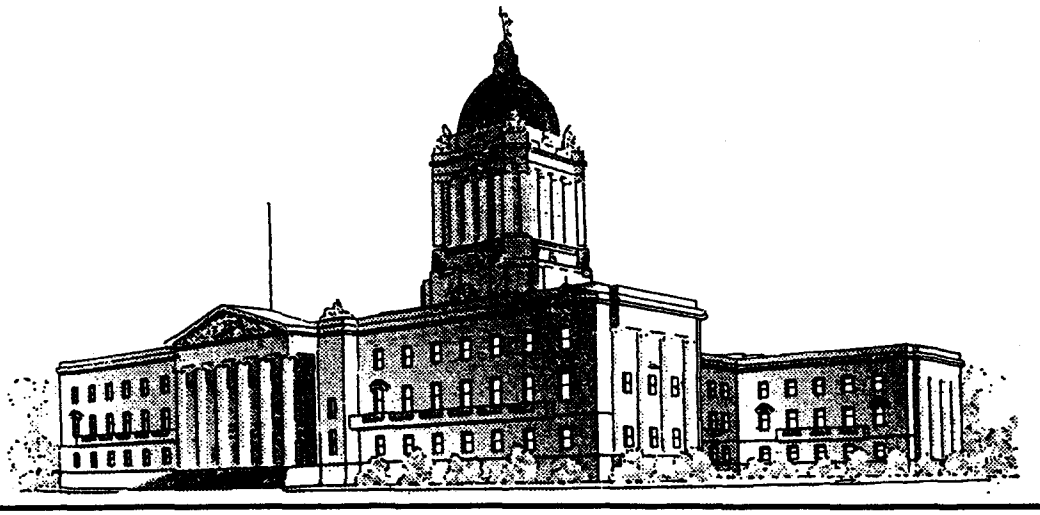
Fifth Session - Thirty-Fifth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee on Law Amendments

Chairperson
Mr. Jack Penner
Constituency of Emerson



Vol. XLIII No. 2 - 7 p.m., Tuesday, June 28, 1994

ISSN 0713-9586

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
MANNESS, 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
SCHELLENBERG, 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 LAW AMENDMENTS

Tuesday, June 28, 1994

TIME — 7 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRPERSON — Mr. Jack Penner (Emerson)

ATTENDANCE - 9 — QUORUM - 6

Members of the Committee present:

Hon. Mr. Derkach, Mrs. McIntosh, Mrs. Vodrey

Mrs. Carstairs, Messrs. Helwer, Laurendeau, Mackintosh, Penner, Sveinson

Substitution:

Mr. Schellenberg for Mr. Ashton at 21:55

APPEARING:

Clif Evans, MLA for Interlake

WITNESSES:

Bill 20—The Municipal Amendment Act

Reeve Ron Renwick, Union of Manitoba Municipalities

Bill 17—The City of Winnipeg Amendment and Consequential Amendments Act

Nick Ternette, Private Citizen
Jae Eadie, Councillor, Deer Lodge Ward, City of Winnipeg
George Fraser, Councillor, St. Charles Ward, City of Winnipeg
Shirley Lord, Choices
George Harris, Private Citizen
John Prystanski, Councillor, Point Douglas Ward, City of Winnipeg

WRITTEN SUBMISSION:

Bill 17—The City of Winnipeg Amendment an Consequential Amendments Act

Mr. George Stewart, Winnipeg in the Nineties (WIN)

MATTERS UNDER DISCUSSION:

Bill 16—The Provincial Court Amendment Act

Bill 17—The City of Winnipeg Amendment and Consequential Amendments Act

Bill 20—The Municipal Amendment Act

* * *

Mr. Chairperson: Would the Committee on Law Amendments please come to order. The Standing Committee on Law Amendments this evening will be considering Bill 16, The Provincial Court Amendment Act; Bill 17, The City of Winnipeg Amendment and Consequential Amendments Act; and Bill 20, The Municipal Amendment Act.

To date we have had a number of presenters registered to speak to the bills this evening. I will read the names of the registered presenters. If there are any other persons who wish to make presentations to the committee this evening, will they please register at the back of the room with the Clerk. In addition, if any presenters have a written copy of their brief and would require photocopies to be made, please contact the Clerk of the Committee, and she will ensure that a sufficient number of photocopies will be made.

Bill 20—The Municipal Amendment Act

Mr. Chairperson: The presenters on Bill 20 are Reeve Ron Renwick of the Union of Manitoba Municipalities, and Bill 17, we have The City of Winnipeg Amendment and Consequential Amendments Act, Mr. Nick Ternette, Private Citizen; Jae Eadie, City of Winnipeg Councillor; George Fraser, City of Winnipeg Councillor; Terry Duguid, City of Winnipeg Councillor; Shirley Lord of the Choices organization; George Stewart, Winnipeg in the Nineties; George Harris, Private Citizen; John Prystanski, City of Winnipeg

Councillor; and Glen Murray, City of Winnipeg Councillor. That is the list of presenters that I have before me. If there are any others, then we will add them to the list, and if there are presentations that need to be copied, please bring them forward.

How did the committee wish to hear the presenters, in numerical order by the bill? I should advise the committee that I have been informed that we do have an out-of-town presenter, and normally it is the custom of the committee to hear out-of-town presenters first. What is the wish of the committee?

An Honourable Member: Agreed.

Mr. Chairperson: Agreed? Oh, another thing, does the committee want to consider time limits on the presentations. What is the wish of the committee? Twenty minutes?

Mr. Clif Evans (Interlake): Mr. Chairperson, no, as far as Bill 20, I think the minister will agree that with the one presenter we should not have a problem with him taking as much time as he might want to make the one presentation. I do not have a problem with length of time.

Mr. Chairperson: Okay. Could we ask, then, Mr. Reeve Ron Renwick to come forward, please.

Mr. Ron Renwick (Union of Manitoba Municipalities): Thank you, Mr. Chairperson.

Mr. Chairperson: Could you wait just until we have distributed your presentation? Thank you very much. Mr. Renwick, you may proceed.

Mr. Renwick: Mr. Chairperson, committee members, first of all, I would like to introduce a couple of the people who have come with me who are probably more acquainted with the situation we are talking about than myself. We have Mr. Busby and Mr. Stephenson from the R.M.s of Pipestone and Wallace, and these people are the ones who are the most affected at the present time with this legislation.

The Union of Manitoba Municipalities is pleased to appear before the Standing Committee on Law Amendments considering Bill 20 of The Municipal Act. The UMM represents 164 of the 202 municipalities in Manitoba including all of the 106 rural municipalities, 13 local governments 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 it is through legislation or otherwise, that will enhance and strengthen the effectiveness of the municipalities.

Bill 20 contains an amendment to The Municipal Act which will allow municipalities to collect tax arrears on oil and gas facilities. The UMM membership has passed two resolutions asking for this legislative change, and the UMM Board of Directors has brought these requests to the province. This is an important amendment, particularly for the municipalities in the southwest corner of Manitoba, and we appreciate the province introducing it at this time.

Rural municipalities in the southwest region have experienced difficulties in collecting the personal property tax arrears on oil and gas facilities. For example, the R.M. of Wallace currently has $126,000 in tax arrears. The R.M. of Pipestone has $35,000 in arrears, and the R.M. of Albert has $20,000 in arrears. For some municipalities these unpaid taxes represent a significant percentage of their revenue base. It is so important to note that well over 50 percent of the cost of their arrears have already been paid by the municipality to the local school divisions for the education portion of the tax bill.

While municipalities have examined the possibility of taking legal action to collect the tax arrears, this option has usually been considered too costly and time consuming. Because of changes in the ownership of the oil and gas facilities, in some cases it has also been difficult for municipalities to contact the owners or operators of the facilities.

Bill 20 will address this problem by permitting municipalities to collect arrears of taxes on oil and gas equipment from the purchasers of the oil and gas from those facilities. In cases where the taxes are unpaid after December 31 of the year in which they were levied, the municipality may send a notice to the purchasers of the oil and gas

originating from the equipment in the question. A copy of this notice will also be sent to the owner of the well. The notice will identify the well in question, specifically the amount of unpaid taxes and state the name of the owner of the well. From the time the notice has been served, the purchaser will remit money owing on purchases of oil and gas to the municipality.

* (1910)

As was suggested in the UMM resolutions, this amendment was modelled on the similar provisions contained in the Saskatchewan Municipal Act. After contacting a sample of Saskatchewan rural municipalities with oil and gas facilities, it appears that this provision is effective in dealing with the unpaid taxes on oil and gas equipment. In fact, the municipalities which were contacted indicate that the owners usually pay their taxes soon after the purchasers of the oil and gas had been sent their initial notices outlining the tax arrears and the subsequent steps to be taken by the municipality.

The first UMM resolution on this issue had been passed in 1992. We had originally asked that this amendment be included in last year's Municipal Amendment Act. However, it was not. The UMM anticipates that the ongoing Municipal Act Review will result in other changes and amendments being made to the act. However, because of the financial and legal difficulties caused by the tax arrears on oil and gas facilities, we are pleased that the province did introduce the amendment during this legislative session.

Thank you for your consideration of our comments.

Mr. Chairperson: Thank you very much, Mr. Renwick, for appearing before committee. Are there any questions of Mr. Renwick?

Mr. Clif Evans: I just want to clarify one thing. The amendment to the bill, of course, states that you will have an easier access to be able to bill the arrears. You state the fact that, because of legal action that you may have had to take previously, the amendment still refers that you still have that opportunity if in fact the arrears are not paid, that you can still go through the legal actions. It is still going to cost you if you do go through the legal action of collecting the arrears.

My question is: This is obviously going to give you an easier opportunity to be able to collect your taxes that are due to your municipalities, but in fact if the notices are not adhered to, the people that you send the notices to do not pay their taxes, you are still going to be, the end result is still, you are going to have to go through the legal actions, it is still going to cost you money. Is there some other way, or do you feel that this will be sufficient enough to provide a balance for that?

Mr. Renwick: What this legislation does is that the purchaser of the oil will be billed for it and that, I guess, in essence, is not what the gas and oil companies want. They would sooner have it go through them so what it does is, it basically bypasses them if they do not pay up.

Mr. Clif Evans: Besides the municipalities that have been mentioned, is this a greater concern in southwestern Manitoba, where such situations arise? Are there more situations than those you have mentioned here that have to be dealt with in this situation?

Mr. Renwick: There are some but not to the extent of these ones that have been mentioned in the paper.

Mr. Clif Evans: Mr. Chairperson, so hopefully this amendment will take away that difficulty that the municipalities mentioned, will in fact make it easier for you to collect, hopefully that there will not be further or other problems with this amendment and in other situations within the municipalities, not only in the southwest corner but in other areas. Is that what you are saying?

Mr. Renwick: That is correct, sir.

Mr. Chairperson: Thank you. Any further questions? If not, thank you very much, Mr. Renwick.

What is the wish of the committee? Should we deal with this bill? I understand that there are a number of people that need to get away. Is it your wish to deal with this bill now? Clause by clause? Agreed? We will do that.

Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass.

An Honourable Member: Page by page.

Mr. Chairperson: Page by page.

Clauses 5 to 13—pass; Clauses 14 to 16—pass; Preamble—pass; Title—pass. Bill be reported.

Thank you. That is what I call efficient.

Bill 17—The City of Winnipeg Amendment and Consequential Amendments Act

Mr. Chairperson: The next bill will be Bill 17, The City of Winnipeg Amendment and Consequential Amendments Act. I will ask the minister and his staff to come forward.

I call the first presenter, Mr. Nick Ternette, Private Citizen. Mr. Ternette, would you come forward, please? We will just wait a bit until the Clerk has distributed your presentation.

Mr. Nick Ternette (Private Citizen): That is fine, Mr. Chair.

Mr. Chairperson: Mr. Ternette, welcome. You may proceed.

Mr. Ternette: Mr. Chairperson and MLAs, I am here today to discuss with you Bill 17, which is the amendment to The City of Winnipeg Act. Before I do specifically relate to the actual bill, I would like to kind of review the process in which Bill 17 supposedly came about.

The City of Winnipeg, supposedly City Council, was asked. Well, they themselves decided to prepare recommendations concerning changes that they wished to see in The City of Winnipeg Act. An ad hoc committee on elections was set up with some public input, of which I tried to provide some myself. At that time, I made some certain recommendations which I wish to place onto the record here because they reflect, to some extent, the philosophy of my critique of Bill 17.

By the way, I do not think there is anything—there is just one major clause that I am primarily concerned about, and I will deal with that. There are two other ones that I think are very favourable. Generally, it is a housecleaning bill, but there are some serious issues that I want to bring in. But I want to kind of go over the process that you may be aware, some of you may not have been, of what City Council went about and what some of us as citizens tried to input at that time, which they did not listen to us at that time neither.

At that time, I suggested very strongly that the city report needed to be looked at, once the report was prepared, in terms of how far democracy is served by its recommendations, that is, the recommendations such to encourage and nurture the full flowering of democracy by encouraging people to fully participate in the civic political process. To the degree that it served that particular purpose, anything should have been encouraged. To the degree that it did not—or as I used the word "undemocratic." I mean, when I talked about the term "undemocratic"—and I am talking about what my presentation was for the civic level, not what I am particularly saying here—I do not suggest that the term was illegal but to the degree that it did not serve the interest of democracy but rather served the needs of efficiency, in my opinion, efficiency is not necessarily always at times synonymous with democracy. At times, it can be; at times, it cannot be.

* (1920)

To the degree that it served the needs of efficiency rather than democracy, it ought to be discouraged. I looked at what the city had tried to recommend to the government in terms of changes, and then I will deal with what the government actually came up with.

The first issue was the filing of nomination papers. The recommendation of filing nomination papers, to me, at the time that the city recommended, seemed to be undemocratic. It proposed that the nomination requires to be changed to require the mayoralty candidates to have the nomination papers signed by at least 250 electors, with a minimum of 25 qualified electors from each of the five different wards. This was the city suggestions, and for city councillors, the recommendation was 125 signatures for the nominations. I will deal with what the province has come up with a little later.

In a sense to me, it seemed to be, sort of, that served the needs of efficiency and not democracy.

It seemed to me at that time, and I suggested it very strongly, and I still do, that it was an attempt to limit political participation at the civic political process. It set out, I think, to eliminate what so-called people constantly say, fringe candidates, and limit the choice of candidates for political office.

Now, one can understand the need for reform of the nomination process—I was not arguing that—especially if civic politics operated on the same basis as provincial and federal governments, that is, that the political parties ran candidates under their banner and got elected under party platforms. Then I could understand significant political changes required. But the civic scene, unfortunately, does not have political parties officially. It still operates on the concept of individual participation as individuals in the individual political process.

The present nominating system as it was set out under the Unicity act of 1971 is one that at least does not discourage candidates from running for office. As you know, both mayoralty and civic candidates, all they are required to do is to have 25 signatures and a nomination paper and no filing fees, and they can participate fully in the political process. There are more people participating at that level at least—whether they get elected or not is not the issue, the issue is whether they participate in the process—than in any other level of government today.

In fact it allows and encourages as many as possible candidates to participate, which is what democracy is all about, as far as I am concerned. The more participation, the more running for office, the more democratic. The less participation, the more undemocratic.

Now, I am prepared, and I did suggest that, and I am relating to what I said to the City Council at that time, that the mayor does get elected city-wide, and I could suggest—I think there is nothing wrong with recommendations—that additional names on the nomination papers be put in because it is city-wide rather than just particularly from one ward. One of my suggestions at that time originally was to make it 100 signatures for a mayor from anywhere in the city. I do not think it was fair for people to have to run into each of the wards for specific amounts of signatures, 50 from each area.

I also do not object to a few more signatures going on. Certainly, other cities operate differently. Calgary, for example, where I lived for five years, and I ran for City Council there, in fact only required five signatures, and you had to put a $100 deposit down. If you got 15 percent of the vote, at that time, you got your deposit back. If you did not, the deposit was lost. But you were only required to get five. I am just looking at it a different way, and I have suggested that if you want to look at it in a different way, if you want to charge a fee, but council never recommended a fee. So I just say, there were different ways of looking at it, and I suggested that they should look at it seriously. I will come back to this.

