the unseen reasons why some men who want to pay their support cannot pay, end up in arrears and therefore become a deadbeat statistic. The reasons listed in the above paragraph were personal testimony from men living here in Manitoba.

Again, why can some men not pay child support? If we follow the lead of the U.S., we may never understand why. The U.S. federal government began to study the noncustodial parent, but the Office of Child Support Enforcement of the Department of Health and Human Services cancelled the project. Freya Sonenstein of the Urban Institute conducted the Survey of Absent Parents in 1990 before its cancellation. Dr. Sonenstein wrote in Contemporary Policy Issues, January 1990: "Little is known about noncustodial parents - who they are, what their financial resources are, why many fail to pay child support. Should we seek answers to these questions?"

Perhaps the study jeopardized the accuracy and legitimacy of the efforts and expenditures undertaken concerning the implementation of the federal government's initiatives to crack down on deadbeats. Could it be that the U.S. government created a problem which in turn created even more government problems? Huge amounts of money have been spent to organize collection for child support payments but virtually none spent to find out why some noncustodial parents do not make their payments. Let us not replicate similar confusion here.

As mentioned above and according to the Maintenance Enforcement branch of Manitoba, there are relatively few deadbeat dads. The Winnipeg Free Press article of May 7, 1994, Happy Mother's Day . . . Father, quotes Irene Young of the Maintenance Enforcement branch as citing that of the 11,000 cases on file, 58 percent of mostly men were found to be in arrears, and Young has seen relatively few deadbeat dads in Manitoba. Young also said, "90 per cent of the time there is a good reason why that person did not pay." She went on to say further that some people, mostly men, are one day late in payment, had lost their job, so could not pay. These reasons contribute to the arrears statistic.

Again, are some of these reasons regarding an inability to pay support considered by the honourable

members of this committee before passing such sweeping and inhospitable measures contained in this proposed act? Are the honourable members in favour of suspending a man's driver's licence on account of being impoverished, unemployed or one day late in making a payment, thereby limiting his ability to function and find work? If so, you will be on record for your compliance with this act. Implementation of this act, because it is trendy and fashionable in other jurisdictions of North America, before full realization of all the facts are known or considered, is no way to govern for the best interests of all.

Armin A. Brott, author of The Expectant Father writes that, of the noncustodial parents who have access that do not contribute to maintenance payments, the number is relatively low, 1.9 percent. In other words, the majority of noncustodial parents, the majority of whom are men, actually are making their payments, yet we have noncustodial parents who contribute nothing. The actions of a small minority, it appears, are influencing the proposal to pass strict penalties upon the majority who do want and are making efforts to pay their child support. Of the men who do comply with their payments, some report being harassed unnecessarily and unmercifully by Maintenance Enforcement branch workers. Is this, I ask, the goal of Bill 3 and its proposed implementation, to badger the majority for the actions of a few?

As mentioned above and to repeat, some men, due to factors such as bankruptcy, breakdown, poverty, incarceration, unemployment, schooling and even death, contribute to the deadbeat statistic, yet there are some men who will not pay full maintenance for their children because they are not allowed to see their children. Out of protest, they do not pay in full. This administration, its Justice department in conjunction with the Maintenance Enforcement branch and the citizens of this province, needs to consider this variety of factors before enforcing legislation that denies the realities of noncustodial parents.

Policies and practices regarding court-mandated maintenance payments may very well be a large contributing factor to why some noncustodial parents do not or will not make their full payments. A Maintenance Enforcement branch exists to record and enforce child-support payments, yet no branch of our government exists to ensure that noncustodial parents can receive access or visitation with their children. Some men may feel that if they cannot see their children, then they will not pay–protest. J. Wallerstein and J. Kelly, co-authors of Surviving the Breakup, 1980, estimate that 20 percent of the custodial mothers "saw no value (in the father's continued contact with the children) and actively tried to sabotage the meeting." Further to that, the authors found that nearly half of the custodial mothers favoured discontinuing the father's visitation.

Those authors are not alone in their findings. In Solomon's Children, 1986, written by Glynnis Walker, it was found that 42 percent of custodial mothers had tried to prevent their children from seeing the father. There is more. The Volume 10, No. 4, 1988 article from Law and Policy report, The Denial of Visitation Rights, found that nine months following court-ordered custody and visitation arrangements, 22 percent of the men surveyed indicated that their ex-spouse did not comply with the access or visitation.

Dr. Sanford Braver at the University of Arizona, Psychology Department, quoted earlier, confirms the above figures by finding that up to 40 percent of mothers interfere with the father's relationship with his children. Of the men who have contacted the Men's Equalization, Inc. help line regarding access and visitation, many have stated that their former spouses arbitrarily block father-child relations. Are these men to have their humanity denied even further by being designated the status of a harassed payer of child support plus absent, alienated parent, and if so, why?

Many men do indeed want to be with their children. No amount of issued propaganda will convince these men that they do not want interaction with their children. Many noncustodial fathers love their children very dearly and cannot believe that they are being restricted by every imaginable level from seeing their children.

A 1987 Health and Human Services Report entitled Young Unwed Father: Research Review, Policy Dilemmas and Option found that intervention from the government and from the mothers contributed a

deterrence to young fathers from seeking personal contact with their children when support is paid. The report, The Changing Face of Child Support Enforcement: Incentives to Work With Young Parents, U.S. Department of Health and Human Services, Office of Child Support Enforcement, December 1990, found that young fathers were able and willing to support their children.

David D. Gilmore, author of Manhood in the Making: Cultural Concepts of Masculinity, Yale University Press, 1990, cited a Los Angeles Times survey that found 39 percent of fathers would quit their jobs to stay at home with their children if they had that option. Who are these people saying that men do not want any contact with their children? Of the men who do not want access to their children, is it because they become frustrated to the point of breakdown when they cannot see their kids, so they give up? Has any responsible body in this province asked the men for their side of the story about anything, and if not, why not?

However, aside from the men with court-imposed lifestyle restrictions upon them who cannot see their own children or who cannot make their full maintenance payments, let us now turn our attention to the success rate of men who do make their child support payments. According to data from the U.S. Census Bureau, Child Support and Alimony: 1989 Series p60 No. 173, pages six and seven of the 1989 Census - Current Population Report issued in 1991, most fathers with joint custody or visitation privileges pay their support in full.

Out of 10 million single-parent households, absent fathers complied in the following manner. Of the 54.9 percent of fathers who had visitation privileges, 79.1 percent paid their child support in full. Men with joint custody awarded, 7.3 percent of cases, 90.3 percent paid in full. The men who neither had custody or visitation awarded, 37.9 percent of cases, only 44.5 percent paid their support in full. More access, more child support payments. Will the Manitoba Department of Justice review the figures listed above and recommend strong joint-custody policy measures to the courts that could ensure greater rates of child support payment compliance?

We need further examination to ensure a child's future by alleviating an adversarial win-lose approach to custody matters upon divorce. A child loses vital interaction with a noncustodial parent, usually the father, after a divorce. While in court, both parents are pitted, perhaps needlessly, against each other in determining the one parent fit for sole custody. Joint custody would eliminate court-generated competition for custody of children. But when joint custody is not awarded, the Urban Institute's Freya Sonenstein of the U.S. found that minimizing hostilities between parents upon breakup obtained higher rates of child support payments. Hostilities were alleviated by allowing greater father-child interaction.

In the U.S., Congress in 1984 recognized that "child support and visitation rights are intricately intertwined with the child support problem and have received inadequate consideration." The inaction of Congress since 1984 has left many in the U.S. wondering when any ameliorating efforts associated with visitation rights are to be undertaken effectively on a federal level.

There certainly is enough available study to document the correlation between child support compliance and access to visitation and joint custody, but there seemingly exists a bias against noncustodial parents that can not only help but contribute to the view of an antimale bias as well. However, one U.S. state in particular has taken the initiative to restoring the rights of fathers plus ensuring that their children receive their financial support by enacting stronger visitation enforcement guidelines. Michigan state Senator Debbie Stabenow in a March 1992 speech to the Children's Rights Council in Washington, D.C. has stated: "Michigan's visitation enforcement provisions . . . have provided an incentive for the noncustodial parent to maintain child support payments. This may be the significant factor which has made Michigan number one in collections for many years." This action, as Senator Stabenow has stated, "In practice, only a small amount of resources are spent in actually enforcing visitation."

Here we have an actual working model that proves that the men who are able to make their child support

payments do so because they are allowed the interaction they want with their children. In essence, more access with children equals more maintenance compliance and at a small cost. Here in Manitoba and before the proposed Bill 3 is implemented, will the honourable members of this committee carefully consider the example and success of Michigan before potentially legislating more problems upon noncustodial parents?

Having cited the experience and success of Michigan regarding the compliance of support payments with visitation, the members present here this evening have been introduced to an opportunity for the province of Manitoba to ensure that children will be subject to a standard of living that will ensure their survival. Moreover, children will be the beneficiaries to the influences another parent brings to a family structure. Men retain their dignity and are spared unnecessary harassment when allowed to participate fairly with their children, and the women are relieved of unnecessary burdens, a win situation all around. Even tax-generated money can be allocated to other departments rather than to departments mandated to deal with delinquent maintenance payments.

But aside from the savings of tax revenue not being allotted to fund an overburdened Maintenance Enforcement branch, the family unit and society, by allowing joint custody and enforced visitation, is spared long-term problems by ensuring the involvement of both mother and father.

Mother and father interaction is absolutely vital to the development and well-being of children. A January 1993 Presidential Commission on America's Urban Families conclusively shares in this statement. In the report Families First, Chairman John Ashcroft and Co-Chair Annette Straus write, "The overwhelming weight of evidence compels the commission to conclude that the stable, loving, two-parent home is the ideal environment for children and the strongest possible foundation for long-term societal success." Given the rate of contemporary family breakdown, the authors of the above-cited commission are indeed aware of this problem, all the more reason to do whatever is necessary to ensure that the father be restored to his children, even after divorce or separation.

Considering the high rate of maternal custody, approximately 85 percent in Manitoba, upon divorce the role of the mother is virtually guaranteed. However, fathers who are allowed only distant financial participation exhaust themselves in vain, willingly trying to contribute more personally to his estranged children. The results of forced, long-term father absence is disastrous to children and society at large. The proof of societal disaster and its relation to father absence is well documented, and this study is a chief factor critical to the future of our country's health and longevity. Acting on this documentation is even more critical.

Studies have time and time again, from the 1960s to the 1990s, shown that father-absent homes contribute greatly to certain developmental social ills of children. Crime and delinquency, psychological aberration, rapists, child molesters, suicide (read: mostly male suicide), educational underachievement, sex-role confusion, premarital adolescent pregnancy, promiscuity, homosexuality, child abuse, health related problems (poverty), chemical misuse and dependency, violence and welfare dependency are problems long recognized as being associated greatly with father-absent homes.

In 1965, U.S. Senator Patrick Moynihan wrote, "...there is one unmistakable lesson in American history: A community that allows a large number of young men to grow up in broken families dominated by women, never acquiring any stable relationship to male authority, never acquiring any rational expectations about the future - that community asks for and gets chaos." Moynihan at that time was attacked with criticism by those with offended sentiments, but what is more important here, sparing a small minority of people with hurt feelings some uncomfortable realities or discovering root causes to escalating social problems? In 1970, Ramsey Clark wrote in Crime in America, "In federal youth centres nearly all prisoners were convicted of crimes that occurred after the offender dropped out of high school. Three-fourths came from broken homes," and, "Seventy-five percent of all juvenile offenders come from broken homes."

There is more. "Consistent with earlier research, youths from broken homes reported significantly more

delinquent behaviour than youths from intact homes." wrote Rachelle J. Canter for Criminology, 20, 1982, in an essay entitled Family Correlates of Male and Female Delinquency.

Regarding crime, delinquency and youth violence, the study, Community Structures and Crime: Testing Social Disorganization Theory, cited from the American Journal of Sociology 94, January 1989, reports, "After examining data from hundreds of communities in Great Britain, the researchers concluded that family disruption either through divorce or illegitimacy - leads to mugging, violence against strangers, auto theft, burglary and other crimes. The new study establishes a direct statistical link between family disruption and every kind of crime examined except vandalism. In large part, this linkage can be traced to the failure of `informal social controls' in areas with few intact families . . ." and ". . . in poor communities bound together with few social ties, `pronounced family disruption' helps to `foster street-corner groups which, in turn, leads to increased delinquency and ultimately to a pattern of adult crime.'"

Former Department of Health and Human Services secretary Louis Sullivan wrote in The Child Support Report in 1992 that, "The adverse consequence of father absence cannot be reduced to a decline in income alone . . . A recent Department of Health and Human Services study found that even after controlling for . . . socioeconomic status, children from disrupted families were 20 to 40 percent more likely to suffer health problems than children living with both biological parents. These children were also much more likely to display antisocial behaviour, peer conflict and/or dependency."

The above being a few of several different studies undertaken over several years ultimately links youth crime and other problems to broken homes, that is, single parent, father absent. This aspect of study cannot be further left ignored and especially right here where the matter of maintenance enforcement is being discussed. Father absence and maintenance payments are issues that are importantly interrelated to the well-being of our children and the greater whole of society. Increase father accessibility fairly, and child maintenance payments increase, and we benefit from stable social conditions.

When I attended an issue discussion workshop at the December 4, 1993, Summit on Youth Crime and Violence held at Vincent Massey Collegiate in Winnipeg, the topic of father absence in the home was cited as a contributing factor and root cause to escalating crime and violence. That statement caused an emotional and irrational outburst, and the topic was immediately shifted to talk of deadbeat fathers and then hastily back to discussing punitive measures to be laid against delinquent youth. Imagine what the thoughts of any troubled youth might be if they were present in that workshop and the summit at large. They might be: these people do not care what I have been through, all they want is to punish me rather than understand.

That is what I had observed. Punish the effects of the symptom and be willingly blind to the cause of these effects. Let the above example serve as an appeal to the honourable members of this committee to consider many and all of the ideas presented in this brief. If the information presented here has not been made clear to all, then I apologize for this shortcoming. However, with repeated perusal, I am sure an understanding can be reached. Meanwhile, the information presented in this brief is much too important to be glossed over in favour of trendy ideas that have proven themselves to be ineffective and not to the best interests of many people.

To close this brief, several previously stated concerns will be summarized in reiteration.

Firstly, the term deadbeat dad is an inappropriate and derisive title when discussion of maintenance payment parental defaulter arises. Instead deadbeat parent is a more representative moniker, as many more women percentage-wise default on their child support payments according to study.

But of those parents who default on their payments, perhaps they need a better method for determining their required payments. For example, in an article entitled A Fair Share Formula for Child Support written for Child Support Guidelines: the Next Generation and prepared for the U.S. Department of

Health and Human Services, the author Donald Bieniewicz, employed by the U.S. Department of the Interior, prepared the following guideline for determining child support payments:

Step 1: Determine the gross income and net income of each parent.

Step 2: Determine the cost of providing for the children.

Step 3: Determine what fractional share of the cost of the children each parent will pay, in proportion to their net income.

Step 4: Determine the fractional share of the cost that the noncustodial parent is paying directly, and

Step 5: Determine the child support payment.

Remember some noncustodial parents may not be able to make their support payments. The General Accounting Office, in their 1992 report entitled Mothers Report Receiving Less Support From Out-of-State Fathers (GAO-HRD-39FS), also stated that in both interstate cases and intrastate cases, 66 percent of the custodial mothers with child support access reported that the reason for not receiving payment was father unable to pay. How about taking the position of affordability into account when deciding how much support is to be paid? If a noncustodial parent's financial situation is held into account, there might be fewer people going into arrears.

Secondly, there are relatively few real deadbeat parents, that is, those who have access to children and do not visit and do not pay. Proposing perhaps unnecessary and costly legislation that punishes the many for the actions of a few can only lead to the creation of further problems. Let us deal with those few without prejudging and maligning all other noncustodial parents who either attempt to or make their full maintenance payments.

Thirdly, set up appropriate and fair intervention with those parents who are labelled deadbeats. Confiscating driver's licences or jailing offenders may very well provide an opportunity to withdraw totally from the rest of society, and that leaves the children without a means of support. Unemployment and incarceration only leads to higher all-around taxation.

Fourthly, seriously consider joint custody and increased visitation to the noncustodial parent. As was shown previously, more joint custody and visitation means more access payments. Visitation enforcement methods, also previously mentioned, ensures even greater compliance with support orders and is not costly or burdensome.

Fifthly, with the increase in father-child interaction, all family members personally benefit, and society at large is spared even more from costly social problems. These problems are many and are directly related to single-parent and father-absent homes.

I hope the honourable members present here recognize the magnitude behind this presentation. Do not pass any proposed legislation until the facts are known or made known and even if this means tabling this proposed act much further into the future. Thank you.

Mr. Vice-Chairperson: You can be assured that it will be in the record, so it is treated as read, and the copies have been circulated so the members here certainly are reading it now and probably have read it through.

Mr. Brentnall: May I ask a question?

Mr. Vice-Chairperson: Yes, Mr. Brentnall.

Mr. Brentnall: What assurance do we or myself have that the ideas contained forth in this brief will be carefully considered before proposing any legislation such as Bill 3? I actually would urge these people to consider some of the important ideas contained within this brief and reflect that there are greater problems that could be as a result of breaking families up further by sole custody and the unfriendly division of wealth and child-time after a breakup.

Mr. Vice-Chairperson: I think your thoughtful and well-researched contribution will be treated with the same seriousness you presented it. You have very conscientious members here who are sitting through a long evening and welcoming the input of you people that have come forward. I have every confidence that members on both sides of the table will be very

interested and consider all of your comments, and maybe we should entertain some questions now. I think the time allotment is up. Thank you very, very much for the presentation.

Questions, comments?

Mrs. Vodrey: Mr. Brentnall, I would like to thank you for your presentation this evening, the ideas contained, the ideas you presented to us orally and the ones that we will have the opportunity to read. I am glad to hear you participated in the Summit on Youth Crime and Violence as well. I am interested in your comments about that. Thanks very much for your time.

Mr. Vice-Chairperson: Are there any other questions? Thank you very, very much.

Next, Ms. Sharon Spinks.

(Mr. Chairperson in the Chair)

* (2300)

Mr. Chairperson: Please proceed, ma'am.

Ms. Sharon Spinks (Private Citizen): Okay, I do not have anything written. I would just like to make a comment to this committee–I think that is what you are called. Pertaining to this topic, I would like to make a suggestion that in future when it deals with single-parent issues or parenting issues–especially in my case, I am a single parent, and I am exhausted from doing that job and then having to sit–that perhaps some time appointments or something to make, I think, our lives a little bit easier and to make this process much more accessible to women as well.

What I am here for is I have single-parented for 15 years. I am still doing it, and I just want to briefly tell you a little bit of my journey.

My daughters were three and four and a half years old, and many of the stories and comments and recommendations I fully support, and I am really glad to see that there is some movement being made to recapture some arrears. Unfortunately, in my case, it did not happen. My daughters are now 17 and 19. Perhaps in another time, if this was time-fixed, they perhaps would have joined me, but teenagers are not prepared to sit for hours and share some of their story, as well.

In regard to maintenance enforcement, I think maintenance enforcement is a very different issue than custody. They are very separate and nobody can make someone parent. Their father chose not to parent. That was an option. He also chose not to support them financially.

What happened is that we separated and divorced. I am a born-and-bred Manitoban, probably will rest here, as well. What happened in the process is as the arrears accrued, Maintenance Enforcement did go after him, and he changed jobs, and then as they were about to garnishee, he moved to Alberta. Alberta, it appears, is a haven for fathers who do not want to pay maintenance.

I went to court, Maintenance Enforcement here. Annually I would go because there was an agreement and I was divorced, as well. During that process, I would go annually to Maintenance Enforcement to pursue these maintenance payments as they grew, as well.

I also was, you know, on social assistance for a number of years, a responsibility of the state, myself and my daughters. Fortunately, I got into a program and was able to go back to school. Consequently, that program is not available or very limited. It is an Access program that has stopped funding. Fortunately, I have been gainfully employed for the last seven years, on and off on contracts.

But in regard to the maintenance piece, over the years, it accrued, and I do not know the exact amount, but what happened is it was approximately probably between $50,000 and $90,000 at the point, had he paid over the years. As it accrued, he went back to court in Alberta, and in the court system there he did not personally have to serve me. So he was able to go to court, get all of the maintenance arrears wiped out in one fell swoop, as well as reduce his maintenance payments to a dollar per child and two dollars alimony,

I guess was part of it, or, no, a dollar for me, two dollars for the children.

For me to pursue that, by the time I got this information back, there was a limitation. I could do nothing. My only option was to get a lawyer and go back to court. In my situation, I was not eligible for legal aid because I had an income that was beyond their threshhold levels, so for me it is like throwing good money down the drain, was my perspective. To hire a lawyer to pursue maintenance again, that he should pay–and he does have an income. I am not sure now, it was a long time ago or not a long time ago but at that point in time, that for me to go and hire a lawyer would have cost me probably $500, maybe a $1,000, I have no idea. All I know is lawyers cost lots of money. I was not prepared to put myself in debt to hire a lawyer to go after potentially nothing.

I think the whole legal aid piece has to be addressed. The real tragedy of this story–I now have a 17-year-old and a 19-year-old–is their pain. I believe their education has suffered because of the economic hardships. One has not completed school, has aspirations, and I hope she will.

I have a few points I want to bring of recommendations to this, but I guess that is my greatest sorrow, is in regard to the children who are innocently victimized by the lack of thrust to grasp some resources, so they do not have to look at their peers, because we know what the message of welfare says, and now we look at the youth of today–and I am not saying all of the youth are out of one-parent families. Clearly they are not, but when you are at the bottom rung and see no hope or opportunity, you look at alternatives. Really, what is happening, I think that when we look at family, we have to look beyond Maintenance Enforcement. We have to look at Family Services.

My children, probably, if they were in care, foster parents would have made a lot more money than I would as a parent on welfare. Just through sheer exhaustion, 15 years of single parenting has taken its toll on me. I think a lot of women do not have a lot of supports, and the consequences are that the children are perhaps neglected, not from lack of love. I have yet to meet a mother who does not parent from her heart. Her capacity to do it is lost by sheer exhaustion and being overcome with just day-to-day living.

