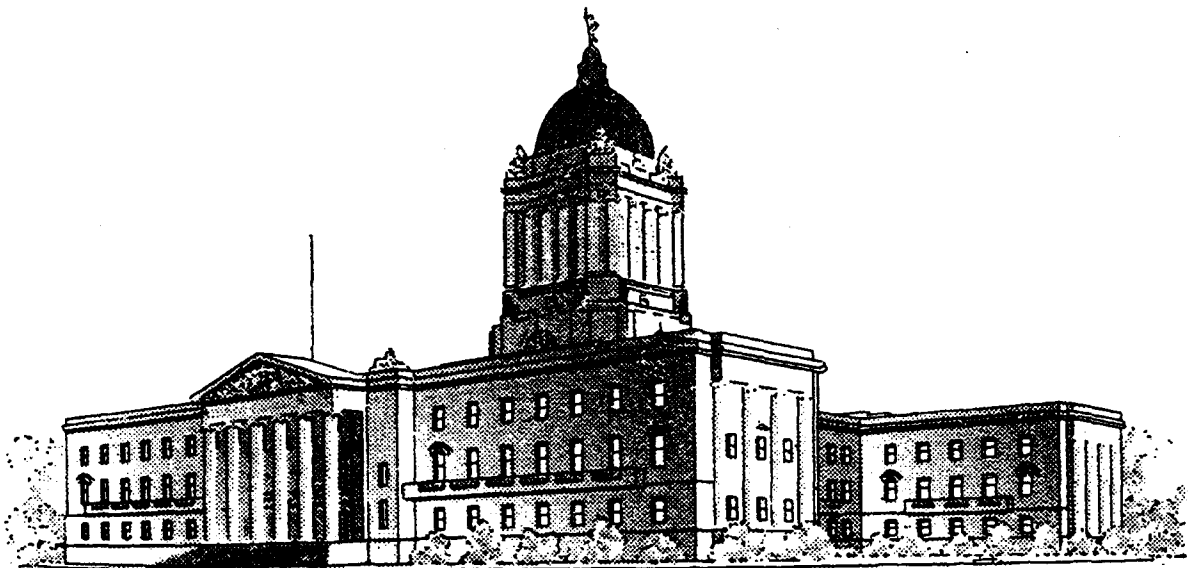




Sixth Session - Thirty-Fifth Legislature
of the
Legislative Assembly of Manitoba

Standing Committee
on
Economic Development

Chairperson
Mr. Mike Radcliffe
Constituency of River Heights



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

Members, Constituencies and Political Affiliation

<u>Name</u>	<u>Constituency</u>	<u>Party</u>
ASHTON, Steve	Thompson	N.D.P.
BARRETT, Becky	Wellington	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave	Kildonan	N.D.P.
CUMMINGS, Glen, Hon.	Ste. Rose	P.C.
DACQUAY, Louise, Hon.	Seine River	P.C.
DERKACH, Leonard, Hon.	Roblin-Russell	P.C.
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DOER, Gary	Concordia	N.D.P.
DOWNEY, James, Hon.	Arthur-Virden	P.C.
DRIEDGER, Albert, Hon.	Steinbach	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry, Hon.	Lakeside	P.C.
ERNST, Jim, Hon.	Charleswood	P.C.
EVANS, Ciif	Interlake	N.D.P.
EVANS, Leonard S.	Brandon East	N.D.P.
FILMON, Gary, Hon.	Tuxedo	P.C.
FINDLAY, Glen, Hon.	Springfield	P.C.
FRIESEN, Jean	Wolseley	N.D.P.
GAUDRY, Neil	St. Boniface	Lib.
GILLESHAMMER, Harold, Hon.	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KOWALSKI, Gary	The Maples	Lib.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
MACKINTOSH, Gord	St. Johns	N.D.P.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McALPINE, Gerry	Sturgeon Creek	P.C.
McCRAE, James, Hon.	Brandon West	P.C.
McGIFFORD, Diane	Osborne	N.D.P.
McINTOSH, Linda, Hon.	Assiniboia	P.C.
MIHYCHUK, MaryAnn	St. James	N.D.P.
MITCHELSON, Bonnie, Hon.	River East	P.C.
NEWMAN, David	Riel	P.C.
PALLISTER, Brian, Hon.	Portage la Prairie	P.C.
PENNER, Jack	Emerson	P.C.
PITURA, Frank	Morris	P.C.
PRAZNIK, Darren, Hon.	Lac du Bonnet	P.C.
RADCLIFFE, Mike	River Heights	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack, Hon.	Niakwa	P.C.
RENDER, Shirley	St. Vital	P.C.
ROBINSON, Eric	Rupertsland	N.D.P.
ROCAN, Denis	Gladstone	P.C.
SALE, Tim	Crescentwood	N.D.P.
SANTOS, Conrad	Broadway	N.D.P.
STEFANSON, Eric, Hon.	Kirkfield Park	P.C.
STRUTHERS, Stan	Dauphin	N.D.P.
SVEINSON, Ben	La Verendrye	P.C.
TOEWS, Vic, Hon.	Rossmere	P.C.
TWEED, Mervin	Turtle Mountain	P.C.
VODREY, Rosemary, Hon.	Fort Garry	P.C.
WOWCHUK, Rosann	Swan River	N.D.P.