I just wanted to say that they also made a recommendation concerning election results, using automated voting technology. As I said, you do not know the frustrations that voters, candidates and media had about election results at the civic level.

I have been involved in the election process for over 22 years. I have run 11 times for office. It takes a tremendous amount of time to find out what the minimum is. It takes you three and a half hours to get the first voters lists in.

It is time that we move into the 21st Century and we got the results as quickly as provincial and federal elections do. I am very pleased to notice that the recommendation 89.3.2.(1) allows City Council now to use that kind of voting machines and voting recorders so that in future we will have a proper voting system and we do not have to wait till two-thirty in the morning to find out who got elected and who did not. It is beyond belief that we continue to have that kind of a political process. I argued for the recommendation. I am glad to find that Bill 17 has that particular recommendation.

I had also suggested—I looked at that, and then the other thing that I just want to make a point, it is not in my formal speech, but the other recommendation which I think most city councillors and nearly everybody else in the city

would be very positive about is the by-law re the home renovations tax credit program, 138.1(1), where we can get a property tax credit for encouraging improvement of the home. I think it is a positive step. It is a great step in the right direction. It should have been taken a long, long time ago. I have argued for this for over 20 years. I am glad to see it is in the legislation and the process.

Now, the issue that I really want to address is the issue that I just addressed in terms of democratic process. That is the only clause that I am fundamentally concerned with, because I do consider it to be discriminatory, is 89.2(4) and 89.2(5) and what it leaves out.

In regard to Bill 17 and amendments to The City of Winnipeg Act introduced by the Conservatives, one needs to be very careful, as I said, in recommending changes within the context of democracy. It is the same argument that I used with the City Council. I am using the argument with you right now, rather than efficiency. Unfortunately, in this one clause I see neither democracy nor efficiency emerging out of this particular clause.

If you look at it very carefully, examination of these particular suggestions of 89.2(4) and 89.2(5), you will see that a two-tiered political system is going to emerge at the civic political level.

On the one hand, the City Council elections and nomination process will continue to function as is, namely, 25 signatures on their nomination papers and no filing fee. Yet on the other hand, the mayoralty candidates will be required to get 250 signatures on their nomination papers, and they will also get an additional two months campaigning time as compared to city councillors, and be forced to pay a $150 filing fee which is refundable if the candidate gets 5 percent or more of the votes cast for the mayor.

I do not object and, by the way, the 5 percent is better than the Calgary figure which requires 15 percent. I think there is nothing wrong with that. It is a positive step, 250, at least it is city-wide. You do not have to get the signatures from each area, but it is a two-tier system, two months more campaigning, a different set of rules for city councillors as compared to the mayoralty candidates. That is fine and dandy, if you are creating a different political system, but I mean, up till now, since 1971, the mayoralty candidates and city councillors have been treated in the same way, the political process and the nomination process has been the same. How can you possibly change and create a two-tier system? You are creating a fundamental, inequitable basis of participation.

I will tell you, as I have said, and then I will read some of it, the democratic process which treats candidates for public office on an equitable basis is being undermined by this upcoming legislation. Where in Canadian politics do you have a different set of rules applied to one candidate as opposed to another in the same election? Nowhere. At the provincial level, just because somebody gets eventually to be the Premier, you do not have a different set of rules for candidates running for Premier than you have for getting elected as a provincial MLA, nor do you have it at the federal level. You do not have party politics at the municipal level.

If you had party politics at the municipal level and you then had a mayor elected from the majority of City Council, which I have argued since Unicity of 1971, when I took it on with Ed Schreyer, then it is a different story. If you are going to have that kind of a political process, then maybe the legislative process might be different. But as long as you have individuals participating, the mayor has one vote, he or she is no more powerful, no more different, she is one individual and to set up a different criteria for the mayoralty campaign—as it is the City Council is unfair and inequitable and undemocratic.

The implication of that decision is to undermine democracy in the name of efficiency. Remember in the last mayoralty campaign you had 17 candidates for mayor and you had four candidates per ward on the average for City Council. It is going to come back to haunt. If you pass the legislation as is, I guarantee you, if the idea of efficiency is to get rid of so-called nuisance candidates, which I think is unfair in the first place,

but if it is, you are going to have every nuisance candidate running for City Council, because all they have to do is file their 25 signatures and file their papers without a fee and you will have only the ones who have money running for mayor. You are going to shift the whole process. You are going to have only four candidates for mayor and the next time you are going to have 12 to 15 candidates running in every ward for City Council in 1995. I guarantee you that.

I know some of the people who participated in the political process and that is what they are going to do. You have to shift to reverse. To me it is completely unjustified. It creates, as I said, a two-tiered system of inequality and switches the whole idea of fringe candidates to be eliminated from one area of politics into the other area.

The solution of course lies in leaving either the old provisions of The City of Winnipeg Act, take this whole clause, 89.2(4) and 89.2(5), out of this bill and simply say, both mayor and City Council should continue to operate on the same principles as before, 25 signatures, period. The same time period of campaigning as anything, because they are both going to be treated equally or if you really want to fundamentally, at least equalize the thing, if you believe that you have to have some form of reform and you have to have a mayor put a filing fee in it, then at least equalize it by having the same political process apply to city councillors. Then have a filing fee for city councillors and have either an increased number, the same amount or smaller amount, depending on what you think, for City Council. But as long as you have one for mayor and nothing for city councillors, except the old system, you are creating a discriminatory process of politics.

That is what I am trying to challenge you here, and I hope somebody takes this into account. Either equalize it by having City Council members who are running for City Council run under the same rules, or eliminate the mayoralty changes right now and let them leave it on as the old. I prefer the old system, of course, but if you have to, then equalize it.

Thank you very much.

* (1930)

Mr. Chairperson: Thank you very much, Mr. Ternette. Are there any questions of Mr. Ternette? Hearing no questions, thank you very much.

We will then call Mr. Jae Eadie, City of Winnipeg Councillor. Mr. Eadie, would you come forward, please. Have you a presentation to distribute?

Mr. Jae Eadie (Councillor, Deer Lodge Ward, City of Winnipeg): No, Mr. Chairperson, I do not have a written brief. I am going to make just a few points if I can.

Mr. Chairperson: Would you proceed, then?

Mr. Eadie: Thank you very much, Mr. Chairperson and members of the committee. I am here representing the Council of the City of Winnipeg this evening at this hearing at the Law Amendments committee, and I am going to be addressing my remarks to those amendments to The City of Winnipeg Act that are changing the election process.

As chairman of the ad hoc committee of executive committee who—

Point of Order

Mrs. Sharon Carstairs (River Heights): Did I understand Mr. Eadie say he is representing City Council and not as an individual councillor?

Mr. Eadie: Yes, I am representing the council, Mr. Chairperson, because I am only going to be addressing myself to the amendments to the act and the requests for changes that City Council adopted last October.

Mr. Chairperson: That is a point of clarification, not a point of order.

* * *

Mr. Eadie: If there are questions later that ask for my personal opinion, I will specify that, Mr. Chairperson, but I am simply addressing my remarks to the changes that City Council requested and those amendments in the act.

Mr. Chairperson: Would you proceed, please?

Mr. Eadie: First of all, I want to indicate, Mr. Chairperson and members of the committee, that

we are very grateful that these amendments to The City of Winnipeg Act have come forward at this time. We think they are very timely; we think they are substantive, and we also think that they will form a positive contribution to the fairness and the efficiency of the civic election process in Manitoba's capital city.

We realize that The Municipal Act is still under review, and there may be some changes forthcoming after that review that may affect us also with elections and with process, but these particular amendments which also, I believe, take some changes from The Local Authorities Election Act, as we say, are timely and, if adopted by the Legislature at this session, will certainly give us ample time between now and the next general election, October of 1995, to prepare for the changes that will take place, certainly on the part of our election officials, who have a great deal of work to do in the process of an election.

Generally, we are very pleased with what we see in Bill 17, Mr. Chairperson. I am going to refer to some specific sections, and I will outline them on the pages of the bill if you are following.

I first of all want to say the proposed amendment Section 6 (1) on page 2 extending the nomination period, we very much support that. We think that extra time in the course of filing nominations and campaigning will be of benefit to the electoral process. It is something that council asked for, and we are glad to see that there.

I move down to Section 6(3) also on page 2 of the bill, Nomination for mayor. Mr. Chairperson, we are in part in accord with the proposed change here. The bill suggests that any candidate who is seeking nomination for mayor should file nomination papers with a minimum of signatures of 250 electors. That is certainly what was requested by City Council after our review.

However, there is one change here in your amendment or in the bill from what we asked for. You have proposed accompanying that particular nomination paper with a deposit of $150. In our review, we looked at the system of deposits, but I know that generally speaking, across the country, financial deposits being filed at the same time as nomination papers has virtually been done away with in many jurisdictions. We proposed that a candidate for mayor in filing nomination papers containing a minimum of 250 signatures of qualified electors, should have to obtain, in that 250 signatures, a minimum of 25 signatures from electors in each of five different wards in the city of Winnipeg. The remainder of the 125 signatures would be from anywhere in the city.

We did that because we felt, Mr. Chairperson, that any serious candidate who is prepared to seek office as mayor of a city of 650,000 people should not find it very difficult, first of all, to find the signatures of 250 qualified electors and, second of all, to find at least 25 electors in each of five wards throughout the city who are prepared to sign that proposed candidate's nomination paper. We felt that that was certainly reflective of the seriousness of the candidate.

We supported this proposal over the suggestion of a deposit because we felt that obtaining 250 signatures with a minimum of 25 from each of five different wards would certainly show the seriousness of the candidate and would also make every candidate who wants to run for mayor get themselves around the city that they hope to govern some day and actually come face to face with electors all over the city that they hope to govern. So I would certainly like to see that request put back into the act or into this bill and would suggest that the requirement for a deposit of $150 be deleted. We think our proposal, indeed, shows seriousness and, indeed, makes every candidate who, as I said earlier, wants to seriously be mayor of this city get out into the city to come face to face with electors all over.

In addition, Mr. Chairperson, while I am talking about nomination papers, City Council did recommend that for candidates for City Council a candidate should have to file nomination papers with a minimum of 100 signatures of electors in the ward in which that candidate is running. Your amendments to the act have not made any change to the existing legislation, which requires a minimum of 25.

Again, we feel in a city of this size, of 650,000 people, in running election campaigns in the '90s, that it is not an undue burden on any serious candidate for City Council to find the signatures of 100 qualified electors in the ward in which they are intending to run.

I know provincially, I think you have to have a minimum of 100 or 150 signatures in constituencies that are a lot smaller than the City Council wards. I think federally you have to have a minimum of 200 signatures, and there has never been a shortage of candidates running in those particular elections. So we would certainly ask this committee to recommend that the request of City Council to have a minimum of 100 signatures on a City Council candidate's nomination papers be inserted into these amendments for the reasons I have just outlined.

In Section 7 of the bill, Mr. Chairperson, on page 2, we are very grateful that the act and the changes are recognizing the advances in computer technology with respect to the enumeration process. However, we have suggested in our requested amendments that in those circumstances where there is either a federal or a provincial general election that is held within six months of a City of Winnipeg general election that the returning officer for the city should be able to access the voters lists that have already been enumerated for the provincial and/or federal general election. There should be some allowance in either The City of Winnipeg Act, and we are dealing with that today, for the returning officer to have that authority.

In an example, if there was, say, a provincial election next June, a year from now, the civic elections will take place in October. It costs the city over $600,000 to do an enumeration. I do not think it would be necessary to spend that kind of money if within two or three or six months prior to our own general elections there has already been an enumeration for a general election, provincial or federal, and we could have access to that very recent enumeration or voters list.

* (1940)

We would ask you to have a look at that, allowing that kind of flexibility within a prescribed period of time for the City of Winnipeg returning officer to be able to access another government's voters list if in fact a federal or a provincial general election has been held within a six-month time frame prior to the municipal general elections. We would ask you to look at that. You have not really dealt with that in your amendments.

We are very happy with Section 8 on page 3. These amendments will provide greater flexibility for the advance polls. I do not know whether you are aware that under the present act there is very little flexibility for advance polls. Generally, the returning officer for the city can only conduct advance polls on the weekend prior to the Wednesday election day. These amendments will give the civic returning officer a lot more flexibility to have advance polls that truly are advance polls, not unlike the advance polls that are able to be arranged for in either provincial or federal general elections. So we are very grateful for that.

We also very much appreciate the changes to the act that are proposed in the same section which allow for the automated voting procedure, the computerized voting. I witnessed in November the Vancouver civic elections where there were over 100 candidates running for 29 different municipal seats at large. They used an electronic ballot. When the polls closed at eight o'clock, by quarter to nine almost everybody knew the results of the election.

In our system here, as has been earlier alluded to and as many people are aware, it sometimes takes till four or five o'clock in the morning to finish counting all of the separate ballots by hand. So we are very grateful for that, for the opportunity or the ability of City Council to adopt electronic voting if it chooses to purchase the apparatus.

We do support in Section 9 on page 4 the gist of your proposal to extend the campaign period. We had requested that the campaign period for candidates commence on January 1 and end on May 31 of the year following the election. It

basically conforms with the municipal election law now present in the Province of Ontario.

The bill extends the campaign period to March 31 of the year following the election, but the earlier commencement date of May 1 is only applicable to candidates running for mayor. You have not made any changes or recommended changes for candidates who are running for City Council, and we are not quite sure what the difference is there. There is still a requirement for fundraising and all of those other necessary things that any candidate for City Council has to indulge in in the course of a general election.

As I say, our preference was that all candidates running for mayor and for council should be able to fundraise and run a campaign beginning on January 1 of the election year. Our preference was that any fundraising end on May 31 the following year in order that after a campaign if there are debts that have to be paid, and many candidates experienced this after the 1992 general election, that it allows a little more time for the fundraising activities and what have you that go on in order to assist in paying off campaign debts.

As I say, we are looking at wards that number anywhere from 25 to 30,000 electors, and we think that the campaign period should be applicable to candidates both for mayor and for City Council. We do not see what the difference is and we do not think there should be any difference.

We agree under your amendment 10(2) on page 5. We concur with your requirements for filing audited statements, not only by candidates who are elected and/or defeated but by those candidates who were registered but who either did not proceed with nomination or withdrew their nominations prior to the election. We think that everybody should be filing.

Under Section 13(2) on page 6, entitled Failure to file, this particular amendment does not really adequately address the request by City Council for assigning a sufficient penalty for nonelected candidates. Under the legislation presently, an elected candidate who fails to file their audited financial statement by the date prescribed in the act has his or her seat on council forfeit.

There is no penalty of any sort applicable to a defeated candidate. Presently a defeated candidate can get away without filing their audited financial statement, and at the time of the next municipal general election or even a by-election, they can file their financial statement from the previous election at the same time as they are filing nomination papers to run in either a by-election or a general election and they are scot-free.

We have suggested that any candidate in a general election who does not file his or her audited financial statements within the required period of time should not be able to run for a municipal seat in any subsequent by-election during that particular term, or in the subsequent municipal general election.

There has to be some sort of a sufficient penalty to, first of all, discourage unelected candidates from filing their audited financial statements at the same time as those candidates who have been elected. Their financial statements should be subject to the same level of scrutiny as those who have been elected. The public should have the same three-year period of time to scrutinize those statements.

So we would ask that you consider adding that particular provision into this section of the act, just to repeat for emphasis, so that defeated candidates, if they do not file their audited financial statement within the required period of time, would be barred from being a candidate for City Council in either a subsequent by-election during that term or in the next general election three years hence.

In other words, they would be out of the game for probably a period of six years as a penalty for not filing their statement at the same time as elected candidates had to file. I do not think it is unfair, and we do not think it is unjust.

Points that were not covered in your amendments in front of you, Mr. Chairperson, on two occasions, in November of 1987 and again in February of 1991, City Council requested that the term of office be extended from a three-year period to a four-year period, not in the middle of a term obviously, but they would have to be at the time of a general election. We felt that a four-year period

of office is not untoward any longer in this day and age. It is the average term of office for members of any provincial Legislature across the country and for members of the Parliament of Canada.

