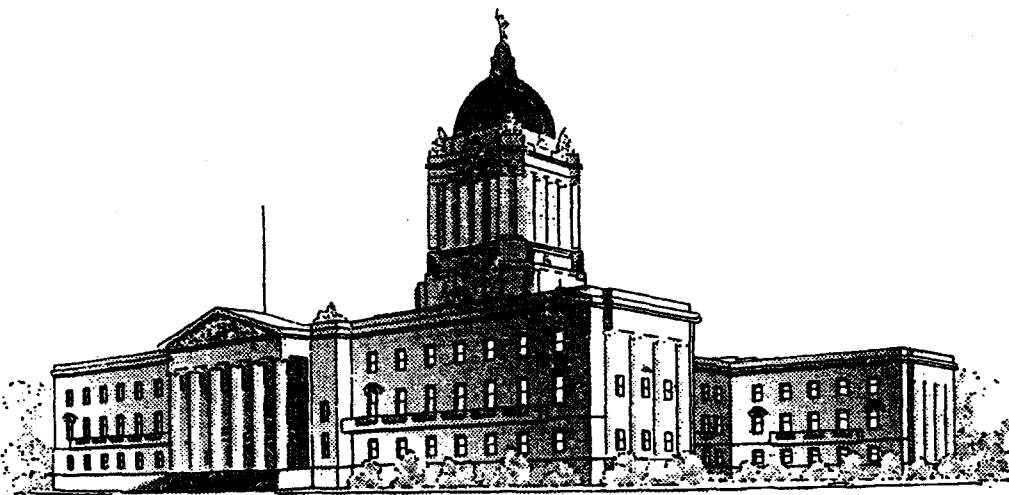




Fifth Session - Thirty-Fifth Legislature
of the
Legislative Assembly of Manitoba

Standing Committee
on
Economic Development

Chairperson
Mr. Jack Reimer
Constituency of Niakwa



Vol. XLIII No. 3 - 9 a.m., Tuesday, June 28, 1994

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

Members, Constituencies and Political Affiliation

NAME	CONSTITUENCY	PARTY
ASHTON, Steve	Thompson	NDP
BARRETT, Becky	Wellington	NDP
CARSTAIRS, Sharon	River Heights	Liberal
CERILLI, Marianne	Radisson	NDP
CHOMIAK, Dave	Kildonan	NDP
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
GRAY, Avis	Crescentwood	Liberal
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	NDP
KOWALSKI, Gary	The Maples	Liberal
LAMOUREUX, Kevin	Inkster	Liberal
LATHLIN, Oscar	The Pas	NDP
LAURENDEAU, Marcel	St. Norbert	PC
MACKINTOSH, Gord	St. Johns	NDP
MALOWAY, Jim	Elmwood	NDP
MANNES, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	NDP
McALPINE, Gerry	Sturgeon Creek	PC
McCORMICK, Norma	Osborne	Liberal
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda, Hon.	Assiniboia	PC
MITCHELSON, Bonnie, Hon.	River East	PC
ORCHARD, Donald, Hon.	Pembina	PC
PALLISTER, Brian	Portage la Prairie	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
ROBINSON, Eric	Rupertsland	NDP
ROCAN, Denis, Hon.	Gladstone	PC
ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	NDP
SHELLENBERG, Harry	Rossmere	NDP
STEFANSON, Eric, Hon.	Kirkfield Park	PC
STORIE, Jerry	Flin Flon	NDP
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary, Hon.	Fort Garry	PC
WOWCHUK, Rosann	Swan River	NDP

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON ECONOMIC DEVELOPMENT

Tuesday, June 28, 1994

TIME — 9 a.m.

LOCATION — Winnipeg, Manitoba

**CHAIRPERSON — Mr. Jack Reimer
(Niakwa)**

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Driedger, Enns, Ernst, Findlay
 Mr. Ashton, Mrs. Carstairs, Messrs. Leonard
 Evans, McAlpine, Reid, Reimer, Mrs. Render

Substitution:

Mr. Lathlin for Mr. Leonard Evans at 10:12
 a.m.

APPEARING:

Jerry Storie, MLA for Flin Flon

WITNESSES:

Bill 18—The Insurance Amendment Act

William O'Brien, Insurance Brokers
 Association of Manitoba

Bill 28—The Off-Road Vehicles Amendment
 Act

William O'Brien, Insurance Brokers
 Association of Manitoba

WRITTEN SUBMISSION:

Bill 10—The Wildlife Amendment Act from
 the Union of Manitoba Municipalities.

Ms. M. Scott, Union of Manitoba
 Municipalities

MATTERS UNDER DISCUSSION:

Bill 5—The Highway Traffic Amendment
 and Consequential Amendments Act

Bill 7—The Crown Lands Amendment Act

Bill 8—The Fisheries Amendment Act

Bill 9—The Convention Centre Corporation
 Amendment Act

Bill 10—The Wildlife Amendment Act

Bill 11—The Legislative Assembly
 Amendment Act

Bill 12—The Provincial Auditor's
 Amendment Act

Bill 13—The Condominium Amendment Act

Bill 14—The Real Estate Brokers
 Amendment Act

Bill 18—The Insurance Amendment Act

Bill 23—The Manitoba Historical Society
 Property Act

Bill 28—The Off-Road Vehicles Amendment
 Act

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Mr. Chairperson: Will the Standing Committee
 on Economic Development please come to order.

We have before us the following bills to
 consider: Bill 5, The Highway Traffic Amendment
 and Consequential Amendments Act; Bill 7, The
 Crown Lands Amendment Act; Bill 8, The
 Fisheries Amendment Act; Bill 9, The Convention
 Centre Corporation Amendment Act; Bill 10, The
 Wildlife Amendment Act; Bill 11, The Legislative
 Assembly Amendment Act; Bill 12, The
 Provincial Auditor's Amendment Act; Bill 13, The
 Condominium Amendment Act; Bill 14, The Real
 Estate Brokers Amendment Act; Bill 18, The
 Insurance Amendment Act; Bill 23, The Manitoba
 Historical Society Property Act; Bill 28, The
 Off-Road Vehicles Amendment Act.

For members of the committee who do not have
 copies of the bills, there are copies on the table
 behind me.

The committee has received a written submission on Bill 10, The Wildlife Amendment Act, from the Union of Manitoba Municipalities. Copies of this submission have been distributed to the committee members at the beginning of the meeting.

Is it the will of the committee to have this submission appear at the back of the transcript of this committee meeting? [agreed]

Bill 18—The Insurance Amendment Act

Mr. Chairperson: It is our custom to hear presenters or presentations from the public before the detailed consideration of the bill. At this time there is one person registered to speak on Bill 18, The Insurance Amendment Act: Mr. William O'Brien, representing the Insurance Brokers Association of Manitoba.

Is it the will of the committee to hear from Mr. O'Brien before considering the bills before the committee? [agreed]

I would like to call upon Mr. O'Brien to come forward and give the presentation to the committee. Mr. O'Brien, do you have a written presentation?

Mr. William O'Brien (Insurance Brokers Association of Manitoba): No, unfortunately, Mr. Chairperson, I do not. I have very few and brief comments, pertinent I hope you will agree.

Mr. Chairperson: Certainly. You just go ahead then.

Mr. O'Brien: My name is William T. O'Brien and I am representing the Insurance Brokers Association of Manitoba representing general insurance brokers across the province, and we would urge your support of this proposed amendment to the act, which in effect would allow general insurance brokers to take care of the essentials in quickly dealing with consumers' insurance claims.

For example, if the storm door blows off, everybody knows that it is covered. The consumer needs that to be remedied right away, and allowing the insurance broker to adjust this usually noncontroversial type item would certainly assist the insurance broker in servicing the consumer

efficiently and effectively and would allow the consumer to obtain the quick settlement of these types of claims, the stealing of bicycles and that type of thing.

Essentially, that is my presentation on that particular matter.

Mrs. Sharon Carstairs (River Heights): Mr. O'Brien, I have had some discussion with a few brokers who indicated to me they were not happy with this particular piece of legislation.

Did you do a survey of your membership? What is your feeling in terms of the support for the position that the association is taking from the association membership?

Mr. O'Brien: Mr. Chairperson, we have surveyed our members. We have discussed—we had our annual meeting in Clear Lake in early June, and we took the opportunity to question and discuss the matter with the members present, who are usually the more active members and somewhat the larger members of the association.

They are overwhelmingly in favour of this particular amendment. I should point out that insurance brokers generally do not wish to get involved in adjusting claims because you could be faced with a situation of having sold insurance coverage and then having an item not covered, so the fact of the matter is, we would expect this to be little used but it is needed in certain and specific circumstances. As I say, if the storm door broke, is blown off or if there is a picture window broken that needs immediate attention, well, then the broker knows the terms of the contract. Of course, this is all subject to authorization by the insurer.

Mrs. Carstairs: Just one question then, what you are saying is that if the insurer wants a broker rather than the insurance agent to still deal with this claim, that that is the claimant's right?

Mr. O'Brien: Mr. Chairperson, the term "insurance broker" and "insurance agent" are synonymous. Brokers are licensed insurance agents who represent more than one company, and in fact we purchase insurance for consumers rather than selling it on behalf of one company, but it would be with the authority of the insurer, yes.

Mrs. Carstairs: It was my misuse of words. In terms of an adjuster, if a claimant wants an adjuster rather than the agent to deal with it, who would make that determination?

Mr. O'Brien: The insurance company.

Mr. Leonard Evans (Brandon East): Just a question. Would the agents have to have some additional training to be able to handle some of these adjusting problems?

Mr. O'Brien: Mr. Chairperson, because of the extensive assistance we provide to consumers now without actually adjusting claims, we feel we have sufficient training to deal with the very small number and specific type of claims. But if the association in the course of—if this amendment is approved and in the course of administering it found that its members were lacking somewhat in training, we would immediately take steps to make sure that that would be rectified by mandatory education.

