



Third Session - Thirty-Fifth Legislature  
of the  
**Legislative Assembly of Manitoba**

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**STANDING COMMITTEE**

on

**MUNICIPAL AFFAIRS**

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39-40 Elizabeth II

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*Chairperson  
Mr. Bob Rose  
Constituency of Turtle Mountain*



**VOL. XLI No. 8 - 7 p.m., TUESDAY, JUNE 23, 1992**



**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Fifth Legislature**

Members, Constituencies and Political Affiliation

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NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	Liberal
ASHTON, Steve	Thompson	NDP
BARRETT, Becky	Wellington	NDP
CARSTAIRS, Sharon	River Heights	Liberal
CERILLI, Marianne	Radisson	NDP
CHEEMA, Gulzar	The Maples	Liberal
CHOMIAK, Dave	Kildonan	NDP
CONNERY, Edward	Portage la Prairie	PC
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	NDP
DOER, Gary	Concordia	NDP
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	Liberal
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Clif	Interlake	NDP
EVANS, Leonard S.	Brandon East	NDP
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
FRIESEN, Jean	Wolseley	NDP
GAUDRY, Neil	St. Boniface	Liberal
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
HARPER, Elijah	Rupertstrand	NDP
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	NDP
LAMOUREUX, Kevin	Inkster	Liberal
LATHLIN, Oscar	The Pas	NDP
LAURENDEAU, Marcel	St. Norbert	PC
MALOWAY, Jim	Elmwood	NDP
MANNESSE, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	NDP
McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda, Hon.	Assiniboia	PC
MITCHELSON, Bonnie, Hon.	River East	PC
NEUFELD, Harold	Rossmere	PC
ORCHARD, Donald, Hon.	Pembina	PC
PENNER, Jack	Emerson	PC
PLOHMAN, John	Dauphin	NDP
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	NDP
REIMER, Jack	Niakwa	PC
RENDER, Shirley	St. Vital	PC
ROCAN, Denis, Hon.	Gladstone	PC
ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	NDP
STEFANSON, Eric, Hon.	Kirkfield Park	PC
STORIE, Jerry	Flin Flon	NDP
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary, Hon.	Fort Garry	PC
WASYLYCIA-LEIS, Judy	St. Johns	NDP
WOWCHUK, Rosann	Swan River	NDP

**LEGISLATIVE ASSEMBLY OF MANITOBA  
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS**

**Tuesday, June 23, 1992**

**TIME – 7 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Bob Rose (Turtle Mountain)**

**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Cummings, Derkach, Driedger, Enns, Findlay

Ms. Cerilli, Messrs. Edwards, Gaudry, Rose, Sveinson, Ms. Wowchuk

**Substitutions:**

Mr. Plohman for Ms. Cerilli (2016)

Ms. Cerilli for Ms. Wowchuk (2115)

Hon. Mrs. Mitchelson for Hon. Mr. Enns (0030)

Hon. Mr. Orchard for Hon. Mr. Cummings (0030)

Hon. Mr. Manness for Hon. Mr. Derkach (0030)

Ms. Wasylycia-Leis for Ms. Wowchuk (0037)

**APPEARING:**

Reg Alcock, MLA for Osborne

Gulzar Cheema, MLA for The Maples

Kevin Lamoureux, MLA for Inkster

John Plohman, MLA for Dauphin

Daryl Reid, MLA for Transcona

Jerry Storie, MLA for Flin Flon

Judy Wasylycia-Leis, MLA for St. Johns

Gordon Carnegie, Legislative Counsel

**WITNESSES:**

Bill 20–The Municipal Assessment Amendment Act:

Michael J. Mercury, Q.C., Private Citizen

Bill 96–The Special Operating Agencies Financing Authority Act

Peter Olfert, President, Manitoba Government Employees Association

**WRITTEN SUBMISSION:**

Bill 82–The Farm Practices Protection and Consequential Amendments Act

Mr. Earl Geddes, Keystone Agricultural Producers Inc.

**MATTERS UNDER DISCUSSION:**

Bill 20–The Municipal Assessment Amendment Act

Bill 34–The Surveys Amendment Act

Bill 49–The Environment Amendment Act

Bill 79–The Highways Protection and Consequential Amendments Act

Bill 82–The Farm Practices Protection and Consequential Amendments Act

Bill 93–The Mental Health Amendment Act

Bill 96–The Special Operating Agencies Financing Authority Act

Bill 98–The Manitoba Multiculturalism Act

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**Mr. Chairperson:** Will the Standing Committee on Municipal Affairs please come to order? At the time of recess, we had just completed the presentation by Mr. Alfred Poetker.

The other name on the list is Mr. Earl Geddes, Keystone Agricultural Producers Inc. Is anyone here to make a presentation on behalf of Keystone? Okay, my understanding is, they are not here and the written presentation has been distributed.

Are there any other presenters on Bill 82? That completes then the public presentations on Bill 82. We will now–[interjection] Having completed presentations on Bill 82, I will, by agreement, revert to Bill 20, The Municipal Assessment Amendment Act.

\* (1930)

### Bill 20—The Municipal Assessment Amendment Act

**Mr. Chairperson:** I understand, Mr. Michael Mercury was in the middle of his presentation when we recessed yesterday. If Mr. Mercury is here, would he please come forward? It is my understanding that your presentation has been completed and we are in the process of questions and discussions. Is that correct?

**Mr. Michael Mercury, Q.C. (Private Citizen):** That is correct, Mr. Chairperson.

**Mr. Chairperson:** Thank you. Are there any questions or comments for Mr. Mercury?

**Hon. Leonard Derkach (Minister of Rural Development):** Thank you for returning, Mr. Mercury. We had an opportunity to ask you a few questions yesterday, but I think there were more questions of you. I have just one or two more.

First of all, would you agree that, apart from the concerns that you have expressed regarding the reference year used in the transition period, do you envision, from the way that the legislation has been presented, any problems in terms of the future where assessments will be based on values as of the reference year only two years earlier, between the reference year and the year of assessment?

**Mr. Mercury:** Mr. Chairperson, in answer to that statement, I do not see any problems with having a reference year which is two years earlier than the year of assessment, but with one very serious and important caveat. That is, that there must be, as there always has been, a right to appeal an inequity which exists at any time, for any reason, and that a taxpayer should have the right to come to an administrative tribunal and have the right to obtain relief where the circumstances warrant.

I do not have any problems, as I said earlier, with the concept of the reference year. I do not have any problems with a two-year delay. But I do have a serious problem when you couple that and make it an either/or situation, when you say that there is no interim relief where circumstances warrant. That I cannot buy. I do not think there is any jurisdiction in this country, of which I am aware, that denies that taxpayer's right, e.g. as a two-way homeowner.

As a matter of fact, you must have a reference year. You must have a reference year because, if you are going to have equal assessments for the

purposes of grants, you must relate a common denominator to all municipalities in Manitoba.

But that is not what we are talking about. The assessor, having done his job and having done what he thought is right, it then remains open to the administrative tribunal to determine whether an assessment is equitable. It is always equitable in the year of assessment and taxation because the purpose, as I said earlier, of municipal assessment and taxation is to distribute equitably the fiscal-tax load amongst the fiscal taxpayers in accordance with fiscal values.

I do not know if I have answered your question fully, Mr. Minister. I agree that the closer you get to the d-date, the better it is, because by doing that you eliminate all sorts of appeals and people are a little bit more informed as to what the situation truly is. I am not concerned about that.

I might add one thing. You have given the homeowner the right to redress an inequity. I have heard it said, certainly amongst the bureaucrats in this room and others, that that would open up a floodgate. That is absolutely hogwash, because with all these rights given to the homeowner we have not had a floodgate.

**Mr. Derkach:** Mr. Mercury, I was not present in the debate on Bill 79, but I can tell you that, from the comments that I see made by all parties at that time, the amendment to give homeowners the right to appeal for external factors was introduced and was unanimously agreed to by all parties.

It was also unanimously agreed that that privilege should not be extended beyond the homeowners, as I understand it.

**Mr. Mercury:** Mr. Minister, that amendment came about not with my concurrence or with other presenters present. You will remember that when Bill 79 was debated, I think it was in December of 1989, myself and Mr. Ross Nugent, a very eminent counsel, were questioning the wisdom and the denial of natural justice by eliminating the right of appeal.

When I got into a heated debate with the minister, Mr. Penner, who said there was a right of appeal and I said there was not—and I have been proven right through the courts—obviously there was some political motivation. The government, of course, was in the minority position and there was a lot of give-and-take over the Christmas holiday season. We were not called to that debate.

Suddenly, I found after January 10 that the government had enacted a bill, 79, retroactive to January 1, and obviously had made this concession to the homeowner. That certainly was not done with my concurrence or my agreement, of course not. As a private citizen, I was not consulted about that.

I think that was patently a political decision that the government made. Now, the government gives, the government takes, blessed be the name of the government. It is said a little differently in Scripture. But the lord justices of the Court of Appeal did not see it that way.

They saw a blatant discrimination which was political, and Miss Dianne Flood, who is sitting in this room, said it very clearly then, that the intention was just to give the homeowner the break and not the businessman and the farmer. I say to you, we have got three cases that I was involved in where that has caused a lot of harm. That does not help Olha Farms; it does not help farmers; it does not help Campbell Soup; it does not help Tupperware; it does not help Canada Packers; it does not help Wescott Fashions; it does not help merchants on the south side of Portage Avenue.

So I say, look, this is a government that is supposed to support business, you are very sensitive to that. Personally, I like to work with you. I like to be sitting on your left-hand side giving advice on this, if I could, and work with you—there are others in our profession who would like to work with you—because I think if you made the correction that I am submitting that would stimulate the economy and business.

You heard Mr. Klym who represents Canadian Property Tax Association. Well, all these corporations who do business in Manitoba come to that conclusion that this type of legislation is not sending the correct message. The legislation has been tested by the courts. It has not been favourable to the business community.

I am simply saying as a private citizen, you have to wake up to the fact that this is bad. It was enacted in good faith, but it has now proven to be wrong. So I am saying to you, please, for the sake of Manitoba business people and, please, for the sake of the farmers, change it, because there is no harm to be done in changing it.

I ask you what is the down side? I cannot see it. The only down side that I see is that the administration will find that it will have to spend

maybe a little bit more time trying to defend, in some cases, what I think are inequitable assessments. So be it. The laws are here not to convenience administrators, the law is here to do what is right for the taxpaying public.

**Mr. John Plohman (Dauphin):** Mr. Mercury, have you or your staff come across any reason why the reassessment year should be postponed by a year in your dealings and discussions with government officials or anyone else?

**Mr. Mercury:** I have been told—and I have not really cross-examined the administration in here or others down at 65 Garry Street—that it is market value assessment, it always was market value assessment. The fact of the matter is we never had judicial interpretation of the law. It always was, in my opinion, market value assessment. Now that they are assessing hotels on the basis of income and they are assessing apartment blocks and shopping centres on the basis of income, which capitalize the income before some market, they need a little bit more time. That is what they say.

I cannot comment on that. As I said earlier, Mr. Plohman, to the minister and to the members of this panel, I personally have no objection to a reference year being postponed one year, provided Campbell's Soup, Olha Farms and all these taxpayers who are seeking relief, can at the same time obtain relief, because that is an injustice.

\* (1940)

So to convenience the bureaucrat on one hand, you are putting on the other side the injustice being perpetrated on certain taxpayers, and it has to continue for another year.

Well, do you want to pay the taxes? Does the government of Manitoba want to pay the taxes that these people are wrongly paying? Do they want to absolve them of those taxes? If they want to do that, that is fine. So I am saying I have no problem personally with a postponement of the reference year for one year, provided there is right to relief, and it should be retroactive.

**Mr. Plohman:** That is the ultimate and that is what you feel would reflect justice, but in the absence of that, if the government chooses not to do that, then you are also objecting to the postponement for the year.

**Mr. Mercury:** Absolutely.

**Mr. Plohman:** The minister uses, continually, when he speaks about this—as the transition period, and that ultimately it will be every three years with the reference year being two years prior to the assessment year. Do you believe that—well, maybe it is not a fair question as to whether this transition period is over. It is my feeling that it is with Bill 79, and that now we are entering a new phase and rather than postponing we should get on with it. The transition is over. Do you think it should be over?

**Mr. Mercury:** I think it should be over. If you have a law in place which is fair and equitable, it is over. Mr. Plohman, may I answer your question in this respect? The old saying is the road to hell is paved with good intentions. Let me tell you my experience, being in the assessment field for some time.

In 1966 the city assessor took it upon himself—no, there was a reassessment done in '62—but in 1966 the city assessor for the City of Winnipeg took it upon himself to increase the land assessments on the north side of Portage Avenue from Colony down to Carlton Street by 25 percent to 40 percent, so-called—to keep them in line. These were appealed up and down to the Municipal Board and into the courts for several years, and every time we got the assessor on the witness stand, he kept saying to the Board of Revision or to the Municipal Board, the city assessor, look, he kept saying, we are required by law to do this every three years. We are just getting our act in shape. Do not you—members of the panel, the Municipal Board, the Board of Revision—touch this assessment; we will straighten it out. Trust us.

That went on until about 1970, when they had not done anything, but the Municipal Board did reduce those assessments back to a '62 level. By 1978, after all these promises had been made, things still had not changed and they had not done a reassessment. I asked myself, why not? That is why we had these gross distortions in downtown Winnipeg. You look at downtown Winnipeg. It was a mess because they did not do it. But the law said they had to do it, so in 1978, when we took action again against the City, they passed retroactive legislation. Now, you thought that they would keep doing it.

Now, in 1984, an action again was brought by Portage Avenue property merchants. They proceeded, and Mr. Dennis Dyck, who was the chief witness, who is now the acting city assessor, was

on the witness stand and kept pleading with the Municipal Board, do not touch the assessment; we are about to do a reassessment. They kept saying that and it was in a sense an intimidation tactic against the members of the Municipal Board. Anyway, the Municipal Board did do justice in spite of the admonitions given to them by the acting senior assessor, and as a result justice was done.

Well, we waited next year and the next year and the assessments were not done. So what happened? There was a deacon of the Anglican church, St. John's Cathedral, phoned me one day and said, you have got equity for the Portage Avenue property owners, and they can afford expensive lawyers and accountants and appraisers. But what about the little guy who is in the Logan area, whose taxes are \$1,000 when they should be \$500? Can they go and afford to retain high-priced counsel to just maybe save \$500 in taxes? What can they do? And we said the only thing they can do is to get an order or a writ of mandamus and order the assessor to do a statutory duty under penalty of jail. That is what it came to.

So that takes a lot of initiative, but throughout that period of time, Mr. Plohman, there always was a right, even though there had been a reference year, there always was the right for an individual taxpayer to redress an inequity as of the year of assessment of taxation. That right was taken away by Bill 79. It was given to the homeowner. It must be restored to the businessman, and it must be restored to the farmer.

**Mr. Plohman:** Thank you, Mr. Mercury. Did you have the opportunity to represent people under appeal provision 13(1)(b)(vii), external factors for homeowners?

**Mr. Mercury:** No.

**Mr. Plohman:** So you are not aware then of the number of times that provision, at least from your own experience, has been used?

**Mr. Mercury:** I have not.

**Mr. Plohman:** I would like to ask you about your references to the cases you have had. You have had some, I believe, a number of cases, the Olha Farms case. You mentioned Campbell Soup, you mentioned Tupperware. I do not know if you were the counsel in all of those, but you mentioned those.

In most cases, you are talking about closed businesses in terms of the resale and the potential

for them to be sold and opened again and creating jobs and economic activity in an area. So there is a significant aspect to this whole issue. It seems the most spectacular cases you have talked about are on closed businesses. Would you agree with that?

**Mr. Mercury:** That is correct.

**Mr. Plohman:** Would you think that it would be a substantial step forward—not what you are asking for. I do not know whether the government intends to do that, they have a majority and they can decide that—but would it be a substantial step forward if there was some provision that would deal with the issue as it applies to businesses that have closed for whatever reason?

**Mr. Mercury:** No, I do not agree with that, Mr. Plohman, and I will tell you why. The government should try to encourage business to stay open. You may have a business where the plant is old, the equipment is old and it is operating somewhat inefficiently. That plant, an old plant, an inefficient plant, is not worth the same amount as a new plant. I think Mr. Klym made reference to that. But that plant owner, his plant is not worth as much because of, it could be a lot of factors, but the factor called functional obsolescence.

Functional obsolescence means that your plant is inefficient because there is new technology that has come in, other plants are much more efficient. People are prepared to build a plant half the size, put modern equipment in there and the assessment is equal or less. It is much more productive, and they are prepared to pay more for that than your inefficient plant.

\* (1950)

If that plant is inefficient, and it can be demonstrated as not being worth what it is, but it still is employing people, then that plant owner whose plant is suffering from functional obsolescence should be entitled. He is not now, today, under the legislation to go to the administrative tribunal and prove his case. If he proves his case that the value has depreciated because of the change in the art, the design and so forth, then he would be entitled to a measure of relief. If he gets that relief, his plant stays open and he employs people. The town is happy and there is a payroll which is being met and things are going on. He is hobbling on one leg, but at least he is hobbling. He is not crippled; he is not paralyzed in a chair.

His alternative is to close the plant. Then, of course, that spells hardship for the community and the employees and so forth. So I am saying, yes, encourage your inefficient plants to stay open, because the alternative is somewhat more serious, but do as you have in the past, through the administrative process, the judicial process, grant him some relief if the circumstances warrant.

Tell you something about one plant, the Campbell Soup plant. It came out in evidence that, when the plant opened in 1960, you could can 100 cans of soup in a minute. Because of recent technological changes, you can now can 1,000 cans in a minute. That plant, as the evidence disclosed, could be closed, and the production could be handled out of Toronto with the new technology, a much older plant with new technology, and now even the Toronto plant is at 60 percent capacity.

Now, if you had a system in place—I am not saying it could have happened to Campbell Soup or Tupperware, but if you had a system in place that said, look, we will give you some relief on this tax. I mean you have assessed your plant at \$7.5 million. We know you cannot get \$1 million for it. If you had some sort of relief, that plant could be used, maybe, for soup purposes or an alternative purpose and it would employ people. You have to give that relief, because that building, which was a single-purpose building, designed in a special way, now obsolete, is not worth as much.

So I am saying to you, you cannot have it at an either/or close or no-close situation. You have to restore the law to where it was, and let the administrative tribunal determine whether or not value has dropped for whatever reason. If it is justified and it is inequitable relative to other properties in the municipality, then that person, because of a drop in value, should be entitled to a measure of relief.

**Mr. Plohman:** Yes, Mr. Chairperson, I would submit, though, to Mr. Mercury that this obsolescence aspect could be dealt with at the time of a new general reassessment. If it is done in a timely way, it would deal with that issue—would it not?—in the same way an appeal would.

**Mr. Mercury:** Mr. Plohman, my answer to that is no. Why? Number 1, there is no guarantee of a reassessment. Here you had this reformed legislation. Bill 79 came in, and we said, well, it is

going to be 1993. Now we hear there is an excuse; for whatever reason, it is going to be 1994.

**Mr. Plohman:** I understand that you—and I am not asking this. God knows, I cannot ask you trick questions that you would not figure out. You are saying that, if you cannot have it all, you do not want any of it. So you do not want to deal with a closed business, closed situations, where you represent clients who have been unable to sell because of the high assessment, one of the factors.

I asked you whether provision in dealing with that issue would be helpful, you said no. So you are saying, go for it all and make sure you have an appeal mechanism that is open for all businesses, farmers, and just as it is for homeowners. If you cannot get that, do not go halfway. Am I reading you right on that?

**Mr. Mercury:** I am saying, Mr. Plohman, yes, in a sense you are reading me right because I am for good law, and that is not good law. That is bad law, and I cannot for the life of me see the down side on what I am suggesting.

**Mr. Plohman:** You cannot see the down side. The government is going to have to decide that, and what you have said is that you have been told what the down side is but you do not believe it, and that is that the courts would be jammed with appeals. You do not think that is going to happen. So you have heard the down side, but you do not believe it is a realistic conclusion.

**Mr. Mercury:** Well, Mr. Plohman, my experience is, and I have had a considerable experience before the boards of revision in seeing how they are handling this, the majority of the appeals that come forward have been, let us say, from homeowners who drop them once they see they are equitably assessed.

That is not the problem, and I do not believe that there is a floodgate. If there was a backlog of assessment appeals it was because we never had a reassessment since 1962. So if you bring your assessments closer to line and keep them more or less current you are not going to have the so-called appeals. Those are bogus issues, Mr. Plohman, and if I were sitting in your seat and if I were in the minister's seat, I would be asking for a fair and just law so that the business community and the professional community have faith and confidence in the integrity of the law. I cannot see the down side in having an administrative tribunal do that which it

has been doing in the past, and that is doing equity and justice as the circumstances warrant dealing with the facts in issue.

**Mr. Plohman:** I think you started your presentation by saying that we must attempt to ensure that the interest of the individual is put paramount when we are making laws, and I guess that is what I come back to. I guess that is what we want to do, but at the same time we have to also ensure that it is administratively possible. That is something the minister is going to have to, I guess, answer from his staff as to whether there is some reason why it was difficult to do and why it should not be done. Maybe sometimes there have to be reasonable limits put on what is fair and right for the individual, because that has to be balanced with the ability to actually implement that kind of a system. Do you see any impediment at all as to why this cannot be done?

**Mr. Mercury:** I see absolutely no reason why this cannot be done. It is done elsewhere. What is so abhorrent under heaven than to have a person who complains that his assessment this year is too high for reasons which he wants to explain and to get justice this year? I cannot see why we are mixing the functions of the administrative tribunal, which is out to do justice as the circumstances exist at the time, with the assessor's function. The assessor has one function. Let him do his thing. I do not care what he does. If he wants to do his reference year as of 1985, 1990, 1991, or does he want to postpone it to 1998? I do not care. When he does this function, does his work, that is the end of it.

But that is not the end of it. As far as he is concerned, that is the end of it. If you understand the assessment system, that is the end of it. Then the judicial system comes into play, and then we examine whether or not, in a specific case and a marginal case, is there fairness?

In most cases, 99.9 percent of the cases, there is fairness. I am just talking about that marginal 1 percent or 2 percent of the cases where you do have hardship. That is why we have courts; that is why we have administrative tribunals to deal with marginal situations. That is not what I am talking about is the marginal situation, which can for some be very drastic and serious.

I was not present when Mr. Perrin made his presentation, but I know his situation. That is a drastic, that is a sad case. Now, even if you have



one case like that and if you could have prevented it, why not? So why not prevent a situation where you victimize a man? What sort of message are we sending to the business community? Are we, as Manitobans, confident this is fair? That is not fair.

**Mr. Plohman:** One last question, you said that we should encourage businesses to stay open and that reducing their assessment would do that. Yet the people that presented, that own businesses, I gathered felt that would not be an overriding and determining factor in their decision, whether they were going to close an obsolete plant or not, or whether it is uneconomic because of changing economic circumstances, because of free trade or whatever else may be a factor.

Harold wants to get on the issue right away, too. I just want to put to you, whether you believe that this could also lead to encouraging the closure of plants. For example, I know of a situation where a chain food store wants to close its operation on a particular site, and they do not want to sell that to anyone, because they do not want another competitor coming onto that site.

So what in fact they will do, if this law was in place, they could close down and have, in anticipation, the assessment dropped drastically, so they would not have to pay those high taxes. All it would do is facilitate the closure, with no incumbency upon them to sell it to any competitor for another use. I wonder whether you have thought about that side of it as well.

**Mr. Mercury:** I have, Mr. Plohman. Let me answer that question by saying that is a bogus argument. I will tell you why that is a bogus argument. That is another scare argument that somebody has been spreading around, because I will tell you what happens in the real world.

\* (2000)

What happens in the real world, when a plant decides to close, is that they will put up that plant—they will try to market it. They would want to maximize the recovery. They have to close for certain reasons. They close, they want to maximize the recovery. What they are going to do is—and they are not going to get a reduction in assessment just because they have closed it. That does not happen in the real world.

What happens is that they will put the plant up for sale in due course. They will flog it all over the world, if it is a world type of company or if it is a local

plant, and they will really try to sell it. Then a year, two years will go by, the assessors are watching this to see whether they are really making an effort to sell the plant and get the value they want. After two or three years, it may go before a board of revision or a municipal board. After two or three years, the municipal board will say yes, these people really had to close this plant. They have tried to sell the plant, and they have really tested the market. The market has dropped.

So people are not closing plants and being encouraged to close plants because they are going to get an instant reduction in assessment. The assessor in Manitoba does not give you an instant reduction the moment you close the doors.

He says, we have a policy. We wait for one, maybe two years, sometimes three years to determine whether or not that drop in value is a bona fide drop in value, or is it just a blurb? There is a reasonable, a respectable period of time that goes by before they are going to get any relief. The Municipal Board of Manitoba and the boards of revision are not going to give you instant relief. They also know, what we call in law, there is an inarticulate major premise. That is, these people, who sit on the boards of revision, are members of town council, and they are not going to let plants get away with things like that, because they know that their budgets have been set and there will be a disaster.

If you have been where I have been, acting for the taxpayer, you will know that behind that member, who is sitting as a judge, in his mind is, what is going to happen to the taxes next year? We are not going to do it. We are going to have a little bit of lead time. Municipal boards and boards of revision do not act impulsively as the question suggests. People do not close because of that. They do not close their plants because they know they are going to get an instant reduction.

I will tell you when you get an instant reduction. If you close your plant and get a demolition permit and demolish it, then you will get an instant reduction.

**Mr. Chalrperson:** Are there any further questions or comments for the presenter?

**Mr. Derkach:** Mr. Mercury, I listened to your last answer with some interest, because you said that no company will get tax relief instantly, that it will take two or three years to get that relief. Well, in the bill, Bill 79, that is precisely the cycle of

reassessment. We will have reassessment every three years, which means—[interjection] yes, in the transitional period and we have all agreed with that. We have all agreed that will not happen every three years in this transition period, Mr. Plohman. If you are doing reassessment, once we get into the regular cycle, every three years, then before there could be any tax relief, that building would be reassessed anyway. Is that not correct? Just rephrasing your answer.

**Mr. Mercury:** Mr. Minister, I suppose, technically speaking, you may be correct if I accepted all your assumptions, which I do not accept all your assumptions.

That may be true if a lot of things take place. If we are talking about the big plant closure, that may be true. What happens—I am not talking Campbell Soup or Tupperware, which are rather large plants. What about some smaller plants in the city that may go bankrupt? They have to close their doors. The bank is there and the receiver is there. The receiver has to put up the building for sale. The building is up for sale, and the receiver wants to collect as much money as he can for the buildings so he can pay the creditors, pay off the bank and leave you a lot of trade creditors and other creditors. That is just a small plant, not a big plant, a little plant that manufactures dresses or clothing.

What if those plants go under? Does that receiver who is trying to collect money to pay creditors have to wait and be at the mercy of the provincial assessor or the assessor to come along every two or three years to get that relief? Receiverships, bankruptcies, they do not wait two and three years. The creditors want to be paid right away. So, if they can get some sort of relief from taxation, if the circumstances warrant—and that is for a municipal board to decide, and it is justified, and the assessment is reduced, and the building is saleable, and they can market the building and he sells the building, collects the cash and pays trade creditors and other creditors—is that not what we want to do? So what is so wrong with having that safety valve, which we always had, in the legislation to take care of these exigencies or these special circumstances that develop?

**Mr. Derkach:** Mr. Mercury, my question was based on your last answer that you had given, and that is why I asked the question about the three-year assessment period and the fact that if you did what

you were suggesting that you would be in a reassessment cycle anyway.

**Mr. Mercury:** Mr. Minister, the other day, yesterday, in the halls someone raised sort of the same point, and I think perhaps Mr. Plohman asked the question and you were not there when I answered the question this way. There was a situation where there was a large building in downtown Winnipeg which was assessed. The building was actually purchased for about \$4.2 million and was assessed at \$17 million. The tax bill came out—there was a mortgage on the building—and the mortgagee, because the mortgage had a clause that the mortgagee pays the taxes, paid the taxes. The taxes were substantial; they were several hundreds of thousands of dollars. The mortgagee paid the taxes before June 29 and then wrote to the taxpayer and said, your tax account and your mortgage are deficient. Will you please pony up three hundred and some-odd thousand dollars.

The taxpayer never had budgeted for that. He could not do it right away. So the mortgage company, after making a demand which is 30 days, commenced foreclosure proceedings. Now, in foreclosure proceedings, you are wiped out in six months. You cannot wait for three years. Fortunately, we managed to twist the arm of the Board of Revision chairman, and we got the case on. That assessment was reduced in half, and on further appeal it was further reduced by agreement and the man did get relief. He is not going to get that relief so easily today, and if you have, you have to wait for three years. What do you do with a person? You wipe out his fortune?

Let us say you had \$2 million or \$3 million. Let us say it was you who had \$2 million or \$3 million in a building and some assessor comes along and says, oh, well, it should be worth—and you say, look, it is worth today, I bought it for \$3 million, \$4 million, and I paid hard cash for that. I sold the family jewels. I paid for this and yet your assessment notice is \$14 million. Oh, sorry, that is what it was in 1985, and then you get a tax bill. You never expected such a high assessment. You say it is not worth that. I want relief.

Other people's properties are assessed 110 percent of value. So what do you do? Is the honourable minister going to be very happy if he loses his family fortune in that situation? So that is why I say, it is very good for the administration and people who do not have much money, maybe.

Some people do not have much money, and they are collecting salaries. This is fine. They are really not in the business world, and they do not invest their own money. That is fine to dictate laws and give laws which are manifestly unjust, but you are the taxpayer, you are the investor, you got your family together and you bought this building for \$3 million, \$4 million dollars and the assessor comes and says it is worth \$14 million. Too bad. You have to wait for the next reassessment, and, by the way, we are going to delay it for one year. Is that fair? It does not strike me as being fair.