The Province of Quebec and the Province of Newfoundland years ago adopted four-year terms of office for their municipal governments and that has not caused any problems in those jurisdictions.

We have, for a long time, been requesting that in any changes to The City of Winnipeg Act that a four-year term of office ought to be applicable to Winnipeg City Council or to any other municipal government in Manitoba if you want to expand it, but our council on two occasions has gone on record as supporting that particular change in the term of office, which obviously, as I said earlier, would have to be applicable at the time of a general election. You would not extend the term.

Two final quick points, you have recognized special blank ballots for early advanced polls. However, we would also suggest that you allow those same blank ballots to be used for hospital polls. As an example, in the last civic election, one of our DROs at a hospital site was required to transport 39 different ballots from room to room. We would ask that as you have now permitted in these amendments blank ballots to be used for advance polls, it would also be very helpful to have blank ballots used in the hospital polls to reduce the requirement to carry around all of these different ballots.

Finally, Mr. Chairperson, we have on a number of occasions, including last October, requested the province to allow for property tax credits for contributors to campaigns of registered candidates both for council and for mayor. We do not see those changes in the act.

The Province of Ontario has had that in their legislation now since 1988. They have described a formula in their legislation, and any municipal council in Ontario who wants to implement that during their election process has to pass an appropriate by-law. To date, the City of Toronto, the Municipality of Metro Toronto, the North York and the Toronto Boards of Education, and the Oakville hydroelectric commission have all adopted a property tax credit system for contributors to municipal campaigns.

We ask again that in these amendments you give Winnipeg City Council the authority with whatever guidelines you want to put in the law to enact a by-law, if it so chooses, to allow for tax credits for the contributors of campaigns.

We have constituencies now that are very, very huge. They are more than twice the size of many of the constituencies represented by members of the Legislature. The cost of campaigning does not get any cheaper, and it is, as you know, no matter what party you represent here, from your own personal fundraising and your party fundraising, that one of the incentives to get contributions from ordinary citizens is the tax credit incentive that you have written into your system. We ask for the same opportunity at the municipal level.

So with that, Mr. Chairperson, I have completed my basic remarks. If there are any questions, I will try to answer them to the best of my ability.

Mr. Chairperson: Thank you very much, Mr. Eadie. Madam Minister, your question.

* (1950)

Hon. Linda McIntosh (Minister of Urban Affairs): Thank you very much, Councillor Eadie. I just wanted to clarify something. It is not a question, it is a clarification. On the extra time allowed for the raising of campaign funds and so on, we have extended it for city councillors not at the beginning, but we have added from January till March at the end. I am not sure if you had picked that up, because you were referring to not having changed the time for councillors, but indeed we have because we have seen the difficulties, as councillors have, the bills coming in or candidates for council, and the 120 days did not seem to be sufficient.

So whereas it used to have to all be done by January, you now have till the end of March. So there is an extension of time. The mayorality candidates will have time added at the front and the end because they have so many more expenses and so many more people to cover. I was not sure if that had been made clear or not.

Mr. Eadie: I maybe did not make it clear in my remarks perhaps. We are aware that the end of the process has been extended. You are proposing March 31. I know we had asked for May 31. But at the beginning we really do not see the difference between a candidate for mayor and a candidate for council with respect to the need for fundraising and all of that sort of thing that goes into a municipal election. We have felt, in this case, that there really is no difference. We realize one is an at-large office. The other office is more restricted to a smaller geographical area. City Council is of the opinion of that at the beginning.

You must remember originally your legislation and our request was modelled on what existed in Ontario at the time. Ontario has changed their legislation to what our latest request was, and that was January 1 of the election year to May 31 of the subsequent year, because their experience in Ontario municipalities shows that kind of time was warranted and was probably adding to fairness for all candidates.

I reiterate that we would like to see both the beginning and the end of the campaign period the same for all. If March 31 is late into the year subsequent to the election that you are prepared to go, that is better than what we have today, but we think the beginning of the campaign for either office should begin—well, our preference is January 1, but certainly mayorality or council candidates should be treated equally.

Mr. Chairperson: Thank you.

Mr. Marcel Laurendeau (St. Norbert): Mr. Eadie, I noticed that you had some prepared notes. Would it be possible for us to get them? You went through a fairly large amount of items, and it would be much easier for us to assess it if we had a copy of it. We can photocopy it if you would like.

Mr. Eadie: These are actually just briefing notes for myself, Mr. Chairperson. I did not actually speak from them. They were sort of prompters. I wanted to refer to the specific sections that I was dealing with. I do not really have a prepared text. I prefer to rely on prompters. I have gone through this so many times now both at City Hall and here. Although it will appear in Hansard, I can certainly get you maybe an outline of even briefing notes if you like.

Mr. Chairperson: Thank you, Mr. Eadie.

Mrs. Carstairs: Councillor Eadie, you have posed a number of questions which in fact are appropriately asked to the minister, which I will do after the conclusion of the presentations tonight, but there are two areas that I would like to specifically ask you questions. One is on the voters list. I have long advocated a permanent voters list in the province of Manitoba which could be accessed by all levels of government. Is it your view that the City of Winnipeg would be prepared to help fund such a list as far as its own voters were concerned?

Mr. Eadie: Mr. Chairperson, I think we would be prepared to look at that. I think generally speaking, at City Hall and at City Council, we are supportive of the idea of a permanent voters list that can be used at three different orders of government for general elections. I think certainly the time has come in this country to utilize that system. Certainly, if there is a proposal in mind, we are prepared to look at it. I know, in our particular committee discussion, we certainly did discuss that. Obviously, I cannot commit my colleagues on council to funding anything, but I would certainly be prepared to take something back to City Council for consideration if there is a concrete proposal on the table to look at.

Mrs. Carstairs: You mentioned that you would like to have the term of office extended to four years, and you used as an example the Province of Manitoba and the Legislature. As you know, if one looks at past recent history in the province of Manitoba, we have been in elections more often than the city councillors have been in elections. Does this not fly in the face with a lot of debate and discussion by voters with respect to accountability? What I hear is that they want more accountability. They see their only form of accountability as the election process, and yet you are suggesting that we should put it off for another year. How does that jibe in your mind with what electors are saying?

Mr. Eadie: I do not think it in any way compromises accountability, Mr. Chairperson. We still have elections. Our elections are fixed dates by law. Everybody knows that every third year or every fourth year, as the case may be, people will go to the polls to elect a new municipal government.

It has been found in the provinces of Quebec and Newfoundland, where four-year terms for municipal government currently exist, that accountability has in no way been compromised. One of the things this does, Mr. Chairperson, it does spread out—we can amortize the cost of our elections over a little longer period of time. It costs us over a million dollars, in this city alone, to conduct a municipal general election. In the last general election, for the first time, we amortized those huge costs over the period of this coming three years. A four-year term allows those costs, which are not right now getting any less, to amortize those costs over a longer period of time. That in itself is a plus. We are still in a democracy; there will always be elections.

I am not sure, and maybe I am speaking personally here, I am not so sure the public wants elections so frequently as used to be the case prior to 1971, where we went to the polls every two years. Actually, we went to the polls every year because half the council was up one year and the mayor and the rest were up every other year. Election turnout got dismal because people got tired of elections, believe it or not. They were too frequent and really too time consuming. We are suggesting that when you look across Canada at provincial and federal governments, on average, a term of office—although parliamentary terms are allowed to go five years, on average, people go to the polls every fourth year or thereabouts. The public still gets served. They still have their accountability. In our case, we also spread the costs over a little bit longer period of time.

Mrs. Carstairs: You indicated that you wanted the campaign period to be compatible between councillors and the mayor and that you would like both of them extended. The reasoning seemed to be for the purposes of fundraising, which I can understand since, as a provincial politician, while we cannot raise money for our constituencies, our parties can raise money, and we have that access open to us, wide open all the time.

My concern, however, is, do you want to really extend the campaigning period, or do you want to extend the fundraising period, and do you see a differentiation there, because my sense of it is people also get campaigned out? You said they get electioned out, but they also get campaigned out, and if there was one time frame, it seems to me, where literature could be disseminated, ads could be taken and another period for fundraising activities, maybe this would meet the needs of councillors.

Mr. Eadie: Mr. Chairperson, I think the discussion around City Hall encompassed a bit of both of what Mrs. Carstairs was referring to in her question. Part of it certainly is a longer time to officially campaign as a registered candidate, even though you cannot file nomination papers until a month prior to the election.

* (2000)

The other part of this issue is, in fact, a longer period of time for fundraising ahead of the election day and, in case you run up debts or are not very frugal with your spending, a little bit more period of time after the election to try and do some fundraising to pay the debt.

So my answer, I guess, is yes to both part of your question. I am trying to reflect the debate and the discussion we had, both in the ad hoc committee and eventually at City Council. It was a bit of both. That was sort of the flavour that we got. I think even some of the public representation suggested that our present campaign period is rather restrictive.

I just want to re-emphasize, Mr. Chairperson, that it is important in our view that both mayoralty and council candidates be treated the same, no matter what you finally decide for an official campaign period.

Mrs. McIntosh: You had alluded to a couple of things, and I just wanted to ask if you felt there was any way around this, on the four-year term that you are suggesting. As you know, the City Council and the school boards, the municipalities are all geared

up for the three-year terms. Some of the rural municipalities are slightly different, but it has always looked to have the school boards and the city running concurrently, so that there is just one—when you go to the ballots for city councillor, you are also voting for your school trustees.

Do you see any difficulty or any special preparations that might need to be taken, if and when the time comes to move to four years, in moving one level prior to moving the other, or would you feel it would be better that, if such a move were to be undertaken, they happen simultaneously?

Mr. Eadie: Mr. Chairperson, I will reflect personally here. You know the official position of the city.

It probably, for the sake of efficiency, would be best to do it all at once. I remember in 1971 when we went from a two-year, every-other-year election, to a three-year. It was simply a decision made by the provincial government of the day. When they were actually bringing in The City of Winnipeg Act amendments, They also legislated throughout the province a three-year term of office for both school boards and municipal councils throughout the province.

Ideally, that is how certainly it could apply in the province of Manitoba today. You are presently doing a major review of The Municipal Act, and you have done many reviews of The City of Winnipeg Act, but I can only reiterate that Winnipeg City Council has taken the position, both in 1987 and 1991, that we would like to see a four-year term of office for municipal government officials. We will be happy to accept it, if you only want to apply it in the city of Winnipeg, but if you also want to take the step of applying it throughout the province of Manitoba, say, subsequent to the 1995 general elections, I will not complain.

Mrs. McIntosh: Thank you. I appreciate that, and I agree with you. I think if such a change is to be made at some point, it should be a simultaneous thing, where school boards and the city move simultaneously.

Are you aware that we are in the midst of a major review of school division boundaries right now that could affect where people would run or rerun or it could affect very dramatically how people are running in school board elections?

Mr. Eadie: Mr. Chairperson, I am aware of that. You say you have that review going on. You also have The Municipal Act which is long overdue. I think you are heading in the right direction.

Mrs. McIntosh: I will not take the time now. I am hoping you will be able to stay for the discussion. I am sorely desiring the ability to enter into conversation with you and provide all our rationale, but I realize this is for questioning and not doing that. I hope you will be able to stay while we have the debate.

I appreciate the points you have raised, Mr. Eadie. You have made some good points.

Mr. Chairperson: Thank you, Mr. Eadie, for your presentation.

I call next Mr. George Fraser, City of Winnipeg Councillor. Mr. Fraser, have you a presentation to distribute?

Mr. George Fraser (Councillor, St. Charles Ward, City of Winnipeg): No, I do not. I will be making some personal comments, not lengthy.

Mr. Chairperson: Would you proceed, please.

Mr. Fraser: Mr. Chairperson, first of all, I would like to take this opportunity certainly as a city councillor, as deputy mayor for the City of Winnipeg to thank the minister for the discussions we have had this year with respect to amendments to the act and also to take this opportunity to thank the staff who, on an ongoing basis, relate to our staff in the discussions that we have. Our City Clerk is with us today, Dorothy Brownton, and I know Dorothy has had direct contact with the members of staff in terms of working through the issues.

The first statement I would like to make is one of support in a couple of areas to the statements made by Councillor Eadie, who is representing our committee that dealt with the election changes. I want to point out that our council, our reduced council, the 15 members plus the mayor, spent a lot

of time dealing with this matter. We produced, I think, a lot of our own Hansard comments with respect to that. They are on file for anyone who might want to have a look at them.

The first thing that I would like to emphasize—and this is from a very personal standpoint—has to do with some of the comments of accountability that MLA Carstairs had raised. That is the issue that Councillor Eadie spoke to in the failure to file by candidates.

I think all of us are used to some political battles out in the field, and we know that citizens are looking for accountability. I just want to add my own personal background to this particular aspect of the changes that were requested by the City of Winnipeg in that there be a more significant penalty for those who do not file.

We had 10 individuals who did not file records for public scrutiny from the last election at the City of Winnipeg. I am going to give you some background information I think we can read into the Hansard of the Province of Manitoba, because this is available to the public to scrutinize at City Hall. The reason I do this is in the ward that I represent, every other candidate, for reasons unto themselves, did not file any information whatsoever, so there is nothing there available for public scrutiny.

In fact, my alumni colleague from the University of Winnipeg here who has spoke to you tonight, Mr. Ternette, also did not file. I feel very strongly about that, because we try in these institutions and these procedures to set up some high levels of accountability, at least reasonable levels of accountability. I think everyone should make an attempt to meet them. As Councillor Eadie said, if they do not, what is the penalty? While the proposal here represents some limited penalty, as Councillor Eadie said, you can quite simply go right up to the time of the next election, file and get into the fray again and then delay, if I can use the term delay, the introduction of your information. We had four candidates for mayor who also did not file, one of them a candidate who was one of the leading candidates in the election for mayor in that process, and that individual did not file.

I do not care, Mr. Chairperson, who it is, I think that the rule has to be tightened and there has to be some penalty with respect to that.

The other point that I would like to emphasize, Mr. Chairperson, is, I think it would be very important to have the campaign time, if I can use that term, for mayor and councillors to coincide. I think it would be very practical in the city of Winnipeg. I can see individuals who for purposes of name recognition or what have you will file for candidacy as mayor and then when that time frame elapses, as the unbalanced situation presented here plays itself out, will simply drop out and then file for councillor.

I think it would help the system, as Councillor Eadie said, if we had both together. I am just looking at the very practical side of it.

The other comments I wanted to make at this point, and one was of a technical nature that was not included in the amendments set before you for Bill 17 at this sitting. I simply would like to present it to the committee for their consideration. Section 28(2) of the act, which is under the mayor section, speaks to ex officio member of committees at the City of Winnipeg, and it says, the mayor is an ex officio member of each committee of council except community committees. The City of Winnipeg had proposed that the act be amended by adding the following words: the deputy mayor shall be the alternate ex officio member of committees of council in the absence of the mayor from the committee meeting.

* (2010)

The reason I want to raise this at this point, and I have talked to the minister about this, is—and this is not because I play the role of deputy mayor. I have talked to others who have played this role, but we have a very practical issue that we have to deal with at City Hall right now. We are reduced in numbers. We can argue that we have a very heavy workload from a legislative perspective, every day of the year, and the mayor of the City of Winnipeg also has certain responsibilities which can take that person from the city or take them to other duties.

We have found on occasion, particularly with some of the changes that were made with respect

to our appeal process that were made by the Province of Manitoba, that we often find ourselves with taxpayers in the room and we do not have a quorum. It is a very simple process then if the deputy mayor was allowed by way of the act to play that ex officio role when the mayor was absent for the deputy mayor to sit in and we do business and we get on with things, a very practical suggestion that we had made at that point. Perhaps in the discussions that we had we did not communicate that need as strongly as we should have. I accept that from that standpoint.

The last thing I would like to leave you with is a little bit of a teaser, and I know this sends administration scrambling, but I also know that sometimes committees might want to add a little special touch to the work they are doing. I throw this out for your consideration. Under Section 29(1) of the act there is reference to the make-up of Executive Policy Committee and subsection (c) says it shall include the chairpersons of the four standing committees. It also under 33(1) speaks about establishment of standing committees at City Hall, and it says, council shall by by-law establish four standing committees and set out their respective duties and powers.