Mr. Leonard Evans: Just a question. I anticipate then that the insurance companies believe that it may be more cost efficient to utilize this amended procedure that is being proposed today.

*(0910)

Mr. O'Brien: Well, somewhat more cost efficient but the overriding support for this from many quarters, most quarters and an overwhelming number of insurance brokers is that the insurance consumer can be more effectively and efficiently serviced in these straightforward routine claims.

Mr. Chairperson: Thank you.

Bill 28—The Off-Road Vehicles Amendment Act

Mr. Chairperson: I understand Mr. O'Brien that you were also wanting to give us a presentation on Bill 28, which is The Off-Road Vehicles Amendment Act. Was that correct?

Mr. William O'Brien (Insurance Brokers Association of Manitoba): Yes, your understanding is completely correct and I do not, again, have a written presentation because matters conspired in one way or another and I gather the scheduling was fairly speedy as well, but in any event we want to draw to your attention the real

need for the proposed amendments to The Off-Road Vehicles Amendment Act.

The fact of the matter is that The Off-Road Vehicles Act at the moment is not capable in our view of achieving the objectives of the act, and the objectives of the act are the protection of the innocent third party in the case of an occurrence with an off-road vehicle. By that I mean, presently, at the risk of giving you information you already have, off-road vehicles are registered, they get a plate for three years. Insurance is only written on a one-year basis.

When some people have a three-year plate and the insurance runs out, they do not renew the insurance, brokers take steps to make sure that they understand the consequences, that they are uninsured for the balance possibly of the two years of that plate. This is unprecedented in the insurance and registration system, so this is an amendment that really is necessary to protect the innocent third party.

Attaching mandatory Autopac of mandatory third-party liability of \$200,000 will in effect reduce the commission of general insurance brokers from 12.5 percent, because the coverage is voluntary now, to 5 percent under mandatory Autopac. We still hold the view, and we feel so strongly about it, that we believe you should do it. We will take the loss of 7.5 percent.

There is other technical material in here that people much more qualified than me, highways officials and such like, are going to be able to explain to you, but I did want to take this opportunity to mention that particular and very important aspect of this act.

Mr. Chairperson: Thank you, Mr. O'Brien. Are there any questions of Mr. O'Brien? Thank you very much for your two presentations, Mr. O'Brien.

Mr. O'Brien: Thank you, sir.

Mr. Chairperson: At this time are there any other presenters on any of the other bills that have been called? As there are no more presenters, that completes the public presentations. The committee

will now proceed to the stage of clause-by-clause consideration of each of the bills.

Is it the will of the committee to proceed as outlined previously in the listing of the bills?

Point of Order

Mr. Leonard Evans (Brandon East): On a point of order, we say outlined previously, as listed here on the sheet before us. We may have one slight problem. The member who may wish to bring an amendment to Bill 10, I understand, may be delayed, so I wonder if it is possible to put that down lower on the list?

Mr. Chairperson: Is it the will of the committee to leave Bill 10 to the last bill considered this morning? [agreed]

* * *

Hon. Glen Findlay (Minister of Highways and Transportation): I would like to consider Bills 5 and 28 simultaneously or in sequence if you would not mind because staff are here for both bills—well, first and last.

Mr. Chairperson: Is the will of the committee to consider Bills 5 and 28 at the same time? [agreed]

Bill 5—The Highway Traffic Amendment and Consequential Amendments Act

Mr. Chairperson: At this time then we will begin with consideration of Bill 5. Does the minister responsible for Bill 5 have an opening statement?

Hon. Glen Findlay (Minister of Highways and Transportation): Mr. Chairperson, I would just say at this time, as I think all committee members are aware, that this a fairly large bill in terms of accommodating Autopac 2000. I will have a couple of very minor amendments to do with French translation along the way. Otherwise, I think the bill is broadly supported, and we should get on with the bill.

Mr. Chairperson: Does the critic for the official opposition have any opening comments?

Mr. Daryl Reid (Transcona): I think I made most of my comments during second reading debate on the bill, and while I have a few questions, I will ask those during clause by clause of the bill itself.

Mr. Chairperson: Does the member for the second opposition have any opening comments?

Mrs. Sharon Carstairs (River Heights): No.

Mr. Chairperson: The bill will be considered in blocks of clauses. During the consideration of the bill, the Title and the Preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clause 1 to 2(1)—pass.

Shall Clauses 2(2) and 3, which encompass pages 2 to 29, be passed?

Mr. Reid: I had indicated during second reading of the bill, Mr. Chairperson, that I would like a definition of the term “qualified mechanic,” and while there is some definition here, I am not sure what criteria would be utilized to define what the mechanic is. If the minister has a prepared explanation, I would appreciate receiving same.

Mr. Findlay: Mr. Chairperson, inspectors authorized to perform mechanical inspections have been working for at least three years at repair, inspection and maintenance of trucks and/or buses and have successfully completed government training for mechanical inspectors or are licensed mechanics who have successfully completed the above-mentioned training. So there is a broad level of training or experience that they have achieved over a course of time to allow them to be certified.

Mr. Reid: Do any of these mechanics have to carry certain certification showing that they have completed or had taken part in any testing to determine their proficiency in their field?

Mr. Findlay: Mr. Chairperson, the individual must have a ticket or else have taken the government training program.

Mr. Chairperson: Clauses 2(1) and 3, which encompass pages 2 to 29—pass.

Clauses 4 and 5(1).

Mr. Reid: I had asked a question relating to restricted registration for remote communities. I think it falls under this section, 4.17(2). The registrar, it says here, may issue a registration card that restricts the use of vehicles to highways in and adjoining the remote communities.

With many communities that are now remote within the province, some of them are connected by winter road systems. What restrictions will this provision have on those persons living in those communities that have access to winter road systems?

Mr. Findlay: Mr. Chairperson, there is no change from what is currently the practice. They have access to the winter road system, but if they use the provincial road system, anything other than the winter road, on the provincial road system they must have full registration. As long as they are doing what they currently are doing, staying on the winter road system between the communities, the special registration will be in the future as it is today.

Mr. Reid: So an individual living in Shamattawa—pick any community in northern Manitoba that has winter road systems—could travel along the winter roads and as long as they do not enter the community to which the other end of that winter road system terminates at, where it may join on to a provincial highway, then the individual is allowed to have that type of registration and operate on those winter roads then.

Mr. Findlay: The member's comments are a reflection of what I just said, and that is right.

Mr. Chairperson: Clauses 4 and 5(1)—pass; Shall Clauses 5(2) to 9 be passed? Mr. Minister, there is an amendment? Clauses 5(2) to 6—pass. Clause 7—pass.

Mr. Minister, an amendment.

* (0920)

Mr. Findlay: Mr. Chairperson, I move

THAT Clauses 171(2)(c) to (e) of the French version, as set out in Section 7 of the bill, be struck out and the following substituted.

I would recommend that it be amended as distributed, Mr. Chairperson.

Mr. Reid: Could the minister read this amendment for us, please, so that we could understand it?

Mr. Findlay: I would hope that the member would not ask me to do injustice to the French language by that request. I would ask to accept the

staff's recommendation that this is the more effective translation of what is the English in the bill. It is just a clarification, no changes, word problems, and I cannot do justice to it.

Mr. Chairperson: It has been moved by the honourable minister that Clauses 171(2)(c) to (e) of the French version, as set out in Section 7 of the bill, be struck out and the following substituted—dispense.

c) d'enlever une plaque d'immatriculation ou une vignette de validation de la plaque d'immatriculation d'un véhicule automobile ou d'une remorque, sauf si le propriétaire y consent, que le registraire l'autorise ou que le présent code ou les règlements le prévoient;

d) d'apposer ou de permettre que soit apposée sur un véhicule automobile ou une remorque une plaque d'immatriculation qui ne peut être utilisée pour le véhicule en question, sauf si le présent code ou les règlements le prévoient;

e) d'utiliser ou de permettre que soit utilisé un véhicule automobile ou une remorque sur lequel est apposée une plaque d'immatriculation qui ne peut être utilisée pour le véhicule en question, sauf si le présent code ou les règlements le prévoient;

[French version]

Il est proposé que la version française des alinéas 171(2)c) à e) figurant à l'article 7 du projet de loi soit remplacée par ce qui suit:

c) d'enlever une plaque d'immatriculation ou une vignette de validation de la plaque d'immatriculation d'un véhicule automobile ou d'une remorque, sauf si le propriétaire y consent, que le registraire l'autorise ou que le présent code ou les règlements le prévoient;

d) d'apposer ou de permettre que soit apposée sur un véhicule automobile ou une remorque une plaque d'immatriculation qui ne peut être utilisée pour le véhicule en question, sauf si le présent code ou les règlements le prévoient;

e) d'utiliser ou de permettre que soit utilisé un véhicule automobile ou une remorque sur lequel est apposée une plaque d'immatriculation qui ne peut être utilisée pour le véhicule en question, sauf si le présent code ou les règlements le prévoient;

All those in favour, please signify by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

The amendment is therefore carried. Clause 7 as amended—pass.

Clauses 8 to 9—pass; Clauses 10 to 16(1)—pass; Clauses 16(2) to 23—pass. Shall Clauses 24 to 30(1) be passed?

Mr. Reid: I have one question there too. I raised it in second reading. In the explanatory notes that were provided by the minister, and I thank him again for the information, Section 29 of the bill, section (e)—the explanation there that says that approval was given February 25, '94, as part of the 1994-95 revenue Estimates process, for a set-up fee to be charged to private vehicle repair facilities. We were not in session at the time. I had raised this matter during second reading. I am wondering why the approval was given—it says here during the Estimates process—when we had not even commenced that portion?

Mr. Findlay: Mr. Chairperson, if I caught the member's question right, February 25, 1994, is a Treasury Board approval. It was for a start-up fee of \$200, the inspection of the facility—a one-time fee that they will pay.

