

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS
Wednesday, November 1, 1989

TIME — 8 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Helmut Pankratz (La Verendrye)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Connery, Cummings, Ducharme, Ernst

Messrs. Alcock, Carr, Doer, Laurie Evans (Fort Garry), Maloway, Pankratz, Rose

WITNESSES:

Hon. Glen Findlay, Minister of Agriculture
Hon. Leonard Derkach, Minister of Education and Training

Jim Beaulieu, Deputy Minister, Urban Affairs
Shirley Strutt, Legislative Counsel, Monitor
Norm Larsen, Legislative Counsel, Drafter
Gordon Carnegie, Legislative Counsel, Amendments Drafter

Lucie Delisle, Translator

Josée Cardinal, Translator

Marianne Farag, Urban Affairs

Pat Moses, Urban Affairs

Mario Perreault, Legal Counsel for Urban Affairs

MATTERS UNDER DISCUSSION:

Bill No. 32—The City of Winnipeg Amendment Act

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Mr. Chairman: I will call the meeting to order on Municipal Affairs.

We are here tonight to consider Bill No. 32. I would like to inform the Members that the motion put forth by Mr. Carr (Fort Rouge) last night was out of order. I believe that all motions should be in writing. The Member cannot direct the committee to sit again. However, due to the circumstances with last night's committee meeting, I believe that there should be no problem with proceeding tonight.

I would also like to mention that since the committee meeting had been introduced in the House yesterday before the start of the committee on Municipal Affairs, it was not necessary to introduce a motion of adjournment with leave to sit again.

May I remind all Members for tonight and in the future, all amendments or motions should be in writing.

May I also advise Members that proposed amendments or motions can be reviewed with the Committee Clerk present to ensure procedurally correct motions. I would like to thank all Members for their indulgence.

We now will proceed with the clause-by-clause considerations of Bill No. 32, but before we will do that, I will actually ask the Minister of Urban Affairs (Mr. Ducharme) for his opening statement.

Hon. Gerald Ducharme (Minister of Urban Affairs): Just to explain about the motion last night. We did get an opinion from the staff in regard to how to handle the meeting so that we could proceed right into the Bill today, and regardless of which way we did it, I guess it worked. So we will proceed right into the Bill. I guess it is customary to mention some concerns.

First of all, I must congratulate the people who made presentations. We heard many until midnight and I must compliment those who made presentations, the time they took out to express their concerns with regard to Bill 32.

As Minister the biggest concern I have is that under all the considerations given that this Government believes in any comments that we have made in our Bill that you develop permissive legislation so that you develop a legislation that the City of Winnipeg councillors can operate on.

I do not think that we should not only make the pattern, we make the pattern for them to operate. We do not get involved in doing the actual tailoring when they get about to doing their work. I must feel that I guess some people's opinion of how legislation should be done for the City of Winnipeg, our Government and this Minister believe that they have to operate and be accountable.

We will have several amendment changes, mostly technical, a combination of amendments that came about since we introduced the Bill in June in consultation with the city.

Just one quick comment in regard to response to criticism that might come of this Government or this Minister of why we have been induced and we have been suggested it has been piece-meal without reference to overall vision.

I must say that if all the 22 sections of The City of Winnipeg Act were amended at the same time, the revised Statute could not possibly have been introduced in the Legislative for a minimum of about three to four years. The research, consultation, legal drafting, refining of the legislation, and translations required for every part of that Act is a lengthy process requiring a significant allocation of staff time.

As an alternate to waiting three or four years before bringing in these major reforms, this Government

decided instead to develop an annual program for legislative amendments and this is the first major part of those amendments.

I think that through this process allows timely action in terms of which parts of the Act are amended. Parts 1, 2, and 4 were reviewed first in order that the new revisions for the political and administrative organization would come in effect in time for the newly elected council to operate under.

* (2005)

Likewise, the amendments to Planning and Land Use are next on the schedule in order that Plan Winnipeg, which is due for its five-year major review, can be reviewed within the context of new legislation.

I think that by tackling a few parts of the Act at a time, more in-depth consultation, review, and refining of the legislation can take place. The public, as you saw here last night, the interest groups, and City Council can scrutinize more carefully a Bill that has major amendments to one or two parts of an Act than they can a Bill which proposes significant policy changes under 22 parts that are going to be required.

All the legislation introduced during this Session has been the subject of consultations with City Council, with their official delegation, the Association of Rural Municipalities, written submissions from the council and the Association of Rural Municipalities and the Chamber of Commerce.

I believe that all these interrelated parts of the Act are reviewed together. I think the proper legislation can be brought forward. I believe that as for general direction the vision of reforms to the Act as a whole, both the Cherniack Report and the Discussion Paper released by the previous administration are being used as a starting point.

The Minister, I myself made this point in my speech on Bill 32 given at second reading. That is my remarks. I pass it on to the first Opposition Critic.

Mr. Chairman: Does the critic of the official Opposition have any opening remarks?

Mr. Jim Carr (Fort Rouge): Mr. Chairman, just some brief remarks, the position of our caucus is on the record in Debate on Second Reading, so I will not take up too much time in the committee.

Let me first thank the Minister for consulting with Opposition critics when the Bill was first printed. I do not know whether that is usual for Government Ministers to do or not, but in this case it did happen and I found it very useful. All Parties of the Legislature have now had three months to study this Bill. We have consulted widely and we heard some 18 or 19 presentations last night. I think as a result of those very excellent presentations this Bill will be strengthened and improved.

We have said on more than one occasion that we are disappointed with the approach the Minister has taken to municipal reform. We know that all of the

elements of reform are so interconnected that to ask of the members of the public and Members of the Opposition to evaluate each piece of the puzzle one by one as they come available to us does not really give us a chance to have a sense of the whole. I think that municipal reform will suffer because of that, but we are now put into the position by this Minister and the Government to analyze each Bill as it comes forward.

We heard in the Legislature today comments on second reading in two other Bills, one which deals with the additional zone and the other with administrative structure. I think that really proves the case we have been making that it is difficult to have a sense of the whole when you only see the parts come out one at a time.

We will be making several amendments to the Bill, Mr. Chairperson. We think that the Bill can be strengthened by requiring The City of Winnipeg to pass by-laws that deal with freedom of information, with the creation of the position of ombudsman, and also residents advisory groups. We also believe that the thrust of the Bill, which will give the mayor more power, power specifically to appoint the deputy mayor, the assistant deputy mayor and the Chairs of the standing committees of council will bring out into the open the decision-making process at City Hall.

No longer will it be possible for a mayor to create distance between his own position, his own point of view and that of the powerful executive group. We think that means the people will be able to see how decisions are made more clearly, that there will be more cohesion and a sense of co-ordination of policy at City Hall. We think that is a very positive side. We are also pleased that council of course still has the final say regardless of the recommendations of Executive Policy Committee, which now takes on more strength through some provisions of this Act that the people's representatives ultimately will decide the shape of city policy.

As we move into the debate on clause by clause, I will go into more detail on some other amendments that we intend to propose, but let me finish my brief opening remarks by again thanking the Minister for the way in which he has handled this Bill in terms of relationship with the Opposition, and we hope that the kind of co-operation that we see here at this committee will result in a better strengthened Bill.

Mr. Chairman: Does the critic from the Second Opposition have opening remarks?

Mr. Gary Doer (Leader of the Second Opposition): Mr. Chairperson, the Bill as before us, we have been very public about the proposed amendments that we feel are necessary, amendments quite frankly that are more consistent with the White Paper that we produced than the resolutions that were passed at City Hall.

* (2010)

I find it a bit disturbing that resolutions passed, that consultation is critical with the city, and I commend the Minister for doing that, but consultation does not mean

that when the city is concerned about something that we back away from our commitments or our beliefs on what should be strengthened, particularly the rights of citizens.

The Minister has mentioned how long it would take to draft full legislation. I accept the fact that The City of Winnipeg Act is almost the size of the City of Winnipeg phone book and it is a great deal of difficulty to draft that much legislation in such a complicated way. However, I think it is absolutely critical that we know where the Minister is going in the area of planning and key planning decisions.

Are we going to get decisions on planning consistent with the position of the former City Council in the early '80s as articulated by the former deputy mayor, now Minister of Industry, Trade and Technology (Mr. Ernst), that the province has no responsibility in the planning area of the city, and the city can establish whatever it wants on the basis of by-law, or are we going to get something that was presented to us last night by many presenters in terms of a total planning proposal?

Mr. Chairperson, I was sworn in in May of '86 and had a White Paper out about nine months later. We were able to therefore tell the public where we planned on going in terms of legislation so that people could review our legislation in that context. I believe that is not an unfair expectation if a Minister cannot produce the legislative package to at least have the policy framework so that we as legislators know where we are going. When we talk about the rights or the power of mayor, we also know what the powers of citizens are going to be.

I am very worried and I still, after watching Bill No. 32, Bill No. 61 and Bill 62, believe that we are not going to have a very pro-active change to our planning section of The City of Winnipeg Act. We are not going to incorporate a number of the changes in planning that were so strongly recommended in the Cherniack Report and in the White Paper that is being used and that many of the kinds of philosophies that I think are necessary to get us beyond the assumptions made 20 years ago in the City of Winnipeg are not going to be challenged with the planning sections in a particular Bill.

So therefore again, as we were last year, we are in a situation where we are guessing in dealing with legislation what is going to follow. I do not think that is a very intelligent way to pass legislation, especially in the major policy areas that we are responsible for. If one reads the review committee's analysis based on 300 public presentations in the area of planning, I think there was strong direction to provide for not only the infrastructure planning for the City of Winnipeg, but to look intelligently at demographics, but look intelligently at social and operational impacts of planning and also to look at the impact of planning on the additional zones and the lack of any planning around the City of Winnipeg which I think has gone for years, through our Government as well, in a very, very unskillful way in terms of the rights of citizens and the responsibility of Government.

So therefore we are proceeding on some of the easier things I think. The Boundary Commission was

proceeded with last year and some of the BIZ legislation is now in place from a year ago or two years ago. We are now proceeding with other very important areas in this Bill, but I think we have too many "mays" in very important areas and we do not know where we are going in terms of the planning from the Government. We still do not know, and so we are passing legislation in a vacuum, in my opinion.

I respect the fact that drafting it all may be difficult in 18 months after taking office, but at least a blueprint or a plan so at least we would know where this piece of legislation fits with the future legislation, I think would be a minimum responsibility.

Other than that I thank the Minister for his cooperation and his continued consultation with the public and the Opposition. It is a pleasure to do business with you.

Mr. Chairman: Okay, Bill No. 32 will be considered clause by clause. During the considerations of the Bill, the title and the preambles are postponed until all other clauses have been considered in their proper order by the committee. We shall proceed clause by clause.

Clause No. 1—pass; Clause No. 2—pass. Mr. Doer.

Mr. Doer: I understand the Minister has a number of amendments. Is he going to distribute those? Can we anticipate them?

* (2015)

Mr. Ducharme: They are mostly technical changes but if you want, if you want to take the time out, I can get them to make them up and give them to you.

Mr. Doer: If they are only technical and not substantial—

Mr. Ducharme: There are no substantial changes to them—one, but most of them are technical and I will emphasize the substantial one. I think there is one that could be a substantial change and I will go into more detail when I do that one.

Mr. Doer: Okay. Thank you.

Mr. Chairman: Is that the will of the committee? Agreed. Clause 3.

Mr. Ducharme: I have a motion on Clause 3 that Section 3 of the Bill be amended by adding, except Sections 10.1 and 10.2 after Sections 7 to 41. The rationale for the amendment is Sections 10.1 and 10.2 define the attendance and adjournment of the environment meetings. These are still required but should be moved to Part XX of the Act. We are just going to keep them in there until we complete Part XX of the Act.

Mr. Doer: The Minister mentioned something to do with the environment. That rings some bells for me. What does that mean vis-a-vis the responsibilities under The Environment Act which was proclaimed for the City of Winnipeg and the responsibilities of the city to follow.

Mr. Ducharme: This does not change it. This is just to bring that part under—Part XX of the Act, we had to move this dealing with the environment meetings only. I am talking about the Environment Committee meetings that they have. That is all it is doing, Part XX of the Act dealing with planning. This will now move this section into there because you are changing Section 3. It does not change anything dealing with the Environment Act or anything like that. It changes the environment meetings and what it does is it defines the attendance and adjournment of the environment meetings at City Hall. Basically, you are renumbering into a section and Part XX.

Mr. Chairman: Shall the amendment pass—pass. Clause 3 with the amendment—pass.

May I indicate to all Members present that any amendments that we pass or clauses that we pass, they are always passed in English and in French.

Clause 7—pass; Clause 8—pass; Clause 9—pass; Clause 10—pass; Clause 11—pass; Clause 12—pass; Clause 13—pass.

Clause 14—Mr. Doer.

Mr. Doer: Yes, there was a suggestion last night that minutes not only be kept but that there be a Hansard kept of City Council for the information of citizens. It was a presentation made by a presenter to the committee. I was wondering what the Minister's feeling was on that presentation and about a Hansard at City Hall. There are some councils as I understand it that have that kind of proceeding. There was some public presentations in that regard. I was wondering what the Minister's feeling is in not bringing forward an amendment to that based on the presentation last evening.

Mr. Ducharme: First of all, they do have the reports, et cetera. I really believe that the City of Winnipeg, if they wanted to tape and have Hansard at all their meetings, there is nothing in their administration to prevent that. It was never discussed with the city to have Hansard. I feel that they could do that anyway if they absolutely thought that there would be the necessity to have Hansard at City Hall. You were talking, I think the person who addressed it yesterday was talking at committee at City Hall. Are you going to then go back to community committee and have them there where you hear zonings originally or where you hear variances? They would have to go right back to the Community Committee meetings, and I do not know whether the person who made the presentation was aware of that.

* (2020)

Mr. Doer: Yes, I know there are some American cities that maintain a record, a full record of a council debate. They do not use the word Hansard, I think that is a British parliamentary term, I do not think they use the term Hansard. Is there any other Canadian jurisdictions that have that as a requirement of an act?

Mr. Ducharme: We are not aware of any other city doing that.

Mr. Chairman: Anymore questions in respect to Clause 14? Clause 14—pass; Clause 15—pass; Clause 16—pass.

Clause 17—Mr. Carr.

Mr. Carr: Mr. Chairperson, we like Clause 17 but we think that it could go a step further. You may remember last night at our meeting I asked the question to the mayor and I believe one or two others. That is that council be given the authority of passing a by-law which would restrict the number of categories whereby the council or its committees could go in camera, and I have suggested an amendment, which I have drafted, but the draftspeople are working on something else. Let me tell you what I have come up with.

I move

THAT Clause No. 17 be amended by adding the Clause 17(2) that council shall by by-law determine specific subject areas that may qualify for in-camera discussions.

Hon. Jim Ernst (Minister of Industry, Trade and Tourism): Mr. Chairperson, I do not have a problem with the amendment of the Member for Fort Rouge (Mr. Carr). Where the problem occurs in my view, and that is from 13 years of practical experience, having been on City Council for that period of time, is the question of the two-thirds of the total of members of a committee. The mayor alluded to that when he was here last evening and in practical aspects of committees, having seen committees from a variety of perspectives. Not all the members of the committee are there all the time. So if it is necessary to sit in camera then you run into the practical problem of having to deal with two-thirds of the total number of members as opposed to two-thirds of those present.

Again from the practical point of view, it creates a major difficulty I would think for members of the council to function in a normal basis. You have people away for other city business, you have people that are ill, from time to time there are extended absences. I can remember one time it caused me some great deal of grief, as a matter of fact, when I was chairman of the Committee of Environment was the election of Cyril Keeper to the House of Commons, which caused then a shortage of one member of council, but also one member of my committee for a period. That year happened to be a municipal election year the then mayor did not call a by-election, which left us one person short for about seven or eight months.

In that kind of a situation it would have been impossible under these rules to go into camera, not that the committee did that particularly in that the Committee of Environment's normal course of business was not of that nature. Nonetheless that kind of practical problem arises from time to time. I think if we could deal with the question of, if you want two-thirds to say that you must have that before you can go into camera, then I suggest it be two-thirds of the members present, so that you do not run into these other very practical and very real problems quite apart from our philosophical views of what should and should not be in camera.

Mr. Ducharme: This was discussed when we went through the clause and in the example you have used the member would no longer be a member of that committee, so we are saying two-thirds of the members.

Mr. Ernst: Well, Mr. Chairman, I do not read that into the legislation. It says two-thirds of the total number of members of a standing committee. The standing committee is comprised of, by virtue of the city's procedure by-law, X number of members, six I believe or perhaps seven if the mayor attends. Whether somebody is appointed to that position or not, the total number of members of the committee remains the same, at six or seven as the case may be. If somebody is absent from the committee, whether it is by virtue of forfeiting your seat on council because of election to a different office or because you are ill or because you are somewhere else and are not able to attend the committee meeting does not change the fact that the number of members of the committee are the same.

So from a practical point of view, if it said two-thirds of the members present would resolve the problem in my view and still accomplish I think the objective of those who have a concern about council committees going in camera.

* (2025)

Mr. Bob Rose (St. Vital): Mr. Chairman, I have one clarification along the same lines from the Minister and that is, he says the total number of members of the standing committee. Now the mayor is a member of that committee, and the mayor in my experience is in attendance at very few standing committees, and particularly the entire standing committee. So that would make it even more difficult as pointed out. So I would like some clarification if that was intended to include the mayor?

Mr. Ducharme: It was the intention to include the mayor because he is named as a member of that committee. We took it as that person who is named as a member of that committee would be in the total.

Mr. Doer: I am going to side with the Chamber of Commerce and others that propose that the requirement for in camera meetings be quite difficult to achieve with the two-thirds requirement. I think there has to be a major reason. There is already a provision for emergency meetings, but dealing with in-camera meetings there must be a major reason to go in camera. I think that the proposal, as it is I certainly can live with and the advice we receive from citizens we can live with. We could even go along with the idea from the Member for Fort Rouge to have a by-law to establish the rules so people know ahead of time what it is. I mean that will not change anything, it will just make a very interesting debate at City Hall because I am sure part of their by-law will be similar wording in the public interest, but it will focus some pretty interesting debate to start with.