All of you, I am certain, have read that at City Hall we are in a major reorganization, and that is on the administrative side first. We are in the process of implementing a new administrative structure which we are convinced, those of us who are at City Hall right now, will have a significant impact on the political structure.

The only thing I would suggest at this point is that perhaps, in this modern world we live in, we simply would have this committee, or if the government propose, they delete the word "for" in both instances. That is the reference to the make-up of Executive Policy Committee and the reference to standing committees so that we could establish standing committees such that we feel are important in number. I am speaking primarily of number that would serve our city and the citizens of our city.

I have a very personal view on this at this point. I do not think it is going to be handled in a reckless manner by the elected officials at City Hall, and I would point out that under federal legislation, when one looks at Part II of The Corporations Act, if you are looking at nonprofits, if you look here at the province of Manitoba and you are looking at major nonprofit organizations that operate under by-laws, generally speaking, or very specifically speaking, the legislative body has no major concern as to the numbers of standing committees that organization may establish.

I think it is recognized today that elected officials hold office in a very responsible manner. If they do something foolish, I am certain that the users of the system are the ones who are going to challenge those that set the by-law and that the amendments would be put in place.

I recognize too, Madam Minister, that we did not formally come forward with this when we were talking in terms of the deadline. But things are moving quickly at City Hall, and I would anticipate that some time this fall we may have agreement, perhaps unanimous agreement, as we did with our administrative structure, that a new political structure could come on line.

Indeed, that new political structure may in some respects be more effective and efficient and streamlined to the point where it may save the taxpayers of the City of Winnipeg some money, and it would allow us in particular—I mentioned our City Clerk is here who has the responsibility of staffing and supporting standing committees—it may allow that office to be more effective and efficient in the disposition of staff and resources from that standpoint.

I make no predictions, but I am saying the flexibility is there for an organization, now over 25 years of age, that I think it is at a point where it can handle that sufficiently.

Thank you, Mr. Chairperson.

Mr. Chairperson: Thank you, Mr. Fraser.

Mrs. McIntosh: I just have to say it is like old home week listening to you and Councillor Eadie. We go back to school board and City Council days as teammates, over a decade, and it is kind of nice to see you both here in this setting.

That aside, I am just looking at the current act, and I do not know if on one of your concerns this would address it or not. Maybe legal counsel could give me some advice on this.

In section 28(4), it says, in the absence of the mayor for any reason, the deputy mayor shall perform the duties and exercise the powers of the mayor.

I know you were concerned about 28(2), about being able to sit in as ex-official member to fill out a quorum specifically, especially if you have got a presentation.

I do not know if you have had any consultation on that, Councillor Fraser, or if legal counsel can advise if that would cover the concern you have raised.

Mr. Fraser: Our advice is that it does not cover it and that is the reason we were here. I was just again checking with our clerk.

Mrs. McIntosh: What you would like to see then is in order to cover that off and make absolutely sure that the deputy mayor could help fill a quorum in that kind of event, you would like to see an amendment to 28(2).

Mr. Fraser: Yes, 28(2), again, just adding the words: The deputy mayor in dealing specifically with the function of ex officio, be the alternate ex officio member of committees of council in the absence of the mayor from a committee meeting to make it very clear that role was acceptable.

Mr. Chairperson: What normally happens is when the Chair identifies the people who will speak, the person in back of me switches on your mike, and if your mike is not switched on, you are not going to get recorded. Sorry about that.

Mr. Fraser: No problem, sorry.

Mr. Chairperson: So I would ask you to wait for the Chair to recognize both the minister and Mr. Fraser.

* (2020)

Mrs. McIntosh: Mr. Chairperson, I think I understand what it is you are asking for there. You mentioned committees and the number of committees and the fact that you are restructuring and may wish to alter and not have four committees, maybe you would want three, maybe you would want five.

We had a concern that we did not want to see 18 or 19 different committees being struck becoming a real problem. If there was a rewording that would say no more than four committees or no more than five committees, would that give you flexibility from one to five within which to choose, like setting an upper range beyond which we do not want to see City Council go. Would that be helpful or would that not give you the flexibility you need?

Mr. Fraser: I recognize one area—I have had just a very brief discussion with the administration on this. There is one area where it could be abused and that is in the Executive Policy Committee area where the act calls for the chairpersons of the standing committees to be members of Executive Policy Committee. Indeed, if you had seven or eight or nine, if you approached majority of council on Executive Policy Committee from a parliamentary perspective, that is a definite no-no or if you exceeded it really is a no-no.

The point I am trying to make here is I think that the maturity at City Hall—much as levels of government have recognized in nonprofit corporate legislation—to allow those entities to establish their own by-laws and the numbers of standing committees and the terms of reference that they deem appropriate and that is my direct argument against setting a specific number of any sort because we are guided by our own rules and procedures. We are guided by Robert's Rules of Orders.

We have always referenced to parliamentary procedure and so all of those key elements that have evolved over time are things that I think we would necessarily honour. Again, I would say if we err, if we make a mistake, we, like you, are held very accountable from a public perspective. So we would simply want the privilege of establishing our own structure and dealing with it within the context of the other powers of The City of Winnipeg Act and perhaps the subsequent Municipal Act.

Mrs. McIntosh: Mr. Chairperson, you do have the ability to set ad hoc committees at the present time in unlimited number, but it is the standing committee specifically that you are concerned with.

Mr. Fraser: Yes, Madam Minister, and we will have lengthy debate, I am sure, amongst those that are members of council at this point as to how we divide those responsibilities.

I cannot predict, and I am sure Councillor Eadie cannot predict, exactly what will happen, and this would give us great flexibility. It would allow us to move forward in a quick and efficient manner to respond to the needs of this corporation, this billion-dollar corporation, for which we have responsibility.

Mrs. McIntosh: Just one last question, Councillor Fraser. You indicated at the beginning of your remarks that you felt there should be a harsher penalty for failure to file by candidates. I am just wondering if you would be good enough to indicate what you think that harsher penalty should be.

Mr. Fraser: Madam Minister, I support Councillor Eadie's position. Primarily I think that, if you are not prepared to file within a given period of time, you have forfeited the privilege of running the next time. That is my bottom line.

Mr. Chairperson: Any further questions? If not, thank you, Mr. Fraser.

Mr. Fraser: Thank you.

Mr. Chairperson: I call next Mr. Terry Duguid, City of Winnipeg Councillor. He is not here.

Shirley Lord, Choices. Ms. Lord, would you please come forward. You have a written presentation to distribute? Thank you very much, Ms. Lord. You may proceed.

Ms. Shirley Lord (Choices): I welcome the opportunity to appear tonight on behalf of Choices: A Coalition for Social Justice in Winnipeg.

Well over half the population of this province lives in the city of Winnipeg. They think it is incumbent upon us to focus a significant part of our energy on what happens in this city in terms of the health of the whole province.

I would like to say that I am really disappointed in terms of what is not being dealt with in these amendments to The City of Winnipeg Act. Over the past number of years, our coalition has dealt with building alternative budgets around The City of Winnipeg Act, and talked about a number of issues that are of concern to our membership in terms of building a healthy city.

I think there is no doubt that our city is in a financial crisis. The number of children living in poverty is the highest in the country. We have a deteriorating infrastructure. The loss of jobs and services continues, and there is a significantly unfair burden of providing the costs of civic services on taxpayers.

Some of these problems are the result of the current and past councils and the decisions they have made, but many of these problems can be laid at the steps of the Legislature. We believe this government should look at the proposals, or lack of proposals, in Bill 17, The City of Winnipeg Act, to deal with the present circumstances and realize that there should be significant amendments to the act in order to get the city out of its current financial situation.

I am just going to give you a bit of some of the problems that we have identified.

Overall provincial grants to the city, excluding welfare, have been reduced to the point where they represent only 11 percent of the total current budget, as opposed to 14 percent in 1984.

Last year your government increased property taxes on all homeowners by a minimum of $75 by reducing the general property tax credit. Some seniors were hit even harder through reductions in the school property tax credit.

Provincial underfunding of the public school system has pushed up school taxes and increased pressure on the city which receives the lion's share of public wrath over all property tax increases. This includes school taxes which have risen far more rapidly than city taxes in the last decade.

Furthermore, the city is forced to collect the special education levy. This is the only province that municipalities collect a property tax for

provincial government operations. Last year this amounted to $73 million for the provincial purse.

The provincially legislated single flat tax rate for businesses resulted in hundreds of thousands of dollars in savings to big business, banks and insurance companies and forced small business to pay more. Together with the city's own decision to freeze business taxes for a 15-year period in the 1970s and 1980s, this has resulted in a business tax revenue falling from 10 percent to about 6.5 percent of the city's total current operating budget.

The city-provincial agreement to assume the Jets' liabilities has forced our city to choose between local community services and meeting that debt commitment. The welfare caseload keeps increasing.

As these problems escalate, the city is denied the ability to raise new revenues that more fairly reflect who should be responsible. I would like to address some of the amendments that we would have liked to have seen in this legislative session, or alternative revenue sources, that a gasoline tax of 2 cents per litre be introduced and transferred to all municipalities for infrastructure renewal, that the property tax credit reduction should be reinstated and indexed over the next number of years to the cost of living.

* (2030)

Education taxes should be removed from the property tax credit system and funded through general income taxes. Again, the special education levy should be removed immediately from property taxes, and the city should be given the flexibility it needs to set its own business tax rates.

While we believe it is important for social services to be delivered at the local level, we think that they should be funded from income taxes rather than property taxes, and it is critical that this act be amended to allow the city to raise its own revenue options. They will rise or fall on the decisions they make, and as well, we believe that a larger share of income taxes should go towards the city's operations. This is not to be a huge tax grab for the City of Winnipeg; it is to eliminate the unfair system of property taxes for operating our city.

I would like to just touch on a few of the electoral reform issues that were not dealt with in the bill. There are no major concerns in terms of the amendments that are being proposed. In fact some of them, we agree, make the system fairer and ensure more ability to participate in the process.

We do think that all public, all campaign contributions, though, should be accounted for. At present the level is $250. At the provincial level you have to account for all the money you raise. At the federal level you have to account for all the money you raise. We believe that public accountability, and I know councillors before me were speaking about public accountability and the filing of their revenue and expenditures during a campaign period. If we are going to really be accountable we have to account for every cent we raise.

I think we also need to look at a mechanism at the civic level for registering municipal parties. While over the years many people have run as independents, many people have run both publicly or informally as parts of political machinery, and I think we should establish a mechanism to recognize those groups that are prepared to stand up and say, this is what I stand for at the city level.

Again, the tax credit for political contributions, as raised by the councillors before me, I think it is long overdue at the civic level. We think there needs to be more mechanisms in terms of the ensurement of the full participation in the political process, that we need to ensure that advanced polls are more than selectively open until nine o'clock at night, that they should be open more frequently and for longer hours and not just one or two. I think the final and critical point is that we need an independent body to review challenges to any of the election by-laws. If there is any suggestion of any infringement on those, it should be in the hands of the Ombudsman or some other impartial body. Thank you very much.

Mr. Chairperson: Thank you very much, Ms. Lord.

Mrs. McIntosh: Thank you very much for your presentation. I think what you have here is pretty

clear, and it does not require a lot of further clarification. Just one thing I wanted to mention to you in terms of point 1 on electoral reform. If I am not mistaken, and I am just going to check and ask staff to confirm that I have understood this correctly, I think the contribution level of the $250 is set by the city. It is a city-determined thing. Are you asking that we step in and take that authority from them and set the limit?

Ms. Lord: I think that the act should be made consistent with what happens at the provincial legislative level, and it has to be stipulated that all contributions have to be publicly accounted for, whoever does it. You set many regulations about how The Elections Act functions and set campaign periods and whatever, and I do not think it is inconsistent to set the level of public accountability on how they raise the money.

Mrs. McIntosh: Okay, I think I am understanding you here. You are saying that any contribution, even $5 or something, should be recorded, instead of a $250 minimum or above the $250. We have given the autonomy to the city to set a by-law to determine that amount. You are asking then that the Legislative Assembly make it provincial law that they have to reveal all contributions whatever the size.

Ms. Lord: Yes, I am.

Mrs. McIntosh: I just want to be clear on that.

Mr. Gord Mackintosh (St. Johns): I thank Ms. Lord for the presentation. I think these are critical issues, and I think the paper outlines in a succinct manner how many of the real problems that we have in the city can be addressed.

I am just wondering, Ms. Lord, if the ideas that are set out in this paper have been brought to the provincial government by city councillors at any time that you are aware of. Certainly, the amendments before the committee, I understand, did come from city councillors.

Ms. Lord: I am not familiar with all the presentations that councillors would make to the minister.

Mrs. Carstairs: Ms. Lord, I just want to deal with the $250 limit for a minute.

The provincial Elections Act provides for the disclosure of the amounts, but the names are only disclosed for those individuals who give $250 or more. In your view, how is that different from what the City of Winnipeg is doing?

Ms. Lord: Our group believes that all monies received should be accounted for publicly, and when you file audited statements, it is my understanding at the provincial level you account for every cent that is raised and how it is raised.

Mrs. Carstairs: I do not want to engage in debate, because this is not appropriate, but when I file my return as an MLA I only list donors who have contributed over $250. I then list the amount of all other donations that I have received, but I do not list the names. Can you tell me how that differs from the City of Winnipeg right now, because I thought that theirs was identical to the way we did it?

Ms. Lord: If that is the way the provincial act is written, then I guess the position is, whether it is different or not, all donations should be publicly accounted for.

Mr. Chairperson: Thank you, Ms. Lord. Are there any further questions? If not, thank you very much for your presentation.

I call next Mr. George Stewart, Winnipeg in the Nineties organization. Is Mr. Stewart here?

Ms. Lord: He is at the Winnipeg—

An Honourable Member: WDA?

Ms. Lord: Yes, the WDA. There are two meetings. He left his copies. Can I just leave that for the record?

Mr. Chairperson: By all means. If you will bring it forward, we will table it and it will be recorded in Hansard.

I call then Mr. George Harris, Private Citizen. Have you a written presentation for distribution?

Mr. George Harris (Private Citizen): There is no written presentation. I just have some prompting notes.

Mr. Chairperson: Thank you. You may proceed.

Mr. Harris: I guess, when I looked at this bill, my first reaction was one of anger. It was because I did

not see anything in it that was dealing with the most critical problems within the city today. It seemed to me there was a government that was avoiding dealing with anything which was thorny.

* (2040)

This evening I have been disappointed with the presentations of councillors. I wonder why we are not addressing the most critical problems. Maybe it is because there is a difference that councillors and the government of today do not believe that there is a crisis in the city.

There is a financial crisis. Yet, as we hear at the federal level, as we hear at the provincial level, so we hear at the city level that it is an expenditure problem and not a revenue problem. I beg to differ with that.

I do ask the question why the province has failed to address this, take this opportunity of this bill to have been able to work out with the city some significant number of measures that will deal with the revenue problem of the city.

Next year we will be having a horrendous budget. Maybe it has not been dealt with because the councillors and the government of the day will not have to feel the bite. It is going to be people on the street. It is going to be people who have little to give. Maybe it is because it is a lame-duck government we have. Is it afraid to do anything that is going to enrage the wealthy and corporate backers? There is an election next year, and that backing is certainly going to be needed. Or is this just a typical response of a government that prides itself, and I must say incorrectly, on its ability to do nothing? It has not done anything to change the tax structures in this province for the wealthy. It has certainly done plenty to destroy what little the relatively poor people have in this province.

I would like to see this government and the city councillors sit down and commit the same amount of time and energy to the problem that they have invested so far in trying to save the Winnipeg Jets. The Winnipeg Jets are a bunch of people who are making huge amounts of money, and Barry Shenkarow is not poor. Yet we spend mega-amounts of time trying to save them.

What about all the people who are out there who are not employed, all those people who are out there on our social welfare rolls?

There is a revenue problem in the city. What the city is going to have to do next year is going to have to do certain things because they do not have the flexibility to raise new revenue, but maybe this is too much to ask. One option—and I certainly do not pretend to know all the options. I just want the energy that has been devoted to saving the Winnipeg Jets to be used, that same level of energy, to address the critical revenue problem that the city is facing. A suggestion that is sometimes floated around is a gasoline tax. It seems to be something that would be appropriate from an environmental point of view.