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON ECONOMIC DEVELOPMENT**

Thursday, October 26, 1995

TIME – 9 a.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Mike Radcliffe (River Heights)

ATTENDANCE - 10 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Gilleshammer, Praznik, Stefanson

Messrs. Ashton, Dyck, Lathlin, Ms. Mihychuk,
Messrs. Newman, Radcliffe, Robinson

APPEARING:

Bill 13–The Split Lake Cree Northern Flood Implementation Agreement, Water Power Amendment and Consequential Amendments Act

Mr. Kevin Lamoureux, MLA for Inkster

WITNESSES:

Bill 26–The Liquor Control Amendment Act

Mr. John Read, Manitoba Hotel Association
Mr. Gary Wingate, President, Manitoba Liquor Vendors Association

MATTERS UNDER DISCUSSION:

Bill 13–The Split Lake Cree Northern Flood Implementation Agreement, Water Power Amendment and Consequential Amendments Act
Bill 14–The Mines and Minerals Amendment Act
Bill 26–The Liquor Control Amendment Act

* * *

Mr. Chairperson: Good morning. Would the Standing Committee on Economic Development please come to order.

The business before the committee this morning is to consider the following bills: Bill 13, The Split Lake Cree Northern Flood Implementation Agreement, Water Power Amendment and Consequential Amendments Act; Bill 14, The Mines and Minerals Amendment Act; and Bill 26, The Liquor Control Amendment Act.

Do all the members of the committee have copies of the bills? If not, there are copies on the table behind me, and the Page can provide you with one.

It is our custom to hear presentations from the public before we move to detailed consideration of the bills. At this point, we have two people registered to speak to Bill 26.

I would seek the guidance of the committee. How do you wish to proceed? Shall we hear from the two presenters before we do clause by clause on any of the bills? [agreed]

At this point, I will read out the list of the names as they stand on the list this morning: No. 1 is John Read, Manitoba Hotel Association; No. 2 is Gary Wingate, President, Manitoba Liquor Vendors Association.

If there is anyone present in the audience this morning who wishes to appear before the committee and has not yet registered, you may register at the back of the room, and your name will be added to the list.

It has been the practice of this committee in the past to allow persons from out of town to present first as a matter of courtesy. Currently, one of the two presenters is from out of town. Did the committee wish to hear from the out-of-town person first? [agreed]

Finally, do we wish to establish any time limit on any of the public presentations? No? Fine. We will proceed. We are ready to begin public presentations.

Bill 26–The Liquor Control Amendment Act

Mr. Chairperson: As previously agreed, Mr. Wingate, President of the Manitoba Liquor Vendors

Association, who is from out of town, will you please come forward, sir, and make your presentation.

Good morning, sir.

Mr. Gary Wingate (President, Manitoba Liquor Vendors Association): Good morning.

Mr. Chairperson: You have a written presentation which is now being distributed. Is that correct, sir?

Mr. Wingate: Yes, I do.

Mr. Chairperson: Good. Okay, Mr. Wingate, I guess your brief has been circulated. Would you please proceed, sir.

Mr. Wingate: Thank you, Mr. Chairman. Ladies and gentlemen, I would first like to apologize for the photocopying of the resolution bill. Some of it is a little hard to read. So if you need any further clarification, I have got a clearer copy up here.

Ladies and gentlemen, my name is Gary Wingate. I am president of the Manitoba Liquor Vendors Association, and I also own and operate a business 60 miles north of Winnipeg called Traverse Bay Corner. I am here today representing both of these positions. Currently there are approximately 170 private liquor vendors in the province of Manitoba of which we have 108 active members.

Some of our members have expressed a desire to have the ability to be allowed to retail wine, beer and spirits on Sunday. I happen to be one of those vendors that share that same desire.

* (0910)

The business that I operate is located right in the heart of cottage country, serving Victoria, Albert, Hillside, Traverse Bay, Lester and Grand Beach. We operate our store seven days a week, 364 days per year, and provide a wide variety of products and services to our customers. Since our liquor vendor is under the same roof as the rest of our store, often customers are surprised that they cannot purchase liquor on Sunday along with their other purchases. Many of these

customers winter in other parts of the world where purchase of liquor on Sundays is allowed. Most of these people are only looking to purchase a bottle of wine on Sunday to have with their meal.

For the following reasons, I cannot understand why The Manitoba Liquor Act has not been changed, to this point, allowing the retail of liquor on Sundays.

1. While I cannot sell liquor on Sunday, I can on other statutory holidays, provided the local municipality has given their approval. Do you really think the public will consume more alcohol on a regular weekend Sunday than they would on a long weekend Monday? I happen to doubt it. Most people have to work the next day and are generally just looking for a bottle of wine, as I mentioned, on the holiday to have with supper.

2. I have been given a letter from my local government district giving me their permission to sell liquor on Sundays, provided the provincial government will allow it, and you have received a copy of that.

3. I guess while I cannot sell liquor on Sundays in my store, I am still able to sell lottery tickets which, again, is up for public scrutiny.

4. While private liquor vendors cannot sell liquor on Sundays, hotels in Manitoba are able to open their vendors and beverage rooms for special events on Sundays.

5. Finally, I cannot understand why private liquor vendors cannot sell liquor on Sundays while these new private wine stores that have just opened in Winnipeg can. I have heard it is justified because they sell fine foods as well. My business, as many other private liquor vendors in this province who are open Sundays, also sells these fine foods.

I realize there is still a small segment of our population who still object to Sunday shopping. However, times have changed. People have become more responsible drinkers, and by changing this act we may also create increased employment.

Something I also feel should be reviewed is the fact that most private liquor vendors service the rural areas.

Does it seem fair that people in Winnipeg have the option of purchasing a bottle of wine on Sunday from a private wine store while people in rural areas are not able to do the same from the liquor vendor serving their area? They are forced to drive into Winnipeg. In my case, this would mean a round-trip of 120 miles.

I would appreciate your consideration and support in making these changes to The Manitoba Liquor Act. Thank you.

Mr. Chairperson: Thank you very much, sir. The committee members may have a few questions at this time.

Does anybody have any questions of this presenter? It does not appear there are any questions. Oh, sorry.

Hon. Darren Praznik (Minister of Northern Affairs): Mr. Wingate, I appreciate your coming in for this presentation.