Mr. Chairperson: Clauses 24 to 28—pass. Clause 29.

Mr. Findlay: I have an amendment here, yes, I am sorry. I move

THAT Clause 29(e) of the French version of the Bill be amended by striking out "eee.i)" and substituting "eee.1)".

[French version]

Il est proposé que la version française de l'alinéa 29e) du projet de loi soit amendée par substitution, à "eee.i)", de "eee.1)".

Motion presented.

Mr. Findlay: I think the simple statement is, with a bill this size and these are the only two amendments, I think the staff have done exceedingly well.

Motion agreed to.

Mr. Chairperson: Clause 29 as amended—pass; Clause 30(1)—pass; Clauses 30(2) to 35—pass; Clauses 36(1) to 36(7)—pass; Clauses 36(8) to 39(2)—pass; Clause 39(3)—pass; Table of Contents—pass; Preamble—pass; Title—pass. Bill as amended be reported.

Bill 28—The Off-Road Vehicles Amendment Act

Mr. Chairperson: Does the minister responsible have any opening statements regarding Bill 28?

Hon. Glen Findlay (Minister of Highways and Transportation): Mr. Hewitt has just indicated to me that he can now officially retire. His success has been recorded. I thank Mr. Hewitt for all his efforts on this, and years and years of service for the Manitoba government.

Mr. Chairperson: The Off-Road Vehicles Amendment Act I think was effectively summed up by Mr. O'Brien in his comments on the bill. It is something that is very, very important that we do for the protection really of the innocent third-party public.

I think members here agree with the bill. I appreciate their support for it, and it is important that we do this.

Mr. Chairperson: Does the critic for the official opposition, Mr. Reid, have any opening statements?

Mr. Daryl Reid (Transcona): I think the presenter fairly well summed it up, Mr. Chairperson. We have read through the bill.

I have one question. I am not sure it would fit in because I currently do not own an off-road vehicle myself, and to this point in my life I have not. I am wondering if there are provisions within this act or in acts dealing with MPIC wherein off-road vehicle owners who choose not to renew their insurance prior to this piece of legislation, whether they are under any obligation to return any of the plates that they may have in their possession and if the department of motor vehicles or MPIC in any way informed those owners that they are under obligation to return such plates.

Mr. Findlay: Mr. Chairperson, they are not required to return them but all those plates will

expire as of September 30, so they are not in force after September 30. So anybody who has a plate like that, the RCMP or any other police officer will be able to quickly recognize that they are not a properly plated vehicle because the plates are null and void.

Mr. Chairperson: Does the critic for the second opposition have any comments?

Mrs. Sharon Carstairs (River Heights): No, I do not, Mr. Chair.

Mr. Chairperson: The bill will be considered in blocks of clauses. During the consideration of the bill, the Title and the Preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clauses 1-3 inclusive—pass; Clauses 4-9 inclusive—pass; Clause 10—pass; Preamble—pass; Title—pass. Bill be reported.

* (0930)

Bill 7—The Crown Lands Amendment Act

Mr. Chairperson: Does the minister responsible for Bill 7, The Crown Lands Amendment Act, have any opening statements?

Hon. Albert Driedger (Minister of Natural Resources): Mr. Chairperson, thank you. No, basically this amendment under The Crown Lands Amendment Act was one that was suggested by legal counsel to clarify certain aspects of the regulations and how we can fine. Those are the only comments I have to make.

Mr. Chairperson: Does the critic of the official opposition have any comments?

Mr. Leonard Evans (Brandon East): No.

Mr. Chairperson: Does the critic for the second opposition have any comments?

Mrs. Sharon Carstairs (River Heights): No, Mr. Chair.

Mr. Chairperson: The bill will be considered in blocks of clauses. During the consideration of the bill, the Title and Preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clauses 1 to 4 inclusive—pass; Clauses 5 to 6—pass; Preamble—pass; Title—pass. Bill be reported.

Bill 8—The Fisheries Amendment Act

Mr. Chairperson: We will now continue on with consideration of Bill 8, The Fisheries Amendment Act. Does the minister responsible have any opening statements?

Hon. Albert Driedger (Minister of Natural Resources): Mr. Chairperson, based on some of the comments that were read into the record during second debate, there were concerns about the high fines that basically were being asked, and I just want to clarify that this is consistent with what is happening across the country in terms of fines. Why they have been escalated to that point is because you have some pretty substantive commercial operations where the fines were lower and were actually not doing justice to some of the concerns that we had. Those are the only comments I have.

Mr. Chairperson: I thank the minister for those comments. Does the critic for the official opposition have any opening statements? No?

Does the critic for the second opposition—

Mrs. Sharon Carstairs (River Heights): No, Mr. Chair.

Mr. Chairperson: The bill will be considered in blocks of clauses. During the consideration of the bill, the Title and the Preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clauses 1 to 2—pass; Clause 3(1)—pass; Clauses 3(2) to 6 inclusive—pass; Preamble—pass; Title—pass. Bill be reported.

Point of Order

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): Perhaps while Minister Driedger is there, we can consider Bill 10 as opposed to Bill 9.

Mr. Chairperson: If it is the—[interjection] No, No. 10 will be—

Mr. Ernst: Right, 10 is the one that is left. Okay, I am sorry. I apologize.

Mr. Chairperson: There was no point of order on that. The discussion for Bill 10 will be at the end as previously agreed.

Bill 9—The Convention Centre Corporation Amendment Act

Mr. Chairperson: We will now continue to consider Bill 9, The Convention Centre Corporation Amendment Act. Does the Minister of Consumer and Corporate Affairs have any opening statements regarding Bill 9?

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): No.

Mr. Chairperson: Does the critic of the official opposition have any comments regarding this bill?

Mr. Leonard Evans (Brandon East): I am sorry, I would just indicate that I did not hear the debate on this in second reading. I just presume these are relatively small technical amendments to the administration of the Convention Centre.

Mr. Ernst: If I can indicate, there are kind of two basic issues here. One is the question of the appointment of directors of the Convention Centre Corporation, the other being the question of the amount of money they can borrow, an increase in their borrowing. Presently, the act says \$100,000. Today, it is not realistic when you have a multimillion-dollar corporation.

Mr. Leonard Evans: I remember when we discussed putting the money up for this in the first place back in '69.

Mr. Ernst: Well, fortunately for the provincial government—

Mr. Leonard Evans: There was a debate as to whether we should put the money in by certain members, I might add, but I will not go into that. But I will support it. Carry on.

Mr. Chairperson: Thank you very much for those comments. Does the member for the second opposition have any comments?

Mrs. Sharon Carstairs (River Heights): No, I do not. Thank you, Mr. Chairperson.

Mr. Chairperson: Thank you very much for those comments.

The bill will be considered in blocks of clauses. During the consideration of the bill, the Title and the Preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clauses 1 to 4 inclusive—pass; Clause 5—pass; Preamble—pass; Title—pass. Bill be reported.

Bill 11—The Legislative Assembly Amendment Act

Mr. Chairperson: We will now proceed with Bill 11, The Legislative Assembly Amendment Act. Does the minister responsible have any opening statements?

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): This bill is a product of the Legislative Assembly Management Commission, an agreement of the commission to do several things; principally, to restrict the number of franking pieces available to members to two, as we did last year, as a cost-cutting measure.

The second was the method of payment of allowances to caucuses. Currently, the specific members of caucuses have the money applied to them personally, and when it is reported publicly, of course, it is reported as their money, which is totally inaccurate and an embarrassment, in many cases, to the member of each of our caucuses who have to bear the brunt of that.

So in an attempt to try and be a little more fair, this legislation is introduced.

Mr. Chairperson: Thank you. Does the critic for the official opposition have any comments? No? Does the critic for the second opposition have any comments?

Mrs. Sharon Carstairs (River Heights): None, Mr. Chairperson.

Mr. Chairperson: The bill will be considered in blocks of clauses. During the consideration of the bill, the Title and Preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clauses 1 to 3 inclusive—pass; Clauses 4 to 6(3), inclusive—pass; Preamble—pass; Title—pass. Bill be reported.

**Bill 12—The Provincial Auditor's
Amendment Act**

Mr. Chairperson: We will now proceed to Bill 12, The Provincial Auditor's Amendment Act. Does the minister responsible have any opening statements?

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): Mr. Chairperson, briefly to say again, as a product of discussions of the Legislation Assembly Management Commission in conjunction with the Provincial Auditor, the Provincial Auditor has come forward with this recommendation saying that the five staff that she uses presently to deal with the pre-audit of vouchers—and I can relate, if you wish, an experience I had recently with regard to these things. She feels this is an antiquated system and that her five staff could well be used in other areas of her work, rather than to waste—well, not waste, but certainly this is much less important, in her view, than other work that she would have for these five staff to do.

I can just tell you that when I was appointed Minister of Sport back in September, the financial support and the accounting support came from the Department of Industry, Trade and Tourism. Rather than rip all of that out of the Industry, Trade and Tourism department and move it to Consumer and Corporate Affairs and have them set up systems and so on, we said simply, leave it where it is. I mean, I do not care whether it is supported or not by Industry, Trade and Tourism.

Well, try and do that. Within the bureaucracy and within the red tape, I wound up signing all the vouchers. I mean, stacks of vouchers.

The same thing happened with the Lotteries Distribution System, which also fell under the Department of Culture, and again I wound up signing all these stacks of vouchers. It was a rather silly arrangement, I think everybody agreed to that. Ultimately I guess, we decided that we will no longer preaudit those kinds of matters and the staff will be better utilized elsewhere.

Mr. Chairperson: I thank the minister for those comments. Does the critic for the official opposition have any comments?

Mr. Leonard Evans (Brandon East): Mr. Chairperson, I thank the minister for his explanation. We have no difficulty whatsoever with those particular amendments.