The province does not seem to have any problem when the private-sector business levies the tax. Before the long weekends this year, 2 cents a litre has gone on, and that tax has gone into corporate coffers. That by the way is also known as gouging.

Just to finish up, I guess our government here feels that the status quo is fine. Well, it is certainly fine for the corporate backers, the wealthy backers of the government of the day, it is not fine for the poor people of this province. So Bill 17 has turned out to be a housekeeping bill. There is really nothing important to do about the problem in Winnipeg. There is nothing that we can do, so we do some housekeeping and nothing more.

Finally, I just want to reiterate the bill fails to address the most important problems that the city is facing. I think the way I would like to describe it is that it is fiddling while the city burns. Thank you.

Mr. Chairperson: Thank you very much, Mr. Harris, for your presentation. Are there any questions? Seeing none, I thank you again for coming.

I call next Mr. John Prystanski, City of Winnipeg Councillor. Mr. Prystanski, have you a written presentation for distribution?

Mr. John Prystanski (Councillor, Point Douglas Ward, City of Winnipeg): Unfortunately, Mr. Chairperson, it is my first time

appearing before a legislative committee so I was unaware of the requirements. Rest assured next time I appear, I will have notes.

Mr. Chairperson: Welcome here. You may proceed.

Mr. Laurendeau: Johnny never makes the same mistake twice.

Mr. Prystanski: Thank you, Mr. Laurendeau.

I am here today to speak on behalf of the by-law re home renovations for a tax credit program, the amendments to The City of Winnipeg Act, 138.1(1) and 138.1(2).

I am here today to speak in favour of the amendments or the changes to The City of Winnipeg Act as put forward by the government. It seems to me to be a very worthwhile proposal, and it is something that the citizens of Winnipeg are looking forward to in a very cash-effective way.

Tonight when we were discussing the tax breaks for the home renovation program, I believe it is good for Winnipeg, and I believe what is good for Winnipeg to a large degree is good for Manitoba, as a city councillor. One, we are looking at giving economic incentives to homeowners who would not normally be eligible for a grant-type program. We are allowing the individual homeowners not to come to government for grants but rather to invest their own hard-earned dollars into their home, and when they make their investments out of their earned wages they have more respect for their property, and of course they have at the same time more respect for the neighbourhoods in which they live. What is good for one home, and as many neighbours or homeowners invest in their community, it thus becomes good for the community and neighbourhood as a whole.

As we have heard previous delegations tonight, we are looking at changing the way governments do financing of various programs, and here tonight the proposal in front of us is not one to increase grants, but rather it is one in which individual homeowners afford their own dollars and put forward to make their own investment. Rather government is recognizing their investments and supporting them through positive noteworthy policies.

We are letting the people who pay benefit from the program that they are participating in. It is no longer somebody else paying the bill for them to benefit; those who participate in the tax breaks for home renovations program see the benefit in a cash-effective way, that being on their tax bill when they see it, tax breaks for home renovations.

The people who will benefit will be the middle-income owners to a large degree, as Winnipeg is made up of, to a large part, those who we consider middle income by class. Certainly, there will be those of other income classes who will benefit, but the mass population being those of approximately $30,000-to-$60,000 wage earners will be the beneficiaries of this particular program, as they are one who comprise the mass majority of this city of Winnipeg homes.

Having spoken and just briefly touched on rejuvenation of neighbourhoods, people benefit with better housing, and better housing means better neighbourhoods, and better neighbourhoods means safer neighbourhoods. Safer neighbourhoods are places where families can raise their children, and as we know, the core area of Winnipeg is facing some dramatic issues that are going to have to be addressed. If we can help stabilize the inner city of Winnipeg through positive programs such as allowing the homeowners to invest the hard-earned dollars into programs that will benefit them directly, they will take ownership of their neighbourhood, and they will be more willing to participate as they invest $20,000, $30,000, into a home. They are going to get more active in the community and, of course, they are going to know what is going on in the community and will not close their doors to outside influences. Rather, they will take a positive approach and get involved.

Finally, committee members, there will be a long-term stability created by the tax breaks for the Home Renovation Program. Again, we are not affording a particular government program to fund a particular two-year program. Rather, we are looking at allowing individuals to create their own

wealth through real, hard-earned growth and development. It is not something that we are creating a jobs fund to just support the economy for six months or a year. Rather, we are creating wealth for what I would like to consider an infinite period of time in Winnipeg's future.

* (2050)

Having said that, I would be happy to answer any questions the committee may be worthy to ask.

Mr. Chairperson: Thank you very much for your presentation, Mr. Prystanski.

Mrs. McIntosh: Did you see the pictures of digging in the garden?

Mr. Prystanski: Yes, I did.

Mrs. McIntosh: Okay. That has nothing to do with the bill, though.

I just wanted to ask, councillor, if the concerns raised by the previous two councillors—I appreciate your comments, by the way, on the Home Renovation—the comments that were raised by the other two councillors, one, Councillor Eadie, of course, speaking on council's position, but Councillor Fraser also raised some points. Did you concur with those? Did they fit with concerns you have noticed?

Mr. Prystanski: For the most part, I would generally concur. Some of the differences I have would be with in terms of the campaign period and with in specifically terms of fundraising.

I do not believe that we should be limited to a set period of time. Rather, I would like to see fundraising throughout the term of office, similar to what political parties have or other individuals. It allows us as a councillor to concentrate on our jobs as city councillors throughout the complete term of council, as opposed to putting special emphasis on campaign issues just prior to a campaign being 120 days. If you can space it out through the period of time, I believe it is a more stable government.

Mrs. McIntosh: You would then, councillor, support a longer time for councillors. We have added some at the end to continue fundraising to pay off bills. We have not added any at the beginning. I imagine adding some would be to your liking, but you would prefer to see that period done away with completely and just being able to raise funds at any time that you feel necessary.

Mr. Prystanski: I am a proponent of year-round fundraising for the reasons mentioned earlier. Certainly any opportunity those would have to retire an election debt would be of benefit for either a candidate or an elected official.

Mrs. McIntosh: Thank you. It is good to see you again.

Mr. Chairperson: Are there any further questions? Thank you very much for your presentation, Mr. Prystanski.

I call next Mr. Glen Murray. Is Mr. Murray here? Mr. Murray is not here. That concludes then the presentations.

We will now consider Bill 17. Does the minister have an opening statement?

Mrs. McIntosh: Mr. Chairperson, just a few brief comments. I would first of all like to thank all of the presenters for the perspectives they brought forward. Certainly, they have thought hard and long about the bill that is before us and about their views as to what they feel should happen. Some of the issues that were raised, I believe, are worthy of consideration and may, in a subsequent session, be seen appearing. I cannot speak for certain to that, because, of course, it would take more minds to agree on it than simply mine alone. But there is food for thought there that might be explored in dialogue later on, although I think some of these requests involve more research than we would be able to do for this evening.

I do have some responses to some of the comments that were made by the presenters, but I think maybe I will just wait until those items come up in the course of the bill rather than go into a big long speech about it here. So as those items come up, I will respond with rationale for our position that may help the presenters understand why we are doing it. I will also indicate those that we are prepared to look at for future consideration that did not seem timely for this particular session.

Having said that, I would like to thank all of those councillors who sent in suggested

amendments prior to us putting the bill together. Some came in late and will be considered for another session, at least City Council has had a reply to that effect that certain of their amendments will be considered for next session and not this one. I look forward to my colleagues' comments and the debate on the bill.

Mr. Chairperson: Thank you very much. Would the critic for the official opposition have an opening statement? No? The critic for the second opposition, Mrs. Carstairs.

Mrs. Carstairs: Mr. Chairperson, I do have a number of comments. I would prefer, quite frankly, if the minister would address some of those issues before we get into clause by clause. I think it is much clearer that way.

My concerns revolve around why the proposals of the city seem to have been rejected. This seems to be their bill. They seem to be the originators of the bill. I have long felt that we are too invasive into the operations of the City of Winnipeg. I think they are all mature politicians and can govern themselves. I do not know why we as provincial legislators feel we have to interfere in practically everything they do.

I am very much opposed, I must say, to the payment of a deposit. It is not required of any provincial politician. I do not know why it is required of any city politician. I think the signatures are a good idea. I happen to agree with the councillors that it should be spread over the entire city, that if this is a mayor who purports to represent the city, then presumably if they are a serious candidate, they should be able to get electors from across the city to sign those nomination papers.

City Council is still limited to 25. Each MLA which represents half that area is required to get 100. I do not understand why we did not give them what they wanted there. I do not know why we have not extended the campaign period. As I said in one of my remarks, we as provincial politicians literally have unlimited campaign periods for fundraising purposes because our parties can raise money, even though we may not as an individual candidate raise that money, but the party has the ability to transfer that money to the candidate at any time they choose to transfer even when it is not in the writ period.

So if the minister could address some of those things, some of the easy things like a blank ballot for a hospital poll, I do not know why we have not done that and why we could not introduce a simple amendment now to ensure that it is in place for the '95 election campaign, because it is possible—not perhaps probable—but it is possible that this Legislature will not sit in time to make that amendment for '95. I would also like to see the province move on property tax credits. I think it is unfair that provincial and federal politicians can get tax credits and civic politicians cannot get tax credits..

* (2100)

As far as Councillor Fraser's suggestion that we delete the number four, I think standing committees, quite frankly, are totally within the purview of the City of Winnipeg, and why could we not just delete the number and let them form as many standing committees as they want? It is their government. Let us start treating them like adults and stop treating them like children.

Mrs. McIntosh: Yes, I would like to thank Mrs. Carstairs for her comments, and I would be pleased to present that rationale. I just did not want to be taking up all of the time, but I would be happy to address them. I like what she had to say about the city being independent and all of those comments. They are very, very appropriate, and I appreciate them.

I should indicate on some of the things, like the blank ballot for hospitals and a number of items of that nature, that the act that governs municipal elections is being examined, and some of those features are ones that will be looked at by the Minister of Rural Development (Mr. Derkach).

It was felt that because some of these things would be applicable to all municipalities and not just one, they would be brought in—if they are going to be brought in. I should not preempt what people are deciding, but they are being looked at for all municipalities.

That is not to preclude us from doing anything here and now, but it was just felt for tidiness that some of those issues should be dealt with. One authority would set a rule for all municipalities simultaneously, similarly with moving three to four years.

For the sake of the voters, having the City of Winnipeg and school board elections at the same time has proven to be very efficient in terms of cost and also very clear and plain for the voters. You tend to get more voters out under that circumstance.

Since the school divisions are undergoing a very intensive school boundaries review right now, their make-up may be quite altered. People may be running in areas they were not running in before, should boundaries change.

So for those reasons, it was felt that that issue should be set aside for the time being. It is not to say we are adverse to it; it just seems there are other factors that make it an awkward and untimely thing to be seriously considering for this particular session.

We also know, of course, the civic election is not until October 1995. The property tax credits, the request that was put to us by the city was that people on their property tax be given a credit if they have donated to municipal campaign. That concept is not a bad concept, but the specific request the councillors were asking for is one that does not provide for equity since only those who own property would be eligible for the credit. Since half of the citizens in this city are renters, it would not have enabled them to be the recipient of the same kind of credit that those who were wealthy enough to own property would be able to avail themselves of.

Now, there may be other models, and one of the councillors here tonight referred to what Ontario is doing. There may be models other than what they asked for, and certainly we are willing to explore those, but for this go-around, what they asked for was not deemed to be equitable and in fact maybe was not even constitutional. So it was set aside, and we are quite happy to explore discussions with city people or municipal people as to what is possible to address what I think is their intent versus what they actually asked for.

There was a tremendous amount going on with things happening in the city, the two tripartite agreements and so on, that we did not feel there was enough time to start getting into that issue with them, when we had difficulty getting through the agenda items we had already struck, but those are some of the reasons for that.

I agree with you on the number of committees. It has always been there, but maybe it need not be there. I mean, you have raised some valid points about them being grown up and maybe able to make their own decisions on a lot of these things, so I do not know if I have addressed all of these or not.

Mrs. Carstairs: Well, perhaps the minister could address the specific issue of why we have a deposit in this bill.

Mrs. McIntosh: The deposit was suggested just simply because other places have them as an indication that this is not a frivolous candidate. In Edmonton, for example, there is a $500 deposit. Some places have really quite large deposits that they ask for. The money is returned, of course, if they have a certain percentage of the vote. In this case, a small percentage of 5 percent. I think it is to discourage frivolous or mischievous candidates from disrupting the process.

I can remember the first time I went to vote for a school trustee, there were 36 names on the ballot. It was terribly confusing. There were some names, you know, that were similar. A couple of Macs. I look at the member for St. Johns (Mr. Mackintosh), both of us being McIntoshes, but there was a McKenzie and a McIntyre and a MacDonald or something. I mean there were 36 of them. It was almost impossible to get through that list.

Some of them had just run for frivolous reasons, not seriously caring if they were considered with virtually—you know, it has been known that there have been candidates who have received a single-digit number. They have no support. I am not saying it is undemocratic to have everybody. It is the ultimate democracy to have everybody and his

dog running for levels of government, but when the voters become confused, and when election campaigns are disrupted for frivolous reasons, then that, I think, can actually interfere with democratic process.

So the deposit was to discourage frivolity, and it is not uncommon. We had in our last election 17 candidates; four of them received 97 percent of the vote. Now I am not saying voter support is necessarily an indication, but I think those who run to disrupt, rather than to seriously get elected, should be made to put their money where their mouth is, so to speak; they have it returned if they are serious and do get some support.

An Honourable Member: I hope the dogs are on his lawn if they are not yellow dogs.

Mrs. McIntosh: This is true.

Mrs. Carstairs: Well, I hear what the minister is saying, but if she was concerned about frivolity, then why did she not accept the city councillor's move from 25 signatures to 100? She left the 25 where it was, and then threw in a deposit for the mayor, although you increased it to 250.

I just, quite frankly, do not see the consistency of the department here. I agree with increasing the number of signatures. I think that does indeed ensure that you have serious candidates, particularly if they have to be from a variety of places and wards in the City of Winnipeg.

To me, paying a deposit smacks of elitism; asking somebody to get a nomination paper signed says, I am a serious candidate.

Mrs. McIntosh: The department in advising on the history of the elections was bringing forth information that indicated that the councillor positions had not had any imbalance, or not any particular imbalance in terms of the history, in terms of the frivolity or the taking it lightly and not being serious about wanting to be elected, to the same degree that the mayoralty contest had shown. So I think that it was felt that there maybe was not any particular need from the voters' perspective or from confusion or distress caused the voters to address the councillor situation, except to perhaps give them a little bit more time at the end to pay their bills. Whereas the concern expressed by voters about the mayoralty race was a different concern expressed historically.

I do not know if that is an answer that satisfies the member, but it is rationale that was put forward at the time.

Mrs. Carstairs: I do not agree with everything Mr. Ternette said. One thing that he said I think is quite correct. What you have done now is to make it more difficult to run for mayor, and I support that. But you have not made it more difficult to run as a councillor.

* (2110)

If you had fringe candidates running for mayor, then these so-called fringe candidates are now, it seems to me, because there has been no change in City Council, going to turn around and run for City Council. Whereas if you had accepted the recommendation of council, you would have increased the number of signatures required for both, and that would have, it seemed to me, brought some balance.

Mr. Mackintosh: I am just wondering if the minister would reconsider the deposit. I do not know how we as members in good conscience can put a financial barrier in front of people who are seeking public office.

I certainly would support the signatures. That indicates support of political ideas. When one is suppressing ideas or the expression of them by a financial barrier, I think this is entirely inappropriate. What this also does is it opens a door. It is 150 now. It is so easy to come in in later years and increase that and increase that and increase that.

I think the argument that this is being done elsewhere is not a good one. This is Manitoba. This is the City of Winnipeg. We have in the City of Winnipeg—we talk about it so often—the highest poverty rate in Canada. Those people should be encouraged to run for mayor and express what it is like living in poverty. We should not be saying, you put up some bucks and then you can talk.