As I say, I am sure the public interest will be part of a by-law that they draft, but I think that there certainly was no justification made, I did not think, from the

mayor to go away from the wording yesterday. The fact that the old council wanted to go back to the majority vote I think is not a good enough reason. I think people are voting for a change. They are voting for openness. There is a wind of openness and desire for openness at City Hall. I think this amendment as proposed by the Minister reflects that and certainly we can support the two-thirds and disagree with the mayor on his proposal.

Mr. Carr: I have a question for the Minister. It might be obvious, but I think it is worthy of a note. It says the committee has to make public its reasons, and it shall do so by recording them in the minutes of the meeting, but the minutes of the meeting are by their very nature not public because the meeting is in camera. So how do we assure that the reasons for going in camera are not part of the minutes of the in-camera meeting, therefore not made public?

Mr. Ducharme: Usually when you go into a meeting you state after you have left the meeting that you went into camera to deal with. Usually that is—

An Honourable Member: So there is no problem with that.

Mr. Ducharme: That is right.

Mr. Carr: That is fine as long as we are sure that the reasons will be made public.

Mr. Ernst: Mr. Chairman, I want to encourage members of the committee to give careful consideration to the point that I raised, not in the question of agreeing with the mayor that it should be a simple majority. I think Mr. Doer is correct in his statement that there is a perception, albeit not very real, but a perception nonetheless that in-camera meetings are somehow clandestine. In-camera meetings by and large from my experience of over 13 years have been very practical in terms of what they dealt with. I am sure that you will find, and I am sure that those newly elected members who appear before the committee here as delegations, in due course that there is a very real need, from time to time, for committees of council to meet in camera. It is in the best interests of the taxpayers of the city to have their finances protected, and I can tell you, again, from that personal experience, that there are going to be significant difficulties for council if, in fact, the present wording of Clause 17 dealing with in-camera meetings is carried through.

Let me give you just a brief lesson in the numbers. The six members normally of the standing committee, plus the mayor, is seven. Two-thirds of seven is 4.69 or 5. With the absence of the mayor and down to six people, you then reduce the numbers to requiring five of the six people attending, assuming all the members are present. Having one or two people away, of course, frustrates the entire process when, in fact, very urgent business from time to time is required. I think if you require two-thirds, then two-thirds of those present is a very reasonable, real compromise to deal (a) with the openness question, but (b) with the practicalities

of the attendance at meetings at City Hall. Not all members of the committee are present all the time. I think it is reasonable to give some consideration to that.

* (2030)

Mr. Doer: I would like for a meeting to go in camera to be 100 percent approval, but I understand the practicality of that and that is why I think two-thirds is the flexible way to go. With the financial matters that are being leaked now to the media, I do not know why they would ever go in camera because it is almost out before the meeting takes place. But that is not the issue. I believe if a set of people go into a meeting, that it should almost be 100 percent, otherwise, I think it is wrong, but the two-thirds, I think, gives it flexibility if there is not a member of the committee, or whatever else, so you cannot meet it on a technicality. So, I think two-thirds is fine with me. I respect the experience of the Minister, but I think we have to have a very high standard and, yes, it is going to be difficult to have an in camera meeting. Good.

Mr. Ducharme: May I suggest, until they have finished—have they finished writing up your—we could leave 17 and come back to it with your amendment and deal with it then because it will not affect any other part of the Bill.

Mr. Chairman: Will the committee carry on? Come back to 17 later on? Clause 18.

Mr. Carr: I have an amendment in 18(2). I recommend that 18(2) be deleted and replaced by the following: In the event of a tie vote at a meeting of council, the mayor shall have a casting or deciding vote.

Mr. Ducharme: After last night when I asked the mayor some questions in regard to who also has that across Canada, I went back and did some research today and find that the only ones I could find are the ones that do not have it, and that was six provinces across Canada through their municipalities do not have the tiebreaker. I could not confirm the three other provinces, other than Manitoba. I just wanted that information because I did ask the mayor yesterday whether anybody else in the other jurisdiction had a tiebreaker. I feel that he has his tiebreaker at EPC and that should suffice. He carries the weight from EPC and he carries it to council, and that is why we suggested now we take the tiebreaker away from him because he does have the control of council. If it is tied at council, then there is a reason when it goes to council that either it was not explained well enough or else the council's position was not strong enough to have it go through at council.

Mr. Doer: First of all, I have a question to the Minister. Was that—I am trying to recall—commented on, on the Cherniack committee based on public presentations? Well, if you cannot recall, that is fine. I should know the answer. I read it enough times.

Mr. Chairperson, I believe that the way it is drafted now is sufficient. I do not agree with the Member

regarding the mayor having a tie-breaking vote. The mayor will get a lot of new powers under the proposed Act. The mayor will have the ability to appoint chairs, appoint the deputy mayor. The mayor already has, by virtue of the positioning of the mayor on any given issue in the media, has a tremendous leadership opportunity and advantage on a certain point. The mayor will be leading the debate on the floor, and should have the ability to convince council of the recommendation. I think if it is not that strong a position where a tie has to be broken by the mayor, they should have a chance to come back three weeks later and go at it again, maybe in a slightly different way, rather than going for a tie-breaking vote.

This does not mean that a resolution, if defeated or not passed, cannot come back again. Maybe altered, maybe when there is such a confrontation in council and it is a tie vote that there needs to be some greater thinking about something, greater flexibility, some greater creativity, so that we do not have a clash. The way it has been drafted is consistent with other provinces, consistent with the principle of a member of council each having one vote notwithstanding the fact that the mayor has a lot more enhanced power in this Bill all the way through. So I support the Minister and would not save the tiebreaker.

Mr. Ernst: I would ask, Mr. Chair, through you if the Member for Fort Rouge would add a further amendment to his proposed amendment to suggest that if that were to be the case and a tie-breaker vote were to be included, both votes of the mayor would have to be in the same direction.

Mr. Carr: Thank you, Mr. Chairperson. I think the whole thrust of this Bill is to show the citizens of Winnipeg that there is accountability at City Hall, where people can know where the decisions are made and how they are made. The Bill does that principally by giving the mayor power of appointment.

When you have a council that is split, let us say in our case 14-14, the way this is drafted it goes to the negative. The clause "shall not pass", if you want the mayor to take a leadership position, then you want to give the mayor the tools with which to make those decisions. The citizens of Winnipeg would know that the reason that clause passed was because the mayor exercised his special authority. He therefore would be held accountable by the citizens of Winnipeg for making that decision, out in the open for all to see.

I think it is yet another tool with which a mayor can mobilize public opinion to defend decisions that are made on the council floor. While he has a tie-breaking vote on EPC, the final decision rests with council, and to give the mayor the tie-breaking vote enhances and reinforces the spirit, the thrust, and the intent of this Bill.

Mr. Ducharme: I disagree with the Member for Fort Rouge. Right now you have 29 councillors. You are going to have a 15-14 vote and the mayor is going to get the tie. Then he is going to get to vote again to break it. He is going to vote to tie it and then he will

get to break the vote. Right now there are 29. That is 15-14, and then the mayor still gets his one vote. If his vote is to tie it, well then they better go back and redo their homework. But he will tie the vote, and then they will have to go back and convince the rest of the councillors that there is a different approach to this. To give him not only the tie to keep it going but then to give him another vote to break it, I do not agree with.

Mr. Rose: I certainly support my colleague on this and my experience on City Council and I know that the mayor himself who I know is not inclined to take narrow, personal views on things. I do not think he was saying it for his own personal power. I think that the mayor, through his experience, has found that that was a good tool, and I think that it does enhance the mayor's position and it makes him more accountable to the citizens of the city, and the very fact Mr. Doer mentioned that, well, it could always come back to council again. The fact of the matter is it can come back to council again and use up more time, and probably under the structure of the mayor and his powers of lobbying and EPC it will probably go in his favour anyway. So why not save all that extra exercise, time and expense and give him the tiebreaker?

* (2040)

Mr. Chairman: What is the will of the committee? Mr. Carr, we do not have your motion in writing so what we should do, if it is the will of the committee, we will come back to this one. Is that fine? In order to speed up this process, if may I ask maybe guidance from the committee members here. Would it be possible that we would have it in English and would be able at the end of the Bill, when we pass the Bill, possibly go over them in French and then that we approve them all in French as well. That would give the translators time to do that while we are going on different clauses. So then we could now do the English one, and I would be able to read it out to you Members and then we could vote on it and we could move on.

Mr. Doer: I believe the Bill has to be drafted in both languages. You can move it in one on behalf of the both languages, but I believe the court cases have indicated that we have to have it, we have amendments here drafted in both languages. Sometimes words en français are different than en anglais. We may have a situation and you have not checked it out where we have a motion that could have a different meaning in a French court than in an English court, if you are not careful. I do not know, my français is—

Mr. Ducharme: I would suggest that we get a vote on the amendment in English, and then if it is passed, well then they can draft it at that time in French, okay?

Mr. Chairman: Mr. Carr, are you prepared to read the amendment?

Mr. Carr: THAT Subsection 18(2) as proposed in Section 3 of the Bill be deleted and the following substituted:

Tie Vote

18(2) In the event of a tie vote in a meeting of council the mayor, in addition to his or her vote referred to in Subsection 1, has a casting or deciding vote.

Mr. Chairman: Would you please give me that in writing? I will read out the amendment moved by Mr. Carr:

That Subsection 18(2) as proposed in Section 3 of the Bill be deleted and the following substituted: In the event of a tie vote in a meeting of council the mayor in addition to his or her vote referred to in Subsection 1 has a casting or deciding vote.

All those in favour of the amendment, please raise your hand. Correction, yeas or nays. All those in favour, please say yea. Nays? The Nays have it.

Clause 18—pass.

Clause 19—Mr. Minister.

Mr. Ducharme: I have a motion on Clause 19:

THAT section 19, as proposed in section 3 of the Bill, be amended by striking out "a scheduled" and substituting "any".

(French version)

Il est proposé que l'article 19, figurant à l'article 3 du projet de loi, soit amendé par suppression du mot "prévue".

The rationale for that amendment is, scheduled meetings would not include emergency meetings which need to be covered by this provision.

Mr. Chairman: Any discussion on the amendment brought forward by the Minister? Amendment to Clause 19—pass; Clause 19 as amended—pass; Clause 20—pass; Clause 21—pass.

Clause 22—Mr. Minister.

Mr. Ducharme: I have an amendment to Clause 22:

THAT subsection 22(1), as proposed in section 3 of the Bill, be amended by striking out "or the acting mayor,".

(French version)

Il est proposé que le paragraphe 22(1), figurant à l'article 3 du projet de loi, soit amendé par la suppression des termes " , le maire suppléant".

The reason for that is, reference to the acting mayor is redundant, since under 28(4) it states that in the absence of the mayor, the deputy shall fulfill these duties. I also have a motion,

THAT Subsection 22(2), as proposed in section 3 of the Bill, be amended by adding "or mailed" after "be delivered".

(French version)

Il est proposé que le paragraphe 22(2), figurant à l'article 3 du projet de loi, soit amendé par insertion des termes "ou posté" après les termes "être délivré".

That term "mailed" is added in order to clarify the subsection.

Mr. Doer: Again last night we had a councillor suggest that there be specific time for the special meetings. Can I ask the Minister whether he considered that recommendation, and what was the feeling of the Minister on that recommendation, instead of having reasonable notice, a couple of days be suggested in terms of the special meeting?

Mr. Ducharme: We did discuss a time and I think it was 48 hours. I do not know whether that was in discussion stages.

Mr. Chairman: Mr. Minister, do you have copies of this amendment?

Mr. Carr: I have a question for the Minister. What is the rationale for the number eight, not less than eight of the members?

Mr. Ducharme: That is 22(1).

Mr. Chairman: 22(1). That is not on the amendment—Mr. Minister.

Mr. Ducharme: That is what it is now. Its status quo is eight right now. We did not suggest any change in that.

Mr. Ernst: It is my understanding, Mr. Chairperson, it is any eight members can have a meeting of council convened by providing to the city clerk their request by eight people.—(interjection)—It is a small number but it is a large number, small in the sense of 29, I suppose. You want to give reasonable opportunity, yet at the same time prevent the frivolous by having one or two members decide that we should have a full council meeting. The status quo, at least from my experience, has never been a problem. I do not think it has ever happened either.

Mr. Chairman: Mr. Doer?

Mr. Doer: No, I asked a question, I am waiting.

Mr. Ducharme: To Mr. Doer, I know that 48 hours was discussed; however, we are at status quo on that one. "Reasonable time" is what is in the Act now. I can just say that when we were discussing it. We were discussing 48 hours notice; however it did not get past discussion stages.

Mr. Doer: Was it because the suggestion was made too late last night or because they thought it did not have any merit?

* (2050)

Mr. Ducharme: No, we discussed that long before tonight. We discussed it before and the status quo was left, what we said reasonable I did mention in discussions that I remember when I was at City Hall, you might not come home that evening, and there was

notice in your mailbox for notice of that motion the next day at noon and I felt that could happen. That is why I had said the 48 but it was just in discussion stages.

Mr. Chairman: Any more discussion on the amendments? Amendments to Section 22—pass; 22 as amended—pass.

Shall Clause 23 pass—Mr. Minister.

Mr. Ducharme: I have a further motion and this one was one suggested by the city.

THAT subsection 23(1), as proposed in section 3 of the Bill, be amended by striking out " , or a disaster or an apprehended disaster," and substituting "or disaster, or an apprehended strike, civil disorder or disaster,".

The word apprehended should refer to strike and to civil disorder as well as to disaster.

(French version)

Il est proposé que le paragraphe 23(1), figurant à l'article 3 du projet de loi, soit amendé par remplacement des termes "réelle ou appréhendée" par " , réels ou appréhendés".

Mr. Chairman: Any discussion in regard to the amendment to section 23? Mr. Doer.

Mr. Doer: Can the Minister answer why the term lockout is not used, just the strike?

Mr. Ducharme: No, I cannot answer that. We looked at the Act and that is the way it was worded in the original Act and—

Mr. Doer: If the answer is a strike, you can find that the lockout -inaudible-

Mr. Ducharme: Oh, okay, I have learned something new today.

Mr. Chairman: Amendment to section 23—pass; Clause 23 as amended—pass; Clause 24—pass.

Shall Clause 25 pass—Mr. Doer.

Mr. Doer: Yes, there was a presentation of the Chamber of Commerce yesterday talking about members of subcommittee for purposes of indemnity. Can the Minister please respond to the point they raised in the brief? I do not necessarily agree with the Chamber's point, but I want to know what the Minister's feeling is on that recommendation from the Chamber.

Mr. Ducharme: They were discussing (f), I believe, members of subcommittees and I felt that under the by-law you could provide additional indemnities for them. That would be up to the City of Winnipeg, I really do not have any problem. Sometimes anybody who has been involved in City Council could end up sitting on a lot of subcommittees. Maybe if the city felt that they were doing a lot of work, the same as what you do over and above EPC that could be established. You

have to remember that we have asked under 25(3) that it be established by by-law. We are saying they must establish a by-law to pay the members of subcommittees those indemnities. It is still in the open. They still have to draft the by-law and council would have to approve it.

Mr. Chairman: Any more discussion to Clause 25? Clause 25—pass.

Clause 26—Mr. Doer.

Mr. Doer: There was a number of presentations yesterday regarding pension plans and disclosure and cost of pension plans. I am curious why the Minister rejected the advice of disclosure of the costs of those plans as proposed in many of the public presentations yesterday.

Mr. Ducharme: I really could not answer that. I believe that you can go on record and as a citizen you can find out. If you are talking about the Councillors Pension Plan, to find out how it is working and what the benefits are on a yearly basis, I am sure that is available. There was no question at the time when we were looking at the Bill or any reason not to have a disclosure; however, if they change their pension plan in many of the public presentations yesterday.

Mr. Ducharme: I really could not answer that. I believe that you can go on record and as a citizen you can find out. If you are talking about the Councillors Pension Plan, to find out how it is working and what the benefits are on a yearly basis, I am sure that is available. There was no question at the time when we were looking at the Bill or any reason not to have a disclosure; however, if they change their pension plan in many of the public presentations yesterday.

Mr. Ducharme: I really could not answer that. I believe that you can go on record and as a citizen you can find out. If you are talking about the Councillors Pension Plan, to find out how it is working and what the benefits are on a yearly basis, I am sure that is available. There was no question at the time when we were looking at the Bill or any reason not to have a disclosure; however, if they change their pension plans, again that has to be approved by council.

Mr. Doer: If, under the Freedom of Information provisions, or access to information provisions, those costs are not available to the public, would the Minister agree to bring in a disclosure amendment at one of the other Bills, 61 or 62?

Mr. Ducharme: I do not know why we would want to protect that type of information unless that individual that you are asking—unless you wanted to protect that individual. Other than that, I have no problem with having some disclosure, but I do not know why anyone would hesitate giving that information anyway.

Mr. Doer: I can assume, if we can do some investigation of whether that would be available under the access of information, if it is not, then the Minister would agree

to move an amendment in Bill 61 or 62 to have public disclosure on the cost of the pension.

Mr. Ducharme: Unless there is a reason why that individual, for instance, did not want it disclosed. I mean, why would you go back, for instance, and if it is not available under Freedom of Information and it is for someone who is now retired, would you say then that we should disclose what his pension is?

Mr. Doer: Yes, I think any Member of the Legislature, any Member of Parliament, any member of the public that is on the public purse, the public should have a right to know what the pension is. They are paying for it.

Mr. Ducharme: Okay.

Mr. Doer: It is usually not going to be high enough to be embarrassing to anybody and I believe it may be covered under access to information. I am just saying that if it is not, then we have to do some more work in our caucus on that point that was raised at the public hearings, but I think if the Minister agrees to the principle of disclosure of cost for the public, which was a concern raised when the pension was changed at City Hall, as you know, therefore, if the Minister says he agrees to that principle, then I think we can deal with it in Bill 61 or 62 if it is not dealt with already under access of information provisions in the Bill.