\* (2010)

Are you going to have people such as yourself, Mr. Minister, buying buildings such as that? You are not. That is what is happening in the real world.

**Mr. Chairperson:** Thank you. Are there any further questions?

**Mr. Nell Gaudry (St. Boniface):** No question, it is just that I would like to thank Mr. Mercury for his presentation, and say thank you for helping our staff also with the bill and the information that he has passed on to us. Thank you very much.

**Mr. Chairperson:** Any further questions or comments? If not, I would like to thank Mr. Mercury for his presentation and also for his willingness to come back a second time. I appreciate that.

**Mr. Mercury:** Thank you, and anytime you need some assistance, Mr. Minister, I am here to help you.

**Mr. Chairperson:** That completes the list of presenters. I will once more canvass the audience. Are there any further presenters for the bills before the committee? Seeing none, does the committee wish to proceed with clause-by-clause consideration of the bills? Agreed. Shall we consider the bills in sequential order?

**Ms. Rosann Wowchuk (Swan River):** Yes, Mr. Chairperson, before we go clause by clause, is the minister going to make an opening statement?

**Mr. Chairperson:** Yes, we will make opening statements for each bill as we call them.

**Ms. Wowchuk:** Okay.

**Mr. Chairperson:** Is the committee agreed that we consider the bills in sequential order? Is that agreed? Agreed and so ordered.

**Mr. Chairperson:** We will now consider Bill 20, The Municipal Assessment Amendment Act. Did

the minister responsible for Bill 20 have an opening statement?

**Mr. Derkach:** Mr. Chairperson, thank you very much for the opportunity. I have a very short opening statement to make with regard to this bill.

Let me say that, in introducing Bill 20, we wanted to ensure that the fundamentals of the act were, indeed, protected and the integrity of the act was protected. However, it was necessary to extend the assessment period of time because of the arguments that I have set forth before, basically, that we have a new education-funding formula which has been introduced, and I think that has been well spelled out.

Mr. Chairperson, the whole question of portioning has been put forth as well. Based on those two reasons, it was felt that we had to extend the reassessment period by one year. That means specifically that reassessment will take place during the 1993 year and will be in effect in the year of 1994. But let me say, after having heard the arguments that have been put forth, that Bill 79 spoke to a three-year reassessment cycle, that all property is to be assessed once every three years.

Mr. Chairperson, I think that we need to protect the integrity of that particular bill and that legislation, to ensure that reassessment is done in a cyclical manner, if you like, and one which is fairly frequent. We felt that with the stable real estate market in Manitoba that a three-year period of time was a reasonable one to do reassessment.

Mr. Chairperson, it is also important that assessments reflect the market value of property at a specific historic period of time called the reference year. The reference year is defined in the act as the year following the last reassessment.

Now, subject to normal appeal provisions, the assessment then remains until the next reassessment. Appeals are allowed every year against the reference year value. Limited changes between reassessments in years between reassessments, assessment values can be amended under Section 13 for the following unique circumstances: an error or omission, destruction or damage to property, change in physical characteristics of property or property in close proximity, new or altered improvements, change in zoning classification, exemption eligibility, municipal or school division boundary or subdivision.

Mr. Chairperson, all of these have been spelled out in Section 13 of the act. The three-year cycle, as I said, is reasonable in Manitoba given the historically stable real estate market. More frequent reassessment cycles impact on municipalities through increased costs and greater instability in the tax base.

The three-year cycle is a major improvement over the reassessments completed in the last legislation which took place every 15 or 20 years. Using a reference year that is two years prior to the reassessment translates into only one-year lag time between the reference year and when the assessments are sent out to ratepayers. That is because, by legislation, assessments have to be out in December of the year previous to the assessment.

Mr. Chairperson, we believe that the amendment that we have put forward in Bill 20 is certainly going to assist municipalities and school divisions and ratepayers and taxpayers, to enable them to adjust to the new funding formula in education, because it is complex. There does have to be a period of adjustment, if you want to call it that.

So, with those few comments, I am seeking approval of the committee to allow this bill to proceed to third reading.

**Mr. Chairperson:** Thank you, Mr. Minister. Does the critic for the official opposition have an opening statement?

### Committee Substitution

**Ms. Wowchuk:** Yes, but before I make an opening statement, I would like to make a committee change.

**Mr. Chairperson:** Go ahead.

**Ms. Wowchuk:** I move, with leave of the committee, that the honourable member for Dauphin (Mr. Plohman) replace the honourable member for Radisson (Ms. Cerilli) as a member of the Standing Committee on Municipal Affairs effective June 23, with the understanding that the same substitution will also be made in the House to be properly recorded on the official records of the House.

**Mr. Chairperson:** It has been moved the member for Dauphin (Mr. Plohman) replace the member for Radisson (Ms. Cerilli). Is that agreed? Agreed.

\* \* \*

**Ms. Wowchuk:** Mr. Chairperson, we have listened to the presentations on this bill, and there have been some serious concerns raised by many people who have brought individual cases here where they have had problems with the assessment act.

First of all, I would like to go back to the first part of the bill, and that is the delay in the assessment. Since the introduction of this bill, we have said that we are opposed to the delaying of the assessment because that commitment was made in Bill 79, that the assessment would take place every three years beginning with the reassessment in 1993.

The minister has—[interjection] Pardon me? I am trying to correct myself, because the minister corrected me once. The delay is now to 1994. We want it in 1993 as it was supposed to be.

The minister continues to say that the reason for the delay is related to the education funding formula, and that we would have a better quality of assessment if we delay it, but we have not had any evidence showing us what is going to happen, how we are going to have a better quality. That is the same line that we heard from the UMM, that there would be a better quality of assessment, but we are not seeing any evidence of that. We want to see the assessment go ahead as scheduled and we have conveyed that message to the minister many times.

We have heard concerns raised about farmers' ability to appeal and that has been raised by many presenters here as well as business people. We take those concerns very seriously because it brings a lot of difficulty on to people if they have an unfair assessment, if they have to continue to pay taxes on businesses that are not in operation, or are in a farming situation that has been affected by external circumstances. The cases we have raised as far as farming goes are situations that may not have occurred at the present time but could occur.

I guess, in light of the problems that have been raised—I know that there are groups of people that have offered to sit down with the minister to try to work out a compromise on some of these problems. I know that KAP has offered to sit down and work through solutions with the minister. I heard Mr. Mercury say that his group would like to sit down and work through some of these.

I want to ask the minister, is he prepared to sit down with these groups and work on a resolution of these problems, particularly, as I indicated, with the

farming community and with the business community who have said that they would like to work through and come to some resolve on some of these problems within The Municipal Act that are affecting farmers and businesses as it relates to external factors?

**Mr. Chairperson:** Does that complete your opening statement?

**Ms. Wowchuk:** Yes, it does. I would like an answer from the minister on that particular question.

\* (2020)

**Mr. Chairperson:** I appreciate that.

### Point of Order

**Mr. Plohnman:** I believe we also have an opportunity to have a free-flowing discussion and questions of the minister at this point before we get into clause by clause. If we would rather do it clause by clause, that is fine, but we would desire to have those discussions beforehand so we know whether the minister is planning on any changes as a result of the presentations. I have a couple of questions as well after this, I think.

**Mr. Chairperson:** I appreciate your comments, but I think it is courtesy to allow both opposition parties to have an opening statement. That is why I asked if the member was finished and I asked the minister if he wished to respond directly to your question while it was on the floor.

\* \* \*

**Mr. Chairperson:** Does the honourable minister wish to respond to the question from the member for Swan River (Ms. Wowchuk)?

**Mr. Derkach:** Well, yes, Mr. Chairperson, I would. I would like just to say that we have met with all of the stakeholders. Both staff from the department and I have met with a variety of organizations and groups.

I might say that I met with KAP. I met with the KAP president and vice-president on a couple of occasions. Then I met with the KAP executive. I have talked to members of KAP. I have talked to the UMM, which, as you know, supported the position of government in delaying the reassessment, or extending the reassessment by one year. I have also discussed the issue with MAUM, which also basically agreed with the position of the government to move

to—[interjection]—yes, they have—to move reassessment by one year. So we have met with those groups.

**Mr. Chairperson:** Does the honourable critic for the second opposition have an opening statement?

**Mr. Gaudry:** Yes, I have, Mr. Chairperson. First, I would like to thank all the presenters who were here. I think they have all expressed concerns over the bill, and now we hear, the minister has said, he has met with the people from the community. I am just wondering, did he meet with these people prior to introducing the bill or after the bill had been presented in the House?

**Mr. Derkach:** Mr. Chairperson, I met with the groups after the bill was introduced in the Legislature.

**Mr. Gaudry:** Too late. I guess, Mr. Chairperson, I have expressed my concerns in the House prior to coming into committee here. But, again, I would like to express the two concerns that we have with the bill: the assessments on the reference year and not the current value; and the other one, pushing back the assessment from 1993 to 1994.

I think all the presenters have expressed concerns over these two issues that have been introduced into the bill. With this, Mr. Chairperson, we would like to go clause by clause, and I will be introducing amendments as we go through clause by clause. Thank you very much.

**Mr. Derkach:** Just in response to the member for St. Boniface (Mr. Gaudry), as the member knows full well, when I assumed the responsibility of Minister of Rural Development, it was in January. I cannot speak for Mr. Downey, who may have met with some of the organizations, but I am not aware of that.

I might say that I also wrote to all of the municipalities. I think we tried to make sure that all of the stakeholders were informed of the proposed legislation, and we asked for their responses to the proposed legislation. Now, someone may have been missed, but I think we tried to cover our bases.

**Ms. Wowchuk:** One area that is of concern is the area about farmers having the right to appeal related to external factors. Now, the minister says that has not been taken away. We hear presentations saying that they do have the right to appeal. Is the minister going to do anything to extend that same

privilege that homeowners have to farmers or businesses? Are you taking any direction there?

**Mr. Derkach:** Mr. Chairperson, let me say that the bill, Bill 20, deals specifically with extending the reassessment period by one year. Before we would move on anything related to appeal rights based on external factors, I think it would be wise for all of us to have some serious discussions with the municipalities who will be impacted quite directly by any such move. I can tell you that because the bill did not deal with that, but because the issue arose out of discussion, and out of a court case, I guess, in the Legislature, that this matter certainly is not one that has had extensive consultation with the municipalities who indeed are important stakeholders in this matter.

**Mr. Plohman:** Well, Mr. Chairperson, the minister knows very well it is convenient to say the bill does not deal with it, but who decided what the bill deals with? It is the minister. So he could have chosen to reflect the concerns about changes in farmland, or he could have chosen to reflect the concerns that have been raised publicly on the issues of, particularly, businesses that have closed and their inability to resell because of the high assessment that is placed on those buildings and that continues to mount up even while they are no longer operating.

So the minister could have chosen to deal with those issues in this bill if he would have wanted to. It is not enough to just say, well, the bill does not deal with that. So on that basis I think it is a legitimate question for us to ask whether the minister as a result of what he has heard here today, and what he has heard previous—he has made public statements in the press that he was looking at some of the concerns surrounding the closure of businesses and their inability to lower the assessment. So as a result of that, does he intend to act on those concerns, or is he going to simply brush them off at this point by saying that they are not being dealt with in this bill?

**Mr. Derkach:** Well, Mr. Chairperson, I am not indicating in any way that I do not take the representations that are made before this committee or that are made to me directly by groups, organizations, individuals, seriously. I do take them very seriously. But when you introduce a piece of legislation—and this legislation was worked out before I assumed the responsibility—there is an intent to that legislation.

Now, as the discussions have evolved around Bill 79 and Bill 20 these issues were brought forward, but they are not issues that can be dealt with without proper and full consultation of people like we have seen here making a representation before this committee and also the major organizations such as the municipalities, both urban and rural.

**Ms. Wowchuk:** Then the minister has said that, you know, he is going to take those considerations seriously. What steps can we expect that the minister will take? Are you going to make a commitment now that you will meet with municipalities and meet with the stakeholders, particularly, to deal with these issues, the issue of farmers and of the closing of business; because as the member for Dauphin (Mr. Plohman) has said, the minister has indicated that he is prepared to look at some changes to deal with business closures. What time frame?

**Mr. Derkach:** Mr. Chairperson, I think we have to keep several things in mind. First of all, we have to look at the intent of the bill. We have to look at Section 13 of the bill and the reasons why that section was put into the bill, and then I think there has to be an evaluation done as to whether or not the present bill really meets the intent of the legislation in Bill 79, or whether or not there has to be some further consultation.

I am not in any way suggesting that I am not prepared to discuss these issues, but it would be premature at this point in time to make a commitment as to what we are going to do with regard to those specific concerns that have been raised.

\* (2030)

**Mr. Plohman:** I just want to make it very clear that, since I had moved this provision in 1990 dealing with the external factors for homeowners, there was no discussion of its application to farm property whatsoever. It was not that we did not want it applied to farm property, it just was not discussed or considered in that context at that time. It was not even dealt with under farm property.

Insofar as businesses, we did not deal with the issue of closed businesses, and I think that those two factors have changed since the time that we dealt with this bill, and I think it is worthy to put on the record, because it might be convenient to refer back to that particular time and say, well, that was only intended to deal with homeowners. It was at

that point, and we said that we did not want a repetitive system where people—where corporations and businesses were appealing in numerous instances and tying up the system. However, we did not deal with the issue of closed businesses and the impact on their ability to sell them, and we did not discuss farmland under this bill.

We think that, as a result of changing circumstances, particularly with the impact of free trade and other economic situations that have impacted on businesses on Manitoba, there should be a provision that at least deals with those situations of closure, where the business is closed.

I am not sure that the issue of whether it would actually keep businesses open by reducing their assessment is a viable argument that has been put forward here by Mr. Mercury earlier on, but certainly in terms of the closure. We also think the issue of farmers affected by localized external factors should be dealt with as well.

We would ask the minister to consider that positively when we bring those forward, because the minister has indicated that he is not going to bring them forward here today.

**Mr. Derkach:** Mr. Chairperson, I think the member for Dauphin (Mr. Plohman) in his comments now has indicated some of the uncertainties about moving into areas that have not been fully discussed and explored. I think that is really where we are coming from, in terms of making sure that we study the legislation to ensure that if we move on anything of that nature it still lives with the spirit of the law that was intended when the law was passed. Indeed, I do not think we can do that on momentary notice or on a whim, and I think the member for Dauphin points to that when he talks about not being sure about how far we can go with extending this kind of provision.

**Mr. Plohman:** I did not say I was not sure how far we could go, but I said we would be prepared to go some distance in some areas. That is what I have indicated. I think the minister, if he were consistent, would have consulted prior to this bill in terms of moving back the reassessment year prior to making that decision to bring that bill into the House. If he is so worried about consulting with municipalities in this case prior to bringing this amendment in, if he was consistent, he would have done so in both cases.

**Mr. Derkach:** Mr. Chairperson, as I have pointed out before, I took over the portfolio in January. My understanding from staff is that, when the announcement was made in September to delay the reassessment by one year, indeed there was contact made and consultation took place. Now, I cannot be specific because I was not in the portfolio at that time, but it is my understanding that there was some communication among the stakeholder groups at that time.

**Mr. Chairperson:** Shail we proceed clause by clause?

**An Honourable Member:** Agreed.

**Mr. Chairperson:** During consideration of the bill, the title and the preamble are postponed until all clauses have been considered in their proper order by the committee.

Clause 1—pass; Clause 2—pass; Clause 3—pass.

Clause 4.

**Mr. Derkach:** Mr. Chairperson, I move,

THAT the proposed section 9, as set out in section 4 of the Bill, be amended

(a) by striking out the proposed subsection (2) and substituting the following:

**When general assessment to be made**

9(2) A general assessment shall be made in 1994 and in every third year thereafter.

(b) in proposed subsection (2.1), by striking out "A general assessment" and substituting "Subject to section 13, a general assessment"; and

(c) in proposed subsection (2.2) by striking out "The general assessment" and substituting "Subject to section 13, the general assessment".

And the same in French, Mr. Chairperson.

**[French version]**

Il est proposé que l'article 9, énoncé à l'article 4 du projet de loi, soit amendé:

a) par substitution, au paragraphe (2), de ce qui suit:

**Moment de l'évaluation générale**

9(2) Une évaluation générale doit être effectuée en 1994, puis à chaque trois ans.

b) au paragraphe (2.1), par substitution, à "Les", de "Sous réserve de l'article 13, les";

c) au paragraphe (2.2), par substitution, à "L'évaluation", de "Sous réserve de l'article 13, l'évaluation".

**Motion presented.**

**Ms. Wowchuk:** Yes, we have an amendment to the same section, Mr. Chairperson, a subamendment.

**Mr. Chairperson:** We will deal with this amendment first.

**Mr. Plohman:** Mr. Chairperson, this deals with the amendment that is just on the table, so we are proposing a subamendment to that amendment.

**Mr. Chairperson:** There is a proposed subamendment to the amendment. It will be distributed.

**Ms. Wowchuk:** I move, in both official languages that the proposed subsection 9(2), as set out in Section 4 of the Bill, be—

**Mr. Chairperson:** You are moving an amendment to the amendment as I understand.

**Ms. Wowchuk:** —be amended by striking out "1994" and substituting "1993."

**Mr. Chairperson:** Is this the amendment, or is there another amendment?

**Mr. Plohman:** That is the amendment, but she is removing some of the words now.

**Ms. Wowchuk:** —that the proposed subsection 9(2) be amended by striking out "1994" and substituting "1993." I have taken out "as set out in Section 4 of the bill."

**An Honourable Member:** Question.

**Mr. Chairperson:** We just need a moment here, please.

### Point of Order

**Mr. Derkach:** The amendment as being proposed by the member for Swan River is actually asking that the same legislation that is presently in place be upheld. Mr. Chairperson, I think this amendment is out of order because the way to achieve that would be to defeat the amendment that we have proposed.

**Mr. Chairperson:** I do not believe the honourable minister has a point of order. I believe the subamendment is in order, since it is amending the amendment just by change of year.

\* (2040)

**Mr. Plohman:** Mr. Chairperson, the government has chosen to bring in an amendment that changes the existing legislation from reassessment year 1993 to 1994, and what the member for Swan River (Mrs. Wowchuk) is doing is, as you have correctly pointed out, is putting forward a subamendment to that amendment.

**Mr. Chairperson:** Again, I rule that the subamendment is in order.

\* \* \*

**Ms. Wowchuk:** Mr. Chairperson, we have listened to many presentations and we have heard people say that they disagree with this government delaying the assessment for one year, and we are bringing in an amendment that will require the government to go ahead with the reassessment as was set out in Bill 79.

**Mr. Gaudry:** Mr. Chairperson, I have to speak in support of this amendment and subamendment of the official opposition, because this amendment will restore the date of the next general assessment to 1993 as was promised when major assessment reform was carried out in 1990. At that time Manitobans were promised that general assessments would be carried out every three years starting in 1993, and I think we have heard a lot of presentations in the last couple of days from the community and I think they are in favour that this 1993 be maintained. Now, with simple legislative change the government seeks to breach that promise and delay the next assessment another year. The various explanations we have heard so far from the minister and his officials have offered no compelling reasons for why this should be done.

**An Honourable Member:** Oh. Mean.

**Mr. Gaudry:** Oh, it is true. I mean, these amendments, by restoring the date of the next general assessment to 1993, will help ensure that Manitobans have confidence in the new assessment system. It was proven with the presentations we heard in the last couple of days. Confidence of the public and the fairness of the system is absolutely essential if it is going to work at all, and that confidence will be seriously eroded if this unnecessary delay is allowed to take place.

**Mr. Plohman:** Yes, I think, in speaking in favour of this subamendment to change the provision that is being proposed by the government back from 1994 to 1993, what that is doing is reflecting what the



people who have come before this committee have asked for and what was promised by the government in 1990.

We have explored with the minister whether he is going to move on the issues of addressing inequities that exist at the current time in the assessment system. People who have been wrongly assessed at a level that does not reflect the value of their property and yet they cannot appeal because there is no appeal for external factors for a number of people in society, for residences of homeowners, yes, but not for others. That has been established for businesses, for farmers and so on, even for businesses that have gone out of business. They cannot reseek, redress, and the minister does not want to deal with those that exist nor is he making the situation any better. As a matter of fact he is making it worse by postponing it a year. So those inequities will be built into the system for another year. So, because he refuses to deal with the appeal side of it, we feel it is incumbent upon us in considering the taxpayers and property taxpayers that we retain the year for reassessment in 1993 and that it be done expeditiously so the inequities that are in the system now will be addressed.

**Mr. Chairperson:** The question before the committee is the proposed subamendment by Ms. Wowchuk,

THAT the proposed subsection 9(2) as set out in section 4 of the Bill, be amended by striking out "1994" and substituting "1993".

**[French version]**

Il est proposé que le paragraphe 9(2), énoncé à l'article 4 du projet de loi, soit amendé par substitution, à "1994", de "1993".

All those in favour, say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it. The subamendment is defeated.

**Mr. Plohman:** A recorded vote on that. Yeas and Nays, Mr. Chairperson.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division. Agreed? I am informed that on division is acceptable if the

committee agrees. I presume that it means the two opposition parties voted in this case in favour.

**An Honourable Member:** Next clause on the amendment.

**An Honourable Member:** In favour and the government against. Say it all.

**Mr. Chairperson:** That is correct, and the government against.

**Mr. Plohman:** So mine is not on the record?

**Mr. Chairperson:** When you ask for on division, I am assuming that indicates that in this particular vote, the two opposition parties voted in favour of the subamendment and the government members voted against it and the motion was lost.

It has been moved

THAT the proposed section 9, as set out in section 4 of the Bill, be amended

(a) by striking out the proposed subsection (2) and substituting the following:

**When general assessment to be made**

9(2) A general assessment shall be made in 1994 and in every third year thereafter.

(b) in proposed subsection (2.1), by striking out "A general assessment" and substituting "Subject to section 13, a general assessment"; and

(c) in proposed subsection (2.2) by striking out "The general assessment" and substituting "Subject to section 13, the general assessment".

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a) par substitution, au paragraphe (2), de ce qui suit:

**Moment de l'évaluation générale**

9(2) Une évaluation générale doit être effectuée en 1994, puis à chaque trois ans.

b) au paragraphe (2.1), par substitution, à "Les", de "Sous réserve de l'article 13, les";

c) au paragraphe (2.2), par substitution, à "L'évaluation", de "Sous réserve de l'article 13, l'évaluation".

All those in favour, say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it. The amendment is carried.

**Mr. Plohman:** Yeas and Nays on that same division, Mr. Chairperson. Same division on that please?

**Mr. Chairperson:** On division. Shall Clause 4, as amended, pass?

**Mr. Gaudry:** Yes, I have an amendment—[interjection]

**Mr. Chairperson:** Mr. Gaudry, did you have your hand up?

**Ms. Wowchuk:** Mr. Chairperson, we have another amendment. I want clarification as to where it is in Clause 4. Can I ask for one?

I move—just have to check a minute—no, we are waiting—do we have another amendment that is 4(1), after Section 4?

**Mr. Chairperson:** Order, please. Does the honourable member for St. Boniface (Mr. Gaudry) have an amendment or comment?

**Mr. Gaudry:** Yes, Mr. Chairperson, I move

THAT the Bill be amended by adding the following after section 4 of the Bill:

4.1 Subclause 13(1)(b)(vii) is repealed and the following is substituted:

(vii) any factor that affects such property and that is external to the property.

**[French version]**

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 4, de ce qui suit:

4.1 Le sous-alinéa 13(1)b(vii) est remplacé par ce qui suit:

(vii) de tout facteur qui influe sur les biens et qui est extérieur à ceux-ci;

**Mr. Chairperson:** Thank you, on the proposed amendment by Mr. Gaudry, according to Beauchesne's 698, Clause 8(a): "An amendment may not amend a statute which is not before the committee." So I rule that amendment out of order.

The ruling of the Chair has been challenged. All those in favour in upholding the ruling of the Chair say Yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed say Nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it. The Chair's ruling is sustained and the proposed amendment is out of order on division.

\* (2050)

**Ms. Wowchuk:** I have an amendment.

**Mr. Chairperson:** Just wait for a moment until the copies are distributed, please.

**Ms. Wowchuk:** I move, in both official languages

THAT the Bill be amended by adding the following after Section 4 of the Bill:

4.1 Clause 13(1)(b) of the Act is amended by adding the following after subclause (v):

(v.1) in the case of Farm Property, any significant factor that affects the property and that is external to the property,

**[French version]**

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 4, de ce qui suit:

4.1 L'alinéa 13(1)b) est modifié par adjonction, après le sous-alinéa (v), de ce qui suit:

(v.1) de tout facteur important qui influe sur les biens et qui est extérieur à ceux-ci, s'il s'agit de biens agricoles,

Mr. Chairperson, I am moving this amendment, having listened to the presentations and having listened to many farmers in rural Manitoba who are concerned about the possibility of—

**Mr. Chairperson:** Order, please. Thank you, Ms. Wowchuk. In consideration of the amendment, I rule, according to Beauchesne's 698, rule 8(a): "An amendment may not amend a statute which is not before the committee." Therefore, I rule the proposed amendment out of order.

**Point of Order**

**Mr. Plohman:** It is common courtesy, whether you intend to rule a particular amendment out of order or not, that the person moving the amendment be able to state his or her reasons for moving that amendment. That is common practice, as a point of order, Mr. Chairperson.

In this case, Ms. Wowchuk was in the process of explaining to the committee that this amendment that she was putting forward was in response to the presentations that have been made and was necessary to reflect the concerns that many farmers

have about changes in property values. In doing so, she was putting forward this amendment for consideration for you, Mr. Chairperson. I think that the reasons are—

**Mr. Chairperson:** Order, please. The honourable member does not have a point of order. It is certainly proper to be sure that the consideration before the committee is in order. That is the way the Chair ruled and there is every opportunity for all members of the committee to put their thoughts on record.

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**Mr. Chairperson:** Are there further proposed amendments to Clause 4?

**Ms. Wowchuk:** Mr. Chairperson, I would have moved another amendment dealing with the issues of businesses and their assessment and businesses no longer in business and property having been sold. However, I want to go on record that I was going to move that amendment, but it will be ruled out of order, so we will not.

**Mr. Chairperson:** Clause 4, as amended—pass.

Clause 5.

Mr. Gaudry, do you have the proposed amendment available for distribution?

**Mr. Gaudry:** I move

THAT the Bill be amended by adding the following after section 5 of the Bill:

5.1 Section 18 is amended by adding "in any year, including a year in which no assessment is required under this Act," after "where".

[French version]

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 5, de ce qui suit:

5.1 L'article 18 est modifié par substitution, à "lorsque", de "si, au cours de toute année, même au cours d'une année au cours de laquelle il n'est pas nécessaire de procéder à une évaluation en application de la présente loi,".

**Mr. Chairperson:** Order, please. According to Beauchesne 698, section (8)(a), an amendment may not amend a statute which is not before the committee. I am ruling the proposed amendment out of order.

**Mr. Gaudry:** I challenge the Chair.

**Mr. Chairperson:** The decision of the Chair has been challenged. All those in favour of upholding the decision of the Chair, say yea.

### Point of Order

**Mr. Plohman:** I would like to know what was being proposed here so I know whether I support the challenge of the Chair by the member. I think a member should be allowed to explain why he is challenging the Chair.

**Mr. Chairperson:** Order, please. The honourable member does not have a point of order. The proposed amendment was distributed for his perusal, and it was also read by the proposal of the honourable member for St. Boniface (Mr. Gaudry).

I repeat again for the edification of the committee members, the proposed amendment was ruled out of order, 698 Beauchesne's section (8)(b) "An amendment may not amend sections from the original Act unless they are specifically being amended in a clause of the bill before the committee."

The honourable member does not have a point of order.

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**Mr. Chairperson:** The ruling of the Chair has been challenged.

All those in favour of upholding the rule of the Chair, say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Chair's ruling has been upheld. The amendment is out of order. Did you want that on division, Mr. Plohman?

**Mr. Plohman:** On division.

**Mr. Chairperson:** On division.

Clause 5—pass.

Clause 6.

**Mr. Derkach:** I would like to ask for consent to introduce this amendment since it is out of scope.

**Mr. Chairperson:** Does the honourable minister have unanimous consent to introduce an out-of-scope amendment?

**An Honourable Member:** No.

**Mr. Derkach:** Would you like to hear the amendment first?

**Mr. Plohman:** I think, Mr. Chairperson, here we come back to the way we were just railroaded in dealing with our amendments. We did not have a chance to explain them so that a determination could be made as to whether, in fact, it was a legitimate amendment. In this case the minister is asking for leave to bring forward an amendment, but he has no opportunity, if we followed the same rules, to explain himself.

**Mr. Chairperson:** The honourable member has a good point. I would suggest that the honourable minister propose his amendment and let the Chair rule as to whether it is in order or not.

**Mr. Derkach:** Mr. Chairperson, then I move,

THAT section 6 of the Bill be amended by renumbering it as subsection 6(1), and by adding the following as subsection 6(2): clause 22(1)(j) is amended by striking out, "but not including a residence owned or used by a college named in subclauses (i) to (v)".

\* (2100)

**Mr. Chairperson:** Thank you. I have considered the amendment, and according to Beauchesne 698.(8)(b): "An amendment may not amend sections from the original Act unless they are specifically being amended in a clause of the bill before the committee."

Therefore, the amendment is out of order unless there is unanimous consent of the members of the committee to accept the amendment.

**Mr. Plohman:** We would like to apply the same rules to the government as we do to us. However, we think it is legitimate that an explanation be allowed before we make a decision on that, and so, with leave, we would give our leave for the minister to explain why he is bringing forward this amendment. If we are satisfied with the explanation, then we would grant leave to introduce the amendment.

**Mr. Chairperson:** Order, please. We cannot discuss an amendment unless it is officially and properly before the committee, and I cannot do that with this amendment unless I have unanimous consent from all members of the committee to consider it. Is there unanimous consent?