Being a constituent of mine and serving a large part of my constituency, I know we have talked about this before. I know you certainly recognize how our liquor laws over time have grown in a host of ways to suit different purposes, and as a consequence, the minister responsible has from time to time opened up the act, as he has now, to modernize some components. I know you appreciate representing the liquor vendors, the issue of many of their interests.

I was wondering if your association has taken a position yet on the issue of opening up even more vendors. I know some of the people in your area have, as you are well aware, who also have grocery stores, been pushing for the issue of opening up, allowing more vendor licences in the area as well. I wondered if the association had yet taken a position or to advise the government as to whether or not we should be opening up that element, as well, in addition to dealing with some of the problems with those who have vendors.

Mr. Wingate: I think, currently, just from surveying the numbers in the association, we feel we have a good relationship with the Liquor Control Commission right now and feel the needs of the various communities around the province of Manitoba are being well served by the existing vendors that are in existence today.

We also happen to enjoy the 20-kilometre noncompetition type of clause, if you want to call it that. That is to say that no other liquor vendor, private liquor vendor or government, are to exist within a 20-kilometre period. We think that is a reasonable distance and cannot see really any need for opening further vendors at this point.

Mr. Chairperson: Are there any other questions of this presenter?

Ms. MaryAnn Mihychuk (St. James): Can you tell the committee, from your experience, what type of reaction do the local residents have to this proposal? Is there support by the local residents or opposition? Can you give us an idea about their reaction?

Mr. Wingate: I would say--

Mr. Chairperson: Mr. Wingate, for purposes of the record, I have to identify you so that the Hansard people can pick up and discern who is speaking, so would you wait after the question is asked until you have been recognized and then proceed with your answer. It makes it a little convoluted, but that is the best we can do.

Mr. Wingate, would you please proceed with your response.

Mr. Wingate: There is no question, we have had overwhelming support from the local people in the area and certainly the people who come out there as cottagers during the summer. In fact, I have talked to several of them, asking if I needed their support for a petition to try and get these things changed. The support has been overwhelming, absolutely.

Mr. Chairperson: Any other questions of this presenter? If not, thank you very much, sir. It has been a pleasure seeing you this morning.

The next person to present on the list is John Read from the Manitoba Hotel Association. Mr. Read, we are just circulating a written presentation, if you could wait for us for a moment.

It appears your brief is now circulated, sir. Would you please proceed.

Mr. John Read (Manitoba Hotel Association): I wish to thank the committee for the opportunity to appear before today to discuss Bill 26.

I am representing the Manitoba Hotel Association with this brief today, and the Manitoba Hotel Association represents over 90 percent of the hotels operating in the province.

We certainly appreciate the changes to The Liquor Control Act that permit all licensed premises to serve alcohol without food on Remembrance Day, and we want to thank the minister responsible for The Liquor Control Act for recommending these changes.

The Manitoba Hotel Association had been looking forward to a bill that would amend The Liquor Control Act. We realistically believed the bill would allow all licensed premises to operate seven days a week. The privilege of operating seven days a week was extended to the holders of a cocktail lounge licence four years ago.

Cocktail lounge licences are granted to restaurants or hotels which meet the necessary requirements. It was suggested by the minister at that time, 1991, that this significant change would allow tourists and business people the opportunity to consume alcohol on a Sunday without having a meal in a cocktail lounge. We applauded the government's initiative in this regard. However, it only affected a small segment of the hotel industry that had a cocktail lounge.

We stated at that time that if we are to stimulate the hospitality industry throughout Manitoba, we should extend this privilege of operating on a Sunday, to include all licences. This would have provided consistency in service throughout Manitoba and allow licensees to compete on an equitable basis, which does not now exist.

*(0920)

There are approximately 300 cocktail lounges in Manitoba. Less than 25 percent are located in hotels, and more than half of these are located in Winnipeg hotels. This has created an inequity throughout Manitoba, particularly when you have more than one kind of licence in a town.

Effective July 1, 1991, all licences in both Alberta and Saskatchewan were permitted to serve alcoholic beverages on Sundays without food. The minister responsible for the Saskatchewan Liquor Board stated in his news release, the change will put licensees in all parts of the province on a level playing field and give Saskatchewan a competitive edge over our neighbouring provinces in attracting convention business and tourists. That change still exists today, four years later.

The Provinces of Quebec, Ontario, Saskatchewan, Alberta and British Columbia, as well as the Yukon, permit the service of alcoholic beverages on Sundays in all licensed premises. Patrons in Manitoba can consume alcoholic beverages on Sunday in cocktail lounges, sporting events, special events, golf courses, beer gardens and occasional permits. Unfortunately, only those establishments holding a beverage room or cabaret licence will be prohibited in operating in a regular fashion.

A licensed premise operating under a cocktail lounge licence, beverage room or cabaret functions in a very similar manner although each have to meet and maintain a different set of criteria to qualify for a licence. A patron can consume alcoholic beverages without food in any of these licensed premises although food must be available. By not allowing the holders of a cabaret or beverage room a licence to operate in a normal fashion seven days a week places them at a distinct competitive disadvantage. We cannot understand why this restriction continues to be imposed. We believe we are the only province in Canada where this situation exists. We respectfully ask that this unfair situation be corrected and four years is a long time to remain in this unfavourable position.

Bill 42 amended The Liquor Control Act in 1993 allowed for the introduction of wine stores which are permitted to offer products on Sunday. There are two other types of establishments who seek the same privilege afforded the wine stores. You heard from one earlier this morning, the local liquor vendors, and now the hotel beer vendors. Many local liquor vendors and hotels are located in tourist areas and are prohibited from serving the visiting public. Hotels are already open on Sunday serving food and offering

accommodation and should be permitted to provide their patrons with full service.

By allowing all wine stores, local liquor vendors and beer vendors the option of operating seven days a week, the province would create more hours of employment, provide greater convenience for all Manitobans and out-of-province guests, allow Manitoba to be competitive with their neighbouring provinces and remove restricted and dated liquor laws. We would ask that you please consider amending Bill 26 to permit all liquor licences to operate seven days a week. Thank you, Mr. Chairman.