* (2100)

Mr. Ducharme: Myself, personally, I do not have any problems. If that is the case under our provincial legislation—and it is available I know under that—and it is available under the federal Government, I am sure that there is no reason why we would have them any other way.

Mr. Doer: Okay, we will come back to it.

Mr. Chairman: Shall Clause 26—Mr. Carr.

Mr. Carr: Mr. Chairperson, I have the wording now for the earlier amendment if you want to get back to that.

Mr. Chairman: Is this the will of the committee, to go back to No. 17, I believe it is? Is that right, Mr. Carr? Number 17. Mr. Carr, do you have it in English and in French?

Mr. Carr: I do.

Mr. Chairman: Is it the will of the committee to go back to No. 17?

Mr. Carr: I move

THAT section 17, as proposed in section 3 of the Bill, be renumbered as subsection 17(1) and the subsection be amended

- (a) by striking out “the public interest requires that the committee sit in camera”, and by substituting the following: “a matter is within

a category of matters which may in a by-law under subsection (2) be considered in camera"; and

(b) by adding the following:

By-law approving in camera matters

17(2) Council may by by-law approve those categories of matter which may be considered in camera by a standing committee or executive policy committee.

(French version)

Il est proposé que l'article 17, figurant à l'article 3 du projet de loi 32, soit amendé par:

(a) substitution à son actuel numéro, du numéro de paragraphe 17(1), et par remplacement des termes "l'intérêt public exige qu'une séance soit tenue à huis-clos" par "une question entre dans une catégorie visée par un arrêté pris en application du paragraphe (2) et peut être entendue à huis-clos";

(b) par adjonction, après le paragraphe (1), de ce qui suit:

Arrêtés visant le huis-clos

17(2) Le conseil municipal peut, par arrêté, approuver les catégories de questions qui peuvent être entendues à huis-clos par un comité permanent ou par un comité de politique générale.

I move this motion with respect to both the English and French texts.

Mr. Ernst: Mr. Chairman, could I ask the Clerk if it is satisfactory for the purposes of the committee to have the matter taken as read by the Member for Fort Rouge, rather than require the Chairman to re-read the amendment?

Mr. Chairman: Can we dispense with the reading of it? Mr. Carr has read it into the records, and is it the will of the committee to accept that as reading the amended motion into the records? Is it the will of the committee to pass Clause 17 as the amendment as brought forward by Mr. Carr to Clause 17—Mr. Doer.

Mr. Doer: Yes, I agree it is read into the record. I just would like to be very, very careful about it. If you could read it again, we certainly support it in principle. I just want to hear the words. I think it will require the city to pass the by-law, but I just want to be a bit careful.

Mr. Chairman: Copies are being made at present and what is the will of the committee? We can carry on with Clause 26.

Clause 26—Mr. Minister.

Mr. Ducharme: Mr. Chairman, I would suggest that when we do prepare one we make sure we have them all done even in that form and then we can pass it right away. So make sure that when they bring them back that we have enough copies for everybody when he is reading them out.

Mr. Chairman: Clause 26—pass.

Clause 27—Mr. Carr.

Mr. Carr: This is a question for the Minister. What was his response to Councillor Eadie's suggestion on 27(3) that any member of council may be elected to the position of presiding officer and deputy-presiding officer, rather than the exclusions of the mayor and member of Executive Policy Committee?

Mr. Ducharme: We had quite a few discussions on this and the rationale and I felt that the presiding officer himself would have I think enough work without being on EPC. I think he could be probably a little more neutral than being on EPC. I think that coming from EPC, if we are going to stay with what we have worked with, that four other members are going to be elected at large from council, I just think that it gives someone else a chance to sit on EPC.

I feel that Mr. Eadie did not think he could be as neutral. He did not think it could affect him coming from the Executive Policy Committee, but myself, my own personal opinion, is that the presiding officer would probably be better not to be sitting on EPC. Remember further down you are going to have, along The City of Winnipeg Act, EPC selecting an individual to sit on the Board of Commissioners, so theoretically your individual, if you want to carry it further, could sit on EPC, be presiding officer, and sit on the Board of Commissioners. I do not agree that one person should be doing that process. That is the main reason.

Mr. Chairman: Is it the will of the committee to pass Clause 27—pass. We now have before us the English and the French text of Clause 17, the amendment to it presented by Mr. Carr. He read it into the record. Is it the will of the committee to dispense with the reading of it once more? Dispense. Mr. Doer.

Mr. Doer: Yes, I want to make it clear that we are not deleting the two-thirds provision but we are striking out all the words after a certain point. Do we not have to rewrite it in such a way that we still have the two-thirds in there just to ensure that? It is in there above where the change is.

Mr. Chairman: Do you accept that? Are you satisfied with the explanation that you have received? Shall Clause 17, as amended, pass? Correction, shall the amendment to Clause 17 pass—pass. Shall Clause 17 as amended pass—pass; Clause 28—pass.

Clause 29 pass—Mr. Minister.

* (2110)

Mr. Ducharme: I have an amendment for 29.

THAT subsection 29(2), as proposed in section 3 of the Bill, be amended by striking out "or, in the absence of the mayor, the deputy mayor,".

(French version)

Il est proposé que le paragraphe 29(2), figurant à l'article 3 du projet de loi, soit amendé par suppression

des termes "ou, en cas d'absence de celui-ci, le maire adjoint".

The reason for that, the rationale is, reference to the deputy mayor is redundant, since under 28(4) it states that in the absence of the mayor, the deputy mayor shall fulfill these duties.

Mr. Chairman: Any discussion to the amendment of 29(2) as presented by the Minister? Shall the amendment on 29(2) as amended pass—pass.

Shall 29 as amended pass—Mr. Carr.

Mr. Carr: Is this 29(2) or the whole clause?

Mr. Chairman: No, actually my question was for the whole clause.

Mr. Carr: That is fine.

Mr. Chairman: Clause 29(2) has passed; as amended, passed.

Now, Mr. Carr, you have another amendment that you would like to bring forward?

Mr. Carr: I have a question. In 29(4), Mr. Chairperson, the mayor shall appoint the deputy mayor and chairpersons of standing committees from not less than two community committees. Did the Minister consider the possibility of making that three community committees, and can he run us through the rationale of settling on two rather than three?

Mr. Ducharme: He must appoint from two because council only appoints four.

Mr. Carr: I understand that other provisions within the Bill require that there be at least one member—

Mr. Ducharme: If I could explain it to you. If he selected all his members from, say, St. Boniface-St. Vital to sit as the chairmen, then it would not work out. It just does not work.

Mr. Carr: I understand that. That explains why it cannot be one. It does not explain why it cannot be three. If we are looking for a better geographical representation of the mayor's appointees, why would you not include three community committees rather than two?

Mr. Ducharme: Why not six? Because we have covered that to say that he—that is right, you are going to have four at large from council. Then that covers four community committees, so I have covered the other two by saying he must appoint from at least two so that all six community committees are covered. There are six community committees, council picks four, and then he must pick from at least two. That is right.

Mr. Rose: Can I have a question on 29(5)?

Mr. Chairman: We are on—yes, you are jumping ahead. I think there is somebody else. Mr. Ernst.

Mr. Ernst: As long as the inevitability of all community committees is covered, the mayor or anybody else

would want to pick the absolute best people for the jobs as chairmen of those committees. It is a very responsible job, a very time-consuming job and one you would want the absolutely best people for. Unduly restricting the geographic representation could prevent from time to time the ability of the mayor to appoint the best possible people.

I might not have gone quite as far—from a personal point of view and from a practical experience point of view, I do not see that there is any great boogeymen or any great advantage, quite frankly, in having all of community committees represented, but nonetheless that is the wish of this Bill and of a number of people who have presented, so I am not particularly hung up about that. My only concern really is that the best possible people have been made available to take those positions if they are willing to do so, only in the best interests of the city.

Mr. Ducharme: Remember that the mayor picks his four, his chairmen and his deputy mayor first, then council decides and they pick their four. We say in the Act that every member of every community committee must be represented on EPC, so that is why we said the two.

Mr. Chairman: Any more discussion? Clause 29(3) pass—pass; Clause 29(4) pass—pass.

Clause 29(5)—Mr. Rose.

Mr. Rose: I just wanted to get a clarification. What it means here, from the Minister, is that if a position becomes vacant on council for whatever reason and that vacancy occurs on Executive Policy Committee, they will be filling that position, if it is previous to the by-election being filled, from somebody from one of the other standing committees, which will reduce the size of the other standing committee. Is that correct? Is that reasonable? Should that happen?

You have an Executive Policy Committee of 10 members and the other committee of really only six, other than the mayor. I just want it clarified.

Mr. Ducharme: However we do it, you have one less body. How I tried to cover, I think your concern is that if someone is elected to Legislature it will be a long period of time before a by-election—we also cover that later on in the Act. I do not know how else you can cover it. I think council would either have to decide whether they are going to appoint from the standing committee or the mayor appoints that one to EPC.

I do not know how else you could cover it because until you fill that body you still have one less body around. I guess no matter what you do, how you shuffle the chairs, because I know your concern was the same as mine—a lot of times I know in one area of St. Vital they waited seven months—so now we have covered that a little later on in the Act.

Mr. Rose: I guess the point that I was making is, in establishing that EPC is the most powerful committee, a loss of one in 10 is far less impacting than a loss of one of six of one of the standing committees. As long

as you have thought that well out I can live with it, but want it on the record.

Mr. Ernst: Mr. Chairman, the mayor can appoint his chairpeople and the deputy mayor, so the mayor would obviously do that. You should want to have it that the mayor did and want to have chairpersons of committees, so that portion is there. The only portion really open to discretion is the appointments by council of four people.

You have already said that you are going to have all of the community committees represented. Assuming the vacancy occurs in the council member category, then you are required to have all the community committees represented, so you would have to appoint somebody in any event. It is going to happen either way.

Mr. Chairman: Clause 29(5) pass—pass; Clause 29(6) pass—pass; Clause 30 pass—pass; Clause 31 pass—pass; Clause 32 pass—pass; Clause 33 pass—pass.

Clause 34 pass—Mr. Minister.

Mr. Ducharme: I have an amendment to Clause 34: THAT subsection 34(1), as proposed in section 3 of the Bill, be deleted, and the following substituted:

Subcommittee of standing committee

34(1) A subcommittee of a standing committee may be established by council or by a standing committee to investigate and report on the matter within their respective responsibilities; and council shall approve the terms of reference of a subcommittee established by a standing committee.

(French version)

Sous-comités

34(1) Le conseil municipal, ou un comité permanent, peut constituer un sous-comité d'un comité permanent et le charger d'examiner une question dans les limites de leurs attributions respectives ainsi que de faire rapport. Le conseil municipal approuve le mandat de tout sous-comité constitué par un comité permanent.

The rationale is, in combining the existing subsections of 41(1), (2), (3) into new subsection 34(1), the ability of council to investigate and report on a matter within the council's own responsibility has been omitted.

Mr. Doer: Mr. Cherniack recommended that the Bill be written in such a way that the public could understand it. Does the Minister think that this amendment is consistent with that recommendation that came out of the public hearings?

* (2120)

Mr. Ducharme: Well, really it was a drafting error and we tried to change it to the best. Sometimes though, as you have to remember, the simpler you make it, the less definition that lawyers can interpret it. So I do not know. I agree, I had trouble just reading it out.

Mr. Doer: Can the Minister tell me what this means in simple language? If I am walking down Broadway, and it says what does this clause mean? Can he tell me what it is?

Mr. Ducharme: What it means is both council and committees can establish subcommittees. Basically that is what it is and come back with an investigation.

Mr. Ernst: Mr. Chairman, it is almost a contradiction of terms that the former councillor and chairman of the Review Committee, Mr. Cherniack, being a lawyer, would suggest that the Bill be written in such a way as the general public could understand it. Because at that point all lawyers would be out of work, and it would be self-defeating in his case to have recommended that.

Mr. Doer: Mr. Chairman, I just think that if we can make things—I just think the thing is such a complicated Bill to begin with, and this sure does not look like straight-shooting English to me or en français, but I do not understand French.

Mr. Ducharme: The only comment I have, I think the amendment is worse than the clause. I agree with you.

Mr. Carr: Why do we not try another amendment then? We heard some opinion last night, Mr. Chairperson, that the subcommittees of standing committees really ought not be established by council, but ought to be established by the standing committee themselves. Has the Minister given any thought to that?

Mr. Ducharme: I think there are times when council—because remember you could have a committee through an intended motion that comes forward to council to be able to establish a subcommittee. There could be one that has to do something in terms of reference that is involved with council and not be the total coming from EPC, so I am suggesting that council be allowed to establish subcommittees.

Mr. Ernst: Now, I am confused. Can the Minister advise—let me offer a suggestion. As I understand it, council can establish subcommittees where the terms of reference are approved by council. Standing committees can approve subcommittees of their standing committee where the terms of reference are approved by the standing committee? -(interjection)-By council. Only council can approve the terms of reference of those subcommittees.

Mr. Ducharme: Remember it is in their respective responsibilities.

Mr. Rose: I think if my memory serves me right, we heard from the mayor on this subject last night, which was a suggestion coming out of council that indeed the terms of reference of the subcommittee be established by the standing committee, and I favour that basically. I think that it speeds up the process and they are capable of setting their own terms of reference. I do not have a strong feeling on that, but I do support it somewhat because the mayor supported it, and also

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City Council, and I think it streamlines the system a little bit.

Mr. Chairman: What is the will of the committee? Mr. Minister.

Mr. Ducharme: The will of the committee is to draft a simpler—you want to leave 34.1(1) out and establish a simpler one. Okay, let us come back to it.

Mr. Ernst: Mr. Chairman, before we do that, and I support the principle of that, can we have some expression of feeling with regard to the terms of reference, so that when they draft the simpler clause, they will have something to work with, and we will not have to come back and amend it?

Mr. Rose has suggested that we allow the standing committee to set the terms of reference of the subcommittee, and I know from practical experience again—I hate to continue to use that, but it may of some benefit to the committee—that I know, for instance, the finance committee has had in past years and continues to have a property committee and subcommittee, and others have various other subcommittees from time to time and their interests and needs change, and quite often they exist only for one subject. To have to have, at a standing committee meeting, a decision to create a subcommittee and then have it go to council and have it either (a) laid over, or (b) held up at EPC for some reason, or whatever, creates difficulties in procedure if nothing else.

I do not think whether council approves the terms of reference is material to the operations of council or any other activity there, and I would suggest that perhaps Mr. Rose is correct that it should be the standing committee if we can have that incorporated into the proposed amendment.

Mr. Chairman: Is it then the will of the committee to come back to 34(1), and we will ask them to draft a simpler amendment? Is this correct? Is this the will of the committee? Mr. Minister.

Mr. Ducharme: Well, maybe I could suggest something else. Maybe, without writing it all out, if the people stopped at committee, and they could draft it up that way. If you stop at within the responsibility of the standing committee. Period. Right. That would save—and we will bring it back. Okay?

Mr. Chairman: Okay, the will of the committee is to come back to 34(1). Is it the will of the committee to pass the rest of Section 34?

Mr. Doer: I suggest we come back to all of 34. The drafting may—

Mr. Chairman: Shall do. We will come back to Clause 34. Clause 35—pass; Clause 36—pass.

Clause 37—Mr. Minister.

Mr. Ducharme: I have an amendment.

THAT clause 37(1)(a) as proposed in section 3 of the Bill, be deleted, and the following substituted:

(a) establish a schedule of meetings at a regular time and place to consider the business of the community;

Il est proposé que l'alinéa 37(1)a), figurant à l'article 3 du projet de loi, soit remplacé par ce qui suit:

a) pour discuter des affaires du district, au même endroit et à intervalle régulier, selon l'horaire qu'il établit;

and it was questioned about community committees. This gives community committees the option of proroguing in the summer as council does because there was question that they were doing it and really they were not abiding by the Act, so this now gives them authority to do that.

Mr. Chairman: Any discussion to the amendment? Shall amendment 37(1) pass—pass. Shall 37 as amended pass—pass.

Shall 38 pass—Mr. Minister.

Mr. Ducharme: I have a motion

THAT subsection 38(1), as proposed in section 3 of the Bill, be amended by adding the following after “; and council shall approve the terms of reference of a subcommittee appointed by a community committee.”.

Il est proposé que le paragraphe 38(1), figurant à l'article 3 du projet de loi, soit amendé par adjonction, à la fin du paragraphe, de “Le conseil municipal approuve le mandat de tout sous-comité constitué par un comité permanent.”.

The rationale for the amendment is under Section 38(1) community committee may establish its own subcommittee to exercise the powers of community committee. The existing provision contained in the presence of Section 24(4) requiring council to approve the terms of reference of each subcommittee established by a community committee has not been carried forward. It is status quo. It is a drafting error and it is status quo.

Mr. Chairman: Any discussion with Members of the committee? Mr. Minister.

Mr. Ducharme: I would suggest to Members of committee that they either pass it the way I have just changed it, or else pull that section out.

An Honourable Member: What is the recommendation?

Mr. Ducharme: I would suggest to stay with status quo.

Mr. Chairman: Members of committee, any discussion on the amendment that the Minister has brought forward?

Amendment to 38—pass; Clause 38 as amended—pass; Clause 39—pass; Clause 40—pass. Mr. Doer?

Mr. Doer: Clause 41?

Mr. Chairman: Clause 41—Mr. Doer.

Mr. Doer: I move an amendment to Clause 41:

THAT subsection 41(1), as proposed in section 3 of the Bill, be amended by striking out “may” and substituting “shall”.

(French version)

Il est proposé que le paragraphe 41(1), figurant à l'article 3 du projet de loi, soit amendé par remplacement du mot “peuvent” par “doivent”.

I would move that amendment in both French and English. I have copies here for all Members of the committee, for the world.