**Mr. Plohman:** I asked for you to ask the committee for leave to allow the minister to make a statement about the amendment that he read just previously that you ruled out of order. By leave, we can do that.

**Mr. Chairperson:** Is there unanimous consent to allow the minister to explain the purpose for his proposal of this amendment?

**Some Honourable Members:** Agreed.

**Mr. Chairperson:** Very well, unanimous consent.

**Mr. Derkach:** As committee members will know, there were five colleges named in the original act to which the exemption applied. In the last year we have had two court challenges which have ruled in favour of the colleges that went to court. For this reason, we are proposing this amendment to correct the inequities that are present in the current legislation. Of course, that came to light after the current Bill 20 was introduced in the Legislature

So we are asking for unanimous consent of the committee here to correct an inequity that is presently in the act, and then it would allow, Mr. Chairperson, for Bible colleges to be treated in the same fashion.

**Mr. Plohman:** With leave, I would like to ask the minister a question. If I do not need leave, I will just do it.

Can the minister explain whether this is consistent with all colleges, that now residences that are owned will not be exempt? At the present time the bill allows residences as well as colleges.

**Mr. Derkach:** This will bring consistency to the way that all college dormitories are treated.

**Mr. Plohman:** That is that residences will not be exempt, but the colleges themselves will be, that are listed, those colleges that are listed in Bill 79 in the legislation?

**Mr. Derkach:** As I understand it, all residences will be exempt by adopting this amendment in the legislation.

**Mr. Plohman:** Why does the minister want to move to expand the exemption to all residences as well as the colleges themselves?

**Mr. Derkach:** I am sorry.

**Mr. Plohman:** I understand from what he is saying that this proposed amendment, which is not before us yet but which we are discussing as to whether it should be allowed, would expand the exemption

that is currently given to colleges to their residences as well, their residences that house the students that attend that college.

Why is the minister proposing to expand it to the property that encloses the residence as well as the colleges themselves? I did not understand his explanation if he did explain that.

**Mr. Derkach:** Mr. Chairperson, in the two cases that I referred to, the courts have ruled that the residences of those institutions were integral to the institution itself, and for that reason they would be exempt. In order for us to be consistent in the way the legislation applies to all colleges and dormitories we are seeking consent of this committee to introduce this amendment.

**Mr. Plohman:** What the minister is saying then is even freestanding residences that might be some distance away from the college itself or maybe not even on the same property are now going to be exempt as well?

**Mr. Derkach:** Mr. Chairperson, I do not know of any instances where that, in fact, is the case. The dormitories that we referred to are those that are part of the institution.

**Mr. Gaudry:** Mr. Chairperson, I would like to reply or put comments on the record in regard to the requests from the minister in regard to asking for unanimous consent on this amendment. Of course, on my amendment I was not given a chance because it was out of scope, but now he is asking, because he likes to compliment the government once in a while and say that they have done this, and, of course, in presenting this amendment that he is proposing now, he says there are inequities.

Well, I have to agree with that. A lot of things they do, there are a lot of inequities. So my comments, like I say, will be very short, but if he had given me a chance to explain my amendment, he would have seen that it would have made sense—[interjection]

No, I mean you voted against it, so it is quite clear that you were not prepared to accept it, but I will be prepared—since, like you said, there are inequities in the bill that you are amending at this stage, I will be prepared to support it.

**An Honourable Member:** Out of the goodness of your heart.

**Mr. Gaudry:** On the goodness of Manitobans who have made presentations here over the last two days but, like I said, I put it on the record that it is for

the inequities that this government has proposed before.

Thank you very much.

**Mr. Chairperson:** Is there unanimous consent that the proposed amendment by the Honourable Minister Derkach be considered?

**Some Honourable Members:** Agreed

**Mr. Chairperson:** Agreed and so ordered.

The question before the committee is the amendment proposed to Section 6 of the bill.

**Motion agreed to.**

**Mr. Chairperson:** Clause 6 as amended—pass; Clause 7—pass; Clause 8—pass; Clause 9—pass; Clause 10—pass; Preamble—pass; Title—pass. Bill as amended be reported.

\* (2110)

Is it the will of the committee to take a five-minute recess? Agreed. I declare a five-minute recess.

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The committee took recess at 9:10 p.m.

### After Recess

The committee resumed at 9:15 p.m.

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**Mr. Chairperson:** Will the committee come to order. Order, please. Are there committee changes?

### Committee Substitution

**Mr. Plohman:** Yes, I would like to move, with the leave of the committee, that the honourable member for Radisson (Ms. Cerilli) replace the honourable member for Swan River (Ms. Wowchuk) as a member of the Standing Committee on Municipal Affairs, June 23, 9:15 p.m., with the understanding that the same substitution will also be moved in the House to be properly recorded in the official records of the House.

**Some Honourable Members:** Leave.

**Mr. Chairperson:** Is that agreed? Agreed and so ordered.

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**Mr. Chairperson:** For the information of the committee, there have been three more bills referred: Bill 93, The Mental Health Amendment Act; Bill 96, The Special Operating Agencies

Financing Authority Act; and Bill 98, The Manitoba Multiculturalism Act. [interjection]

I am informed that all presenters have been heard on Bill 98. There is one presenter for Bill 96. I just give the committee that information.

### **Bill 34—The Surveys Amendment Act**

**Mr. Chairperson:** We shall now proceed with the consideration of Bill 34. Does the minister responsible for Bill 34 have an opening statement? No?

**Hon. Albert Driedger (Minister of Highways and Transportation):** No.

**Mr. Chairperson:** No opening statement from the minister. Does the critic for the official opposition have an opening statement?

**Mr. Driedger:** It is strictly administrative.

**Mr. John Plohma (Dauphin):** Mr. Chairperson, I am pleased to see that the minister has explained it by saying "it is strictly administrative." We will hold him to that.

**Mr. Driedger:** Agreed.

**Mr. Chairperson:** Does the critic for the second opposition have an opening statement?

**An Honourable Member:** Pass.

**Mr. Chairperson:** No opening statement.

The bill shall be considered clause by clause. During the consideration, the Title and Preamble are postponed until all clauses have been considered.

Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass; Clause 5—pass; Preamble—pass; Title—pass. Bill be reported. That completes consideration of Bill 34.

### **Bill 49—The Environment Amendment Act**

**Mr. Chairperson:** The next matter before the committee is Bill 49. Does the minister responsible for Bill 49 have an opening statement?

**Hon. Glen Cummlings (Minister of Environment):** Mr. Chairperson, I do not intend to make a lengthy opening statement, simply to indicate that I will be introducing some minor amendments to the bill to clarify some wording that gave concern and was not intended to do so. I will be circulating those amendments as we get ready to do clause by clause.

**Mr. Chairperson:** Thank you. Does the critic for the official opposition have an opening statement?

**Ms. Marianne Cerilli (Radisson):** I would just like to make a few brief comments about this bill. This is another example of the government's environment legislation which is accommodating an agenda to develop specific projects. It is similar to what we saw in this earlier session with this government, with the Wildlife Amendment, where they brought in a bill that was specifically designed to allow them to proceed with one of their supported projects, one of their pet projects even.

\* (2120)

I believe that this bill is somewhat similar and that it is going to attack the environment impact assessment process. It is not doing anything to strengthen the environment impact assessment process which we would hope in this day and age environment legislation would do, but in fact it is going in the opposite direction. It is going to make it more easy for developments to get the thin edge of the wedge in, so to speak.

It is going to facilitate staging of environment licences in a way that is going to allow developments to gain momentum that I think is going to lead us to seeing a number of appeals and challenges to licences. In some ways, they have taken care of facilitating those appeals and not being considered as thoroughly as they could. We will be proposing some amendments.

I will be curious to see what the government is going to bring in. I know they have been in consultation with a couple of groups, and we were hoping that they would pay more attention to the concern raised by the Environment Committee with the Bar Association, to respect some of the amendments that they were going to put forward.

One of the real concerns is that there is no real guarantee that alterations to developments and licences, that changes through the staging of licences and the environmental impact of those changes will be mitigated, and there is no guarantee that this legislation is—there has been some, I think it was alluded in the comments on the bill, that it is going to facilitate bringing environment considerations into the planning of developments. In fact, it is not going to do that at all.

I am somewhat concerned that the technical nature of these kind of environment amendments prohibit the public from being fully aware, that they

do not gain the kind of interest that we would like to see. It could go into place without getting the consideration and attention that I think that they deserve.

I hate to think that this is going to lead to situations in Manitoba as we have seen in other provinces, where major developments are being brought in and it becomes a race. It becomes a race to see as much of the developments put in place before proper assessment can be put in.

We have seen that with some projects in the province, and I would have liked to have seen there be some consideration for strengthening the provision for appeals. That is not in place. So with that I would just like to say that we have grave concerns about the bill, and there are going to have to be some pretty dramatic amendments for us to support this bill. Thank you.

**Mr. Chairperson:** Does the critic for the second opposition party have an opening statement?

**Mr. Paul Edwards (St. James):** Mr. Chairperson, I do. Having listened closely to the presentation and, in particular, to the presentation for the Manitoba Environment Council, I too, as they say, am only interested in seeing the government's amendments to this legislation. I am disappointed that the minister did not see fit to share with his critics those amendments in a timely fashion as he obviously did with others in the community.

Mr. Chairperson, it therefore is impossible for me to say whether or not the bill will be acceptable at the end of the day. However, clearly the minister did decide on, take the trouble to articulate amendments prior to the public hearings. I hope that he will take the comments at this time as an indication that I certainly would appreciate having advice as to the government's intentions in that regard prior to sitting down at this hearing, going through clause by clause. It gives us the advantage of more ably being able to comment on the bill as it goes through the hearings but also some time to reflect on the effect of the amendment.

Generally, with respect to the bill, barring comments to be made after I have seen the amendments, it is a regressive piece of legislation. There are some positive features to it. They are greatly outweighed by the negative impacts of what is Section 4 and Section 5 of this bill.

\* (2130)

Specifically, I do not need to reiterate my comments at second reading stage, but generally the thrust of this bill is to build first and think later. It is to divide projects in a fashion that allows them to be built in stages, essentially. It is only studying the environmental impacts of one stage at a time, never taking the cumulative view.

What that leads to is exactly what happened with respect to Rafferty-Alameda. By the time anybody sat down to look at the whole picture and come to the conclusion that it had never been thoroughly reviewed, and that it was not, in fact, going to ever meet the expectations of the proponents as to water accumulation, by the time any of that cumulative study was done, the dam was essentially built.

The court in Saskatchewan said that. They said, we cannot send this back because they have already spent too much. That is the philosophy of this bill: get it built before you ever look at the full environmental impact. That is the reality. This minister says no. He says, that is Saskatchewan.

I may agree that he personally, that this government, which I do not agree, but that he personally and this government would never do anything like this. I do not say that. But even if I did, this legislation is for other governments. It is for the people of this province so long as another government does not amend it.

We have to live with this. Laws are there to control the elected officials. They are there to be abided by everyone, including ministers. It is no security that we may or may not have personal confidence in this minister. It is my view that the Manitoba Environmental Council is right.

That this is part of a position that this minister took in 1989 with the Canadian Council of Ministers of Environment when he co-authored the communiqué out of the meeting in Saskatoon which said that we want to avoid court and the way to do that is to put higher levels of discretion into the political masters of the day and to do everything possible to minimize the risk that at the end of the day we are going to have these things turned back.

This is a way to do that; that is, to get the projects built before you take the cumulative assessment. It is not consistent with the principles of sustainable development. It is not consistent with what this minister says he wants to do. Why is he doing it?

We have yet, I believe, to have a credible, believable reason for going forward with this

legislation, and I am eagerly awaiting the amendments. I am afraid that if they are any less than deleting Sections 4 and 5 that they are not going to make this bill palatable, nor should they to the environmentally concerned population in this province.

Those are my comments, Mr. Chairperson.

**Mr. Chairperson:** I would like to thank the honourable member.

**Mr. Cummings:** Mr. Chairperson, in order to alleviate some of the frustration on the part of my critics, I will circulate proposed amendments for 13(2) and 14(2) right now. They can consider them in light of the bill as we go through it clause by clause.

These do reflect some of the issues that were raised by the Environmental Law Association letter and some of the concerns raised by the Environment Council.

What I would indicate to my colleagues is that they should not take too much umbrage by the fact that was not in turn canvassed again with them. The process needs to function. I got advice from the environment council which presumably was structured to provide advice to the ministers, so the fact that I had a discussion with them should not offend anybody. The other advice I received by letter and we reviewed the original writing in the act in light of that advice. I would ask that we begin to pass this clause-by-clause, Mr. Chairperson, and I have a couple of other amendments further on in the bill.

**Mr. Chairperson:** We will proceed clause-by-clause. During the consideration of the bill the Title and the Preamble are postponed until all clauses have been considered in their proper order by the committee.

Clause 1—pass; Clause 2—pass.

**Mr. Jerry Storie (Flin Flon):** We have just been given the amendment sheet and I am just trying to place them in the proper position here. I have a couple of comments and I guess questions related to both 13(1) and 13(2). Now, 13(1) has been passed, but I hope the minister—

**An Honourable Member:** No, no. Section 1 has been passed.

**Mr. Storie:** Oh, it is only Section 1.

**Mr. Chairperson:** We are currently considering Clause 2. Clause 2—pass.

Clause 3.

**Ms. Cerilli:** I have a question on 3. I was considering having an amendment here because it did not make sense to me to reduce the quorum and then eliminate the responsibility to inform the rest of the commission of what took place at a meeting when there was not a quorum. Can the minister clarify if I am understanding that correctly or if there is some reason that the rest of the commission should not be informed of what happened at a meeting when there was a quorum?

**Mr. Cummings:** This was to make it compatible with the amendment under 2 which stipulates that a quorum shall be three. The reason for making these amendments are not to circumvent the Clean Environment Commission body as a whole, but what there was some possibility of happening was that members who did not sit as part of the panel were making decisions on the matter that the panel had heard, and therefore these two amendments were introduced to make sure that those who actually heard the matter, if you will, made a decision on it and were a quorum. These changes were recommended by the commission themselves in order to clear up procedural difficulties.

**Mr. Chairperson:** Clause 3 pass—pass.

Clause 4.

\* (2140)

**Mr. Storie:** I guess I first want it noted that Bill 49 is a very short bill and that two of the substantive clauses, in terms of the amendment, have now been amended again.

**An Honourable Member:** By one or two words.

**Mr. Storie:** Yes, Mr. Chairperson, in one or two words, and the words may or may not prove to be significant over the long run.

We all know that a one word change in a bill can be significant. What this points out, however, is what my colleague was saying to begin with and what the member for St. James (Mr. Edwards) said as well. That is that this piece of legislation is designed to do one thing and one thing only, and that is allow this government to proceed with stage development of Conawapa without going through a full environmental hearing process without having



all of the facts at hand. That is what it is designed to do. There can be no disputing that.

It is an interesting, I guess, approach to a piece of legislation that was supposed to eliminate some of the discretionary power that governments and ministers had in the past. It is interesting, I guess, the wording. This is why I am now talking about, in particular 13(2), where the wording talks about the ability of the minister to "Notwithstanding anything to the contrary in this act", do something which in his opinion, and I emphasize the word "opinion," is relatively minor in nature.

I am wondering why we are now relying on the issue of the minister's opinion, rather than on a matter of fact, which I would like to think or hope that most decisions are going to be based on. Why?

**Mr. Cummings:** I do not agree with the preamble and the presumptions or assumptions of the member for Flin Flon. Presently, we are using stage licensing. This was intended to make sure that the clause and any use of that clause was made clear. You recall that the potash mine at Russell has a stage licence. It only makes sense under those circumstances to be able to deal with that type of a project, and again nothing by that first stage.

You will note that there is a clause further on in this bill that very clearly states—nothing in a stage licence precludes or in any way indicates any presumption of acceptance of anything else in the future. That is there, very clearly, in order to provide the assurance that this is not some way of—to use whatever terms critics of the bill have used, foot in the door or I think I have the term "sneaky" used.

I guess I have to go back to the feeling that none of us checked our brains at the door when we came into this building. When we are looking at legislation, it has to be [interjection] well, I know I did not anyway.

The fact is that when we are making legislation we have to make sure that it is reasonable and practical in its application and that is all that is intended by this.

It was to be made clear that each stage authorizes only that portion, and sets out that the stages shall be in a series, each one specified component. I am not uncomfortable with this given the restrictions that are associated with it, otherwise, I would not have brought it forward.

There are real reasons for all sorts of sometimes small projects. To be able to deal with a licence as

a stage, preliminary work to even have the assessment done for the larger project, can and should, in many cases, require this type of process.

**Mr. Storie:** I guess I would like to be convinced by the minister that the minor amendments in here are necessary for any project of significant size. It has to be staged whether we are talking about the forest management licence to Repap or Conawapa. Why is it essential that these specific amendments be brought forward at this time?

**Mr. Cummings:** Again, all of these amendments are done primarily in the name of clarification. I think that you should look at 13(2) where we are talking about modifiers that do, in fact, put the limitations on any kind of a staged process.

**Mr. Edwards:** Mr. Chairperson, I have now had a chance to look at the amendments to the proposed section 13(2), and it is my view that they do not in any significant way deal with the real problem in this proposed section. I heard the minister say that he needs this to do preliminary work.

**Mr. Cummings:** I did not say that I needed it. That is where it would be used.

**Mr. Edwards:** He says that is justification for the need for the amendment. I mean, what is it? Does he need this or not? If he does not need it, then why is it here? Let us do something else.

By the way, I am going to conclude my comments by proposing that we do not need it, but in any event, Mr. Chairperson, this is not restricted to preliminary work. The word "preliminary" is not in here that I can tell anywhere except in 13(2).

13(1) stands on its own and is a clear indication that the stages can be done whether or not it is a preliminary question or not. I do not see 13(2) as dealing with preliminary steps narrowing 13(1). Am I wrong, can the minister tell me?

**Mr. Cummings:** 13(2) reads part way down, "... issue the first of a series of licences authorizing such preliminary steps to be taken with respect to the construction or alteration of the development as are specified in the licence, if", and then the next two clauses are modifiers.

**Mr. Edwards:** That is right, and where does it say in Section 13(1) that it is subject to Section 13(2)? It is not. Section 13(2) is on its own. It says, the minister or director may do this, and it is to deal with preliminary steps. Let us get rid of 13(1). If 13(2) is all he needs it for, the preliminary work, that is one

thing, but he is saying Section 13(1) he needs as well and Section 13(1), let us just be clear, makes no limitation. There is nothing in there that says subject to Section 13(2). There is no relation between the two. It stands on its own. It is a staging provision. It is not tied in any way to preliminary activities. I see the minister raising his hand.

**Mr. Cummings:** I am not raising it to go to the bathroom. The 13(1) basically exists today and is slightly modified in this amendment.

**Mr. Edwards:** Okay, well, then let us withdraw it. If it exists today, if he does not need it then let us get rid of it. Why does he need it?

**Mr. Cummings:** I indicated that we are making these amendments to clarify the conditions and the terms under which there can be staged licensing. That is what we are doing here, is clarifying those clauses, and I have said from the start that there are situations where stage licensing is appropriate.

**Mr. Edwards:** Does the minister suggest—and maybe he can tell us, what exactly is the clarification that is required? What was the problem? What was the lack of clarity that led him to need this new clarification? Because if it is only a clarification he should be able to tell us that.

**Mr. Cummings:** The existing stage licensing provision is unclear to its intent and usage. The amendment sets the stages out in series, each one issued for a specified component of the development.

**Mr. Edwards:** That is not only a clarification, and it is our position that either the minister is not completely apprised of what he is doing here or in fact—and I hear legal counsel advising the minister. Maybe he will want to add to his former answer.

**Mr. Cummings:** I would point to 13(1) itself where it says, "a licence so issued authorizes only the stage in the construction, alteration or operation specified in the licence," plus the section in 13(2) that I referred to—

**An Honourable Member:** 13(3).

**Mr. Cummings:** 13(3). Pardon me, I guess it was not the one I referred to. The one in 13(3) where—not obliged to issue any subsequent licence in the series.

Those are two of the important aspects of clarification to make sure that there is—in fact this, in my opinion and I am not a legal draftsman, but in

my opinion this probably restricts future ministries. Therefore, instead of being dumped on I should be praised for what I am doing.

\* (2150)

**Mr. Edwards:** I mean, I have a hard time seeing the words, may, as restricting a minister. I mean, that is not exactly a restrictive term. May is pretty wide open, Mr. Chairperson. If this minister is coming to this committee telling us that he is binding himself to some criteria, where are they? They are not in this legislation.

**Mr. Cummings:** Well, only looks pretty sticky.

**Mr. Edwards:** Mr. Chairperson, I draw to the minister's attention that the word "may" comes first. It is his discretion to determine. It is all prefaced and premised on the fact that it is his discretion in this bill whether or not to grant these licences effectively in stages.

This is not a clarification, Mr. Chairperson. This is, in my view, in our opinion, this is very clearly an indication of the way the government wants to empower itself to move in these areas. If the minister is saying that he is not going to be using this in any way to undercut or suppress a cumulative environmental review of projects, then he should be prepared, I suggest, to restrict this to those preliminary assessments that he says he needs it for.

**Mr. Cummings:** I invite the member for St. James to look at the original Clause 13, which says "may issue the licence in stages, each stage with specifications, limits, terms and conditions, thereby allowing a phased in approval process to coincide with project planning and development."

It is much more open-ended than the present clause where a licence so issued authorizes only the stage and construction alteration or operation specified. It makes it very clear as to what some of the limitations imposed on the minister or the department would be.

**Mr. Edwards:** With respect, I disagree with the minister. It is my view that this is a specification that adds to the minister's power, a specification all prefaced with the words "may". I do not see the limitations in this clause that the minister speaks of. I do not see any guarantee here or any security here that the minister would not be able to, and whether this minister would or not is not the issue. The issue is whether or not the potential is there for the real

effect of this legislation to be, and it may be that the existing legislation provides for the same type of abuse.

Is that the position of the minister, that the original Section 13 was flawed in its open-endedness, because if it was, he certainly has not cured it in this. In any event, Mr. Chairperson, this is the wrong way to be going. It is our position on environmental projects generally, it is just not progressive legislation.

**Mr. Cummings:** Mr. Chairperson, I do not expect that the member is going to be convinced by my law degree. I would simply point out to him that in my opinion we are tightening up these provisions. Indeed, the changes that we are proposing in 13(2), albeit not wordy, do reflect the concerns, as I recall, in the letter from the Environmental Law Association, do reflect suggestions that they made to amend this.

**Mr. Chairperson:** Does the honourable minister wish to move the amendment?

**Mr. Storle:** Mr. Chairperson, I am certainly prepared to have the minister move the amendment so we can move along. I do not want the minister to leave on the record that somehow this is a tightening up. Although I respect the fact that the original 13 probably could be interpreted in a number of ways, I would expect that the obligation would be on the minister to do more than set out an opinion with respect to its environmental impact or its impact.

I think that the minister is significantly loosening the requirements when you include words like, in the opinion of the director or minister, the environmental impact is minor, and now the amendment says is insignificant or some such similar word. It is making it very clear—

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I think that the minister is significantly loosening the requirements when you include words like, in the opinion of the director or minister, the environmental impact is minor, and now the amendment says is insignificant or some such similar word. It is making it very clear that the minister does not have to consider the environmental impact of a single stage, if, in his opinion, it is insignificant.

I do not believe that the original wording leaves that kind of implication. I think it is a little clearer that it is understood that stages would be granted. There is a list of words that talks about specified conditions and terms, et cetera. I think it was also understood that it would include some sort of factual assessment of the impact of whatever preliminary stage we are talking about.

If the minister wants us to believe that is somehow a tightening, I think he is on the wrong track. If the minister says he wants to give the cabinet and the minister and his director, more authority in the matter, that may be a saleable argument. It is certainly not tightening the requirements when you include words like "in the opinion of . . . the minister".

**Mr. Cummlings:** Mr. Chairperson, I refer the member to 13(2)(b) where the director or minister has complied with all of the clauses, 10(4)(a), 11(8)(a), and 12(4)(a), one of which is the requirement to use the public registry and notify the public.

I do not think that "in the opinion of . . . the minister", that this is going to be something that is going to be slipped through in the dark of the night, because it is subject to all of the other regular and normal licensing steps as the proponent brings forward the project.

**Mr. Storie:** Well, Mr. Chairperson, I did take a moment to read those clauses, and those clauses are simply the requirement on the proponent to file notice. There is no obligation to file notice and an environmental impact statement on a particular stage.

So referring me to Clause (b) is not convincing me, somehow, that the obligations on the department, on the minister, on the director, are any more onerous under this section. I think quite the reverse is true, and I am quite certain that that is the minister's intention. I certainly do not see this as any improvement on Section 13, as it currently reads.

**Ms. Marianne Cerilli (Radlsson):** The minister has dealt with some of the minor concerns. I appreciate his changing the wording from "minor in nature" to "insignificant"; that was one of the recommendations.

With respect to 13(1), I would ask the minister, why is it for preliminary steps, for licensing of preliminary stages or steps, that we have some criteria, we have some conditions, that this will only happen if there is going to be some attention given for the environmental impact, and why we do not have some of those kinds of criteria for stages, that I would think, of a development, that are going to be potentially more hazardous to the environment? Why do we not have some of those provisions with respect to mitigation of impacts and ensuring that those issues are addressed in Section 13(1)?

**Mr. Cummlings:** Mr. Chairperson, going through all of the stages of 13.1 is a complete process.

\* (2200)

**Mr. Edwards:** Mr. Chairperson, I have taken the advice of the minister and I have now compared the old Section 13 to the new proposed Section 13(1) through 13(3), and the truth is that they are fundamentally different clauses, and they do have different substantive effects on the minister's rights.

Let me draw those to his attention because he may not know exactly what he is doing here, and if he does not want any substantive changes and he only wants to clarify the position, he has not done that here.

In the old act, Section 13 provided for the licence which is applied for under Section 12(1). Section 12(1) says that the proponent must apply for a licence for the development, that is the whole development. Section 13(1) says that licence may be granted in stages allowing for the phased-in approval process to coincide with the project, planning and development.

The fact is that the proposal and the assessment that is done at the outset is of the whole development, whether or not the licence is granted in phases is one thing, but the new section 13(1) allows for a compartmentalized total, start, finish, for each portion of the series, and that is the difference.

The truth is that under the new Section 13(1), it is likely that the licence will be dealt with, start to finish, in different portions. The whole development will never have to be looked at. Regardless of the

issuing of the licence in stages, the point is that here in the new act, the new proposal, it is not ever necessary to take a global look at the development, and in the old Section 13, it was, because in the old Section 13, the fact is that under 12(1) the proposal had to be filed for the whole development and had to be viewed in that light whether or not it was ultimately given out in phases or not, and that is the difference. Therefore, it is a granting of additional authority, it is my position.

**Mr. Cummings:** I do not blame the member for, at first reading, interpreting it the way he did, but what happened under the old one was that different stages of the development could be a development, and in fact, that is how staged licensing would have been handled. So now it is specific the requirements of the minister to do that.

In other words, a topic that the member or my other critic has raised occasionally is the road that was constructed to Conawapa site for preliminary work. That is a staged preliminary licence by today's definition but could have been licensed as an independent development on its own under the old section of the act, and in fact, was. So this puts more criteria around any action that I, or any future minister might choose to take in respect to staged licensing.

It makes good politics to try and say that this somehow abrogates the responsibility of the ministry to do full and complete environmental assessment, but if you take that position very narrowly, it does not recognize the reality of what has to be done on these projects. If you look at reality and try and put it into legislation, maybe you cannot marry the two, but that is what we are attempting to do.

**Mr. Edwards:** Well, just one final comment, because I sense we are at a parting of the ways here, but the practice that the minister refers to whereby a licence was dealt with as essentially different licences—you do one part of it, you get the licence. You do another part, you start from the beginning and you finish it off. That is clearly what is going to happen. That clearly is what is going to happen under the new legislation.

Under the old legislation if it did happen it was improper, because there is no way on at least my reading—and I do not sense the minister disagreeing with this—but there is no way that Section 13 deals with anything but the licence and the development,

not portions. This does not provide for a series of licences, this provides for a phased-in licence. One licence.

That is different than what he is proposing in 13(1) which is a series of licences, different licences. That is the distinction. If, in fact, they were doing it wrong in the past, well, that is no excuse. That is not a reason to say we have been doing it wrong in the past, so we are going to legitimize the wrong way we have been doing it.

I mean, that surely is not the position the minister is bringing to this table, but that is what it sounds like. There is a position on your side too, I know that.

**Mr. Cummings:** These amendments clearly lay out that the licences are in series and that there is no obligation to issue anything after the first one or any other section. The fact is that under the way the other act was written—and has been in law for a number of years now—that you could designate, as the example I gave, is you could quite easily designate the preliminary work that we are now clearly recognizing needs to be done and handled in a specific way and could have been simply indicated as a development and handled that way which allowed stage licensing without saying so and was not illegal.

**Mr. Edwards:** Mr. Chairperson, this is an issue which I gather has not been defined by any court, but there is a difference between the word "stage" and the word "series". There is a difference there. The word "stage" in the old Section 13, to my mind, when prefaced with the words "the licence" talks about the proposal, the development, the licence. It can be issued in stages.

That is different than saying, in the new Section 13(1), that you can issue licences as one of a series, separate licences. That is a fundamental distinction. If he is just meaning to clarify what he had in Section 13, why did he change the language?

**Mr. Cummings:** The interpretation that I put on the wording in 13(1) where the director or minister, as the case may be, can issue a licence referred to in subsection as one of a series of licences, each of which is issued in respect of a specified stage in the construction, alteration or operation of a development.

It sets out the process, I think.

**Mr. Edwards:** Mr. Chairperson, one final point. The minister has hit the nail on the head. Read bold Section 13: The licence is issued in stages.