So when we look at supporting families and children, we have to look across the board and a little bit broader, and government departments should share some information and some strategies because I do not think they are just justice issues.

Some of my recommendations are that Manitoba, when there is a change to maintenance enforcement, and especially out of province, that the change cannot, and I want to emphasize, cannot go through until the custodial parent or the parent to receive the maintenance is informed. Whether they want to challenge it or not is optional, but the reality is that in my case and in many cases, you are not informed, so how do you respond to something? He clearly knew how to get in touch with me. He clearly chose to try to get me at a wrong address, because he knew I would have some form of representation. I think that is shared by many.

I think one of my experiences, and I hope it has changed with Maintenance Enforcement, is the language of Maintenance Enforcement staff to women, predominantly women who go in regarding maintenance, and I can remember arguing with a Maintenance Enforcement person around saying, my children. Clearly, they are not my children, they are all our children, but, biologically, they were his children, as well. I sat and I argued with the maintenance person around. They are his children. They are not just mine. He can have access. There is not an issue of access. If there is a safety issue, I will intervene, but it was around the staff within the office, and I do not know if there has been training since around language with staff. I think when we go into these offices, we are looking for some help, and I think the training has to be there for staff.

* (2310)

I think that there should be a link to welfare, that as a custodial parent, when maintenance stops, I do not have to go running down to a welfare office and reopen the file or have to wait to get some money, because if

it is with Maintenance Enforcement there is always a delay. I know through some of my work in contact with other single parents such as myself, if you need food for your children, what do you have? Try to get into social assistance if the maintenance is not there or go to a food bank. I do not how many of you have lined up in a food lineup. Perhaps a journey there would be useful.

The one part that I think the government has to do is linkages with other provinces, and I know that there are jurisdictional around federal as well as provincial, but I think there has to be shared responsibility. We are all citizens of this country. We may be in provinces, but I think our children's needs do not stop at the boundary of Manitoba and Saskatchewan, and I think that is really, really important that some collaboration happens.

I would like, in the piece around legal aid, that if a mother is working and does not catch the threshold, you know, where you are going to get assistance, that piece has to clearly look at in the best interests of the children, not in the mother's. If we look at what it costs to raise two children, it is fairly substantial and I think that legal aid thresholds have to clearly be looked at in regards to access.

I guess I have a question regarding–because my daughter is, they are really neat daughters, I have to say that they are not these gals out there creating all kinds of havoc, I hope, other than the normal teen-age piece and I have encouraged one of my daughters, the 18, 19-year-old because I am going to be unemployed again in January and so we go through this whole shuffle again, that can children, who once they reach the age of majority, sue the noncustodial parent or the parent who is supposed to be supporting them, for pain and loss, I do not know, for support to continue in education?

My daughter would like to go to school, sort of, I do not know quite where she is at, at that level, but I think her dilemma–and I am saying I cannot do any more than I am doing. Your father works, he is clearly–when I did go to court, he was making $40,000, $50,000 a year. He was able to say, I cannot support these children. That was his choice and the court supported it, but I think for her it may act as an empowering tool, but I do not know if there is an avenue within law for youth to sue parents. And that is all I have to say.

Mr. Chairperson: I would like to thank you very much for your presentation. Do the members have questions?

Ms. Barrett: Mr. Chair, thank you for your presentation. I think you raised some very good suggestions, but I wanted to just comment on a couple of the statements that you made that clarified things for me very much. I have been mulling over all evening that in some of the presentations, there was not a distinction being made in my mind, but I could not clarify it for myself and you clarified it when you said that maintenance enforcement issues are very different from custodial issues, and they should not be addressed in the same legislation, and I thank you for clarifying that very important thing, as far as I am concerned, for me.

The second thing, you said when you were talking about the victimization of children, when there is not enough money and particularly when there is not enough money when there could be enough money, I think is another underlying thing that you are saying: if there is not that opportunity, but your ex-husband clearly had money and chose not to support his children. I am hearing what you are saying and what others are saying, the victimization and the real problems of why has my father abandoned me–to paraphrase something–has to be there and that it is not just a question of money here, of things that money can buy. It is a question of the responsibility that fathers have.

A third thing I wanted to say is that your comments about the language are essential and that it is important that not only do fathers not babysit, they are supposed to parent. They have an ultimate, complete and total responsibility to provide whatever parenting the situation allows for, and if it is only financial, then that is still parenting, and it is their responsibility.

I thank you very much for making those points, among many others.

Ms. Spinks: Thank you. I guess it is just the peace, that there is that emotional peace.

Ms. McGifford: I would like to thank you, too, Ms. Spinks, for so movingly describing the costs of maintenance default to you and to your children.

We, I think, understand your emotional and physical exhaustion. You certainly talked about it with us. I think what your talk has done for me is remind me once again that maintenance default is a power issue and another way of abusing women and children in our society.

I thank you, too, for your suggestions regarding maintenance enforcement, and I second Ms. Barrett's remarks about language. We know that language has the power to humiliate or to empower, and I think the sensitivity training that you recommend is extremely important.

I do not know if you know that many of our proposed amendments address many of your issues, and so, as I said to somebody earlier, we are certainly on your side, and, lastly, I do not know whether youth have the right to sue their parents, but I sure hope they do.

Mr. Chairperson: Are there any more questions?

Mrs. Vodrey: I would like to thank you, also, for your presentation this evening and how you took us through some very important moments in your life, as well, and I appreciated your frankness in the discussion.

I just wanted to make a couple of comments. You spoke about rules requiring notification, and I just wanted to let you know or to clarify for you that our rules do require that, and I think at the time you were making a comment about interjurisdictional notification. That is certainly something that we can look into, and that leads me to my next point when you spoke about linkages with other provinces.

I believe you were here when I commented earlier that most recently, at the Ministers responsible for the Status of Women conference, this issue was raised and discussed among ministers, that was about three weeks ago, with an intention of ministers to return to their provinces to try and identify what are the barriers for the enforcement of orders from outside of your province.

We certainly will be looking at that, but I wanted you to know that it really was not our province alone who has a commitment to doing this. We do have a commitment, but others understood that commitment and have agreed to look at their own provinces, as well. I do not have a time, other than to say we continue to press for it, and it was taken very seriously.

On the legal aid issue, I understand the question that you are asking in terms of a changed threshold for qualification, but I just wanted to bring to your attention, in case you did not know, that in Manitoba, Legal Aid Manitoba does have a unique expanded eligibility program, and that allows individuals to obtain counsel at Legal Aid rates and to pay those fees on a monthly basis.

So it is a support, perhaps a partial step to some of the interests that you and others have expressed this evening, and because I have heard it repeated, I wanted to take a moment, while you were here, to at least let you know about that. Otherwise, thank you very much for everything that you brought forward and for your presence here this evening.

Mr. Chairperson: Ms. Spinks, at the beginning, you indicated to us you did not have a written brief. Ma'am, I do not believe that you could have taken a pen and put it to paper and made a better presentation than what you have this evening. I want to thank you very much on behalf of the committee for sharing your experience with us. Thank you.

I now would like to call on Beverley Abbott. Beverley Abbott, not present. We will pass on to the next one, Kim McCorriston. Do you have written copies of your brief for distribution? The Page will get them. Please proceed with your presentation. Is this brief for–do you want us to dispense?

Ms. Kim McCorriston (Private Citizen): No, I want to read it right from the thing, because if I start talking, I will go on for hours.

Mr. Chairperson: Well, then you will have to restrict yourself to the time allocated to you then. I will give you a two-minute warning.

* (2320)

Ms. Kim McCorriston: Okay. First off, I would like to commend your government on the initiatives brought forward to improve the Maintenance Enforcement Program. As a custodial parent of four young people, I really think that it is wonderful that however minor, we are finally going to be given some reason to hope for change that is long overdue.

My case is this: My ex-spouse and I were separated in 1989, and at the time I took custody of our three girls and was carrying our son. He was employed on a northern reserve as a general store manager, and as far as I know he made $1,500 a month with virtually no expenses. We went through a lawyer and made up a separation agreement in which he stated that he would pay me $500 a month in maintenance and take on all marital debt. I was not working at the time and all utilities and credit payments were in my name because of a previous separation from him.

In 1990 I gave birth to our son, and by May of 1991 I had returned to the job market and have been working and off social assistance ever since. My ex-spouse became unemployed in 1990 and has since paid no maintenance. My lawyer had the maintenance part of our divorce adjourned until a future date, because my ex-spouse had gone on city social services and never did he live up to the other obligations of our marriage or separation.

In 1993 I declared bankruptcy because it was either that or have my wages garnisheed. My ex-spouse had not taken responsibility for the debts from our marriage or paid them anything towards this debt. The interest had accumulated and the debt was huge. By this time I had gained the position at which I am now employed, and my gross yearly income from employment was $18,000. My children would have starved and/or worse if I had not declared bankruptcy. It only cost me $2,500 to declare bankruptcy and become totally insolvent for the next seven years as well as all the other ramifications of his irresponsibility on my children and my life, a debt I should not have had to pay as my papers said that I was indemnified against all actions and debts. However, society say that you cannot get blood out a stone and the poor man was on welfare.

I want you to know that I do not begrudge anyone social assistance when they need it, and that it is a necessary part of our safety social net. My mother was on social assistance when she came to this province, and because at that time there was no Maintenance Enforcement or if there was—perhaps it is because she died five years ago and predeceased my father that she never collected any maintenance for us. She returned to school, however, and became a teacher. I too feel that working is more beneficial for my children and have enjoyed the little joke in the Just You and Me, Kid book published in Manitoba where it states to please keep Maintenance Enforcement informed as to your whereabouts because you may someday receive a lump-sum payment.

My ex-spouse is now employed four days a week at a minimum-wage job and has agreed to pay me $50 a month towards my four children. This benefits them by at least making some moral statement about their father's interest in their upbringing.

Now that my eldest two children are teenagers, it does little to accommodate even their lunch programs. To work, my youngest is in day care. It costs me $50 a month on average to send him there. My youngest girl is in elementary school, and it costs me about $50 a month to send her to school, costs of lunches, and pencils and extracurricular activities, et cetera. I continue to work and in the past eight months I have received that $50 about half the time and not always in one payment or on time. This reduces my co-parenting role to one of a whiny, nagging you-know-what, and I end up the bad guy as my ex-spouse states to my children that he is doing the best he can. My bills continue to pile up because not only does he not feel that his first priority is to his children, but I am still getting my GST through my trustee and it took me two extra months to collect it this time.

I try to instill pride in my children and foster a relationship with their father for their good, but it is

becoming increasingly difficult as the girls get older to cover for this person who has never grown up and therefore feels no responsibility for the lives he was there to help create. I have a problem with the double standard of society where a mother's morals are brought into criticism when she brings home a boyfriend but a man can go on to have two, three or more marriages and never has to fulfill the obligations of fatherhood for any of them unless one of the mothers has a really good lawyer and a fortune to back her up.

I have a problem with a society where the custodial parent cannot provide the necessities of life. One is put in jail or loses the children to the government, and yet the noncustodial parent can, once they have left the house, show up on holidays, birthdays and the occasional weekends to play hero or heroine but not have to put any effort into being a good human being and guiding these young minds to maturity. My children never ever, to my knowledge, were even asked if they wanted us to stay together, or even if they wanted to live with him. Why should they suffer because of our decision?

Three months ago I went to see a lawyer who wrote a letter that stated I had not stayed the proceedings for my maintenance and therefore, because of my agreement, it states that unless in writing dated and signed by both parties the separation agreement stands as printed and my spouse owes me a total of $18,550 as of April 11, 1995. This letter was forwarded along with all the pertinent papers to the Maintenance Enforcement department. Last month after numerous phone calls to them where they stated that my file had been deleted, I received a phone call from my worker who said that the papers had been sent to the Crown who said that to have my file reopened I would have to get my ex-spouse to agree in writing that he did in fact owe me this money and he would agree to having it become enforceable through the Maintenance Enforcement department.

What a joke. Where else except in this system does a debtor get to write the rules of conduct? When was the last time anyone volunteered to have his wages garnisheed? I am sure if I had only asked him nicely at the beginning of all this he would have gladly complied with my wishes. After all, he has done all he can to live up to our original agreement and he worries so much about his children that he takes part of my meagre maintenance to buy gifts for the children's birthday, from him.

I believe that without the government's help–I collect $122 in SAFFR and $37 in CRISP each month along with the child tax credit of $370 a month–all reduced because of my bankruptcy last year, I would have had to give up my children long ago. I believe if we could roll all these programs into one GAI with noncustodial parents making up the shortfall, and all taxpayers contributing, we could save a huge sum of money in the cost of administration of these programs and benefit the children of Manitoba by offering them the opportunities of middle class instead of designating them to the hopeless cycle of poverty and shame.

This, I believe, would broaden the tax base now because moms would not have to go to food banks, clothing exchanges and other poverty organizations to survive and may even, once children are in school, opt to become educated and employed, and, in the future, as children who live in a family where parents show them the advantages to working learn about the Protestant work ethic and gain self-esteem enough to try to make it on their own.

I believe that, although some call any enforcement or social policy to bring about the eventual lessening of child poverty an encroachment on the male rights and liberties of Canada draconian, brought about by frustrated and angry feminists who want only revenge from their spouse, these measures are nothing more than for the protection of our children. Maintenance should not be reduced to a female or male issue, as us against them situation. Although paid to the custodial parent, it is for the maintenance and care of the children, and as such should not be taxable at their expense but at the expense of the taxpayer who earned it.

I further believe that the government should not have to support children or their parents because the noncustodial parent does not wish to pay support for his or her child. If the parents were married, no such benefit–a tax deduction taken–would be afforded. We have already seen that this does not benefit the child as

it does nothing to induce the noncustodial parent to pay the support and only takes necessities out of the reach of some children.

Perhaps if more custodial parents were treated to the justice of the system and the beliefs that we are supposed to hold dear, like the one about nothing in this life being free, and how about, you have to work hard to get ahead? Or even better, how about taking responsibilities for your decisions and actions instead of allowing them the freedom to hide behind a social safety net and use it for an excuse not to pay support either because they are on it and cannot afford to pay anything? If I could not afford to pay for my children's eating habits, I would have to change them, get another job to pay for them or give my children up to the care of foster parents, or refuse to pay the government for paying the custodial spouse's and the children's basic living allowance, the argument being that my child does not benefit one way or the other because welfare takes maintenance, dollar for dollar. So why should I pay welfare to care for my children?

I believe that, for the most part, the system is just and works for the good of all, but I wish to see a more fair and equal world for my children to grow and be citizens of, and I know that unless we, as custodial parents, do not speak up for ourselves and others who are not able to communicate with you, the possibility remains that our elected governments will do nothing because they do not perceive a problem.

* (2330)

In closing, I would like to state that 13 percent of families in Manitoba broke down in 1993, and, of those 13 percent, the statistics show that 82 percent of them are headed by single mothers living below the poverty line. Also, one-third of them have a court-enforced maintenance order. When we talk about the $70 million that is owed to the children of single parents in Manitoba, I think that it is important to note that this money is owed to only one-third of the children of single parents in Manitoba, and perhaps we should ask ourselves how much is owed to that other two-thirds who are out there with no support from anyone and no one to represent them.

Perhaps, if during every separation where there was a child, it became a mandatory procedure that maintenance was set and put into the enforcement program, we could eliminate this feeling on the part of the parents that it was a confrontation and negotiation was necessary. We could have a safe, nonjudgmental procedure where the good of the child was uppermost in everybody's mind and perhaps even save the government the need to come up with incentives for people to support their offspring. We could then implement a procedure where every child got what support it needed, and the government could take up the reins and find all those that refused to comply and collect from them the shortfall. Then it would not be she owing him, him owing her. It would be he or she owing the government, and the children would not be allowed to live in the poverty capital of Canada.

Thank you for your time, and please feel free to contact me regarding this important step that your government has promised to take, and please accept my wholehearted support in this matter. I can only hope that it was not a false promise and that something will really come of it.

Mr. Chairperson: I would like to thank you very much for your presentation. Do members of the committee have any questions or comments that they wish to address to the presenter?

Mr. Mackintosh: Thanks so much for this presentation. This is the kind of presentation that I think is so important that the government hear about. It is important that this government know not only what it is like as a single parent but what single moms, in particular, are faced with when dealing with the Maintenance Enforcement office, as it currently is set up.

I myself grew up in a single-parent family, I guess, in a situation, what I would say was of very little means. I guess it was poverty, although I think poverty also has associated with it despair, and I do not think there was that in my upbringing, thankfully. But my father died when I was two years old. I have learned from my more recent experiences that single-parent families can be worse off than having a father die, and they are often worse off when the father is still alive and is

continuing an abusive relationship, a very sinister kind of abuse by withholding or being late on maintenance payments.

It is difficult enough, I think, to raise a family on your own. I have seen my mother do that, and then to deal with government which does not seem to recognize how bad things are just with the situation in the home and in the community but makes a situation even worse by failing to provide help, although at first, you know, seeming to hold out a hand.

I also commend you for talking about the amounts owing and the percentage of single-parent households that live in poverty, and, indeed, of the family types in poverty, single-parent households are by far the largest percentage.

On the last page of your presentation you note that only one-third of these single-parent families have maintenance orders. This is such an important issue, and one that we have addressed in our news release on our position on this bill, and it is that the government has to begin the public relations, a media campaign to show Manitobans not only how important it is that there be parental responsibility or that there is a requirement for parental responsibility for the parents but that you have a right to maintenance.

I heard often, going door to door, from single moms who were of the view that they were not entitled to maintenance because the ex did not have custody or did not have access or simply did not know about maintenance or, this is too often the case, just wanted nothing more to do with the guy, and the maintenance enforcement regime could not overcome and did not provide the access to the finances that should be the case.

Also, your anecdote of the maintenance office is very unfortunate and is alarming. Thanks very much for sharing your insights with the committee. It is really important that you came here.

Mr. Chairperson: Are there any more questions for the presenter?

Ms. Cerilli: Thanks very much for the presentation. I was really struck by the second page when you talked about consent having to be given by your ex-spouse, and I am wondering if you can clarify the reasons that were given to you for that. Was there a special circumstance in your case because there had been no file open at the time because there was such a long lapse of time? Was there any explanation for this or is this something that is usual?

Ms. Kim McCorriston: My ex-husband and I separated when I had two children–three girls. My youngest daughter was two at the time. We were separated for nine months, at which time he was under a maintenance enforcement order. Therefore, everything was in my name. He just moved back in and, hey, everything was swell. A few years later we again separated, this time more permanently. I was pregnant with my son, and we wrote out a separation agreement, one that is very legal and–my lawyer wrote it up. I signed it thinking that everything was going to be wonderful, and I have had nothing but problems with it since. It is not a court order. It is a separation agreement, and unless my ex-husband agrees in writing that he does owe me this money–he is very verbal on it: Yes, I agree, I do owe you that; that is true, yes I do, but I am doing the best I can–and unless he agrees in writing that he is going to pay me this, and it is going to be maintenance enforced, I cannot do anything.

Mr. Chairperson: Are there any more questions?

Mrs. Vodrey: I would like to thank the presenter as well, both for the written brief and also for the oral presentation and the points that were raised, and I am glad that the presenter was able to clarify for members of the committee–I was interested in doing that, had she not done that–the difference between the support agreement and the support order, one being an order of the court and the ability, then, of the program to look at consequences such as jail sentences with a court order but not having that same power with an agreement. So I thank you for clarifying that.

Your final comments, that you are looking for this to be a real promise, I think I understand what you are saying, that, in fact, the changes, at least as promised so

far, will pass in the bill without delay and that others which may not be able to be incorporated in this bill will be considered onward and not get lost in the process.

I just want to assure you, that is certainly our intention. That is why we are back here tonight. That is why the bill has passed second reading in the House, and I look forward to our being able to get the bill back into the House for a third reading and to being able to pass this bill, and as I have said to presenters before you this evening, some of the recommendations which have come forward are more complex and will require us to take a little bit of time to make sure we understand all of the effects.

* (2340)

However, I can tell you that it is certainly our intention that the bill, at least in the form that it is in now with the provisions that are contained in it, which, I believe, really are a strong start, certainly it is our intention to get a move on and get it passed, so that let us hope within a couple of days it will be much more than a promise. It will be, in fact, an act of the Legislature.

Mr. Chairperson: Are there any more questions?

Ms. Cerilli: Maybe just a comment further to my question, and I am pleased to see that you now know the difference between the court order and the maintenance agreement, but it just speaks again to the issue that you raised, all these other people who do not understand that this is something that they are entitled to, and I really think that we need to have better information, particularly for women when they are going through divorce proceedings, and I hope that our proposals to have a public education program will be accepted by the minister. I do not know if you want to comment on that, if you think that that is necessary.

Ms. Kim McCorriston: I think a public education program would be very good because up until a couple of years ago, I felt very alone and very, very isolated in the sense that I did not have anybody to reach out to, and when I started work, I started working at a social service agency and got a fax over my fax machine that said that we were going to have a meeting of the custodial parents and then a forum on maintenance enforcement issues, and I grabbed as many of my girlfriends as I could and hauled them down here to the Legislative Building, because I think that if we, as single parents, can get out there–and not just single women but single men, too–we need to tell people that we are out there, and we are not living well, and we are not living high off the hog on their $200 a month or whatever, that this is going for real problems and real kids. I have a kid who was tested in the 90 percentile, and do you think she is going to go to university? Not a chance, not on $18,000 a year.

Mr. Chairperson: Any more questions or comments? Seeing none, I would like to thank you, Ms. McCorriston, for your presentation.

I am just going to attempt to get a handle on how many people are actually left here. Rhonda McCorriston, are you here? Present, okay. Michelle Bonnefoy, are you here? Yes. Paula Prime? Darlene Byletzki? Sue Spiece? Judith Cornell? Gordon Gillespie? Tammy Williamson? Sandy Preston? Victoria Lehman? Last but not least, Norma McCormick?

I would like to call at this time Rhonda McCorriston. Do you have a written presentation?

Ms. Rhonda McCorriston (Private Citizen): Yes, I do.

Mr. Chairperson: Did you want us to dispense with the reading of it?