* (2130)

Mr. Chairman: Is the committee in favour of the amendment? Any discussion to the amendment? Shall the amendment to Clause 41(1) pass—pass; Clause 41(1) as amended pass—pass.

Clause 41(2)—Mr. Rose. Is it the will of the committee to come back to clause 41(2)? Mr. Ernst.

Mr. Ernst: Before we put the administrative people here to all the effort of producing amendments in both official languages, can we perhaps have a brief discussion on the intent of Mr. Rose's proposed amendment so that if there is agreement to proceed then we will proceed and have the matter drafted? If there is not concurrence in proceeding, it will at least save the administrative people here some time and effort.

Mr. Chairman: Very good suggestion, Mr. Ernst. Mr. Rose would you be prepared at this point in time to bring the amendment forward?

Mr. Rose: Yes, Mr. Chairman, I think that is an excellent suggestion, except I did not have the papers at the time. In 41(2) we heard last night from a resident advisory group that they would like to see some form of procedure and order and continuity in the operations of the RAG group, and they had suggested that there be a set of by-laws established for the RAG, the resident advisory group, and it would state the rules and regulations under which that group would operate. As well, they would not conflict with any intent or meaning in The City of Winnipeg Act.

That could be accomplished by one or all—well, it would be a necessity for any established resident advisory groups to have such a set of by-laws, but not necessarily uniform throughout the city. Each one could operate on their own established approved set of by-laws.

Mr. Ernst: Mr. Chairman, I see no reason why they cannot do that without legislation. I do not think we have to tell them. If that is what they want to do, let them do it. The basic outline of having a resident advisory group, there are no other guidelines and there have never been guidelines dealing with what they are

going to do or how they are going to do it. If they want to establish a procedure by-law, if you will, or a procedure method for their operations, let them do it. Nothing prevents them from doing it.

Mr. Rose: I might be inclined to agree with that except the feeling of the resident advisory groups was that it would facilitate it easier. I know in the case of St. Boniface-St. Vital they give a copy of their elaborate by-laws, and it would be one more step. It is not an onerous amendment and I think it would lend some weight to the operations of community committees then.

Mr. Chairman: Any more discussion? Mr. Ernst.

Mr. Ernst: It is getting tougher and tougher to do it, but in general terms I would like to see, wherever possible, permissive legislation as opposed to mandatory legislation. The people who are elected to the City of Winnipeg Council are duly elected public officials and no different than we are.

Because we happen to sit in this Chamber and because of a quirk of the Constitution, we happen to hold the responsibility, makes us no more or more less elected officials duly by the people of this province than members of City Council. To suggest that we have to sit here and go through wording after wording after wording holding the hands of City Council I think is wrong. Because we are elected here does not mean that we are all that much better or different than they are. They are duly elected people, and they have responsibilities and they face the electorate the same as we do.

Now, because of the quirk Constitution and the way responsibilities have been divided up in this country, certain Bills and legislation is required. I understand that, and as much as I do not particularly subscribe to it, I will obviously have to live with it. I do not think we have to go all the way down the line to the point where we have to hold the hand of everyone all the way along.

If resident advisors, who are now mandatory by virtue of the change in Section 41(1), want to have a set of by-laws or a constitution or a method of operating, or a procedure outline of some kind, they are welcome to have that. Particularly, if you are going to have different ones in different resident advisory groups to try and enshrine that in legislation I think is simply overburdening the paperwork that is already overburdened by virtue of the size of The City of Winnipeg Act.

Mr. Doer: The City of Winnipeg Act is not a quirk of the Constitution. It is a fact that the city is a creature of the province, and therefore we have the responsibility to prescribe certain powers and certain rights for citizens. I would agree, and I have always agreed in terms of the administrative components of the city, but I would depart on planning issues and rights of citizens and powers of certain people in terms of the responsibility we have as legislators constitutionally.

Having said that, I still do not understand the concept of the Member for St. Vital (Mr. Rose). I have an open

mind on it. I think there is a bit of a balance with wanting creativity at the resident advisory groups in terms of what they are suggesting, because we certainly do not want to prescribe to that group what we want. On the other hand, if there is something that can enhance the role, we have an open mind to the suggestion of the Member for St. Vital. I do not quite understand it yet, but we have an open mind to it.

Mr. Rose: I do agree with Mr. Doer that the main role in this is to enhance their credibility and their ability to be recognized. It is not a burden to the City of Winnipeg. It is not a burden to the province because it is something that will be undertaken by resident advisory group themselves. There is a real recognition problem in resident advisory groups, Mr. Chairman, and I think that this would be just a small acknowledgment and would indeed—your wording is right—enhance their position and give more credibility or more power, more visibility to resident input into the matters of the community committee.

Mr. Chairman: Mr. Rose, are you proposing an amendment to Bill 41(2)?

Mr. Rose: Yes, that is the gist of the amendment that we propose, Mr. Chairman.

Mr. Doer: I suggest when the wording is ready, the Minister asked for what the concept was. I think we have to go from concept not specifics so that we can have a good debate. If it is a proposed amendment to enhance the potential for resident advisory groups without stopping any potential creativity, we would certainly be open to it, but I would like to read the wording of it. I think we better go from concept not at specifics.

An Honourable Member: Bring it back then.

Mr. Chairman: Is it the will of the committee that we come back to clause 42(2)?

An Honourable Member: 41(2).

Mr. Chairman: 41(2). Pardon me, my error. Clause 41(3)—pass; Clause 41(4)—pass; Clause 41(5)—pass; Clause 41(6)—pass.

Clause 41(7)—Mr. Rose.

* (2140)

Mr. Rose: We are working on a change in here, and maybe it would be good to have some discussion as well. I am just having a problem. I never had previously an opportunity to discuss the meaning of this. So I will try and get it now, and that is, in 41(7) it says "this section shall take effect when council passes a by-law to establish a residents advisory group." It appears to me that there is no absolute direction for council that they must pass such a by-law, in other words, they could have a resident advisory group, have a community conference elect an executive and a board and all the rest of it, but that council could sit on a by-law and

never pass one for a few times. So what I would like to see is a direction that at some particular time, perhaps right after the civil election, that a by-law enabling such a group would be passed by council and maybe the Minister I am sure has some thoughts and ideas on that.

Mr. Ducharme: Okay, what we mean by this is that it is status quo, unless there is a by-law passed by council, it is status quo.

Mr. Ernst: Can I ask the Minister, or legal counsel, in light of the change to 41(1) is 41(7) required?

Mr. Ducharme: Yes, and I think we explain that a little farther down in the Bill. If they want to leave it, it is status quo until they pass a by-law.

Mr. Rose: The problem here is that, as I see it, Mr. Chairman, the resident advisory groups shall meet and elect at each community . . . but that does not mean that they have any status at all until council establishes a status for them.

Mr. Ducharme: The status is what it is now, unless established by a by-law changing that, it is status quo.

Mr. Ernst: I will wait for the Minister to maybe comment further to that.

Mr. Ducharme: Well, the intent of it was that maybe there would be a by-law, a further by-law, that would establish and make them probably change that role and probably enhancing the role of the resident advisory group, and until that by-law would be passed they are on status quo.

Mr. Rose: In other words, you are saying that the present by-law will exist until this section is passed, so they do have the status quo.

Mr. Ducharme: That is correct. There is no by-law that has been established.

Mr. Rose: So this, in effect, does force them to make a by-law making whatever changes they see it, or else they will stick with the remaining—

An Honourable Member: Status quo, not a by-law, status quo.

Mr. Ducharme: If they do not establish a by-law what they have now is status quo, they stay as they are, the advisory groups, right now. If they do not establish a by-law for three years the status quo remains what they are now.

Mr. Rose: Does the status quo guarantee the continuing rights of what they have to get papers that sit in with the committee and use city property, that status quo really

Mr. Ducharme: That is correct.

Mr. Rose: Okay, that is the clarification I was looking for.

Mr. Ducharme: That is correct.

Mr. Chairman: Clause 41(7)—pass. Mr. Minister.

Mr. Ducharme: Earlier I mentioned I have to change to move one part to Part XX of the Act, so I so move THAT the Bill be amended by adding the following section after section 3:

Re-numbering of sections 10.1 & 10.2

3.1 Sections 10.1 and 10.2 are re-numbered as sections 656.01 and 656.02, respectively.

(French version)

Renumerotation des article 10.1 et 10.2

3.1 Les articles 10.1 et 10.2 sont modifiés par substitution, à leur actuel numéro, des numéros d'articles 656.01 et 656.02, respectivement.

The reason for that is to shift these sections dealing with public meetings on planning from Part I to Part XX of the Act.

Mr. Chairman: Any discussion? Mr. Doer.

Mr. Doer: Is Part XX the planning section of the Act? Is this going to be the planning contribution? Are you going to come back in the next Session and say, oh, we are going to pass amendments to the planning section? Is this what you are going to do to us? I knew you were going to get around to planning provisions. So this is the Member for Charleswood's (Mr. Ernst) kind of amendments to planning. What a plot.

Mr. Ducharme: To answer to the Member for Concordia (Mr. Doer), I am sure my staff wishes that this is all they would have to do for the new planning section, but I can assure him that it is not.

Mr. Doer: Well, I take that as a promise and a commitment that this—but I got a commitment on November 1. In fact, it is the anniversary of the commitment in Hansard, Mr. Chairperson.

One cannot look at Section 20 of the Act without getting again bells going about where is the plan, where is the planning section, where is the vision? This is what we are going to get for planning. I am quite worried about this passage of this thing because I think it gives the Minister an opportunity to take leave of his responsibilities and say, yes, I did pass sections of planning from Section 20. I do not know whether I can agree with this. I think it is a facade.

Mr. Ducharme: Would he suggest that I delete these sections from the Act?

Mr. Doer: Yes, I would like to see a full planning section come in.

Mr. Ducharme: Or delete it?

Mr. Doer: No. Now we are getting the true Conservative planning vision. We heard before the Member for

Charleswood (Mr. Ernst) say this Act is a quirk of the Constitution. It is not a quirk of the Constitution. In every province of this country there is an increasing role for planning from the senior administration of Government. I am very serious. I do not want to just make any little tinkering with numbers. I think we want to not have anything in Section 20 open until it is time to really deal with it.

Mr. Ducharme: To the Member for Concordia (Mr. Doer), we are obligated to change that section and I will do so, and I have assured him. Every time I have read recently on the changes, whether I have dealt with 61, 62, or 32 or any comments I have made, I am committed to changing and not just tinkering. It is something that had to be done.

If I do not pass the change that I have done here, then those sections completely disappear. I am sure the Member for Concordia does not want me to do that.

Mr. Chairman: Okay, as the Minister has stated, shall that amendment be introduced to the Bill? Mr. Doer.

Mr. Doer: Yes, can the Minister—he said the section will completely disappear. What will disappear if we do not pass this?

Mr. Ducharme: The attendance at the environment meetings that I suggested we move when we came to do this section. Remember I had mentioned earlier about the—

Mr. Doer: So when we moved Section 3, 7 to 41—you got us a lot earlier on the planning section.

Mr. Ducharme: Now you know that I will not let you down.

Mr. Doer: Well, it is the year anniversary of your commitment to bring it in this Session, November 1, 1988.

Mr. Chairman: Shall the amendment as brought forward by the Minister pass, be incorporated and passed—pass.

Mr. Ducharme: I have another amendment:

Subsection 43(2) amended

3.2 Subsection 43(2) is amended by striking out "chairman of the executive policy committee" and substituting "a councillor designated by executive policy committee".

(French version)

Modification du paragraphe 43(2)

3.2 Le paragraphe 43(2) est modifié par remplacement des termes "le président du comité exécutif de politique générale" par "le conseiller désigné par le comité exécutif de politique générale".

The reason for that, the rationale is, under the present system the mayor and chair of EPC are members of

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the board. This amendment enables council to appoint one other member besides the mayor to sit on EPC.

* (2150)

Mr. Chairman: Any discussion to the amendment that the Minister brought forward? Shall the amendment, Section 43(2) as amended pass—pass.

Mr. Carr: Section 73.

Mr. Chairman: Before we go over there, the Honourable Minister.

Mr. Ducharme: Maybe we could go back to the subsection 34.(1), as proposed in section 3 of the Bill, be amended by striking out everything after “of the standing committee.” Remember, we had that Bill and we suggested that—

Mr. Chairman: Clause 34.(1), we now have the amendment circulated.

Mr. Ducharme: Here is the one that we shortened because we felt we should make it a little simpler.

Mr. Chairman: 34.(1), as proposed in section 3 of the Bill, be amended by striking out everything after “of the standing committee.” Is it the will of the committee to—the last two and a half lines of that clause. We just need a moment to consult with Legislative Counsel. Mr. Minister, you introduced before 31.(c), an amendment to that, is it the will of the committee to withdraw what was brought forward at that time and this one will substitute for that one. Agreed? Committee agreed. Is it the will of the committee to pass the amendment as brought forward in 34.(1)—pass. Shall 34.(1) as amended pass—pass.

Section 73.(1) to 73.(9)—Mr. Carr.

Mr. Carr: I move

THAT subsection 73.2(1), as proposed in section 4 of the Bill, be amended by striking out “may” wherever it occurs, and substituting “shall”.

(French version)

Il est proposé que le paragraphe 73.2(1), figurant à l'article 4 du projet de loi, soit amendé par remplacement des termes “peut, par arrêté, créer le poste d'ombudsman et nommer une personne pour remplir cette fonction. Les services de l'ombudsman peuvent aussi être retenus par la Ville” par “créée, par arrêté, le poste d'ombudsman et nomme une personne pour remplir cette fonction ou retient les services d'une personne à contrat”.

I move this motion with respect to both the English and French texts. I have copies for members of the committee.

Mr. Chairman: We will just take a moment and circulate the copies.

Subsection 73.2(1), as proposed in section 4 of the Bill, be amended by striking out “may” wherever it occurs, and substituting “shall.”

Mr. Doer: We obviously spoke on this issue on a number of occasions and would obviously support the word “may” to “shall,” and had a similar amendment ready for the committee.

Certainly, the Cherniack Report, when it looked at this issue, developed that as one of the major new thrusts in the city for purposes of citizens' rights. It was something that was contained within the White Paper as a mandatory provision and, therefore, as a right for citizens in the City of Winnipeg.

I was very disappointed when the Minister came back with a “may”. I know that was the motion passed at City Council a year and a half ago, because quite frankly most of the Members of the council, when we discussed it with them, felt it was not necessary that the citizens have an ombudsman in the City of Winnipeg; it was not necessary that people have an independent person to look at civic or citizens' complaints. Very clearly they told us, in fact around the same Chamber table, that they did not want an ombudsman.

I know that the wording “may” therefore does not prescribe a right to citizens, it only allows an enabling part of legislation rather than the right. The word “may” is inconsistent with the Cherniack Report; it is inconsistent with the White Paper; and I think it is inconsistent with the direction that citizens want to go into the 1990s, to have certain provisions in the Act that will allow them to have the type of ombudsperson or ombudsman that we have in the province at the federal level.

Certainly that will help political accountability and also greatly enhance citizens' rights. So we certainly support “shall” and, therefore, will support that proposal at this committee.

Mr. Ducharme: I believe the reason why I, as Minister, and the Government put in “may” was because we felt it should be an enabling legislation. We disagree there. We felt the council has a responsibility and will accept the responsibility to establish, and that is why we put it as “may”.

Mr. Chairman: Any more discussions on the amendment as proposed by Mr. Carr? All in favour, shall the amendment carry—pass. I declare it passed.

Shall 73.2(1) as amended pass—pass; 73.2(2)—I believe I will have to go back on this one because I believe we have 73.1 which we have not—Section 73 to 73.9, any more amendments to that one?

Mr. Ducharme: No. I have an amendment to 73.3(4).

Mr. Chairman: Section 73.1 pass—pass; 73.2—pass; 73.2(1) as amended, we had passed. Now I am referring to 73.2(2); 73.2(3)—pass; 73.2(4)—pass; 73.2(5)—pass; 73.2(6)—pass; 73.2(7)—pass; 73.3(1)—pass; 73.3(2)—pass; 73.3(3)—pass; 73.3(4)—pass; 73.3(5)—pass; 73.3(6)—pass; 73.4(1)—pass; 73.4(2)—pass; 73.4(2)—pass.

Mr. Ducharme: I have an amendment. I have one at 73.4(3). So I will make the motion?

* (2200)

Mr. Chairman: Yes, Mr. Minister. We will go back to 73.4(3).

Mr. Ducharme: I move

THAT section 73.4, as proposed in section 4 of the Bill, be amended:

- (a) by adding, at the end of subsection 73.4(3), “; or to investigate a matter where an adequate remedy or right of appeal exists, whether or not the complainant uses it.”;
- (b) by striking out “council” in the heading above subsection 73.4(4), and substituting “mayor”;
- (c) in subsection 73.4(4), by striking out “Where council passes a resolution” and substituting “Where the mayor certifies in writing to the ombudsman”;
- (d) by deleting subsection 73.4(5) and substituting the following:

Report of certificate

73.4(5) Where the mayor makes a certification under subsection (4), the ombudsman shall include that fact and a description of the matter in the annual report of the ombudsman to council.

THAT subsection 73.5(1), as proposed in section 4 of the Bill, be amended by deleting clause (a) and renumbering clauses (b) to (d) as clauses (a) to (c).

(French version)

Il est proposé que l'article 73.4, figurant à l'article 4 du projet de loi, soit amendé par:

- a) adjonction à la fin du paragraphe 73.4(3), de “, ou de faire enquête sur une affaire lorsqu'un droit d'appel ou un autre recours existe déjà, peu importe que le plaignant utilise ce recours ou non.”;
- b) remplacement, dans le titre du paragraphe 73.4(4), du terme “conseil municipal” par “maire”;
- c) remplacement, au paragraphe 73.4(4), des termes “Lorsque le conseil municipal adopte une résolution selon laquelle qu'une enquête faite par l'ombudsman” par “Lorsque le maire certifie par écrit à l'ombudsman qu'une enquête faite par celui-ci”;
- d) remplacement du paragraphe 73.4(5) par ce qui suit:

Mention du certificat

73.4(5) Dans le cas où le maire fait une certification aux termes du paragraphe (4), l'ombudsman inclut la mention de ce fait ainsi qu'une description de l'affaire dans son rapport annuel au conseil municipal.