Mr. Chairperson: Thank you very much, Mr. Read. Do any of the members of the committee have any questions of this presenter? Seeing no questions, I would thank you very much and wish you good morning, sir.

Seeing there are no further persons here to make a presentation, we would like to thank all of those who came out to present to the committee. The public presentations are now complete. Is it the will of the committee to proceed on a clause-by-clause passing of the bill at this time? [agreed]

Does the minister responsible for Bill 26 have an opening statement?

Hon. Harold Gilleshammer (Minister charged with the administration of The Liquor Control Act): Mr. Chairman, we brought this bill before the Legislature in June of this year and are pleased that it has proceeded from second reading here to committee. The bill essentially does three things: It allows hotels to be open on Remembrance Day after one o'clock in the afternoon; it allows for licensees to purchase beer from hotels where previously they were not able to do so; and it makes a change in the manner in which our legions are operated whereby they are restricted to 10 percent of their membership, a sign-in guest, and it will increase that to 50 percent.

We have brought this forward after consultation with people in the industry and with the legions across Manitoba, and we would like to proceed at this time to do a clause-by-clause passage of the bill.

Mr. Steve Ashton (Thompson): I had a few comments. I appreciate the presentations this morning. I know it is an ongoing concern, and as the various changes have been made to our liquor laws the last couple of years, we end up with those questions of equity. We now have lounges open on Sundays, and, I guess, I appreciate the presentations this morning which reference whether there is not an unfair competitive situation with lounges being open and beverage rooms. I assume, as we always do with these types of regulations, the minister will be meeting with individuals and groups who are concerned about this on an ongoing basis. I certainly would encourage that.

I just had one question. I realize there has been consultation, certainly at the district level, with the legions, the Northwestern Ontario and Manitoba district. I would like to ask the minister if he could give some idea of how extensive consultation was with the Army Navy & Air Force Veterans' associations and legions in the province. One thing I have found is that a fair number of people are not aware of the two changes, really, that are being proposed in this legislation that directly impact on veterans' associations.

Mr. Gilleshammer: I thank you for the question.

Prior to bringing this legislation before the House, I did meet with the executive of the legions. They had passed a resolution, I believe, in 1991, supporting this change. A motion before their group reaffirmed this in 1993. They indicate that their association is in support of the changes we are making in the act.

At the same time, they do say it was not a unanimous decision of their organization, but they have had this before their membership on two occasions in recent years, and, first of all approved it and then reaffirmed it. So in my meeting with them, they certainly gave us the support to go ahead with these changes.

Mr. Ashton: So that was on the legions' side, was there a similar discussion with Army Navy & Air Force?

Mr. Gilleshammer: I met only with the executive of the Royal Canadian Legion.

Mr. Ashton: As I indicated, I do feel there is some concern about this particular change, and there is, I would say, a fairly significant lack of information. I realize people who are involved in the legion at that level would be aware, but certainly people that I have talked to are not aware of this particular change.

While, obviously, one of the changes will significantly benefit veterans' organizations that operate licensed premises, and I would indicate there is pretty significant support for that from my contacts, I do feel, on the other end, there is some concern that we may be watering down Remembrance Day. I guess there are some questions being raised about the timing of this particular change, 50 years after the end of the Second World War, and this year we have had probably more celebrations of what happened and the sacrifice made by our veterans.

Even though I appreciate that this has been formally adopted by the legion, I will indicate it is a concern out there. It is perhaps unfortunate that there was not greater knowledge of this bill coming forward, because I suspect we might have had some presentations, probably on both sides of this particular issue, from people involved with veterans' organizations.

Mr. Chairperson: Thank you very much, Mr. Ashton. We thank the member for the remarks.

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

* (0930)

We will now begin with a clause-by-clause consideration. May I suggest that the committee wishes to consider the clauses in blocks? We could call the clauses in blocks that conform with the pages. Is that agreeable? [agreed]

Clause 1—pass; Clause 2—pass; Clause 3 1.1(1)—pass; Clause 3 1.1(2)—pass; Clause 3 1.2—pass; Clause 4—pass; Clause 5(1)—pass; Clause 5(2)—pass; Clause 5(3)—pass; Clause 6(1)—pass; Clause 6(2)—pass; Clause 7(1)—pass; Clause 7(2)—pass; Clause 8(1)—pass; Clause 8(2)—pass; Clause 9(1)—pass; Clause 9(2)—pass;

Clause 10(1)—pass; Clause 10(2)—pass; Clause 10(3)—pass; Clause 10(4)—pass; Clause 11(1)—pass; Clause 11(2)—pass; Clause 12—pass; Clause 13—pass; preamble—pass; title—pass. Bill be reported.

This completes consideration of Bill 26. The next bill for consideration this morning is Bill 13.

Bill 13—The Split Lake Cree Northern Flood Implementation Agreement, Water Power Amendment and Consequential Amendments Act

Mr. Chairperson: The recess is now completed. The minister responsible is now present. We will proceed with consideration of Bill 13. During the consideration of the bill, the title and preamble are postponed until all of the clauses have been considered in their proper order by the committee.

We will now proceed with a clause-by-clause consideration. There are no public presenters present on this bill. May I suggest that if the committee wishes to consider clauses in blocks, we could call the clauses in blocks to conform with the pages. Is this agreeable?

Hon. Darren Praznik (Minister responsible for Native Affairs): Mr. Chair, I was just going to suggest because this bill, as members, I know, are well aware, arises out of the settlement under the Northern Flood Agreement with the Split Lake Cree First Nation, and pursuant to this agreement was a bill to provide for the end of claims and a process for settling under that agreement. This is what this statute does; it is part of the settlement agreement.