I just want to give notice that we have a couple of amendments to propose to this proposed Bill 12 regarding reporting to the Chair of the Public Accounts committee and also regarding delineation of reference to partisan political advertising in the annual report of the Provincial Auditor. I can explain that further when we get to that particular amendment, if you wish.

* (0940)

Mr. Chairperson: I thank the member for those comments. Does the member for the second opposition have any comments?

Mrs. Sharon Carstairs (River Heights): No, Mr. Chair, I do not.

Mr. Chairperson: Okay. The bill will be considered by clauses. Clause 1—pass. Clause 2.

Mr. Leonard Evans: Mr. Chairperson, I would move

THAT the following be added after Section 2 of the bill:

2.1 Subsection 12(3) is amended by striking out "the minister of the department concerned and to the member of the Executive Council charged with the administration of The Financial Administration Act" and substituting "the minister of the department concerned, to the member of the Executive Council charged with the administration of The Financial Administration Act and to the chairperson of the Committee on Public Accounts of the Assembly."

2.2 Subsection 13(2) is amended by adding the following after Clause (c):

(d) that public moneys have been inappropriately expended on partisan political advertising.

2.3 Section 15 is amended

(a) in subsection (2), by adding "approved by the Provincial Auditor" after "the member of the Executive Council charged with the

administration of The Financial Administration Act may employ someone"; and

(b) by adding the following after subsection (2):

Auditor to provide report of special audit

15(3) Without delay after making a report under subsection (1), the Provincial Auditor shall furnish a copy of the report to the Chairperson of the Committee on Public Accounts of the Assembly.

Outside auditor may provide report of special audit

15(4) Without delay after making a report under subsection (2), the person who made the report shall furnish a copy of the report to the Chairperson of the Committee on Public Accounts of the Assembly.

I could give you a brief explanation if you wish.

Point of Order

Mr. Ernst: Mr. Chairperson, on a point of order, this bill deals specifically with the certain Sections 10 and 11 being repealed of The Provincial Auditor's Act.

Notwithstanding the good intentions of the member for Brandon East (Mr. Leonard Evans), the proposals that he has made in his amendment, in my view, are out of order. They are out of the scope of the bill. They have no relationship to the matter before us.

On the legal side, on the side of the fact that the Legislative Assembly Management Commission normally deals with these kinds of issues in advance of a bill coming forward, that matter has not been before the Legislative Assembly Management Commission.

That aside, Mr. Chair, it is my view that these amendments are out of order.

Mr. Chairperson: I thank the minister for those comments.

Mr. Leonard Evans: Mr. Chairperson, on the point of order, the fact is that this is the only opportunity a member of the Legislature has, as I can see it, an effective opportunity, to give the Auditor a particular task that I think would serve the public interest, because we are talking about a function of the Provincial Auditor that would serve

various governments in the future. We are not talking about necessarily today. We are talking about the future as well. I believe it is in the public interest. It seems to me that this is the effective way.

Normally, when a bill comes before the Legislature dealing with the department, an agency, a program, members of the Assembly have an opportunity to offer their amendments. This is a far more effective way of getting legislation than trying to bring up a private bill, which normally goes nowhere as we all know.

I would also point out, Mr. Chairperson, that this does not involve additional expenditures of monies. We are relating essentially to the annual audit of the Auditor and simply asking her to delineate a section within that annual report with reference to partisan political advertising, should she or he see some signs of that in their review.

Secondly, the other part of it simply relates to furnishing a copy to the Chair of the Public Accounts committee. Normally, the Chair and members of the Assembly get copies eventually anyway, but it is a matter of delineating it and making sure that a report goes forthwith to the Chair of the committee. I can give examples of delays, et cetera, but I do not want to take time because I know we are discussing a point of order.

My point of order is, Mr. Chairperson, that it is reasonable for this committee to consider these amendments, because it is dealing with the function of the Provincial Auditor and that is exactly what these amendments are dealing with.

Mr. Chairperson: The member did not have a point of order, but I appreciate his comments on the minister's point of order.

Mr. Steve Ashton (Opposition House Leader): Mr. Chairperson, on the point of order, while the particular amendment that the government has introduced might fall within the realm of having some discussion in terms of LAMC, that I would suggest to the government House leader is because of the budgetary implications. It shifts the focus of the Auditor.

The reason it was discussed in LAMC was largely because it does have some budget implications. In particular, it allows the Auditor's office to shift resources into other types of auditing. So while I would agree with the government House leader that the amendment which the government has introduced should go through LAMC, I do not believe it applies to the other amendments. The other amendments are dealing with, I believe, the scope of the law.

The Provincial Auditor's Amendment Act deals with the role of the Auditor, does not substantively change the focus of the act, and usually in these particular matters there is a certain degree of being in the eye of the beholder as to whether it fits within the legislation or not.

I would suggest the best route to go, Mr. Chairperson, is to test the will of the committee on the amendment itself. The committee will then decide whether it fits within the scope.

I would remind the government House leader that it is The Provincial Auditor's Amendment Act and it deals with amending the role of the Auditor, and it is very similar to the existing amendment which affects the role of the Auditor. Quite frankly, we have no other way of raising concerns of this magnitude. We have seen, increasing over the last period of time, the need for an expanded focus of the Provincial Auditor.

We have seen through Public Accounts probably a series of the most active Public Accounts meetings we have had in a considerable period of time. We have major issues like the situation with the Winnipeg Jets, like political advertising that are very much before the Public Accounts committee. We want the Public Accounts committee and the Provincial Auditor to be able to deal with them as is being increasingly requested not only by members of the Legislature but the public.

So I would suggest, Mr. Chairperson, rather than rule this out of order that we deal with the amendments. If the government does not agree with the amendments, they control the majority on the committee and can vote accordingly, but we

feel that these matters are of sufficient importance that they should be put to a vote of the committee.

Mr. Chairperson: I must rule that the point of order is out of order.

* * *

Mr. Chairperson: On the proposed motion moved by the member for Brandon East, Mr. Evans, the motion is out of order as it is beyond the scope of the bill as cited in Beauchesne 698(1): "An amendment is out of order if it is irrelevant to the bill, beyond its scope or governed by or dependent upon amendments already negated."

Because it is out of order, it cannot be put forth by the Chair.

Mr. Leonard Evans: Mr. Chairperson, I would challenge your ruling.

Voice Vote

Mr. Chairperson: All those sustaining the Chair's ruling, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed to the Chair's ruling, say nay.

Some Honourable Members: Nay.

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

Mr. Leonard Evans: Yeas and Nays, Mr. Chairperson.

Mr. Chairperson: Yeas and Nays. All those in favour, please raise their hands and the Clerk will count.

All those opposed, please raise their hands.

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

Mr. Chairperson: The ruling of the Chair is sustained.

Clause 2—pass; Clause 3—pass; Preamble—pass; Title—pass. Bill be reported.

* (0950)

Bill 13—The Condominium Amendment Act

Mr. Chairperson: We shall now proceed to Bill 13, The Condominium Amendment Act.

Does the Minister of Consumer and Corporate Affairs have any opening statements?

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): Mr. Chair, I want to briefly suggest only that currently reserve funds which are mandatory to be held by condominium corporations have very limited opportunities for investment—very limited. Considering the interest rates of today, although they are rising rapidly since the introduction of the federal government in Ottawa—[interjection] Well, I am only passing comment on history.

Nonetheless, with the interest rates at a pretty low level for the past several years, the ability of condominium corporations to invest in pure savings accounts yields minimal, if any, return on their investment. The problem, Mr. Chairperson, when any reserve account is being held, like a long-term sinking fund or anything along that line, they need to maximize the benefit of the interest earnings on it in order to maximize the benefit of the money contributed to the fund. At the same time, we do not want and I do not think condominium corporations want highly speculative investments either to be taken up by this fund.

You could, I suppose, at some point theoretically have a condo corporation board of directors being voted into office who decide to invest in some speculative gold mine or something like that. That is not the intent of those funds. The intent of the funds are to be there, to replace the roof, to replace the boiler, for major repairs or replacements in these kinds of buildings.

We want to give them a little more flexibility, but they are going to be restricted in terms of the speculative nature. They have to be—if anything is safe—reasonably safe investments that would allow a condominium corporation to earn a greater return, at the same time, protect the investment of the people who have put the money forward in that reserve account.

Mr. Chairperson: I thank the minister for those comments.

Does the member for the official opposition have any comments, Mr. Evans?

Does the member for the second opposition have any comments, Mrs. Carstairs?

Mrs. Sharon Carstairs (River Heights): Yes, Mr. Chair, I do have a few comments.

It is a very positive act. In fact, I was going to recommend to my condominium corporation that they invest in Manitoba Builder Bonds, but after the spurious comments of the minister, I am not sure that I will do that any longer.

It is a positive thing. As long as the securities, of course, are well within the range of protected securities, then I think it is appropriate that condominium corporations be allowed to invest where they will.

Mr. Chairperson: I thank the member for those comments.

The bill will be considered in blocks of clauses. During the consideration of the bill, the Title and Preamble are postponed until all the clauses have been considered in their proper order by the committee.

Clauses 1 to 3 inclusive—pass; Clauses 4 to 5—pass. Preamble—pass; Title—pass. Bill be reported.

Bill 14—The Real Estate Brokers Amendment Act

Mr. Chairperson: Does the honourable Minister of Consumer and Corporate Affairs have any opening comments?

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): Mr. Chairperson, again, this bill deals with three or four different items related to The Real Estate Brokers Act.

We have a problem in dealing with outstanding trust accounts which are unclaimable or have difficulty being claimed or the owner of the money is having—they are having difficulty locating that person. Some method of dealing with those accounts is required; otherwise the broker is required to maintain the account forever in perpetuity and have it audited, at some expense to the broker, I might add.

It does not seem reasonable and right. There should be a disposition of how to deal with those

trust funds that are held by a broker where the rightful owner of the trust fund has disappeared or whatever. We have proposed a solution to that. It goes to the Manitoba Securities Commission. After a two-year period and still no claim, it is turned over to the consolidated fund. In the event, 10 years down the road, if somebody actually shows up and does have claim to the money, then it will be paid out of the consolidated fund.