The licence, one licence. Now he is saying, one of a series of licences. That is the distinction, and it is critical.

**Mr. Cummings:** Well, I guess we are going have to get down to voting here.

**Mr. Edwards:** There is no answer to that, Glen. I mean, tell me I am wrong.

**Mr. Cummings:** The member does not, therefore, accept the openendedness of the old Section 13.

**Mr. Edwards:** Just because you were doing it wrong, I mean, you are not relying on that.

**Mr. Cummings:** Nobody has ever said that.

**Mr. Edwards:** You said that.

**Mr. Chairperson:** Order, please. Shall Clause 4 pass?

**Mr. Cummings:** Mr. Chairperson, I would like to introduce an amendment.

THAT the proposed subsection 13(2), as set out in section 4 be amended to read

(a) in that part preceding clause (a), by adding "referred to in subsection 10(1), 11(1) or 12(1)" after "a series of licences"; and

(b) in clause (a), by striking out "is known, is minor or is" and by substituting "is known and is either insignificant or."

**[French version]**

Il est proposé que le paragraphe 13(2), énoncé à l'article 4 du projet de loi, soit amendé:

a) par adjonction, après "d'une série de licences" dans le passage qui précède l'alinéa a), de "visées au paragraphe 10(1) 11(1) ou 12(1)";

b) à l'alinéa a), par substitution, à "sont connues, mineures ou", de "sont connues et qu'elles sont négligeables ou".

**Motion agreed to.**

\* (2210)

**Mr. Chairperson:** Shall Clause 4 as amended pass?

**Ms. Cerilli:** Mr. Chairperson, I have an amendment for Section 13(1) of the bill. Just for clarification, do I have to propose all my amendments for Section 4

at once, or do I go section by section? I cannot remember.

**Mr. Chairperson:** One amendment at a time, I would think. We would only consider one amendment at a time unless they are the same section.

**Ms. Cerilli:** Do I read the amendment first or do I give my reasons—[interjection] I move it first, okay.

I move

THAT the proposed subsection 13(1) of the Act, as set out in section 4 of the Bill, be amended by adding the following after "construction, alteration or operation of a development":

if

(a) the environmental impact of the development is known and the development, after taking into account mitigation of the environmental impact with known technology, is unlikely to cause significant adverse environment impact;

(b) the licence requires the proponent to implement the mitigation referred to in clause (a); and

(c) the director or minister has complied with clauses 10(4)(a), 11(8)(a) or 12(4)(a), as the case may be;

**[French version]**

Il est proposé que le paragraphe 13(1), énoncé à l'article 4 du projet de loi, soit amendé par adjonction, après "étape précise de construction, de modification ou de gestion d'une exploitation", de ce qui suit:

si:

a) les répercussions de l'exploitation sur l'environnement sont connues etsi, compte tenu de l'atténuation des répercussions grâce aux connaissances technologiques, l'exploitation ne risque pas d'avoir de répercussions néfastes importantes sur l'environnement;

b) le promoteur est tenu, en vertu de la licence, de mettre en oeuvre l'atténuation visée à l'alinéa a);

c) le ministre ou le directeur s'est conformé à l'alinéa 10(4)a), 11(8)a) ou 12(4)a), selon le cas

**Mr. Chairperson:** I believe the amendment is in order.

**Ms. Cerilli:** This relates to the question I recently asked the minister, with providing some criteria for the staging of licences, particularly when they are

not even dealing with preliminary steps, to ensure that there are some criteria that are going to ensure that environmental impacts are going to be acknowledged and dealt with, that certainly, criteria that we are applying to one kind of staging for preliminary steps should also apply to any other kind of stage of licences.

The wording is strong in that there is neither ability for the impact to only be known and not mitigated.

**Mr. Chairperson:** Shall the amendment pass?

**Some Honourable Members:** No.

**Mr. Chairperson:** No? All those in favour of the amendment, say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Nays have it. The amendment is lost.

**Some Honourable Members:** On division.

**Mr. Chairperson:** Recorded on division.

Shall Clause 4 as amended pass?

**Ms. Cerilli:** I also have amendments for 13(2), dealing with the licensing of preliminary steps.

I move

THAT the proposed subsection 13(2) of the Act, as set out in Section 4 of the Bill, be struck out and the following substituted:

#### **Licensing of preliminary steps**

**13(2)** The director or minister, as the case may be, may issue a licence referred to in subsection 10(1), 11(1) or 12(1), in advance of any licence issued under subsection 13(1), issue the first of a series of licences authorizing such preliminary steps to be taken with respect to the construction or alteration of the development as are specified in the licence, if

(a) the environmental impact of the development is known and the development, after taking into account mitigation of the environmental impact with known technology, is unlikely to cause significant adverse environment impact;

(b) the licence requires the proponent to implement the mitigation referred to in clause (a); and

(c) the director or minister has complied with clause 10(4)(a), 11(8)(a) or 12(4)(a), as the case may be; and

notwithstanding subsection 10(1), 11(1) or 12(1), a licence so issued authorizes only the preliminary steps specified in the licence.

#### **[French version]**

Il est proposé que le paragraphe 13(2), énoncé à l'article 4 du projet de loi, soit remplacé par ce qui suit:

#### **Licence pour les étapes préliminaires**

**13(2)** Le ministre ou le directeur, selon le cas, peut délivrer la licence visée au paragraphe 10(1), 11(1) ou 12(1) avant celle visée au paragraphe 13(1) et délivrer la première licence d'une série de licences, laquelle licence autorise les étapes préliminaires à suivre relativement à la construction ou à la modification de l'exploitation précisées dans la licence, si:

a) les répercussions de l'exploitation sur l'environnement sont connues et si, compte tenu de l'atténuation des répercussions grâce aux connaissances technologiques, l'exploitation ne risque pas d'avoir de répercussions néfastes importantes sur l'environnement;

b) le promoteur est tenu, en vertu de la licence, de mettre en oeuvre l'atténuation visée à l'alinéa a);

c) le ministre ou le directeur s'est conformé à l'alinéa 10(4)a), 11(8)a) ou 12(4)a), selon le cas.

Par dérogation au paragraphe 10(1), 11(1) ou 12(1), la licence ainsi délivrée n'autorise que les étapes préliminaires qui y sont précisées.

Mr. Chairperson, I think that this makes it much more clear of what the minister is saying, that this amendment is intending to do, particularly the last sentence.

**Mr. Chairperson:** I believe it is in order, yes. I would not want to interrupt an honourable member.

**Ms. Cerilli:** I appreciate that the minister also has an amendment for this section, but that it does not go far enough to ensure that any environmental impact of any stage of development is going to be mitigated and that this be mandated in the licence.

**Mr. Cummings:** Again, this amendment would effectively eliminate preliminary licensing for any preliminary steps without all of the environmental assessment being done, and therefore, I believe the appropriate amendment is the one that is in the bill.

**Mr. Chalrperson:** Shall the amendment pass? All those in favour of the amendment, say yea.

**Some Honourable Members:** Yea.

**Mr. Chalrperson:** All those opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chalrperson:** In my opinion the Nays have it. The amendment is lost.

**Ms. Cerilli:** I have one further amendment for Section 13. I move

THAT the proposed subsection 13(3), as set out in section 4 of the Bill, be struck out and the following substituted:

**Effect of Issue of licence in series**

13(3)Where the director or minister issues a licence under this section, the director or minister is not thereby obliged to issue any further licence.

**[French version]**

Il est proposé que le paragraphe 13(3), énoncé à l'article 4 du projet de loi, soit remplacé par ce qui suit:

**Effet de la délivrance de licences en série**

13(3)S'il délivre une licence en vertu du présent article, le ministre ou le directeur n'est pas tenu de délivrer d'autres licences.

**Mr. Chalrperson:** The proposed amendment is in order. You may proceed.

**Ms. Cerilli:** This deals with the vague opportunity to still issue licences for other series of licences for another stage of development for the same project. I move it in both official languages.

**Mr. Chalrperson:** Shall the proposed amendment pass? All those in favour of the proposed amendment, say yea.

**Some Honourable Members:** Yea.

**Mr. Chalrperson:** All those opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chalrperson:** I have counted the Yeas, and I have counted the Nays, and in my opinion the Nays have it. The amendment is lost.

Shall Clause 4, as amended, pass? All those in favour of Clause 4 as amended, say yea.

**Some Honourable Members:** Yea.

**Mr. Chalrperson:** All those opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chalrperson:** In my opinion, the Yeas have it. Clause 4, as amended is passed.

**Some Honourable Members:** On division.

**Mr. Chalrperson:** On division.

Shall Clause 5(1) pass? All those in favour, say yea.

**Some Honourable Members:** Yea.

**Mr. Chalrperson:** All those opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chalrperson:** The Yeas have it. Clause 5(1) is passed.

Shall Clause 5(2) pass?

\* (2220)

**Mr. Cummings:** Mr. Chairperson, I move these amendments in both official languages.

THAT the proposed Subsection 14(2) as set out in subsection 5(2) of the Bill, be amended

(a) in clause (b), by striking out "of a minor nature, or" and substituting "insignificant or";

(b) in clause (b) by striking out "or on the advice of other affected departments"; and

(c) in clause (c) by striking out "no alteration is required to any limit, term or condition that was the subject" and substituting "the proposed alteration is not an alteration to any limit, term or condition that was amended as a result".

**[French version]**

Il est proposé que le paragraphe 14(2), énoncé au paragraphe 5(2) du projet de loi, soit amendé:

a) à l'alinéa b), par substitution, à "d'ordre mineur", de "négligeables";

b) à l'alinéa b), par suppression de ",ou sur recommandation d'autres ministères touchés par l'exploitation";

c) à l'alinéa c), par substitution, à "si aucun changement des restrictions, des modalités ou des conditions ayant fait l'objet d'un appel en vertu de l'article 27 ou 28 n'est requis", de "si ce changement ne s'applique pas aux restrictions, aux modalités ou aux conditions modifiés à la suite d'un appel en vertu de l'article 27 ou 28".

**Mr. Chalrperson:** The amendment is in order. Ms. Cerilli, did you wish to speak to it?

**Ms. Cerilli:** I was just going to comment that at least the minister is not abrogating the authority of



the department to another department or the advice from another department.

**Mr. Chairperson:** The proposed amendment by the Honourable Mr. Cummings, moved in both official languages

THAT the proposed Subsection 14(2) as set out in subsection 5(2) of the Bill, be amended

(a) in clause (b), by striking out "of a minor nature, or" and substituting "insignificant or";

(b) in clause (b) by striking out "or on the advice of other affected departments"; and

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b) à l'alinéa b), par suppression de ",ou sur recommandation d'autres ministères touchés par l'exploitation";

c) à l'alinéa c), par substitution, à "si aucun changement des restrictions, des modalités ou des conditions ayant fait l'objet d'un appel en vertu de l'article 27 ou 28 n'est requis", de "si ce changement ne s'applique pas aux restrictions, aux modalités ou aux conditions modifiés à la suite d'un appel en vertu de l'article 27 ou 28".

Shall the amendment pass? All those in favour of the amendment, please say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it, and the amendment is passed.

Shall Clause 5(2) as amended pass? All those in favour of Clause 5(2) as amended, say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** Clause 5(2) as amended is accordingly passed on division.

Shall Clause 6 pass?

**Mr. Cummings:** I have an amendment. I will read this while it is being circulated, Mr. Chairperson. I move,

THAT the proposed subsection 27(1), as set out in section 6 of the Bill, be amended

(a) in clause (f), by striking out ", other than a limit, term or condition described in clause (g)," and

(b) in clause (g), by striking out "period commencing on that date" and substituting "specified period".

**[French version]**

Il est proposé que le paragraphe 27(1), énoncé à l'article 6 du projet de loi, soit amendé:

a) à l'alinéa f), par suppression de "autres que celles énoncées à l'alinéa g)";

b) à l'alinéa g), par suppression de "qui commence à la date".

**Motion presented.**

**Mr. Cummings:** This is being done in order to make sure that there is no misunderstanding on the part of opponents to any particular project, that their opportunity to appeal is not being shortened, that it is in fact being lengthened where there is staged requirement in the licence or a future date when—a better way to describe it would be a future date when a section of the clause kicks in and they have an opportunity to appeal that dated section of the licence at some time later than the first date of the issuing of the licence.

**An Honourable Member:** Are you sure?

**Mr. Cummings:** Yes. Mr. Chairperson, this is an example of where this bill is meant to actually assist those who are concerned about any impacts of licensing, and I would recommend it be passed.

**Motion agreed to.**

**Mr. Chairperson:** Clause 6, as amended—pass.

Shall Clause 7(1) pass?

**Mr. Cummings:** I have an amendment, Mr. Chairperson:

THAT the proposed clause 41(1)(dd), as set out in subsection 7(1) of the Bill, be amended by striking out "the review of that person's obligation to monitor"

and by substituting "the monitoring of, or the review of, that person's obligation to monitor,".

**[French version]**

Il est proposé que l'alinéa 41(1)(dd), énoncé au paragraphe 7(1) du projet de loi, soit amendé par substitution, à "à la révision de son obligation de surveillance", de "au contrôle ou à la révision de son obligation de contrôle".

Again, I am reading this while it is being circulated. I apologize to the members of the committee. The intent is to make sure that the department has the ability to recover costs, including the costs of monitoring or the costs of reviewing the monitoring that that person is obliged to do. It is to make sure that we have not left any stone unturned in order to recover the actual costs of administering The Environment Act.

**Motion agreed to.**

**Mr. Chairperson:** Clause 7(1) as amended—pass.

Shall Clause 7(2) pass?

**Mr. Cummings:** I have an amendment. The honourable member for Dauphin (Mr. Plohman) will like this one:

THAT the proposed subsection 41(6), as set out in subsection 7(2) of the Bill, be amended by striking out "a judgment" and substituting "an order".

**[French version]**

Il est proposé que le paragraphe 41(6), énoncé au paragraphe 7(2) du projet de loi, soit amendé par substitution, à "d'un jugement", de "d'une ordonnance".

**An Honourable Member:** Ask him for the rationale.

**Mr. Cummings:** We can make it stick easier.

**Ms. Cerilli:** He has to give the rationale.

**An Honourable Member:** Not yet.

**Mr. Chairperson:** The proposed amendment is in order. It has been moved by the Honourable Mr. Cummings, in both official languages.

**Mr. John Plohman (Dauphin):** Mr. Chairperson, I would like to know why the minister feels free to make the assumption that this is an amendment that would please me. I would like to know why he has to move from "a judgment" to "an order". It sounds like a heavy-handed approach to me.

**Mr. Cummings:** This makes it consistent, Mr. Chairperson, with The Dangerous Goods Handling and Transportation Act and the procedures included in that act.

**Mr. Chairperson:** Shall the proposed amendment, moved by the Honourable Mr. Cummings, in both official languages, that the proposed subsection 41(6), as set out in subsection 7(2) of the Bill, be amended—shall it pass?

**Some Honourable Members:** Agreed.

**Some Honourable Members:** No.

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

**Some Honourable Members:** Yea.

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

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it. The amendment is passed.

Clause 7(2) as amended—pass; Clause 8—pass; Preamble—pass; Title—pass; Bill be reported as amended.

That concludes consideration of Bill 49.

**Bill 96—The Special Operating Agencies Financing Authority Act**

**Mr. Chairperson:** I would bring to the attention of the committee, we announced a while ago that Bills 93, 96, and 98 have been referred to this committee. We have one public presenter to speak to Bill 96, Mr. Olfert. I see he is in attendance. What is the will of the committee? Is it the will of the committee to hear Mr. Olfert's presentation on Bill 96? That is agreed. Mr. Olfert, do you have a written presentation for distribution?

**Mr. Peter Olfert (President, Manitoba Government Employees Association):** I only have one copy of my own notes that I will go from.

Mr. Chairperson, and members of the committee, I would like to thank you for moving this up on the agenda tonight.

I would like to speak just briefly on Bill 96, that being the establishment, or the ability of government to establish special operating agencies. As president of the Manitoba Government Employees Association the news that this government was passing enabling legislation on what is called the special operating agencies raised my suspicion immediately. Since the government's enabling

legislation on the special operating agencies, in terms of the government's track record on labour legislation in general has been so abysmal, I had no reason to believe that this bill would be any different, and I was certainly not disappointed in that.

\* (2230)

The membership of the MGEA staffs the very programs which will be affected by this legislation. They are the people who have the most to lose and they are the reason that I am here today. Special operating agencies pose a very real danger to their livelihood and a real danger to the services they deliver, and what is the objective of this bill. Is it to increase the flexibility government needs to function? Is it to increase the efficiency, as the government is so fond of claiming, or is it, as I and most others in the labour movement believe, a means of back door privatization?

This government operates through a dense fog of misunderstanding about what public services are, and why we have them. From my point of view public services are not a commodity. They are the collective action of all citizens to address needs or problems. They must by definition be available to everyone regardless of circumstances, or put another way, public services are not a business which should operate solely on a profit basis.

(Mr. Ben Sveinson, Acting Chairperson, in the Chair)

It is, in fact, this very attitude which is at the root of the recent decline in services in this province. Unfortunately this legislation merely reinforces this approach to services. This bill says that by the mere stroke of a pen, public services can become a business. There need be no public consultation. There need be no discussion with the affected employees or their union, and all this is happening because of a perverse, ideologically driven agenda to reduce services to its citizenry under the guise of efficiency.

The other disturbing aspect of the bill is that the government is misleading the public and the Legislature on the role of the MGEA in all of this. Mr. Manness claimed, and he is quoted in Hansard as saying that we have been consulted and that we approve of SOAs. Granted, we did attend a seminar last year at the Winnipeg Art Gallery on special operating agencies, and listened to testimonials by Queen's Printer and Highways managers about the advantages of the SOAs.

At this meeting, we also raised some concerns and were promised that we would be kept informed. On October 1, 1991, there was another brief meeting which essentially laid out the government's direction on the matter of SOAs. That was the last thing we heard officially until the introduction of Bill 96.

While this is typical of the disdain with which this government treats the MGEA, it can hardly be characterized as consultation, nor can the government honestly claim that we approve of the legislation. I can assure all members of the committee that we do not. Manitoba does not need special legislation to deal with departmental charge-backs.

SOAs are not intended to achieve economies of scale in purchasing. A case in point is the garage operated by the central vehicle branch. The work our members do there, as the government itself and the minister have in the past admitted, cannot be done more cheaply by the private sector. So why change something which is already economical and cost efficient unless there is something else intended?

As usual, I am afraid that the government has not been entirely forthright in its justification for the bill. In our view, this bill is not needed. The government already has the authority to do the very thing outlined in Bill 96 under the existing internal structures. The full implications of this legislation are not at all that apparent, but I believe that the potential for privatization, for setting up agencies to fail to justify reductions in services are reasons enough to call a halt to this bill.

People have the right to know what its government is doing and why. Until this government comes clean, Bill 96 should not be approved. I would like to thank the committee.

**The Acting Chairperson (Mr. Sveinson):** Thank you, Mr. Olfert. Are there any questions?

**Mr. Jerry Storle (Flin Flon):** Well, Mr. Acting Chairperson, I am sorry I missed Mr. Olfert's opening remarks. I would just like to explore for a minute the suggestion that was made by the minister in his introduction on second reading that there had been consultation, that in fact the MGEA had been consulted, and he implied that there was really support for this initiative. Can you tell us what meetings or series of meetings were held to outline the government's longer-term intention here?

**Mr. Olfert:** Well, I think that is one of the purposes for my making this presentation. I have read the comments made by the minister, the honourable Clayton Manness, where he says the MGEA is satisfied to see the SOA initiative proceed on a pilot basis.

What I indicated in my brief to the committee was that there had been two meetings with the MGEA. One goes back about a year now, sort of a first meeting with us and some of the membership at the Art Gallery where the government indicated that they were looking at the feasibility and the possibility of setting up Special Operating Agencies. Then there was another one in October of this year at which basically representatives of the government came and met with some of our staff and membership and indicated that they were ready to proceed and that they were going to proceed at this session with this bill. So really in essence, there was no ability for us to have any input into the process, rather we were told by officials at both meetings that the government was intent on doing this and they were going to proceed with the bill.

**Mr. Storle:** Did the government or did the discussions turn on any particular branches or departments? Did the government outline what other areas, other than perhaps the fleet vehicle area in the Department of Government Services, where they might be interested in SOAs?

**Mr. Olfert:** The other area that they had talked about was the area of the Queen's Printer. But my understanding is now—and having discussed with people who work at the Ward Lab—the government is also considering moving to SOA for the Ward Lab. There could be numerous other groups and parts of the Civil Service that could be moved into. Again, the issue here for us is that through an Order-in-Council, the minister can assign and set up these Special Operating Agencies under sections of the act. So that is certainly a concern because we believe that if the government is going to move in this direction that it should be fully disclosed to the public, fully disclosed to the members of the Legislature and debated at that point. So we now know of at least the Queen's Printer, the fleet vehicles and the Ward Lab that are possible targets. There could be many more.

**Mr. Storle:** Mr. Acting Chairperson, just so I understand. Certainly it is not clear in this legislation what ultimately the motive is for doing

this. The minister in his opening remarks, I hope that he will have a chance somewhat later when we get into clause-by-clause to explain I guess the other motives for these particular, the introduction of this legislation and the need for SOAs.

What explanation were your members given for the need for SOAs?

**Mr. Olfert:** Well, my understanding is that the government and the officials that were at the meetings explained it in a way that this would give the Special Operating Agencies the ability to have money flow back to those Special Operating Agencies as opposed to having that money come into the consolidated fund in the sort of the big pot in terms of revenue, so that they could use those dollars that would come back from the various departments or charges to public; in the instance of the Queen's Printer, would flow back to the Queen's Printer so that they could operate more in a self-contained operation that way, without having that money flow into the consolidated fund as it does now. Those were the reasons that were given to us.

\* (2240)

**Mr. Storle:** Mr. Acting Chairperson, perhaps underlying, I guess, your general concern for this legislation is a concern that perhaps the government is finding a way to identify branches within government that could become special operating entities and show perhaps over a period of time, profitability. Was that word ever used? Is that part of the motivation that you are concerned about?

**Mr. Olfert:** Well, I did not attend either one of the meetings personally. We had our staff and some of our members attended those meetings. Obviously, it is a concern because I believe that, as an example, in the instance of the Central Vehicle Branch, I believe that operation, as has been proven in the past—and I know Mr. Driedger has indicated to us at joint council that they have been a very efficient operation—that indeed the hourly rate paid our members working there as mechanics is something on the order of \$14 an hour, and when you go to a dealership you are looking at \$46 an hour.

There are other efficiencies that are built into the Provincial Garage currently where they can order in volume. They can order tires for fleet vehicles, brakes and mufflers, and those kinds of things can be done on a volume purchase basis. They run very efficiently currently, and I really do not think that the government should be looking at profit being the

motivating factor for setting up an SOA at fleet vehicle as an example, because really they operate as a service to other departments of government.

**Mr. Storle:** Well, I was intrigued as well by a suggestion that the government wanted the benefit to flow back to the department. It would be interesting to know what the explanation for that is.

If a branch of a department, in fact, creates a surplus, creates revenue and it goes back to the government as a whole, why would the government feel that that needed to be changed? Why would you want to create money, for example, in the Queen's Printer area and not have that revenue flow back to the government to be used in other areas, other operations of government, health care, whatever? How does that serve the public to have Queen's Printer manage that money and use it for staff or additional material or whatever?

**Mr. Olfert:** That is one of the reasons that I made those comments. I do not think that it is really necessary, because money that flows back to government can be used and just moved through the departmental process in terms of allocation in the Estimates and allocations to various branches of government. If they are concerned about it at all, they can certainly track the charges coming in or the revenue flow to the Queen's Printer and provide that in terms of the annual budget as they do now.

(Mr. Chairperson in the Chair)

**Mr. Storle:** One final question, I do not know whether it strikes, Mr. Olfert—it certainly strikes me that the Manitoba Data Services was a special operating agency. In fact, it provided 95 percent of its services directly to government, made a profit of approximately \$3 million a year, saw a lowering of rate—approximately made \$3 million a year. [interjection] Well, the Minister of Finance (Mr. Manness) then can perhaps provide us with an overview at some—\$3 million dollars.

Mr. Chairperson, the fact of the matter is that the government, of course, turned around and sold that special operating agency, and I guess the question is: Is there a fear amongst your members that that is the government's ultimate objective, to create special operating agencies that can prove viable and would be seen as viable in the private sector?

**Mr. Olfert:** I did mention certainly that possibility in my brief, the whole issue of the privatization. I really get concerned when, in his comments in the Legislature, the minister talks about SOAs or an

expression of quality management in the public sector which are proven successful internationally.

I think if you look internationally and you look at England as an example, where the government there has privatized and privatized and privatized—they have even privatized the water systems, the sewer systems in England—if that is the kind of success internationally he is talking about, where people are now being gouged, and setting up sort of a special agency with sort of leading down the path to privatization, then they sold it off to the public sector, now people are being gouged for the water they use in many areas in England. So I am certainly concerned that the privatization is the hidden agenda part of setting up the SOAs.

**Mr. Reg Alcock (Osborne):** I apologize, Mr. Olfert, for being late coming in. I have been waiting all day for this presentation and then missed most of it. The first one of my questions may in fact be repetitive. I suspect you may have been asked it already.

I had a lengthy discussion with the Minister of Government Services (Mr. Ducharme) about the SOAs and about the involvement of the staff in the discussions leading to the creation of an SOA with the provincial garage. I was led to believe then and in the debate in the House, when this bill was discussed, that there had been extensive consultations with the staff involved and that the staff involved were in fact eager and excited about this prospect and fully supportive of the concept. Can you just respond to that, please?

**Mr. Olfert:** I did respond to a couple of those things in my comments. One was the fact that we have had two consultations with government officials, one going back about a year now and another one last October, where we were informed the direction that the government was taking. Yes, there have been discussions with staff.

There have been briefing sessions with people in the department at the provincial garage, but again, it is something that—and the minister again talks about the fact that under this, you know, he feels that there can be better results, increased management flexibility, needed to reach new levels of performance. There will be more education, more training made available to employees, more more education, more training made available to employees, more satisfaction. All those things can be done currently without having to set up a special operating agency.

Yes, I think originally, in the beginning, people were buying into it, staff were buying into it, but that was because they finally saw that they may be getting some training, they may be getting some new equipment, so they were somewhat enthusiastic in the beginning. However, as they see more and more of what is happening and the potentials in terms of their futures, they are becoming less and less enthusiastic about being under a special operating agency.

\* (2250)

**Mr. Storle:** Mr. Chairperson, just a couple of other questions, perhaps more specifically related to clauses in this bill. One of them is that one of the powers of these financing authorities for these special operating agencies is the ability, and it says: to enter into agreements with any person or representative of any government for its own purposes or the purposes of an agency.

I am wondering if your members are concerned that this is really authorizing agencies within a department to contract out in effect or to, perhaps even more sinisterly, use and hire and employ political operatives for the government.

**Mr. Olfert:** That certainly is a possibility in terms of the powers that are contained in this act, those and many others. Our concern is as well that it is just full of Order-in-Council provisions and authorities that are given to individuals and without the accountability that there is currently under the powers of the Legislature to ask specific questions of the minister with respect to those operations.

So we certainly have some concerns in terms of the powers that are being handed out in terms of management, the specific management of these special operating agencies. There are other areas in terms of employment of staff, what is the intent of Clause 8(1), what is the intent of 8(2), the whole issue of remuneration of staff. Those areas are certainly of concern to us as well, because while it says: The financing authority may employ, under The Civil Service Act such persons, et cetera—

**An Honourable Member:** It does not say shall.

**Mr. Olfert:** Yes. There are possibilities under other authorities given in the legislation that they can act on their initiative, and that is a concern.

**Mr. Storle:** Mr. Chairperson, I guess, perhaps, I find it a little ironic that the Minister of Finance (Mr. Manness), when he introduced this legislation

talked about two specific purposes for introducing the legislation.

Number one was to create efficiencies and allow agencies within the branch to operate more independently. Secondly, allow them, I guess, more financial flexibility. Those are the same arguments the government used to disband other agencies, for example, the Manitoba Energy Authority, which it said: Well, we do not have to create these special agencies because that work can be done by departments. That was the logic. Then they said: Well, we do not need the MEA to act independently in financial terms because that too can be done by the departments. We do not think MEA needs the kind of financial flexibility that it had in its role as a Crown corporation.

It leads me to believe, what does the government really hope to achieve by this? If it argues on the one hand that an agency like MEA does not need that power, why would some new entity created within the department need that kind of flexibility?

**Mr. Olfert:** Well, I agree. I mean, again, there are a lot of inconsistencies here, because the government has just gone through the whole issue of collapsing housing authorities around the province and bringing them under one umbrella. On the other hand, now they are setting up special operating agencies within the Civil Service to do certain things which I believe, quite frankly, if you want to build in efficiencies, you can build those into existing systems.

I know that Mr. Driedger, who had the portfolio responsible for the provincial garage—they have done an excellent job there. The efficiencies that have been built into that operation under the current structure cannot be touched by the private sector. They have reports and documents and studies going back over a number of years that the private sector cannot compete with those kind of labour rates, \$14 versus \$46 at a dealership downtown.

The fact that they can purchase by volume and those kinds of things has certainly led to an efficient operation. So I do not see the need to set up separate legislation to provide that, because I believe that in the area of financing, if they want to assign specific purchasing numbers and provisions to designate or to track the purchasing of the vehicle garage and track the dollars that come in from the departments and the business that they do, that can be tracked internally.

**Mr. Storle:** Just for the record, the former Minister of Government Services confirmed that in fact you are correct. The department is running tickety-boo, in his words, while he was there. He sees no need for this legislation, is what he said. Oh, I am sorry. I may be putting words in his mouth, Mr. Chairperson. I have no further questions.

**Mr. Chairperson:** Thank you. Are there any further questions or comments? Mr. Gaudry? No. If there is nothing further for the presenter, I would like to thank you very much for your presentation and your patience in waiting for the opportunity.