Il est proposé que le paragraphe 73.5(1), figurant à l'article 4 du projet de loi, soit amendé par abrogation de l'alinéa a) et par substitution, aux désignations d'alinéa b) à d), des désignations a) à d).

(e) in subsection 3.5(1) by deleting clause (a) and by renumbering clauses (b) to (d) as clauses (a) to (c). The rationale is under subsection 73.5(1). “The ombudsman may refuse to investigate or may cease an investigation where an adequate remedy or right to appeal exists”. In such circumstances it should be automatic that where this is an adequate remedy or right of appeal, there should be no investigation by an ombudsman, e.g., assessment appeal to the board of revision, municipal board, Court of Queen's Bench, Court of Appeal, complaints against police, internal discipline procedures, Law Enforcement Review Act, Human Rights Code, civil litigation, potential criminal prosecution.

Then, when I got to 73.4(4), the explanation is council has the authority to pass a resolution, particularly a matter not to be investigated by the ombudsman if council decides that it would be contrary to public interest. This means that the issue would have to be debated in public and, consequently would be self-defeating in that issue, which would be contrary to the public interest to be so debated. The provincial equivalent provides for the Attorney General to decide upon whether or not a matter is against the public interest. Accordingly, in the city context it would be more appropriate for the mayor to decide. We do not have Attorney General as basically what it refers to and we need another basis to—go ahead—

Mr. Carr: Mr. Chairperson, we had problems with 73.4(4) and 73.4(5) and actually had prepared an amendment to delete them both because we felt that it was absolutely inappropriate for a body whose Members could indeed be investigated by the ombudsman, to pass a motion saying that it is against the public interest for the ombudsman to make that kind of inquiry. So we were going to recommend that both of those clauses be deleted, but that has been complicated by a whole series of amendments by the Minister. I think we are going to have to take a few minutes to have a look at them and see how they affect the spirit of our intended amendments.

Mr. Doer: As I understand it, Mr. Chairperson, I was going to ask similar questions on the right of council, the reasons for why council could cancel investigation of the ombudsman and then, therefore, why are you substituting council for the mayor, which seems to me to be even more of a executive power to cancel the— I think the amendments even go further away from what we would be afraid of—so I (a) do not understand certainly the amendments, and (b) the limit on jurisdiction. I do not understand where the original draft amendments are coming from.

Mr. Ducharme: In the original draft we are referring to council. Now it is mayor.

Mr. Doer: I understand that. To me that is worse, because at least the council would propose if it—the issue of whether the council can cancel investigation or not I think has to be debated on its own, on its own merit, because I can see some merit at deleting that. But the fact that we have substituted council for mayor, I think even makes it a further—the amendment is

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becoming more of an executive decision—and there is a difference between the Attorney General of a province who is the Keeper of the Great Seal and all that, and I do not know whether that even in itself is contrary to natural justice under the ombudsman, I am not sure about that. I certainly do not see just because there are certain provisions at the federal level and the provincial level that that necessarily means we need parallel wording at the civic level.

Secondly, parallel wording going from council to now the mayor. So I do not see any merit in the amendments and I question the original proposals, and would want to know—our question today is, why would we want to have that except for the reason you have given us that the Attorney General has that power now?

* (2210)

Mr. Ducharme: I would like to explain. We talked about because the city does not have, as per se, Attorney General, that we go to the mayor as the head of Council, and he is the chief officer of the city. We felt that we had to go to someone who we felt was maybe along the lines of the Attorney General but, in this particular case, the legislators do not find out the body that you go to provincially. The Attorney General and I think the best equivalent we had was that the mayor would be the best equivalent to the Attorney General.

You know, if that is what we gathered when we discussed this. That is why we came back with the changes because we felt that the rationale was that the mayor was probably the best one to deal with.

Mr. Doer: Why would you want an investigation to be cancelled to begin with, when the ombudsman has the power to refuse an investigation based on a number of criteria? I can understand there is a difference. There is a difference between the constitutional role of an Attorney General or a federal Minister of Justice versus the constitutional role of the City Council. Why would we want any ability to cancel an investigation of the ombudsman when there are powers in the Act for an ombudsman to refuse to investigate under certain criteria. So I do not understand why we would want to have any reason to cancel an investigation, particularly for those who are ultimately responsible for the activity that goes on, that we are maybe investigating.

Mr. Ducharme: If the mayor does, then it would still be in the report of the ombudsman.

Mr. Doer: You still have not answered the fundamental question, and with the greatest respect, why would we want to have anybody of any authority able to cancel an investigation? Secondly, if we did want any authority, and I do not think we have heard reasons why we would, why would we want to amend it further from being the open council to an executive decision of an individual person called the mayor?

Mr. Ducharme: The only question I have for the Member for Concordia is: why would you have it at the provincial level?

Mr. Doer: That may be a good question. Maybe we should cancel it provincially, I do not know. I mean, ombudsmen have been positions that have developed more scope, more authority, and more independence over time.

There is a constitutional difference between the city and the federal Government and the province. There may be no reason for an Attorney General having the right to cancel an ombudsman's investigation, I do not know. Just because the province does it does not mean the city should do it.

I have not heard a good reason except just, the province does it, for us giving this authority under the proposal on the Act, and further more, moving the authority from an open council to an executive decision of mayor I think is a mistake, and I have not heard the reason for that either.

Mr. Ducharme: I think there are always special circumstances and I feel the powers of the mayor—and it still has to be reported in the Ombudsman's Report. There are always special circumstances why the mayor or someone would have the powers to do that. We try to best enact the drafting of the legislation so that, twofold I guess, if we were to use—under the Act there is nothing that says the city cannot use the provincial Ombudsman and they could rent the staff and the Ombudsman; use their staff. It does not say they have to have their own, and so we tried to make it parallel and make it as close to the provincial system as we could, and we felt this was the best way.

Mr. Carr: We did not think that the old wording 73.4(4) made any sense at all where council could pass a resolution to squash an investigation by the ombudsman if it deemed that to be against the public interest. Now with the proposed amendment by the Minister he is giving the mayor the power to determine, on his own, what the ombudsman can and cannot investigate through his own interpretation of what the public interest is. I think that is wrong. I have not been persuaded by any of the arguments that the Minister has put forward.

We have an amendment prepared that would delete those two sections that I think would be a far better vote of confidence on the independence of the ombudsman than the Minister's recommendation, which is to have the mayor really supercede the authority of the ombudsman without reference to anything else but his own interpretation of the public interest, which is certainly contrary to the spirit of this whole section of the Act.

Mr. Ducharme: Mr. Chairman, if the Member feels the same way as he is suggesting, that he will be bringing in proposals to probably change the Attorney General having the same powers under the provincial one, - (interjection)- well, you debate him once, in that you say the paragraph is silly yet you do not want to commit yourself to saying the provincial system is silly also in using the Attorney General's office.

Mr. Ernst: Mr. Chairman, there is some confusion and some concern, perhaps rightly so, in regard to this

section. Can we move on perhaps and consider additional sections for the moment and leave this section for the time being until I can have at least an opportunity to contemplate it a little bit further and understand exactly what is trying to be accomplished by these sections? We can perhaps get on with a few more of the clauses in the interim and perhaps I can investigate a little bit more.

Mr. Chairman: Is it the will of the committee to possibly come back to this clause or these clauses later on?

Mr. Doer: I am certainly willing to deal with it now or contemplate it later. I think the Minister raises a point. If it is something we do in the Attorney General's Department then why should we not do it at the city? Maybe we should look at the Attorney General's Department, but I think our thrust should be, if we are going to look at equality and rights we should be looking at it on the citizens behalf for the ombudsman, not on the Government's behalf.

There is a different constitutional role of an Attorney General who is the chief prosecutor and chief law officer and all those other things, and I do not know whether that means anything or not. It is used sometimes as a justification far beyond what it deserves I am sure. I do not see any reason why we have to have the ability of council or a mayor to cancel any investigation of the ombudsman when we look at the powers of 73.5(1) where the ombudsmen themselves can decide what to investigate or not.

I think it has been the experience in the province that ombudsmen have not gone in areas where they should not. In fact, there should be more areas where they should go. I think our experience in the last 10 or 15 years should tell us that we should go further, not duplicate what happened 10 or 15 years ago in the province, which at the time may have been innovative but now may be out of date.

* (2220)

Mr. Ducharme: Under this section we are suggesting that if the city at the time when we had "may"— I would come into negotiation with the city to maybe use the same source, and we felt we had to have some way of having the city have the same rights as the provincial, and so that is why this was done that way.

I am saying we are trying to make—well, if you are going to use the same Ombudsman, then they should both be allowed to have the same rights, and if provincially we have the right to refuse the investigation then the right should still be by someone from the city and to carry it through that way. That is why it was drafted up the way it was.

Tonight you people said that the city "shall", and remember that was the suggestion here tonight "shall". So under those circumstances I can see now that the city would probably hire their own ombudsman. Up until now and the way the Act was drafted we had "may" in the Act.

Mr. Doer: There is another historical difference. I do not know the specific reasons for the Attorney General's

Department, but at least when the Ombudsman was first brought into Manitoba the people bringing it in and being subject to it wanted it.

With the City Council they have opposed it through the last two or three years. In fact, they very much opposed it when the Cherniack Report came out. They opposed it after the Cherniack Report came out, when the White Paper came out and the resolutions they passed at council. So I do not want a back door way in this amendment personally of precluding what was given as a right to the citizens, but the "shall", it can be cancelled with a resolution of council.

(Mr. Jim Ernst, Acting Chairman, in the Chair)

Mr. Ducharme: What I am suggesting, and I just made it quite clear to the Member for Concordia, now that he has changed the word to "shall" I have no problem taking that suggestion from the committee to take that clause right out of the Bill, because now you have changed it. If you would have had it as "may" then I would suggest that clause should have remained in the Bill.

Mr. Carr: I move

THAT subsection 73.4(4) and (5) as proposed in section 4 of the Bill be struck out and subsection 73.4(6) be re-numbered as 73.4(4).

I move this motion with respect to both the English and French texts.

(French version)

Il est proposé que les paragraphes 73.4(4) et (5), figurant à l'article 4 du projet de loi, soient supprimés et que le paragraphe 73.4(6) soit amendé par substitution à son actuel numéro, du numéro de paragraphe 73.4(4).

The Acting Chairman (Mr. Ernst): The amendments are distributed.

Mr. Doer: Yes, while it is consistent with our questioning and points we have raised, we think that is appropriate for the Bill and specifically when you look at 73.5(1), I think we have the right of the ombudsman to refuse to investigate based on certain criteria, and I think that the last thing we want is council or the mayor cancelling an ombudsman's investigation, unless we have some other reason and I certainly have not heard one today.

The Acting Chairman (Mr. Ernst): Mr. Minister.

Mr. Ducharme: My argument was with the word "may" because we might have been using the same services of the provincial ombudsman. Now, I am suggesting I have no problems the way you have got it worded.

Mr. Acting Chairman (Mr. Ernst): We have a question in the proposed amendment of Mr. Carr. Do you wish it read? Dispense? Those in favour? Opposed? It shall pass then, the section then is amended. Shall it pass? Pass.- (interjection)- Small delay for the moment here until the Legislative Council has clarified matters. Mr. Minister.

Mr. Ducharme: Because we changed that section around, we could have the will of the committee to go back Section 73.4 as proposed in section 4, the Bill be amended, and that is on one that was circulated to you, just the (a) part. I will read it out to you. By adding at the end of Subsection 73.4(3) or to investigate a matter where an adequate remedy or right of appeal exists whether or not the complainant uses it, and that goes on the 73.4(3), and you are going to change the numbering of it.

The Acting Chairman (Mr. Ernst): Mr. Minister.

Mr. Ducharme: Okay, is that understood by everyone then?

Mr. Doer: I assume the Minister is moving in French and English up to 73.4(a), but not (b), (c), (d).

Mr. Ducharme: No. That is correct. Absolutely.

Mr. Doer: Okay, so—

Mr. Ducharme: It is only 73.4(a) as distributed in both French and English.

* (2230)

The Acting Chairman (Mr. Ernst): Is that understood then? Shall that amendment pass? Pass. Shall the clauses amended then pass? Pass. The next clause is 73.5(1) and you have an amendment, Mr. Minister.

Mr. Ducharme: Yeah, (a) would have to be deleted, and (b), (c) and (d) would then become (a), (b) and (c).

The Acting Chairman (Mr. Ernst): Is that understood? Mr. Doer.

Mr. Doer: I do not understand why where it is a may in (a), I understand you have moved the other (a) to a different section, but if it is a permissive term, and it is at the discretion of the ombudsman, why do you have to delete it in 73.5(1)(a)?

It has been proposed that we delete 73.5(1)(a), and given the fact that 73.5(1)(a) is permissive, and it is the ombudsman's right to decide, je ne comprendre the deletion. So I think we can leave it.

Mr. Ducharme: All right, leave it then. Good point.

The Acting Chairman (Mr. Ernst): Mr. Minister, then as I understand it, you are withdrawing the amendment to 73.5(1). Then shall the clause pass—pass. The balance of 73—perhaps we ought to go clause by clause. 73.5(2)—pass; 73.5(3)—pass; 73.6(1)—pass; 73.6(2)—pass; 73.6(3)—pass;

73.6(4)—Mr. Ducharme.

Mr. Ducharme: Just a minute. 73.6(4)—I would suggest 73.6(4) be deleted because it is dealing with the same issue and deleted entirely.

The Acting Chairman (Mr. Ernst): Mr. Minister, do we have a motion then to delete?

Mr. Ducharme: I would so move that we delete 73.6(4).

Mr. Doer: Yes, I had a question mark on that one as well, and I think that is very consistent with the original decision.

Mr. Ducharme: I would say delete it completely.

The Acting Chairman (Mr. Ernst): So we will return to that when the appropriate—

Mr. Doer: I think the resolution—the motion to delete is in order and we certainly would support it.

The Acting Chairman (Mr. Ernst): Is it the wish then of the committee to delete 73.6(4)? Shall it be deleted? The Legislative Counsel advises that we should revisit this when the appropriate draft has been taken place. So we will press on to 73.6(5). Shall it pass?

Do the Members of the committee wish to take a couple of moments to stretch their legs while Legislative Counsel determines the appropriate wording and so on here for this -(interjection)- Oh, yes. Right.

Five minute recess.

RECESS

(Mr. Chairman in the Chair)

Mr. Chairman: We are waiting for the proposed amendment to be delivered to us and it is being translated at the present time. I understand that it will be a few minutes. What is the wish of the committee?

Mr. Ducharme: Let us go.

Mr. Chairman: 73.7(1), we will come back to the previous which has not been passed. Is it the will of the committee to pass 73.7(1)—pass; 73.7(2)—pass; 73.7(3)—pass. 73.7(4)—pass; 73.7(5)—pass; 73.8(1)—pass; 73.8(2)—pass; 73.8(3)—pass; 73.8(4)—pass; 73.8(5)—pass; 73.9—pass.

75.2(1)—Mr. Minister.

* (2240)

Mr. Ducharme: I so move

THAT Section 75.2, as proposed in section 5 of the Bill, be amended:

- (a) in subsection (1), by striking out "established under by-laws No. 219, No. 1125/75, and No. 2819/80; and any such pension plan may have," and substituting "maintained under by-law No. 219 of the former Metropolitan Corporation of Greater Winnipeg, and by-laws No. 1125/75, and No. 2819/80, including any such pension plan which may have,";
- (b) in subsection (3), by striking out "proof";
- (c) in subsection (5), by striking out "pension plans or to trusts arising under the pension plans." and substituting "pension plans and

to a merger of trusts arising under such pension plans.”

(French version)

Il est proposé que l'article 75.2 figurant à l'article 5 du projet de loi soit amendé par:

- a) remplacement, au paragraphe (1), des termes "existant aux termes des arrêtés 219, 1125/75 et 2819/80 et ayant" par "existant aux termes de l'arrêté no 219 de l'ancienne Corporation de la conurbation de Winnipeg et des arrêtés 1125/75 et 2819/80 et ayant";
- b) remplacement, au paragraphe (3), des termes "constitue une preuve concluante de ce fait" par "constate ce fait de manière concluante";
- c) l'adjonction, à la fin du paragraphe (5), des termes "relativement aux régimes de retraite et à la fusion de fiducies faite aux termes de ces régimes de retraite".

Mr. Ducharme: These are just wording clarifications, all required, requested by the city through their legal department.

Mr. Chairman: Any discussion? Mr. Doer.

Mr. Doer: These were requested by the city through their legal department? Were the unions that presented material to us yesterday consulted, and do they concur with these recommendations?

Mr. Ducharme: Yes, definitely.

Mr. Chairman: Is it the will of the committee to pass these amendments? Is it the will to pass 75.2(1) as amended—pass; 75.2(2)—pass; 75.2(3)—pass; 75.2(4)—pass; 75.2(5), as amended—pass; the amendment, as amended—pass; Section 77.6—pass; Section 77.7—pass; Definitions 77.1(1)—pass; 77.1(2)—pass.

77.1(3)—Mr. Minister.

Mr. Ducharme: I move:

THAT Subsection 77.1(3) as proposed in section 7 of the Bill, be amended by striking out the words following "city archivist".

(French version)

Il est proposé que le paragraphe 77.1(3) figurant à l'article 7 du projet de loi soit amendé par suppression des termes qui suivent le mot "archiviste".

The reason for that is to remove inconsistency with 77.1(4) which mandates the duties of the city archivist.

Mr. Chairman: Any discussion? We are just being handed the amendments. Is it the will of the committee to pass the amendment? The amendment to 77.1(3)—pass; 77.1(3), as amended—pass. 77.1(4)—Mr. Minister.

Mr. Ducharme: I have a motion:

THAT clause 77.1(4)(a), be amended by striking out "record" and substituting "records".