Ms. Rhonda McCorriston: I am going to cut a lot of it out. I am going to blah, blah through it.

Ms. Cerilli: While the papers are being distributed, I just would want to clarify the number of presenters here tonight that wish to go forward and make their presentation tonight before the committee. We had discussed earlier that we were perhaps not going to hear all the presentations tonight. If we want to revisit that, if we want to look at when we might adjourn for this evening. In other committees such as this we have

offered the option if people want to, since they are here, make their presentation tonight, and if not, look at convening another committee to continue hearing presentations on this bill.

Mr. Chairperson: It is not in our power to call another committee to do this. It is the government House leader who will call this committee back.

Ms. Cerilli: I think, if my memory serves me correct, from serving on Law Amendments committees before, we can decide to adjourn and we can make a recommendation to the House leaders. Perhaps the staff could clarify, correct me if I am wrong.

Mr. Chairperson: It is a recommendation, and that is all that it is, is a recommendation. He will decide when this committee will meet again.

An Honourable Member: I think if we agree to sit until one o'clock we could hear all the presenters likely.

Mr. Chairperson: Well, if we agree to sit until one o'clock we will get through all the presenters.

Ms. Cerilli: We will sit until one?

An Honourable Member: I think we could probably hear them all if we sit until one.

Mr. Chairperson: Just to get–Rhonda, your presentation. You are going to be reading your brief?

Ms. Rhonda McCorriston: I am going to leave some of it out.

Mr. Chairperson: You are going to leave some of it out?

Ms. Rhonda McCorriston: Yes, because I am sure everybody here can read it.

Mr. Chairperson: Okay, Rhonda, please proceed.

Ms. Rhonda McCorriston: First, thank you very much for having me here today. I seem to always end up in front of these kinds of groups, and I am not very political, but I am kind of loud I guess because I am always here.

The first part is just about when I got married and all that junk, and it was not a very good marriage. He was abusive. I left him and I moved in with my sister and her four children because I could not stay in the family home any more. The mortgage payments were $480 a month and I could not afford it. He would not make any payments at all, so I moved in with my sister. We had a little three bedroom house on Pandora Avenue across from CN. It was a one-floor jobby, sort of, and there were her four kids, my two kids, her and I.

I studied during the day and I went to university, and at night I worked in a bar. At that time, by the way, I was on Access, and I was getting paid–this is my hidden agenda–I was getting paid approximately $17,000 a year. I took a grand total of $80,000 total from Access. That was two years ago. Since then I have paid $14,000 back in income tax and also saved the coffers $16,000 in welfare, so that is $30,000 I have paid you back already. I do not plan on retiring soon, so maybe Access is not such a bad idea, and we could revisit that another time.

Also, at this time, when I was in university, he did not pay any maintenance at all, and I was on legal aid. Every spring and every fall, I had to go back to maintenance. It was either a variance, or it was his arrears, or he was called before the master, whatever. He refused to pay. He did not help with Santa Claus. He did not help with the Easter bunny. I am sorry if you guys still believe in it, but, really, I paid for it all myself. He wanted to share. Like, in the furniture that we had in our house, he wanted to take half the dressers. He wanted the TV. He wanted everything.

Because he refused to pay, he wanted joint custody, and soon afterwards, he remarried. He has another wife and young son. Every time we go to court, he says this is how much I make, and I have this young family to support, and they say, yes, you have this young family to support, we feel bad, and I get shafted every time.

I always thought it was first in line is first in time. I thought my kids came first. His wife does not work.

His money is going to support his new wife and his son, and my two kids are kind of somewhere down the line a ways. She does not work through choice. I work because I have to, and that included a whole summer when I delivered flyers in the morning so that I could make enough to support my kids. Eventually, maintenance and arrears were set, and he began to pay his $500 a month.

Then he got the idea that maybe he would take one of our kids back. If he could get custody of the 12-year-old, he would not have to pay anything because I would have one and he would have one, and that would be really neat. So I said that was okay because she was 12 and I could not argue, and I did that thing.

That lasted six months. During that six months, he got hold of a lawyer and had all the court papers chucked out. He took my child tax credit. My family allowance now goes to his wife in her name. It lasted five months. My daughter is back with me. I do not know when I will see any of that money ever again. It will be six or eight or 12 months down the road and when I can afford another $1,500 which is what one bout with the lawyer costs. One trip through maintenance or one trip through a variance is, give or take, $1,500.

My bills are stacking up at 24 percent and 18 percent, and it is counting on interest and arrears and stuff like that, but his arrears are $25 a month, no interest, no penalty, no nothing–$25 a month.

Our daughter moved back home with us, and he said that this plan would get rid of all his responsibility, and life would be much better. I tried to sit down and figure out exactly what this was doing to me, all this bouncing back and forth. He now has joint custody of one child, not the other one. The other one was of no interest at the time and probably never will be. Having this joint custody now has not significantly changed his predisposition to pay the support at all.

From May 1986, when we separated, until today, I have received $13,000. That seems like a lot of money, but I will tell you what it has cost me. If I had been receiving the $500 a month that my girls were entitled to, I would have received $60,000 by now. The other $47,000 came out of my pocket because the money has to come from somewhere. If he does not pay it, I have to. If there is no loaf of bread sitting there on the counter, somebody has to pay for it. If he is not putting in his 50 cents, then I am paying the buck. That is the way it goes.

* (2350)

My kids are doing okay, though. They are fed, and they have clothing and shelter, but I wanted to figure out, with this $500 a month that I am getting, I pay 42 percent income tax on it, which is $210. That leaves me $290. I am paying $1,500 a year for a lawyer. It is just kind of one of those things that I do because I know I am going to be back there in six months. So I budget my lawyer fees at $83 a month. That leaves me $207. Then I pay $10 a month in gas to go get my own cheque. I drive over to pick up my cheque and phone him, make sure he is home, all that stuff. It is fun. Then I actually make less than $193 a month to provide for my kids and give them their college and all that, because on top of these considerations, my family allowance, which, if I ever get it back, has been lowered by $91 a month because of my newly found income which I am not getting. Do you follow any of this?

Anyway, my maintenance is gross, really gross. It is $500 a month and my net is $102, okay? He hates me for taking this $500 a month, and I hate having to raise my girls and explain when they say to me, well, you get $500 a month, what are you doing with it? I do not know. It is really hard to explain.

Single parents work part time and evening jobs, and they work day jobs, and this is when kids are wandering the street. Kids do not have people at home to listen to them. They go to friends, gangs and groups. Gangs and groups are the people who make them feel like they belong somewhere. Car theft and break-and-enters, you are saying, oh, come on now. I know it. I can see it. But if you have never, ever had anything, if you saw your parents working really hard and getting nowhere, when you know that there are jobs and they are few and there is just no money, and if you thought your chances of ever owning a brand new, new-smelling, shiny, new car were nonexistent, that it would

never happen, and you knew that just for one moment, you could experience that minute of heaven, that sitting in a brand-new car, that this was your one chance–quick, quick, one chance–you would grab it, too. The system is unfair. I know it, and you know it. Our youths know it, too.

Kids that are watching single parents trying to make ends meet, kids who go to visit their other parents and see stepbrothers and sisters with shiny new bikes, on trips, CD players and Walkmans. Noncustodial parents laugh at custodial parents. It is okay to beat the custodial parent, but it is not okay to beat our kids. We need enforcement which shall see this issue as being a societal issue. Custodial parents should not have to fight individually, singlehandedly against child poverty. At the risk of offending anyone here, is that not your job?

While I am at it, it would be a definite move in the right direction to exempt maintenance from Manitoba tax. I know we all dealt with this on a federal issue. I know that a lot of people think it is a federal issue, but we pay Manitoba surtax, and there is no reason why it could not be exempt at least there. I know you have the authority and the power to do this. Your response would prove that you are serious about not allowing Manitoba babies to starve. People, after all, get prison sentences for not feeding their children when they are capable. If you do nothing, is this not your negligence? You have the ability to help us feed our babies.

In closing, I would like to make some recommendations. One, when welfare is a basic need for noncustodial parents, when noncustodial parents are on welfare, their maintenance to the other parent for their children should be considered a basic need. Their food and clothing is. We know their food and clothing is. It should be considered a basic need, and welfare should pay the minimum maintenance cost for each child to the other parent. Secondly, interest should be charged on arrears right from the very beginning, from Day One. Maintenance should be exempt from Manitoba tax. Noncustodial parents who refuse to pay support and are shown to be in contempt should be charged with child negligence, and the ability for maintenance enforcement to wipe out arrears must be stopped completely. It is not their debt.

Personally, I take a little bit of offence to the comment that was made a little earlier tonight, and I just got to say the little bit about the easy-meal-ticket bit. It might be a meal ticket, but it has never been easy.

Every now and then I fall apart. I question whether I made good choices for myself and my children. My ex-husband beat me from the time we were married. In fact, he beat me before that.

I married young and I worked all the time I was married. I had two lovely, blonde baby girls. The first was his princess. I worked evenings and he went to school, days. He was a truck driver, but decided he wanted a career change.

My baby was two weeks old when I started working. When he finished school, he went back to working on the road driving long haul. I continued to work part-time jobs and in direct sales. Our second beautiful little girl was born. She has global delay and this means she does not learn as fast as other children.

I started working in a bar to help buy our modest family home. I came home to verbal abuse, beatings and rape, but I stayed with this man and took it until one night I came home to bruises up my daughter's arms. He said she was just lazy and that he forced her to learn to walk; she was two. I told him to pack his bags. I threw him out when he was on the road and changed the locks. I was scared for my life.

He would phone and tell me that he could have me killed for the price of a carton of cigarettes. I told him that he could pay just the $480 that was our mortgage. I told him that if he was willing to do this, we could sell the house when the girls decided to move out and that we could split the money from the sale. He would be investing the money and would receive half the money for the house later. He said he would never pay anything and that we couldn't stay in the house since he couldn't.

He did not work for two years. He grew his hair long, sold drugs, bought a Harley-Davidson and lived in a downtown bar. I had to bribe him to take the girls for a visit. I would buy his groceries so he could take

them to the lake with his family. He got into the middle of a fight and got stabbed.

We bought him new jeans, a couple of packages of cigarettes and visited him in the hospital. We got him information on victim's assistance and tried to help. After all, he was my girls' father. Through all of this, I received no support.

Meanwhile, I moved in with my sister and her four children. There were six children and two adults in a little four-bedroom shanty. I worked when I could and studied for four years. His maintenance was sporadic and minimal.

All this time I was on legal aid. Every spring and fall, I attended court because he refused to pay. He wanted our sparse furniture, he wanted joint custody, etc.; he remarried and now he had a young wife and a young son to support. He applied for variance after variance. Eventually maintenance and arrears were set.

He began paying his $500 a month and $25 a month on arrears which had accumulated over $3,000. My bills were stacking up at 24 percent and 18 percent interest. He was paying $25 a month with no interest. This does not seem fair. I received this support for one full year.

In October of the last year, after his promises and plans, my eldest daughter moved in with him and his new wife. I hated this, but when I contacted Child and Family, my lawyer, and a child advocate, I was told that I would have to pay a lot to go to court and it would be very hard to keep her if she really wanted to go because the judge bases his decision on what 12-year-olds want. She moved.

It was agreed that his support payments would go to arrears and that we would be even after the arrears were paid. In January, I got a notice in the mail that I was overpaid for the Child Tax Benefit and that my family allowance would be going to his wife and another notice telling me I owe my lawyer $1,500.

This was his recent plan to obliterate his responsibility. He decided it would be cheaper for him to have one child. He went to court for joint custody. I did not hire a lawyer this time because I just could not afford another $1,500 for lawyer fees. This lasted for six months. I went back to Maintenance Enforcement to reactivate my file of seven years only to find that I could not opt back into the program because his lawyer has added that the money was to be paid directly to the care-giving parent.

My children's father also tried to opt in when it was time to pay. They would not let him opt in either. I drive over now halfway across the city to pick up my cheque twice a month, at his convenience, of course. This is an additional cost of $10 a month. All his promises were for naught and she is home this month.

She came home with few clothes, needing runners, a bathing suit and other items. It has cost me my self-esteem, $1,500 in lawyer fees, and now I must reapply to maintenance and ride that roller coaster for another four or five years. I must re-apply for my Child Tax Benefit, and I will be appearing and reappearing in the Law Courts, seeking monies that I need to support my girls. He will keep joint custody of the one child. This will not significantly affect his predisposition to pay support. I know this to be true.

From May 15, 1986, when we separated, until today, May 14, 1995, I have received $13,000 for the support of my girls. I will not tell you what it has cost me. If I had been receiving the $500 my girls were entitled to, I would have received $60,000. My debt has been the other $47,000. Is this what Manitoba calls fair and just? Is it any wonder that we have children in poverty?

My kids are doing okay, though. We have food, decent clothing and shelter. But let's figure out exactly what is happening here. I receive $500 a month. I pay 42 percent income tax which is $210, leaving $290. Then I pay $1,500 a year approximately; over 18 months that equals $83, leaving $207. I pay $10 a month in gas to get our cheque, $193, not much of the $500 left. I actually make less than $193 a month to provide for my girls and to save for college for them. On top of these considerations, my family allowance and child tax credits have decreased by $91 a month because of my newly found income. My maintenance is gross–really gross at $500–my net $102.

He hates me for taking his $500 and I hate having to raise my girls explaining what I do with all that money when, as you can see, it is frightfully hard to explain. We have not had one holiday to anywhere. What does this mean? It means that the chance to see other people and other places, to grow and learn about the world around us is not there. Can we blame youth gangs on child poverty? Yes, we can.

Single parents work part-time and evening jobs. This is when kids are wandering the streets. Children don't have people at home to listen to them. They go to friends, gangs and groups that will make them feel like they belong. Car theft and break-and-enters, you are saying "oh, come on now" but if you have never ever had anything, you saw your parent working very hard and getting nowhere. You knew that jobs were few and that there just was no money. If you thought the chances of you ever owning a new smelling, nice, shiny car were nonexistent and you knew that you could experience that for just one moment, one minute in heaven, that was your one chance–you would grab it, too.

The system is unfair. I know that, you know that, and our youth know that. We can say it is the best we got, we can say it's not that bad, but the kids know better. Kids that watch single parents trying to make ends meet, kids who go to visit the other parent and see stepbrothers and sisters with shiny new bikes, taking trips, CD players and walkmans. Noncustodial parents laugh at custodial parents. It is okay to beat the custodial parents. It is not okay to beat the kids. We need enforcement which sees this issue as being a societal issue. Custodial parents should not have to fight individually, single-handedly against child poverty. At the risk of offending anyone, isn't that your job?

And while I'm at it, it would be a definite move in the right direction to exempt maintenance from Manitoba tax. I know you have the authority and power to do this. Your response would prove that you are serious about not allowing Manitoba babies to starve. People, after all, get prison sentences for not feeding their children when they are capable. If you do nothing, is this not your negligence? You have the ability to help feed our babies. Thanks.

Mr. Chairperson: I would like to thank you, Ms. McCorriston, for your presentation. Do members of the committee have any comments or questions?

Mr. Mackintosh: Your presentation was so forceful, I think, by its understatement, you know. We have a lot of talent in the north end, and I think you express some real talent here of wordsmithing and expression and especially where you say custodial parents should not have to fight individually, singlehandedly against child poverty. Is that not our job? That speaks volumes as to, I think, what MLAs are elected to do, and that is to improve the lives for those, particularly, who are vulnerable and having a rough go and to help rid this province of the title, land of poverty.

I also think that speaks to the–I am going to get political here because we are allowed to do that in the Legislature–the halfhearted attempts, the halfhearted effort of the government in this bill. It is quite measly, compared to what is needed, and, as I said in the Legislature, when we needed an overhaul, we got a paint job.

Just on some of your recommendations: Interest on arrears–we will be proposing that in amendments, and I hope that we will have support on that one. The exemption from Manitoba tax–we are proposing in amendments that the court be required to consider the tax implications when awarding maintenance. With regard to arrears, we hope to increase the–make it more difficult, certainly, for the court to wipe out the arrears.

Thanks very much, Rhonda. It is really important that you and people like you bring their experiences down to the Legislative Building. I think too often it becomes a world unto itself, but it will not be with people like you around.

Mr. Chairperson: Are there any more questions?

Mrs. Vodrey: I would like to thank the presenter for the information that she brought forward tonight and also her recommendations for consideration.

To just correct something that was said in the process of the presentation so that there is not any confusion: arrears are not dismissed by the Maintenance

Enforcement Program, and I think that that is what was said by the presenter during the presentation. The program does not have the authority to do that. Any variation in forgiveness, which I know the presenter knows, is actually done by the court and does not involve the program. So the Maintenance Enforcement Program is not responsible for the forgiveness of arrears.

However, apart from just wanting to make sure that that was clarified on the record as not being a role of the Maintenance Enforcement Program, thank you very much for the suggestions and the recommendations that you brought forward. Certainly, in our bill, as you can see, I think it contains many provisions which we believe as a government will be helpful, and certainly others have been raised this evening, and we are more than prepared to look at those and to consider what the effect of those will be and, as I have said to presenters before you, I do not believe we are going to be able to incorporate everything that has come forward tonight in this bill. However, I have said that we will certainly seriously have a look at what has been brought forward and look at its effect across the board. Thanks very much.

Mr. Chairperson: Are there any more questions or comments to the presenter?

Ms. Rhonda McCorriston: I would just like to comment back to you, Ms. Vodrey. You have mentioned four or five times tonight about the complexity of the issue, and I can appreciate that. I understand that there are a lot of legalities and things like that that must be looked at.

To me it seems like a very simple issue. I do not think that it took Petro-Can or Sears or Zeller's very long to figure out that if they charge interest, people pay the money back. I do not think it took anybody very long to figure out that when a screaming, newborn baby starts crying, it needs to be fed. It did not take me very long to figure out that I need a new pair of pants every three months because I keep wearing out the knees begging for all these government things all the time.

I do appreciate the effort, and I know some of the people that are sitting around the table will definitely be working at this, and I look forward to hearing about your changes and recommendations and not only just Bill 3 but all the amendments that I know will come shortly thereafter. Thank you.

Mr. Chairperson: Thank you very much for your presentation. I would like to now call Michelle Bonnefoy. Do you have a written brief?

* (0000)

Ms. Michelle Bonnefoy (Private Citizen): Yes, I do, and I can read it within seven minutes.

Mr. Chairperson: All right.

Ms. Bonnefoy: Okay, I just wanted to start to say, ask the children at school. Make a survey regarding what they think about the child support. Get some input. Let the children brainstorm solutions. You will be amazed at what they come up with. Children are people, too. They are not tools. Put yourself in the children's shoes.

Dear committee members, we need a fair system. In my case I have battled for child support for my child over six years with the court system. I am a single mother with one child. My yearly gross income is $17,000. In the first judgment, when I went to court, he was to pay $300 per month, and a federal garnishment was ordered.

It did not end there. He was and is still inconsistent. Several other court appearances followed, costing me over $10,000 in legal fees. I was not qualified for legal aid. This large amount of money should have gone toward my child instead.

In the process, child No. 2 and child No. 3 from two different women came into the picture, decreasing my monthly child support to $100 per month, all because of him. He refuses to pay. I am afraid for the next victim, No. 4 or victim No. 10, which would vary again my child support to nil.

There should be a set rate on which a child can survive, basic necessities of life, considering food, clothing, shelter, medical needs, education, et cetera. There is no extra money from the payer given to his child for special events such as birthdays, Christmas, graduation, et cetera.

On another judgment, the payer was given one year of college training so he could get higher wages to support his three children. He decided afterwards the easy way out was to go on social assistance, refusing to pay child support. He is healthy and can work two jobs. I have taken lots of sick time without pay from work due to my child's illnesses or taking care of personal matters. The child is both parents' responsibility to raise and the money for support is to be used for the child only.

Every year I call Maintenance Enforcement Program for an update on the arrears, a yearly report. I was recently informed that over $4,000 worth of arrears were erased, and he was no longer on the federal garnishment. I was not notified of any changes. I hired a lawyer again to look into it. He still has court disbursements arrears to pay from six years ago. According to Maintenance Enforcement Program, I am to let them know of any changes regarding him, the payer. The judge ordered him to report monthly to them. I do not want to be a detective for the rest of my life, checking up to see if he is working somewhere, where he is living, has he put a claim in for income tax, et cetera.

He has been a schemer all along. My child and I have a totally different life to live without holding onto negative reminders. It has been a continual nightmare to constantly get after what belonged to the child in the first place. Just like a monthly bank loan needs to be paid, so does child support maintenance. How can he refuse to pay if there is a court order? What is the consequence? Where is the law? Are there special privileges for evaders? Meanwhile I am forced to work full time, baby-sit at times and search for money involving other agencies for survival to make ends meet. The government system could save time, energy and money if they would enforce, and I underline enforce, the court order.

What happens to those who move out of the province or to another country? Do we lose the child support? If my financial status goes lower, do I have the right as the payer to ask for an increase in the child support amount, just as he has the right to decrease the amount if he was in a situation like that, or the same situation? What happens if he gets an increase in his salary? Are things going to change? What happens if both parents are on social assistance? In deciding the child support amount, is there special consideration to parents with special needs children regarding illnesses, disorders, et cetera? Are the laws different for cases of adopted children, divorce, separation, common-law relationships, one-night stands, et cetera?

If this system keeps up the way it is presently going, beware, there might be a huge increase in people seeking social assistance, costing the taxpayers an enormous amount of money, an increase in child poverty and the misuse of all acts written pertaining to children.

After all this information I have given to you, I am frustrated and angry. I am supposed to trust the judicial system and the Manitoba government after they have put me through all of this? Remember that this can happen to you, the children of your family members, relatives, friends, neighbours and co-workers. Who suffers?–the children. They are the victims, and this is an adult problem, not the child's problem. This government needs to seal all loopholes in the child support system and secure our children's future. Thank you.

Mr. Chairperson: Thank you very much, Ms. Bonnefoy, for your presentation.

Do members of the committee have any questions or comments that they would like to address to our presenter?

Ms. McGifford: I would like to thank Ms. Bonnefoy very much for her presentation. I would also like to acknowledge her anger and frustration. It certainly was very clear, and it is very understandable. It is very understandable why you are living with these emotions.