**Mr. Olfert:** Thank you.

### Committee Substitution

**Mr. Gaudry:** Yes, I would like to move, with the leave of the committee, that the honourable member for Inkster (Mr. Lamoureux) replace the honourable member for St. James (Mr. Edwards) as a member of the Standing Committee on Law Amendments, effective immediately, with the understanding that the same substitution will also be moved in the House to be properly recorded in the official records of the House.

**Mr. Chairperson:** Thank you, is that agreed? That is agreed.

\* \* \*

**Mr. Chairperson:** As previously agreed, the committee will continue to consider bills referred in a sequential order.

### Bill 79—The Highways Protection and Consequential Amendments Act

**Mr. Chairperson:** We will now be considering Bill 79, The Highways Protection and Consequential Amendments Act. Does the minister responsible for Bill 79 have an opening statement?

**Hon. Albert Driedger (Minister of Highways and Transportation):** Yes, Mr. Chairperson, let me first indicate the rationale for bringing forward this bill, which is quite a lengthy bill. The initial intention was to try and do some minor changes to make provision for controlling the signing on highways, and the other thing that we were looking at is to take and address some of these processes of the Highway Traffic Board.

When we went to legal counsel with this proposal, they started looking at The Highways Protection Act and The Highways and Transportation Department Act and found out that there was a vast amount of

duplication that took place and that the whole Highway Traffic Act was sort of a convoluted type of act that to start making amendments to it, would be virtually impossible.

Based on the suggestion of the legal counsel, they suggested that we rewrite the act, which we have done, and I have to indicate to the members that preparing the information for the opposition critics actually has taken more time than developing the bill because we have tried to be very extensive in terms of preparing this information so that they could understand what was going on. I realize that sometimes too much information is not good, but, in this particular case, we took a lot of time explaining exactly the process and what we are doing.

So, with those short comments, Mr. Chairperson, I want to indicate that where we used to have two parallel systems and the two acts overlapped, we have sort of tried to combine that into something that is a workable act, and we present that and ask for approval for this bill here today.

**Mr. Chairperson:** Does the critic for the official opposition party have an opening statement?

**Mr. Daryl Reid (Transcona):** I will be very brief in my opening statement. We have raised many of the concerns that we had with this legislation in second reading on this bill. We are prepared to go page by page, if there is a will of committee to do that. There are a few specific areas that I have noted in the legislation here, that I can stop and raise my questions at that point. I will try and be as brief as possible considering the lateness of the hour.

**Mr. Driedger:** Mr. Chairperson, I just wanted to indicate that we have no amendments that we are proposing. We have gone through this again. When it is done right the first time, you do not have to make amendments.

**Mr. Chairperson:** Does the critic for the second opposition party have an opening statement?

\* (2300)

**Mr. Kevin Lamoureux (Inkster):** No, Mr. Chairperson, but we can go ahead and pass it page by page.

**Mr. Chairperson:** Is it the will of the committee to proceed page by page?

**Some Honourable Members:** Agreed.

**Mr. Chairperson:** As is standard procedure, we shall leave the Preamble and the Title until all the clauses have been considered.

Clauses on page 1—pass; Clauses on page 2—pass; Clauses on page 3—pass; Clauses on page 4—pass; Clauses on page 5—pass; Clauses on page 6—pass; Clauses on page 7—pass; Clauses on page 8—pass.

Shall Clauses on page 9 pass?

**Mr. Reid:** There is one section there, and I raised this question in debate on second readings: Section 8(3), "Permits for off-premises signs", in the notes that the minister provided, it talked about a time-consuming process. Could you give me some explanation of what they meant by time-consuming process under this section?

**Mr. Driedger:** Mr. Chairperson, at the present time, any application for a sign has to be advertised, and a hearing, held. It is very costly, time-consuming, frustrating experience, both for the applicant as well as the board. So what we have done here is that they can issue the permit without having to go through that process. It is going to be a money-saver, time-saver. I think the applicants who get frustrated with the process—

**Mr. Reid:** Does that also include denying any application for permits without going to hearings?

**Mr. Driedger:** Yes, that is correct.

**Mr. Chairperson:** Shall the clauses on page 9 pass?

**Mr. Jerry Storie (Flin Flon):** Just further to the question that was asked, I guess while it does allow the board more flexibility and it would be less time consuming, and I am only surmising this means that the signs that we are talking about could be commercial signs so that what we are talking about now is giving the Traffic Board the authority to say, without holding a hearing, yes, you can put up that sign.

I am wondering if this kind of a process is followed in other jurisdictions because, of course, in the United States there are many, many examples of states that wish they had never gotten onto that path of allowing signs—[interjection] Pardon me?

**An Honourable Member:** Wild drugs?

**Mr. Storie:** Exactly, and what I am suggesting here is giving the board the authority to do this without a

hearing, is that going to increase pressure on the board to approve applications for signs?

**Mr. Driedger:** Mr. Chairperson, I want to indicate that we will be drawing up regulations and standards which are going to basically set out the format in terms of where signs would be held. As the member is aware, maybe I could just give a little bit of background because there seems to be some concern. Right now we have a proliferation of illegal signs across the province.

If you look at some roads, it is a nightmare, really. What we are trying to do is set up a system where they can make an application and then my Highways staff will take, and based on the regulations that there are so that we have them a certain distance apart, a certain distance off the road, and they have to comply with a certain standard in terms of the type of sign that they can have so that it is not going to be creating a safety hazard for drivers.

They will be spaced well. There will be limited wording on there as we have right now, I think something like 13 words. Ten to 12, 13 words is all that is allowed so that we have regulations that basically the Traffic Board would be applying in terms of an application that comes in. So we think it is going to be a much, much better system.

**Mr. Storie:** Are there any rental fee, ongoing charge to people who make application and get them approved?

**Mr. Driedger:** Mr. Chairperson, at the present time there is no fee but after we implement this system we expect that we will be charging them \$50 per application for a three-year period with again a renewal of \$50 after three years. So it will cost them \$50 every three years to put up this kind of a commercial sign based on the standards and regulations that we set up.

**Mr. Storie:** Well, I want the minister to know that I support him, and this is better than his toll road idea.

#### Point of Order

**Mr. Driedger:** This year, the toll road was never raised by this minister. The issue was raised by a radio announcer by the name of Peter Warren, who has since that time dubbed me with the name of toll-gate Driedger, which is not fair.

**An Honourable Member:** You are never going to live this down, Albert.



**Mr. Chairperson:** The honourable minister does not have a point of order, it is a dispute over facts.

\* \* \*

**Mr. Chairperson:** Clause—pass.

Shall Clauses on page 10 pass?

**Mr. Reid:** One question here at least. On Section 11(1) under closure alteration by minister, the explanation notes that were provided talked about the arbitration procedure as being cumbersome and complex. Can you give me an explanation of that? What change this is going to implement?

**Mr. Driedger:** I am going to try and explain this. The present legislation was approved in 1942 and was a cumbersome type of way of doing it where there was contractual arbitration, and at the present time, the minister will have the option of making that decision.

**Mr. Chairperson:** Shall clause on page 10 pass?—(pass).

**Mr. Reid:** On page 11, section 12(1) under Inspectors indicates that the minister may appoint any person as an inspector for the purposes of this act. That leaves that open to total discretionary use by the minister.

Can the minister give me an indication on what his intentions are, the department's intentions, in this matter?

**Mr. Driedger:** Mr. Chairperson, the member raised the issue the other day that the minister would be allowed then to appoint staff at will outside of government. This would be departmental staff that we would be appointing as inspectors to go out and make sure that the individuals comply with the regulations. So it is not something where we would have political people appointed to do this kind of thing.

**Mr. Reid:** So then I take it by that it would be the existing departmental staff, or would you be hiring new staff to fill these roles?

**Mr. Driedger:** It would be done with existing staff. For example, we have the traffic inspectors who are also in-house. They are not political appointments, it is all within the system. In this particular case, the people that my Highways staff in the districts would by and large be possibly the inspectors, say my district engineer or his assistant or something of that nature.

**Mr. Chairperson:** Let the record show that clauses on page 10 are passed; clauses on page 11—pass; clauses on page 12 pass?

**Mr. Paul Edwards (St. James):** Can the minister just explain what the inspectors might be entering dwellings for, under this act, provided for on page 12? We do not want police in our homes.

**Mr. Driedger:** What this would do is it would allow, if businesses changed for example, within our right-of-way, businesses that are in the right-of-way, if they changed their method of doing business, it would allow our inspectors to enter that business place to see exactly what they are doing.

**Mr. Chairperson:** Clauses on page 12—pass; clauses on page 13 —pass; clauses on page 14—pass; clauses on page 15—pass; clauses on page 16—pass; clauses on page 17—pass; clauses on page 18—pass.

Shall clauses on page 19 pass?

**Mr. Reid:** On page 19, Section 19, under "Function of traffic board", the notes that were provided indicated that there would be additional duties that would be performed by the Traffic Board. Can the minister give me an explanation of the additional duties that would be assigned or required for the board to undertake?

\* (2310)

**Mr. Driedger:** Mr. Chairperson, the duties of the Traffic Board basically involve The Off-Road Vehicles Act; it involves The Highway Traffic Act; the spacing of signs. These are all the duties that are presently under the act that they would be administered, and that is basically what it means. There would also under this act now be an appeal body for certain applications.

**Mr. Reid:** Are any of these functions new, in addition to what their regular duties had been before?

**Mr. Driedger:** Yes, Mr. Chairperson, the appeal aspect is a new responsibility. Where it used to be that an individual, unhappy with the decision of the Highway Traffic Board would be able to appeal to the PUB, now, because of the changes in here, the decision is going to be made by departmental people in some cases, and then the Highway Traffic Board will be the appeal tribunal. An individual who is unhappy with the decision of my department can appeal to the Highway Traffic Board to have that adjudicated.

**Mr. Reid:** If I understand you correctly, you said that the Highway Traffic Board would make the initial decision—

**Mr. Driedger:** No, the staff.

**Mr. Reid:** The staff. Okay, I understand.

**Mr. Chairperson:** Clauses on page 19—pass.

Shall the clauses on page 20 pass?

**Mr. Reid:** On page 20, Section 26(2) under Evidence, it says that the Highway Traffic Board can accept evidence that may be given before it in any manner that the Traffic Board considers appropriate.

Does that include—because I had, as I indicated on debate on one of the other pieces of legislation that the minister brought forward or it was during Estimates, where I attended a show cause hearing, and there were some of the dealings of the transactions of that particular board that were conducted in the midst of the meeting in backroom, so out of sight and out of earshot of the public. Does that mean that by this clause here, the same backroom deals will take place?

**Mr. Driedger:** Mr. Chairperson, no, that is not the case. What this does is, it makes provisions that people can give evidence or information other than in the court process. It does not have to be as technical as you would give information in a court. It can be done on a very informal basis. That is basically what we are trying to accomplish.

**Mr. Chairperson:** Clauses on page 20 pass—pass; Clauses on page 21—pass.

Shall clauses on page 22.

**Mr. Reid:** On page 22, Section 32(2)(b)—and I raised this during debate on second reading. In the (a) clause, it talks about a \$200 fine or imprisonment for individuals, imprisonment of not more than 30 days. Under the (b) section, it talks about a fine for corporations, but it talks about no imprisonment for the directors.

There seems to be a discrepancy between the two. Why would we imprison individuals and not imprison directors of a corporation?

**Mr. Driedger:** My legal counsel is going to answer that one.

**Mr. Gordon Carnegle (Legislative Counsel):** Corporations are different in law than the directors who run them. The corporation is liable, and as a

fiction of law, cannot obviously be thrown in jail. So we would have to make directors liable, in addition to the corporations of which they are directors in order to give effect to what you desire.

That is not the case here, and it seems it would be out of line, I think, with the kind of circumstances in which directors are made liable for corporate actions under Manitoba statutes.

**Mr. Reid:** So what we are saying here is that a corporation, this nebulous body out there that is responsible to no one will only pay the fine, that nobody is subject to imprisonment for the actions it commits. Therefore, they can keep committing this act as long as they keep paying the fines. There is no other penalties for anybody who is making the decisions of the corporation.

**Mr. Carnegle:** I think if you examine criminal legislation and like regulatory legislation, under the Criminal Code, for instance, corporations are made liable for many of the same offences which individuals can commit, but corporations are subject to fines only. I would venture to guess that if you look at the Criminal Code, this is in line with the standard process.

It is very unusual, and usually requires a great degree of moral culpability to attach, to have directors liable for the offences of the corporations. It usually reflects some real social disapprobation, like for instance, polluting by a company. Antipollution legislation will often attach liability to the directors as well as the corporation because of the social stigma attached to this kind of action. This is not the kind of thing that is happening here. This is a regulatory statute.

**Mr. Reid:** That being the case then, if we are not going to take that action because of restrictions or limitations by law, then why would we imprison the individuals themselves? Why do we not remove that section on imprisonment then?

**Mr. Carnegle:** This is in line with the practice in statutes in Manitoba. That is all I can say. We would imprison corporations, I suppose, if it were possible.

**Mr. Reid:** I am not sure I agree with that because you have something happening on the one hand, where you can fine and/or imprison an individual, and then you have only a fine that can take place with a much larger body that is a group of people or an individual making a decision for it.

**Mr. Driedger:** Mr. Chairperson, I will not argue that with the member. I just want to indicate that according to legal counsel, that is in keeping with the way that they have set up these things in the past.

**Mr. Reid:** Well, I will accept that for now because I am no legal genius on this, and I can defer to others who have more experience in this matter than myself.

I may be once again showing my ignorance on the legalities of this. It talks about, under Section 32(3), a one-year limitation "after the date on which the offence was or is alleged to have been committed."

That seems to be a short period of time. Is there a statute of limitations legally that would be normally longer than a one-year period?

**Mr. Carnegie:** The standard in Manitoba is six months under The Summary Convictions Act, so this is actually longer than the standard.

**Mr. Reid:** Okay. Thank you.

**Mr. Chairperson:** Clauses on page 22—pass; Clauses on page 23—pass; Clauses on page 24—pass; Clauses on page 25—pass.

Clauses on page 26.

**Mr. Reid:** On page 26, Section 39, Preservation of right to maintain development or sign—for existing structures, I take it, can the minister or his department explain what takes place?

Would the department be in a position to expropriate any of the properties should any further lands or rights-of-way be required by the department where there are existing structures, in light of this grandfathering provision that is in here?

**Mr. Driedger:** Mr. Chairperson, the way we had it developed was that anybody who has an existing sign right now will be sent an application. They can make an application, and we would grandfather it for three years, and at that time allow the individual to then—you know, he would have his application. We would honour that grandfather for three years.

Within three years, after three years, he would have to take and make a further application. He would then have to adjust to our standards and regulations in terms of where that sign could be placed, so that it would not be back to back. It would have to conform to the regulations that we bring forward. So that was basically it.

That is only in the area where we basically have the rights to do that. Now, individuals who do not respond when we send them an application for an illegal sign, if they will not respond, we, after a certain period of time, will take action to remove those signs.

**Mr. Reid:** Sixty days? Sixty days, I think.

\* (2320)

**Mr. Driedger:** Mr. Chairperson, based on the information that he gave the member, could the member give me his further question again? I do not know whether I have quite read it.

**Mr. Reid:** Well, the minister indicated there was a fixed period of time where the decision would be made, and I am just picking up on what his comment was.

**Mr. Driedger:** Mr. Chairperson, I want to indicate that the individual will have six months in which to comply and make application for a permit. If they do not, then within that time period, we will start removing that sign.

**Mr. Chairperson:** Clauses on page 26—pass; clauses on page 27—pass; clauses on page 28—pass; clauses on page 29—pass; clauses on page 30—pass; clauses on page 31—pass; clauses on page 32—pass; clauses on page 33—pass; clauses on page 34—pass.

That concludes consideration and passing of all clauses. Title—pass; Preamble—pass; Table of Contents—pass; Bill be reported.

That concludes consideration of Bill 79.

### **Bill 82—The Farm Practices Protection and Consequential Amendments Act**

**Mr. Chairperson:** We will now proceed to consider Bill 82, The Farm Practices Protection and Consequential Amendments Act. Does the minister responsible for Bill 82 have an opening statement?

**Hon. Glen Findlay (Minister of Agriculture):** Mr. Chairperson, I am pleased to have the opportunity just to make a few brief comments on Bill 82. Over the last three years there has been, I guess it is fair to say, preceding that, a fair bit of pressure on the rural community that they want some mechanism of having protection from suits that are seen to be frivolous or suits that are laid against farmers. They want to have an opportunity to defend themselves in a forum that they feel is comfortable.

In December of '89 we put out a White Paper that solicited input from about 11 organizations, approximately nine of which responded. Considerable discussion evolved from that White Paper leading to a subsequent discussion paper in February of 1992, which culminated in the bill we are presenting here.

The bill is to a large extent patterned after Ontario legislation and other legislation across the country. There is presently some six provinces that have similar legislation in place.

What we are doing in this bill is creating a board which will hear complaints if somebody wants to launch a complaint against a farmer related to odour, noise, dust, smoke. The board first can make a decision that the complaint is frivolous and deny any further action, or it may investigate the complaint and attempt through that process to mediate the complaint. If the mediation does not work, then they will be in a position to hold a hearing and rule on the complaint as to whether the farmer is abiding by normal farm practices or may order him to make certain changes in his operation that is consistent with the guidelines of normal farm operation.

In this particular bill, the onus is on the person launching the complaint to bring the action. The board will review it and use the guidelines that we put in place. Under this act there is authorization to establish those guidelines and put them into regulations.

We have struck a committee to do that process. We have called the committee the Agricultural Guidelines Development Committee, and we have called numerous organizations to nominate people to that. We have approximately eight or nine people outside of government and four or five inside of government on that committee to develop those guidelines.

In the process, clearly there was identification that there was need to look at both The Environment Act and Planning Act to be sure it is consistent with what we would like to see, and we intend to do that over the course of the next short period of time.

With those few comments, Mr. Chairperson, I would like to ask the committee to support this bill. It was supported by the people that came forward today.

I am going to propose three small amendments in the course of our deliberation here this evening, to

do with the 60 to 90 days and to do with written decisions. We are going to take out the requirement that somebody has to request those written decisions, it will be automatic, and also that in the case where a refusal to have a hearing occurs, that the written decisions be given in that case, too. Those are three small amendments that I will be proposing.

**Mr. Chairperson:** Does the critic for the official opposition have an opening statement?

**Mr. John Plohn (Dauphin):** Mr. Chairperson, I believe those amendments are all positive, although the 90 days is somewhat controversial. The Minister of Environment (Mr. Cummings) said that we did not agree with his amendments. Well, he had about 20 or 25 of them, and it was pretty hard to keep up with them. He only had a two-page bill.

In this case, we have three minor amendments, and of course, the minister has had help with his drafting because—well, I am not going to blame the drafts people. What he has had are the bills from other provinces, so in many aspects, this bill was drafted before it came to Manitoba with some changes there, and I want to ask the minister about some of those changes briefly during the discussion as we go clause-by-clause.

I would indicate that we do feel that the public has been asking for a bill similar to what is being proposed here. However, we do feel, as well, that the minister has not proceeded as quickly as he should have, as I indicated during second reading and on other opportunities, during the committee this afternoon, that he did not move as quickly as he should have on the other companion pieces of action that need to be taken to ensure some balance in the whole approach dealing with farm practices.

I think that it was revealed, or stressed at least today, that back in 1989, these first concepts were identified, the need for The Environment Act to have some provisions to apply to agriculture, and it was supported I believe by the brief that we heard today from UMM. They also indicated that zoning guidelines should be provided and have not been provided to this extent as necessary parts to guide the municipalities in dealing with major, large farming operations, in particular, livestock operations.

So the minister has not dealt with issues. I guess, as far as how effective this bill will be will depend on his Farm Practices Protection Board that is

established and how they apply the standards that are identified.

The minister says he has a guidelines committee that is being established at the present time to develop guidelines to govern the implementation of this bill. That is certainly a necessary prerequisite to proclaiming it, I would think.

I wanted to ask the minister whether he has a specific date that he envisions this bill coming into effect. It says, day fixed by proclamation. Is there a timetable that has been established for the implementation of this act?

**Mr. Findlay:** No specific timetable, Mr. Chairperson, at this point, but we would expect that the guidelines would be generally in place within about six months. I might say that in many instances, guidelines in some form have already been established. It is a matter of confirming them or altering them to satisfy all the members, but a general, a very general, guideline is approximately six months. That is not fixed.

**Mr. Plohman:** Yes, Mr. Chairperson, does the minister have copies of the definition of normal farm practice from other jurisdictions and any guidelines that are being used in those jurisdictions that he is using to start with in this exercise?

**Mr. Findlay:** One province that we sort of pattern ours after somewhat is Ontario which does not have any guidelines. It is at the judgment of the board in any given hearing. There are no guidelines in place, and our feeling is that the guidelines are needed. You heard this afternoon from UMM, that they want guidelines that they can use in the planning process. The Planning Act has been in place since 1976 with no guidelines.

I think it is fair to say that the cliché, the time has come to do that, is pretty well accepted. Through the discussion process, first in the white paper and secondly from the discussion paper of this year, a lot of thinking has evolved in a very general direction that has led us to this. The time has come to have this sort of a board in place. The time to have guidelines is here.

I have not heard any complaints from the farm community relative to those guidelines, but I do think that some of those guidelines will give some operations some difficulty and require some changes, but I see that as being responsible in an environmental sense for agriculture to do that.

\* (2330)

**Mr. Chairperson:** Mr. Plohman, before we get into a discussion, does the critic for the second opposition party have an opening statement?

**Mr. Neil Gaudry (St. Boniface):** Yes, Mr. Chairperson, I will be very brief.

I have given my comments and met with people from the community. I know they have made their presentations here, and hopefully, the government will consider their requests and their concerns in the bill. Thank you very much.

**Mr. Chairperson:** Thank you.

**Mr. Plohman:** I think we can go clause-by-clause.

**Mr. Chairperson:** Okay. Is it the will of the committee to consider this in blocks of clauses, recognizing that we have some amendments coming to individual—[interjection] Okay, page by page? Agreed.

Shall Clause 1 to Clause 8(2) inclusive pass, on page 1 to 5—

**Mr. Plohman:** Pardon me, you are not going page by page, you are going—

**Mr. Chairperson:** I thought it was agreed to go in blocks, maybe I misunderstood. I shall repeat the proposals.

**Mr. Plohman:** Mr. Chairperson, I think it would be easier to keep up if we did page by page—

**Mr. Chairperson:** The committee to go page by page? Very well.

Before consideration as is usual, leave consideration of the title and the preamble until all clauses have been considered.

Clauses on page 1—pass.

Clauses on page 2?

**Mr. Plohman:** Mr. Chairperson, the minister has explained, and I just want him quickly to do so again that (f) the raising of game animals, is not in reference to, or provision that is, in anticipation of a major effort on the government to move into game farms and to game ranches?

**Mr. Findlay:** No. It is to include that activity that is currently underway in the province of Manitoba. Game, by some people, might be considered to be bison, elk, you know, ostriches. Game of that nature, and that is what is intended here. It has

nothing to do with any further intention in any direction.

**Mr. Plohman:** One other question, on page 2 the minister talks about including the use of innovative technology in the definition of normal farm practice. Does he know why that is in there?

**Mr. Findlay:** Mr. Chairperson, what is thought of there, is in terms of manure handling there might be new technologies that might be applicable or usable, and that rather than have to make amendments down the road we want to leave the door open to be able to have those innovative technologies accepted as part of normal farm practices.

**Mr. Plohman:** Even if they may be, for instance—We are talking hypothetical because the minister has not given an example of something like that, and that is why it is hard to grasp exactly what is intended here. If he has no example, I guess we will just leave it at that. I just wanted to know if he had anything in mind when he put this in.

**Mr. Findlay:** In a noon hour luncheon that I had with some people from the Philippines, they were talking about a manure-handling process that would be deemed at this point in time to be very expensive in Manitoba. That is that hog manure is put through a digester to produce ammonia gas which is then used to produce power. The solid material that comes out of that oxidation process has no odour.

I mean, I guess we would like to spread our hog manure on land that had no odour, and that process leads to that. At this point in time it is exceedingly expensive and therefore not economic, but over time, it might become that so that the problem of odour associated with spreading hog manure might be dealt with in that process.

**Mr. Chairperson:** Clauses on page 2—pass; Shall clauses on page 3 pass?

**Mr. Plohman:** The clauses on page 3 are extremely important, Mr. Chairperson, with regard to ensuring that the act does not supersede a number of areas, and I think The Public Health Act and regulations, The Environment Act and land use control law, the fact that these are in there is a very important part of this bill. However, again, the minister realizes that there has to be some action on those areas before they are really meaningful.

**Mr. Gaudry:** Mr. Chairperson, this afternoon I missed the presentation from members that did

present and I was wondering what was the reaction, or what is the minister going to do with the proposals and recommendations that came out from the engineering firm of Poetker MacLaren Limited in regard to the Norquay Colony in Portage la Prairie?

**Mr. Findlay:** I guess what I would take from his presentation is that he was basically quite frustrated decisions were made that he did not think were consistent with the technical information that they provided, and he is all in favour of guidelines being in place that municipal councils could use in making those decisions in the future. That is the essence of what he requested.

In addition, he would like to see an appeal process, but that is something that needs to be dealt with under The Planning Act, and I am sure that in the review of The Planning Act, an appeal process will be given some consideration. I cannot speak specifically for the minister, but those two elements are, I think, what Mr. Poetker wanted to put on the record by coming to this bill here today.

**Mr. Gaudry:** Excuse me, Mr. Chairperson, and to the minister, what are the plans for the Norquay Colony as far as their hog plant that they want to build in Portage la Prairie, as far as he is concerned?

**Mr. Findlay:** Under The Planning Act, the municipality has the responsibility to make a decision on an application. That application has been presented to the municipality involved, and they have ruled no, and it is now up to the colony, or Mr. Poetker acting on their behalf to go back to the council. That is the only avenue open, to try to get the council to rule differently. That is where the decision lies, and it is, in many sense, out of our hands. That is why Mr. Poetker has come forward wanting to have some other process that they could go to, because they did not feel that the judge or the ruling was the one they wanted.

**Mr. Chairperson:** Clauses on page 3—pass.

Clauses on page 4.

**Mr. Plohman:** Mr. Chairperson, this onus clause I noticed is not included in British Columbia or Alberta that I could see in terms of the onus being on the plaintive with regard to proving and action. I am a little confused about that. First of all, is that in any other act, or is this a new provision that is not included? I did not see the whole Ontario act so I am not sure it had that in there.

Secondly, why does this start talking about violating an act or a control law when the whole act seems to be dealing with nuisance claims, as opposed to violation of an act? I mean the act says in Section 2(1) it cannot violate those provisions and then presumably inspectors from the government, it would be on the onus of the government to take action if there was a violation of The Public Health Act or an Environment Act or the municipality if the land use control law was being violated. So why are we back to those hard kind of charges here rather than just dealing with nuisance? Do we expect individual members of the public to prove that they are in violation of the act or are we dealing with nuisance charges here?

\* (2340)

**Mr. Findlay:** Well, in terms of other provinces that deal with an onus clause, Alberta and New Brunswick and Quebec do. The wording in here is effectively taken from The Nuisance Act and then incorporated here.

**Mr. Plohman:** Well, The Nuisance Act, some of the wording dealing with odour, noise, dust, smoke and so on—that is wording that is parallel with what was in The Nuisance Act, but I am talking about the last paragraph dealing with “the defendant violated a land use control law or an Act,” but he does not have to violate an act of, say, The Environment Act, Public Health Act or land use control act in order for action to be taken by the Farm Practices Protection Board as to a nuisance, does he?

**Mr. Findlay:** In terms of 2(1) the farmer has no protection if he has violated any of these acts, and the member is right that he could well be prosecuted under one of those acts by officers or agents, inspectors or whatever under those acts. One might argue that maybe this is redundant. I do not know, but it does reaffirm that if the applicant finds a case where one of those acts has been violated, but nobody has acted upon the producer, they have an opportunity to bring that forward, and technically the producer will be in not very good shape because of the quick ruling that he is in violation. I understand what the member is saying that action could occur under those acts as is, but I would just have to assume there are potential incidences where it might be minor and not acted upon, but the person who is bringing a complaint forward might use this as part of his claim that in his judgment these other acts have not been complied with.

**Mr. Plohman:** Okay, the minister is saying, yes, that there may be some slip through the cracks and therefore an individual would allege that there was some violation, and the onus would be on them to prove it since it slipped through. I do not say, in all cases, that should be the case, but we will leave that as it may be. But is the minister saying that there has to be a violation of the act in order for an individual to be successful in a nuisance claim?

Why is it so preoccupied with a violation of that act in that section? Why is it preoccupied with only dealing with violations of other acts? Is not noise in and of itself—it may not be—or an odour or dust or smoke may not be in violation of The Environment Act or The Public Health Act or land-use control law, none of those, but still the individual has a case and may bring a successful action, I would think. Why is it all focussing on violation of the acts? Are those the only kinds of nuisance claims that can be successful?

**Mr. Findlay:** Well, the way I interpret this, under 2(3)(a), it is really focussing on damage as a nuisance for odour, noise, dust, smoke, or other disturbances. Certainly, a ruling can be made on the basis of the complainer proving, in front of the board, that the guidelines for whatever kind of operation did violate and create nuisance relative to odour, noise, dust.

**An Honourable Member:** Is that Section 2(1)?

**Mr. Findlay:** 2(3)(a); “(b) an injunction or other order of a court preventing or carrying of the agricultural operation because it creates such a nuisance;”—the onus is on, first, (a), secondly, (b). Then the follow-up onus, that the defendant may choose to be able to prove that the farmer was actually in violation of one of these acts.