(French version)

Il est proposé que l'aliné 77.1(4)a), dans la version anglaise seulement, soit amendé par remplacement du mot "record" par "records".

I am adding one letter.

Mr. Chairman: 77.1(4) the amendment, shall the amendment pass? (Pass) Shall 77.1(4), as amended, pass—pass.

An Honourable Member: In both languages?

Mr. Chairman: Everything today is in both languages. The text before us is in both languages. 77.1(5)—Mr. Minister?

Mr. Ducharme: I have a motion,

THAT subsection 77.1(5), as proposed in section 7 of the Bill, be amended by striking out "determine and implement policies and procedures", and substituting "make recommendations to council, and implement policies and procedures approved by council".

(French version)

Il est proposé que le paragraphe 77.1(5), figurant à l'article 7 du projet de loi, soit amendé par remplacement des termes "d'établir et de mettre en oeuvre des politiques et des procédures" par "de faire des recommandations au conseil municipal et de mettre en oeuvre des politiques et des procédures, approuvées par le conseil municipal,".

The reason for that is the council and not the Records Committee will determine policy and approved procedures.

Mr. Chairman: Any discussion on the amendment? Mr. Doer.

Mr. Doer: Given that change it is a little curious because in the Provincial Archives dealing with records here, there is a law dealing with the disposal of records. The change without a by-law of particular records could lead to episodic decisions on the storing of material and records based on whatever subjective interpretation council may provide. I am just looking at it on quick read. I am not so sure that it is the best way for us to go. I understand the principle of council determining things, but should they determine things by by-law, so it is not done on the basis of ad hoc decision making, or should it be done as you suggested.

Mr. Ducharme: In a by-law passed.

Mr. Chairman: Mr. Minister.

Mr. Ducharme: I am sorry. In a by-law passed. 77.1(5).

Mr. Chairman: Mr. Doer.

Mr. Doer: Okay, so it would be by by-law? You are not suggesting that it be struck. Okay, thank-you.

Mr. Ducharme: No it is in the opening words to 77.1(5).

Mr. Doer: Thank you.

Mr. Chairman: That clarifies it for you, Mr. Doer?

Mr. Doer: Yes, thank you.

Mr. Chairman: Shall the amendment, as presented, pass? (Pass) Shall 77.1(5), plus the amendment pass—pass. 77.1(6)—pass. 77.1(7)—Mr. Minister?

Mr. Ducharme: I have a motion,

THAT subsection 77.1(7), as proposed in section 7 of the Bill, be amended by adding “custody and control of a” after “removed from the”.

(French version)

Il est proposé que le paragraphe 77.1(7), figurant à l'article 7 du projet de loi, soit amendé par remplacement des mots “de sortir” par “d'enlever à la garde”.

Without the amendment, the legislation is too restrictive.

Mr. Chairman: Any discussion to the amendment? Shall the amendment to 77.1(7) pass? Pass. 77.1(7) as amended pass? Pass. 77.1(8) pass? Pass. Shall 77.1(9) pass? Pass. Section 78.08 pass? Definitions 78? Pass. Access to information 78.01—Mr. Carr?

Mr. Carr: Thank you, Mr. Chairperson. I have an amendment. I do not have it in front of me, but it is to change “may” to “shall.”

THAT section 78.01, as proposed in section 8 of the Bill, be amended by striking out “may pass a by-law” and substituting “shall pass a by-law”.

(French version)

Il est proposé que l'article 78.01, figurant à l'article 8 du projet de loi, soit amendé par remplacement des termes “peut, par arrêté” par “doit, par arrêté”.

I move this motion with respect to both the English and French Texts.

* (2250)

Mr. Chairman: Mr. Carr, have you got copies to be delivered, to be circulated?

Mr. Carr: Yes, I believe so.

Mr. Ducharme: Before we go on I would like the staff to check 78.02 to make sure that it does not change that one, so we do not get in the same things as we did with the ombudsman.

Mr. Chairman: The amendment as brought forward by Mr. Carr to 78.01—pass; 78.01 as amended—pass.

78.02—Mr. Doer.

Mr. Doer: Yes, we are proposing that the appeals officer later on in 78.08, or the appeal be not the Court of Queen's Bench but the ombudsman, and therefore we are worried about the possibility, we think the court should be replaced with the ombudsman because citizens cannot go to the court for information, just similar to the provincial situation. I want to know from the Minister then, if we make the ombudsman the appeal in 78.08(1) instead of the Court of Queen's Bench which has been the recommendation of many citizens, how would that affect? I think 78.02 is permissives but I just want to know that would fit with 78.02 as it is presently drafted in anticipation of an amendment on 78.08 and 78.08(5) with The Manitoba Evidence Act?

Maybe if I got out our copies on 78.08 and 78.08(5), we have lots of copies here, then we could perhaps revisit 78.02 because I think there is no problem with the access appeal officer under 78.02 but we are talking about the appeal itself outside of the administration, being the ombudsman, and so if I could get to 78.08 I can move that motion. If that passes I think it does affect 78.02.

Mr. Chairman: Is it the will of the committee to go to 78.08 and then we will go back to these sections later?

Mr. Ducharme: You will have to go right back to 78.02 right after 78.08.

Mr. Chairman: That is right. We will deal now with 78.08.

Mr. Doer: I would move under section 78.08 in the French and English text:

THAT section 78.08, as proposed in section 8 of the Bill, be amended as follows:

- (a) in the heading of subsection (1), by striking out “Queen's Bench” and substituting “ombudsman”;
- (b) in subsections (1), (3) and (4) by striking out “court” wherever it occurs and substituting “ombudsman”;
- (c) by adding the following as subsection (5):

Application of the Manitoba Evidence Act

78.08(5) For the purposes of an appeal under this section, the ombudsman has the powers vested in the commissioners under section 88, 90, 91, 92 and 94 of The Manitoba Evidence Act.

- (d) by renumbering subsection (5) as subsection (6) and by amending that subsection by striking out “court” and “judge” wherever they occur and substituting “ombudsman”;
- (e) by renumbering subsection (6) as subsection (7) and amending that subsection to strike out “court” and substitute “ombudsman”.

(French version)

Il est proposé que le paragraphe 78.08, figurant à l'article 8 du projet de loi, soit amendé par:

- a) remplacement, dans le titre du paragraphe (1), des termes "à la Cour du Banc de la Reine" par "à l'ombudsman";
- b) remplacement, aux paragraphes (1) et (4), des termes "au tribunal" par "à l'ombudsman", et au paragraphe (3), des termes "Le tribunal" par "L'ombudsman";
- c) adjonction, après le paragraphe (4), de ce qui suit:

Loi sur la preuve au Manitoba

78.08(5) À l'égard d'un appel prévu au présent article, l'ombudsman détient les pouvoirs conférés aux commissaires en application des articles 88, 90, 91, 92 et 94 de la Loi sur la preuve au Manitoba.

- d) substitution, à l'actuel numéro de paragraphe (5), du numéro de paragraphe (6), et par remplacement, dans ce paragraphe, des termes "au tribunal, le juge" par "À l'ombudsman, celui-ci";
- e) substitution, à l'actuel numéro de paragraphe (6), du numéro de paragraphe (7), et par remplacement, dans ce paragraphe, des termes "du tribunal" par "de l'ombudsman".

I would so move consistent with the Cherniack Report of simple language.

Mr. Ducharme: The public is supposed to understand this one too?

Mr. Doer: Yes, they know what an ombudsman is.

Mr. Chairman: 78.08 shall the amendment pass—pass; 78.08 as amended pass—pass.

Can we now go back?

An Honourable Member: 78.08(5). I moved it already, Mr. Chairman. I do not know whether you covered that in your motion. Is that already passed?

Mr. Chairman: 78.08(5). Shall the amendedment pass—pass. Shall 78.08 as amended pass—pass. 78.08(6)?

An Honourable Member: You may want to go now back to 78.02

Mr. Chairman: What is the wish? Go back to 78.02.

Mr. Doer: I think now we have to, after the word to "appoint . . . a person that to be known as the 'access appeal officer' to hear appeals under section 78.07" period, as opposed to "unless council points an ombudsman".

Mr. Ducharme: I would suggest, then that the way I have mine written, you have changed the Bill, and I suggest that there will be changes to 78.02 as a result or your changes to that. I suggest that you draft up that particular amendment, okay?

Mr. Doer: I would move that section 78.02 in the English and French text we put a period where the comma is

behind 78.07f Therefore it would read: Where a by-law is passed under section 78.01, council shall appoint or retain a person, to be known as the "access appeal officer" to hear appeals under section 78.07 period.

Mr. Ernst: Mr. Chairman, in reviewing that in the light of 78.08, why do we not delete the whole clause? We do not need it. We do not need an access appeal officer.

An Honourable Member: We did not have an ombudsman then.

Mr. Ernst: The ombudsman is mandatory, as already passed by amendments. The ombudsman will hear the appeals, so why do you need an access appeal officer at all? I suggest we delete the entire section.

Mr. Ducharme: That is correct, because we wrote the appeal officer in that order and that is why there is consequential amendments required as a result of changing other parts of the Bill. We have to understand that.

Mr. Chairman: Is it the will of the committee to omit 78.02 completely?—pass. I will need a written motion from somebody on this. Mr. Ernst, are you proposing to write a motion to that effect? If it has to happen it has to happen. We will take a moment just to write a motion to delete that.

Mr. Ernst: Mr. Chairman, I am advised by Legislative Counsel that there are a number of consequential amendments required as a result of that. The staff are working on that, so if we re-visit it and we continue on, we will come back to this section.

Mr. Chairman: Fine. All right.

An Honourable Member: We are deleting it

Mr. Chairman: No. Mr. Minister.

Mr. Ducharme: Maybe I could suggest something. When we do get finished with this section of the Act, because we are making substantial changes and we did consult with the city in regard to the uses of "may" and "through the appointment," because we are changing it so drastically, is there any consideration by this committee to give the city, say, a 12-month way to bring in this particular section of the Act, to bring in their by-law. You have made substantial changes and I would suggest, if it does not work, at least they can come back and ask for those changes to be done in the Act. You are putting a very tough position on the city at this present time by asking them to enact this and their by-law, I would suggest you give them 12 months to bring in their by-law.

* (2300)

Mr. Chairman: It is suggested that we go back to 73.6 at this point in time. I understand our amendment is prepared for us. Has it been circulated? I will ask the Minister to reread the amended motion.

Mr. Ducharme: This is the one we changed.

THAT section 73.6, as proposed in section 4 of the Bill, be amended:

- (a) by striking out subsection 73.6(4);
- (b) by striking out "Subject to subsection (4)", where it occurs in subsections 73.6(5) and (6);
- (c) by re-numbering 73.6(5) to (8) as 73.6(4) to (7);
- (d) by adding the following after subsection (7);

Hearings and right to be heard

73.6(8) The ombudsman may hold hearings, obtain information from any person, and make such inquiries as the ombudsman considers necessary; and no person is entitled, as of right, to be heard by the ombudsman.

- (e) in subsection (9), by striking out "the ombudsman shall give the head of the municipal unit" and substituting "or a person, the ombudsman shall give the head of the municipal unit or the person".

(French version)

Il est proposé que l'article 73.6, figurant à l'article 4 du projet de loi, soit amendé par:

- a) suppression du paragraphe (4);
- b) suppression, au paragraphe (5) et (6), des termes "Sous réserve du paragraphe (4)," à chaque occurrence;
- c) substitution, aux actuels numéros de paragraphes (5) à (9), des numéros de paragraphes (4) à (8), respectivement;
- d) adjonction, après le paragraphe (7), de ce qui suit:

Pouvoirs discrétionnaires

73.6(8) L'ombudsman peut tenir des audiences, obtenir des renseignements de toute personne et faire les enquêtes qu'il estime nécessaires. Il a le pouvoir discrétionnaire de refuser d'entendre une personne.

- e) remplacement, au paragraphe (9), des termes "organisme municipal, il doit donner à celui-ci" par "organisme municipal ou à une personne, il doit donner au chef de l'organisme ou à cette personne".

Mr. Chairman: Any discussions in respect to the amendment brought forward by the Minister? Is it the will of the committee to pass the amendment? Is it the will of the committee to pass 73.6 with all of the amendments that relate to the following clauses, as amended—pass.

Members of the committee, we will just have to wait until the staff is caught up with the sections that we have passed. Members of the committee, we can move to Section 80, to the Elections. Section 83, Part IV, Elections. Shall Section 83—pass.

Shall 84 pass—Mr. Minister.

Mr. Ducharme: I move

THAT section 84, as proposed in section 11 of the Bill, be amended:

- (a) by striking out clause (c);
- (b) by re-numbering clauses (d) and (e) as clauses (c) and (d).

(French version)

Il est proposé que l'article 84, figurant à l'article 11 du projet de loi, soit amendé par:

- a) l'abrogation de l'alinéa c);
- b) substitution, aux désignations d'alinéa d) et e), des désignations d'alinéa c) et d), respectivement.

The qualification for candidates are: the Canadian Citizenship, 18 years of age, six months residency, and eligibility as an electorate. Those are the reasons to move 84.

Mr. Chairman: Any discussion in respect to the amendment? Shall the amendment to 84 pass—pass. Shall 84, as amended pass—pass. Shall Section 85 pass—pass. Shall 85.1 pass—pass. Shall Section 85.2(1) pass—pass. Shall Section 85.2(2) pass—pass. Shall Section 85.2(3) pass—pass. Shall Section 85.3 pass—pass. Shall Section 85.4 pass—pass. Clarification 85.3 also passed.

Shall 86.1(1) pass—Mr. Doer.

Mr. Doer: There is a proposed amendment but before the amendment is proposed, can the Minister explain a person who convicted of an offence under this Act or any other Act has not paid a fine imposed on the person for the offence, does that mean if you have outstanding parking tickets you lose your council seat? It says any other Act.

Mr. Ducharme: It is what it is in the Act now, so that is the status quo. We have not changed that part of the Act.

Mr. Doer: I am sorry, Mr. Chairperson, through you to the Minister, does that mean if you have an unpaid parking ticket you lose your seat or you lose your seat as a councillor in the city?

Mr. Ducharme: Are you asking me whether I interpret that? I do not interpret it that way.

Mr. Doer: The Highway Traffic Act is an Act, and it says it has not paid a fine imposed on the person for the offence, so it seems to me—all of us have had unpaid parking tickets before, I bet. I have - (interjection)- well, Ed, we should not talk about the \$100,000 farm loans because my share of that is about 10 cents. I believe that means that if somebody has an unpaid parking ticket, now it may well be an old section of the Act, but I do not agree with everything Sid Green used to say, but I actually believe in the

theory that people should be held accountable through elections, generally, not through some other points.

I do not know whether I like that section if it means parking tickets and other tickets but maybe I am wrong, unless the Act is defined, is there something in the definition section that says it is the Criminal Code. I cannot remember the whole part of The City of Winnipeg Act, but if there is something in the definition section that protects us that is fine but, if not, I think that is a pretty harsh penalty, not that it is necessarily being implemented, but I think that is a pretty harsh penalty for the public, electing a councillor and then losing a councillor based on that criteria.

Mr. Chairman: Mr. Ernst, no discussion?

Mr. Ducharme: I will tell you what, I will look at it because it was status quo. I will look at it and if there is no section in the Act that prevents that I will move it into Bill 61 or Bill 62.

Mr. Doer: Thank you, Mr. Chairman.

Mr. Jim Maloway (Elmwood): Mr. Chairman, we have an amendment to Bill 32, and we passed copies around. It is really adding a section (g) to section 86(1)(1) and that is section (g) would read, a person who has been nominated as a candidate—

Mr. Chairman: Have you got copies of it?

Mr. Maloway: Copies have been distributed.

Mr. Chairman: These copies are not in French and so they have to be translated. Wait a minute.

Mr. Maloway: Perhaps I could explain it.

An Honourable Member: Explain it and then we will decide.

Mr. Chairman: Very good. We will discuss it. Go ahead, Mr. Maloway.

Mr. Maloway: Mr. Chairman, Section (g) would merely add a section that would say: (g) a person who has been nominated as a candidate in a provincial or federal election.

Mr. Chairman, for many years councillors of all three political Parties have retained their council seats while running for higher office and we feel that it is wrong, and like MLAs who must resign their seats upon being nominated to run in the federal election, city councillors should be treated the same way. Many city councillors might reconsider a career move to higher elected office if they had to resign their seats. Only serious candidates would then contest these seats at the senior levels and I believe that councillors should be required to make a commitment and not be able to hedge their bets. This amendment I believe would treat the city councillors in much the same way as the MLAs and I believe it is a long overdue amendment.

Mr. Ernst: Mr. Chairman, I do not concur with my honourable friend from Elmwood. While he may be concerned about advantage of an existing member of council having the opportunity to run for higher elected office, and I hate to bring it up again, but you have to address the practicalities of the situation. You will automatically have a by-election if those situations occur. By-elections are expensive propositions to run in the City of Winnipeg, or anywhere else for that matter, Mr. Chairman, but nonetheless the frequency of members of council seeking higher elected office is greater significantly usually, historically at least anyway, than those seeking, for instance, membership in the House of Commons from the Manitoba Legislature.

I think there is not a great deal of problem leaving the situation the way it is, status quo. The cost of running by-elections in the City of Winnipeg as a result of those people seeking office in the Manitoba Legislature is something I think we need to concern ourselves about the costs of running those by-elections, the disruption.

For instance, in the Community Committee of St. James-Assiniboia if someone were to choose to run for office in the Manitoba Legislature—there are three members of the Community Committee—and if one of those people chooses to seek office in the Manitoba Legislature and the election is a protracted arrangement or whatever, then you have a situation where that community committee is a tie vote continuously unless there is a unanimous decision.

I do not think that is in the best interest of the citizens of Winnipeg or the citizens of St. James-Assiniboia Community Committee. There are practical considerations that have to be dealt with, and there is a good example of one of them. Let me tell you, we have lived with that situation in the past and it is not a good situation to be in where in fact the Community Committee did not meet for four months as a result of that kind of situation.