Your case seems horrendous, and we hear what you are saying.

Mr. Chairperson: Are there any other questions or comments?

Mrs. Vodrey: Mr. Chair, I would like to thank you for your presentation also and for outlining the situation of your experience. I think it is very helpful for us to have had the opportunity, and I thank you for your presence here this evening.

As I have said from the very beginning, it is certainly our determination that this bill will pass. We look for it to pass quickly so that there will be, in fact, some changes and some developments that I believe will assist people in Manitoba and make every effort to get the money into the hands of the families, most often the women and children who are waiting for that money, and do it by the sterner enforcement measures and also by making available greater resources that it is possible for us to attach. So thank you very much for your presence this evening.

Mr. Chairperson: Thank you very much, Ms. Bonnefoy.

Next I would like to call Paula Prime. Paula Prime, are you present? One more time. Paula Prime. No. Darlene Byletzki. Darlene Byletzki, are you present? One more time. Darlene Byletzki. No.

Sue Spiece. Welcome.

Ms. Sue Spiece (Private Citizen): Mr. Chairman, and honourable members, payers who are full or part owners in incorporated businesses are able to avoid maintenance enforcement payments very easily. Cash, cars and computers can be protected from garnishment. All personal banking can be moved into the business account. Although it is possible for Maintenance Enforcement to acquire the shares of such a company if a person is in arrears to Maintenance Enforcement, there does not appear to be any rule to do so.

I have this all in my computer at home, but my printer stopped working, and until I have a chance to take it apart, I just will have to use this.

(Mr. Vice-Chairperson in the Chair)

Who are the people who become masters of the court? I wonder because their primary activity seems to be to adjourn. Who benefits from adjournments? The payer benefits and the master benefits, because either that master or another master is going to hear this all over again the next time. The payee is left with little or no money. When a master actually sends someone to jail, it is almost always an unfortunate fellow who has no assets, no work, but who smokes or who ate out once or twice last month.

* (0010)

Business people who claim to be having a rough time, despite driving around in expensive sports cars, travelling the world and so on, are treated very favourably by the masters. The position of master must not be a permanent repository for lawyers who are unsuccessful in their own law practices. A maximum period for the position of master, perhaps five years, would assist in preventing this.

Further, a maximum number of adjournments per payer, say five, should be set. Any further adjournments would require a portion of the master's own salary to be paid to the payee. Under such a system, committed adjourners would find it expedient to find other employment.

An investigator is required by Maintenance Enforcement to get solid answers for claims made by payers.

On October 28, 1992, my estranged husband claimed that he was not being paid money owed to him by SSI, a federally incorporated company for which he had worked. Neither the master nor the Crown questioned this. My lawyer suggested that I would need to hire an Ontario lawyer for a minimum of $250 to investigate this company. I went down to the Corporations Branch of this government, where I discovered that my estranged husband was, in fact, the general manager of the company that he claimed was not paying him.

A claim on December 16, 1992, under oath by Mr. S., was that he could not possibly get out of the lease

for a car costing $725 a month because of financial penalties. The chief master seemed unaware that cars can be leased for less than $200, and was not curious enough to request a copy of the lease. After many requests, I finally received a complete copy of this lease on January 12 of this year. There are no financial penalties for ending the lease. He has gone for as many as 10 months in a row paying nothing through Maintenance Enforcement while always managing to pay the $725 for this very expensive sports car.

When the representation of the payee's own lawyer becomes necessary to conduct a show-cause hearing because of many inept episodes in court, this expense must come from the Crown's budget. Articling law students, who have never heard of double-entry bookkeeping and have no idea of how household expenses are written off against a home-based business, have no business examining a payer with an MBA about his accounts. Perhaps having a forensic accountant on call to conduct such questioning would be useful, or the lawyers and students could take the 10 to 20 hours to learn some basic bookkeeping themselves.

Recently, at my daughter's wedding social, my estranged husband was pressuring me to get out of the Maintenance Enforcement Program because of the new legislation. I expect others will also be pressured to leave the program. His question to me was: What has the Maintenance Enforcement Program done for you? Maintenance Enforcement has employed the court officials. It has employed my Maintenance Enforcement officer, the Crown counsel and students but, me, he is $40,000 and change in arrears to me. The gas in my house has been shut off. Centra Gas will not consider my financial situation and insists that everything plus a $51 shut-on fee be paid immediately.

My current back taxes to the city are over $10,000. If more than $3,000 is not paid by June 30, the city will have the right to sell my house for back taxes. Revenue Canada claims that I owe them more than $6,000 in back taxes and helps itself to everything in my bank account even after promising not to do that for the next year or so because I am in an advanced computer course.

In answer to the question, what has the Maintenance Enforcement Program done for me, I have to say, nothing.

Mr. Vice-Chairperson: Thank you very much, Ms. Spiece. Questions? Comments?

Mr. Mackintosh: Well, again, a very powerful presentation and a very difficult circumstance. The challenges that you are dealing with, I do not know how you are coping.

You say that there are $40,000 plus arrears now owing, and I understand that the arrears largely follow from what you allege was, I guess, a fraudulent conveyance or the hiding of assets in a corporate–

Ms. Spiece: May not have paid all of them, but it would have gone a long way to preventing a lot of them.

Mr. Mackintosh: And then your frustration with the court that they did not ask the important questions about where the assets were and why they were there.

Ms. Spiece: That is right.

Mr. Mackintosh: I think you have raised an important issue. I do not think we have looked as carefully as we should at fraudulent conveyancing to get around debts owing under maintenance orders. I think that you have left an important seed here.

Ms. Spiece: I tried to touch on things that other people had not already mentioned.

Mr. Mackintosh: Yes. Thank you very much.

Ms. Spiece: I hope that will be looked at.

Mr. Vice-Chairperson: Thank you very much, Ms. Spiece.

Mrs. Vodrey: I would like to thank you for your presentation also and the kinds of points that you raised because I see that you did try to deal with a number of other aspects which we may have heard this evening from presenters tonight for the first time.

I just wonder–and this really is not a question, I guess, it is just my effort to speak about the bill and how I believe it may assist you because you said you cannot really figure out how the Maintenance Enforcement Program has helped you.

I think that the situation that you have spoken about may in fact be affected by some of the provisions in this bill, things like the driver's licence, things like the Credit Bureau reporting. There are now some measures which are being put forward with this bill that I think will have the effect on, speaking in a general sense, an individual who may be self-employed or in a similar kind of position like that. I am hopeful that what you see in the bill may be of some assistance to you.

* (0020)

We are always looking to make the system as efficient as we can, and this is certainly our effort to look at improvement through legislation. We have looked at other kinds of improvement through the administrative side and the process side of the Maintenance Enforcement Program.

Ms. Spiece: Would you consider having an investigator for the Maintenance Enforcement Program?

Mr. Vice-Chairperson: Ms. Spiece, thanks for that.

Floor Question: Madam Justice Minister, is that a possibility, or you prefer not to answer that at this time?

Mrs. Vodrey: Mr. Chair, as I have done with all of the kinds of recommendations which have come forward this evening, it is possible for us to look at them and to give them some consideration, so I will take your question as a suggestion for us to look at further.

Mr. Vice-Chairperson: Thank you very much.

The next presenter is Judith Cornell. Ms. Cornell, you do have some copies to distribute?

Ms. Judith Cornell (Private Citizen): It is very short, so I hope you will not mind if I read it and then add a bit to it.

Mr. Vice-Chairperson: It sounds fine.

Ms. Cornell: Mr. Chair, Madam Minister, honourable members, it is late. We are all tired. We are all warm. We are all wondering if we left the windows down in our cars too much. I know I did.

I am a lab technologist. I have my science degree in microbiology, graduated from the U of W. My ex-husband is a medical doctor–oh, thank you very much. I could put it right in front of me and stand here. Better. Shall I start back a bit, or not?

Mr. Vice-Chairperson: Sure, why do you not start again?

Ms. Cornell: I am a lab technologist. I have my degree from the University of Winnipeg in microbiology. My husband was a medical doctor, graduated from the U of M, got his student loan through the province. I paid it back.

My experience with Manitoba Maintenance Enforcement began in 1990. At the time of my divorce, I was living and working in Texas. I returned to Winnipeg in '90 to attend a death in the family. Since my divorce in 1986, my husband has totally ignored court orders to pay child support for our three children. I hired a lawyer. That was in Winnipeg. He then located a lawyer in San Antonio which was my ex-husband's last known address. The attorney in Texas could not find any record of my ex-husband, even after checking all possible avenues–medical certificates, death, vital statistics, driver's licences–nothing. My husband had vanished essentially.

After three years, I finally decided to hire a private investigator. My money was running out. The investigator located my ex-husband working as a pediatrician, with a very lucrative practice in San Antonio, Texas, in a medical clinic and living in a half a million dollar house in a very prestigious area. He has been remarried three times since our divorce.

I then passed this information on to Maintenance Enforcement. They thanked me very much for locating my ex-husband. That was two years ago. I ask you,

what has Maintenance Enforcement done for me? A year after repeated calls to Maintenance Enforcement, there has not been any child support collected. Not one penny. Finally, about two months ago, after exhausting all my assets–term deposits, RRSPs, money in the children's bank accounts that grandparents had put in every birthday, every Christmas for their college funds, it is all gone. I had to go on social allowance. Due to the policy at Maintenance Enforcement, they told me my file was closed to me because any arrears that are coming to me would have to be signed over to pay back all the social allowance I have received. Therefore, I do not tell anyone I am on social allowance. None of my friends know. They just think I am borrowing money because essentially I am.

My employment background consists of medical research in microbiology, which I had put on the back burner in order to raise my children. I have been out of that field for 10 years, so I need retraining in order to be placed in the workforce. My Canada Student Loan was denied because I am on social allowance. Social allowance says, you are not going to be on social allowance long; we cannot put you in any job training program. I am falling through the cracks.

Before I could claim social allowance benefits, I was forced to sell a 25-year-old family cottage which I had when I was a teenager, which had not been upgraded or maintained adequately for 15 years because I did not really have enough money to put there.

Today, I just exist, and I am ashamed to tell people that I exist on social assistance. I worry about my children's emotional well-being and their future education. I cannot afford swimming lessons, hockey, gifts for birthday parties, field trip costs, student fees, the cost of renting an instrument for three children in school.

My children's previous lifestyle was not anywhere near this level of poverty. There is not enough money to buy insurance–fire insurance, car insurance, life insurance. I am also in need of major car repairs on a 1982 Pontiac. I will not tell you the part where I am driving with a cracked windshield. I understand there are police officers here. I do not have money to repair my fridge. My fridge is 15 years old. There is no money. I do not have a vacuum cleaner now, and I do not have a dryer. There is not enough money to get my dog spayed, and kids need a dog. I really cannot afford a subscription to the Free Press. My mom, bless her soul, her heart, has taken into her own hands all of my financial burdens because the father of our children will not take responsibility even though he is wealthy and living in luxury.

That is the end of my written presentation. I would like to say a few other things.

My children and I have not heard from my ex-husband since December of 1986. I have not denied him access. He has not even sent a birthday card or a Christmas card, if he even remembers when their birthdays are. I would really love a weekend without the children.

I have called the Maintenance Enforcement office, and the line has been busy for hours. When I did get through, I was told to come in and talk to my worker–no appointment, just come in and wait your turn. I do not know how many days it would take. You cannot put a dollar amount on the long-term child abuse done to my children as a result of the noncustodial parent's actions. If there was interest allowed on arrears, I want to sing you a little song: If I had a million dollars, if I had a million dollars–I guarantee I would have a million dollars now because that is what he owes.

My RRSPs are used up. I do not have one cent in RRSPs any more. I have about $65 in my savings account. Of my $1,200-a-month budget from social allowance for four of us, I spend greater than $100 a month on over-the-counter allergy medication for three of us which is not covered by Pharmacare or social assistance.

You know, I am sinking so low, I am barely floating. You have maybe not heard of the smell of welfare. There is a smell of welfare. It is the smell of a sofa you are sitting on that is 25 years old. It is furniture that is getting threadbare. No amount of air freshener can cover it. Do you really think it is possible to buy any new clothing on that budget? This is all Salvation Army thrift. Thank you. That is my presentation.

Oh, I have one more thing to add. I saw an ad in the paper last week for an investigator for the welfare snitch line. I understand the snitch line is only recouping about 1 percent of the founded allegations of fraud. I would like that investigator in Maintenance Enforcement. Thank you very much.

Mr. Vice-Chairperson: Thank you very much, Ms. Cornell. Questions? Comments?

Ms. Cerilli: You know, we have been sitting here for a long time now, and I keep thinking, the stories, they just keep getting more and more extreme and more different. I am thinking, everyone is sitting here waiting to tell their story and how each one is important for us to hear because it is bringing to light new things, so I want to thank you for staying and for all the other people as well.

* (0030)

This is one of the loopholes that you have raised that I really want to see addressed because it seems to me what is happening is once women are forced onto welfare, there is all sorts of room then for the system to ensure that–the system essentially ensures that their children are relegated to poverty. That is why I asked the questions I did earlier.

This example that you have given here about your file being closed even though you are owed all this money and that social allowance is going to then get all the arrears or the arrears, I guess, that would be incurred during the time you were on social allowance, really it speaks to me about the injustice in the system.

Ms. Cornell: When will we get our money?

Ms. Cerilli: Yes. I also want to thank you for the recommendation about the welfare snitch line. I think that is a good one for the minister, and hopefully the government will take it seriously.

I guess I just want you to clarify when your last contact was with the Manitoba Maintenance Enforcement Program.

Ms. Cornell: They told me they would not even speak to me now because I am on social assistance, and any arrears, any money coming in, would first go to pay off the money I owe social assistance for looking after us the last few months.

Mr. Vice-Chairperson: That was Ms. Cornell. Did you have a response again, Ms. Cerilli?

Ms. Cornell: Oh, I am sorry.

Ms. Cerilli: That is not your fault. That is the Chair.

Mr. Vice-Chairperson: My fault.

Ms. Cerilli: Just to clarify then, when did that occur? When was your last contact?

Ms. Cornell: January of this year.

Ms. Cerilli: Of '95?

Ms. Cornell: Yes.

Ms. Cerilli: I think we should go after this one as a caucus. Thank you very much.

Ms. Barrett: Mr. Chair, I share my colleague's feelings about the accumulation of the stories tonight, and I underlined in your presentation: "located my ex-husband working as a pediatrician with a very lucrative practice in San Antonio."

What occurred to me when you were talking about selling your RRSPs and your assets and everything is we have talked a lot and had parents, women, talking tonight a lot about child poverty. I do not know how to say this, and I do not mean any disrespect at all, but because of your ex-husband living in the lap of luxury in San Antonio, you may very well be a poor, older woman because of the circumstances that have been largely precipitated by his lack of responsibility to his children. It also has a really negative impact potentially and actually for a lot of the parents, the mothers, the custodial parents who are not going to be able to provide, not only for their kids, but for their own later years. I find that just unbelievably lots of things, but unbelievably unfair. I thank you for making

that clear to me tonight. Unfortunately, you had to do that.

Mr. Vice-Chairperson: Ms. Cornell, you had a response?

Ms. Cornell: No, I just thank you.

Mr. Mackintosh: Has the maintenance office in Manitoba told you about any actions that have been taken in Texas? Have they done anything or have they been able to spur any action by the Texas maintenance people?

Ms. Cornell: As far as I know, the last conversation I had with the Maintenance Enforcement office, they said that they had written a letter to the Attorney General in the State of Texas. That is all I know.

Mr. Mackintosh: When was that?

Ms. Cornell: I believe in the fall of '93.

Mr. Mackintosh: This is just a scandal. And now they say, we are nothing to do with you and you are on welfare, so goodbye. That is it. Let us forget about Texas. Is that what has happened?

Ms. Cornell: When I went in to the Maintenance Enforcement Program, I went in like a three-year-old child seeing a Christmas tree with $200 worth of presents under it for the first time. I was wide-eyed, and this was my salvation. This was my hope.

Mr. Mackintosh: For this story, I am without doubt sure there are hundreds, if not thousands of other stories exactly like this, because ever since my election day I have heard them on almost a daily basis.

(Mr. Chairperson in the Chair)

Mr. Chairperson: Are there any more questions or comments to the presenter?

Mrs. Vodrey: Mr. Chair, I appreciate having the opportunity to speak with Ms. Cornell personally and to have had the opportunity for her to tell us tonight her story, and as I know she knows, our Maintenance Enforcement Program has been in touch, as she has said–and I want to be careful only to say what she has said and not anything in addition–but she has said that our Maintenance Enforcement Program has been in touch with the Texas program.

I have to say that I, too, am disappointed that the Texas enforcement program is not a strong enough program that will in fact yield you the payments that you have been awarded. In terms of Manitoba, we do not want that to happen when the payer lives in Manitoba. We want to make sure that if that payer lives in Manitoba, then the funds will be forthcoming.

I have also been told just again by the department that the file is not closed. There is still an effort to bring in the Maintenance Enforcement payments. You are correct in describing the assignment to Income Security. However, it does not mean that there has been no further action or that your file has been closed. I just wanted to take a moment to clarify that for you and for members of the committee. I want to thank you for your presentation tonight.

Mr. Chairperson: Are there any more questions, comments to the presenter? Hearing none, I would like to thank you very much for your presentation, ma'am.

Ms. Cornell: Thank you.

Mr. Chairperson: I now would like to call on Mr. Gordon Gillespie. Gordon Gillespie, are you present? One more time, Gordon Gillespie. Tammy Williamson. Tammy Williamson. One more time, Tammy Williamson. Sandy Preston. Sandy Preston. One more time for Sandy Preston. Victoria Lehman. [interjection] I have two left here. I have Norma McCormick and Victoria.

Ms. Norma McCormick (Private Citizen): Thank you very much.

Mr. Chairperson: Do you have written copies of your presentation?

Ms. McCormick: No. I am just going to wing it.

Mr. Chairperson: You are going to wing it for a little bit.

Ms. McCormick: Yes. I wanted to say that the Coalition of Custodial Parents has 100 members, and if you have anything to be thankful for tonight, it is that all 100 did not come because the stories that we can tell are very much like the stories you have heard tonight.

* (0040)

There are many things in Bill 3 that are worthy of support and for which the government should be commended. Some things have been left out and they need to be included. I understand the interest in passing this legislation as it is, but I think it is very important to address some of the things that really have come up as problematic this evening.

The one that responds to the minister's statement to Rhonda McCorriston that it is not the Maintenance Enforcement Program that forgives arrears, it is the court, but Section 61 of The Maintenance Enforcement Act allows for a judge to remit arrears. If you look at the wording of that, it is absolutely insane, because it says that the judge can do so where it is in the best interest of the payer not to pay.

Just to recite the section: Where the judge is satisfied that having regard to the interests of the debtor or the estate of the debtor, it would be grossly unfair and inequitable to force the person to pay, or having regard for the interests of the person entitled to the payment or the estate of that person, it is justified.

I would ask you, under what other circumstance can you imagine women being disenfranchised to an entitlement to maintenance because it is justified? That is clearly within your purview to change that portion of The Family Maintenance Act to remedy this. We have heard stories tonight of women who had found out, quite by accident, with no notification, that their arrears had been put into remission. So I think that one of the concerns that we have in coming forward, in addition to the issue of the payment of interest on arrears, these two things are the glaring outstanding omissions from this bill.

With respect to the payment of arrears, you have heard, many, many stories from women tonight who have, because they counted on the money, because they counted that money as being part of what they could budget for in their families, have had their income entitlement through low-rental housing assessed on the presumption that the maintenance comes, have had loan schedules to pay back the things they owe based on a presumption of income and when they cannot pay, the money does not come, the bills still stay and the arrears pile up. What happens then is women wind up borrowing money, at interest, to pay back their tax obligations.

You know, many of our members have been forced into bankruptcy and have had their credit ratings destroyed for a lifetime when in fact it was not their insensitivity to their obligations, it was the insensitivity of the parents of their children.

One of the concerns I can see is that this bill is fine if in fact we are going to assign resources to it. What resources are going to be assigned to ensure that there is a broad base of effort for collection? You speak of an average of 750 orders. Well, I know from my own personal experience that the person who handles the REMO for out-of-province situations has 1,800 people on her caseload.

So what does this mean? Well, it means that there is no timely action. When my children's father left Canada, he left for the United Kingdom, and he was living in his mother's home in England. My children knew he was there because my children could phone him, and I encouraged them. They could long-distance dial and talk to their dad, and this was important. Now, what happened was I alerted Maintenance Enforcement to his whereabouts, and they proceeded to write a letter to England. Then I heard nothing. I finally phoned and said, have you heard anything back? Oh, yes, we have a letter on our file; they could not find him. I said, could you please send me the letter that you wrote to England and the response you received from England. The answer was that they could send me the correspondence that they had sent.

So, using that correspondence, I then called Queen Anne's Court in London where their maintenance enforcement is housed and said, I understand you could not find him; that is very strange because my children can phone him at the address we gave you, and we

gave you the telephone number. They said, oh, yes, well, we have correspondence that indicates that this is not correct. I said, could you send me the correspondence?

So the correspondence came back from England–and I regret I did not bring it tonight just to show you as evidence–and there in his handwriting on this letter from Queen Anne's Court to him–the letter was very polite–it said, Dear Sir, please advise us if this is your correct address and back came the response, Dear Madam, please be advised this is not my correct address. That had been sitting for six months in Maintenance Enforcement. Now, by the time he was alerted that they were on to him, he then proceeded to Asia to unenforceable jurisdictions. He has been in Asia and Taiwan. This is the powerlessness of the system.

Now, I do not fault the REMO officer. How can she stay on top of 1,800 orders? Ms. Cornell's situation and my situation make it very clear that these people do find it necessary to flee the jurisdiction, and once they are out of Canada, they are home free. We have been talking to the federal government about disentitling people to passports if they do not honour their obligations to child support in Canada, and I was shocked when, of all of our suggestions, that is one that the Minister of Justice picked up on. I think we might have a little problem with the United Nations in terms of entitlement to citizenship, but who cares.