I look to my technical staff, to Mr. Polakoff, who joins us today, for confirmation of this statement, but this legislation is pursuant to the agreement which was signed and ratified with the Split Lake Cree First Nation.

What I would suggest, because there may be questions that arise from any one section, is that we proceed on clause by clause. If members of the committee have a question pertaining to that clause, we can deal with it at that particular time, because it is a fairly technical bill, and we will attempt to provide that answer. I would suggest we proceed on that basis.

Mr. Chairperson: Very good.

Mr. Steve Ashton (Thompson): I have some comments.

Mr. Chairperson: Please proceed, sir.

Mr. Ashton: First of all, I would like to acknowledge the presence of a number of representatives from the Split Lake Cree First Nation, particularly representatives from chief and council, and Chief Norman Flett is here today.

I also want to indicate to the committee that, while there is going to be no official presentation, the Split Lake Cree First Nation certainly has been working very hard on this. This is really in the final stages, and I suspect that probably there has never been anything that has taken as much work within Split Lake as this current set of negotiations.

I wanted to pass that on because I know this is really just one more in a long series of stages. This bill has already gone through the House of Commons, and the agreement has been subject to a referendum which has been supported by the residents of Split Lake.

But what I wanted to do, Mr. Chairperson, if I could, prior to going into clause-by-clause discussion of this particular bill, is I think really put this particular bill into perspective. I think it is important to recognize just how much of an impact flooding has had in Split Lake and just how long a process this has been and just how much commitment this has taken on behalf of people in Split Lake to get to this stage.

The Northern Flood Agreement itself was signed in 1977, so this particular agreement has been in place for 18 years now. There has been a series of negotiations. There have been negotiations of individual settlements over a period of time, but this essentially is the first comprehensive settlement negotiated by a Northern Flood community. There are other communities now that are at various other stages. Most communities are proceeding along the same path that Split Lake chose, and I wanted to put on record how long a process this has been in terms of the community.

I think it is also important to recognize just how much of an impact the flooding had, and I can say how much impact it does have in terms of the water in Split Lake, the levels of water, the impact on traditional activities and the impact on a community that I have had the fortune, as a member of the Legislature, to really get to know. I have appreciated the real advantage I have had of being able to get to know people in Split Lake in whatever small way I have had possible as an MLA, to become in some ways even part of the community at times, and it is a community I have a lot of respect for, but it is a community that faced many challenges because of the flooding but stuck together, and I think that is one thing that anyone who knows Split Lake will recognize.

I know a number of my colleagues have had the opportunity to visit Split Lake, Mr. Robinson, the MLA for Rupertsland, in particular. We have travelled together into Split Lake on numerous occasions, and that is one of the key elements, I think, that people recognized very early on in Split Lake.

The other element, quite frankly, is respect for elders. I believe Split Lake is probably a model in terms of respect for the elders, involving elders in consultations and directly in the community activities. I want to note that because those two elements, the strong community spirit and also the involvement of elders, were certainly very much at play in the negotiations that we are seeing the results of today.

I want to indicate, too, that as is the case with any negotiations, there are certain things that I would say are certainly fully supported by everyone involved, and there are certain things that I think should be noted as perhaps areas of some disagreement.

I know I asked this question to the minister when this bill was brought in, and it relates to the question of the Northern Flood Agreement in the context of treaties. The Aboriginal Justice Inquiry recommended that the Northern Flood Agreement and agreements pertaining thereto be considered as modern-day treaties. The minister indicated that the government's position is this is in agreement.

* (0940)

I can indicate that that is not necessarily an opinion shared by the communities that are signing these agreements. I think that is important to note for the record, because this essentially is an agreement in the narrowest sense, but the Northern Flood Agreement itself, I believe, goes beyond merely being an agreement and does impose, I think, on all of us some obligations beyond that of simply an agreement, agreements that are reached on a daily and weekly basis involving a whole series of issues in other areas, but this is far more significant.

The reason I state that is because I want to ensure, as a member of the Legislature that represents several communities affected by the Northern Flood Agreement, that if, in the future, there are unforeseen circumstances that arise, that those will be recognized under an obligation, I believe, of all other parties. I say that because the sad history of flooding in northern Manitoba is that many of the consequences of the flooding were not known at the time and certainly were not communicated to people in the various communities that were affected.

For example, heavy metal pollution in the water was one of the perhaps unanticipated consequences of flooding. There have been many other consequences as well that have impacted not only activities but even the ability to use the ice surface for purposes of travel, for winter roads, et cetera. I think it is important that, if in 10 or 20 or 30 years there are other significant impacts from the Northern Flood Agreement, this bill not be seen as extinguishing any type of claim that the Split Lake Cree First Nation might have for unanticipated consequences. I cannot stress that enough.

I believe this may be an area that we disagree, but I think the minister can understand the very difficult decisions that were made and the various negotiations that took place here and the sense, I am sure, that he will recognize in Split Lake Cree First Nation that this agreement does not, in any way, shape or form, mean that Split Lake is not seeking that this be recognized as something akin to a modern-day treaty. I say that because, even though we still are dealing with unfulfilled promises that were contained in many treaties—Treaty Land Entitlement, in particular—there is at least some greater significance when commitments

are accepted as a treaty than when they are simply part of an agreement.

I also want to publicly commend the many people who were involved in these negotiations. When this bill is brought back to the Legislature, I will be putting on the record a list of many of the people who were involved in these negotiations; and, without risk today of leaving people out, because there were so many people involved, I certainly do want to credit Chief Flett and his council. Chief Flett has recently returned as chief of Split Lake, and he was involved in many of the critical negotiations that were involved.

Others who were involved—there was a retirement party this weekend which I had the privilege of being able to attend for Joe Morris, who was involved in many of the years—and there are many other people. I just want to put on notice that I will be hoping to have the opportunity to recognize their efforts.