Mrs. McIntosh: I would like to thank the member for St. Johns for his comments. I would also like to indicate, I appreciate what he said and the rationale

behind it. We can discuss this when we start going through the bill clause by clause—what amendments might come forward.

Just in defence of poor people running, it is for those who have support. If you are running for mayor and have to get 250 signatures and the people really are supporting you and you are a good candidate, it is not impossible I think to ask for 50 cents, if you are on a fundraising campaign, from each of those people who signed. I know that is asking for a donation, but in fundraising for a campaign you would need to raise money as the campaign goes on. Particularly if you are poor or hard up you will need to rely upon donated monies. It seems to me it would be a pretty good indication of faith in the candidate if all those who signed were able to put up 50 cents to support the candidate to cover the deposit.

I am not saying that is the best and most recommended way to get a deposit. I am just saying that if I had a candidate I really believed in and they were poor and needed the money, I think I could come up with that amount or more if I had it to support getting that person at least into the race if not into the seat.

Perhaps we could discuss that during through—I imagine that you may be coming forward with an amendment from the way you are talking and we can debate it further. I appreciate the point you have raised there though.

Mr. Chairperson: Thank you very much. Are there any further discussions on the bill? If not, are we ready to consider the bill? How do you wish to consider the bill, page by page or—

An Honourable Member: Page by page.

Mr. Chairperson: Page by page. We are considering then Bill 17, The City of Winnipeg Amendment and Consequential Amendments Act. Page 1, Clauses 1 to 5.

Mrs. McIntosh: Mr. Chairperson, we will be asking to put in an amendment in Section 2 right after No. 2 and we are just asking—

Mr. Chairperson: We will deal then with Clause 1. Clause 1—pass.

Clause 2—would the committee agree to standing that clause aside and we will deal with that as soon as the amendments that are being proposed, brought forward, are printed? Are we agreed to that?

I understand that we can pass Clause 2. There will not be an amendment to Clause 2, except there will be an addition to Clause 2 of 2.1 and 2.2. So we can pass that and include the insert later on. Is that agreed? Agreed. Thank you.

Clause 2—pass; Clause 3—pass; Clause 4—pass; Clause 5—pass. Are there any amendments being proposed on the next page? If not, shall Clauses 6 to 7 pass?

Mrs. Carstairs: Provided we register in the proceedings the Liberal Party's objection to the deposit of $150.

Mr. Chairperson: That is recorded.

Mr. Mackintosh: I, again, reiterate our opposition to this aspect of the bill and would ask the minister, in all good conscience, if she would review this between now and third reading and reconsider the position of the province on this one. I think this is a dangerous direction to be going in at this point in our history.

I commend the reading of John Kenneth Galbraith to the minister on the disenfranchisement, the underclass, that is being created on our continent and the efforts that are necessary to ensure that people who do not have wealth are able to express what it is like and to try and make change and we should all we can to encourage them. Thank you.

Mr. Chairperson: Thank you very much. The minister has asked whether we could, with the consent of the committee, have a five-minute recess. Is that agreeable? Agreed. The committee will then recess for five minutes. We will return at 9:21.

The committee recessed at 9:17 p.m.

After Recess

The committee resumed at 9:25 p.m.

Mr. Chairperson: I am going to ask the committee to come to order as soon as the minister

or the staff have drafted an amendment—as soon as it is ready. So we might take a few more minutes.

* (2130)

Can we bring the committee back to order. Order, please. I have been advised that technically the minister's amendment—well, I am going to let the minister propose an amendment first. Then I am going to read what I have been asked to read.

Mrs. McIntosh: These are the changes that we are asking to have inserted after Section 2, and we had asked to have two concepts inserted after 2, and I will just say what they are because I do not know if you can understand it from the reading of it. That is to address that they can have no more than four committees, as opposed to having to have four committees, and the other would be to allow the deputy mayor the opportunity to be able to constitute a quorum where needed if he is standing in for the mayor who is ex officio on committees. They read this way:

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

2.1 The following is added after section 15:

Quorum of committee
15(3) A by-law under subsection (2) may provide that an ex officio member of a committee may be counted for the purpose of constituting a quorum.

2.2(1) Subsection 28(3) is amended by striking out "four".

2.2(2) Subsection 28(4) is amended by adding "including exercising the right of the mayor under subsection (2)" at the end.

2.2(3) Subsection 28(5) is amended by adding "including exercising the right of the mayor under subsection (2)" at the end.

2.3 Clause 29(1)(c) is amended by striking out "four."

2.4 Subsection 33(1) is amended by adding "not more than" after "establish".

[French version]

Il est proposé d'ajouter après l'article 2 du projet de loi ce qui suit:

2.1 Il est ajouté, après l'article 15, ce qui suit:

Quorum des comités
15(3) L'arrêté prévu au paragraphe (2) peut, prévoir qu'un membre d'office d'un comité peut être compté aux fins de la constitution du quorum.

2.2(1) Le paragraphe 28(3) est modifié par suppression "quatre".

2.2(2) Le paragraphe 28(4) est modifié par adjonction, à la fin, de "y compris le droit conféré au maire en application du paragraphe (2).

2.2.(3) Le paragraphe 28(5) est modifié par adjonction, à la fin, de "y compris le droit conféré au maire en application du paragraphe (2).

2.3 L'alinéa 29(1)(c) es modifié par suppression de "quatre".

2.4 Le paragraphe 33(1) est modifié par adjonction, après "constitue", de "un maximum de".

The intent of these is to affect those two changes. That is a lot of wording to make those two changes, but I think you know the two problems that we are trying to address that are identified tonight by Councillor Fraser.

I move that.

Mr. Chairperson: Thank you, Madam Minister. Might I remind the committee that prior to when we were considering Clause 1 and 2, we agreed that we would allow this amendment to be inserted after 2, and therefore I ask for unanimous consent that this now be done. [agreed]

I have been advised that technically the minister's amendment is out of order because it is introducing material that is beyond the scope of the bill before the committee. However, with unanimous consent of the committee, the amendment can be considered. Is there unanimous consent for the consideration of this amendment then?

Some Honourable Members: Agreed.

Mr. Chairperson: Agreed. Thank you. Okay, now we have got that legality fixed. Just hang on a minute. Now, is there any discussion on the amendment? No discussions? Are we agreed to adopt the amendment?

Some Honourable Members: Agreed.

Mr. Chairperson: Agreed? I declare the amendment adopted.

Now, we have another amendment.

Mrs. McIntosh: Mr. Chairperson, I move,

THAT the proposed subsection 89.2(4), as set out in subsection 6(3) of the bill, be amended by striking out clauses (a) and (b) and adding "made in writing and signed by not less than 250 electors" after "shall be".

THAT the proposed subsection 89.2(5), as set out in subsection 6(3) of the bill, be struck out.

[French version]

Il est proposé que le paragraphe 89.2(4), énoncé au paragraphe 6(3) de projet loi, soit amendé par suppression des deux-join et des alinéas a) et par adjonction, après "sont" de "faites", par écrit et signées par du moins 250 électeur.

Il est proposé que le paragraph 89.2(5) énoncé au paragraphe 6(3) du projet de loi, soit supprimé.

Mr. Chairperson, the basic intent here is to remove "accompanied by a deposit of $150" and, of course, then the subsequent clause about refunding the deposit is no longer required. That change is being sought because we feel that some very good arguments were put forward, which we agree with. So we would like to make that change.

Mr. Chairperson: Is there any debate on the amendment?

Mr. Mackintosh: I want to commend the minister for dealing with the concerns in the way she has. I think that speaks highly of her, and I think that she has brought what is good about the Legislature to the table here tonight.

Mr. Chairperson: Any further discussion? If not, are we all agreed that this amendment should pass?

Some Honourable Members: Agreed.

Mr. Chairperson: It is agreed and so ordered.

Clause 6(1)—pass; Clause 6(2)—pass; Clause 6(3) as amended—pass; Clause 7—pass; Clause 8—pass; Clause 9—pass; Clauses 10(1) to 13(1)—pass; Clauses 13(2) to 14—pass; Clauses 15 to 19(1)—pass; Clauses 19(2) to 20—pass; Clauses 21 to 22—pass; Clauses 23 to 29—pass. I declare the items passed. Clause 30—pass; Clauses 31 to 34—pass. Preamble—pass.

There is what is called a standard motion for renumbering the clauses in the bill.

It is moved by the Honourable Mrs. McIntosh

THAT Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee in both languages. Agreed? [agreed]

[French version]

* (2140)

Il est proposé que le conseiller législatif soit autorisé à modifier les numéros d'article et les renvois internes de façon à donner effet aux amendements adoptés par le Comité.

Mr. Chairperson: Preamble—pass; Title—pass. Bill as amended be reported—pass. Is it the will of the committee that I report the bill—pass.

Thank you very much.

Bill 16—The Provincial Court Amendment Act

Mr. Chairperson: Next Bill 16. I will now call the Minister of Justice (Mrs. Vodrey) to come forward.

Hon. Rosemary Vodrey (Minister of Justice and Attorney General): Thank you, everyone, for your help.

Mr. Chairperson: The committee will now consider Bill 16, The Provincial Court Amendment Act.

Did the minister have an opening statement?

Mrs. Vodrey: Yes. I described the essence of the amendments to Bill 16 or what Bill 16 covers during debate on second reading. At this time, I would like to talk a little bit about their origin and comment on some of the issues raised by colleagues during the debate in second reading.

I think it worthwhile to note that this bill is a result of a significant amount of research and deliberation by an independent body that is the Manitoba Law Reform Commission. It was my predecessor, the Honourable James C. McCrae,

who asked that the Law Reform Commission examine issues relating to independence and impartiality of provincial judges in August 1988.

Almost a year later, the commission issued its report in June 1989. Parts of that report dealing with the determination of compensation and the appointment process for judges have already been legislated.

Finally, I note that in bringing forward these amendments, the government recognized that it was important to establish a system that the public has confidence in, that the judges have confidence in and one that will respect the principle of judicial independence.

In that vein, I think we would all agree it is extremely important that judges in deciding cases be free from outside influence.

The concept of judicial independence plays an important part. In one of the issues that was raised during debate on second reading, that being the composition of the Judicial Council proposed in these amendments. The composition of the council is three out-of-province Provincial Court judges, two persons who are neither lawyers nor judges, and a lawyer representing the Manitoba Law Society.

The council is structured in this way to balance the requirements of judicial independence, public participation, public confidence and to maintain the council at a manageable size. The advice that I received from the department was that if judges do not have a majority of votes on the council we would risk offending the principle of judicial independence and put the entire process at risk.

Mr. Chairperson, this is an important issue, not a partisan issue, and the same approach was adopted by the Ontario government in a bill that received royal assent on June 23rd of this year. In Ontario the Judicial Council will be composed of six judges, two lawyers and four nonlawyers. The chair will be a judge and will have a casting vote. The Ontario Attorney General introducing this bill stated that, and I quote: Judges will continue to hold the majority of votes on the council to reflect constitutional guarantees of judicial independence.

Finally, Mr. Chairperson, I would note that the Chief Justice of Canada, Antonio Lamer, is quoted in the September 3, 1993, Lawyers Weekly as stating that it is his personal view that judges must compose the majority of members deciding discipline matters. Thus, if a majority of votes on the Judicial Council are not held by judges, the entire process could be put at risk.

This bill also enhances participation by the public. Two of the six members will be nonlawyers by statute. The Law Reform Commission in its report noted that under the former act it would be possible for none of the members of the council to be nonlawyers or nonjudges. This bill requires that two representatives be nonlawyers and nonjudges. Currently, there are three laypersons out of nine members. Now there will be two of six.

The size of the council at six was thought to be most efficient. During our consultations we were advised that at times the present council which attempted to sit as a panel of nine members had difficulty scheduling meetings.

I believe that my colleagues have agreed that the use of out-of-province judges will enhance public confidence in the system, although the issue of cost has been raised. I simply want to note that neither the judges nor the jurisdiction from which they come will be reimbursed for their salaries. Manitoba will be responsible only for their expenses.

A question was asked about the appointment of the nonlawyer members to the Judicial Council. My department advises that in all jurisdictions in Canada nonlawyer members to the Judicial Council are appointed either by cabinet or by the Minister of Justice.

A concern was also noted about the presence of a lawyer on the Judicial Council. First I note that the Law Reform Commission felt that lawyers have a role on the Judicial Council. I agree with that. In this particular case, the lawyer will be the only person on the council that has day-to-day familiarity with the legal system in Manitoba. I think that the lawyer will make a significant contribution.

Another issue that has been raised is the requirement that complaints are first handled by the Chief Judge. I note that the Law Reform Commission felt that this was very important and they said, and I quote: The importance of preserving some role for the Chief Judge cannot be overstated. The Chief Judge is in daily contact with judges of the Provincial Court. He or she is both their supervisor and their leader. Lawyers and other participants in the process may have concerns of a less serious nature with respect to provincial judges. They may want to discuss these concerns with an appropriate person on an informal and confidential basis. The Chief Judge is ideally suited to act in such situations.

The commission also went on to note that it is important to prevent the perception, and I use the words advisedly, but in their words, the perception of an old boys' network, and that there must be some form of accountability for the Chief Judge's initial handling of the complaint.

Their recommendation was that the complainant be allowed to refer the Chief Judge's resolution of the dispute to the Judicial Inquiry Board. This seemed to strike an appropriate balance of maintaining the ability of the Chief Judge to manage the court and be aware of any problems while at the same time ensuring that the Chief Judge could not stop a complaint from going forward. We agreed to this approach.

It was noted that the decision of the Inquiry Board to lay or not to lay charges was final, and concern was expressed. The important thing to note is that before this occurs a complainant would have two reviews of the complaint: first, the Chief Judge; then, the Inquiry Board. In addition, the Inquiry Board is not asked to decide whether or not a complainant will succeed, but whether a charge of judicial misconduct should be laid. This is somewhat similar to the role of a Crown attorney or one that a police officer plays in deciding whether or not to lay a charge. Because many of the complaints made about judges are really complaints about the judge's decision and not about conduct, this kind of screening mechanism is essential.

* (2150)

Questions were also asked about what would happen if out-of-province judges were not available. We do not anticipate that this will happen as all of the western provinces and territories have agreed to participate; but, in the event that this does occur, Section 37(5) provides a mechanism for the appointment of a Manitoba judge.

Another issue raised concerned the definition of misconduct. The definition used in the amendments is that recommended by the Law Reform Commission. The commission recognized that in situations where a judge has a disability of a permanent nature which was so great as to prevent the judge from effectively carrying out the duties of his or her office, a disposition that is not as harsh as removal for misconduct should be available. The commission recommended that the council be empowered to order removal for disability, which would be deemed to be a voluntary retirement from office. Section 39.1(1)(g) of these amendments accomplishes this. It allows the council to recommend to the minister that the judge be retired from office if the council finds that misconduct is due to the judge's inability or incapacity to perform his or her duties.

These amendments require the administrator to assist persons in preparing a complaint and require that public information be made available. Both of these innovations will increase public accessibility.

Finally, a comment on the application of the bill. When these amendments become law, no one will be prohibited from filing a complaint for conduct that took place before the amendments became law. However, if a person has filed a complaint under the current system, that complaint will be dealt with using the current system. I might note that this is also the same approach that was adopted in Ontario.

Thank you, Mr. Chair. That completes my opening remarks.

Mr. Chairperson: Thank you, Madam Minister. Has the critic for the official opposition, Mr. Mackintosh, got a statement?

Committee Substitution

Mr. Gord Mackintosh (St. Johns): I am just wondering, first procedurally, if we understand that Mr. Ashton is on this committee and not Mr. Schellenberg, and I wonder if there would be consent to put Mr. Schellenberg on the committee at this point. I understand that was done this morning.

Mr. Chairperson: As members know, in the committee, if there are changes—and we have made changes in committee previously—there has to be unanimous consent in committee in order for changes to be made in committee. I understand that tomorrow those changes would be brought forward and ratified in the House. So what is the will of the committee? Is there agreement that Mr. Schellenberg be allowed to sit in Mr. Ashton's stead? Agreed?