The other thing I wanted to say is, what are going to be the priorities for establishment for enforcement? You have heard Ms. Cornell tell you that if any money comes from Texas, the first obligation they will pay back will be any obligation to the taxpayers of Manitoba for the money that she has had while she is on income security. Now I think–not that I am cynical here or that I am suspicious, but what is stopping the Maintenance Enforcement Program from putting all of its energy into collecting stuff that will pay back to welfare instead of putting its energy into paying back the people who are owed the money–the women and children–and in fact to improve the status of women and children in Manitoba?

So I think that we in our coalition are going to be watching very carefully to see if Judy's order gets more action than the actions of some of the women who have not yet had to go on welfare. So we need to ask clearly what are the priorities going to be and in what way will the priorities in fact improve the situation for the children of Manitoba. We have heard tonight that people who are on social assistance have no incentive to pay because, if the recipient partner is on social assistance, they do not get to keep the money. So I think that we have to look at both sides of this coin. We have to see that there is a way in which children's situations are in fact improved.

The other thing that has been talked about again and again and which is within the power of Manitoba is to ensure that maintenance orders are sufficient. When I was granted sole custody of my children, my maintenance order was for $1,800 a month for four children. So if you take my tax position into consideration, I would pay $900 in tax on the $1,800 and he would get $900 in relief. So he would be paying the equivalent to $900 for me to receive $900. So netting this out, dividing $900 by four, I would benefit to the extent of $225 per child per month. That buys a pair of running shoes and pays the milk bill. So we have to be very clear that, as we proceed into this, the courts have to be more sensitive than they are demonstrating to be now about the real costs of raising children.

We also have to look at simplifying and expediting court procedures. In our first presentation as a Coalition of Custodial Parents to the Maintenance Enforcement system, we were asking for a more simple, less court-oriented system. We were asking for an administrative tribunal where the people that you have heard from tonight could go directly and tell their stories, go and tell what it is really like, because you would agree that this has been very powerful, but, instead, what happens? Either we cannot afford to go because we cannot afford the lawyer, or we can go and some lawyer can go and say, well, ho-hum, you know, she is owed this money, let us make sure she gets it. Right? The power comes from us being able to advocate on our own behalf, not from having a system that makes women dependent on lawyers and on the court system.

I heard the minister speak tonight about the priority for advocacy for the payee being with the designated

officer to protect the payee from harassment. I mean unless you can, you know, provide a bubble or a cocoon, the harassment does not go away. It is just that the person who is officially harassing is the designated officer who has between 400 or 700 or however many people to harass. So I think this is a poor excuse for removing from custodial parents the opportunity to advocate for themselves.

Our coalition has been recommending a much more direct and effective way. I think if you think about the presentations tonight you would see the utility in that, if women could go forward and make their case.

* (0050)

There are individual pieces in the bill which have been well addressed tonight which I do not intend to deal with, or I do not need to repeat, but there are certainly some things which need to get addressed. One is the issue of the pension benefit, the access to pension.

I was really shocked tonight that we did not have the pension administrators lined up three deep to scream about this because I think there is going to be some fairly heavy-duty resistance on behalf of the administrators of pension funds when this comes down, and either they do not know about it or they have been assured it is no problem because it is going to be on proclamation or at some unknown future date. I am very, very worried about this, that maybe these people are not here to protest the sanctity of their pension funds, because it is not going to be a court of first resort for this. I would encourage the members to question the government closely on when these pension provisions are intended to come into being.

The other thing, too, is there is some tremendous tax implications in this. We need to make it very clear that all of the tax treatment of that pension money is handled before the proceeds are released forward to the person to whom the maintenance is owed, because otherwise there is going to be tremendous implications again in the revenue, you know, for Revenue Canada, which could cause the receiving parents some considerable grief.

The other issue around pensions is whether or not the person receiving them can get them as cash or do they have to leave them in a registered pension? For example, when we did pension splitting, my ex-husband had worked for a number of years, but every time he left a job, he cashed in his pension. So when it came splitting time, the split went primarily his way because I had worked in Canada nonstop since I was 18 and had tremendous pension credit built up, whereas he had liquidated his contributions every time he changed jobs, having worked in Canada for only about 15 years at the point at which we separated. Now, the pension splitting was obliged at the point of the breakdown of our marriage and the divorce, and the pension splitting occurred at the point at which he still owed money on maintenance.

I think this is a terrible travesty. We should somehow either delay pension splitting until the children of the marriage are no longer subject to maintenance orders, which would then keep that money intact, would make it easier. So I would very much encourage you to look carefully at those pension provisions.

Now, I understand the haste to move this forward. I understand the reluctance to consider some of these things, but I would be asking for an undertaking from the minister if these additional suggestions are not to go forward as part of amendments to Bill 3, when we could expect subsequent amendments to the Maintenance Enforcement and pension provisions so that we do not have to wait till another scenario a few days before a provincial election to see this again. Thank you.

Mr. Chairperson: I would like to thank you very much, Norma, for your presentation. Do members of the committee have any questions or comments that they would like to address to the presenter?

Mr. Kowalski: I think Ms. McCormick's words speak for themselves, but I just wanted to take this opportunity to reflect on the leadership role that Ms. McCormick has played. I buried a friend today. I attended a funeral of a friend my age that died and at his funeral they talked about when people are about to die they do not look back at the work they did. They do not look back wishing they had spent more time in

the office. They look back at the relationships they had and the changes that they effected and they leave behind.

I think Ms. McCormick, although she has not died, is no longer a member of this Legislative Assembly, but I think, in the time that she was here, she brought this issue to a forefront on a number of occasions. She showed a leadership role in assisting, if not forming the Coalition of Custodial Parents, and I just wanted to make note of that at this time and let Norma's words speak for themselves.

Mr. Chairperson: Any other comments?

Mrs. Vodrey: Mr. Chair, I would just like to thank Norma for coming forward as well. I know this has been an interest of hers for some time. I guess, for almost all the time I have known you, this has been an issue that you have been working on. I know that you are supportive of the initiatives which are here, and I know you are asking for consideration of others.

I have said to those presenters this evening that ideas have been brought forward which we will look at and we will look at the total effect but, as I said to you earlier, we are certainly anxious to get on with this bill.

Just in the area of–it has been brought up a couple of times in terms of when will things get going with this bill, and I can tell the member most of Bill 3 does come into effect on Royal Assent. I think she knows that. There are some areas of the bill which require some additional forms to be prepared or a system to be put into place and be workable within other areas, but certainly our commitment is just to get moving and have all of this bill available as quickly as possible. Thanks very much.

Ms. McCormick: I appreciate the minister's remarks, and I do take it as a good-faith gesture that it will proceed. I would also ask though again that the things that you do not put in, if you could, within the term of your government, look seriously–I mean, even if we promised you we would not keep you here till one o'clock in the morning–if you could look seriously at these additional things because this is really important.

Ms. McGifford: I would like to join the minister and Mr. Kowalski in thanking Ms. McCormick for her presentation and also take this opportunity to recognize the leadership that she has shown to custodial parents. I am particularly impressed by the fact that she is speaking tonight for women who cannot be here in the best style of Virginia Woolf who says that she always speaks for women who are too busy with their kids and doing the dishes. Thank you very much.

Mr. Kowalski: I just wanted to ask one question of the presenter. Will the presenter continue to have an interest and can we expect to see her presence here at future committee meetings concerning this issue in the future?

Ms. McCormick: One other thing I would like to say. I appreciate all of this. I just wanted to say that upon my defeat I said this is better than dying because you get to enjoy the flowers and the cards. So thank you for the cards.

Mr. Chairperson: I would like to thank you very much for your presentation.

Next I would like to call Victoria Lehman. Do you have written copies of your brief, ma'am?

Ms. Victoria Lehman (Private Citizen): No, this is a verbal presentation.

I would share with you that I am a practising lawyer in Winnipeg, Manitoba. I also have a mediation practice, and, welcome to my nightmare, ladies and gentlemen, because this is what I hear daily, and none of these ladies is a client of mine.

These people are out there, and I am so grateful for you to be hearing this and to be taking such patience. I see such good will on all sides of this table, and I also am so enriched by the experience that I have had, hearing these people and not sitting on the other side of the desk, just hearing the stories flow. I want to, also, say that it is a miracle their children appear to be doing so well, and, obviously, the social programs are not the cause of our societal ills and that these people are assets to our society.

I prepared a rather technical brief, but I would like to make certain comments, perhaps, that might be more important, especially at this hour, than discussing the shalls, the mays, the cans, the discretion. These issues, I can always raise these, I am sure, with either the administration, the civil service or the members, but I would like to share a few things with you.

I believe these bills, this omnibus bill affecting all these other bills is an excellent beginning, especially if there is good will and that there is strength. Remember, I am a mediator, and, as time has gone on, mediation has definitely become a stronger and stronger interest for me. I would point out that two wrongs do not make a right. The women that I see on a daily basis are literally pushing their children at the father. They want bonding. They want contact, and there is a very practical reason for that. They are exhausted. They need respite, and what gives me great heart is the humour of the people who are, in effect, sadly victimized by our situation, that, I hope, will be remedied.

The other thing that gives me heart is in our judiciary, and I recognize not everybody is satisfied with every decision that is made, but they do recognize things such as the need for respite and the difficulty that many people take in terms of trying to make their lives run and look after their children.

* (0100)

I would also comment to you that a few years ago–I would say in the mid-'80s, I have been practising almost 14 years now–I would get calls from Alberta–and this is when our Maintenance Enforcement Program was just starting, and it was considered to be rather red-neck country, as you can appreciate, I think that is how it is referred to–and I would get lawyers there calling and asking us about, they would ask me as a private practitioner about the miracle of our Maintenance Enforcement Program, and I believe that this is something that we have a base on and that we have to build on.

Even though there were orders made at that time that were paltry and really, unfortunately, did not come anywhere near to proper support, I would refer you all–I am not a person who quotes a lot of case law, even when I appear before judges–I would refer you to the Levesque decision. The Levesque decision I have almost partly memorized actually, because it is a case that the judges now have taken a very different stand in some jurisdictions. Now, rather than being ahead of the game, I think we are going to be running to keep up because basically the judges in the Levesque decision–and it is a very nonsexist language I want to share with you–said that children come before the VCR, the car, all these other things. Children come first, and this is being recognized now in an area, as I say, that was considered quite redneck. I think that, like Ralph Klein in Alberta, we are all waking up to the fact that unsupported children are a major burden on taxes and that the parents are the primary responsible people for supporting their children, whether they may feel they are aggrieved in some way or not.

What is going to happen, as has been pointed out, is that the children are taking our tax money now and the women are going to take our tax money in the future because, as was recognized in the Moge decision, very often these women have taken many jobs, many menial jobs because of the realities, the social realities of our time. They do not have the skills, and then they are not able to collect RRSPs after the separation. All of their money goes towards the children and then they are left with nothing, and then they are back on social assistance or all the different other programs, which then become federal, for support.

So they are our responsibility, and I think the sooner we offload the responsibility through these Maintenance Enforcement Programs and hopefully get co-operation with other jurisdictions–because I recognize the problem that the minister has. We could pass this driver's legislation here, but if the person lives in Ontario, we cannot get them to cancel that person's driver's licence in Ontario, and that is also, I believe, where the task lies ahead. We have to, also, get co-operation with all the other jurisdictions, and I recognize the task, but if we have to do it here, we have to start somewhere, and I do believe this is a very decent start.

I would like to share with you, also, that I would hear these stories and at the same time, without being too

personal–because you know, as lawyers, we do not like to be too personal–there was a dirty secret in our family, too. That is that the father of my child is regularly substantially in arrears, $2,000 at the moment. The way it is maintained a secret, in effect–it is inadvertent–is that I have not signed up for maintenance enforcement. Why? Because I see what happens.

Not to say the Maintenance Enforcement Program is not good, but it does not address certain fiscal realities, particularly of the self-employed. The self-employed appear in court–now, for many of them, of course, this is a very difficult economic time, and we have to consider case by case, but if a person wants to hide behind the cover of bringing their income down–and this is what worries me about the child support guidelines that are coming up, too, because it is going to go on taxable income, right? It is very easy if you are self-employed to give yourself a negative tax income and then appear in front of a judge or in front of whomever and appear to be martyring yourself. Well, I am not going to give a person an opportunity to martyr themselves.

The fact is, you have heard here what happens when you have the self-employed, and I believe this is something that is an area that presently is not completely addressed here and probably is only best addressed, I am afraid, Madam Minister, in having more forensic resources and in having, not the articling students in maintenance enforcement court who do not have the forensic ability to be able to necessarily ask the questions. I give them credit. They are doing very well on the experience, the little experience that they do have, and many of them, of course, have gone right through school. They have never had to worry about preparing a budget or analyzing a budget themselves. But the fact of the matter is that we can only get the results from the system as to what resources we put behind it and the credibility and the experience of the people who are involved in it. I think that this is something that is a question of resources, perhaps, as much as the present omnibus legislation.

I would also point out that we are finding fewer and fewer women will qualify for legal aid, and this is something that could be addressed, I believe, in legislation with this, either now or later, for two major reasons, one of which is that if you are on social assistance, Legal Aid will not give a variation, will not give a certificate to do a variation of your maintenance because you are already being supported by the state.

There has been an ongoing fight ever since I have been practising. I would not say fight; perhaps I am being a bit extreme with that word, but it has been a sort of a battle–and I want this to be in Hansard–between social assistance, who sends the women to me saying, we need maintenance–and that is the truth–and Legal Aid, who say, understandably, because their budget is not that great, I am sorry that there is not a direct benefit to the client, therefore we cannot issue a certificate.

So you may have your statistics, but I have a very good idea of the statistics of the people who are not even coming in front of the judges to get variations, because very often at the beginning of a separation there is no money. Debts have to be resolved. You have an order. It is only a year, two years, three years, when the woman is well entrenched in social assistance that the other party–I say the "woman" in the case because we are talking about social realities here, and the way I see them, the woman is still at a subsistence level and the other party has moved on and, as you have heard here, sometimes had more children, but be that as it may be, their economic situation is a little bit more stable. It is at that point that the woman who needs the variation cannot get it. So it is a matter of resources.

I would point out to you that there are fewer and fewer lawyers who are able to help women in these cases, and that is what makes maintenance enforcement so much more important. Why is that? I will tell you, there have been some wonderful changes in our legislation. I would suggest that the change that made my life the most–well, it was just like a ray of sunshine–was the ex parte restraining orders from magistrates. I would have women crawling up my steps–I do not have, unfortunately, a handicapped–they had to crawl up my steps, black eyes, begging me for restraining orders for their children, and I was working my way into bankruptcy because lawyers are not paid by the hour for legal aid. They are paid by the tariff

bar, and it is $380, ladies and gentlemen, whether it takes six weeks, six months or two years–$380.

So I would go to court knowing that I was paying for it in many ways. For one thing I was paying for it because I had to work so many extra hours to make money to make up for this, away from my son. If it was not from handouts from my relatives, if it was not from support from relatives and friends to look after my child while I went out helping other women, I can say that there would have been perhaps one less lawyer helping out. I think any of you will know, if you looked into it at all, that there are fewer and fewer lawyers who are able, even able, to help these women. That is why maintenance enforcement procedures are so important.

One thing I would like to see in this particular legislation, I just raise in passing having made those comments, is more attachment procedures as well as garnishment. If a person owns a house, surely the maintenance that they are not paying their children–in the same way that we have welfare liens, we could get a private lien. Surely maintenance enforcement should be given the power to put that debt against any asset owned by that person.

I would like to see expedited procedures. There are concerns that I have here about notices. I am concerned about payees. I represent both men and women, and I do know that there are men, for instance, who are payers who are not perhaps aware of the possibility of variation. You heard one gentleman here today say that the lawyer had not made him aware of the fact that he should go for a variation. Perhaps these things might be considered as part of the legislation in the future.

* (0110)

Right now, as I say, I am happy to see a start. I am happy to hear the realities expressed here today. I would like to see more resources and perhaps more work done if not now, then in the future, on those issues of the self-employed. Those are the most difficult.

I would like to simply close by saying that the family dynamic problems that we have seen discussed today are not resolved through the wilful withholding of maintenance nor the wilful withholding of children. This is not the purpose of the omnibus legislation, but the reason we have these problems is because we no longer have the access assistance program. We no longer have some access programs that we had before. What we need is the will to integrate those resources that we have and continue building, and I thank you, ladies and gentlemen for your time tonight. Thank you.

Mr. Chairperson: We would like to thank you very much, Ms. Lehman, for your presentation. Do the members of the committee have any questions, comments, that they would like to address to the presenter?

Mr. Mackintosh: Thanks a lot for your contribution, particularly at this hour. You have kept us going to the end. It is interesting to hear your insights, not only as a lawyer who is helping to deal with maintenance challenges but having a personal situation yourself. Thanks very much.

Ms. Lehman: I would like to mention something. One of my colleagues, Ms. McGonigal, had wanted me to make a point that she may have missed, and this is important to us. I am talking about attachment, and I am talking about assets, as well as garnishment of income. One of the things we were concerned about were the RRSPs.

Now, she put this far more eloquently than I did, but, basically, what we would like to see is the offsetting of any monies owed by a payer to a payee such that if there are assets owing to that person, whether it is money in kind, but let us say, for instance, particularly the pensions, that amount of pension or asset would continue. If it has not already been given across in the settlement and the procedures, it would then be offset and retained by the payee.

I think that is a little confusing perhaps, but what I am trying to say is, if you are asking for half of my pension from during the marriage but you are not paying any maintenance at all for the children, that amount of maintenance should be offset against the amount of pension that you say I owe you, and I should

be able to do whatever I like with that. I should be able to either take that money and use it towards the children or take money from my other resources and hold onto that RRSP for my old age.

We share with you. We know many women from particularly the prepension-splitting era who are literally bag ladies now, and we want to prevent that from happening in the future. Again, it is the Moge situation, if you are all familiar with that, where all her resources went to the children and she had nothing left.

So if there is an asset and there are monies owing, it should be offset, and the person should be able to use that money for whatever purpose they feel they should use it for.

Mr. Chairperson: Are there any more questions?

Mr. Kowalski: I am not too clear on your position when you started mentioning about integration of resources in relation to the access program.

Tonight, I have heard different viewpoints about maintenance enforcement and access. Some people who presented said they should be combined in one unit. Some people said, no, they have nothing to do with each other, and I am not too sure what your position was on that.

Ms. Lehman: I would be happy to tell you that in brief, if I may. The fact of the matter remains, as has been stated before, that custody and access have nothing officially and legally, in any way, to do with maintenance enforcement.

What happens when there is an issue, however, is all these other issues, these other problems, become attached to it. It may be that it may be possible to have one administration administer everything. Let us call it the government, but the very fact of the matter remains that two wrongs do not make a right.

If custody and access are an issue, then the government has been and I hope will continue to provide resources, some of which have been cancelled such as family conciliation services, the access assist–which still exists, I hasten to add, but the access assistance program, all these resources that are there to deal with the issues of custody and access, but our position is that there is never a time that a child should be victimized twice.

If one party feels that those children are being kept from him or her in terms of an access issue, where do they find it in their hearts to feel that they can then keep the money from those children, because that is where it is. I know where it comes from because I represent both men and women.

There seems to be an unfortunate attitude on some people's parts that they are giving that money to that b-i-t-c-h to spend on her boyfriend, et cetera. The question is: Are elves raising these children? No, you and I, taxpayers, are, if the primary financial responsible person is not contributing.

So, what I am saying is, we need all these resources to deal with all the different facets of family difficulty but that maintenance enforcement is its own issue.

Mrs. Vodrey: The hour is late. I just wanted to, also, say thank you very much for your presentation. It really was done in such a lively way, and you really talked to us. Here it is, it is well after one o'clock at night, and you certainly held all of our attention. It was a pleasure. Thank you very much.

Ms. Lehman: Thank you.

Mr. Chairperson: Are there any more questions?

Mr. David Newman (Riel): Having sat through my first committee meeting, I felt it appropriate to make some observations.

You know, this is such a tip-of-the-iceberg thing. The presentations that have been made are so broad and deep that sometimes we lose sight, the fact we are just dealing with the tip of the iceberg, and that is the issue of accessing assets and earnings of an irresponsible spouse to enforce entitlements. But behind all of that there are decisions that are made by the individuals who are out there and who have made presentations tonight who have the misfortune to be single parents dependent on others for support.

There are so many decisions along the way leading to that tip of the iceberg, like preparing as a youth and up into adult and beyond to become self-sufficient, maintaining self-sufficiency as an individual, choosing a spouse, protecting your and your children's commercial interests as a spouse, which is something that could be proactive. My thoughts were, that is something that should be addressed, bringing children into the world, choosing to do so, maintaining an effective and loving relationship, dealing with crises of illness and personality changes and desertions and irreparable marriage breakdowns of all types, choosing where to live–even that came as an issue, all of those things which are decisions all along the way in the complex living process.

We are dealing here just with the tip of the iceberg, and I am comforted to hear that everybody has indicated, I believe, that generally speaking, the government is moving in the right direction, and that gives me some comfort, but the bigger issues so much rest on each of us as individuals, as has been demonstrated again, I believe, tonight by the submissions that have been made.

Ms. Cerilli: I just want to make one comment to and request–again, really struck by the strength of your presentation and also that you have a mediation practice. That really intrigues me, and I am wondering if you could endeavour to provide us, perhaps at a later date
than today, with some suggestions of how mediation could be incorporated so we would avoid the legal route in this case and how that can be incorporated. I think a number of other people have referenced how that is effective in other jurisdictions.

I was also really struck by the point made by one of the previous speakers–I think it was Ms. McCormick–of the power that women gain when they advocate on their own behalf and are involved in a mediation situation or in just giving testimony describing their situation, telling their story and advocating on their own behalf.

Ms. Lehman: Let me briefly tell you about the realities of mediation. These cases that we have heard today, I think, would be described as nonmediatable. Initially, they may have been, but if you have people who are not willing to come to terms with certain very clear financial issues, sadly, mediation–you will probably find out within two to six weeks even of negotiation whether or not parties, both parties–because it takes two parties–are amenable to mediation. I would have the hope that mediation would be a solution for many people's problems, but it is by no means a panacea, by no means. When you have an immature party, and we are talking about emotional immaturity here, let us face it, when you have an emotionally immature party you are not on a level playing field. But I do believe in mediation, that is notwithstanding. I do believe in it.