I really want to stress that there are times when perhaps in our enthusiasm for political debate we attempt to turn issues such as these into political issues. One thing I know is that, whenever I have met the people in Split Lake with chief and council, the one request they always made of myself was not to politicize this issue. I was always kept abreast of any negotiations. If there was anything that people felt that I could do in terms of obtaining information or finding out what was going on, I always attempted to do that.

But I think that is really important to recognize because even up until this point, Mr. Chairperson, there have been some speeches made—most recently on Tuesday—in which some were attempting to point to politics, some were attempting to congratulate various governments or congratulate themselves.

Mr. Chairperson, the only people who I believe deserve credit, and I do not mean to take away anything from any of the negotiators or representatives from Hydro, the government of Manitoba or the Government of Canada, but the only people who can take some real satisfaction in the process that we are reaching today are the people of Split Lake and the chiefs and councils over the years who have been working on this particular issue, because they have had to deal not only

with the negotiations but the impact of the flooding in the community which, as I said before, has been very significant.

They have had to make the very difficult decisions at times about which issues to agree to, what counterproposals, the whole negotiating process, and quite frankly I know it has been difficult for many people in the community because many of the elders, year after year, we are seeing pass away many of the elders who suffered the initial consequences. It is ironic in a way that it is the next generation that is only now seeing the prospect of something positive coming out of this entire process.

That is why I want to speak today to give credit to Split Lake Cree First Nation, not to take away from anyone else who was involved but to urge that out of respect for all the efforts of chief and council, the involvement of the elders, the involvement of people in the community, that we, just once in this Legislature, put aside perhaps some of our politics and some of our tendency to want to get into the political issues as we see them in this Bill 13. By the way, I am not including the minister in that, but I was somewhat concerned by some of the statements that were made in the House.

I also want to say, Mr. Chairperson, that I think it is important for all people to recognize the significance of this agreement. I recognize that there are others involved in discussions related to the Northern Flood Agreement who perhaps have a different view of how to proceed on these particular matters. I am quite frankly pleased that there were no presentations today opposing Bill 13 or suggesting that we might look at amendments that might reflect needs in other communities, because I believe strongly that we have to recognize the decision that was made by the Split Lake Cree First Nation.

As the MLA representing Split Lake, I believe it is nothing less than being in keeping with the principle of self-government itself, and when the Split Lake Cree First Nation make this decision, I believe we, as the Manitoba Legislature, have to respect that decision, period.

So what I want to do, in conclusion, Mr. Chairperson, is once again reiterate the fact that this is

a very significant development for the Split Lake Cree First Nation, something for which many people deserve credit in the community. I want to stress again that we do not believe that the signing of this agreement, or even the passage of this bill, relieves any level of government or Manitoba Hydro from what we believe is an obligation that is equivalent to a treaty, a modern-day treaty. We believe that this is an important step in resolving the many problems that resulted from flooding, but it is only a continuing step.

Perhaps if there is one thing I have learned in my association with many First Nations communities and particularly with communities affected by flooding and including, in particular, Split Lake, is perhaps the different sense of time that we have. I believe sometimes many of us could learn with a different sense of time a much longer time perspective that certainly I see so many times in terms of communities, particularly in Split Lake.

* (0950)

I think that sense of time, to a large extent, Mr. Chairperson, is one of the reasons that so much meticulous effort has gone into the negotiation of this particular agreement. It took quite some time—

Mr. Chairperson: Thank you very much, Mr. Ashton. There are a number of other members, I think, who will be wishing to make some opening remarks, and I would invite you to conclude within the next moment or two if that would be possible.

Mr. Ashton: You are just proving my point about different sense of time, because one thing I respect about First Nations communities is that when someone wishes to speak, people listen. I have sat on many occasions for many hours listening to people out of respect, and I was in fact just concluding because I recognize that perhaps we are not as flexible in this environment as the First Nations people are.

I just wanted to say, in conclusion, that I think it is very important to recognize that this is part of a much longer time perspective, and that this and the impact of the flooding will not go away. This will help mitigate some of the damage that took place. It will give a new sense of hope in some ways.

I know the Split Lake Cree First Nation has many plans in terms of the funds that will flow from this. I hope, as I have said before, that perhaps the generation after the generation that was most significantly affected by the flooding will finally see something positive flow. I will just say once again that whatever flows that is positive is of credit to only one party in these particular negotiations, the Split Lake Cree First Nation.

Thank you very much, Mr. Chairperson.

Mr. Chairperson: Thank you very much, Mr. Ashton, for those words. There are a number of members on the committee today who wish to make a few opening remarks on this bill, and I would first perhaps invite—[interjection] Good. Is it the will of the committee to invite the balance of the members who wish to speak on this bill to proceed? [agreed]

Mr. Eric Robinson (Rupertstland): I will be very brief. One of the virtues of being a First Nations person is the power of patience, and I beg the committee to be patient as I make a few remarks with respect to the current bill that we are speaking on.

I believe that my colleague the member for Thompson has made some remarks relative to the reality of the Split Lake Cree Nation. The community's way of life was altered and the traditional economies of years gone by, once enjoyed by our forefathers, are no longer the norm in the community. The traditional economies of trapping, fishing and hunting are no longer there.

We have had a number of opportunities to talk with the community members of Split Lake, including the elders, the leadership and some of the young people that are now there. Some of the problems that are predominant in First Nations communities also exist in Split Lake, but, nevertheless, I believe that the leadership and the council and people involved in the welfare of the community have made it a point to always look after the two sacred elements of our Indian societies, those being the elders and the young people, the youth.

I know that I had an opportunity to be there with the member for Thompson previously on a number of

occasions. Before that I was there with the commissioners of the Aboriginal Justice Inquiry, as I listened to the many elders in the community describe the way of life that was altered as a result of the flooding. I pay great respect to those elders, and I continue to show my respect to the elders of the community.