You would say the action should have occurred under those acts specifically and would not require this act at all or this bill, but I see (a) and (b) as being far more important in terms of somebody launching a complaint than the latter part of the onus section.

**Mr. Plohman:** Now, Mr. Chairperson, the minister will acknowledge that that is all one sentence: “When a plaintiff or claimant in an action or proceeding against a person who carries on an agricultural operation claims . . .” those things “. . . the onus of proving that the defendant violated a land use control law or an Act, regulation or order mentioned in subsection (1)”, which is, I would say, under definition, “lies on the plaintiff or claimant.” I

am reading that as being all pertaining to the violation of an act in order for that to be successful.

The minister is saying that that is not true; it is just clarifying as it applies to those acts, but it also applies to other things.

**Mr. Findlay:** Yes.

**Mr. Plohman:** Would that be covered by "order mentioned in subsection (1)"? What subsection (1) are we dealing with?

**Mr. Findlay:** 2(1). You are referring to 2(1)?

**Mr. Plohman:** What is the minister referring to?

**Mr. Findlay:** We are operating under: Protection from nuisance claims, 2(1), 2(2) and 2(3), and then subsection (1) would refer back to 2(1).

**Mr. Plohman:** Mr. Chairperson, when in subsection (1), is that referring to land use control law, Environment Act, Public Health Act? If it is, then we are back to square one again with this. It is all referring to the violations of an act, and it seems to me that this is very harsh or strongly worded, in terms of a plaintiff or complainant bringing an action, if he has to prove he is in violation of an act and the onus is on him to prove it. It does not deal with any in between, where there are nuisance claims dealing with much more, what we might view as, minor offences but still nuisances under this act.

**Mr. Findlay:** Well, the way it is set up, the onus is on the plaintiff, and what we have said here is really a restatement as to what is the law anyway.

**Mr. Plohman:** Mr. Chairperson, if the plaintiff claims "damages in nuisance for any odour, noise, dust, smoke or other disturbance", claims an injunction—is that how we read this?—claims "(b) an injunction or other order of a court preventing the carrying on of the agricultural operation because it creates such a nuisance; the onus of proving that the defendant violated a land use control law or an Act . . . lies on the plaintiff. . ."

I am saying: Why does he have to prove that he violated an act in order to be successful with (a) or (b)? It is all one continuation.

\* (2350)

**Mr. Chairperson:** We seem to have a deep discussion, so I am going to declare a five-minute recess.

\* \* \*

The committee took recess at 11:52 p.m.

### After Recess

The committee resumed at 11:59 p.m.

**Mr. Chairperson:** Order, please.

**Mr. Findlay:** Mr. Chairperson, I recognize what the member is saying, and I will say, as a layman reading it, I might get the same interpretation that the member is putting on it. What I would like to tell him is that the onus section is really restating common law.

The bill has all the same intent if we struck it entirely out of the bill, but the same wording exists in the New Brunswick act, the Alberta act and the Quebec act. All three other provinces have almost identical wording which says the onus of proving that the defendant contravened the land use by-law regulation or practice referred to in subsection (1) is on the plaintiff or complainant, as the case may be. That is reading from the Alberta one. The Quebec and New Brunswick ones are very, very similar.

So I ask the member: What is his desire, to leave it in so that we are consistent with those other three provinces or strike it out because it is really restating common law.

\* (2400)

**Mr. Plohman.** I thank the minister for that. It seems to me that it is somewhat confusing, and I do know whether it could cause either the board or a lawyer acting on behalf of a plaintiff to in fact get involved in some confusion as to what is required before a successful complaint can be brought, because it does talk about those acts in conjunction with the nuisance.

It seemed to me, it is confusing. I think, as the minister says, if I bring a complaint against the minister, I have to demonstrate and prove my complaint. If that is common law, then why is it in there? If it is not common law, as the minister says it is, then it should be clarified so that the bill demonstrates that successful complaints can be brought, both in terms of nuisances and in terms of violation of those acts. I think that wording could easily be put in there with some thought.

Now if the drafters do not agree with that, then I guess the minister will not have an amendment to third reading, but that is the way I would see it going, unless he feels that it really does not have to be in there. But it does need some clarification.

I do not know whether, just because they have put it in those other provinces—one started, and the



others got them. So what does that mean? It means that the first one may have been an error and everyone copied it, you see. So I do not look at that necessarily and say, well, that makes it right.

I leave that with the minister. I think it is a problem, and if he feels that he wants to address it or have a chance to deal with this overnight or tomorrow some time, then I would recommend that he do that.

**Mr. Chairperson:** Shall clauses on page 4 pass?

**Mr. Findlay:** It is my belief that the member has raised a valid point, that probably the most desirable thing is to strike the whole section on onus because it is just a restatement of common law, and what we stated here will happen anyway. The whole bill is developed basically on onus, that anybody who launches a complaint, comes before the board, obviously has to prove his case. So probably the clearest way because there is some ambiguity in interpretation, we might as well strike 2(3) from the bill and it does not hurt the bill or weaken the bill. I would move that we strike Section 2(3).

**Mr. Chairperson:** Shall Clause 2(3) pass?

**Mr. Plohman:** No.

**Mr. Chairperson:** It is agreed that Clause 2(3) shall not pass.

**An Honourable Member:** I agreed to strike it.

**Mr. Plohman:** Mr. Chairperson, we did not deal with the rest of 4 yet, did we? I want to ask the minister a question with the regard to the remainder of Section 4 dealing with the board. It is a very important section as well. How does the minister intend to ensure balance on this board? Has he thought about the kind of people that would be appointed, not the individuals necessarily, but who they represent?

**Mr. Findlay:** Yes, Mr. Chairperson, I have had considerable discussion, particularly with UMM and with Keystone Agricultural Producers, and the balance that I want to see there is that on the core board of three there would be one producer, one UMM person and one citizen-at-large, in other words, basically an urban person. In terms of the panel individuals that would also be in place, they would represent also those three categories: farmers, municipal people and citizens-at-large.

In the event that the board decided in the case of a particular complaint that was in front of them that

they wanted a group of five, I would want to see two citizens-at-large, two producers and one from the UMM. That is the balance. It is either one-one-one or two-one-two, so that you have balance and a perception of fairness in the people who are hearing the complaint, fairness from both sides.

**Mr. Plohman:** So the desire to ensure a representative from UMM is simply to bring a knowledgeable yet impartial person to the panel, UMM just being one group that the minister could have chosen from. He could have chosen from perhaps many other organizations. It could have been MAUM, or it could have been MAST, I guess. It could be anyone, as far as a group that would represent rural Manitoba, I guess, is what the minister was thinking about here. Is that right or not?

**Mr. Findlay:** No, I am thinking of elected officials with the responsibility, particularly under The Planning Act, for a lot of the activities that are going on here. We think they should be at the table. I mean, they are responsible people making decisions on an ongoing basis and seem to be fair and reasonable people. They are sort of in the middle.

On the other hand, you might have urban people who bring their point of view to the table, and then you have producers who obviously bring their point of view to the table. The municipal people are seen to be the sage people in between. We have always talked in terms of that mix.

Now, I say UMM because they have shown a high level of interest. It could be UMM or MAUM, but I can tell the member that the interest has been shown by UMM to see this in place and see it work and participate in the process. When we asked for people to sit on the Agricultural Guidelines Development Committee, certainly UMM put forward their name and MAUM still has not. So, again, the evidence is there that a high level of participation is occurring from UMM.

**Mr. Plohman:** The minister would obviously want a producer knowledgeable in a particular issue that is being raised. I would think the minister would have a number of producers that would be named under the board, and the chairperson may draw on one of those as appropriate for a particular case or instance. Is that right?

**Mr. Findlay:** The purpose of setting up the roster of other members is so that if a particular case came

forward, say it was involving hogs, the chairman could choose somebody from that roster who had some expertise in hogs. His core board may have somebody that does not have expertise in hogs, and any given panel that is struck must contain at least two out of the three members from the core board, and they can add one or two more or even three more if there is—no, the most they could add is three, plus the two core board members, or if all three of the core board chose to be on that committee, they could add up to three, so the maximum they could get to is six.

The idea of using the roster is that they could draw from the roster people with expertise in the area needed for the particular hearing that is in question.

\* (0010)

**Mr. Plohman:** Yes, Mr. Chairman, in terms of the urban representation, as the minister uses the term, does he have any particular organization that these people would represent, or would it simply be a Joe or Mary Citizen representing no group, just an individual, or has the minister thought about, to ensure some balance, whether there are some active groups that might be represented on those panels?

**Mr. Findlay:** Well, at this point in time, what I am thinking is to draw upon citizens at large who, if asked, would agree to sit on this board or this roster, to serve in whatever capacity we are called upon in the future.

**Ms. Marianne CerlIII (Radlsson):** Mr. Chairperson, I have some concerns with regard to this bill in respect to the environment.

I am sure the minister is aware of some of the problems that could arise, particularly because of the weakness of some of the parts of The Environment Act and regulations with respect to farming practices and operations that would be applied under this act.

I will just deal though with the section that we are on in the committee. I am wondering if the minister has given any consideration to ensuring that individuals on the board would have some experience in zoning, especially considering environmental considerations, and would there be any requirement for a person who is sensitive to the kinds of environmental issues that are going to be dealt with by this board?

**Mr. Findlay:** Well, first, with regard to zoning, I guess that is why we have municipal people there. That is something that they are quite familiar with. With regard to the process of making decisions, they will be making decisions using guidelines that will be developed by what we call the Agricultural Guidelines Development Committee.

It has broad representation, Keystone Agricultural Producers, Union of Manitoba Municipalities, Consumers' Association of Canada, University of Manitoba, PFRA, Manitoba Environment, Natural Resources, provincial Planning branch, Manitoba Agriculture. So those are the people who will be on the Guidelines Development Committee, and the guidelines that they will develop can be put in regulation and then be used by the board in reviewing cases that are before them.

The intent is to have broadly accepted guidelines, not only to be used by this board in hearing cases, but we would also expect that municipalities would use these guidelines in planning decisions that they would make in the future.

**Ms. CerlIII:** Would the minister consider including someone from the Manitoba Environment Council, the National Farmers Union, stewards of the land, some of these kinds of groups or some of the groups, the ad hoc community groups, that have formed in areas to deal with the kinds of issues this act would deal with? Would that be a consideration that the minister would entertain?

**Mr. Findlay:** In terms of developing members for the roster, we will entertain consideration of any and all groups.

You mentioned the National Farmers Union, and in both the white paper that we sent out and went to them, we got no response. In terms of the subsequent discussion paper we sent out, we got no response. It is unfortunate, but they are one group that did not respond at either time. I am not opposed to putting people on from various backgrounds, provided they are willing to serve.

**Ms. CerlIII:** I was also asking if the minister would consider including some of these people in the development of the criteria for the board, if some members from these groups could be included in developing the criteria for the board, and if we can get the minister to make a commitment to that.

**Mr. Findlay:** Well, I have already read the list of people, and the Consumers' Association of Canada is on the list, and they have nominated their person.

**Ms. Cerilli:** I would suggest that there are other groups out there that would have a specific interest in this kind of legislation and I am not sure if the Consumer Association has been one of the groups that has been speaking about this issue, or, you know these kinds of issues, so I would offer to provide the minister with a list.

**Mr. Findlay:** I will accept that offer. If you will supply me with the list, we can look at it.

**Mr. Chairperson:** Clause 3(1) to 3(5)—pass.

Clauses on page 5—pass?

**Mr. Plohman:** Well, just one question. Part V of Evidence Act powers: Is that standard for the other acts dealing with Section 7 dealing with the powers of commissioners under Part V? What kind of powers does that give the board members?

**Mr. Findlay:** It would allow the board to subpoena witnesses and records.

**Mr. Chairperson:** Clauses on page 5—pass, Clause 9(1)—pass; Clause 9(2)—pass; Clause 9(3)—pass; Clause 9(4)—pass.

Clause 9(5).

**Mr. Findlay:** Mr. Chairperson, I would like to move

THAT subsection 9(5) of the Bill be amended by striking out "60 days" and substituting "90 days".

**[French version]**

Il est proposé que le paragraphe 9(5) du projet de loi soit amendé par substitution, à "60 jours", de "90 jours".

**Motion presented.**

**Mr. Findlay:** In terms of deciding what time frame, in the process we incorporated 60 days and then, in discussion, in the department we were also looking at 90 days as giving a longer period of time to allow the mediation process to occur. To the member for St. Boniface (Mr. Gaudry), when the municipality came forward today and requested 90 days, and they had not raised it earlier but they said, you know we think maybe in reflection, more time is needed, we are prepared to make the amendment and I think 90 days is not unreasonable.

**Mr. Chairperson:** The proposed amendment of the Honourable Mr. Findlay

THAT subsection 9(5) of the Bill be amended by striking out "60 days" and substituting "90 days".

**[French version]**

Il est proposé que le paragraphe 9(5) du projet de loi soit amendé par substitution, à "60 jours", de "90 jours".

**Some Honourable Members:** Agreed.

**Mr. Plohman:** Mr. Chairperson, we note that the act in British Columbia also has provision of 90 days, and we are willing to give that a try. I think the minister may want to, as he indicated to me in private conversation to look at how this works and could subsequently be changed if, in fact, it is too long a period but we note that one of the major functions of this bill would be to allow for some type of mediation and this period of time would allow that.

**Mr. Chairperson:** Shall the proposed amendment pass?

**Some Honourable Members:** Pass.

**Mr. Chairperson:** The amendment is accordingly passed. Clause 9(5) as amended—pass.

**Ms. Cerilli:** I have a question, I am trying to find the section of this act that deals with an issue that was raised with me where it referred to the complainant having a certain amount of personal interest, I am wondering if we have passed that section, because I think it would be under the complainant section.

**Mr. Findlay:** At the top of page 7.

**Ms. Cerilli:** There we are, so it is not too late. Is that where we are?

**Mr. Findlay:** We passed the rest of page 6?

**Mr. Plohman:** Let us get rid of six first.

**Mr. Chairperson:** Clause 9(5) as amended—pass; Clause 9(6)—pass; Clause 10—pass.

Clause 11.

\* (0020)

**Mr. Findlay:** Mr. Chairperson, I move

THAT section 11 of the Bill be amended by renumbering it as subsection 11(1) and by adding the following as subsection 11(2):

**Decision given to parties**

11(2) The board shall notify the parties of its refusal to consider an application or to make a decision under subsection (1), and give them written reasons for its action.

**[French version]**

Il est proposé que l'article 11 du projet de loi soit amendé par substitution, à son actuel numéro, du

numéro de paragraphe 11(1) et par adjonction de ce qui suit:

**Avls de la décision**

11(2) La Commission avise les parties de son refus d'étudier une demande ou de prendre une décision en application du paragraphe (1) et leur donne les motifs écrits de son refus.

**Motion presented.**

**Mr. Chairperson:** Is there any discussion?

**Ms. Cerilli:** I want to ask the minister in Section 11, now 11(1)(c), what is intended by the phrase, "the applicant does not have a sufficient personal interest in the subject matter of the application"?

**Mr. Chairperson:** If I may, before we consider Clause 11(c), could we deal with the amendment? All those in favour of the proposed amendment by the Honourable Mr. Findlay—it is proposed in both official languages. Shall the amendment pass?

**Some Honourable Member:** Pass.

**Mr. Chairperson:** The amendment is accordingly passed.

The honourable minister to respond to comments on 11(c).

**Mr. Findlay:** What we are talking about here is a case as an example. Let us say Dugald, Manitoba has a hog operation and the person launching the complaint lives in Brandon. It could be deemed, obviously, that they do not have a personal interest because they are not affected by a hog operation. They should not have the right to launch the complaint against that operation. [interjection] I sense there is a division in a certain caucus here.

**Mr. Chairperson:** Shall Clause 11 as amended pass?

**Ms. Cerilli:** Just from my experience in dealing with these kinds of matters, and understanding how the politics of the regional area, the local area, can be brought to bear on individuals who are raising issue with this, I have some concerns that this is discriminatory.

**Mr. Findlay:** I would consider it extremely unfair if somebody residing many miles away from where the farmer is, would have the right to launch a complaint against him when the farmer's actions are not affecting that person at all. So I think this is fair and reasonable and responsible to do it this way.

**Mr. Chairperson:** Clause 11, as amended—pass; Clause 12(1)—pass.

Shall Clause 12(2) pass?

**Mr. Findlay:** Mr. Chairperson, I would like to move

THAT subsection 12(2) of the bill be amended by striking out "and shall, at the request of a party, give" and substituting "together with".

**[French version]**

Il est proposé que le paragraphe 12(2) du projet de la soit amendé par substitution, à "remet une copie de sa décision aux parties et fournit à toute partie qui lui en fait la demande ses motifs écrits", de "remet aux parties une copie de sa décision accompagnée des motifs écrits de celle ci".

**Motion presented.**

**Mr. Chairperson:** Is there any discussion?

**Mr. Plohman:** I know you are going to rule me out of order because we dealt with Section 11, but you can deal with 12. I have a comment that I can make at the end of the bill or, if the minister wants, after you have taken a vote on the amendment. I would like to comment on the issue that was raised on Section 11(c). I am sorry if you have to revert formally back to that; otherwise, I will make it as a general comment right after you have concluded with this vote on 12(2).

**Mr. Chairperson:** I would prefer to deal with the amendment. I am sure the honourable member will get his comments worked in sooner or later.

If I may proceed to deal with the amendment, is there any discussion on the proposed amendment by the honourable minister in both languages that subsection 12(2) of the bill be amended?

**Motion agreed to.**

**Mr. Plohman:** Mr. Chairperson, just on page 7, we are still on that page, the minister talked about that he did not think it was proper that an individual from Brandon could complain about a situation in Dugald. Where does he draw the line?

That is an extreme perhaps example and you can say well, you know it is clear-cut here. I mean that person does not have an interest, but you can have all kinds of situations where people are downstream from a particular operation. They may be several miles away but still have an interest. Other people in an area, are we going to start drawing lines by way of a radius of five kilometers or 10 or whatever?

This leaves it very wide open for the board to in fact say, I am sorry you cannot complain, you do not have a personal interest here in our subjective opinion. I wonder if the minister intends to define that a little bit further somewhere, because he is not offering to do that in terms of this section nor I would think by regulation. There is no requirement for regulations that apply to that, so I am wondering how he intends to apply this. It is easy to use an extreme example, but where do we cut this off?

**Mr. Findlay:** Mr. Chairperson, I think the lead in on Section 11 describes it fairly straightforward: "The board may refuse to consider an application or to make a decision if in its opinion," and we have set the board up there to be able to make decisions with guidelines, and we all have to respect their judgment to evaluate the circumstances that are put in front of them and make that decision.

**Mr. Plohman:** Mr. Chairperson, the minister said he will put in guidelines that will deal with normal farm practices, for example. Here we have something that is called defining whether a person has sufficient personal interest. Is the board going to operate without guidelines on this issue?

**Mr. Findlay:** I would consider the guideline they would use is their better judgment in hearing a position put in front of them and make a ruling as to whether the person has the sufficient level of interest, and I would have to believe that most people would err on the side of caution in that kind of decision.

**Mr. Plohman:** I think this is well worth noting, and on the record, in terms of the potential for concern here depending on how the board applies it. There may need to be some guidance there for a future time. I want that just reported for the minister's consideration.

**Mr. Chairperson:** Clause 12(2), as amended—pass; Clause 12(3)—pass; Clause 12(4)—pass; clauses on page 8—pass; clauses on page 9—pass; Title—pass; Preamble—pass; Table of Contents—pass. Bill as amended be reported.

That completes consideration of Bill 82.

### Committee Substitutions

**Mr. Ben Sveinson (Le Verendrye):** Mr. Chairperson, with leave of the committee, I would like to move some committee substitutions: the Honourable Mrs. Mitchelson for the Honourable Harry Enns, the Honourable Mr. Orchard for the

Honourable Mr. Cummings, the Honourable Mr. Manness for the Honourable Mr. Derkach, as the members of the Standing Committee on Municipal Affairs, effective immediately, with the understanding that the same substitution will also be moved in the House to be properly recorded in the official records of the House.

**Mr. Chairperson:** Thank you. Is that agreed with the committee? Agreed and so ordered.

### Bill 93—The Mental Health Amendment Act

**Mr. Chairperson:** The bill for consideration before the committee is Bill 93, The Mental Health Amendment Act. Does the minister responsible have an opening statement?

**Hon. Donald Orchard (Minister of Health):** Mr. Chairperson, I think the reason behind the bill was explained when introduced for second reading, and I would not have any additional comments to add unless either of the opposition parties would have questions.

**Mr. Chairperson:** Does the critic for the official opposition have an opening statement?

\* (0030)

**Ms. Judy Wasylycia-Lels (St. Johns):** Yes, I would like to make some opening comments and some questions for the minister on this bill.

As I understand it, this bill, by and large, brings provincial mental health legislation in line with the recent federal Criminal Code changes. This raises the issue, and the minister himself addressed this issue in his opening remarks at second reading, and it has to do with the questions of the obligations imposed on the provincial government as a result of federal legislation. We have some questions pursuant to how the province intends to meet those obligations.

In opening up this discussion, I also want to cite our attempts over the last number of months to get information and answers from the Minister of Health (Mr. Orchard). Today has not been a good day, Mr. Chairperson, from the point of view of getting direct, straightforward, open approaches in this Legislative Assembly.

The question of forensic services in Manitoba and appropriate services that meet the obligations under the federal Criminal Code changes is an issue that concerns us very much on the substantive side, as

well as in terms of this minister's handling of this whole issue.

I want to indicate that we raised—and particularly I want to reference the remarks of the member for Selkirk (Mr. Dewar) who has been very vigilant about pursuing this matter, has raised a number of questions, and for those efforts, he has been treated, as I have indicated earlier, on the part of the minister with scorn and derision.

We had information some time ago indicating that the federal government had and was withdrawing its obligations to participate with the provincial government in a co-operative, cost-shared approach around meeting those obligations. We had received a copy of a letter dated July 19, 1991, that went from a Mr. Duggan at Correctional Service of Canada, Prairie Region, to Mr. Reg Toews, Assistant Deputy Minister, indicating quite clearly that there had been a change in policy and that the federal government was no longer prepared to co-operate and participate with the provincial government on a full and equal partnership basis.

I quote from that letter: It is now apparent that we are unable to proceed with a cost-shared facility and our preferred approach is a fee for service, based on a rough estimate of five-bed utilization. Because of this change, it may be appropriate to reduce our involvement in the planning process from that of a full and equal partner, although we will be happy to remain in discussions.

Mr. Chairperson, it took some four months for the minister to even get back to the federal government on this issue. It was not until October 25, 1991, that the Minister of Health (Mr. Orchard) wrote to the Solicitor General of Canada expressing concern that plans had come to an end involving a joint venture of developing extended forensic facilities in Manitoba.

With that information, we proceeded to try to raise this issue in the Legislature and get some answers from the minister, so that there could be full and open discussion on this most serious matter. The member for Selkirk (Mr. Dewar) raised this issue first on December 16, 1991. The minister did not even give the courtesy of a full and open answer. I will not even put on the record his answer. It is simply an example of just how arrogant the Minister of Health can actually be. [interjection]

The Minister of Finance (Mr. Manness) says let us keep personalities out of it. Well, Mr.

Chairperson, I am not raising personalities; I am raising process and treatment of members of the Legislative Assembly and the lack of decency and integrity that is going on in this place. It is getting daily more serious, and it is time these issues are raised on a more regular basis.

On February 20, these issues were raised again by the member for Selkirk (Mr. Dewar). The Minister of Health (Mr. Orchard) chose not to acknowledge the letters that we had before us and indicate the dilemma that the provincial government was in, again, treating the member for Selkirk with scorn and derision.

So it was raised again on June 8, after—let me back up. It was not until June 3, 1992, in second reading debate of this legislation, Bill 93, The Mental Health Amendment Act, that the Minister of Health finally put on record the fact that the federal government had pulled out of any kind of partnership arrangement around obligations under the Criminal Code changes and indicated that there were problems for the provincial government in now meeting those obligations. That was followed up by questions on June 8 in the Legislature by the member for Selkirk.

Mr. Chairperson, my first question to the Minister of Health, why is he not more open and forthcoming when questions are put to him that come on the basis of a sincere interest in an issue? Why did this Minister of Health totally ignore the concrete evidence that we have brought before the Legislative Assembly, pretend that this information did not exist and refuse to answer questions pertaining to the difficulty facing the provincial government? Why can we not have a little more openness and honesty around these issues? That is my first question.

**Mr. Chairperson:** Just before we proceed, before we get into the exchange across the table, I think it is a courtesy to allow the critic for the second opposition party an opening statement.

**Mr. Gulzar Cheema (The Maples):** Mr. Chairperson, as I have given my remarks during first reading, this bill is basically correcting what is due for the last four months. Certainly, there is a legal opinion saying it has to be done. I do not have to waste any of the committee's time on this bill. I just basically say we should pass this bill and get on with business.

### Committee Substitution

**Ms. Marianne Cerilli (Radlsson):** I move, with leave of the committee, that the honourable member for St. Johns (Ms. Wasylycia-Leis) replace the honourable member for Swan River (Ms. Wowchuk) as a member of the Standing Committee on Municipal Affairs, effective immediately, with the understanding the same substitution will also be moved in the House to be properly recorded in the official records of the House.

**Mr. Chairperson:** Is that agreeable to the committee? Agreed and so ordered.

\* \* \*

**Mr. Chairperson:** The honourable minister, to respond to the honourable member for St. Johns.

**Mr. Orchard:** Mr. Chairperson, probably because of remarks like I have listened to for the last five minutes.

**Ms. Wasylycia-Leis:** Well, the style and approach of the minister has not changed at all. I think one of his colleagues earlier suggested that the Minister of Health (Mr. Orchard) was prepared to apologize for his violation of our democratic privileges in this assembly. It is clear that he neither regrets his deliberate attempt to circumvent the legislative process and is prepared even to go further and heap abuse upon abuse.

I would like to ask the Minister of Health, since he indicates in his speech at second reading stage on Bill 93 that this government is proceeding to implement their original plans and will proceed with the facilities and the programming that are within our means, could the minister tell us what that means and what provisions are being made to meet these obligations under the new federal legislation?

**Mr. Orchard:** Mr. Chairperson, we are investigating a longer-term option involving potentially the Selkirk Mental Health Centre. That was the issue where we had hoped to achieve some direct federal participation. It appears as if the federal government will participate only on a per-diem basis.

That is certainly not the most satisfactory—however, the other avenues we are pursuing involve, as my honourable friend well knows because this question has been posed a multitude of times and I have given the same consistent, clear, precise, direct answer that I am going to give tonight—the psych health building has

some 20 beds of intermediate-security forensic beds which we anticipate will be available for service possibly as soon as the end of this year.

A second option that we are pursuing in terms of work with the ministry of Justice is any opportunity we might have to use some of the capacity in the newly reconstructed Remand Centre upon its opening. Since neither of those three previous aforementioned options are available now, I received approval at Lieutenant-Governor-in-Council approximately eight weeks ago, give or take a week or two, to designate certain beds in our institutions as hospital beds by designating certain portions of those institutions as hospitals.

\* (0040)

One of the institutions in question was the Headingly jail. That designation was made so that we would not run into a circumstance where if someone was required to be committed to a psychiatric hospital, we would not be able to place that individual, as mandated by the courts potentially, in a secure facility.

That we fully recognize and acknowledge is not an appropriate long-term solution, but given the speed with which this issue impacted upon not only this province, but every province across Canada, we sought advice in consultation with a number of areas of government, and indeed we sought what remedy other provinces were taking and found them to be quite similar to the Lieutenant-Governor-in-Council initiative that we undertook, and we passed that Order-in-Council to allow us to, if necessary and if needed, utilize a portion of Headingly jail for the purposes of incarceration under forensically, criminally responsible people.

**Mr. Chairperson:** Shall we consider the bill clause by clause? As is general procedure, the Title and Preamble will be postponed until after all clauses are considered in their entirety.

Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass; Clause 5—pass; Clause 6—pass; Title—pass; Preamble—pass. Bill be reported.

Thank you. That concludes consideration of Bill 93.

### Bill 96—The Special Operating Agencies Financial Authority Act

**Mr. Chairperson:** We will now move to consideration of Bill 96, The Special Operating

Agencies Financial Authority Act. Does the minister responsible have an opening statement?

**Hon. Clayton Manness (Minister of Finance):** No, Mr. Chairperson.

**Mr. Chairperson:** Thank you. Does the critic for the official opposition have an opening statement? No. Does the critic for the second opposition party have an opening statement? No.

Is it the will of the committee to consider the bill clause by clause?

**Mr. Manness:** Agreed.

**Mr. Chairperson:** As is usual, consideration of the title and preamble will be postponed until after all clauses have been considered in their entirety.

Clause 1—pass.

Clause 2—

**Mr. Jerry Storie (Filn Flon):** It is a question to the Minister of Finance. The authority here to establish The Special Operating Agency gives the Lieutenant-Governor-in-Council the right to appoint one or more persons. Is it the expectation of the government that these people will be civil servants?

**Mr. Manness:** Mr. Chairperson, the short answer is yes. The government will continue to ensure that employees and their representatives are fully informed. I am trying to read the specific commentary I have on that. Certainly, they will maintain their status within the Government Employees Association, their status as full partners within the Superannuation Fund.

**Mr. Storie:** The minister is talking about the people who are actually employed by the SOAs. My question was more in terms of who will be the corporate directors.

**Mr. Manness:** I am sorry, what was the question?

**Mr. Storie:** Who are going to be the actual directors of these corporations or agencies?

**Mr. Manness:** Mr. Chairperson, these are not corporations as such. They will have a board. They will have a board that will give them direction. I am led to believe that we are contemplating in this particular SOA—and the only one that we have prepared to start is the Fleet Vehicle, and there will be two deputy ministers who will be part of that board.