* (0120)

Mr. Chairperson: We would like to thank you very much for your presentation. Any other comments, questions? That is it?

I would like to thank you very much for appearing before the committee.

We will go back to the beginning, and those that were not present, I will give them another opportunity. Jill Mickosti, are you present? Steve Loftus, are you present? Beverley Abbott. Paula Prime. Darlene Byletzki. Gordon Gillespie. Tammy Williamson. Sandy Preston.

Since all presenters have been heard, those that are here, that concludes the public presentations.

Bill 7–The City of Winnipeg Act

Mr. Chairperson: Is it the will of the committee to proceed with clause-by-clause consideration of the bill?

Mr. Edward Helwer (Gimli): Perhaps, Mr. Chairman, we should go back to clause by clause on Bill 7 and perhaps leave Bill 3 till–[interjection] Do it tonight? Try to do it? Okay, whatever. Okay, if we can do it, fine.

Mr. Chairperson: Bill 7. We will be doing Bill 7. Is it the will of the committee to go through Bill 7 clause by clause?

Some Honourable Members: Yes.

Mr. Chairperson: Clause by clause it will be then. That is agreed? [agreed]

Does the minister responsible for Bill 7 have an opening statement?

Hon. Jack Reimer (Minister of Urban Affairs): No.

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

Ms. Becky Barrett (Wellington): No.

Mr. Chairperson: All right. We want to thank the honourable member.

Is it the will of the committee to consider the bill clause by clause or in blocks of clauses that conform to pages? Clause by clause?

An Honourable Member: It is a short bill.

Mr. Chairperson: Yes, it is a short bill. Okay. Clause by clause, it has been agreed.

During the consideration of the bill, the Title, Table of Contents and the Preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clause 1–pass; Clause 2(1)–pass; 2(2)–pass.

Clause 3.

Mr. Reimer: I have an amendment on subclause 1(1). I move

THAT the following be added after section 3 of the bill:

3.1(1) Subsection 97(1) is amended by striking out "Until a person registers as a candidate under subsection (2)", and substituting "Unless a person is registered as a candidate under subsection (2),".

3.1(2) Subsection 97(2) is repealed and the following is substituted:

Registration of prospective candidate
97(2) The returning officer shall register a person who proposes to be a candidate in an election if

(a) during the campaign period and before nominations close, the person makes application for registration in the form required by the returning officer and containing

(1) the name and address of the candidate, the candidate's official agent, the candidate's auditor and any chartered bank or other financial institution in which accounts are to be used by or on behalf of the candidate for the purpose of the election campaign, and the numbers of such accounts; and

(ii) any other information required by the returning officer; and

(b) the returning officer is satisfied that the person is eligible to be nominated in the election.

[French version]

Il est proposé d'ajouter, après l'article 3 du projet de loi, ce qui suit:

3.1.(1) Le paragraphe 97(1) est modifié par substitution, à "avant d'être inscrit", de "à moins d'être inscrit".

3.1(2) Le paragraphe 97(2) est remplacé par ce qui suit:

Inscriptions des candidats éventuels
97(2) Le directeur du scrutin inscrit la personne qui envisage de se porter candidate à une élection si:

a) au cours de la période de campagne électorale et avant la date limite fixée pour le dépôt des déclarations de candidature, la personne fait une demande d'inscription en la forme prescrite par le directeur du scrutin et que cette demande comporte:

(i) le nom et l'adresse du candidat, de son agent officiel, de son vérificateur et de toute banque ou de tout autre établissement financier où des comptes seront utilisés

par le candidat ou en son nom aux fins de la campagne électorale, ainsi que les numéros de ces comptes,

(ii) les autres renseignements qu'exige le directeur du scrutin;

b) il est convaincu qu'elle peut être déclarée candidate à l'élection.

I do this both in English and in French.

Mr. Chairperson: Will the clause as amended pass?

An Honourable Member: Do you want to explain this amendment?

Mr. Reimer: What it is is between the time when the candidate registers and when the candidate becomes eligible for collecting funds, but it is a little bit more complicated in a sense of–Marianne is going to tell me a little bit more about it.

Mr. Chairperson: Is there consent of the committee to allow Marianne to explain it very briefly? [agreed]

Ms. Marianne Farag (Director, Urban Government and Finance Branch, Urban Affairs): Right now under 97(2) in The City of Winnipeg Act, any candidate who is proposing to run for office has to register with the returning officer, and registration has to take place before the filing of nomination papers. Once registered, a candidate can go out and raise contributions and spend election expenses.

* (0130)

As the legislation presently stands, a situation could arise where an individual is registered, is out there raising contributions and is ineligible to be a candidate in the first instance. What this amendment will allow is for an application to be filed and for the returning officer to request whatever information is necessary to satisfy themselves that this person who is going to be out there is indeed eligible as a candidate, meaning that they are 18, they are Canadian. Otherwise, what happens is you do not catch these things until they file their nomination papers.

Mr. Chairperson: Thank you very much for the clarification.

3.1(1) subsection 97(1) as amended–pass.

Clause 3.1(2) subsection 97(2)–pass; Clause 3 as amended–pass; Clause 4(1)–pass; Clause 4(2)–pass; Clause 4(3)–pass; Clause 5–pass; Clause 6–pass; Clause 7(1)–pass.

Clause 7(2).

Mr. Reimer: I have an amendment on 7(2). I move

THAT subsection 7(2) of the Bill be struck out and the following substituted:

7(2) Subsection 100(3) is amended by striking out "an election until he or she files an audited statement" and substituting "until after the next election described in section 89 (Election of Council)".

[French version]

Il est proposé que le paragraphe 7(2) du projet de loi soit remplacé par ce qui suit:

7(2) Le paragraphe 100(3) est modifié par substitution, à "à une élection avant d'avoir déposé un état vérifié", de "qu'après la prochaine élection visée à l'article 89".

What this is referring to is what Councillor Eadie was referring to, alluding to when he was wanting an amendment that the election right now, they can file the audit, and there is no time period involved for a candidate that is elected or defeated to put their audited statement forth. This one says that that has to be put forth as described in Section 89, and Section 89 refers to the time clause, which refers to the election which is every three years on the fourth Wednesday of October.

Mr. Chairperson: The amendment before us is for subsection 7(2) of the bill. Amendment–pass; Clause 7(2) as amended–pass; Clause 8–pass.

Clause 9–pass.

Mr. Reimer: I move

THAT the Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee as introduced in English and French.

[French version]

Il est proposé que le conseiller législatif soit autorisé à modifier les numéros d'article et les renvois internes de façon à donner effet aux amendements adoptés par le Comité.

Mr. Chairperson: Motion pass–pass. Preamble–pass. Title–pass. Bill as amended be reported.

That concludes Bill 7.

Bill 3–The Maintenance Enforcement (Various Acts Amendment) Act

Mr. Chairperson: Does the minister responsible for Bill 3 have an opening statement? No? Okay. Does the critic have an opening statement? No? Okay. I thank the minister and thank the member.

Is it the will of the committee to consider the bill clause by clause or in blocks of clause? Clause by clause. Agreed.

During consideration of the bill, the Title, Table of Contents and the Preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clause 1–pass. Clause 2–pass. Clause 3–

Mr. Gord Mackintosh (St. Johns): We have a number of amendments to propose at this place here.

I move

THAT the following be added after Section 2 of the bill:

2.1 Subsection 7(1) is amended by adding the following after clause (j):

(k) The income tax implications of any proposed order on each spouse.

Motion presented.

Mr. Mackintosh: Have the members got copies of the amendment?

The purpose of that amendment is to ensure that the court considers the tax implications on each spouse when making an award under Section 7. We are particularly concerned about the tax regime under federal law, particularly the taxation of benefits in the hands of the recipient, and what we want to do with this amendment is to ensure that any prejudicial tax treatment is considered by the court and that orders are adjusted accordingly.

My understanding is that in most circumstances the tax implications are considered by the court now, but this makes it mandatory, and it ensures that an order will address this issue.

* (0140)

Hon. Rosemary Vodrey (Minister of Justice and Attorney General): Mr. Chair, I have been advised, on looking at this, that this appears to be outside of the scope of the bill, and so, at this point, I would not be recommending the amendment. However, I understand what the member is speaking about, and I would also just remind him that in the recent Thibaudeau case, in dealing with child support, the Supreme Court did give a very clear message that, where these implications are not taken into account, there are grounds for appeal, this is grounds for appeal. So, as I have said during the discussion all evening, where some of these amendments or recommendations come forward, we are certainly prepared to continue to look at them, but I would not recommend tonight because, I am advised, this is outside of the scope of the bill.

Mr. Chairperson: Is it the will of the committee to adopt the amendment?

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: Opposed, please say nay.

Some Honourable Members: Nay.

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

Formal Vote

Mr. Mackintosh: A counted vote, please.

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

Mr. Chairperson: The amendment is defeated.

Clause 3.

Mr. Mackintosh: Mr. Chair, we have a series of amendments here. There are six at this point.

Mr. Chairperson: Do they all fit in here?

Mr. Mackintosh: Yes.

Mr. Chairperson: Okay, let us do them all then. You have them all already.

Mr. Mackintosh: I move that the amendment as printed–and I understand it will be inserted in Hansard—be moved.

Mr. Chairperson: Is it the will of the committee to allow Mr. Mackintosh to dispense with the reading of the amendment? We will just simply put it into Hansard. All members have a copy of the amendment? All right.

Mr. Mackintosh: I moved that the following be amended after Section 2 of the bill, and that will be inserted into Hansard as distributed.

THAT the following be added after section 2 of the Bill:

2.1 The following is added after section 10:

Indexing of support payments
10.01(1)
Where the court makes an order under this Part or section 46 respecting the payment of periodic sums for the benefit of a child, the court shall also order that the amount payable shall be increased annually on the order's anniversary date by the indexing factor, as defined in subsection (2), for November of the previous year.

Definition
10.01(2)
The indexing factor for a given month is the percentage change in the Consumer Price Index for Canada for prices of all items since the same month of the previous year, as published by Statistics Canada.

Mr. Chairperson: I am just supposed to mention that it has to do with the indexing of support payments and a definition.

Mr. Mackintosh: We heard from so many presentations tonight, and in fact I think there was one or two that said the main concern was the lack of interest, as I recall. There was concern about indexing as well, but this amendment seeks to index an order, which is only fair in the best interests of the child, and I think the amendment speaks for itself otherwise.

Mrs. Vodrey: This is a cost-of-living clause. It does have significant implications for the program. Other provisions can be ordered by the court, and it does raise very complex issues. I am also advised that this is outside of the scope of the bill, so I cannot recommend the acceptance of this particular amendment.

Mr. Chairperson: Is it the pleasure of the committee to adopt the amendment?

Ms. Marianne Cerilli (Radisson): I have a question on this because this is an issue that I have raised, too, and I have had constituents complain about how the cost of living has gone up, of how they have been receiving the same benefits for years and years, and it does not seem to take into account the fact that costs

for raising a child are going up. So I would just ask the minister to clarify why this is outside the scope of the bill.

Mrs. Vodrey: My understanding is that that issue has not been dealt with by this bill and that we are not able to add a new section. Therefore, it falls outside of the scope.

Voice Vote

Mr. Chairperson: We have already asked, is it the will of the committee to adopt the amendment? All those in favour, please say yea.

Some Honourable Members: Yea.

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

Some Honourable Members: Nay.

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

Formal Vote

Mr. Mackintosh: A count, please, Mr. Chair.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 3, Nays 6.

Mr. Chairperson: The amendment is defeated.

Mr. Mackintosh: I move–it is motion No. 3–that the following be added after Section 2 of the bill and that is regarding interest on arrears.

Mr. Chairperson: As previously agreed, we will dispense with the reading of this amendment.

THAT the following be added after section 2 of the Bill:

2.1 The following is added after section 10:

Interest on arrears of support payments 10.1(1)

Where the court makes an order under this Part or section 46 respecting the payment of a lump sum or periodic sums or both for a spouse, the court shall also order that if any arrears of an amount payable accrue the person in default shall pay to the spouse simple interest calculated at the same rate and in the same manner as postjudgment interest under Part XIV of The Court of Queen's Bench Act.

Enforcement proceedings re: interest payable 10.1(2)

For the purpose of any enforcement proceedings under this Act, the amount of any interest that is payable in accordance with subsection (1) is deemed to be part of the lump sum or periodic sum that is payable and payment of the interest may be enforced in the same manner as arrears of maintenance.

Mr. Mackintosh: This was the issue that was raised consistently tonight, and one or two presentations said this was their main concern that interest was not being applied to arrears. It makes no sense whatsoever, particularly when we have the custodial parents who are paying interest on arrears on their debts that are often owing due to default and then, on the other hand, there is no interest being applied to the debt of the noncustodial parent. Not only is interest in the best interests of the child and will better meet the needs of the child and the family, but it imposes an incentive on the noncustodial parent to maintain payments on a timely basis.

So I hope the minister will support this. It is a straightforward provision. I thank Legislative Counsel for their input on this one. The interest rate, I would like to see it higher. I know interest rates right now that are being charged on some credit cards are way in excess of the postjudgment interest rate, but what this does is balance the need for interest to be paid with expeditious court proceedings and an interest rate which is fair and which is tied to the actual Bank of Canada rate.

Mrs. Vodrey: Mr. Chair, I cannot support this amendment. As I said to the member and have said to all the presenters this evening that there are some issues which have been raised which we are prepared to review at another time. However, this is I am told, first of all, outside of the scope of the bill. It falls into a similar difficulty as the previous attempted amendment.

I have some other comments as well. First of all, for those in favour of automatic income withholding–that system that has been spoken about–given that all payments will be late by virtue of such a system's nature, interest and penalty charges would not be appropriate. I would wonder how the member might put that together.

* (0150)

Currently, individuals who make payments late can be required to appear in court for a late payment hearing and are subject to the same penalties as a person failing to make payments proper. Such provisions could be very difficult to incorporate in Manitoba given that many of the orders registered with the program are income-based variable orders which have to be recalculated when the payer reports his or her actual income for the period in question. Interest and penalties would also have to be reassessed. Also unlike other civil debts, this debt is a special debt in that jail and other very strong penalties apply in this particular instance. Finally, interest is not enforceable elsewhere.

So for those reasons that I have given, we cannot support this amendment.

Mr. Mackintosh: First of all, with regard to the logistics of applying interest, this can be accommodated very easily using technology today and I might add that in British Columbia–I think it was about one year ago–that province implemented legislation to require interest on arrears. This is a critical issue for people out there. It is a fairness issue and the government will benefit from it as well, if that is the level of concern. It should not be.

I ask the minister to reconsider and support this amendment.

Mrs. Vodrey: Mr. Chair, this is a very complex issue. It is one of a number of complex issues which have been raised. For that reason, at this time, I am not recommending as well, in addition to the other points that I have raised, because we want to make sure that what we include is in fact workable and enforceable. As I have said, this particular amendment is not enforceable elsewhere.

The member references British Columbia. British Columbia only applies this after a period of 30 days. So for the reasons that I have said before and now, we are not able to support this at this time.

Mr. Mackintosh: I cannot understand why every order for the payment of money in Manitoba, except maintenance orders, attract postjudgment interest. It is unfair. It is discriminatory. If I have a civil order, an order in a civil suit, postjudgment interest will apply under the rules of the court, under The Court of Queen's Bench Act. If I have an order to pay my ex, no interest applies. It does not make any sense, but there is a long judicial history of postjudgment interest being applied to orders in Manitoba. This is hardly cutting ground, and I ask of the minister to reconsider. Why it is not in the bill, I have no idea, because it is such an obvious provision that will benefit all Manitobans, particularly our women and children.

Mrs. Vodrey: Mr. Chair, I take the member back to my earliest comments that in the case of maintenance enforcement arrears, unlike other civil debts, in this case there are penalties which do not apply in other circumstances. In other civil debts, people do not risk losing their driver's licence. In other civil debts, they do not risk going to jail, so the penalties are here within this bill to deal with the motivation not to fall into arrears and the motivation to pay. When somebody is in arrears, we already have difficulty collecting the funds. Then he is interested in establishing this bill, another amount of money to be collected, so at this time, I have said that we cannot support that amendment.

However, I have made it clear that anything that is brought forward this evening, which we are not able to incorporate into the bill because we believe they are complex, we certainly will continue to look at.

Mr. Mackintosh: Just one final comment. The penalties, I understand, are payable to the Crown not to the recipient. We are asking that interest be payable to the recipient, so to dismiss a proposal for interest payments on the basis of penalties now being applied

does not meet the needs of the women and children in particular, or of the custodial parents.

Mrs. Vodrey: Mr. Chair, again, we are speaking about someone who is already in arrears, already failing to pay the maintenance payments that have been required by the court, and somehow now the member has decided by the inclusion of this in this bill that there is somehow going to be more money available to make those payments. What we are saying is that that is not necessarily the case. However, what we have included in this bill is penalties, penalties as strong as losing the driver's licence, which we believe is in fact a motivation to make someone pay and at least pay what they have available.

For those reasons, Mr. Chair, we cannot support the amendment.

Mr. Chairperson: Is it the will of the committee to adopt the amendment?

Voice Vote

Mr. Chairperson: All those in favour, please say yea.

Some Honourable Members: Yea.

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

Some Honourable Members: Nay.

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

Formal Vote

Mr. Mackintosh: A count out, Mr. Chair.

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

Mr. Chairperson: The amendment is defeated. He has another one now.

Mr. Mackintosh: This is page 4. I move

THAT the following be added after Section 2 of the bill:

2.1 Section 37 is repealed and the following is substituted:

Mr. Chairperson: We will dispense with the reading. This is to do with factors affecting order.

THAT the following be added after section 2 of the bill:

2.1 Section 37 is repealed and the following is substituted:

Factors affecting order

37 In determining whether to make an order under this Part or section 46 and what provisions the order should contain and, in particular, in determining what is reasonable under section 36 for the purposes of the order, a court shall consider

(a) first and foremost, the cost of raising the child including

(i) the cost of residential accommodations, housekeeping, food, clothing, recreation and supervision for the child; and

(ii) the need for and cost of providing a stable environment for the child;

(b) the financial circumstances and other financial obligations of the persons who have the obligation to provide for the child's support, maintenance and education;

(c) the income tax implications of any proposed order on each spouse; and

(d) any additional factors it considers relevant.

Mr. Mackintosh: The purpose of this amendment is to ensure that the cost of raising a child is the first and foremost consideration of the court when making the order. Currently, the cost of raising a child and the financial circumstances of the payer are given equal weight. What this does is ensure that nothing is more important in the mind of the court than the cost of

raising the child. This follows on the recommendation, I think the essential recommendation, of the Manitoba Association of Women in Law Report from earlier this year.

The second objective of this amendment is again to ensure that the tax implications are taken into account.

Mrs. Vodrey: Mr. Chair, again, we have the same difficulty with this amendment. These issues were not considered by the bill. This is, therefore, a scope issue, but I have said, and I will say again, that we take very seriously the issues that have been raised this evening and will certainly take them for consideration at another date.

Mr. Mackintosh: I just caution the committee. They are now voting against an amendment which proposes to ensure that the costs of raising the children are first and foremost for the court.

Mrs. Vodrey: Mr. Chair, well, let us just be clear. First of all, the tax issue has already been dealt with by the Supreme Court. There was a very clear message sent by the court on Thibodeau; and secondly, I am told that in cases these are issues which are considered by the court. Within Manitoba we do have a unified family court system with specialized judgments, and I am told that these issues are in fact considered.

I have said before, and I will say again, that these issues which are raised which are not presently considered in the bill will certainly get our full attention, but at this point they are out of scope of the bill, and we are not able to support the amendment.

Mr. Mackintosh: Well, first of all, with regard to the minister's statements about the tax issue having been dealt with by the Supreme Court of Canada, it is for that very reason that this amendment is proposed, because that decision by the Supreme Court of Canada is not in the best interests of Manitobans in our view, and that legislation can change the law as currently set down by the Supreme Court of Canada. Indeed, it is our obligation to change the law in Manitoba so that the tax implications are considered.

* (0200)

Second of all, the minister says that the issue, I take it, of the needs of the children are considered first and foremost, are being considered in Manitoba. According to a well-researched report of the Manitoba Association of Women and the Law, that is not the case. If there is any doubt in anyone's mind that the needs of children are not being considered first and foremost, then legislation is required to make that assurance.

Mrs. Vodrey: Mr. Chair, I do not want to argue the Thibaudeau decision here this evening, at this time, but let me just remind the member, in case he did not understand it, that the tax implications were part of the Thibaudeau decision, so I am struggling with his most recent comments. I wonder if perhaps we need to spend some time at another time, not this evening, looking at what in fact that decision dealt with.

However, the other part of the issue, as I have said, is it is out of scope. I have also promised to look at this with serious consideration, but at this point, Mr. Chair, we are not recommending the amendment. I am not in support.

Mr. Chairperson: Is it the will of the committee to adopt the amendment?

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour, please say yea.

Some Honourable Members: Yea.

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

Some Honourable Members: Nay.

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

Formal Vote

Mr. Mackintosh: A count, please, Mr. Chair.

Mr. Chairperson: Mr. Mackintosh, a count-out.

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

Mr. Chairperson: The amendment is defeated.

Mr. Mackintosh: I move

THAT the following be added after Section 2 of the bill:

2.1 The following is added after Section 10:

That is regarding the indexing of support payments. For the information of the committee we earlier voted on the issue of indexing of child payments.

Mr. Chairperson: Okay. We will dispense with the reading of this one.

THAT the following be added after section 2 of the Bill:

2.1 The following is added after section 40:

Indexing of support payments
40.1(1) *Where the court makes an order under this Part or section 46 respecting the payment of a lump sum or periodic sums to a spouse, the court shall also order that the amount payable shall be increased annually on the order's anniversary date by the indexing factor, as defined in subsection (2), for November of the previous year.*

Definition
40.1(2) *The indexing factor for a given month is the percentage change in the Consumer Price Index for Canada for prices of all items since the same month of the previous year, as published by Statistics Canada.*

Mr. Mackintosh: I think the amendment is self-evident and it is similar to the amendment proposed to 10.1(1)

Mr. Chairperson: Okay, thank you.