The elders have been very supportive for not only their current Chief Norman Flett, who is here today, but also the past leadership of the community with respect to the decision-making process, and perhaps institutions like this could learn from a community like Split Lake on many different elements of time and patience and matters like that.

The Cree language, of course, is the first language of the people in Split Lake. I also want to reiterate and reaffirm my colleague's statement that this, the NFA, the Northern Flood Agreement, is regarded as a modern-day treaty and certainly we support that notion.

We do not view this bill to supersede the very notion of the modern-day treaty concept, as perceived by the First Nations people of Split Lake and the other four communities. Also, we do not view it as superseding Treaty 5 in the original spirit and intent of Treaty 5, which was originally signed in 1875, with additions in the years that followed the original signing of Treaty 5 in September of 1875.

We are fully supportive of the community's wishes in having this bill passed. We are definitely going to be voting in favour of the passing of Bill 13, not only at the committee stage, but also into third reading. I, too, want to congratulate the First Nations people of Split Lake, their past leadership and their current leadership under Chief Norman Flett and the members of the council and definitely the elders of that community for their patience and their continued hard work in ensuring that good be done for the benefit of their community.

I would be remiss if I did not congratulate the current Minister responsible for Native Affairs (Mr. Praznik) and his staff for the input that they have provided in working with the community in ensuring that this bill be brought forth to us. So, with those few remarks, I would like to conclude at this point. Thank you.

Mr. Chairperson: Mr. Lathlin, do you wish to make an opening statement at this time?

Mr. Oscar Lathlin (The Pas): No.

Mr. Chairperson: Thank you, sir.

Mr. Praznik: I will try to be very brief. I would like to thank the member for Rupertsland (Mr. Robinson) for his comments addressed to myself and on behalf of our staff who worked on this agreement from a provincial point of view. I would certainly like to welcome Chief Norman Flett here today to our committee for what is a very historic moment for both the Province of Manitoba and certainly the Split Lake First Nation.

I appreciated the comments of the member for Thompson (Mr. Ashton) with respect to keeping politics out of these things. There are enough small "p" politics in any community in working through these things that make it difficult.

I think, to those who have been part of these negotiations in whatever community, it is much easier that, when you are a provincial or federal government, you have a caucus or a cabinet to sell. When you are representing a whole community, you might have 300, 400, 1,000 people that you have to be able to bring into that process. That is, by any sense of negotiation, a most difficult process, to be able to satisfy the needs of the majority of a community when you are talking about so many people.

So, to those who, through the years, have been a chief and on council in Split Lake and in the other communities where we are negotiating Northern Flood, it is really a great talent to be able to do that. I think we as politicians who have been in government and are in government appreciate that difficulty.

I would say to the member for Thompson, though, there is one place where perhaps we may share this view, maybe from a little different angle. I think the fact that it has taken as long as it has to settle these issues is really a travesty of justice to some degree. When these lands were flooded, I do not think I was even 10 years old; I am sure the member for Thompson

was not quite a teenager or very close to that at that time, and here we are today, a complete generation sitting at this table to pass this piece of legislation.

The regrettable thing, in having worked on these as Minister of Northern Affairs, is, and I do not point fingers at any one individual but going back many, many years, I think we all created a process that was so prone to having delay and long periods of time. Many who have been involved in these negotiations have said to me, Darren, the number of consultants and lawyers on all sides who have grown rich on this process without result is really an awful thing for all involved.

* (1000)

So it is good. It is a good thing that we are finally bringing these to conclusion, particularly when you see many of the elders in the community who were young people, young in their prime when these things occurred. Now they are elders. They are old, and the settlement, the benefits of settlement are going to another generation. That is a very sad part of it.

I do have to particularly congratulate the Split Lake First Nation on being the first because it is always the most difficult thing when you are one of five negotiating to be the first to settle. That perhaps requires a greater courage than, certainly, being the last because you are the first to step out, and you are always open to the criticism that if you had held out you could have gotten something else, et cetera. So it does take a great deal of courage to be the first.

I also want to thank the people of Split Lake for the hospitality they showed myself and some visitors to our province last spring. We had the opportunity to be in the community on the fur issue, and I know that the wisdom of many was not lost on our guests from overseas. I certainly had a wonderful time, and I look forward to my next opportunity to be in Split Lake.

One final point that I make, and I think it is an important one to stress today at committee in answer to the query, in essence, of the member for Thompson (Mr. Ashton) and that is with respect to future unforeseen problems that could arise. The operative part of this bill is Section 2 which basically replaces the method of settlement of issues from the Northern Flood

Agreement, to which we are party, to the settlement agreement reached with the Split Lake First Nation.

So in essence we have, through our comprehensive negotiations, developed a new method of dealing with the claims under the settlement agreement, and this legislation extinguishes the Northern Flood Agreement as the operative part and replaces it with the settlement agreement. Within the settlement agreement is provision for unforeseen circumstances to be dealt with under the processes of that agreement. So I think it meets the concerns of the member for Thompson, Mr. Chairperson..

One last point that I make, and it comes back to my comments about process. I think perhaps one of the most significant changes in settling this, and this Northern Flood Agreement has existed through various governments of different political stripes, but I think a very important moment, and I want to congratulate those who are involved in it, was when we got into the comprehensive claim process and changed the view to how we would try to settle these as opposed to the claim-by-claim process.

Mr. Downey was minister at the time and took that initiative from a provincial point of view, and those who were sitting representing the First Nations took that same view from their side of the table, and it has led now to the completion of the Split Lake agreement.

We now have Nelson House, an agreement that is going to a ratification vote, I think, on the 6th of December. York Landing is in the process of voting now on their agreement, and we have two to go. So that change at the table, I think, has probably been the most significant event in the history of Northern Flood, and it is now leading to a conclusion which certainly those who were displaced and suffered the damages of our Hydro flooding are at least now, even in their latter years, going to reap the benefit of that compensation.