In this case, I think the Minister of Government Services (Mr. Ducharme) can answer this question

best, but I think we are also contemplating bringing somebody from the outside, somebody who has some experience in car-leasing activity, somebody who can help give private sector direction and knowledge to some of the decisions that have to be made.

**Mr. Storie:** Mr. Chairperson, the minister just said the wrong thing, and it gives me and certainly will give the MGEA, I guess, greater pause to wonder what the government's real intention is here. The minister is now saying that they are going to bring in outside personnel.

The former Minister of Government Services sat in that chair not more than an hour ago and talked about the efficiency that they had achieved in the Fleet Vehicles branch. I guess the question is now, who is going to pay for this political appointment?

**Mr. Manness:** Mr. Chairperson, I do not know whether we have in place yet the process and/or the detail associated with that. I can tell the member we are expecting that—I mean, the member makes it sound like this is going to be a cost of a significant amount of money. I do not even know whether there is going to be remuneration attached to that type of an appointment, if that is what the member is really wanting to know.

**Mr. Storie:** The minister has not read his own legislation because Section 6(2) gives—

**Mr. Manness:** But we are not at 6(2).

**Mr. Storie:** No, Mr. Chairperson, the minister says he does not know whether he is going to pay this person. Well, you are not going to get someone from the private sector to come in and manage Fleet Vehicles, provide advice or anything else at no cost.

I point out to the minister that under 6(2), the Financing Authority can make its own by-laws for conducting its affairs, make rules for its own procedure, expend money for its own purposes, so the minister is quickly going to lose control of this because the Financing Authority is going to have its own rights under this legislation, its own powers under the legislation.

When I asked the minister under Section 2 whether the government foresaw appointing someone other than civil servants, it was because that legitimizes the fears that are being raised by the MGEA that this will inevitably lead to attempts by the government to privatize parts of branches of government.



\* (0050)

**Mr. Manness:** Mr. Chairperson, nothing is further from the truth. The two representatives of the government, the total representatives, the total number who will be named by the government certainly will be government deputies and/or users and maybe other people. They will have the majority and, of course, they will be answerable to the government and/or specific ministers. No way will there be a private sector concern in the sense of the Fleet Vehicles branch, will they have dominance on that board whereby indeed they can bring about rules and by-laws using 6(2) as a reference; no way they will have a position whereby they can make these decisions.

I point out, if the member wants to look at Section 4, Direction of Minister of Finance: "The affairs of the Financing Authority shall be under the direction and control of the Minister of Finance." They will have no money unless the Minister of Finance gives them money.

I do not care what by-laws they pass. They can pass by-laws until they are blue in the face in the sense that the Minister of Finance is going to give them whatever money they are going to have ultimately, that he will control the purse strings.

**Mr. Storie:** Mr. Chairperson, that does not give me any confidence whatsoever other than my deep and abiding respect for the Minister of Finance (Mr. Manness). But, of course, we know that this Minister of Finance may not always be the Minister of Finance. We also know that if the Minister of Finance appoints two deputies to be directors of this authority, and one other person or some outside person, and they decide they want to hire someone, I mean the minister, that this authority is going to be hiring whoever the government wants under whatever term it wants, because the Financing Authority has the authority to do it if they get the concurrence of the Minister of Finance under Section 4.

In other words, this body is going to be able to do the bidding of the minister. If the minister wants to politicize the Financing Authority, if the minister wants the Financing Authority to hire whomever it wants, he wants or she wants it to hire, it will hire that person. So the minister is creating another vehicle that a government, and certainly this government is as guilty as any in the past of patronage appointments, this is another vehicle that

we are going to do it. I guess the question is, for what benefit?

**Mr. Manness:** Mr. Chairperson, nothing is further from the truth. The member, if he would read 8(1), it clearly points out that the same rules, The Civil Service Act rules that apply to the present situation whereby the Fleet Vehicles branch is an entity of the Department of Government Services, even under the SOA, The Civil Service Act will apply, and indeed, this new entity will not have the licence to hire outside of that authority.

The hiring, he says that we can use political interference to cause us to do SOA to hire who it is that I might want or the government may want. Well, then he must be saying the same thing today with respect to the placement of officials or individuals under the Fleet Vehicles branch, because the same practices that are in place with respect to The Civil Service Act, will be there in the future as it is there today.

**Mr. Storie:** If the minister's interpretation of this act is correct, I will agree to pass it without further comment. I will point out to the minister that Section 8(1) says, the Financing Authority may employ under The Civil Service Act such purposes and the provision—it says, may. The Financing Authority may do lots of other things, as well, including employing people who are not members of the Civil Service or fall under the auspices of The Civil Service Act. This is discretionary power. They may do a lot of other things, as well.

If the minister will table me a legal opinion that says, under no circumstances will these financing authorities be able to hire other than civil servants, that there will be no avenue for political interference of the hiring of people outside the Civil Service, then we can conclude this. The minister cannot do that.

**Mr. Manness:** Mr. Chairperson, I have just had advice from legislative counsel, and I am led to believe that the meaning, the interpretation that we have tried to put in this legislation is that this authority can only hire under the provisions as spelled out in The Civil Service Act. Those are the guidelines that have been imposed on the authority.

(Mr. Ben Sveinson, Acting Chairperson, in the Chair)

**Mr. Storie:** Mr. Acting Chairperson, if the minister was prepared to give me a legal opinion to say that is in effect what the sum and total of Sections 2, 4, 6 and 8 mean, then let us pass the legislation.

**Mr. Manness:** Mr. Acting Chairperson, we do not share legal opinions in that fashion. The member knows that. I am telling him: I have put on the record my understanding of the legislation, my interpretation of the legislation, what it is I wanted to see put into the legislation; and ultimately, the member, I ask him to accept that. If it is found wanting, then I am sure he will bring it to my attention. So that is certainly the full intent.

**The Acting Chairperson (Mr. Sveinson):** Clause 2—pass; Clause 3—pass; Clause 4—pass; Clause 5—pass.

Clause 6(1).

**Mr. Storle:** Mr. Acting Chairperson, this is another area where the minister may want to provide some assurances. The Financing Authority may enter into agreements with any person or the representative of any government for its own purpose or the purposes of an agency.

Is it the intention of the government to have these new corporate-like entities within departments able to hire consultants?

**Mr. Manness:** Potentially, I guess the answer would be, yes.

**Mr. Storle:** Ahal

**The Acting Chairperson (Mr. Sveinson):** Order, please.

**Mr. Manness:** I guess the member has found the smoking gun. He has been looking for it for four years, Mr. Acting Chairperson, and I thank him for waking me up. I did not know how I was going to get through tonight, but I appreciate it.

Let me say that certainly there will be some discretion given to the authority to develop its business plan and to make it an entity which, of course, will be more efficient than exists today. In the sense that it needs to bring in outside expertise to organize its affairs internally, or to prepare a marketing plan that is going to make it better in terms of providing service either to government, or in some cases to agencies and entities outside of government, if it needs that expertise, and feels it does not have it and it wants to hire it, certainly it will be given that permission to do so.

**The Acting Chairperson (Mr. Sveinson):** Clause 6(1), shall the item pass? The item is accordingly—

**Mr. Storle:** No, it is not. I do not want to do that. I said, no, I do not want it passed.

**The Acting Chairperson (Mr. Sveinson):** On division?

**An Honourable Member:** On division.

**The Acting Chairperson (Mr. Sveinson):** Agreed, on division, Clause 6(1) is accordingly passed.

Clause 6(2), shall the item pass?

**Some Honourable Member:** Pass.

**An Honourable Member:** No.

**An Honourable Member:** On division.

**The Acting Chairperson (Mr. Sveinson):** On division. Agreed.

Clause 7—pass; Clause 8(1)—pass; Clause 8(2)—pass; Clause 8(3)—pass; Clause 9(1)—pass; Clauses on page 4—pass.

\* (0100)

**Mr. Storle:** Mr. Acting Chairperson, you snuck that one by me. Just note that the Section 11(1), the "Designation of special operating agencies", I believe, obviously, is the essence of the bill. I think the Minister of Finance (Mr. Manness) is going down a misguided path. I will leave that for the wrap-up.

**The Acting Chairperson (Mr. Sveinson):** All Clauses on page 5—pass; all items on page 6—pass.

All Clauses on page 7.

**Mr. Storle:** I am wondering if the Minister of Finance can tell us what Clauses 22, 23(1), 23(2), 24(1), 24(2) are going to cost the government of Manitoba—tabling of annual reports, preparing of annual reports, more paperwork.

**Mr. Manness:** The essence of what is being requested here by way of legislation is no different than what is being provided with respect—

**Mr. Storle:** But it is unnecessary.

**Mr. Manness:** No, it is being provided today in the compendium of statistics brought forward by the Department of Government Services because there is an area where he reports on the Fleet Vehicles branch and there are certain statistics provided. So that is the essence of most of this section shown on page 7.

**The Acting Chairperson (Mr. Sveinson):** All clauses on page 7—pass; all clauses on page 8—pass; Preamble—pass; Title—pass. Shall the bill be reported?

**Mr. Storle:** Mr. Acting Chairperson, just a final comment. I mentioned this in my debate on second reading. I have to say I am a little surprised at this initiative of the government. This government, in the previous session, eliminated the Manitoba Energy Authority. They eliminated it because it could operate independently, it could move quickly and operate in a more corporate style, in a more, I guess, private enterprise style. They did not like that kind of flexibility.

**Mr. Manness:** That is not true.

**Mr. Storle:** That was an argument that was certainly made. They also made the argument that these kinds of things could be done in government departments or within Manitoba Hydro. The same thing can be said of these Special Operating Agencies. The fact is the government departments have operated very efficiently in many different areas without the creation of these new entities.

I am not convinced that these are going to serve any useful purpose in the long run. I am concerned, and I want it on the record, that notwithstanding the minister's assurances of what the intention was when he drafted this legislation, these agencies are going to have considerable freedom, and they are going to be able to hire consultants at least the minister has confirmed from outside the Civil Service. They are going to be able to hire people that the minister or the government of the day wants hired, and spend money with the approval of the minister, I grant, but spend money in a more independent basis than departments can currently spend money. They have significant powers to spend money on their own affairs and the affairs of the operating agencies themselves.

The bottom line is, these small little mini-corporations are going to be operating on their own in government, and the minister has not satisfied me, certainly, and I do not think he has satisfied the MGEA, that there is going to be any effective control on these agencies.

There is one major flaw in this piece of legislation, as well, and that is that there is no mechanism for evaluating their effectiveness; that somehow, in here, I would like to think that the Minister of Finance (Mr. Manness)—and perhaps it would not normally be in the bill anyway, but I hope the minister can tell us how he is going to evaluate whether these things are successful or not.

How are we going to ultimately know whether there has been any saving? How are we going to track what may be additional expenditures these entities are incurring on our behalf or on the minister's behalf over the next year or two years?

**Mr. Manness:** Mr. Acting Chairperson, I think the member in his dissertation probably makes the point, makes my point, better than maybe I can myself.

Let me say that these SOAs will be scrutinized greatly. They are going to have to report not only to government, but to the Legislature collectively. Let me also say that what we are attempting to do is to give greater authority and scope to managers and employees to encourage initiative and improve service delivery performance.

Whether the member wants to acknowledge it or not, we have a malaise in government. There is just not the initiative and the opportunity to develop within the deep bowels of the bureaucracy in some respects. What we are trying to do here is to give this one area of government an opportunity to practise business principles in providing services to various departments fully-costed, so departments now will know exactly what it is that it is going to cost them, for instance, to have a government fleet vehicle, and they will make the decision. They will make the decision at that point, whether or not, instead of 40 fleet vehicles, they maybe should operate only 35.

It is on that basis that we ultimately will determine whether or not the efficiencies brought about by that new costing, indeed by an increased productivity of staff, whether or not these SOAs are eventually successful.

The member brings up the example of the Energy Authority. We did away with the Energy Authority mainly because after pouring millions of dollars into it, it did not prove successful. If that happens here, not by pouring in millions of dollars, but indeed if there is not a bottom line saving, then we will revisit this whole area.

**Mr. Storle:** Well, Mr. Acting Chairperson, perhaps we should have a debate sometime on whether MEA was successful or not.

**Mr. Manness:** That is right.

**Mr. Storle:** The fact of the matter is, I went over this with the Minister of Energy and Mines (Mr. Downey), that since the MEA was disbanded, this government

has no new or prospective energy-intensive industry projects in the province.

In fact, the only ones the government has successfully concluded, including Dow Corning, were begun by the Manitoba Energy Authority. So if the lack of success of this government in bringing in those kinds of projects is attributable to anything, it is the lack of a Manitoba Energy Authority.

Mr. Acting Chairperson, the bottom line is, the fleet vehicle example the minister is using I think has quite successfully indicated to departments what the real cost was. There has always been a charge-back arrangement in Government Services, and the cost of those were ultimately born by the department, and I am not sure that this is going to—and so was the Air Ambulance. [interjection]

Mr. Acting Chairperson, the minister knows, as we all do, that we are still working within a closed system, and a saving in the Department of Health of X amount of money because those charge-backs did not include employees was a cost to Government Services, and rewriting the books is not going to change the costs.

**The Acting Chairperson (Mr. Sveinsson):** Bill be reported.

### **Bill 98—The Manitoba Multiculturalism Act**

**The Acting Chairperson (Mr. Sveinsson):** The last bill to be considered tonight is Bill 98, The Manitoba Multiculturalism Act.

(Mr. Chairperson in the Chair)

\* (0110)

**Mr. Chairperson:** Does the honourable minister have an opening statement?

**Hon. Bonnie Mitchelson (Minister of Culture, Heritage and Citizenship):** Mr. Chairperson, I want to say that we went through many lengthy hours of presentations from the public on The Manitoba Multiculturalism Act, and I want to indicate to committee tonight that I listened very carefully to all presenters, and I want to take this opportunity once again to thank all of them for their time and for their contribution. I know the thoughts and the ideas that were put forward, and suggestions, are very valuable, and I wanted to give full opportunity for presenters to state their case.

I felt it important not to debate or to criticize the views of those who took the time to come out and speak. Bill 98, as presented in its form to the

Legislature, reflects the consensus that was reached through broad consultations with the community. Presenters in my view confirmed this to a great extent. They supported the concept, the spirit and the introduction of this legislation.

Some presenters wanted more; other presenters wanted less, but what is in this act are those things that were agreed to by consensus through the consultation process. This is a good start, a good start to a piece of multiculturalism legislation that will build the foundation for the future.

I believe that this legislation should have the support of all parties of the Legislature. I do know that as this bill passed to committee stage from second reading, that indeed all members of the Legislature did support this legislation, and I would ask them now to take another positive stand and support the bill in its present form. Thank you.

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

**Ms. Marianne Cerilli (Radisson):** Mr. Chairperson, it is true that we did spend a lot of time listening to some presenters, but I would also note that a number of people who signed up and expressed some interest in presenting were not able to do so, and I think that is related to the lateness in the session that this bill was tabled.

I think with respect to a bill such as this which has been promised by the government, that there really was no reason for it to be delayed, other than perhaps the minister maybe did not feel as confident that if there had been more time for scrutiny that there would not have been more criticism. I think all of us have said that it is very difficult to oppose the principle of having a multicultural act. I know that I certainly support having a multicultural act, and I certainly know that our party supports that. The entire process was initiated under the previous government. So that is one very big concern that was expressed, and it is a concern that I think is valid.

There was one presenter late in the night the other night that I think was very eloquent, and it was very clear that it is somewhat hypocritical to have a bill that talks about participation and inclusiveness, and then has a process that does not allow for that; also that the bill is somewhat similar in that it puts all of the onus for multiculturalism into the hands of government agencies and into the hands and the

control of the minister, and that the process of inclusion is excluded from the bill, and that the communication aspect of the bill is very weak.

I would hazard a guess that the legislation that we see before us in Bill 98 is an attempt to balance. Perhaps the minister cannot be completely faulted for that, but I would hate to think that this is simply being brought in to sort of keep a promise to the multicultural community, to sort of appease the members of the community who have been asking for this, but at the same time trying not to stir up the right-wing element in the party with strong statements about employment equity and the kinds of things that are not in the bill, that the bill was not there just to enshrine the structures of government, but a big part of what people are looking for is a commitment of government to policy and programs that are going to see that there is equality and some social justice. Not once does this bill mention social justice.

With respect to the policy section of the bill, that is one area that I have been particularly concerned about, that there has been a lack of commitment to heritage language. There has been a lack of commitment to employment equity. There is no commitment there in clear statement about services for newcomers in terms of English language training or assurances that there will be some kind of programming to ensure that people have access to jobs through programs like accreditation.

It is interesting because in a lot of these areas, the government is doing this. They have a policy and it is a mystery why there is not a commitment to just put that into the legislation. We heard many presentations wanting some affirmation of cross-cultural sensitivity, that government agencies should be made more sensitive to needs in a multicultural society, and a big emphasis is that there needs to be a strong commitment to the elimination of racial discrimination.

As I was saying, a lot of these things are in the government policy. Another thing that is in the government policy is a commitment to review the policy with the community. I think that is a big amendment that will go a long way to assuring people that the government means business with bringing in this act, and it is not just to sort of look good.

I would question how the average person is going to be affected by this bill. Will they be any more

encouraged to promote and practise their culture with this legislation? That is other wording that is in the policy but has been left out of the bill. A lot of the discussion that went on at the committee had to do with the Multicultural Grants Advisory body, the Intercultural Council and the Secretariat, and the average person does not even know what these things are.

The average person does not know a lot of government agencies. I think we have a responsibility to try and develop policy that is not going to deal with just those kinds of issues that the people who are more active in multicultural issues are involved in, but that we need to develop the kind of policy and the kind of legislation that is going to have a broader impact than that.

I regret that so much of the attention sometimes is focused, as this bill focuses, on having so many of its pages just enshrining into the legislation what already exists in government services in terms of the Civil Service, but does not deal with making sure that the policy commitment is strong because that would have the broad impact that I am talking about.

Another thing I feel compelled to mention is the whole issue of politicization and the whole way that members of the community mention this not only to committee hearings, but quite often. I just want to clarify that in the last couple of days, the minister has gone on record criticizing the NDP for appointing someone to the Manitoba Intercultural Council who was not elected, but I think that is quite different from appointing someone to Civil Service positions with no competition and also putting people who have that kind of political affiliation, not just into any Civil Service position where perhaps they might not have the kind of contact with the community. They could be in more of a desk job, so to speak, but these people are out there actually working in the community and carry all of the previous contacts and that the line is blurred between their political function and their function as a civil servant.

\* (0120)

There is a strong message from a number of groups that the bill should be delayed, not only because it was brought in late in the session, but perhaps even more critically, because then the review of the Manitoba Intercultural Council would be completed and all of the legislation, all of the issues related to multiculturalism could be dealt with

at the same time and that would only be living up to the minister's commitment. That would only be living up to what she said she would do only a year or so ago when the proposals for The Multiculturalism Act were starting to sound like it was closer.

The whole issue of the review of MIC, I am not going to go into that anymore now, but I do want to say that it is interesting that in the act that is before us, even though it has a section on the Manitoba Grants Advisory Council, that there is not a commitment that the government shall put money for that body to allocate funds from—that is a small word "may"—that the minister may allocate money to that body; but, again, if there is a commitment, then the wording could be stronger.

I know that there is going to be an amendment to deal with that issue and my amendments that I will make, and I hope that the minister will seriously consider. She has given me some indication that she will do that. I just want to emphasize that I really believe that the policy that was produced by the government was hard to criticize and that it was strong. But the intent of the policy all the time throughout was that it would flow into the act and this act would be stronger, if the policy was just completely put into the act, or more completely put into the act, as we see with the federal multicultural act.

In closing, I just wanted to say that I think I would be remiss in not putting on the record that we were contacted by some aboriginal groups who again at the last minute saw the bill and were concerned about the inclusion in the WHEREAS of a reference to aboriginal people as the original people of Manitoba and that we were advised that would not in any way imply that they were being included under this act. They feel they are distinct from a lot of the multicultural policy and communities that do want to see a multicultural act in place.

With that, I look forward to, even though it is late, giving some serious consideration to this. I think it is one of the bills that is important to the community, and it is very community oriented and it should be community oriented, and perhaps it should be more community oriented. Thank you.

**Mr. Chairperson:** Thank you. Does the critic for the second opposition party have an opening statement?

**Mr. Kevin Lamoureux (Inkster):** Yes, I do have a few words that I wanted to put on the record before we go into the clause-by-clause debate and questions and so forth.

I would like to start off by saying, Mr. Chairperson, that we will be in fact supporting the bill as I had indicated during my opening remarks on the second reading.

Now having said that, I have also expressed that we have some serious concerns with this piece of legislation. We feel that one of the major problems that it has is with respect to the Manitoba Intercultural Council and not including MIC into this piece of legislation, or at the very least, making some reference to the Manitoba Intercultural Council in this particular piece of legislation.

We will be bringing forward one, possibly two, amendments that would give the minister an opportunity to at least acknowledge the existence of the Manitoba Intercultural Council within the multicultural act. In terms of the whole question of the grants and the Manitoba Grants Advisory Council, we are very clear. We have been very clear on the record and, again, I know the minister is already aware of the fact that we will be introducing an amendment that will see the Manitoba Grants Advisory Council withdrawn from the act.

Mr. Chairperson, I was listening very intently to all the presentations that were being made, and one of the things that I believe, that our caucus believes, that what we have before us, is in fact a starting point, that this is the multicultural act, and this is going to be an act that will be amended, no doubt, in the future, in order to try to bring to this piece of legislation other aspects, and there are many other aspects that were not touched in this particular act.

Some of those deal in terms of with the whole question of racism and systemic barriers and other aspects with respect to the Civil Service and other things that could be done, that could be included in a multicultural act, that no doubt will be pursued.

Mr. Chairperson, having said those very few words, we are prepared to allow it to go into the clause-by-clause—

**Mr. Chairperson:** Thank you. Is it the will of the committee—

**Mr. Lamoureux:** —but I understand the member for The Maples just wanted to speak for a minute, a minute and a half on it.

**Mr. Gulzar Cheema (The Maples):** Mr. Chairperson, I just wanted to put a few comments on the record. The reason is very important because, at times, one of the political parties has made remarks that, as a new Canadian, I do not raise issues.

Such an important bill is being presented here, so I just wanted to put on the record a few things. That is why I stayed late, and also to support my colleague. In my view, as there was a presentation yesterday, we have to aim towards racial harmony in this province; I think this bill will at least go one step further.

The other issue here is, let people in the cultural communities give more input, what is best for them, and let us have less input from all of us. Some of them really have no clue what we want to do, and some of them may not benefit from the whole thing. As long as it will send a good message, and if we can try to improve upon this act in the long run and try to build on it rather than pointing differences; if we can focus on some of the important aspects of our life together, I think we can achieve a lot of things.

Certainly, the member for Inkster (Mr. Lamoureux) has done a tremendous job in representing our caucus on this very issue. So I just wanted to put those remarks in because there are many cultural communities. Sometimes they do not understand the process in the House, so they may think that I am not speaking because I am not interested. That is not the issue here. The issue here for me is, we have a person who speaks on behalf of us, but if I had to take all these issues then I think I would have not solved the purpose, because my role here is to serve everyone, and that is why I enjoy the health area.

They do not have to convert me, I know what area it is. So many other individuals are doing such a wonderful job, and certainly the minister, I must say that the credential committee has put that paper together. It is going to be very helpful.

I think the issue one should have a good look at is the cultural diversity can be used for a cultural economy and diversity, a lot of people who bring a lot of skill to this nation and this province. Some provinces are already having separate departments

to look at some of the small scale industries, how you can incorporate some of the cultural value in the cultural industry as well as the economic diversification, and can be used very well.

We do not have much time to discuss those things, but certainly one should look at that. Thank you.

\* (0130)

**Mr. Chairperson:** Thank you. Is it the will of the committee to proceed clause by clause?

**Some Honourable Members:** Clause by clause.

**Mr. Chairperson:** Thank you. As is the custom, the consideration of the Title and Preamble are postponed until after all clauses are considered in their entirety.

Shall Clause 1 pass?

**Ms. Cerilli:** What happened to the Preamble?

**Mr. Chairperson:** Ms. Cerilli, I did not hear what you said.

**Ms. Cerilli:** I was just asking, what about the Preamble, but I understand it will be dealt with at the end.

**Mr. Chairperson:** The Title and Preamble are postponed until after clauses are passed.

Shall Clause 1 pass?

**Mr. Lamoureux:** Mr. Chairperson, I do have an amendment that I was wanting to move with respect to Clause 1. The reason why I have to move this amendment is because a bit later on I will be moving an amendment that would make this particular one, with respect to the definition, irrelevant because there would be no need for it.

The amendment would be, I would move

THAT section 1 be amended by striking out the definition "council".

**[French version]**

Il est proposé que l'article 1 soit amendé par suppression de la définition de "Conseil".

I would be more than happy to give a further explanation of it, if required.

**Motion presented.**

**Mrs. Mitchelson:** Mr. Chairperson, I do want to indicate that we will be supporting this amendment. One of the reasons that it became very clear to me, through the public presentation process, was that indeed council in another piece of legislation means

the Manitoba Intercultural Council, and for us to have a definition of council relating to the Multicultural Grants Advisory Council or whatever will not be appropriate in this section. So we will be supporting this amendment.

**Mr. Chairperson:** Thank you. Is there further discussion?

**Motion agreed to.**

**Mr. Chairperson:** Clause 1, as amended—pass. Shall Clause 2 pass?

**Ms. Cerilli:** I have an amendment for this section. I move

THAT section 2 of the Bill be renumbered as subsection 2(1) and that the following be added as subsections 2(2), 2(3) and 2(4):

**Policy of cultural diversity**

**2(2)** To reflect the policy described in clause (1)(a), the government shall pursue the following specific policies:

1.The government will provide leadership to promote intercultural understanding, mutual respect, acceptance and harmony among Manitoba's many cultural communities.

2.The government will encourage all Manitobans to enhance and develop their cultures within Manitoba society, and will encourage the sharing of Manitoba's diverse cultural heritages throughout the community at large.

3.The government will encourage the retention of languages and the continuing development of artistic activities throughout the province's multicultural community.

**Policy of equal access to opportunity**

**2(3)** To reflect the policy described in clause (1)(b), the government shall pursue the following specific policies:

1.The government will take action to ensure that throughout Manitoba, all members of the community enjoy the rights and freedoms to which every person is entitled under the Constitution and within the laws of the province.

2.The government will work to provide services and programs that are sensitive to cultural values and traditions; the government, by leadership, will encourage institutions throughout Manitoba to follow this example.

3.The government will actively support those who are addressing particular concerns, such as overcoming language or literacy barriers, or striving to acquire skills in order to become successful members of the Manitoba society.

4.The government will strive to prevent all forms of discrimination through education and through enforcement of provincial laws.

5.The government will ensure that the multicultural nature of the Manitoba society is reflected in its hiring practices, and in appointments to boards, commissions and other provincial offices so that these institutions are representative of the community.

**Policy of partnership**

**2(4)** To reflect the policy described in clause (1)(c), the government shall pursue the following specific policies:

1.The government will provide leadership to encourage mutual help and cooperation in the creation of partnerships among the cultural communities of the province.

2.The government will consult with members—and this is not in the amendment, I am going to add the words "of Manitoba Intercultural Council"—and representative of the province's cultural communities in the development of policies and programs.

3.The government will involve the community in regular review and revision of its policies and programs to ensure that they will continue to contribute to the achievement of the multicultural ideal.

**[French version]**

Il est proposé que l'article 2 du projet de loi soit amendé par substitution, à son numéro, du numéro de paragraphe 2(1), et par adjonction de ce qui suit:

**Politique visée à l'alinéa (1)(a)**

**2(2)** Afin que soit reflétée la politique visée à l'alinéa (1)(a), le gouvernement poursuit les politiques suivantes:

1.Il jouera un rôle prépondérant afin de promouvoir la compréhension entre les divers groupes culturels, le respect mutuel, l'acceptation et l'harmonie parmi les nombreuses communautés culturelles du Manitoba.

2.Il encouragera tous les Manitobains à mettre en valeur leurs cultures au sein de la société



manitobaine, et il encouragera le partage des divers patrimoines culturels du Manitoba dans l'ensemble de la collectivité.

3. Il favorisera le maintien de langues et l'essor permanent des activités artistiques dans toute la communauté multiculturelle de la province.

#### **Politique visée à l'alinéa (1)(b)**

2(3) Afin que soit reflétée la politique visée à l'alinéa (1)(b), le gouvernement poursuit les politiques suivantes:

1. Il fera en sorte que, partout au Manitoba, les membres de la collectivité jouissent des droits et libertés qui sont accordés à chaque personne en vertu de la Constitution et des lois de la province.

2. Il s'efforcera de fournir des services et des programmes qui tiennent compte des valeurs et des traditions culturelles et, en jouant un rôle prépondérant, encouragera les institutions partout dans la province à suivre cet exemple.

3. Il prêtera activement son soutien à ceux qui doivent surmonter des difficultés particulières, notamment ceux qui se heurtent aux obstacles de la langue ou de l'éducation ou qui tentent d'acquérir des compétences afin de pouvoir occuper une place de choix au sein de la société.

4. Il s'efforcera de prévenir toute forme de discrimination au moyen de l'éducation et par la mise en application des lois provinciales.

5. Il veillera à ce que le caractère multiculturel du Manitoba soit reflété dans ses pratiques en matière de recrutement de personnel et dans les nominations au sein des conseils, commissions et autres bureaux provinciaux, de façon que ces institutions soient représentatives de la collectivité.

#### **Politique visée à l'alinéa (1)(c)**

2(4) Afin que soit reflétée la politique visée à l'alinéa (1)(c), le gouvernement poursuit les politiques suivantes:

1. Il jouera un rôle de premier plan afin de favoriser un climat d'aide mutuelle et de coopération dans la création d'associations entre les communautés culturelles de la province.