Nobody is trying to take anybody's money. We are simply trying to deal with a problem that has occurred and has to be dealt with.

Secondly, we have a question with regard to branch offices of real estate brokerage firms, particularly with the national brokerage companies coming here and having eight or nine offices. We have a problem in who speaks for the company in Manitoba.

You can have an authorized official in each office, but somebody has to be the principal. We wish them to designate a principal, so instead of us having to chase around and deal with eight or nine offices of one particular national brokerage company or local brokerage company, for that matter, we can have one person who is the designated official for the province and then service and discussions and a variety of other things that are necessary will go directly to that person.

Currently, also, individual corporate brokers can have branch offices but individuals cannot. If Leonard Evans Real Estate Limited wanted to have a branch office in Brandon and Winnipeg, he could do it, but if Leonard Evans, practitioner, wanted to have a branch office in Winnipeg, he could not. It does not seem to make sense. So we are proposing that individuals be allowed to have a branch office as well if they so choose.

I think that pretty much covers it. We will go into clause by clause or I will answer questions.

Mr. Chairperson: We thank the minister for those comments. Does the member for the official opposition have any opening comments?

Mr. Leonard Evans (Brandon East): Mr. Chairperson, we supported this at second reading

on condition that we bring it to committee to see if there were any representation pointing out any difficulties with this, but I gather that has not occurred. So I am really asking a question, I suppose, of the minister in this statement whether there has been any objection by anyone to what is going but, otherwise, it seems to be quite a reasonable amendment.

Mr. Ernst: We have discussed the matter with the real estate people, real estate associations, and they have no objection. They are supportive of the changes.

Mr. Chairperson: Does the critic for the second opposition have any comments? No?

Mrs. Sharon Carstairs (River Heights): No thank you, Mr. Chair.

Mr. Chairperson: The bill will be considered in blocks of clauses. During the consideration of the bill, the Title and the Preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clauses 1 to 2—pass; Clauses 3(1) to 6(1) inclusive—pass; Clauses 6(2) to 7—pass; Clauses 8 to 10 inclusive—pass; Preamble—pass; Title—pass. Bill be reported.

Bill 18—The Insurance Amendment Act

Mr. Chairperson: We will now proceed with Bill 18, The Insurance Amendment Act.

Does the minister responsible, the Minister of Consumer and Corporate Affairs, have any opening comments?

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): Mr. Chair, there are again two basic principles here. One is the question of, can insurance companies, provincially registered, deposit their money only in a bank, which is currently the requirement under The Insurance Act, or should they be allowed to deposit it in a trust company, credit union or caisse populaire?

So we are amending the act to allow them the broader range of financial institutions, principally at the request of one insurer who is resident in Altona. He wants to deal with the Altona Credit

Union and, hey, that is okay with us. That is fine. That is one.

The other is a question of brokers adjusting claims subject to which Mr. O'Brien was before the committee earlier.

If there was ever consultation on a bill or an issue that I have been involved with since I have been here in the Legislature, this has been the consultation of a lifetime, the mother of all consultations, if you will. We have been around the mulberry bush on a number of occasions, trying on different scenarios to see which fit and which did not. The end result, the net result of all of the consultations between adjusters, brokers, companies was that this was the most reasonable way of dealing with small claims (a) for the benefit of the insured in terms of a speedy settlement and (b) the most efficient method and the most cost-effective method of dealing with those small claims.

* (1000)

Now \$2,500 is an arbitrary sum of money, but a \$2,500 kitchen fire, where there is a significant amount of damage and things like that, would not be adjusted by a broker because it is not worth it for the broker, and you need more expertise than the broker likely would have in order to deal with that. However, the \$1,000 bicycle that disappears is a pretty simple matter. It is either there or it is not. If it is gone and you have a police report, then there is no point in dragging the matter out. The bicycle is gone, you have the coverage, you pay your deductible, and you have your claim paid.

Insurance companies agree with this method of dealing with it. They find it much more efficient. So in order to serve the public by getting small matters efficiently dealt with, the \$2,500 limit was the one that was chosen collectively by the industry, both adjusters, insurance companies and their brokers.

There are brokers, big brokers particularly, the major brokers, if you will, who want much more than this. They want situations like B.C. and Ontario and so on where in fact there is no limit, that they can adjust tens of millions of dollars in claims. We are not prepared to do that.

We are prepared to facilitate the public primarily in (a) having their claims settled quickly and (b) having it done efficiently and inexpensively, which ultimately will be reflective of the rates that they pay.

Mr. Chairperson: We thank the minister for those comments.

Mr. Ernst: I want to mention also that the \$2,500 is not carte blanche. It deals firstly with first-party claims only so that they cannot be adjusting public liability claims and things of that nature. This is basically property insurance claims. The policy must be written by that particular agent or agency for which the agent or broker works and, of course, must have the authorization of the insurance company who issued the policy. So if Leonard Evans insurance brokers issues a policy to Daryl Reid to protect—[interjection] Well, it is kind of a down-home attitude.

But, nonetheless, if that occurs and it is issued on behalf of the Carstairs insurance company, the Carstairs insurance has to tell Leonard Evans's broker that, yes, you can do this and likely will issue even claims drafts to the broker's office so that when the insured comes in with the police report and a copy of the bill, he can get the cheque signed by the broker on behalf of the insurer, but it has to have consent. The policy has to be issued by the broker or the agency for which he works, and the insurance company has to consent. So it is pretty clear cut as to what can be done and what cannot.

Mr. Chairperson: We thank the minister for those comments. Does the member for the official opposition have any comments?

Mr. Leonard Evans (Brandon East): Mr. Chairperson, we agree with the intent of the bill. The suggested changes seem to be very reasonable and taking this a step forward.

One could get involved in some detail things such as, well, when do you know that the claim is under or over \$2,500, you know, maybe it is \$2,750, and who knows and who decides? So there are these sorts of administrative problems, but I think generally the intent is good.

I think it should end up saving some money because I know that the insurance companies—I understand, at least—have to pay adjusters a certain minimum fee just to go out and look at a claim even though the claim may never transpire because it turns out to be below the deductible or whatever. Therefore, there are some additional costs that occur.

I know of one instance where the adjuster came out and I think was paid \$200 or \$300, which was the normal fee, by this insurance company. In this instance, the person who was going to claim did not claim because it was a relatively small item in terms of repair and was below the deductible but, nevertheless, there was a cost paid to the adjuster for coming out and looking at it. So this amendment would reduce that cost, and I guess this is what the minister is explaining, that ultimately the reduced cost would be reflected hopefully in lower rates at some point. So we have no problem with this generally.

The only other comment I would make is that in some ways, I guess, this is the statistician or economist coming out in me, you know, with inflation, we do not have much now, but it does occur from time to time, and I can see in five years somebody saying, well, \$2,500 is too low, it should be \$3,000 or something, you know. If you could have had a provision, if there was a section allowing for indexation, which we have in some legislation—we do have a clause applying the Consumer Price Index to a number so that it automatically goes up at some interval. I guess the other way of coping with it is to come back in five years if it is a problem, and you put it in The Statute Law Amendment (Taxation) Act.

Mr. Chairperson: I thank the member for those comments. Did the critic for the second opposition, Mrs. Carstairs, have any comment?

Mrs. Sharon Carstairs (River Heights): As I said in the committee, I wanted to hear from any adjusters who had any difficulty with this. We have not heard from any so I presume that the call that I made was not representative of the vast majority of adjusters in the province of Manitoba. In light of that, I am prepared to pass this bill.

In terms of the amount, however, I wonder if it would not be dealt better with by regulation rather than by legislation, which would then allow the government to change the amount sometime in the future if that was what it appeared was in the best interest of the consuming public at that particular point in time. The minister made reference to a Carstairs Insurance Agency. Perhaps that is what I am doing wrong. My father had one just before he became a senator.

Mr. Chairperson: We thank the member for those interesting comments.

Mr. Ernst: With respect to the question of adjusters, there are two adjusters associations here in the province, and both have been consulted, and both have concurred in this amount. They have been advised formally after meetings and all kinds of consultations that this is ultimately what was settled upon, and we have not heard—Mr. McGill is with me, the superintendent of insurance, and we have not heard any contrary kinds of circumstances.

With respect to indexation, I can tell you one reason why it was not considered was, quite frankly, this is a brand new field, and I am a little reluctant to embark upon new turf with a built-in mechanism to take this up to some point in the future. I think, if it needs amending in five years time, then so be it, let it be amended, but I think at this point, it is a new field. We want to try it and see how it works. It may turn out that some future government might want to change it considerably, but for the time being, this is something new. Let us get a little experience under our belts before we get too carried away.

Mr. Chairperson: We thank the members for those comments. The bill will be considered in blocks of clauses. During the consideration of the bill, the Title and the Preamble are postponed until all the clauses have been considered in their proper order by the committee.

Clauses 1 to 3—pass; Clause 4—pass; Preamble—pass; Title—pass. Bill be reported.

**Bill 23—The Manitoba Historical Society
Property Act**

Mr. Chairperson: We will now proceed with Bill 23, The Manitoba Historical Society Property Act. Does the Minister of Consumer and Corporate Affairs have any opening statements?

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): As members are likely aware, indicated during second reading, this is one of two bills. The Manitoba Historical and Scientific Society, more properly, established in June of 1879, was, during the holus-bolus re-enactment of acts in 1990, determined that they did not need to have their act re-enacted and thought they could exist under their corporate structure by filing with the Corporations branch.

That did not turn out to be the case, and they have a bit of a dilemma. The property that the Historical and Scientific Society owned by virtue of law reverted to the Crown, and as a result, the Crown became the technical owner of Dalnavert and a number of other items of personal property that belonged to the Historical Society.