I do not think weighing the opportunities or the advantages of one, versus the cost and problems associated with the other, merit a change in the Legislation.

The commitment and the seriousness of anybody who runs for political office in this province by and large is serious and significant, regardless of whether they hold an office in another level or not. Last night we heard the argument made by delegations here that there might be an unfair advantage. It is no significantly different advantage than any incumbent running, seeking re-election, so I do not think that is a major problem either. There does not appear to me to be any significant reason why we should make a change from the present situation.

Mr. Ducharme: I do not concur with the motion. I do not see any disadvantage right now under the system of someone running as an MLA or an M.P. I said last night when the proposal came forward that I believe the councillor's area does not suffer. The councillor is probably more sensitive to issues in his area more than ever. You have to remember that if you are going to stay very consistent, throughout Manitoba that is not

* (2310)

the enforcement of a councillor, having to resign his seat. If you were to make that provincially, you have some councils in Manitoba that would not be able to operate.

It could happen that some community committees would not be able to operate until after an election is called. You could have a community committee now of four, two members decide to run either as an M.P. or an MLA, and those community committees will not be allowed to operate. Right now they are operating and there is no disadvantage to the people who are in the area. I do not see it serving any purpose of them not being able to run.

You do have a problem, it was mentioned last night by one of the delegations, that a councillor has an advantage because his name is there. Sometimes anyone who has been a councillor and is running in a provincial election will find that is not necessarily so. Sometimes he carries baggage that the other person does not carry.

I feel that you are certainly disadvantaging a community committee in having them not operate for the whole time of an election and then have to wait until a by-election is called. We have had problems where MLAs have run and at least they have served that purpose. Then there have been spaces where, after they were elected, of those community committees suffering.

Right now you are going to say to the community committee, I am sorry you cannot operate, you cannot hear public hearings, you cannot hear appeals, you cannot hear subdivisions because you have two of your four now running for some other office. I do not agree with that.

Mr. Doer: I think we are approaching it from the absolutely wrong side of the issue and the principle. I believe that, if one is to look at what happens in this Chamber. Last year there was a federal election and there was 57 members here. Nobody ran for federal elected office.

In past years there have been a few people who have run for federal office and it has been a very serious decision. People have not tried to hold on to two constituencies, one being the provincial constituency, when they are seeking out a federal constituency. There are similarities but there are a lot of differences. You are running for a different office. You are running for different responsibilities. There are jurisdictional fights. There are jurisdictional disagreements, and I think if the argument is that you will have less people on a community committee, I think quite frankly the facts are wrong.

The amount of people who have resigned their seat in this Chamber to go to the federal office have been not nearly as frequent as the sort of multiple choice kind of dynamics that has happened before in the city with councillors with the province.

There have been some excellent people that had to make some serious decisions. The Spivak-Axworthy fight which took place in the '70s, it meant that both

people were interested in moving on to a different accountability, to a different political area of responsibility, and when they are moving on, they were not keeping one foot in the provincial House and the other foot in the federal House. They resigned their seats, and I think quite frankly, from a tactical perspective, this may not be good for us. We may want our Member for Transcona to try to be a candidate but I think it is fundamentally wrong. I use that as an example. We finally got some people on City Council so now we cannot talk from a position of deficiency.

I think it is fundamentally wrong to have a person who is elected to do a certain job by people in a ward and six months later, a year later, they are seeking another completely different office in another arena without having to make a commitment to that position by resigning. I think quite frankly it will separate those that are into multiple choice politics from those that are into serious commitments. I think there will be less members of committees lost, I think people will have to make a choice on the basis of what role they see themselves and what responsibilities they see themselves.

I know that there are former Members that have run for City Council, as two MLAs in here, in this committee, but I think the people yesterday who were talking about change, the people who were talking about a new era, the Greg Selinger's of this world, et cetera, I think reflect a changing perspective of accountability. I think Mr. Selinger's words were quite noted when he said, if you are going to run, go for it, really be committed for it, do not try to hold on to two constituencies at the same time. If you are serious about it, run. If you are not serious about it, if you as I say, just try to multiple choice option, then I think it is wrong and I think we will have less of what the Member for Charleswood (Mr. Ernst) said and the Member for St. Vital (Mr. Rose).

As we can see with the 57 Members in this Chamber, and how often people make the decision to go to federal office, when they do it, it is a very serious decision. There is no complications of who they are accountable for, and because they are seeking a mandate in one arena and not trying to keep a constituency in another, which I think is fundamentally wrong.

* (2320)

Mr. Ducharme: Mr. Selinger made the remarks yesterday when Mr. Selinger has never sat on a community committee to realize that if half the community committee is gone, what kind of serious consideration is that when you have to tell your people in the area, we cannot deal or we cannot look after your concerns at the community committee level because of the situation that has happened. The only way you can have it, is you can say to the mayor, well then, it is up to you to call an election in the middle of another election.

I really believe that you are doing more harm to the people in that area because you cannot service them at the community committee level. That is not like the Legislature that we have operating today. It does not come to a halt, but at community committee when you

have half your members decide to run as an MLA or M.P. it halts, period. You cannot look after those people well, so that is not the reason to have one foot in each particular jurisdiction.

I just think that the whole idea of saying to the community committee and the other members, I am sorry you cannot operate until we have decided first to hold an election, then you have the period of waiting until after the election of whether you are going to have a by-election. I cannot agree with the motion that is put forward here this evening.

Hon. Glen Cummings (Minister of Environment): I think that there is a certain disdain being shown here towards those who run for elected office. There is an implication that someone who would sit as a councillor and then choose to run as a MLA possibly somehow is less than willing to serve the public and must be prepared to resign his council position if he wishes to seek another elected office.

In the background here I hear comments that we do it. Well, I look at it from a perspective of all the councillors that we have across the province and I grant that we are talking about the City of Winnipeg here. There are an awful lot of councillors who are prepared to serve and if they resign what you are going to do is create a series of vacancies that will not be filled and simply will leave those areas not represented until a by-election can be called or until a normal election period comes up. If we have that much disrespect for people who are willing to serve in the public venue then so be it. I think there are an awful lot of people who are making that willingness to serve known, not intending in any way to affront those who elected them.

The other thing is that the elector is a lot more sophisticated than we give them credit for, and if they see the councillor that we are talking about in this case who chooses to run for another office and then does not get elected and comes back to finish his term as councillor, if they see him as being an opportunist, then we will see a lot more of what we saw in this immediately past municipal election. I have no problem in putting my confidence in the electors.

Mr. Chairman: Any more discussion? Could I ask—Mr. Carr.

Mr. Carr: I have been listening carefully to the debate and came into the debate with an open mind. We received notice of this amendment only a few minutes ago. While I understand and appreciate the arguments from the Member for Concordia (Mr. Doer), I think I am looking at this situation from the point of view of the people. I see a downside for the people.

I can see the process of local and neighbourhood representation grinding to a halt for the period of non-representation leading into a by-election or a normal period of an election. I think the people would be poorly served by that. I also think that ultimately the people will decide on whether or not a candidate has sufficient commitment to warrant their continuing support. If the people feel that a member of council has lost interest by expressing the desire to move to another level of

government, I think there is a natural political constraint that would operate and a natural motivation for people to judge that councillor in the light of his or her intention to seek other office. So while I think the arguments put forward by the Member for Concordia have merit, I think on balance looking at the obligations and the responsibilities that that puts on those who would not be represented for a substantial period of time, that the amendment ought not to be supported.

Mr. Rose: I just wanted, Mr. Chairman, to put a few brief remarks in support of my colleague on that. From experience, I know that this is what I consider almost, which I abhor at City Hall or did abhor at City Hall, as sort of a walk-on item. The public has not really had a chance to consider and discuss it. We heard one opinion on it. Although I have a lot of respect for that gentleman, I do not think that there is any real advantage to a city councillor running for MLA as it has already been pointed out they carry excess baggage and the recent election in April indicated that, that it showed no advantage.

I would not like to feel that I had been fundamentally wrong by not resigning before I ran as an MLA and I think all those school trustees and councillors all over Manitoba feel that they did not do something fundamentally wrong because if they did we would have seen a lot more resignations in the past than we have as they ran for higher office. I know that this would be a very unpopular move at City Hall.

Mr. Chairman: Could I ask at this point in time, Mr. Maloway, to read his amendment? It has been circulated now to all of the Members. Go ahead, Mr. Maloway.

Mr. Maloway: I move

THAT subsection 86.1(1), as proposed in Section 11 of the Bill, be amended by adding the following:

(g) a person who has been nominated as a candidate in a provincial or federal election.

(French version)

il est proposé que le paragraphe 86.1(1), figurant à l'article 11 du projet de loi, soit amendé par adjonction, après l'aliné f), de ce qui suit:

(g) un personne qui a été nommée candidate à une élection provinciale ou fédéral.

Mr. Chairman: And you move that in both French and English?

Mr. Maloway: That is correct.

Mr. Chairman: All right. All those in favour of the amendment say yea. All those against the amendment say nay. Nay. I believe the nays have it. So the amendment is defeated.

We will just have a short break for the Minister to be able to consult with the people who are drafting the Legislation.

RECESS

Mr. Chairman: I call the committee back to order at this time. The amendment to 86.1(1), was defeated. Now I want to ask the committee whether 86.1(1) shall pass—pass.

Then we will go to 86.1(2). Mr. Minister.

Mr. Ducharme: I so move

THAT subsection 86.1(2), as proposed in section 11 of the Bill, be amended by striking out “and no person is eligible for election as” and substituting “and no person is eligible for nomination for, or election as;”.

(French version)

Il est proposé que le paragraphe 86.1(2), figurant à l'article 11 du projet de loi, soit amendé par remplacement des termes “ne peuvent se présenter” par “ne peuvent être mis en nomination ni se présenter”.

The correction is to eliminate the possibility of a person being nominated in more than ward.

Mr. Chairman: Shall the amendment to 86.1(2) pass—pass. Shall 86.1(2) as amended pass—pass.

86.1(3)—pass; 86.1(4)—pass; 87—pass; 87.1(1)—pass; 87.1(2)—pass; 87.1(3)—pass.

87.2(1)—Mr. Carr.

Mr. Carr: Mr. Chairperson, we heard from the mayor yesterday that, in his opinion at any rate, subsection (b) was too tough on a councillor who may unwittingly have forgotten to register an absence. He had suggested that the clause should read “a resolution of council entered in the minutes of one of the three meetings” rather than each. I have an amendment prepared, if the committee believes that would be desirable. Why do I not put it on the table?

Mr. Chairman: Mr. Carr, do you have it in writing?

Mr. Carr: I do.

Mr. Chairman: Do you have copies?

Mr. Carr: Yes.

THAT clause 87.2(1)(b), as proposed in section 11 of the Bill, be amended by striking out “each” and substituting “one”.

(French version)

Il est proposé que l'alinéa 87.2(1)(b), figurant à l'article 11 du projet de loi, soit amendé par remplacement des termes “de chacune” par “d'une”.

I move this motion with respect to both the English and French texts.

* (2330)

Mr. Chairman: That is 87.2(1)(b), as proposed in section 11 of the Bill, be amended by striking out “each” and

substituting “one”. Is the committee prepared to pass the amendment? Shall 87.2(1) as amended pass—pass; 87.2(2)—pass; 87.3—pass; 88(1)—pass; 88(2)—pass; 88(3)—pass; 88(4)—pass; 88(5)—pass; 88(6)—pass; Section 89.12—pass; 13—pass.

Shall 90(1) pass? Mr. Carr.

Mr. Carr: I believe there is will of the committee that you can now proceed to go page by page.

Mr. Chairman: No, Mr. Carr, it has been indicated to me that we must go clause by clause.

Clause 90(1)—pass; Clause 90(2)—pass; 91(1)—pass; 91(2)—pass; 91(3)—pass; 91(4)—pass; 92(1)—pass; 92(2)—pass; 92(3)—pass; 93(1)—pass; 93(2)—pass; 93(3)—pass; 93(4)—pass; 93(5)—pass; 93(6)—pass; 93(7)—pass; 93(8)—pass; Clause 94—pass. Shall all of 95 pass? 95 and everything in brackets—pass. Okay 96, shall everything in 96 pass—pass. Now we are at Section 97. Section 97 pass—pass. Section 134 repealed. Shall Section 134, Clause 14 be repealed—pass.

Section 658 repealed, Clause 15. Mr. Minister.

Mr. Ducharme: I have some transitional motions that should go through:

THAT the Bill be amended by adding the following sections after section 15:

Transitional: resident advisory groups

15.1 Notwithstanding the repeal of section 21 by section 3 of this Act, section 21 remains in force and effect until the proclamation of section 41, as enacted by section 3 of this Act.

Transitional: E.P.C. & board of commissioners

15.2 Notwithstanding the repeal of section 31 and clause 33(b) by section 3 of this Act, those provisions remain in force and effect until the proclamation of clause 30(2)(c) and subsection 31(2).

Re-numbering of Bill

15.3 In event The Statute Re-enactment and By-law Validation (Winnipeg) Act is passed at the same session of the Legislature as this Act, the Legislative Counsel is authorized to re-number the provisions of this Act before it is published, to conform with the numbering of the re-enacted version of The City of Winnipeg Act.

(French version)

Il est proposé que le projet de loi soit amendé par l'adjonction, après l'article 15, de ce qui suit:

Mesures transitoires

15.1 Malgré l'abrogation de l'article 21 en vertu de l'article 3 de la présente loi, l'article 21 reste en vigueur jusqu'à la proclamation de l'article 41, édicté par l'article 3 de la présente loi.

Mesures transitoires

15.2 Malgré l'abrogation de l'article 31 et de l'alinéa 33(b) en vertu de l'article 3 de la présente loi, ces

dispositions restent en vigueur jusqu'à la proclamation de l'alinéa 30(2)c) et du paragraphe 31(2).

Renumérotation du projet de loi

15.3 Dan le cas où la Loi sur la Ville de Winnipeg est réadoptée en vertu de la Loi sur la réadoption de lois et la validation d'arrêtés concernant la Ville de Winnipeg, le conseiller législatif est autorisé à renuméroter le projet de loi 32 avant sa publication, pour le rendre conforme à la renumérotation de la Loi sur la Ville de Winnipeg réadoptée.

Mr. Chairman: Shall the amendment to Section 15 as read by the Minister pass? The amendment to Section 15—pass, shall 15, as amended pass? Pass. Coming into force Clause 16(1), shall 16(1) pass? Pass. Effective November 7, 1989, 16(2)—Mr. Ducharme.

Mr. Ducharme: I have a motion,

THAT section 16 of the Bill be amended:

- (a) in subsection (2), by striking out "Sections 2, 3, 6," and substituting "Subject to subsection (3), sections 2, 3,,";
- (b) by re-numbering subsection (3) as subsection (4);
- (c) by adding the following after subsection (2):

(French version)

Il est proposé que l'article 16 du projet de loi soit amendé par:

- a) le remplacement, au paragraphe (2), des termes "Les articles 2, 3, 6," par "Sous réserve du paragraphe (3), les articles 2, 3,,";
- b) substitution, à l'actuel numéro de paragraphe (3), du numéro de paragraphe (4);
- c) adjonction, après le paragraphe (2), de ce qui suit:

Mr. Doer: Will the Minister please explain that?

Mr. Ducharme: Thanks.

Mr. Chairman: Members of the committee, it is being circulated at the present.

Shall the amendment to Section 16(2) as the Minister has read out pass? Is it the will of the committee—pass; 16(2), as amended pass? Pass.

Effective on proclamation 16(3)—Mr. Minister.

Mr. Ducharme: I have a motion.

Effective on proclamation

16(3) Clauses 30(1)(e) and (f), clause 30(2)(c), and subsection 31(2), as enacted by section 3 of this Act, come into force on proclamation.

- (d) in subsection (4), by adding "6," after "Sections".

(French version)

Entrée en vigueur par proclamation

16(3) Les alinéas 30(1)e) et f), et 30(2)c), de même que le paragraphe 31(2), édictés par l'article 3 de la présente loi, entrent en vigueur par proclamation.

- d) insertion, au paragraphe (4), après le mot "articles", de "6".

Mr. Chairman: Is it the will of the committee to pass 16(3), as amended, by the Minister? Shall the amendment to 16(3) pass? Pass. Shall 16(3), as amended pass? Pass.

Mr. Ducharme: Mr. Chairman, I have one final one to add to this and that is the numbering:

THAT Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee.

(French version)

Il est proposé que le conseiller législatif soit autorisé à changer tous les numéros d'articles ainsi que les renvois nécessaires pour l'adoption des amendements faits par le présent comité.

Mr. Chairman: Shall the amendment—what number is this stuff? Okay, are you bringing in more?

This is a general motion that the Minister has read. Shall this general motion pass? Pass. So this is not an amendment, Mr. Minister, is this?

Mr. Ducharme: No.

Mr. Chairman: So this motion is passed. Go ahead, Mr. Minister.

Mr. Ducharme: Then I have another motion with a concurrence of the Second Opposition Party:

THAT section 78, as proposed in section 8 of the Bill, be amended by striking out the definition "court".

(French version)

Il est proposé que l'article 78, figurant à l'article 8 du projet de loi, soit amendé par la suppression de la définition de "tribunal".

THAT section 78.02, as proposed in section 8 of the Bill, be amended by striking out everything after "section 78.07".

(French version)

Il est proposé que l'article 78.02, figurant à l'article 8 du projet de loi, soit amendé par suppression de tous les termes qui suivent les termes, "l'article 78.07".

That does it. That straightens it all out then.

Mr. Doer: Yes, I would support the amendment. It means now, if you read the Bill, we have an access appeal officer to appeal to the city administrator and then the final appeal to the ombudsman. I suppose anybody could take an appeal to the court of law if there is an error in law but it would make it I think

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much more a citizen-oriented appeal process. We have seen with the recent incident with the Minister of Finance and ombudsman—certainly has a strong power to persuade people to believe in the . . .