2. Il consultera les membres et les représentants—and I am going to add the words "of Manitoba Intercultural Council"—des communautés culturelles de la province dans l'élaboration de politiques et de programmes.

3. Il fera régulièrement appel à la collectivité pour l'étude et la révision de ses politiques et de ses programmes afin de veiller à ce qu'ils continuent de favoriser l'épanouissement de l'idéal multiculturel.

I move that in both French and English.

**Mr. Chairperson:** I believe the amendment is in order, but I have to interrupt proceedings for a minute while we put a new reel of tape in Hansard. We will take a five-minute recess.

\* \* \*

The committee took recess at 1:38 a.m.

#### **After Recess**

The committee resumed at 1:42 a.m.

**Mr. Chairperson:** Order, please. The matter before the committee is the proposed amendment of Ms. Cerilli. Is there any discussion?

Order, please. I have been informed that there is a slight change in the amendment as printed and it now reads, Clause 2(4)2., the government will consult with members of the Manitoba Intercultural Council and representatives. Is that correct? That has been in both official languages. Is it the agreement of the committee to accept that change?

**An Honourable Member:** Agreed.

**Mr. Chairperson:** Agreed. Is there any discussion on the amendment?

**Mr. Lamoureux:** I have one question and that is: Has Ms. Cerilli had any consultation with the ethnic groups, in particular, the Manitoba Intercultural Council with respect to this amendment?

**Ms. Cerilli:** Yes, I have discussed this amendment with a number of individuals and they supported it. Also, from questioning people at the committee, I think this amendment would draw a lot of the recommendations that people were making about stronger tools, stronger indications of commitment on specific issues to be included in the act. I think a lot of people indicated this would satisfy them and that this would do that. Yes, I have had support from individuals from MIC but not the council as a whole.

**Mr. Lamoureux:** Mr. Chairperson, I know that I have criticized the minister in the past with respect to not consulting with MIC. To a certain extent, she has consulted with MIC with this particular act. One of the concerns that I would have is in fact that any amendment being brought forward to legislation have some sort of support from Manitoba

Intercultural Council, given the very valuable role it plays and would ask if in fact, is it safe to say that a significant number of MIC members have said yes to this particular amendment?

**Ms. Cerilli:** I would feel comfortable that it would address a lot of the concerns that a number of them have expressed. I do not know, the MIC is there to advise the minister and they are not as accessible to the critics, unfortunately. But I am confident that the people I have talked to have indicated to me that this is the kind of amendment that would strengthen the legislation and deal with a lot of their concerns.

**Mrs. Mitchelson:** Mr. Chairperson, I have some comments to put on the record in this respect. I would like to commend the member for Inkster (Mr. Lamoureux) for his question of the member for Radisson (Ms. Cerilli), because indeed we have a critic that certainly does not practise what she preaches, and in fact that is broad consultation and the Manitoba Intercultural Council being an advisory body, and indeed I do not believe that she would have a consensus of all the members of the Manitoba Intercultural Council on her amendment.

I question, first of all—she talks about her questioning of the public that presented at committee last evening, and I know in many instances she tried to impose her point of view upon those members of the public who were making presentations. I know when Hansard comes out that kind of questioning will be on the record. I do know that people who left the committee last evening felt somewhat intimidated. I said it earlier today, and I will say it again, because they in fact felt that they were not there to be questioned on what they believed in, they were there to clarify their position and I know that many of the questions that came were questions that were questioning why they believed the way they believed. So I just wanted to put that on the record and also indicate that we, very clearly, in our policy state three fundamental principles of pride, equality and partnership.

Our action plan that was presented along with our multicultural policy, some two years ago, was an action plan that was developed—I might say no action plan was in place when we took over as government and it took us some time to develop our policy and our plan of action. Indeed we have carried out and are implementing many of those actions that are stated in the policy. From time to time those things will change as we in fact

accomplish and meet some of our goals and objectives, there will be other actions that will be put into place. Indeed there are some. What is not in here, of course, is the working group on immigrant credentials. I know the member for The Maples (Mr. Cheema) has commended government on our approach to dealing with accreditation of foreign credentials. That is another action that this government has taken. One, I might say, that the Manitoba Intercultural Council asked, for years, the NDP administration to undertake and it never was done.

From time to time, there will be more action and there will be more programs, and our policy will be updated, and our actions, as a result of our three policy statements, will be updated from time to time as we move and progress and attempt to meet the needs of the community that we are serving. So I have to say that we are not going to support this amendment.

**Ms. Cerilli:** I just want to clarify that many of us see quite clearly what has happened with MIC, and I think it was clear that there were members of MIC who presented yesterday who did not support things like employment equity. I do not believe that people who are not elected by the community but appointed by the minister who are putting those kinds of positions in place and then say that there is no consensus on MIC—those are the kinds of games, I guess, that word gets used a lot, but those are the kinds of things that I think have been causing problems.

I do not have any problem standing behind this amendment. I just wanted to clarify that this is actually government policy, and some of the statements are worded in such a way that I think they are quite soft, if you will. I think that the intent is there, and that is why I included them in this way.

\* (0150)

I just would also like to indicate that the executive of MIC has declined to respond to requests that I have put forward to meet with them. I think this again is a reflection of often the partisan nature, and I have been informed that in previous administrations that this would have not happened, that the MIC is there to meet with and consult with everybody and that members of the opposition would not have been denied a meeting. I have not really pushed the issue with respect to that.

I feel quite strongly that the policy section of this bill is not as strong as a number of groups in the community and a number of people on MIC would have it. With that, I would say that I have another minor amendment that I am going to make to one of the sections that is in the policy statement, and I just encourage us to move along.

**Mr. Chalperson:** It has been moved by Ms. Cerilli

THAT section 2 of the Bill be renumbered as subsection 2(1) and that the following be added as subsections 2(2), 2(3) and 2(4):

#### **Policy of cultural diversity**

**2(2)** To reflect the policy described in clause (1)(a), the government shall pursue the following specific policies:

1. The government will provide leadership to promote intercultural understanding, mutual respect, acceptance and harmony among Manitoba's many cultural communities.

2. The government will encourage all Manitobans to enhance and develop their cultures within Manitoba society, and will encourage the sharing of Manitoba's diverse cultural heritages throughout the community at large.

3. The government will encourage the retention of languages and the continuing development of artistic activities throughout the province's multicultural community.

#### **Policy of equal access to opportunity**

**2(3)** To reflect the policy described in clause (1)(b), the government shall pursue the following specific policies:

1. The government will take action to ensure that throughout Manitoba, all members of the community enjoy the rights and freedoms to which every person is entitled under the Constitution and within the laws of the province.

2. The government will work to provide services and programs that are sensitive to cultural values and traditions; the government, by leadership, will encourage institutions throughout Manitoba to follow this example.

3. The government will actively support those who are addressing particular concerns, such as overcoming language or literacy barriers, or striving to acquire skills in order to become successful members of the Manitoba society.

4. The government will strive to prevent all forms of discrimination through education and through enforcement of provincial laws.

5. The government will ensure that the multicultural nature of the Manitoba society is reflected in its hiring practices, and in appointments to boards, commissions and other provincial offices so that these institutions are representative of the community.

#### **Policy of partnership**

**2(4)** To reflect the policy described in clause (1)(c), the government shall pursue the following specific policies:

1. The government will provide leadership to encourage mutual help and cooperation in the creation of partnerships among the cultural communities of the province.

2. The government will consult with members—and this is not in the amendment, I am going to add the words "of Manitoba Intercultural Council"—and representative of the province's cultural communities in the development of policies and programs.

3. The government will involve the community in regular review and revision of its policies and programs to ensure that they will continue to contribute to the achievement of the multicultural ideal.

#### **[French version]**

Il est proposé que l'article 2 du projet de loi soit amendé par substitution, à son numéro, du numéro de paragraphe 2(1), et par adjonction de ce qui suit:

#### **Politique visée à l'alinéa (1)(a)**

**2(2)** Afin que soit reflétée la politique visée à l'alinéa (1)(a), le gouvernement poursuit les politiques suivantes:

1. Il jouera un rôle prépondérant afin de promouvoir la compréhension entre les divers groupes culturels, le respect mutuel, l'acceptation et l'harmonie parmi les nombreuses communautés culturelles du Manitoba.

2. Il encouragera tous les Manitobains à mettre en valeur leurs cultures au sein de la société manitobaine, et il encouragera le partage des divers patrimoines culturels du Manitoba dans l'ensemble de la collectivité.

3. Il favorisera le maintien de langues et l'essor permanent des activités artistiques dans toute la communauté multiculturelle de la province.

**Politique visée à l'alinéa (1)(b)**

2(3) Afin que soit reflétée la politique visée à l'alinéa (1)(b), le gouvernement poursuit les politiques suivantes:

1. Il fera en sorte que, partout au Manitoba, les membres de la collectivité jouissent des droits et libertés qui sont accordés à chaque personne en vertu de la Constitution et des lois de la province.

2. Il s'efforcera de fournir des services et des programmes qui tiennent compte des valeurs et des traditions culturelles et, en jouant un rôle prépondérant, encouragera les institutions partout dans la province à suivre cet exemple.

3. Il prêtera activement son soutien à ceux qui doivent surmonter des difficultés particulières, notamment ceux qui se heurtent aux obstacles de la langue ou de l'éducation ou qui tentent d'acquérir des compétences afin de pouvoir occuper une place de choix au sein de la société.

4. Il s'efforcera de prévenir toute forme de discrimination au moyen de l'éducation et par la mise en application des lois provinciales.

5. Il veillera à ce que le caractère multiculturel du Manitoba soit reflété dans ses pratiques en matière de recrutement de personnel et dans les nominations au sein des conseils, commissions et autres bureaux provinciaux, de façon que ces institutions soient représentatives de la collectivité.

**Politique visée à l'alinéa (1)(c)**

2(4) Afin que soit reflétée la politique visée à l'alinéa (1)(c), le gouvernement poursuit les politiques suivantes:

1. Il jouera un rôle de premier plan afin de favoriser un climat d'aide mutuelle et de coopération dans la création d'associations entre les communautés culturelles de la province.

2. Il consultera les membres et les représentants—and I am going to add the words "of Manitoba Intercultural Council"—des communautés culturelles de la province dans l'élaboration de politiques et de programmes.

3. Il fera régulièrement appel à la collectivité pour l'étude et la révision de ses politiques et de ses programmes afin de veiller à ce qu'ils continuent de favoriser l'épanouissement de l'idéal multiculturel.

What is the will of the committee? Shall the amendment pass?

**Some Honourable Members:** No.

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

**Some Honourable Members:** Yea.

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

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Nays have it. The amendment has lost.

**Ms. Cerilli:** On recorded vote.

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

**A COUNTED VOTE** was taken, the result being as follows: Yeas 2, Nays 6.

**Mr. Lamoureux:** Mr. Chairperson, I wanted, for the record, just to indicate that I had abstained from voting with respect to the question that I had put forward, and I will expand on it as I move into the minister's area of responsibilities where it will become evidently clear why I felt it was necessary to abstain.

**Mr. Chairperson:** Shall Clause 2 pass?

**Ms. Cerilli:** I have another minor amendment. I just have it written out.

**Mr. Lamoureux:** Mr. Chairperson, maybe with leave of the committee, the member for Radisson (Ms. Cerilli) can read the motion. Then we can debate it and if it passes, the translation will definitely be there for it, with leave of the committee.

**Mr. Chairperson:** Is it the will of the committee to proceed while we are awaiting translation? That is agreed. Just before you begin, Ms. Cerilli, if anyone else has any amendments that need translation, perhaps they can hand them in now and have that out of the way.

**Ms. Cerilli:** I move

THAT Clause 2(c) of the Bill be amended by inserting the word "all" before "cultural communities" the first time it occurs.

**[French version]**

Il est proposé que l'alinéa 2c) du projet de loi soit amendé par substitution à "avec des" de "avec toutes les".

So it would read: enhance the opportunities of Manitoba's multicultural society by acting in partnership with all cultural communities and by encouraging cooperation and partnerships between cultural communities.

**Mr. Chairperson:** The amendment is in order. Is there discussion?

**Ms. Cerilli:** Just to clarify that the intent of this is to ensure that the partnerships that are created do not become exclusive. This was one of the recommendations that was made specifically at the presentations the other night, but I think generally a lot of sentiment was to this effect.

**Mr. Chairperson:** I do not, as yet, have the amendment in front of me.

If it is the wish of the committee, we could have copies made for everyone. I have a copy now in both official languages.

**Motion agreed to.**

**Mr. Chairperson:** Clause 2 as amended—pass.

Clause 3.

**Ms. Cerilli:** I was just consulting with the member for Inkster, and I think that our amendments are similar. If his are translated, I will just have him move it.

**Mr. Lamoureux:** Mr. Chairperson, I did want to take this opportunity to talk in terms about the Manitoba Intercultural Council. I had made reference during debate on second reading, the importance of the Manitoba Intercultural Council. I think that the minister and the official opposition would concur with me in terms of recognizing that importance. It is noted within the Manitoba Intercultural Council Act what it is that their responsibilities are. We had felt, as a caucus, that this was a very opportune time for us to include MIC into the act and felt that this was a very appropriate way to do it. I was going to move a motion to that effect.

I understand that the minister might not necessarily be aware of it. It was an idea that came out of one of the presenters. Prior to that, we were looking at amending the whole Manitoba Intercultural Council Act into this particular piece of legislation but felt that this would be a good compromise given that the minister has a study going on currently with respect to MIC with a four-month report coming back.

\* (0200)

So I will read the motion and it will be open for questions and I would be more than happy to further explain it after I read it, but would hope that in fact this is an amendment that would meet the approval of all three parties.

I move

THAT section 3 be amended by striking out "and" at the end of clause (c), by adding "and" at the end of clause (d) and by adding the following after clause (d):

(e) acknowledge and respond to issues brought to the minister's attention by the Manitoba Intercultural Council, established under The Manitoba Intercultural Council Act, and to consult with that council on all proposed changes to this Act.

**[French version]**

Il est proposé que l'article 3 soit amendé par substitution, au point qui se trouve à la fin de l'alinéa d), d'un point-virgule, et par adjonction, après l'alinéa d), de ce qui suit:

(e) de répondre aux questions que porte à son attention le Conseil interculturel du Manitoba, constitué en vertu de la Loi sur le Conseil interculturel du Manitoba, et de consulter ce conseil sur les modifications proposées à la présente loi.

**Mr. Chairperson:** That is not what is written, Mr. Lamoureux.

**Mr. Lamoureux:** Mr. Chairperson, I understand that legal counsel had not included the establishment under the Manitoba Intercultural Council Act in terms of the French, everything else has been translated into French. So maybe we can talk about this particular amendment with the leave of the committee, and then have it for French translation if it passes.

**Mr. Chairperson:** I understand that the amendment will be in order as soon as the text is the same as the oral presentation.

**Mrs. Mitchelson:** I would like to put my comments on the proposed amendment and indicate that we, right now, have a Manitoba Intercultural Council Act that clearly indicates that is the advisory body to government on matters concerning multiculturalism.

I have indicated, and everyone knows, that there is a review ongoing presently, and we will be receiving a report. I want to indicate that, as it stands right now, the Manitoba Intercultural Council

is in legislation. Through the consultation process, I heard people indicate that, yes, MIC should be included in this legislation; I heard other people whom I consulted with say, no, they have their own act and it gives them the strength within their own act, and it should not be included here. So until we get the review, and suggested recommendations on amendments to the Manitoba Intercultural Council Act, I am not prepared to accept this amendment.

**Mr. Lamoureux:** Mr. Chairperson, I wanted to add to it. I think that everyone has agreed that any changes to the multi—all this amendment is doing, is requiring the minister to give attention to MIC with respect to issues that would be brought forward, and also, send to it any changes that would come up through the multicultural act, or any ideas on any proposed changes.

So it is more so, Mr. Chairperson, as a body that would review, as I had pointed out earlier with the amendment that was being brought forward from the member for Radisson (Ms. Cerilli). That was that it is important that we have that community, that grassroots involvement in the development of a multicultural act.

I think, Mr. Chairperson, that we will be seeing a number of different amendments to the multicultural act in the future. There is absolutely nothing wrong with having those changes going through. The minister is not obligated under this legislation to follow those recommendations, but all it does do is it does provide the Manitoba Intercultural Council an opportunity in legislation to play a role in the development of the multicultural act. Mr. Blair, no doubt, will come back, and we do not necessarily want to prejudge in terms of what it is that he is going to come back with.

Mr. Chairperson, I feel very comfortable in believing that Mr. Blair might come back suggesting a wide variety of different thoughts and expressions that have been expressed to himself from different individuals, but would suggest to you that Mr. Blair is not going to recommend that MIC be dissolved. That might in fact suggest that he could possibly recommend, as many of the presenters had said, that The Manitoba Intercultural Council Act remain intact and that we have two separate acts.

When that was put forward to a number of the presenters, I had believed that a vast majority of the presenters felt that there was nothing wrong with having MIC being referenced to. I think this is an

appropriate place to have it because, after all, we are talking about the ministerial responsibilities in dealing with multiculturalism. Part of that multiculturalism—and she herself would admit—is the Manitoba Intercultural Council and the role that they play. I think this is one of the ways in which the minister can give a strong indication that MIC does have that role to play.

**Mrs. Mitchelson:** Mr. Chairperson, I just want to indicate that the Manitoba Intercultural Council does presently have its own act which clearly spells out its role, and that is to advise government and the minister. Until we determine how MIC should be placed in this legislation, once the review was done, I have no problems with making appropriate amendments. At this point in time, I am not prepared to do that.

**Mr. Chairperson:** It has been moved by Mr. Lamoureux in both languages

THAT section 3 be amended by striking out "and" at the end of clause (c), by adding "and" at the end of clause (d) and by adding the following after clause (d):

(e) acknowledge and respond to issues brought to the minister's attention by the Manitoba Intercultural Council, established under The Manitoba Intercultural Council Act, and to consult with that council on all proposed changes to this Act.

**[French version]**

Il est proposé que l'article 3 soit amendé par substitution, au point qui se trouve à la fin de l'alinéa d), d'un point-virgule, et par adjonction, après l'alinéa d), de ce qui suit:

(e) de répondre aux questions que porte à son attention le Conseil interculturel du Manitoba, constitué en vertu de la Loi sur le Conseil interculturel du Manitoba, et de consulter ce conseil sur les modifications proposées à la présente loi.

Shall the amendment pass?

**Some Honourable Members:** No.

**Mr. Chairperson:** All those in favour of the amendment, please indicate by saying yea.

**Some Honourable Members:** Yea.

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

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Nays have it. The amendment is lost.

**Mr. Lamoureux:** A count on the votes, please.

**A COUNTED VOTE** was taken, the result being as follows: Yeas 3, Nays 5.

**Mr. Chairperson:** Clause 3—pass; Clause 4—pass.

**Mrs. Mitchelson:** Mr. Chairperson, I move in both English and French:

THAT Clause 5(a) be amended by striking out "Manitoban" and substituting "Manitoba".

**[French version]**

Il est proposé que l'alinéa 5(a) soit amendé par substitution à "Manitobain", de "Manitoba".

**Motion agreed to.**

**Mr. Chairperson:** Clause 5, as amended—pass; Clause 6—pass.

Shall Clause 7 pass?

**Ms. Cerilli:** I have amendments on this Clause 6.

**Mr. Chairperson:** I am sorry, was that under Clause 6?

**Ms. Cerilli:** Yes.

**Mr. Chairperson:** I think I had already declared Clause 6 passed.

**Ms. Cerilli:** You did not look up and see me. I had raised my hand.

**Mr. Chairperson:** Okay.

\* (0210)

**Ms. Cerilli:** This one is translated.

This is another attempt to have the Manitoba Intercultural Council referred to in this act and give it somewhat equal status to the other organizations that are being enshrined in the act, and just have some where, where we are going to refer to the fact that there is another act dealing with multicultural issues.

I move

THAT the following be added after section 6:

## **MANITOBA INTERCULTURAL COUNCIL**

### **Manitoba Intercultural Council**

6.1(1) The Manitoba Intercultural Council, established by The Manitoba Intercultural Council Act, shall act as an advisory body to the minister under this act.

### **Purpose of the Council**

6.1(2) The Council shall make recommendations and provide information and advice to the government through the minister on all ethnocultural matters in the province including education, human rights, immigrants settlement, media and communications, and cultural heritage, and the Council may undertake such other ethnocultural activities as the Council considers advisable.

### **This Act not to affect Council's powers**

6.1(3) Nothing in this Act affects the power and duty of the Council to develop and advise the government on multiculturalism policy in the province under The Manitoba Intercultural Council Act.

**[French version]**

Il est proposé d'ajouter, après l'article 6, ce qui suit:

## **CONSEIL INTERCULTUREL DU MANITOBA**

### **Conseil Interculturel du Manitoba**

6.1(1) Le Conseil interculturel du Manitoba, constitué en vertu de la Loi sur le Conseil interculturel du Manitoba, agit à titre d'organisme consultatif auprès du ministre sous le régime de la présente loi.

### **Objet du Conseil**

6.1(2) Le Conseil fait des recommandations et fournit des renseignements ainsi que des avis au gouvernement par l'intermédiaire du ministre sur toutes les questions ethnoculturelles du ressort de la province, y compris l'éducation, les droits de la personne, l'établissement des immigrants, les médias et les communications ainsi que le patrimoine culturel. Le Conseil peut également entreprendre les autres activités ethnoculturelles qu'il juge indiquées.

### **Pouvoirs du Conseil**

6.1(3) La présente loi ne modifie en rien le pouvoir et l'obligation qu'a le Conseil d'élaborer la politique sur le multiculturalisme dans la province et de conseiller le gouvernement au sujet de cette politique en vertu de la Loi sur le Conseil interculturel du Manitoba.

I think that last section would deal with some of the concerns that were presented at the committee with respect to duplication of services, and that there was some sense in the community, that if this

council was brought in, considering that there was a review of the MIC at the same time, that there would be a shift in the precedent of, for example, the secretariat. A lot of people feel that is taking over some of the mandate of the Manitoba Intercultural Council. There would be the ability to say that it is the council that is duplicating and not the other way around.

That is some explanation of the intent of this amendment.

**Motion presented.**

**Mrs. Mitchelson:** Indeed, this is lifting a section right out of the Manitoba Intercultural Council Act and putting them, again, in this act without recommendation that the MIC act be repealed.

There is nothing in this act that takes away any power from another piece of legislation that has an advisory body in place. So I will not support this amendment.

**Mr. Chalrperson:** It has been moved by Ms. Cerilli

THAT the following be added after section 6:

**MANITOBA INTERCULTURAL COUNCIL**

**Manitoba Intercultural Council**

**6.1(1)**The Manitoba Intercultural Council, established by The Manitoba Intercultural Council Act, shall act as an advisory body to the minister under this act.

**Purpose of the Council**

**6.1(2)**The Council shall make recommendations and provide information and advice to the government through the minister on all ethnocultural matters in the province including education, human rights, immigrants settlement, media and communications, and cultural heritage, and the Council may undertake such other ethnocultural activities as the Council considers advisable.

**This Act not to affect Council's powers**

**6.1(3)**Nothing in this Act affects the power and duty of the Council to develop and advise the government on multiculturalism policy in the province under The Manitoba Intercultural Council Act.

**[French version]**

Il est proposé d'ajouter, après l'article 6, ce qui suit:

**CONSEIL INTERCULTUREL DU  
MANITOBA**

**Conseil Interculturel du Manitoba**

**6.1(1)**Le Conseil interculturel du Manitoba, constitué en vertu de la Loi sur le Conseil interculturel du Manitoba, agit à titre d'organisme consultatif auprès du ministre sous le régime de la présente loi.

**Objet du Conseil**

**6.1(2)**Le Conseil fait des recommandations et fournit des renseignements ainsi que des avis au gouvernement par l'intermédiaire du ministre sur toutes les questions ethnoculturelles du ressort de la province, y compris l'éducation, les droits de la personne, l'établissement des immigrants, les médias et les communications ainsi que le patrimoine culturel. Le Conseil peut également entreprendre les autres activités ethnoculturelles qu'il juge indiquées.

**Pouvoirs du Conseil**

**6.1(3)**La présente loi ne modifie en rien le pouvoir et l'obligation qu'a le Conseil d'élaborer la politique sur le multiculturalisme dans la province et de conseiller le gouvernement au sujet de cette politique en vertu de la Loi sur le Conseil interculturel du Manitoba.

Shall the amendment pass? All those in favour of the amendment, say yea.

**Some Honourable Members:** Yea.

**Mr. Chalrperson:** Those opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chalrperson:** In my opinion, the Nays have it. The amendment is lost.

**Ms. Cerilli:** A recorded vote, please.

**A COUNTED VOTE** was taken, the result being as follows: Yeas 3, Nays 5.

**Mr. Chalrperson:** Clause 6—pass.

Clause 7.

**Mr. Lamoureux:** I move that section 7 to 13 of the Bill be struck out.

**Mr. Chalrperson:** Sorry, could you repeat that, please?

**Mr. Lamoureux:** I move

THAT section 7 to 13 of the Bill be struck out.

**[French version]**



Il est proposé que les articles 7 à 13 du projet loi soient supprimés.

**Mr. Chalrperson:** I am informed that this amendment is not in order; however, we can handle it in two different ways: With the unanimous consent of the committee, it may be considered; or the alternative way is simply to defeat Clauses 7 to 13.

How does the member wish to proceed?

**Mr. Lamoureux:** Unanimous consent.

**Mr. Chalrperson:** Does the committee give unanimous consent to consider the proposed amendment by Mr. Lamoureux?

### Point of Order

**Ms. Cerilli:** On a point of order, Mr. Chairperson, I just want to ask a question. For clarification, under the rules, why would this amendment have been out of order, or why is it out of order?

**Mr. Chalrperson:** Beauschene's 698.(6): "An amendment to delete a clause is not in order, as the proper course is to vote against the clause standing part of the bill." So the choices given are unanimous consent of the committee or defeating the clauses.

\* \* \*

**Mr. Chalrperson:** Is there unanimous consent to consider the amendment? That is agreed.

It has been moved by Mr. Lamoureux

THAT sections 7 to 13 of the Bill be struck out.

### [French version]

Il est proposé que les articles 7 à 13 du projet de loi soient supprimés.

### Motion agreed to.

**Mr. Chalrperson:** The amendment passed by unanimous consent.

Clause 14—(pass); Clause 15—(pass); Clause 16—(pass).

**Mrs. Mitchelson:** I have a motion, Mr. Chairperson.

I move in both English and French

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 modifier les numéros d'article et les renvois internes de façon à donner effet aux amendements adoptés par le Comité.

### Motion agreed to.

**Mr. Chalrperson:** Title—pass; Preamble.

**Ms. Cerilli:** I move to add a WHEREAS to the Preamble: WHEREAS the Legislative Assembly of Manitoba is dedicated to eliminating racism.

**Mr. Chalrperson:** Do you have a written motion?

**Ms. Cerilli:** No, I do not.

**Mr. Chalrperson:** Is it the will of the committee to have Ms. Cerilli proceed with the oral presentation while the written amendment is being prepared? That is agreed.

**Ms. Cerilli:** I was just going to say that it came out quite strongly that one of the key issues that this act should address is racial discrimination and that the Legislative Assembly should be in a position to make a strong statement with that regard and put that in the act.

**Mr. Chalrperson:** I am sorry, could you repeat your motion, please.

**Ms. Cerilli:** I move

THAT the Bill be amended by adding after the 4th "Whereas" the following:

WHEREAS the Legislative Assembly of Manitoba is dedicated to eliminating racism;

### [French version]

Il est proposé que le projet de loi soit amendé par adjonction après le quatrième "Attendu que", de ce qui suit:

ATTENDU QUE l'Assemblée législative du Manitoba s'engage à supprimer le racisme;

**Mrs. Mitchelson:** We have made a commitment time and time again. I think our Minister of Justice (Mr. McCrae) in recent actions against the Ku Klux Klan, in fact, has had his assistant deputy minister for Prosecutions hearing that case, or prosecuting right now, and this government has made a strong commitment in our actions.

In my consultations, I had people on both sides of this issue, and the consensus was that it not be included, so we will not be supporting this.

**Mr. Chalrperson:** Does the member wish to withdraw her motion?

**Ms. Cerilli:** No, I call a question.

**Mr. Chairperson:** Sorry, I cannot proceed until I have the written form.

Just while we are waiting for that to be prepared, it is my understanding that this Committee on Municipal Affairs was called for 10 a.m. this morning; however, I think, since all of the bills will have been considered by the time we adjourn this evening, that this will no longer be necessary.

\* (0220)

**Ms. Cerilli:** Mr. Chairperson, I would be willing to withdraw the motion after just indicating that the NDP party, the official opposition, supports the bill. The Liberal opposition supports the bill, and the Conservative government was opposed—not the bill, sorry, the amendment—and that the government is opposed to the amendment.

**Mr. Chairperson:** Does the member have unanimous consent to withdraw her motion? That is agreed.

Preamble—pass. Bill be reported, as amended.

The hour is now 2:23 a.m. What is the will of the committee?

**Some Honourable Members:** Rise.

**Mr. Chairperson:** Committee rise.

**COMMITTEE ROSE AT: 2:23 a.m.**

**WRITTEN SUBMISSION PRESENTED  
BUT NOT READ**

**Bill 82—The Farm Practices Protection  
and Consequential Amendments Act**

Keystone Agricultural Producers Inc. supports the provisions contained in Bill 82, and we encourage this committee to recommend to the Legislature the adoption of Bill 82.

We trust that this legislation will be proclaimed quickly to permit the government to name the Farm Practices Protection Board as soon as possible in order that the necessary codes of practice can be put in place.

KAP has recommended, and will continue to press for, amendments to the Planning Act and a review of the Environment regulations, in order that agricultural enterprises are provided with a sound legal basis on which to plan development in the future.

Earl Geddes

Respectfully submitted on behalf of:  
Keystone Agricultural Producers Inc.