* (1010)

To undo what has been done, two acts are required. First, the private member's bill, sponsored by the member for St. Vital (Mrs. Render), recreates the Manitoba Historical Society. This bill, a government bill, because it has financial implications and the fact the government is, in fact, divesting itself of property assets that had reverted to it, requires the consent of the Lieutenant-Governor and, as a result, has to be a government bill.

So the society is recreated under the private bill. The property that inadvertently went to the Crown is being returned. Even though nothing physically happened, they still enjoyed the use of the property, and it continued on and so on. The technical legal matter was that the property reverted to the Crown, so we have to give it back to them. This bill gives it back to them.

Mr. Chairperson: We thank the minister for those comments. Does the critic for the official opposition have any comments?

Mr. Leonard Evans (Brandon East): Mr. Chairperson, it seems to be a reasonable move on the part of the government.

Mr. Chairperson: We thank the member for those comments. Does the critic for the second opposition, Mrs. Carstairs, have any comments?

Mrs. Sharon Carstairs (River Heights): No, other than the fact that the Liberal Party is in favour of the act. We think it is only right and proper that these properties should be restored.

Mr. Chairperson: We thank the member for those comments.

The bill will be considered in blocks of clauses. During the consideration of the bill, the Title and the Preamble are postponed until all other clauses have been considered in their proper order.

Clauses 1 to 3 inclusive—pass; Preamble—pass; Title—pass. Bill be reported.

As previously agreed, we will now revert to the consideration of Bill 10.

Committee Substitution

Mr. Daryl Reid (Transcona): Prior to our discussing Bill 10, Mr. Chairperson, I move, with leave of the committee, that the honourable member for The Pas (Mr. Lathlin) replace the honourable member for Brandon East (Mr. Leonard Evans) as a member of the Standing Committee on Economic Development 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: Is it the will of the committee? [agreed]

Bill 10—The Wildlife Amendment Act

Mr. Chairperson: As agreed, we will now consider Bill 10, The Wildlife Amendment Act. Does the minister responsible for Bill 10, the honourable Minister of Natural Resources, have any opening comments?

Hon. Albert Driedger (Minister of Natural Resources): Mr. Chairperson, basically there are a few sections to this bill. The first portion is in keeping with the federal legislation related to

firearms. The new portion of it is the changing of the penalties as well as the clause in there for the safety of Manitobans that it will be illegal to discharge a firearm half an hour after sunset until half an hour before sunrise.

This bill also, as I mentioned, increases the fines. There was some concern that was expressed during the debate on the increase in fines. Might I just say that this again is in keeping with what is being done across the country. To illustrate the higher limit of the fines I want to relate cases like where we had the trading of bear gall bladders a few years ago that basically a lot of money was involved. So we need to have something that is going to be a deterrent, especially in the area of trading in animal parts, which basically gall bladders is one, the velvet from horns, et cetera. It is big business out there and we need to have stiffer fines to be deterrents.

The bill also gives us the right to take and confiscate equipment if an individual is found guilty.

The last portion of the bill deals with the inclusion of making provision for the wood bison. Those are basically my opening comments.

Mr. Chairperson: We thank the minister for those comments.

Does the critic for the official opposition have any comments?

Mr. Oscar Lathlin (The Pas): Mr. Chairperson, I appreciate the opportunity to be included in this committee this morning to discuss further the amendments as contained in Bill 10, The Wildlife Amendment Act.

I was up north, and I just drove in early this morning. I missed the early part of the proceedings, so therefore I appreciate it. Thank you very much.

I have just a couple of comments on the amendment. I made my remarks, as you know, during second reading, and I believe the theme of my presentation during debate was that we agree with the principles of conservation, the safety factor. We agree that our natural resources law, or

any law for that matter, should be followed by everybody in this province.

I will be making further comments, Mr. Chair, as we go through the amendment. I just wanted to say that being an aboriginal person myself, we have always as aboriginal people connected ourselves very much to the land, and so therefore we feel almost a kinship, as it were, to anything that is connected to land. We are very much part of the land. We identify with the wildlife, fish and trees and anything that is connected to the land. So in that respect, we as aboriginal people also believe—I say that because I want to speak later on in the context of aboriginal treaty rights, aboriginal rights, if I am permitted, as we go through the amendment.

I wanted to mention that we very much believe in conservation. I think the message that I am getting from aboriginal people—and certainly in my role as chief of our band I have always believed that there should be proper management. Mind you, not everybody has always listened.

You know, when we look at the development of the North, for example, hydro, forestry and mining and, yes, even farming—more and more forests are being cleared to make way for more agricultural land. More and more material is being drained into the ditches and into the creeks and eventually into the rivers and lakes, Mr. Chairperson. So we have always considered ourselves as conservationists, but maybe not in the context of the Department of Natural Resources.

So with those few comments, Mr. Chairperson, I appreciate the opportunity, and I will add further remarks as we go through the amendment. Thank you.

Mr. Chairperson: We thank the member for those opening comments. Does the critic for the second opposition have any opening comments?

Mrs. Sharon Carstairs (River Heights): Mr. Chairperson, I have a comment related to the one printed submission that we had to this particular committee, and that was from the Union of Manitoba Municipalities. They ask the question why the government did not extend some of these provisions to the question of hunting on Crown

lands. I would like to hear from the minister as to why they have not done this. The UMM indicated that they have raised this resolution during meetings with the Minister of Natural Resources for the past three years, and the department has indicated they are willing to examine the issue.

I am wondering why it has not found its way into legislation at this time. Other than that, we are very supportive of the legislation as it exists, but we will listen with interest to the member from The Pas and any amendments he may have with respect to aboriginal treaty rights.

* (1020)

Mr. Driedger: Mr. Chairperson, in reply to the comments made by the critic of the second opposition and the request by the UMM for consideration of making contact with the lessee before hunting is allowed, this does not require legislation. We can do this by regulation and are in the process of trying to get that established at the present time. So we do not need legislation to do that.

To the member of the official opposition, I appreciated his comments and would like to say that my department is expanding the co-management arrangements that we have with many of the communities in terms of dealing with our natural resources out there. I am very much encouraging escalation in that direction, that we develop these, because I find that invariably, if you take and pass legislation that brings down the hammer, that invariably you do not gain that much, that very often by co-operation you will be able to get more than trying to enforce law.

But, basically, this bill addresses the fact that there are individuals from all walks of life that are out there illegally poaching because of the lucrative financial returns and some of the legal trade that takes place. People make a business out of it, and it is big-time business. Unfortunately, we have customers outside of our country that are prepared to pay large sums of money for some of the things, wild animal parts for example.

I want to, at the same time, realizing the concerns that the member for The Pas is expressing, to say that this in no way deals with

any of the rights of natives in terms of hunting. The discharging of firearms at night is basically a safety issue. That will apply to all Manitobans but in no way impinges on the rights that the native communities or native individuals have for hunting. Those are my comments, Mr. Chairperson.

Mr. Chairperson: I thank all members for their comments.

The bill will be considered in blocks of clauses. During the consideration of the bill, the Title and the Preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clause 1—pass. Clause 2.

Mr. Lathlin: Mr. Chair, I believe this is the part of the amendment where I thought it might be worthy to consider an amendment to the bill.

I move, seconded by the member for Transcona (Mr. Reid)

THAT Section 2 of the bill be amended by renumbering it as subsection 2(1) and by adding the following:

2(2) Section 1 is further amended by renumbering it as subsection 1(1) and by adding the following:

Interpretation

1(2) Nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada as recognized and affirmed in Section 35 of the Constitution Act, 1982.

[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:

Maintien des droits des peuples autochtones

1(2) La présente loi ne porte pas atteinte aux droits existants — ancestraux ou issus de traités — des peuples autochtones du Canada reconnus et confirmés par l'article 35 de la Loi constitutionnelle de 1982.

Mr. Chairperson: At this time, I will take this motion under advisement for either a short recess or a continuation of other considerations in this bill

or a short recess to get direction on this amendment.

Hon. Harry Enns (Minister of Agriculture): Mr. Chairperson, I wonder if it would be appropriate to ask the honourable member for The Pas (Mr. Lathlin) whether there are further amendments to be provided to this bill. If so, it may be worthwhile to have them placed before the committee for that consideration during a recess break.

Mr. Jerry Storie (Flin Flon): Mr. Chairperson, there are no further amendments.

We had always been under the impression, including myself, that in fact The Wildlife Act had within it a nonderogation clause, that in fact somewhere within the act was the understanding that nothing that we attempted to do here would undermine in any way existing treaty and aboriginal rights. Nothing would interfere with Section 35.

As my colleague from The Pas has indicated, we certainly want to do everything we can to assist the province in stopping poaching of animals, the wholesale selling of animal parts, et cetera. As my colleague said, of course, in the communities that we represent that is not what is going on. It is a question of food, and, in fact, the value of animal harvest for food in northern Manitoba is a substantial portion of the value of all activity in the North.

What we wanted to be clear on was that this did not happen. The minister in his reply said, well, he did not think this was necessary. Well, my reading of the act is that it would be very useful. The minister and a number of people referenced in their remarks at second reading that this was a safety issue. It seems to me—

Mr. Chairperson: Order, please. Not to interrupt, but it seems that we are debating a motion that has been taken under advisement for a short recess to come back with a ruling. When we come back, possibly we can get into a debate of the motion.

Mr. Storie: Mr. Chairperson, my point is simply that there may be an opportunity for a technical reason to say that this amendment is out of scope. I am arguing that if the intent is, as the minister suggested in his remarks, that this has merit, that

the minister assumed as I did, as many other people may have assumed, that the intent that is in this amendment is already in the bill. Notwithstanding that it may—and I do not know whether it is or not, and that is something that after we recess we will know with some certainty if it is out of scope—I am simply saying, let us include it anyway.