Mrs. Vodrey: Mr. Chair, again, we have the same difficulty with this amendment in that it is out of scope for the bill. It does have significant implications as well. It is another of those issues which I will tell the member, and told the committee tonight, that we will certainly review all of the recommendations which have been brought forward. For our purposes this evening in the bill as it stands this is out of scope so we cannot recommend the support of this amendment.

Mr. Chairperson: Is it the will of the committee to adopt the amendment?

An Honourable Member: No.

Voice Vote

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

Some Honourable Members: Yea.

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

Some Honourable Members: Nay.

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

Mr. Mackintosh, do you want a count-out? The amendment is defeated.

* * *

Mr. Chairperson: Mr. Mackintosh, another amendment?

Mr. Mackintosh: I move

THAT the following be added after Section 2 of the bill:

2.1 The following is added after Section 40:

That is regarding interest on arrears of support payments again.

Mr. Chairperson: As previously agreed we will dispense with the reading of this one, which is interest

on arrears of support payments; and Enforcement proceedings re interest payable.

THAT the following be added after section 2 of the Bill:

2.1 The following is added after section 40:

Interest on arrears of support payments
40.01(1) *Where the court makes an order under this Part or section 46 respecting the payment of a lump sum or periodic sums or both for the benefit of a child, the court shall also order that if any arrears of the amount payable accrue the person in default shall pay to the person in respect of whom the order is payable simple interest calculated at the same rate and in the same manner as postjudgment interest under Part XIV of The Court of Queen's Bench Act.*

Enforcement proceedings re: interest payable
40.01(2) *For the purpose of any enforcement proceedings under this Act, the amount of any interest that is payable in accordance with subsection (1) is deemed to be part of the maintenance payable and payment of the interest may be enforced in the same manner as arrears of maintenance.*

Mr. Chairperson: Mr. Mackintosh—this is self-explanatory.

Mrs. Vodrey: Mr. Chair, again this is a similar amendment to one which has just been raised. Again, the issues are the same. It is out of scope. In addition to being out of scope, I also gave an explanation of difficulty in enforcement outside of our province. I also spoke about the other mechanisms available through the bill which deal with the enforcement and the penalties which are available for someone who refuses or who has not paid.

We are still also in the same position with this amendment where if there has not been a payment and we are trying to get the payment–and the member is also speaking about arrears. We believe that where we have included in the bill the jail term, the possibility of a loss of a driver's licence are significant, but the major issue right now for this is that it is out of scope of the bill tonight.

Again, we have said we will look at all issues that have been brought forward before the committee this evening.

Mr. Chairperson: Is it the will of the committee to adopt the amendment?

Ms. Cerilli: I wonder if the minister could clarify a question that I have. If one of the reasons that the scope of this bill is so narrow is because the government chose to wait until the end of their mandate just prior to election and then scramble to put this bill together, it seems to me that it is not doing nearly all that it could to ensure that maintenance enforcement is going to be as strong in this province as it could be. It seems that the scope is narrow simply because it was on a short-term agenda. So I would like the minister to clarify that and maybe tell us when they first began putting these amendments together that prevented them from having the scope as broad as we could have it here today.

Mrs. Vodrey: Mr. Chair, the member has, of course, in her very negative style, tried to cast the bill, minimize the bill, try and suggest the bill does not do what it is required to do.

Let me remind her, as I have said several times, the consultations regarding this bill began over a year ago. Work has been done on the bill. She is trying to cast it as something which was introduced in a hurry before the last election. This was our commitment to the follow-up commitment that I made in Estimates, that we would bring a bill forward. The bill was brought forward with the help and benefit of the consultations.

When this province went to an election and this government was re-elected for a third time, this government fulfilled its commitment to bring forward this bill as soon as possible and immediately in this session, and we looked for the support of the official opposition to pass this bill as quickly as possible and in as timely a fashion as possible.

The commitment that I have made for those amendments which have not been accepted this evening or other recommendations that have brought forward is that we will certainly review them.

The member has certainly characterized the bill incorrectly in calling it narrow in scope.

Ms. Becky Barrett (Wellington): I do not want to delay the discussion about the clause by clause too much. I have a comment as well that follows along the comment and the question asked by the member for Radisson (Ms. Cerilli), something that I have been thinking about as the minister keeps talking about, these amendments are out of scope and this kind of thing. The people here tonight have raised complex issues.

If the minister says that the rationale for the bill was not motivated by the election coming up, fine, and that the consultations began over a year ago, then I guess my question I am going to ask is, surely the issues that have been raised here tonight by the women and men that have presented tonight and surely the issues that are raised in the amendments brought forward by the member for St. Johns (Mr. Mackintosh) are not new issues–they cannot possibly be new issues. They have to be well-known issues. The minister says there have been issues raised tonight that are complex. Of course they are complex. They also go to the heart of the entire problem that we are attempting to deal with in this piece of legislation.

Why then did these issues, which have been known by the minister for a very long time and by the government for a very long time–they have certainly been known by the community at large. They have certainly been known by the Maintenance Enforcement branch. Why were these issues not brought into scope in the bill at this time? If it is a real effort to make major changes and major positive moves, why were these particular kinds of amendments not put into the bill when it was first designed? Why was the scope so narrow?

* (0210)

Mrs. Vodrey: Mr. Chair, the scope is not so narrow. In fact this bill is, I believe, the most comprehensive and the strongest bill on maintenance enforcement across this country. When these initiatives were shared with colleagues across the country that was confirmed.

The member seems to be ignoring a number of the other issues which are dealt with in this bill, a number of the other enforcement issues which are dealt with in this bill, the resources issues which are dealt with within this bill.

What I have committed to is to say that during tonight's discussion people raised issues which they found that they would like to have included; I have said I will review them. I am certainly willing to do that.

Mr. Chair, it would really be a mistake and it would be entirely wrong to suggest that this bill is narrow. In fact, it deals with issues which have not been dealt with across the country.

Ms. Barrett: Mr. Chair, no, I am not saying that the bill is–I am not trying to minimize the bill. I am not trying to avoid discussion of the things that are in the bill. I would appreciate it if the minister did not attribute motives to me that I have not stated and certainly are not accurate.

I am just saying these are not issues that were just raised tonight in the minister's consciousness. If they were just raised for the minister's consciousness tonight, then the minister has not been doing her job for the last number of years. I do not believe that is an accurate assessment of the minister's understanding of these issues.

I know the minister knows these issues are vital. If you wanted to make this truly the broadest and best legislation in the country, you would have included these essential components. These are not just additional kinds of things that would be added on. These are basic essential components that a good maintenance enforcement program will have as part of its components.

I do not understand, and we do not understand, and the people who presented here tonight do not understand why they were not put into the scope of the original legislation. Nothing the minister has said tonight has adequately addressed that major deep concern.

Mrs. Vodrey: Mr. Chair, the member has put forward what would be seen as a disagreement. I have said earlier in our discussion, it is our concern that for somebody who is not paying their maintenance payments that person is probably not going to pay the interest on it either. [interjection] The member for Radisson has made a comment. I do not believe she was recognized. It is very difficult for me to respond to it.

What I have said and what we did look at in this bill was to provide the greatest incentive to pay and to not get into the arrears position. What we have done is we have provided, through this bill, enforcement mechanisms which we believe will be very meaningful to an individual, whether they are self-employed, whether they are employed by a company in which we can garnish. No matter what their circumstance, we have now put into this bill meaningful consequences and enforcement measures which we believe will be motivational to have people pay.

Mr. Chair, the member has a disagreement with that. What I have said this evening was that was what has occurred in this bill to this point, but tonight people have continued to raise the issue. I have not closed the door. I have in fact, with this bill, attempted to put forward what I believe to be, and our government believes to be, the most efficient and the strongest and most meaningful measures to deal with maintenance enforcement.

Ms. Barrett: One final question. I would like to ask the minister if in her year-long series of consultations these issues were raised by groups–these issues singularly or severally, were these issues raised by groups that were being consulted by the government and did–the minister obviously did not take cognizance of them if they were, but were they?

Mrs. Vodrey: I do not think the member has been listening, because I did say that these issues were raised. I did say, at the arrears in specific–I did say that. I answered that in my most recent answer to the member, and I answered to the member the concern that the addition of arrears for somebody who is currently not paying maintenance seems to be a disincentive and not an incentive for payment. What we have put in the legislation, Mr. Chair, is in fact measures that we believe will be the incentive to pay and not go into arrears.

I take the member back again to things such as the loss of a driver's licence. The member is shaking her head; she does not think that is a very good way to go. Quite frankly, we think that it is an important way to go because it affects people who are also self-employed.

As I listened to people presenting this evening, people presenting this evening said that one of the gaps so far was how we deal with people who are self-employed. These measures do in fact help us deal with people who are self-employed.

This is the way we have chosen to proceed. Though I am leaving the door open for further consideration of this issue, we are not supportive of it this evening. I have said, based on the presentations that have come this evening, however, we will not close the door; we will look at it. That does not seem to be good enough. Well, Mr. Chair, I believe that I have explained the position of our government and left the door open.

Ms. Barrett: I just want a point of clarification on the record, that we have never said in any discussion, either here tonight or in any discussions with the minister, that we were in opposition to the elements of the bill that are currently in there, particularly the minister's comments about drivers' licences. She is doing what she continually does. We are not in opposition to that. What we are saying is that the bill needs to be broadened.

Mrs. Vodrey: I must have misinterpreted the shaking of a head. However, I believe the member if that is what she said. We appreciate her support for the measures that we are bringing forward.

Ms. Diane McGifford (Osborne): The hour is late. My colleagues have already spoken about the scope of the bill, but I want to allow myself one brief comment, and that is, in view of the minister's repeated rejection of the amendments proposed by the member for St. Johns, amendments, I might add, which really encapsulate the concerns of the public, the people who have been making presentations tonight, if I were a

member of the public, I would wonder why I had bothered to come.

Mrs. Vodrey: Mr. Chair, certainly the concerns of the members of the public are contained in this bill.

These measures which are contained in this bill are the product of consultation, are the product of discussion. The member for Radisson–I am having trouble understanding where the support is coming from because so far when I have described exactly what is in this bill, that it is a product of consultation, it does in fact make meaningful changes, I heard people tonight supportive of this bill. I heard the support.

Mr. Chair, we continue to believe that this bill will certainly make a difference, but I have said from the very beginning, we can always improve, we can always continue to look. The member says, well, people wonder why did they come tonight. I gave the same answer to presenters during the course of the evening. I made it clear to presenters that there were some issues which were raised tonight which would not be incorporated in the bill at this time because they were complex. If we were to suddenly agree to changes, we would have to make then other drastic changes to the bill. We want to get this bill passed. There was support from presenters who were here this evening to agree to do that.

So, Mr. Chair, that is what we intend to do. We look forward to the passage of this bill. The door is open to continue to consider and to make improvements in the area of maintenance enforcement.

Ms. McGifford: Tonight I heard some support for the bill, but I also heard a lot of reservations about the bill and a lot of criticism of the narrow scope and the limitations of the bill. It seems to me that person after person advised the minister that the bill was indeed limited and indeed would not answer or redress the concerns that they lived with. Therefore, I did not hear any overwhelming support for the bill as it stands. As it would be amended, as the member for St. Johns (Mr. Mackintosh) wishes to amend it, I think it would be very palatable to the public.

Mr. Chairperson: Is it the will of the committee to adopt the amendment?

An Honourable Member: No.

Mr. Chairperson: No. All those in favour?

Mr. Mackintosh: Just some comments to follow up on the minister's remarks, just to caution her–she can correct me if I am wrong, but as I recall consultations did not begin over one year ago. It was her advice to me in the Legislature, as I recall, that the consultations began only last fall.

Second of all, it is our information that the consultations were not with a broad cross section of interests in Manitoba. Indeed, we heard in the town of Dauphin that only one nonlawyer was invited to the consultations that were held in that community. So we are concerned about the lack of input into this, and I think that is why the bill is narrow in scope. The government is not listening.

* (0220)

It is interesting that after seven years, this is the best the government can do. It is a pitiful, half-hearted attempt to deal with what is a very, very serious problem. I am just glad that tonight the minister, I think for the first time, heard from real Manitobans, from people who are facing these challenges every day as to how serious the matter is.

Mrs. Vodrey: I am informed again that consultation did begin over a year ago. The consultation took place at that time with masters, judges, there was input from family law lawyers. The member speaks about Dauphin. In Dauphin there were invitations to seven community groups; one group attended. So invitations certainly were sent out. In Dauphin there were invitations to eight lawyers and five attended. So the member should not attempt to minimize the process of consultation into communities as well.

Ms. McGifford: My experience as a community member would tell me that if one out of seven groups

turned out, there was something wrong with my methods of outreach.

Ms. Cerilli: I also want to ask the minister if she would reconsider her pronouncement that this is the strongest legislation in Canada on maintenance enforcement.

Given the presentations which we have heard tonight which recommended interest be charged on arrears and considering that this is something in other jurisdictions, I would encourage the minister to reconsider that pronouncement about this legislation and, as the member for Osborne (Ms. McGifford) has said, not belittle or make a mockery of a number of the presentations that were made tonight which did express sincere hesitation and regret that this bill does not go as far as it could. There are a number of things that the government could do in fact to make this a much stronger piece of legislation. We do not want to imply that all of the recommendations being considered by the minister are going to see the light of day. She has made no commitment on having another bill within the life of this government, and I would ask her if that is the intention that she has with respect to the recommendations that have been made here so eloquently and so sincerely tonight.

Mrs. Vodrey: Yes, I will continue to reiterate that this is the strongest piece of legislation in maintenance enforcement across this country. There is no other legislation, there is no other enforcement mechanism which has the combination that is put forward in this bill, things such as the possible loss of a driver's licence, the pension benefit credits. So this legislation, I stand by my comments, is the strongest legislation that has been put in place across this country. I am very pleased that our government has been able to bring this forward and that our government has been so active and has shown, by its action, an interest.

Yes, I listened very carefully to the presentations this evening as well and certainly made comment on every one of the presentations except one in which that particular presenter's case was before the court, and I made it clear in the mid-part of his presentation that I was not able to respond in any way. If the member has any questions about my response to the presenters, it is all recorded in Hansard, but I believe she was here to hear them.

Mr. Mackintosh: Would the minister explain to the committee how she can say that this is the strongest legislation in Canada when Ontario, for example, has the automatic pay cheque deduction system and Quebec is now implementing that system, and is the minister committed to bringing in that system in Manitoba?–amendments, by the way, which we would bring in although our advice, the advice to us was that that was clearly out of scope and beyond the import of the bill and required extensive technical research.

Mrs. Vodrey: Yes, I still maintain this is the strongest legislation across Canada. Ontario happens to have a system of the automatic deduction; however, our collection rate, Mr. Chair, is higher than Ontario's. One of the major issues that has to be addressed, whether you live in Ontario or Manitoba or any other province in Canada, is how do we get to people who are self-employed. We heard presentations this evening from people who identified that as a gap in the loophole. This piece of legislation deals with reporting to the Credit Bureau, loss of a driver's licence, pension benefit credits, and it deals with ways to try and reach areas which were identified as loopholes this evening.

Ontario did become the first Canadian province to have an automatic wage withholding system in 1992. The system was necessary in that province, because the process to obtain garnishing orders was time-consuming and cumbersome, and garnishing orders were being set aside in court challenges.

In Manitoba a court hearing is not required to obtain a garnishing order. Garnishing orders against wages are of continuous effect. Once such an order has been served on an employer, it continues to bind maintenance payments until the payer changes jobs. They operate much like a wage withholding system except that only those in default are garnished. Manitoba has flexibility to garnish those who are in arrears; those who pay regularly are not garnished. Some 20 percent of the accounts registered with the program involve payers who provide postdated cheques which are mailed out in advance so that the recipient

can cash the same when the payments are due. The automatic wage withholding system operates like a continuing garnishing order system. Payments cannot be attached until they are due, meaning that payments will always be late.

That was certainly discussed this evening. Depending upon the payers' pay day they can even be up to three to four weeks late. This would not be a benefit to many women and to children. It also can only be applied to employed persons, the same group Manitoba's program can garnishee now. Manitoba's experience with continuing garnishing orders has been markedly different than in Ontario. The problems encountered in that province do not exist here, and establishing a system that will mean payments are late for all recipients places significant administrative burdens on the business community and requires significant staff increases and is not the best use of resources when we have a continuing garnishment option.

Mr. Chairperson: Is it the will of the committee to adopt the amendment?

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour, please say yea.

Some Honourable Members: Yea.

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

Some Honourable Members: Nay.

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

Formal Vote

Mr. Mackintosh: Count-out, please.

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

Mr. Chairperson: The amendment is accordingly defeated.

Clause 3–pass.

Clause 4–pass; clause 5–pass; clause 6(1)–pass; clause 6(2)–pass; clause 6(3)–pass.

Clause 6(4).

* (0230)

Mr. Mackintosh: I move that the proposed subsection 55(2.5), on page 5, as set out in subsection 6(4) of the bill, be amended by striking out "may apply" and substituting "shall apply."

The purpose of that amendment is to ensure that the designated officer does what is that officer's responsibility and obligation, and that is to seek out information by way of the judge or master. It is to remove the discretion. It should not simply be enabling but it should be mandatory.

Mrs. Vodrey: Mr. Chair, this would require each person who received–the designated officer would be required to proceed to court whether or not they needed the information from that particular individual. We may have already received the information. We may have asked for information from five places. We may have received it from two places, but when you make it "shall" it then means that if we do not happen to receive it from the other three, even though we already have the information, there is no discretion, we simply have to proceed for a court order.

Mr. Chairperson: Is it the will of the committee to adopt the amendment?

Some Honourable Members: No.

Mr. Chairperson: The amendment is defeated.

Clause 6(4)–pass; Clause 6(5)–pass; Clause 6(6)–pass.

Clause 7(1).

Mr. Mackintosh: I move that the following be added after Section 6 of the bill, 6.1, that the following be added after Section 55:

Priority of arrears

55.1(1) *Notwithstanding any other Act, the amount of maintenance owing to a person by a person in default constitutes a fixed and specific lien and charge for the amount owing in favour of the person owed the maintenance on the real property and personal property of the person in default and the amount is payable in priority to any other claim or right including those of the Crown in right of Manitoba, an employee for wages from an employer or under The Workers' Compensation Act, and without limiting the generality of the foregoing that priority extends over every encumbrance, assignment, debenture or other security, whether registered or not, made, given, accepted or issued before or after the coming into force of this section.*

Order registered against real property

55.1(2) *If the person in default has an interest in real property, the designated officer shall initiate action under clause 55(4)(b) to register the order in a land titles office and take proceedings under The Judgements Act in pursuance of the registration.*

Priority includes accruing arrears

55.1(3) *On registering an order under subsection (2), the order has the priority as set out in subsection (1) for any arrears of maintenance that accrued before the order is registered and any arrears of maintenance that accrue while the order is registered.*

This is a very significant amendment, and it is based on an observation of many but, in particular, an individual tonight who said that the most important principle is that a debt owing by a parent to a child is the most important debt that can be owing in our society. To back up that principle with law, the amendment proposes to make this debt a specific lien and charge against real and personal property and give it first priority. It is not enough that under this government debts owing to the Workers Compensation Board, for example, be made a first priority, even ahead of the bank, against real property. This attempts to ensure that debts owing to a custodial parent come before debts owing to any other interest.

Mrs. Vodrey: We would not be able to support this amendment. This amendment appears to call into question the whole land titles system, the Torrens system, and so, Mr. Chair, we are not able to support this amendment.

Mr. Mackintosh: I wonder why the minister takes this position on this bill, yet amendments just three years ago to The Workers Compensation Act were promoted by this government, which gave debts owing to the Workers Compensation Board priority. How can the minister justify, this government justify giving priority to premiums owed to the Workers Compensation Board but not to children?

Mrs. Vodrey: The Workers Compensation Act does not give priority over a mortgage.

Mr. Mackintosh: Well, I dispute that with the minister. I know full well it gives priority on a mortgage, although it starts the date of the bill, the bill's enactment, I believe, but it has priority over a mortgage. We can get the sections of The Workers Compensation Act for the minister.

Mrs. Vodrey: The advice I am receiving is the member is not correct.

Mr. Mackintosh: I stand to be corrected. The Payment of Wages Act does.

Hon. Vic Toews (Minister of Labour): I just note that in respect of this, the wording of this proposed amendment is not going to take a priority over a prior registered mortgage. I refer the member for St. Johns to the decision of the Manitoba Court of Appeal in approximately 1981, a case called the Director of Employment Standards and Montreal Trust, and this is not going to do it. There are concerns about the interests of what the honourable member is attempting to do is perhaps hurting one group of innocent people in favour of another. It is a difficult situation, but I do not that think legislation should hurt one innocent party at the expense of another or promote one innocent party over the expense of the other.

Mr. Mackintosh: Perhaps the minister would like to expand on what innocent parties he is referring to. I think that if the priority is the debts owing to children and custodial parents, those are the most innocent parties that there is in the province and as a priority

should be respected in law. I do not know what the decision is that the minister is referring to. I am generally familiar with the provisions of The Workers Compensation Act and The Payment of Wages Act, and this legislation is drafted based on the provisions there. My understanding is that those provisions were not impugned by the 1981 decision, but if the minister has any improvements to offer to ensure that the priority of children is set out in law, then perhaps the minister could make a subamendment.

Mr. Toews: This is indicative of how complex this particular issue is, and I do not think this is the appropriate time to start monkeying around with these types of provisions in terms of trying to accomplish what may be a very, very significant thing. To do this at this point is not the appropriate time to deal with as complex a matter as this.

Mrs. Vodrey: Mr. Chair, we have heard a number of reasons why we are not able to support this amendment at this time, and another reason is one which has come up frequently over the evening, that it is out of scope. It is not the bill that is narrow. It is just that these issues have not been dealt with by the bill, therefore the amendments are out of scope.

Mr. Mackintosh: I just want to clarify, my understanding is and it is waning on The Workers Compensation Act, but it does give debts owing to the Workers Compensation Board priority except for prior registered encumbrances against title, so in other words, as of the date of the legislation there is a new regime in Manitoba which does prioritize debts owing to the Workers Compensation Board which is unusual, absolutely.