Mr. Edward Helwer (Gimli): Mr. Chairperson, is there a good reason why Mr. Ashton is not here or why there has to be a change?

Mrs. Sharon Carstairs (River Heights): With the greatest respect, we have made these changes, and we have never asked for explanations in the past. I think it is a very dangerous precedent to start asking for them. When we come to the days toward the end of the session, changes of committees are made on a fairly regular basis.

Mr. Chairperson: I thank both Mr. Helwer for the question and Mrs. Carstairs for the response. I had accepted, and we had agreed to the changes on the committee, and so therefore Mr. Schellenberg will sit on the committee.

Mr. Mackintosh: I move that with leave of the committee that the honourable member for Rossmere (Mr. Schellenberg) replace the honourable member for Thompson (Mr. Ashton) as a member of the Standing Committee on Law Amendments effective immediately, with the understanding that the same substitution will be moved in the House to properly be recorded in the official records of the House.

Motion agreed to.

* * *

Mr. Chairperson: Has the official opposition critic got an opening statement?

Mr. Mackintosh: I thank the minister for the comments. I think they were very responsive to the issues raised in the House.

I have two preliminary questions, one of which I think has been dealt with largely.

The judicial inquiry board is a very powerful body and of course what it does will decide whether a matter goes to the Judicial Council. It was for that reason that concerns were raised about whether an appeal mechanism should be available from a decision of the inquiry board. I understand the minister's response, that this is like the Crown prosecutor, there is no appeal from decisions of the Crown.

Given the significance of the conclusions of the inquiry board, I still have some lingering concerns about it. I wonder if the minister can comment further on whether at least a limited appeal could be available. It is nothing more than a concern at this point. It is something that of course if the legislation goes through as it is, we will certainly be looking at that very carefully.

Mrs. Vodrey: We have, as I have said earlier, followed as closely as possible the recommendations of the Law Reform Commission, and I am referring to the Report of the Law Reform Commission, page 76, their recommendation No. 48. The recommendation says that the decision to lay charges or not to lay charges or to stay charges be within the sole discretion of the judicial inquiry board and that no appeal lie from such decisions.

When we look at who makes up the judicial inquiry board, we have a Queen's Bench judge, we have a lawyer representative from the Canadian bar, the Manitoba branch. We also have a citizen representative on that inquiry board. So we look at the complainant's complaint being viewed by the Chief Judge, being also viewed by that group of three who are representative of each part of the system: the judiciary, the legal system and also citizens at large.

Should those individuals find that there is not a basis for a complaint, it was decided to follow the recommendations of the Law Reform Commission and, after two hearings, to allow the issue if that is the decision of the judicial inquiry board to end there.

Mr. Mackintosh: What sort of triggered that question tonight was I read the Law Reform Commission report respecting that recommendation, No. 48. The rationale there was that because it was essential that the decisions of this body, the investigation body, not be interfered with or influenced in, I think that is a strange rationale for not having an appeal, but I will leave that. I think we all have a duty to look to see how the inquiry mechanism works.

The only other question that I had was in the event that there is a reasonable apprehension of bias about someone serving on the inquiry board or the Judicial Council, for example, there is a clear conflict of interest. Perhaps a lawyer is appearing before the judge who is being complained about or is scheduled to appear before that judge. Is there a mechanism under the legislation to allow someone else to be appointed on an interim basis to serve in the capacity as either an investigator or an adjudicator? If the minister or the minister's staff would consider that question and perhaps do that before the bill goes back into the House, it is worthy I think of some further thought.

Mrs. Vodrey: Mr. Chairperson, I thank the member for his comments. I will have the department look at that issue between now and third reading.

Mr. Mackintosh: Let us now get to the nitty-gritty. I was very clear on second reading that the bill in its current form is not acceptable, particularly for the reason that Section 37(2) which sets out the composition of the Judicial Council goes against not just our expectations as Manitobans, but really I think perpetuates and intensifies the old boys thing.

The minister and the minister before her have been going out and speaking to the public and saying that we are going to make judges more accountable to the public. There has been a perception in this province, and I think rightly so, that there are some judges on the bench that have been unaccountable to the public, that have made certain comments. There are certain allegations that have certainly been made and reviewed. But there certainly is a perception that the discipline process is unaccountable to the public of Manitoba.

* (2200)

The test as to whether there is an effective discipline process is the public perception, is the apprehension of bias, the apprehension of the old boys thing. Having made promises that the government would make judges more accountable to the public, the legislation comes in and, lo and behold, judges are made more accountable to judges. The power of judges on the Judicial Council is increased to the point where they now, for the first time in Manitoba, have a majority. I suspect that the people who the minister consulted on this legislation have not been told, are not aware of this, and I think if they were aware of it there would be a severe reaction, and indeed they will become aware of it if they are not already.

Judges, we have all recognized, do not come from as diverse a background as I think they should, and we, hopefully, are moving in the direction of having more diverse interests, more diverse backgrounds represented on the bench. Historically, that has been an unfortunate reality in Manitoba. I do not think the public perception of the discipline process has been a good one, and I do not think Manitoba has a good record on this issue. Yet, judges are increasingly public policymakers.

I recognize that there are different theories of the function that judges perform, and some judges will say they only interpret the laws. But with the advent of the Charter of Rights and Freedoms in particular, judges in my opinion are shaping public policy. They are certainly, in the least, affecting individuals in very important ways. In light of the role of judges in the community, we have to look very seriously at how we pay deference to the public perception and what has to take place here

in getting judges accountable to the public for their misconduct.

The minister addressed the issue, the legal argument, that if judges are not a majority there could be a risk to the constitutionality of the Judicial Council. There is not one decision that I am aware of on point. I am aware of Mr. Justice Kennedy, Mr. Justice Lamer who have made statements to the media on this point, just in speculation. There is not even some overturn in a decision that I am aware of. Just because Ontario was of that view does not mean Manitoba should be of that view. There is no foundation for it that I am aware of. The Law Reform Commission report certainly never suggested that judges should have a majority.

But the most important thing is that judges do not have a majority today on the Judicial Council. So what compelling argument is there to all of a sudden give them a majority? I have not heard it. I have not seen it.

It is interesting that in self-governing professions there is a movement towards enhancing the public representation on the discipline bodies. That, again, is to ensure that there is public perception and the input of the varied ideas from what is a diverse community. When we look at judges this is not a self-governing profession. If the argument exists for increasing public representation on self-governing professions, it certainly is intensified. The public representation on the Judicial Council is a necessity in a modern democracy.

Finally, I just wanted to comment on the role of lawyers. I know that lawyers have always been on the Judicial Council, and I think the minister said that in every jurisdiction there has been or there are lawyers on the Judicial Councils where those exist. I think all provinces except Prince Edward Island have Judicial Councils. I wonder if anyone has really stepped back and thought why lawyers are on that body.

On balance, while lawyers do bring some knowledge of the legal system to the Judicial Council, that can be brought by the council which can be retained by the Judicial Council. But the downside is that lawyers appear before the judges, anticipate appearing before a judge that may be the subject of a complaint; their firms have relationships with judges; their firms can anticipate appearing before a judge; they hang around together. I know. I have seen the cocktail parties. I have been there—the cocktail parties or whatever they are, these little Sunday afternoon parties and the evening parties. There is a continuing education. They are a community, but the most important thing is that there is a perception of community. They are people within the justice system, and I think we should rethink whether it is in the best interest of society that lawyers be on the Judicial Council.

Those are my comments. I will be moving amendments. The essence of the amendments, there are three groupings, but regarding the composition we are proposing that there be two judges, out-of-province judges, two public representatives appointed by the Lieutenant-Governor, and one chairperson who is appointed by the Legislative Assembly through the Standing Committee on Privileges and Elections as is the Ombudsman so that the majority will be public on the Judicial Council and the public representation is not solely appointed by cabinet.

I think it is very important that the chair be appointed by, as close as we can get to, the community, because the community is represented by the Legislature. I mean that is the body we have. If there were some other body, well, let us look at it.

So I think that would serve Manitobans much better. I think it is a move in the direction that we deserve, and that is to greater public representation, greater accountability of judges to the public.

Mr. Chairperson: Thank you, Mr. Mackintosh. Would the critic for the second opposition have a statement? No.

We will now proceed then with the consideration of the bill.

Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass; Clause 5—pass.

Clause 6.

Mr. Mackintosh: I move

THAT the proposed subsection 37(2), as set out in section 6 of the Bill, be amended

(a) in the part preceding clause (a), by striking out "six" and substituting "five";

(b) in clause (a) by striking out "three" and substituting "two";

(c) by striking out clause (b);

(d) by adding the following after clause (c):

(d) one person who shall be the chairperson of the council, who is not a lawyer, judge or retired judge, appointed by the Lieutenant Governor in Council on the recommendation of the Standing Committee of the Assembly on Privileges and Elections.

* (2210)

[French version]

Il est proposé que le paragraphe 37(2), énoncé à l'article 6 du projet de loi, soit amendé:

a) dans le passage qui précède l'alinéa a), par substitution, à "six", de "cinq";

b) à l'alinéa a), par substitution, à "trois", de "deux";

c) par suppression de l'alinéa b);

d) par adjonction, après l'alinéa c), de ce qui suit:

d) une personne qui agit à titre de président du Conseil et qui est nommée par le lieutenant-gouverneur en conseil sur la recommandation du Comité permanent des privilèges et élections de l'Assemblée, cette personne n'étant ni avocat, ni juge, ni juge à la retraite.

Motion presented.

Mr. Chairperson: Is there any debate on the amendment?

Mr. Mackintosh: I wonder if the minister would respond to the suggestions made.

Mrs. Vodrey: I believe that my opening remarks covered the reasons behind and underlying the bill, as we have put it, forward. I will reiterate some of those if that will be helpful to the member.

It has come to our attention and certainly from all the work that we have done it is our opinion that judges must form the majority due to the issue of judicial independence, and that is why we have put forward the composition that we have that there be three out-of-province judges.

That opinion was not available, I understand, and I am told, at the time that the Law Reform Commission did its report. Since that time, it has become an issue and was an issue which we were required in all good conscience to consider as we put the bill forward.

We most certainly did bring this to the attention of the groups that we spoke with. I am told that each group that was consulted by the department that this make-up of the Judicial Council was certainly brought to the attention of those groups.

Secondly, in making sure that there is a lawyer on the Judicial Council, it is our opinion, and I stated this in my opening remarks, that within the system there is the judiciary. There are lawyers and there are citizens and that the representation of a lawyer and that legal representation which will be Manitoba's legal representation on the council is important.

It is our opinion that the Judicial Council, as put forward in this bill, is one which is constitutionally correct and which represents the justice system and which we believe also gives citizens still a good representation. That was very important, that citizens have a representation on the Judicial Council. We have made provision for that.

Mr. Chair, I would speak against the amendment and I do not support it.

Mr. Mackintosh: Does the minister have a legal opinion and if so, would she table it with the committee?

Mrs. Vodrey: Again, it is our opinion as we worked through this bill and did our consultations and reviewed bills across the country and reviewed Judicial Councils across the country that this is what this government is going to put forward. We believe that these amendments again are

constitutionally sound. That is an important consideration and also provides for the public an opportunity to participate.

We also believe that is an important way to go.

Mr. Mackintosh: If the minister is at least in part resting on a legal opinion that constitutionally there must be a majority of judges on the council, surely she can share that legal opinion with the committee so that we can test it.

Mrs. Vodrey: Again, I would say to the member that this comes from work that we have done, consultations that we have done with the community, and it is the opinion of this government that this is the proposal that is supported by this government at this time.

Mr. Mackintosh: I would ask the minister to look at the issue of how judicial independence depends on judges disciplining themselves. Surely the concept of judicial independence rests on their independence from the government of the day. That is what judicial independence means. It means that they can make decisions and force laws for and against the government without the government interfering in their decision making.

But when a judge is found guilty of misconduct, how is the issue of judicial independence interwoven with who disciplines that judge? I fail to see the connection there.

Mrs. Vodrey: The member, with his legal background, has attempted to encapsulate judicial independence. Very interesting. It is an issue that is being examined across the country. So I would suggest that his simplified view of judicial independence really may not be one that is shared or is encompassing enough for a government to consider in bringing forward bills.

It is our view that it is important from the information that we have gathered that judges form the majority. But I would again point to the Judicial Council and say, there are three out-of-province judges, two nonlawyers and one representative of the Law Society, for a group of six.

The member also assumes somehow that judges will vote en block, that they will always vote together, that they will always take the same position. I would suggest that perhaps the member underestimates the members of the Judicial Council.

Mr. Mackintosh: How judges vote is one thing. The important thing is the perception by the public of whether judges are being reviewed by an independent, impartial body. I have put a view on the record about independence of judges. I asked the minister, what, other than the government policy opinion, is there to substantiate the view that the majority must be judges? I ask, what case is there? What case?

Mrs. Vodrey: I again point to also the view held by Ontario as governments across Canada look to deal with the issue of judicial accountability, a view held by Ontario, the views expressed by the Chief Justice of the Supreme Court. All of those were taken into account as we looked at how to develop the best composition, the most efficient composition that is respectful of the constitutional requirements of such a bill. That is why we have put forward the position that we have. I would remind the member that this was a position developed again in consultation with Manitobans.

Mr. Mackintosh: Well, I suggest to the minister that if she wants to go out and talk to Manitobans about increasing the power of judges on their discipline body, I think she will get a very clear response.

I am of a view—and I am certainly prepared to change my view if there is legal reasoning available. If there are decisions that are on point, then so be it, and I will say I am wrong, but I would like to—I do not understand the foundation of that argument. I do not understand, I am not aware of any decision that has been made to this effect. I can only come to the conclusion that the composition of the Judicial Council was arrived at purely as a result of a political decision, a decision that supports the view that the old-boys thing must continue, and so my amendment is before the committee.

Mrs. Vodrey: Mr. Chair, I would speak against the amendment. My reasoning has also been clearly put forward. The strongest point of

consideration is that this bill be able to withstand a constitutional challenge. It is of consideration in putting forward a bill, and it is our opinion that it is the composition that we have put forward as a government that will allow for public input but also makes the bill constitutionally secure.

The member would prefer to have it otherwise. I cannot support an amendment that I believe would make the bill constitutionally insecure.

Mrs. Carstairs: Mr. Chair, I have several questions. I am not particularly familiar with this original act, but from what the member for St. Johns (Mr. Mackintosh) said, he indicated that the present Judicial Council does not have a majority of judges. If that is the case, has there been any constitutional challenge on that present construction of the committee?

Mrs. Vodrey: The concern of the current system is that it fails to separate the investigative part from the adjudicative part. The current system is seen to be ineffective because regardless of the composition of the committee, it puts both acts together.

* (2220)

This bill was attempting to meet what the Law Reform Commission had requested, and that was to separate the investigative from the adjudicative function.

In doing so, we have taken what was previously one committee, which consisted of the Chief Judge of the Court of Queen's Bench and three Provincial Court judges and then three nonlawyers and the president of the Law Society and the president of the bar, and have separated that.

What we have done is, we have made the Queen's Bench judge part of the inquiry board or the investigative function. We have taken the representative of the bar and made them a part of the investigative function, and we have taken one of the three nonlawyer persons and we have made them also part of the investigative function.

We have then created the adjudicative function. In the adjudicative function, we have the three out-of-province judges, who replace the three Provincial Court judges in the old system. We have taken, of the three nonlawyer persons, two nonlawyer persons and put them on the adjudicative function as well as a representative from the Law Society.

What we have done is taken what was previously the composition, but we have separated the function, and we have made sure that in total the representation of those who are nonlawyers remains the same throughout the process. Also, the numbers of judges remains the same throughout the process, as does the representation of lawyers, but the functions are split into a council and an inquiry board.

Mrs. Carstairs: With the greatest respect, that does not answer the question, because if this board functioned in some way, whether the functions were together or separate is irrelevant to my argument right now. If you are concerned about judicial independence, and that seems to be the thrust here, was there not a similar concern about the present committee in that judges did not have a majority, and if there was such a concern, was there ever any action taken by way of a constitutional challenge?