Let us show some good faith. Let us confirm our understanding, I think as we all have it, that this is part of the act already, that we certainly do not want to be doing anything in this committee that attempts to undermine the Constitution of our country or the rights of aboriginal people. So notwithstanding that it may technically be out of scope, I am asking for consideration to be included if it is, because of the importance of this and the futility in effect of the government trying to enforce legislation which is unenforceable because it violates the Constitution.

Mr. Chairperson: I thank the member for those considerations. We will take a five-minute recess.

The committee recessed at 10:29 a.m.

After Recess

The committee resumed at 10:44 a.m.

Mr. Chairperson: Will the committee comes to order, please. I have been advised that the amendment proposed by Mr. Lathlin is out of order because, as cited in Beauchesne's Citation 698 (10), and I quote: "A substantive amendment may not be introduced by way of a modification to the interpretation clause of a bill."

Therefore, the amendment cannot be considered by this committee.

Mr. Steve Ashton (Opposition House Leader): Mr. Chairperson, in dealing with this particular matter, all it does is clarify that nothing in the act affects treaty and aboriginal rights, which is I think evident to anyone that is aware of treaty and aboriginal rights, and it is reaffirmed in the Constitution—[interjection]

Well, the Minister of Northern and Native Affairs says, we need not say that. The point is to

make it absolutely clear, to make it clear in terms of enforcement of the act, and it is clear—

An Honourable Member: Should we do it in every bill?

Mr. Ashton: Well, the minister says, should we do it in every bill? We are dealing with a situation here where you are dealing with something that relates directly to hunting, and there is clearly a treaty and aboriginal right that many aboriginal people have in terms of hunting. It goes back to the Royal Proclamation in terms of legal recognition in 1763, but it is something that is inherent, it is there. We have no jurisdiction over it.

I believe the member for The Pas (Mr. Lathlin) will probably have even more comments on that. All it does is just make that clear. We do not have the jurisdiction. It is ironic that we are saying this is out of order because what we are essentially saying is, we want a clear focus.

I believe the minister has said this publicly as well. He has been very clear in terms of the impact of this particular legislation, that it does not infringe on treaty and aboriginal rights. I know he understands the legal situation, and I know he understands treaty and aboriginal rights, so we are just asking for consideration from that and perhaps that the government might consider introducing it.

I know the former minister, the current Minister of Agriculture (Mr. Enns), is aware of that and indicated that as minister I think quite clearly. So we are quite surprised quite frankly that we are into this kind of technical discussion on what I would have thought would have been something the whole committee could have supported.

Mr. Driedger: Mr. Chairperson, in checking with our legal counsel, we are advised that the constitutional rights of the natives for hunting and fishing is not affected. It is the overriding thing, which is the federal Constitution, where that is covered. The concern that we would have is that by referring to Section 35, we are getting into very technical stuff as to whether Section 35, you know, that is dealing with the aboriginal rights. Basically, this legislation does not deal with any of those rights. It does not take away from those rights. It basically says that. So there is some concern by

allowing this to even be brought forward and the reference made to Section 35, which is a debate by itself. It is for that reason that we should not be considering this.

Mr. Lathlin: Mr. Chairperson, I do not think I am going to be discussing the amendment, you know, being concerned of the technicality that is there as the minister and his legal advisers say.

However, I wanted to say the following, and that is, three bills have been introduced in this Legislature in this session which happen to have fallen into my area of responsibility as critic. All three bills seek to make amendments to legislation that would see the public or make it more clear to the public and also make the public see that this government is indeed serious in enforcing its legislation, whether they be in natural resources or in other areas. As aboriginal people, we are also very interested in upholding the law, whether it is provincial or federal.

Now, I know the minister is getting legal advice as to the appropriateness of this amendment at this particular time and in this particular section. I do, however, want to say to the minister with all sincerity—and I am not being negative or being facetious; I am serious when I say this—that I am sure the minister and his department and this government want to follow the law, just as he is asking people to follow the law, because he is introducing legislation that would give more enforceability to these various pieces of legislation, increasing fines, more power and authority to officers, peace officers and so on.

Yet, in my own way, I regard this amendment as maybe having the potential of not following the supreme law of Canada, and that is the Constitution. I regard this amendment as sort of coming through the back door, as it were, in dealing with those pressures that I know the minister has been getting from nonaboriginal people.

* (1050)

I also want to remind the minister of a letter that he copied me not all that long ago to a group of cottagers in Rocky Lake, where he in his letter—and I do not have the copy of that letter here; I

am sure he remembers the letter—challenged those people who wrote to him complaining about aboriginal people and going into Rocky Lake to fish, telling them that fishing happens to be a treaty right that is protected by the Constitution of Canada. These people have the right to fish. Essentially, what he was telling them was that because there is this supreme law Section 35 of the Constitution, he was not able to do the thing that the cottagers were asking him to do, but he was hoping that there would be—he reminded them, as a matter of fact, that his government was entering into Natural Resources agreements with aboriginal people.

But the point I wanted to make there is, this minister, by way of that letter, recognized those rights by aboriginal people in his letter to the cottagers. Now, I am not saying that fishing in Rocky Lake is not a good idea. I more or less agree with the cottagers of Rocky Lake. I think they should have that lake for their own sportfishing, because that is what it is. They are not fishing for food. They are sportfishing. What they rejected was the idea of aboriginal people coming into Rocky Lake using nets to fish.

The minister and the former Minister of Natural Resources who is now the Minister of Agriculture (Mr. Enns), and the former Minister of Northern Affairs, are fully aware of the initiatives that we had made. When I was a chief of my band, I believe we were the first First Nations community in Manitoba to enter into a moose management agreement. Why did we do that? Because we saw the need for conservation. How did that agreement come about? It did not come about by way of the government introducing sneaky legislation, as I call it, coming through the back door. It came about as result of a lot of meetings, a lot of good discussions. The government had their agenda and we had our agenda, and in the end an agreement was made, a good agreement, I might add, because as I remember it, the moose population in Area 8 was down to 400 and we co-operated with the Natural Resources people.

As a matter of fact, Mr. Chair, I was severely criticized by my own people for going in that

direction. I was accused of selling down the river our treaty rights. I was even severely criticized by my colleagues, the rest of the chiefs from Manitoba, and now I see there are other First Nations who have taken similar action.

I applaud the minister when he says we are expanding these management agreements, because that is what we have been saying all along. You know, these agreements were okay. They have worked well, I think.

We in the Opaskwayak Cree Nation are now in a process of even developing our own by-laws whereby we spell clearly the rules and regulations that will apply in our Opaskwayak Cree Nations natural resources laws. Some of those include that you can only harvest so many moose. You can only go about fishing in a certain way.

As a matter of fact, we ended up, because our people did not feel good about having to go to the Fisheries people to get permits even for domestic fishing, again we sat down with the Fisheries people and we convinced them that perhaps—and I think maybe the former Deputy Minister of Northern Affairs will remember when we said, these people will take permits but not from you, they will take permits from us. That is what we ended up doing. We issued those permits, Opaskwayak Cree Nation permits to the people who wanted to go into domestic fishing, and it worked well.

One more thing on that, because the aboriginal people that I have talked to—and I feel this way too, Mr. Chair, being an aboriginal person. I also know that besides being an aboriginal person, an aboriginal MLA, some people sometimes call me an Indian activist—I do not mind that designation. I appreciate it because that is what I have always been. I suppose that is what I will always be, to advance the rights of my people.

I also recognize that I am a member of this Legislature. I recognize very clearly that my focus is not only on aboriginal people and their treaty rights. I recognize fully that my responsibility here as a member of the Legislative Assembly, as a Natural Resources critic, for example, means that I look at the overall situation of Manitoba.

I believe that is what I am doing here when I introduce the motion. I have already said in my opening remarks that—and this can be evidenced in the way that we are restricting our own people. They did not like it at first, but now they are getting used to having restrictions placed on them by our Opaskwayak Cree Nation chief and council in which they can only go out at certain times of the year. It is not a 100 percent success thing.

But I also want to mention to the minister that on the nonaboriginal side, it is not a 100 percent success either. All I have to tell the minister is, and the Minister of Justice (Mrs. Vodrey) if she were here, that even people from the high places of this province's judiciary have, from time to time, been found contravening Natural Resources laws—and even a senior member of the RCMP not all that long ago. So it is not as if we are, as aboriginal people, out there just blatantly disregarding law as if we are the only ones. We are not the only ones.

In the second reading debate, I mentioned to the minister that the waterfowl management plan that is there—and I have read reports as far back as 1985 where the harvesting of waterfowl in Canada, for example, amounted to some .5 percent of the total Canadian harvest. The rest was done by nonaboriginal people, American hunters and so on. Mr. Chairperson, .5 percent was done by aboriginal people, so that tells you the story right there, not to mention, as I said in second reading debate, Ducks Unlimited from time to time will have engineering problems.

* (1100)

I mentioned around 1983 in Bracken Dam where millions and millions of pounds of fish were destroyed. Why? Because Ducks Unlimited, in their wisdom, were manipulating the water levels at Saskeram and the Saskeram River in the Bracken Dam area, so as a result, there was, as we were told by the Natural Resources people who were there at the time, not enough oxygen in the water. So a lot of fish were destroyed. Who did that? We monitor American hunters when they come in from their hunting trips, and we find a lot of ducks, geese left right where they get off their boat to get into their vehicles. We monitor our

garbage dump at Opaskwayak Cree Nation in the fall, because we are always mindful that aboriginal people are being portrayed as people who have total disregard for conservation, total disregard for Natural Resources laws and everything. So we monitor these things, and yes, we have on several occasions found carcasses of moose right in our garbage dump with just a trophy taken.

I am saying these words, Mr. Chair, to try to impress upon the minister that we are very much supportive of conservation laws, and this amendment is regarded by aboriginal people as, again, coming through the back door. We wanted to make it a law of general application, and we call that chipping away of what is left of our treaty rights. That is how we regard it.