Similarly, the regime set out in The Payment of Wages Act is somewhat unusual, but I think the Legislature is saying that there are priorities in the community, and if it is going to say that for the payment of wages, if it is going to say that for workers compensation premiums, it has got to say that for the children of the community.

* (0240)

Mr. David Newman (Riel): Creditors have children and spouses as well as the people you are speaking of, and things are just not that simple, I would suggest to you, but you bring it down to those terms and we deal with real people and individuals who provide services, individuals who provide credit, venture into relationships and investments based on certain assumptions, and they become innocent victims as well. It is the same issue. Concerns about wife and children apply to them as well, husbands.

Ms. Barrett: Mr. Chair, in every piece of legislation where there is a penalty or an ordering of what is paid out, like The Payment of Wages Act, The Workers Compensation Act, like in this amendment, there is an ordering and a prioritization. You cannot say that there is no hierarchy of needs because, whenever you, in legislation, put one group ahead of another, you have automatically prioritized that. They are prioritized in all kinds of pieces of legislation.

It is a spurious argument, as I far as I am concerned, that the member has raised. What we are saying in this piece of legislation is that there is no higher ordering of need or call on individuals' assets than the care and protection financially of their children. If that puts other creditors in a lower spot on the hierarchy, so be it. The children of the province of Manitoba have been way down on the list of priority of creditors far too long, and it is time they got up to the top.

Mr. Newman: What you are doing is you are undermining a principle of reliability of title which has impacts on other innocent people who are human beings just like the people you are carrying a brief for in a self-serving way.

Ms. McGifford: I would like to remind the member for Riel that the creditors about whom he is very concerned have the advantage of collecting interest, whereas the minister's failure to accept the honourable member for St. Johns' (Mr. Mackintosh) amendments means that the women and children of Manitoba do not.

Mr. Newman: Again, you are making an assumption. That is not necessarily so. People that advance money necessarily do not charge interest. You are dealing with individual human beings as well as

other agencies. You have to realize that there are individual human beings who have families and children out there that are going to be victims of the very system that you are espousing now.

Mr. Mackintosh: I mean, I anticipate these kinds of arguments being raised on this amendment because the amendment is seeking to change the priorities that we have in our community. It is saying that there are things that are inherently precious and essential to the well-being of families and community. I know, for those who are particularly involved in commerce and in the legal system, there is thinking that there is nothing more inviolable than a mortgage against property or personal property registration, but, by this amendment, we are challenging that belief. We are only following what the government did, this very government did, just a number of years ago, by challenging, by example, the member for Riel's (Mr. Newman) thinking on this, by making debts owing to Workers Compensation Board a priority, this very same government at this very same table–hopefully, not that late at night.

Mr. Newman: It sounds like you are suggesting that maybe that legislation should be reconsidered, and fortunately the Minister of Labour (Mr. Toews) is here to hear that, but he has already advanced the proposition that legislation is interpreted differently than you are suggesting.

Mr. Toews: Well, tonight I think my–or this morning, I should say–primary concern with the legislation is that it just does not do what the honourable member says it is going to do. I think it is not the appropriate time to be touching on a significant issue as this. We might all–the amendment does not do what the honourable member suggests that it will do, and I think this is something that might have to be looked at in a much broader scope, and to deal with this type of an issue on a piece-by-piece basis has ramifications that we here as a committee do not understand tonight and cannot understand. There may be merit to some of the arguments that the honourable member raises, but I think that by trying to pass something like this, that is not going to do it, in my opinion anyway. The reason I am saying it is not going to do it is because I was the lawyer on behalf of the government in 1981 that lost the case in Montreal Trust. I was advancing exactly the same argument that the honourable member is doing, saying this is what it was doing because those were my instructions at the time to argue that case, and the court says, I am sorry, Mr. Toews, it does not do that. I think it is just too complex an issue to deal with in this kind of a context.

Mr. Mackintosh: I look forward to the involvement then of the Minister of Labour. Hopefully, he will work with the Attorney General and look at this issue as to how we can ensure a priority for the debts owing to custodial families.

Mr. Chairperson: Is it the will of the committee to adopt the amendment?

Voice Vote

Mr. Chairperson: All those in favour, please say yea.

Some Honourable Members: Yea.

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

Some Honourable Members: Nay.

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

Formal Vote

An Honourable Member: Could we have a count, please?

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

Mr. Chairperson: The amendment is defeated.

Clause 7(1).

Mr. Mackintosh: I move that subsection 7(1) of the bill be amended by deleting Clause (d).

The purpose of the amendment is to leave the adjournment time as it is in the current legislation. We are very concerned that adjournment time be allowed to be extended. We think that the 28 days is a reasonable

period of time within which the appropriate action can be instituted.

* (0250)

Mr. Chairperson: He wants to delete Clause (d).

Mrs. Vodrey: The 28-day provision I believe is in (f) and not (d).

Mr. Chair, we would not support the amendment. We want to try and avoid lengthy adjournments. However, we would say that in some of the regional areas where we have to fly in or where weather may be a factor that we may need, on the recommendation of the enforcement officer, we may need that longer than 28 days. However, we would like to try and limit that because we would prefer things to be done in a more timely fashion.

Mr. Chairperson: Is it the will of the committee to adopt the amendment?

Some Honourable Members: No.

Mr. Chairperson: No?

Voice Vote

Mr. Chairman: All those in favour, please say yea.

Some Honourable Members: Yea.

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

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it. The amendment is defeated.

Clause 7(1), shall the clause pass? Sorry, 7(1) is passed.

Clause 7(2).

Mr. Mackintosh: I think the appropriate thing for me to do is to vote against this section, and so I just want to speak to that. I think a motion to delete is better dealt with maybe by just a negative vote.

I move

THAT Section 7 of the bill be amended by deleting subsection 7(a).

Mr. Chairperson: Do you want to delete subsection 7(2)?

Mr. Mackintosh: We have expressed concerns about this provision on second reading and again tonight we heard from a number of people that were concerned about taking away what little powers recipients had in the whole maintenance enforcement process. The power being taken away here is the right of appeal that the recipient has, the right to appeal a decision of the deputy registrar as to the provisions of a payment plan.

This is a bad section, Mr. Chair. This is not in anyone's interests, and the fact that the government would propose that the recipients' comments only be taken into consideration is an affront to recipients, an affront to their very role. They are the affected party. They have to have the right of appeal, and I hope the minister has considered this subsection and will support its deletion.

Mr. Chairperson: Is it the will of the committee to deal with an amendment as being proposed by the honourable member for St. Johns or simply to have an opportunity to vote against Section 7(2), therefore that would delete it if you would vote against it. So you do not want to propose this amendment, right? Okay, so the amendment is withdrawn.

Mrs. Vodrey: Mr. Chair, I have been very surprised at the opposition of the NDP party to this particular clause which is in the bill because I had thought that the NDP party was in support of the protection of women. That is what I assumed, and that is what I thought I heard. However, they have then perhaps misunderstood the intent of this section. This clause was the only one which gave–and it stood out in the bill because it caused a decision making to be taken by the payee. Throughout the whole bill and the effort of the Maintenance Enforcement Program it is that it is the maintenance enforcement officer who takes charge of the case, who takes charge of the particular file so that there cannot be harassment of the payee, so that the payee cannot be subject to perhaps threats and danger

and be the one who is blamed for certain actions that are being taken.

What this does is this puts this particular clause in sync with the rest of the bill and it does what is done throughout justice, and that is it gives carriage or control of the decision making and the finger to be pointed at the person, the one person that is the maintenance enforcement officer. This is inserted in this bill; this clause is, we believe, for the protection of women, for the benefit of women. It is consistent with other legislation as well, so I have been quite surprised at the opposition party's stand to this particular clause, because in fact this one is one which we believe will act for the protection of women.

Ms. Barrett: I kind of think maybe the minister in this part of the legislation has confused protection of women with the abrogation of women's rights. It is a very patronizing–[interjection] Yes, Madam Minister, it is patronizing to say that taking away a woman's right of appeal is protecting their rights because it just does not make any sense. What the minister has said tonight, both earlier and now, does not clarify it for me one little bit.

Number one, it is the minister–am I correct in my assumption that this portion of the bill does remove from the payee the right of appeal?

Mrs. Vodrey: As it stood, the payee had the power to direct the officer to go before a master for an appeal, but the officer was the person who had the information and had to determine how that would be conducted.

What this does is it removes from the women the vulnerability to be blamed or to be threatened by a payer, for example, or other person. It puts this back into the hands of the maintenance enforcement officer. I can see that members across the way are really having trouble understanding what this does. This, in fact, does act for the protection of women.

You will notice in the next part of the bill that the recipient, the payee, the woman, most often the woman, has the opportunity and certainly would be encouraged to work with the maintenance enforcement officer to give additional information where that information would be helpful. The maintenance enforcement officer will be the one who makes the decision, yes, that is true, but it certainly is made with the input of the woman or the payee. Somehow the members are struggling with this, perhaps other further discussion might help them.

Mr. Toews: In our Canadian judicial tradition, our legislative tradition, where we see the government as having a very important role in the carriage of these types of judicial proceedings, one only has to go as far as looking at the department of the Attorney General.

In Canada, the prosecution is not done by an individual. It is the state's concern that justice is done. Therefore, the carriage of a prosecution is taken out of the hands of an individual and placed in the state so that the state exercises its responsibility in respect of all the people that it owes a duty to.

Similarly, if one moves then from the area of prosecutions to the area of administrative tribunals, for example, the Human Rights Commission, if you look at some of those commissions, the carriage of those type of activities is again with the commission, not with an individual. The reason given it is for the reasons that the minister has set out. It is very important that the government and the state recognize its responsibilities and exercise those responsibilities.

In fact, what the member is suggesting that we amend this to place this responsibility onto an individual is an American style that I am not in favour of. I am not in favour of Americanizing our justice system. To hear that coming from the NDP, I find very, very surprising.

* (0300)

Ms. Barrett: I am not sure if the Minister of Labour is aware I am by birth an American, and so I take his comments–I understand where they are coming from, the collective versus the individual rights. I believe that is what he is talking about, one of the basic differences in the two systems of justice. I must say that I am much in favour of, generally speaking, the Canadian-British parliamentary and justice system.

However, I do not believe that our concerns over this taking away the right of an individual to appeal in this particular instance is following in the best traditions of the Canadian judicial system. I would reference maybe the criminal justice system. The minister can explain to me if my analogies are incorrect here, but it is my understanding of the criminal justice system, and I guess the civil justice system as well, that if a person has been accused of a crime, convicted of a crime, they have the right of appeal all the way to the Supreme Court of Canada.

We are not talking about prosecution here, we are talking about appeal. It seems to me that if a payee–what this is doing is it is putting another power differential in place. My understanding from what the minister is saying is she is trying not to have the woman have to have a potentially vulnerable situation where she is dealing with it from an imbalance of power with her ex-spouse. That is all well and good and we are in favour of things that will do that, but not in favour of actions that are putting in place another power differential, where the woman now does not have the right. She can influence, attempt to influence perhaps, which are classic things that women have to do all the time. They do not have the right to actually do things, they have to influence the people, usually male, who have the right to make those decisions. This is where we draw the line.

I think that our position is, and I would venture to say most women would follow along with this, that if there is a choice of having to make that decision themselves with the potential of having to deal with their ex-spouse, which they have to do regularly anyway, and the problems that they may face versus giving up the automatic right of appeal if they want to and being forced to influence again another powerful person, they would choose to maintain their right to appeal that decision rather than losing the right to appeal directly and having to go backwards, in many ways, and only dealing with influence.

Mr. Mackintosh: I reject the analogy to the criminal law that the minister has made. This is not the criminal law, of course, and he recognizes that, but this is the award of monies to the custodial parent and family. That is what the issue is. The payment of those monies has to take into consideration the best interest of the child. It is another test, another balance in the system that the recipient has the right of appeal and be able to form an opinion which will have value and which will result in action being taken.

The concept of the role of the Maintenance Office here is to help recipients. It is not to conquer them and to discombobulate them. They have to have a role to play. When you talk about a repayment play, I cannot think of anything that is more important for the recipient to be involved in a decision about.

Ms. Cerilli: Mr. Chairperson, this is one of the most ridiculous things we have heard all night. We have just heard hours and hours of testimony where women have talked about how they have initiated every step of this maintenance enforcement program. They have found their ex-partners halfway around the world, and now we are saying that the final step where they are finally awarded a payment schedule, they do not have the right to appeal that, where every other step of the way they have been forced to be the initiator of the process.

To me this does not, in any way, protect the rights of women. If the minister is suggesting that–especially considering again the kind of stories we have heard tonight, where men have harassed women, they have pursued them, they have stalked them. If she is fooling herself to think that in some way having the responsibility for any decisions on the officials in the department is going to deter that kind of behaviour, that is ridiculous and that is misled and naive. I do not see what reason there could be to take away this kind of authority from women in this kind of situation.

As the member for Wellington (Ms. Barrett) suggested, I do not know if the expectation is then that women would have to influence the departmental officials in what they feel would be a decision to appeal or to not appeal. I also reject that in any way this is going to protect women from harassment. It is a completely ridiculous argument because the personalities involved in these disputes are not going to be influenced by this kind of a technicality in the legislation. I reject the argument.

The Minister of Labour (Mr. Toews) is trying to imply that there is a precedent for this in other human

rights legislation. I would suggest that what we are dealing with here is long-standing practices in law that disempower citizens by the very fact that they remove them from the discussion through officials that act on their behalf. That is why I was asking the questions earlier about programs for direct participation and mediation between parties involved in these disputes.

I appreciate that is not always the case. We should go–and there are officials that are involved in acting on behalf of the clients, but this to me is bordering on the ridiculous.

Mrs. Vodrey: Mr. Chair, the member has come with a mindset, a point of view. We are having a great deal of difficulty penetrating it with additional information. Let me just try one more time. We are not dealing with support orders. We are dealing–

Ms. Cerilli: Mr. Chairperson, I just want to put on record that the minister just made reference to my intelligence. I would ask her to withdraw the remark that her information cannot penetrate my mindset. I would ask her to withdraw that remark.

Mrs. Vodrey: Mr. Chair, the remarks had nothing to do with intelligence. The remarks had to do with a point of view or a mindset which the member has brought here. In the face of additional information, we are having a great deal of difficulty having her understand the additional information.

We are not dealing with a support order. We are dealing with a repayment order. As it stands, there virtually was no effect. I wonder if the members have been told this in their discussions about this. There virtually was no effect.

The enforcement officers then put the case in. They had total carriage of the case. They determined what was reasonable. It was not the payee or the recipient who determined those matters. The members this evening seem to have had some point of view that it is the payee who will determine what is reasonable in the repayment schedule. That is not the case. What is the case is that it is the enforcement officer who will do that.

* (0310)

What this does, the Maintenance Enforcement Program–the member for St. Johns (Mr. Mackintosh) spoke about this–is it is designed to have the state step in. That is exactly what is happening here. So in the interests of the protection of women in Manitoba we cannot support the amendment, though I understand the amendment has now been withdrawn and the members will just choose to vote against this clause, which we believe is in support of protection of the women of Manitoba.

Mr. Chairperson: Shall Clause 7(2) pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of passing 7(2), please say yea.

Some Honourable Members: Yea.

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

Some Honourable Members: Nay.

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

Formal Vote

Mr. Mackintosh: A count please, Mr. Chair.

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

Mr. Chairperson: Clause 7(2) is accordingly passed.

Clause 8(1)–pass; Clause 8(2)–pass; Clause 8(3)–pass; Clause 8(4)–pass.

Clause 8(5).

Mr. Mackintosh: It is our intention to vote against this subsection. The reason for that vote is we think it is inappropriate for the government to do away with the right of a recipient to a trial de novo, that requiring a trial only on the basis of the record can cause problems where information was omitted at the earlier hearing, for example. We think it is important that in no way should
the rights of a recipient be diminished by this bill. This section, as the earlier section that we voted on, does just that.

Mrs. Vodrey: Mr. Chair, the purpose of this section is that it enables appeals to be heard sooner. It also may enable then more appeals to be heard. The time for a full hearing takes approximately a whole day. If you can do it on the record, then it may in fact be able to be heard sooner and faster. There is a question also of fairness. We believe that this introduces an additional element of fairness that what was previously heard–for instance, where jail is an issue. Where jail was not an issue based on the facts before, it allows the same evidence to be considered. So, Mr. Chair, we are in support of retaining this section of the legislation for the reasons I have stated.

Mr. Chairperson: Clause 8(5)–pass. Clause 9–pass.

Shall clause 10 pass?

Mr. Mackintosh: I move

THAT Section 10 of the bill be struck out and the following substituted.

Mr. Chairperson: We will dispense with the reading of it.

10(1) subsection 61(1) is amended by striking out "subject to subsection (4), there" and substituting "There".

10(2) subsection 61(2) is amended by striking out ", subject to subsection (4),".

10(3) subsection 61(3) is amended by striking out ", subject to subsection (4),".

10(4) subsection 61(4) is repealed.

Mr. Mackintosh: The purpose of this amendment is to prevent the remission of arrears or the forgiveness of arrears by the court. So there are some consequential amendments but the significant amendment is to current Section 61(4).

This matter was raised a number of times tonight by delegations, and it was impressed upon me that there really is not a legitimate reason to wipe out the arrears. If any committee member can suggest one, then I have another amendment. But I fail to see why the government should facilitate the court striking out the arrears. The arrears are owing, they should always remain owing, except of course in the event of the death of the debtor or the recipient.

There are so many people that have spoken with us that the greater the arrears the more likely they are to be forgiven. That seems to be the tendency of the courts. That is a very unfortunate occurrence and I think the Legislature has a role to make sure that does not continue.

Mrs. Vodrey: This deals with a situation where there may be a change in the payer's circumstance, where for instance support is set when the payer may earn, for instance, something in the range of $60,000 a year. If that payer, for example, becomes disabled, goes on welfare, the arrears of $2,000 continue to accrue and the payer simply cannot pay it.

We do not support the amendment, Mr. Chair.

Mr. Chairperson: Is it the will of the committee to adopt the amendment?

Some Honourable Members: No.

Mr. Chairperson: No? The amendment is accordingly defeated.

* (0320)

Formal Vote

Mr. Mackintosh: We need a count on that one.

Mr. Chairperson: All those in favour of the amendment, please say yea–we will dispense with that–put your hands up.

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

Mr. Chairperson: The amendment is accordingly defeated.

Mr. Mackintosh: Mr. Chair, this side has no other comments until Section 45, which is the last section in the bill.

Mr. Chairperson: I am going to motor along here then.

Clause 10–pass; Clause 11–pass; Clause 12–pass; Clause 13–pass; Clause 14–pass; Clause 15–pass; Clause 16–pass; Clause 17–pass; Clause 18–pass; Clause 18(1)–pass; Clause 18(2)–pass; Clause 19–pass; Clause 20–pass; Clause 21(1)–pass; Clause 21(2)–pass; Clause 22–pass; Clause 23(1)–pass; Clause 23(2)–pass; Clause 23(3)–pass; Clause 24–pass; Clause 25(1)–pass; Clause 25(2)–pass; Clause 26–pass; Clause 27–pass; Clause 28–pass; Clause 29–pass; Clause 30–pass; Clause 31–pass; Clause 32–pass; Clause 33–pass; Clause 34–pass; Clause 35–pass; Clause 36–pass; Clause 37–pass; Clause 38–pass; Clause 39–pass; Clause 40–pass; Clause 41–pass; Clause 42–pass; Clause 43–pass; Clause 44–pass.

Clause 45(1).

Mr. Mackintosh: Mr. Chair, just on the issue of when the legislation will actually come into force and start to serve Manitobans, the minister has said tonight that she will be moving as quickly as possible, but I know certainly of some legislation that has been on the books for some seven years and never proclaimed by this government.

I note that in Section 45(2), proclamation affects most of the bill, the suspension of drivers' licences and vehicle registrations, the pensions and joint assets, the ongoing garnishment. Therefore, we are concerned about giving any latitude to this government to bring this section or this bill into force.

We are sitting here late tonight, and in fact sitting here today of all days because we are committed on this side to seeing these provisions come into force.

Perhaps the minister would comment on the timetable that she can assure this committee of as to when the amendments that are required will be passed by cabinet and the legislation proclaimed.

Mrs. Vodrey: Mr. Chair, I certainly appreciate the fact that we have as a group sat this evening for as long as we have in an effort to make sure that this bill is able to be passed into third reading and then passed into law as quickly as possible. I think that it is very important to have those comments on the record so that it is always reflected that this committee as a whole had an intention to make sure that this bill, which we believe will provide improvements in the maintenance enforcement area, has been passed as quickly as possible.

In terms of the timetable, there are some changes which are required. In the garnishment area there are new forms required. In the pension benefit area there are some regulations. So I cannot give an exact date; however, I can say that it has been a commitment and a priority of this government to move along as quickly as possible. It is absolutely our intention to do that. I can just confirm that intention this evening for the member.

Mr. Mackintosh: The minister has not given any timetable to the committee. Given the experiences with this government, that is exactly what we need. That is what the people that came here tonight are seeking. We want to know the legislation will be brought into effect as soon as possible, and I do not understand why this would take more than four to six weeks to get all the regulations and forms included. I wonder if theminister could make a commitment that she will have this legislation proclaimed in the next four to six weeks.

Mrs. Vodrey: Mr. Chair, I am not able to give the member an exact timetable because, as he can see from the bill, the changes require changes in other departments. Some require new systems to be put into place. I understand in the pension benefit area there are meetings with actuaries which are now required. Now that the bill has been passed, that work can begin.

So I am not able to give the member an exact timetable; however, I will say we will be working as quickly as possible with all of the affected departments and all of the affected areas because this bill is a priority for this government.

Mr. Chairperson: Clause 45(1)—pass; Clause 45(2)—pass; Table of Contents—pass; Preamble—pass; Title—pass. Bill be reported.

The time is now 3:26 a.m. What is the will of the committee? Committee rise. Thank you all very much.

COMMITTEE ROSE AT: 3:26 a.m.