Mr. Chairman: Shall this—well, just one moment, please.

* (2350)

Mr. Ducharme: We have about three to do and we are finished, the ones we changed and brought them back. Yes. They are all coming in. Let us wait until they get them all in order and we will be finished.

An Honourable Member: Yes, later on. So everything is in order will be passed.

An Honourable Member: They are not discussing an item after 41.6?

An Honourable Member: No.

An Honourable Member: I will tell you the problem; they should be on here.

Mr. Chairman: I would like to call the committee back to order. We have the amendment to the motion, the amendment that the Minister read out. Is it the will of the committee that we pass the amendment?

Some Honourable Members: Pass.

Mr. Chairman: The amendment to Clause No. 78.02—pass, 78.02 as amended—pass; 78.03(1) had been passed; 78.03(2) is it the will of the committee to pass that one—pass; 78.03(3)—pass; 78.04—pass; 78.05(1)—pass; 78.05(2)—pass; 78.06—pass; 78.07(1)—pass; 78.07(2)—pass; 78.07(3)—pass; 78.07(4)—pass; 78.08(1) was passed earlier. Now we have 78.08(2)—pass; 78.08(3)—pass; 78.08(4)—pass; and then we did 78.08(5) and then we have 78.08(6), I believe those were all passed at one time - (interjection)- no?

An Honourable Member: You have to go right down to nine, I believe.

Mr. Chairman: All right. Section 78.08(6)—pass; 78.09—pass; Subsection 82(1) and 82(2), Clause 9—pass, Clause 10—pass; Clause 11—pass.

Subsection 41(2)—okay. Mr. Rose, your copies have been circulated. Would you be prepared to read out the amendment?

* (2400)

Mr. Rose: Mr. Chairman, I move

THAT subsection 41(2), as proposed in section 3 of the Bill, be amended by adding:

- a) “, by by-law or otherwise,” after “may”.
- b) by deleting “and” after “members”, and substituting a comma; and

- c) by adding “and the procedures pursuant to which the residents advisory group shall operate” after “serve”.

I move this motion with respect to both English and French texts.

Il est proposé que le paragraphe 41(2), figurant à l'article 3 du projet de loi, soit amendé par:

- a) insertion, après le terme “déterminer” des termes “, par arrêté ou autrement,”;
- b) remplacement du terme “et” par une virgule;
- c) adjonction, après le terme “membres”, des termes “et les règles de procédure que le groupe consultatif de citoyens doit observer”.

Mr. Chairman: The amendment has been moved. Is there any discussion to the amendment—Mr. Rose.

Mr. Rose: It is a simple addition to the clause which will allow them to either pass by-laws or procedures or give them permission to do that—

An Honourable Member: In each community committee?

Mr. Rose: In each community committee separately, yes. It is not obligatory to them. I know that some of them already have by-laws so it will not cost them money, but if those who did not desire to have it, there is no use putting in the expense if they can do it in some other form. I think it does, as Mr. Doer said, enhance and gives them more *raison d'être*.

Mr. Ducharme: I do not think it is called a by-law. There has to be another word that is used. I do not think they have the—

Mr. Ernst: Can I ask Legislative Counsel? Given the definitions of by-laws in the Act, is it appropriate in this instance to include “by-law” as the wording. I do not object to the problem. I only see a technical problem if you use the word “by-law.” Perhaps Legislative Counsel can offer—

Mr. Ducharme: Under f, by-law means a by-law of the city, or a section, clause, or provision of a by-law of the city.

Mr. Ernst: Mr. Chairman, then I would suggest to you that this amendment is not in order because a resident advisory group cannot pass a by-law under the definition of “by-laws”.

Mr. Ducharme: Could we substitute the word “regulation” in there?

Mr. Chairman: Could we get legal counsel to check that out and report back?

Mr. Ducharme: No, do it now.

Mr. Doer: I would not like to support Mr. Rose in developing a useful enhancement of resident advisory

groups. I am wondering whether it would not make more sense in us looking at revisiting this part when we are dealing with Bill 61 or Bill 62, and taking a good stab at it.

We will support you in principle for the enhancement rather than worrying about by-laws or whatever else. I think we have probably done enough damage to the wording of the Act, certainly not the principles that we are articulating, but perhaps we can revisit a couple of these things that we have walked away from, because there is other areas that we talked about in other sections of the Act that we are coming back to.

We do not have the same opportunity, given the Minister's request that we pass the Bill for council next week as we would normally have to come back some other night. I think if we put it on the table that we would like to look at this again in Bill 61, Bill 62, that may help the Member for St. Vital (Mr. Rose) who wants to enhance the resident advisory groups. We will support him in that enhancement when he comes back with wording, and perhaps that makes more sense than doing it at midnight tonight.

Mr. Rose: I thank Mr. Ernst for bringing out that flaw in it. I think we could have no problem concurring with that and I appreciate Mr. Doer's comments.

Mr. Ducharme: To the committee. The only one request I have right now is: do they know that the city and the ombudsman have to do it immediately? I want to make sure for the record that they know they are passing it to that effect. Has any further consideration been given to giving three months or six months—six months for them to adopt this particular portion of the Bill?

Mr. Ernst: Mr. Chairperson, I think the Minister is quite correct. To expect all of this to come into force next week is ridiculous. With a new council and new council members, with a multitude of changes in the Act, some of which may be prudent and some which may not be and time will tell, nonetheless there is a major onus on council and all to try and live with this situation.

I think I would be prepared to move a motion that would give them six months to implement these changes.

Mr. Ducharme: Maybe I could tell you what else, because there could possibly be the negotiation of developing a contract with the province to use their Ombudsman. There is that possibility, and that option should be left open to them until they adopt their own.

I think, to be fair to them it might be a good will on our part to say, okay you have six months you can use ours; you have six months to negotiate whether you use ours or whether you adopt your own.

Mr. Ernst: Mr. Chairman, it has been pointed out to me that in the case of the provincial Government it took three years to proclaim The Freedom of Information Act here. Given the state—as prescribed by people who appeared here last evening—the state of the city's records, and all other things considered,

I suspect that 12 months might be a more appropriate amount than six.

I do not think anybody is concerned about the intent of implementing these laws. I think committee has passed them, and I am sure the House will adopt them and they will be proclaimed on Friday, hopefully. To give them an opportunity administratively, politically to hire people—to put an archivist, for instance, into place in order to bring those records, and so on, into some kind of semblance of order, where in fact somebody is not frustrated simply by saying, well you passed the law, do it. I physically cannot do it, because we do not have it in place. We do not have the archivist there. We do not have the records pulled together.

I think logistically, reasonably, if they were given that 12 month period to put it into place, everybody knows it is coming, they have lived this long without it, 12 more months to put it into place properly so it functions properly, and the citizen who comes to make application under those things is not totally frustrated by his application, because physically, practically, they are not ready to deal with it, is not an unreasonable situation, Mr. Chairman. If Legislative Counsel would draft an amendment appropriately to deal with that I would be prepared to move it.

Mr. Doer: Before they draft it maybe we should - (interjection)- I agree there should be a provision for the city, for the ombudsman particularly.

Mr. Chairman: Okay, we have a motion on the floor which has to be retracted first, which was, Mr. Rose made a motion of amendment to Section 41(2), and I would wish that Mr. Rose would, at this point in time, withdraw that motion.

Mr. Rose: I would like to withdraw my amendment of subsection 41(2) as proposed in section 3 of this Bill.

Mr. Chairman: Is that the will of the committee? (Agreed) Clause 41(2), is it the will of the committee to pass 41(2)—pass.

Now, I would like to draw your attention to the Act which we passed, which states in 16(2), which says, effective on November 7, and I believe that—Mr. Doer.

Mr. Doer: We can talk about the drafting. I agree that there has to be a period of time to allow the city to set the by-law for the ombudsman and to go about the hiring. I am hoping that the city, quite frankly, has a separate ombudsman, not the provincial Ombudsman.

* (0010)

I will give my bias right away. I think it would be a mistake, and I say this to the Minister and the Government to have an already overworked Ombudsman who cannot even deal with some of the issues in the Crown corporations have another responsibility I think it would be not consistent with the Cherniack recommendation and therefore the public presentations that were made.

I think the Access to Information issue, the city did pass a bylaw in 1985—it was three or four years ago—

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and they have been working the three or four years to develop their records.

I did quote Alan Artibise yesterday, but I suggest that it does take about three or four years before you can have an Act and get the records in as reasonable a shape as possible to provide them.

The city passed the by-law three or four years ago, so I would go with a six month—and I think that is on the outside—provision for the enactment of the Ombudsman's Office which includes the by-law and the office, but a year I think would be inconsistent with the move to open up City Hall and let the wind blow through the windows.

Mr. Ducharme: I have been informed that they did not pass a by-law. They had the information that they had three years ago, but no by-law was passed. They did not have the authority to approve a by—

An Honourable Member: They made a recommendation though.

Mr. Ducharme: I know, but they did not approve a by-law three years ago. They had all the recommendations, a lot of them done, but they did not pass the by-law.- (interjection)-

I was on the committee when we did do the information for the by-law. However, I am not quite sure now whether what we passed and what we did three years ago will conform with this particular legislation. So I am just saying -(interjection)- but there was no by-law approved.

Mr. Doer: It will not conform, because the by-law that you passed and the recommendation you made to the final appeal mechanism was to the board of commissioners, as you will recall, so you had freedom of information up to the board of commissioners.- (interjection)- Yes, that is right.

So no it does not conform, because this is a more open process, but the storage documents, which is the key, and the cataloging of documents is going to take a long time, I know. We are looking for a consensus now. We agree that there should be some time perhaps rather than just a "shall," whether it is three months or six months, we are open, but I think a year is too long.

An Honourable Member: Nine months.

Mr. Doer: What about six months, what do you think?

Mr. Chairman: I will have to ask for your patience for a few minutes. We are checking out a few things, legal council is checking out a few things for us and will report back to us very shortly.

Mr. Ducharme: First of all, I want to thank you all for your patience, and deliberations, and I will read the last.

THAT section 16 of the Bill be amended

(a) in subsection (1) by striking out "1, 4, 5 and 8" and substituting "1 and 5";

(b) in subsection (4) by adding "4", after "Sections";

(c) by adding the following after subsection (4):

Effective date of section 8

16(5) Section 8 comes into force 12 months after royal assent.

(French version)

Il est proposé que l'article 16 du projet de loi soit modifié par:

a) remplacement, au paragraphe (1), des termes "1, 4, 5 et 8" par "1 et 5";

b) adjonction, au paragraphe (4), du terme "4" après le terme "articles";

c) adjonction, après le paragraphe (4), de ce qui suit:

Entrée en vigueur de l'article 8

16(5) L'article 8 entre en vigueur 12 mois après la sanction du projet de loi.

So that changes those three parts of the Act.

Mr. Chairman: You have heard the amendment read by the Minister. Is there any discussion in respect to the amendment? Is it the will of the committee to pass the amendment as presented in English and in French—pass. Is it the will of the committee to pass 16 as amended—pass.- (interjection)-

Order, please. Shall the preamble be passed—pass. Shall the title be passed—pass. Shall the Bill be reported as amended—is it the will of the committee that they report the Bill as amended—pass. Committee rise.

COMMITTEE ROSE AT: 12:17 a.m.

**WRITTEN SUBMISSION PRESENTED
BUT NOT READ**

Brief presented by Association of Senior Emergency Medical Services Officers

Presented by Mr. C. Bruce-Smith, President.

Dear Ms. Greschuk:

**RE: BILL 32—THE CITY OF
WINNIPEG AMENDMENT ACT**

The Association of Senior Emergency Medical Service Officers, by means of this letter, wish to convey to the Law Amendment Committee that they are in complete support of Section 75.2 of The City of Winnipeg Amendment Act, that will allow for the merger of all City Pension Plans, other than the Police Pension Plan.

The agreement to merge all of the City Pension Plans was achieved after comprehensive negotiations between the city and all of the various unions and associations.

It is our view that the merger of the pension plans is a good agreement, in that it is beneficial to the city

Wednesday, November 1, 1989

and it provides improved benefits to all pensioners and employees.

The merger of the pension plans has been ratified by City Council, all of the various unions and associations and all of the existing pension boards and committees.

We trust that the required amendment to The City of Winnipeg Act will be passed so that the long awaited merger of the pension plans will be able to proceed.

Brief presented by Winnipeg Association of Public Service Officers

Presented by Mr. J. Stafford, 1st Vice President

Dear Ms. Greschuk:

RE: BILL 32—THE CITY OF WINNIPEG AMENDMENT ACT

The Winnipeg Association of Public Service Officers, by means of this letter, wish to convey to the Law Amendments Committee that they are in complete support of Section 75.2 of The City of Winnipeg Amendment Act, that will allow for the merger of all City Pension Plans, other than the Police Pension Plan.

The agreement to merge all of the City Pension Plans was achieved after comprehensive negotiations between the city and all of the various unions and associations.

It is our view that the merger of the pension plans is a good agreement, in that it is beneficial to the city and it provides improved benefits to all pensioners and employees.

The merger of the pension plans has been ratified by City Council, all of the various unions and associations, and all of the existing pension boards and committees.

We trust that the required amendment to The City of Winnipeg Act will be passed so that the long awaited merger of the pension plans will be able to proceed.

Brief presented by United Fire Fighters of Winnipeg, Local 867, International Association of Fire Fighters

Presented by Mr. Dennis H. Lloyd

Dear Ms. Greschuk:

RE: BILL 32—THE CITY OF WINNIPEG AMENDMENT ACT

The United Fire Fighters of Winnipeg, Local 867, by means of this letter, wish to convey to the Law Amendments Committee that they are in complete support of Section 75.2 of The City of Winnipeg Amendment Act, that will allow for the merger of all City Pension Plans, other than the Police Pension Plan.

The agreement to merge all of the City Pension Plans was achieved after comprehensive negotiations between the city and all of the various unions and associations.

It is our view that the merger of the pension plans is a good agreement, in that it is beneficial to the city

and it provides improved benefits to all pensioners and employees.

The merger of the pension plans has been ratified by City Council, all of the various unions and associations and all of the existing pension boards and committees.

We trust that the required amendment to The City of Winnipeg Act will be passed so that the long awaited merger of the pension plans will be able to proceed.

Brief presented by Amalgamated Transit Union Local 1505

Presented by Mr. Harry H. Claydon, President and Business Agent

Dear Ms. Greschuk:

RE: BILL 32—THE CITY OF WINNIPEG AMENDMENT ACT

The Amalgamated Transit Union, Local 1505, by means of this letter, wish to convey to the Law Amendments Committee that we are in complete support of Section 75.2 of The City of Winnipeg Amendment Act, that will allow for the merger of all City Pension Plans, other than the Police Pension Plan.

The agreement to merge all of the City Pension Plans was achieved after comprehensive negotiations between the city and all of the various unions and associations.

It is our view that the merger of the pension plans is a good agreement, in that it is beneficial to the city and it provides improved benefits to all pensioners and employees.

The merger of the pension plans has been ratified by City Council, all of the various unions and associations and all of the existing pension boards and committees.

We trust that the required amendment to The City of Winnipeg Act will be passed so that the long awaited merger of the pension plans will be able to proceed.

Brief presented by International Association of Machinists and Aerospace Workers, Local 2589

Presented by D. Ross, President

Dear Ms. Greschuk:

RE: BILL 32—THE CITY OF WINNIPEG AMENDMENT ACT

The International Association of Machinists and Aerospace Workers, Local 2589, by means of this letter, wish to convey to the Law Amendments Committee that they are in complete support of Section 75.2 of The City of Winnipeg Amendment Act, that will allow for the merger of all City Pension Plans, other than the Police Pension Plan.

The agreement to merge all of the City Pension Plans was achieved after comprehensive negotiations between the city and all of the various unions and associations.

It is our view that the merger of the pension plans is a good agreement, in that it is beneficial to the city

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and it provided improved benefits to all pensioners and employees.

The merger of the pension plans has been ratified by City Council, all of the various unions and associations and all of the existing pension boards and committees.

We trust that the required amendment to The City of Winnipeg Act will be passed so that the long awaited merger of the pension plans will be able to proceed.

Brief presented by Local 500 Canadian Union of Public Employees

Presented by Ed Blackman, President, CUPE Local 500

Dear Ms. Greschuk:

RE: BILL 32—THE CITY OF WINNIPEG AMENDMENT ACT

The writer is President of Local 500 of the Canadian Union of Public Employees, which has approximately 6,000 members who are employees of the City of Winnipeg. On behalf of those members I wish to express our support for Section 75.2 of the City of Winnipeg Amendment Act, allowing the merger of all City Pension Plans, other than the Police Pension Plan. This amalgamation was ratified by our members during Local 500's last round of collective bargaining with the city in 1988, following a long period of very complex negotiations.

The proposed merger not only provides for improvements to pensions for city employees but is also a good deal for taxpayers in that it allows for the utilization of surplus funds to extinguish liabilities which would otherwise have to be provided through taxes.

We submit that the required amendments to The City of Winnipeg Act deserve the support of Law Amendments Committee.

Brief presented by Manitoba Home Builders' Association

Presented by Bryan Fenske, President

Dear Mr. Minister:

On behalf of the Manitoba Home Builders' Association, I want to commend you on your forward thinking approach to the City of Winnipeg as demonstrated in the proposed Bill 32—The City of Winnipeg Amendment Act. Our Association concurs with the steps taken to improve the office of the mayor and strengthen the role of City Council. Also, we agree with the proposals to provide more accountability and less conflict.

Initially, our Association was going to refrain from making any formal presentation to the legislative committee dealing with Bill 32. However, recent media reports since the committee hearings have started are of concern to us. For example, the proposal to give absolute authority to the Community Committee on issues such as variances, without appeal to City Council are, in our opinion, unrealistic and unworkable. Therefore, we urge you to consider passing the portion of Bill 32 dealing the powers of the mayor and delay passages of other sections which may have an impact on housing in our city.

In the interim, our Association would like the opportunity to review draft legislation and make comment.

We appreciate your co-operation in this matter.