The other thing I wanted to mention to the minister, Mr. Chair, is in 1963 there was a Supreme Court decision, Prince and Myron [phonetic], a case here in Manitoba, about nightlighting. There are cases that I can mention, some recent cases, the Henry Flett case that we won at the Court of Appeal level. There are all kinds. There is Sparrow from B.C. There is Nawichisek [phonetic]. There are all kinds of court cases that would support our position.

I guess, finally, I wanted to say to the minister, if he is indeed serious—before I get into that, let me mention one more point, and I will get concluded here shortly. It is too bad that there was no consultation on this legislation. You see, if the government or the minister had gone about amending this legislation in the same manner that former Ministers of Natural Resources, not necessarily changed legislation or even rules and regulations, but if he would have gone to the aboriginal organizations and asked them, look, we want to make amendments to this legislation and there is this one part that might be construed by aboriginal people as chipping away the treaty rights, I am sure there would have been agreement from the aboriginal people for such an amendment if the minister would have seen appropriate to consult with aboriginal people, just like there was an agreement in the moose management agreements and so on. I am convinced that he

would have received support if he would have done that. Now this legislation is here and, rightfully so; aboriginal people regard it as a sneaky way of chipping away at what is left of the treaty rights.

The final thing that I wanted to mention is when we talk about management agreements in natural resources, I have a copy of a proposal from the Swampy Cree Tribal Council on co-management. The problem with that proposal—for me, it is not a problem. It is a problem for the government, and that is it seeks to expand the roles and responsibilities of aboriginal people in that proposal. It goes beyond just merely conservation.

It starts to delve into training, for example. It is even asking the government to train our people in the area of natural resource officers. After these people are trained, they would go back to their First Nations, and First Nations would develop their by-laws in conjunction with, in co-operation with, the provincial government. These First Nations natural resources officers would then work for the First Nations and enforce the by-laws that the First Nations would have been developing. That is one proposal.

The other proposal is the aboriginal people are saying to the government, it is time that we move beyond the conservation area. Why do we not start talking about forestry, mining, hydro? Of course, the government right away sees that what the aboriginal people are seeking to do there by proposing those types of agreement is that there is no hiding. What the aboriginal people want to do is start sharing, in a very real way, natural resources. Yes, we will help you and your government enforce your legislation, but at the same time we want to do it in a very meaningful way. We do not want to just be on the periphery and watch all this development take place.

So those are some of the things that I wanted to mention, Mr. Chairperson. I know they are not legal arguments, but I just thought I would say them here anyway.

I would, again, respectfully ask that this motion be allowed to go, because not only would it show good faith on the part of the government, but I

think it would open a lot of doors for good relationships with the aboriginal people. I think it would open a lot of doors for further initiatives. I think it would open a lot of doors for this government and the aboriginal people to work out issues where, for example, we do not have the Cross Lake First Nations going to court to try and stop Repap.

We would not have the Swampy Cree Tribal Council going to court to, again, tell this government that you are not following your own laws. Those people are not against any economic development. They just want things to be done in a fair way and they just want meaningful input. They do not want to be on the periphery anymore.

Mr. Driedger: I have to express some sensitivity that the member for The Pas (Mr. Lathlin) is saying that this is sort of a back-door approach and is trying to take and deal with the native hunting rights. I also have some disappointment that I want to express to the member when he, by raising the points he does, tries to leave the impression that it is native people who are the lawbreakers.

I do not think that is the case. We have people from all walks of life who are affected by this, but coming back to the amendment itself, and before my staff even started developing any of these amendments—and I am surprised this was not raised in the fishery end of it then—but under Section 94 of The Wildlife Act, it makes provision to allow for the aboriginal hunting and fishing rights. That applies to anything we do within The Wildlife Act, so the constitutional act gives that provision, and this does not challenge that.

I feel that the member recognizes concerns, but there are also further things that the member should probably be aware of, that Section 35 is not necessarily the one that gives the aboriginal people the right to hunt and fish totally, because you have Section 13, which has further conditions in there in terms of how this is being applied. That is why I raised the sensitivity before, by making specific reference to Section 35.

There are so many things that still will protect exactly what the native people have right now in terms of hunting and fishing, and this does not

affect it. By bringing this in here now, we sort of raise another spectre of it, and I do not think that that is what the member would necessarily want at this time, so I would suggest that all the rights are basically protected.

* (1110)

My staff know that. They have been with the department much longer than I have been, and when they develop these things, these things are taken into consideration very much realizing what the rights are.

I heard what the member has said, but I can assure him that this is not affecting the native hunting and fishing rights, and by bringing this into here, we almost have to go back and redo all our act, and I think it will create some confusion in terms of Section 35 and Section 13. I am not the legal beagle, but our Constitution lawyer says that those rights are overriding rights, and no matter what we do in The Wildlife Act, that will remain.

I want to agree with the Chairperson—well, whether it is out of order or not. I do not want to necessarily have this amendment added to the legislation at the present time because I feel that we are not impinging on those rights. When we get into the Estimates this afternoon, we can have further discussion on it.

I feel that nothing that is in this act is going to impinge on the hunting and fishing rights of aboriginals, the way it is right now, and that is my legal advice that I have.

Mrs. Carstairs: Mr. Chair, I think it is very clear that Section 35 of the Constitution Act recognizes aboriginal treaty rights. Included in those treaty rights are hunting and fishing rights.

I have a greater concern here. I would like a legal opinion, quite frankly. If we add this clause to The Wildlife Act, would we not, therefore, also have to add it to The Fisheries Act, because to do so it seems to me would get us into a constitutional hang-up where we could find ourselves saying that in Manitoba, under The Fisheries Act, aboriginals do not have those rights because if they did this nonderogation clause would be included in that act, and because it is not included in that act but it

is included in The Wildlife Act, does that mean that we have set up a hierarchy of rights for our aboriginal people? I think there is no question. I mean, I have no difficulty with this amendment going into all acts which affect any of the treaties, but I do not like to see it going into one and not going into the others and thereby causing a hierarchy.

Mr. Driedger: I just have a further comment. I thank the member for those comments, but Section 94 of The Wildlife Act automatically already has made provision for these rights, that anything that changes in The Wildlife Act is still subject to the constitutional rights that they have.

So this will create a lot of confusion. That is what I am saying.

I am not arguing with the member for The Pas (Mr. Lathlin) about the comments he has made. I think by trying to put that in here, we are going to create some confusion that probably could be misconstrued.

I would like to see the legislation proceed on the basis that we have here. A lot of thought has been gone into it and the constitutional people say that it does affect those rights—and allow us to continue.

Mr. Lathlin: Mr. Chair, I would like to take the minister's word. If he is wrong, if his legal counsel is wrong and if we have court cases, well, that is where they will end up, I guess.

I want to say one last thing, though. The former Minister of Natural Resources will remember this. Yes, I know Section 35 is there. It reaffirms existing rights. That is how we won the Henry Flett case, by the way—Section 35.

I also remember a day or two after the Court of Appeal had thrown the case out, the minister maybe is sitting here in the Legislature saying all those good things. I also remember the former Minister of Natural Resources in Swan River defending treaty and aboriginal rights. I also remember a day or two after the Henry Flett case was thrown out by the Court of Appeal that in The Pas the Natural Resources officers, and even here in Winnipeg, Natural Resources officers in The Pas phoning their superiors here in Winnipeg and

the marching orders that were given even just two days after the decision was, business as usual, guys.

Even through legislation maybe you are saying all the right things, but when it gets down to the community level it takes a long time sometimes and that is why we end up in court in a lot of cases. A lot of needless court cases, because it is not spelled out.

Like I said, the minister is an honourable person. I will take his word, but if there is another treaty aboriginal rights court case that ends up, I will be the first one to say I told you so.

Mr. Chairperson: Clause 1—pass; Clause 2—pass; Clause 3—pass; Clauses 4 to 7 inclusive—pass; Clauses 8 to 9.1—pass; Clauses 9(2) to 12 inclusive—pass; Preamble—pass; Title—pass. Bill be reported.

That completes consideration of all the bills before the committee. The time being 11:20, committee rise.

COMMITTEE ROSE AT: 11:20 a.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Bill 10—The Wildlife Amendment Act

The following is the Union of Manitoba Municipalities presentation on Bill 10, The Wildlife Amendment Act, being considered by the Standing Committee on Economic Development.

The UMM represents 164 of the 202 municipalities in Manitoba, including all of the 106 rural municipalities, 13 local government districts, 23 villages, 19 towns and three cities. The mandate of our organization is to assist member municipalities in their endeavour to achieve strong and effective local government. To accomplish this goal, our organization acts on behalf of our members to bring about changes, whether through

legislation or otherwise, that will enhance the strength and effectiveness of municipalities.

The UMM is supportive of the amendments contained in Bill 10. This legislation will significantly increase the fines and jail sentences for illegal hunting practices, such as poaching and hunting under the influence of substances. Bill 10 also addresses the issue of night hunting by prohibiting the discharging of a firearm between one-half hour after sunset and one-half hour before sunrise the following day.

Like the province, municipalities have long been concerned with matters relating to hunting, such as public safety, wildlife management and the use of land. Therefore, we are pleased that the provincial government is attempting to curtail illegal practices which could jeopardize public safety or wildlife management.

However, the UMM is disappointed that the province did not take this opportunity to deal with the question of hunting on Crown lands. In particular, our member municipalities passed a resolution in 1991 asking that hunting on Crown land only be allowed on the condition that the lessee is contacted first. We believe that hunters should identify and contact the lessee of Crown land just as they contact the owners of private land. The identity of lessees is available in some cases from municipal offices and also from Agriculture Crown lands offices.

The UMM has raised this resolution during meetings with the Minister of Natural Resources for the past three years. The department has indicated they are willing to examine the issue. We urge the province to consider making the necessary amendments to allow hunting on Crown land only after the lessee has been contacted.

Thank you for your consideration of our comments.

Union of Manitoba Municipalities