Mrs. Vodrey: Mr. Chairperson, I am told that all of the Supreme Court decisions which deal with the issue of judicial independence from which a challenge might be founded have been delivered within the last five years, that time period since the Law Reform Commission gave its report. There was a reasonable expectation that we would also be acting upon that Law Reform Commission report and that is what we are doing through the purpose of this bill.

Mrs. Carstairs: I guess I wanted a yes or a no, and I did not get a yes or a no. So I can only assume that our previous act was not taken to the Supreme Court on a ruling of judicial independence. That can be my only assumption.

I do not understand why there is a necessity to have lawyers on this. There seems to be the assumption that judges are not lawyers. All the judges that are appointed are lawyers, so if you are looking for someone with knowledge of the legal system it seems to me you got them. You have judges. They have knowledge of the legal system.

Why is it necessary to have an additional nonjudicial lawyer, if you will, on this particular committee?

Mrs. Vodrey: Mr. Chairperson, if I omitted in my previous answer to say, no, there has not been a challenge to the act as it exists in Manitoba, I beg your pardon. There has not been a challenge to the act as it exists now in Manitoba. But the point that I was attempting to make is that the Supreme Court—and we have to pay attention to those decisions—has had cases in the past five years dealing with judicial independence. So we were very cognizant of those issues when we put together this bill. That issue was not covered in the Law Reform Commission, but since that time there have been judgments from the Supreme Court which have caused us to consider the composition.

The issue of lawyers, in my opening statements I made the point that the judges who will be sitting on the Judicial Council are judges from outside of Manitoba. So the lawyer who will be sitting on that committee will be the only person with knowledge of the legal system within the province of Manitoba.

Mr. Chairperson: Are there any further questions?

Mrs. Carstairs: Well, I have some concerns with the lawyer on the committee I must say, because I agree with the member for St. Johns (Mr. Mackintosh) that legal counsel to the council could in fact provide that information if in fact the out-of-province judges had those questions to be asked. So I am in a dilemma. I do not like that section of the act, but I have to defer, quite frankly, to the minister's best judicial interpretation here on whether or not there should be a majority of judges. So I would support part of the member's amendment, but not the other part.

Mr. Chairperson: Thank you very much. Are there any further questions? If not, the question before the committee is an amendment proposed by Mr. Mackintosh to amend Section 6 of the act. Shall the item pass?

An Honourable Member: No.

Mr. Chairperson: No?

An Honourable Member: Yes.

Voice Vote

Mr. Chairperson: All those in favour, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: I declare the item lost.

Mr. Mackintosh: Recorded vote.

Formal Vote

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 2, Nays 6.

Mr. Chairperson: I declare the motion lost.

Section 6, Clause 6.

Mr. Mackintosh: In Section 39(1), I will propose an amendment, which will be 39(1.1).

My concern there is that if there is more than one complaint about a judge, I think it would be important that the Judicial Council consider all of those complaints at the same time.

This is not proposed for cost reasons so much as it is critical that if there are a series of allegations, a series of complaints or if there are a series of alleged incidents, it may be critical to consider that series when deciding whether there has been misconduct or not.

I think it may well happen that when there is a complaint lodged against a particular judge, other people may come forward and say, gee, you know, that happened to me, or he said this, or she said this on that occasion. So I think it is important that the whole story be told and that multiple complaints be heard together.

So I will move

THAT the proposed section 39, as set out in section 6 of the bill, be amended by adding the following after subsection 39(1):

Charges heard together

39(1) If more than one charge is formulated against a judge, whether or not in respect of the same allegation of misconduct, the council may adjudicate the charges together.

[French version]

* (2230)

Il est proposé que l'article 39, énoncé à l'article 6 du projet de loi, soit amendé par adjonction, après le paragraphe 39(1), de ce qui suit:

Plus d'une accusation
39(1.1) Si plus d'une accusation est formulée contre un juge, à l'égard de la même allégation d'inconduite ou non, le conseil peut statuer sur toutes les accusations en même temps.

It should be noted that this is not mandatory, that it is up to the council to determine whether that is appropriate, and I think in most circumstances they would. It certainly enables them to do that, and it brings it to their mind that such an option is available to them. I wonder if the minister could consult and comment on that.

Motion presented.

Mrs. Vodrey: I would just point to Section 34 of the bill, which deals with the investigation of other matters, that things may then be put together that show themselves. So that is one way that we are looking to deal with it.

If the member is speaking about during the actual public discussion by the council of the adjudication board, if other issues show themselves, I am told that at the moment, there is a case under appeal right now, so I would hesitate to include that amendment, because I would say at the moment that there is a case before the court on that issue.

Mr. Mackintosh: I recognize that 34 gives the right to the judicial inquiry board to put matters together. That appears to be what the wording allows for. I do not know if it is the opinion of the minister or her advisers that that then allows the Judicial Council to similarly group complaints. I am not sure, and in fact it would appear that power is not given to the Judicial Council. It may be preferable to make sure that the power is explicit.

Mrs. Vodrey: Mr. Chairperson, the advice that I have just received says that in 35(1)(c) of the bill it gives the power—it says formulate a charge of misconduct against the judge and that is to be understood to also be in the plural, charge or charges, which appears to accomplish the same purpose that the member is wanting to bring forward with his amendment. I believe the capability is currently within the bill as it stands.

Mr. Chairperson: Thank you very much. What are the wishes of the committee? Mr. Mackintosh, did you want to withdraw the amendment?

Mr. Mackintosh: No, I propose it to make it explicit.

Mrs. Vodrey: I understand the intent, but it is my opinion that we have dealt with that issue within the bill at the moment under Section 35(1)(c).

Mr. Chairperson: The question before the committee is, shall the motion pass?

Some Honourable Members: No.

Mr. Chairperson: No?

Some Honourable Members: Yes.

Mr. Chairperson: Yes. All those in favour, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: I declare the motion lost.

Mr. Mackintosh: Section 39.8 sets out the information that the minister shall provide on how to lay a complaint. As the minister knows, I have had concerns about the accessibility of the complaint mechanism to the general public. I thought that just to beef that up a bit and in light of the earlier section which mandates the administrator to assist in the preparation of a complaint that the following words be added at the end of that section: and that the administrator is available to provide assistance in preparing a complaint. I would move

THAT the proposed Section 39.8, as set out in section 6 of the Bill, be amended by adding the following at the end of the section: ", and that the administrator is available to provide assistance in preparing a complaint."

[French version]

Il est proposé que l'article 39.8, énoncé à l'article 6 du projet de loi, soit amendé par adjonction à la fin, de le qui suit: "Il indique également que de

l'aide peut être obtenue de l'administrateur dans la préparation des plaintes."

Motion presented.

Mrs. Vodrey: Again, I understand the purpose of what the member is bringing forward. This was discussed, and we believe that this is currently covered in Section 28(4) of the bill which speaks about assistance to the public, and it says, upon request the administrator shall arrange for the provision of assistance to any person in the preparation of a complaint. So that we have wanted to make sure that that availability is clearly there within the bill as it stands.

Mr. Mackintosh: I think it is important to distinguish, though, between assistance available on request and letting the public know that there is assistance, right up front. I think that it is critical. I think we have to do all we can to ensure that this complaint procedure is accessible, that people will not feel intimidated.

Let us face it, this is a very intimidating system, the judicial system. When one makes a complaint to a Chief Judge, I think there are lot of people that are intimidated just by that thought alone.

Given the formalities that are required in the process, I think that there should be an affirmative advertisement or notice to people that, hey, don't worry, there is assistance, and this is where you can call, this is who can help you.

Mrs. Vodrey: I believe that that has covered it. It is my understanding as I read it that the role of the administrator is to provide that assistance. It may be the member has narrowed it somewhat by saying, in the preparation of a complaint.

We have attempted to allow that assistance to be a broad type of assistance, whatever is needed, either information about the process, how to proceed through the process. It may also include information in the preparation of a complaint.

If the member is speaking about making sure that the public at large has information about the complaint process, I would also refer him to Section 38 of the bill under the title, Administrator, and 38 says that the duties of the administrator are also "(b) providing information to the public about the complaint process."

So the duties of the administrator are already within the bill, I believe, put forward for the public's information. But it is not as restrictive as perhaps the member would like to see through his amendment.

* (2240)

Mr. Mackintosh: I appeal one last time to the minister. It is important that the public know that the administrator is available. Yes, the legislation tells the reader of this act that the administrator is available, but the public will not know that unless it is in the notices.

Mrs. Vodrey: I would refer the member to Section 39.8 of the bill, Information To Public. Again, in that Information To Public, it requires that the minister provides to courthouses and elsewhere information about how a complaint about a judge is made. That would also include information about the administrator, the role of the administrator, how the administrator is available to assist.

So if the member finds it important that that information is available to the public, I would advise also that is currently covered in the bill as it stands.

Mr. Mackintosh: Then if the minister undertakes that the information about the administrator's role will be provided in that information, then she should have no problem in incorporating this amendment into the statute. In the alternative I ask the minister to put it on record that in fact information about the administrator's role and the administrator's assistance will be included in any notices posted at the courthouses or elsewhere.

Mrs. Vodrey: My comments are on the record. I have just put them on the record, and they are now recorded in Hansard.

Mr. Chairperson: The question before the committee is, shall the motion as proposed by Mr. Mackintosh pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Voice Vote

Mr. Chairperson: All those in favour of the amendment, would you indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, would you indicate by saying nay.

Some Honourable Members: Nay.

Mr. Chairperson: I declare the amendment lost.

Clause 6—pass; Clause 7—pass; Clauses 8 and 9—pass. Table of Contents—pass; Preamble—pass; Title—pass. Bill be reported.

That is the business that we have to deal with today. Committee rise.

COMMITTEE ROSE AT: 10:43 p.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

George Stewart, Winnipeg in the Nineties
Presentation on Bill 17
Amendments of The City of Winnipeg Act
June 1994

We would like to take the opportunity today to make comment on proposed amendments to The City of Winnipeg Act and The Local Authorities Election Act. We are very disappointed to note that this legislative session will not be dealing with any substantive changes to The City of Winnipeg Act and particularly those sections dealing with electoral reform. We believe that there is need for amendments to the act to ensure a "level playing field" and truly democratic process at the civic level. With that in mind, we are going to address a number of issues that we believe this government should be dealing with.

Campaign Expenditures

The campaign period is too stretched out from the point of view of conducting an effective campaign. We agree that there should be a prescribed start date for incurring expenditures such as setting up a campaign office, distributing literature, displaying signs, et cetera. A start date ensures a fair competition. However, as 120 days is a four-month campaign, this prolongs the campaign beyond what is reasonably necessary and publicly desirable. It also pressures candidates into spending more than what is reasonably necessary. Typically, campaigns at the provincial and federal level are much shorter.

Instead we propose that the campaign period for the purpose of making expenditures begin 60 days prior to election day.

Campaign Fundraising

At present, the start date for fundraising is set by The City of Winnipeg Act, because one cannot fundraise until one registers and one cannot register until the campaign period begins. Given the size of the current wards and particularly with respect to the mayoralty contest, which requires a raising a much larger amount of funds in order to run a serious campaign, 120 days (two months of which are over the summer holidays) is far too short.

To compound the problem, The City of Winnipeg Act, Section 97(1) makes it illegal to "solicit" funds in addition to "receiving" funds. This means a candidate cannot even solicit pledges.

These restrictions are unnecessary and far too onerous. The effect is to favour those who have fewer but larger donors or who are in a position to finance their own campaigns.

At the other end, given the current by-law and The City of Winnipeg Act, a candidate who has a deficit at the end of the campaign period cannot continue to hold fundraising events and solicit and receive contributions to eliminate the deficit. Also, there is no obligation for continued record keeping and a final public accounting open to public scrutiny showing how the debt was eliminated. We note there are no similar time restrictions on fundraising to eliminate deficits from campaigns at the provincial or federal level.

We recommend that there be no time limit on the commencement of a candidate for councillor or mayor soliciting and receiving funds provided the requirements for a proper record keeping, a public accounting, the filing of an auditor's statement and public inspection of the records are met. This ensures the public interest is satisfied while at the

same time allowing candidates to take whatever time is necessary to raise sufficient funds.

Also, there should be no time limit on a candidate for councillor or mayor after the campaign ends, to solicit and receive funds, including having fundraising events, provided the public interest for an accounting and public scrutiny is met. This could be achieved by a requirement for a preliminary auditor's statement, 120 days after the election date in the case of candidates who still have deficits, and a final auditor's statement at such time as the deficit is eliminated.

Registration versus Nomination

At present, there is a two-step process. A candidate must first register in order to fundraise and then file nominations papers if they decide to run. It is conceivable that a candidate who is not eligible for nomination would nevertheless register and be let loose on the public for the purpose of fundraising. We believe that a candidate who is allowed to fundraise should have to demonstrate that they are serious enough about running for office by filing nominations papers. Conversely a candidate that files nomination papers should at the same time be obliged to meet the requirements of registration.

We recommend that the requirements for registration and nomination be combined into one step. Once a candidate has fulfilled these requirements a candidate can begin to solicit or receive funds for campaign purposes.

Contributions from Political Organizations

There is no rational reason for the present exclusion of contributions from registered political organizations while allowing contributions from trade unions, corporations and other organizations. Nonpolitical organizations are more likely to have as their object the satisfaction of special interests and/or private gain in making a contribution than a political organization would be. Registered political organizations, by definition, purport to represent broad sectors of the community.

Political parties at the provincial and federal levels often have active constituency organizations. The members of these organizations are interested in the betterment of their communities, whether the issue falls under federal, provincial or municipal jurisdiction. Often the municipal issues have the greatest impact on their lives, such as the potential loss of a swimming pool, a library or a zoning issue.

We believe that it is a gross infringement on the fundamental freedom of expression guaranteed by the Charter of Rights to single out political parties and their constituency organizations and deny them the right to contribute as an organization to a municipal candidate's campaign.

We also believe in freedom of choice. The decision as to whether to contribute to a campaign should rest with the political organizations themselves and not government. Likewise, the decision as to whether to accept a donation from a political organization should rest with the candidate. Since all contributors and the amounts must be publicly disclosed, the public will ultimately decide the acceptability of such contributions.

Moreover, the restriction of unworkable and inconsistent, because political organizations can still contribute through the provision of goods and services and are not required to disclose these donations because they are excluded from the definition of "donations in kind."

We are left with the absurd situation of backdoor politics being condoned, but front-door politics is prohibited.

We recommend that contributions from registered political parties and their constituencies be allowed, and further "that donations in kind" including goods and services from political organizations be disclosed.

Tax Credits for Contributions to Municipal Campaigns

As you are aware, contributors to provincial and federal campaigns are entitled to receive a tax credit. Winnipeg's population is greater than some eastern provinces. We believe that there should be tax credits at the municipal level.

Recounts

At present a candidate seeking a recount must apply to the Queen's Bench Court and a Judge of the Queen's Bench must conduct the recount (Section 102(1)(B) of The Local Authorities Election Act). This is a very costly way of doing business and takes the very valuable time of a judge.

We recommend that a recount in the first instance be conducted by the returning officer (City Clerk) and not a Queen's Bench judge.

We further recommend that a recount be an automatic right where the discrepancy between two or more candidates is within a prescribed percentage of the total number of electors of a prescribed number such as 100 votes.

And finally, that the application have the right to appeal the decision of the returning officer with respect to certain ballots, e.g., whether spoiled, rejected or valid to judge of the Court of Queen's Bench. The judge's time would be limited to a dispute over certain ballots.

Voter's Intention Paramount

The Local Authorities Elections Act should be amended to make it clear that the voter's intention to vote for a particular candidate is paramount and overrides any technical deficiencies in marking the ballot.

Objections and Reasons for Rejection to be Noted in Poll Book

The effectiveness of the recount is seriously hampered by the lack of adequate record keeping in the poll book.

It is essential that the DRO be required to make a note in the poll book of every objection to a ballot paper by a scrutineer, the decision made by the DRO and the reasons for the decision to accept or reject a ballot.

In addition, where the DRO decides a ballot is spoiled and issues a fresh ballot paper, the DRO should be required to note this in the poll book.

Voters List

In order to avoid duplication and unnecessary expense, we support the concept of a standing voter's list which is kept current and that this be accomplished in co-ordination with the provincial of government.