So I am very proud as minister to have had a very small part in the tail end of this process, and I do want to share with other members in offering the congratulations to the community and all who brought this together. It is, in its totality, a very monumental task, and I am glad today that we can move on.

So I hope I have answered the query from the member for Thompson (Mr. Ashton) with respect to the agreement, and it is not only on record but it is also in the agreement, and I think an important part. One may always get into the issue of what was foreseeable, unforeseen or covered, but at least the principle is there, and that was an important part of reaching the settlement.

Mr. Kevin Lamoureux (Inkster): Mr. Chairperson, just very briefly. I do not want to claim to have the same sort of background or knowledge that the minister, member for Thompson (Mr. Ashton) or Rupertsland (Mr. Robinson) would have with this issue, but I think it is important to indicate that this is something that has been long overdue.

I applaud first and foremost the Split Lake Cree Nation for their persistence in trying to resolve this matter and give credit to the current government in achieving this very important agreement, and to all those other individuals who were involved in doing something that has been, in fact, long overdue and the reason why we support this bill from second reading committee to third reading. With those few words, thank you very much.

Mr. Chairperson: Thank you, Mr. Lamoureux. I thank all members for these remarks.

During the consideration of the bill, the title and the preamble are postponed until all other clauses have been considered in the proper order by the committee. As agreed, we will now proceed with a clause-by-clause consideration.

Clause 1—pass; Clause 2—pass; Clause 3(1)—pass; Clause 3(2)—pass; Clause 3(3)—pass; Clause 4(1)—pass; Clause 4(2)—pass; Clause 5—pass; Clause 6—pass; preamble—pass; title—pass. Bill be reported.

Mr. Praznik: Mr. Chair, just for the benefit of our visitors in the gallery, I would point out that, with the passage from committee by way of process, this bill now will return to the House and be reported, will receive third reading and then receive Royal Assent, I take it, on the last day of the session, and this long, overdue matter will have been concluded.

Bill 14—The Mines and Minerals Amendment Act

Mr. Chairperson: The next matter for consideration by this committee is Bill 14, The Mines and Minerals Amendment Act. Does the minister have an opening statement?

Hon. Darren Praznik (Minister of Energy and Mines): Mr. Chair, I was wondering if my staff could join me at the table, Mr. Art Ball, one of our senior officers of the department, and Mr. Sheena Shetty, our Mines recorder.

Mr. Chair, this bill arises as the section of amendments, and I guess, as a minister, it is always somewhat embarrassing to a minister to return after having seen a major revisit of our legislation—to come back with amendments. But, as I am sure members of the committee will appreciate, we made a few years ago a significant, substantive rewrite of The Mines and Minerals Act, and since that time a host of problems were found in that legislation, the vast majority of which were technical that had to deal with various wordings that could have been improved.

So I am sure that members would agree that as a minister it is much better to have a legislation that is operating well as opposed to have a host of minor wording problems in its operative clauses. So we return to the House with this very significant set of amendments in terms of its volume. There are seven or eight more substantive amendments, which I outlined in second reading, and I believe I shared those with my critics some time ago. I think there were eight in total that one could consider more significant. The remainder were more wording changes or problems that were found by our draftspeople.

I look to my critic; she has a copy of this list of the—

Ms. MaryAnn Mihychuk (St. James): I have the spreadsheet, yes.

* (1010)

Mr. Praznik: Okay, what I might do is just provide a copy of this to members of the committee, and what I would suggest because of the length of this bill and wanting, of course, to make efficient use of our time, if

members of the committee are willing, I would suggest what we do is deal with this on a clause by clause. We have the outline of the more substantive clauses.

If there are questions with each clause, Mr. Chair, then we could deal with them at each spot as we go along and then proceed through the bill because, as I said, some of these are very technical, having to deal with wording. People might have a question or two, and I would rather keep us very pointed into our discussions as to those particular matters. So I said it is not a substantive bill in its sense with a lot of principles, et cetera. Those are confined, I would think, to the eight substantive clauses. The remainder are of a very technical nature.

Ms. Mihychuk: For clarification, then, the more substantive amendments will be dealt with separately or as we go through the bill?

Mr. Praznik: I defer recommendation as we go through the bill. I have a list of them we will share with the committee.

Ms. Mihychuk: I concur. I have them identified in the bill, and we can deal with them when we come to them. I would like to make a few opening remarks in terms of the bill.

Mr. Chairperson: Ms. Mihychuk, would you please proceed with your opening remarks.

Ms. Mihychuk: This is, indeed, a further revision to the 1992 major rewrite of The Mines Act and long overdue, as the minister stated.

The minister has called it a housekeeping bill, and for the most part, I would agree. For the wording and some of the other technical aspects, I have no concerns. It is unfortunate that we have to deal with so many amendments, but we can do that. We do want this to proceed in an efficient and in an effective piece of legislation. The more substantial amendments, however, we do have some questions, and I will be asking the minister for a greater explanation and reasoning behind some of these proposed amendments.

In addition, for the record, it seems to me that since we have a fairly major piece of legislation here, it was

indeed unfortunate that, again, we are missing an area of legislation that I believe needs to be dealt with, one which would allow a certain degree of flexibility for required work on claims and mineral depositions in areas that have been affected by natural disasters.

This year we saw forest fires ravage the North, and some prospectors and others who needed to go and do some work on their claims were not able to access those properties, and so it is unfortunate. Perhaps the minister should have relooked at these amendments. I know that this is the same package that the previous minister presented, but it may have been an opportunity to bring in this additional piece.

We were considering presenting the amendment, but given that it was—I understand it had to be in harmony—already presented as an amendment, perhaps this was not the time.

Mr. Chairperson: Ms. Mihychuk, I think you are still on the record, please proceed.

Ms. Mihychuk: I see that the minister now has a proposed amendment to deal with the topic. I do not feel able at this time, without having some time to review the amendment, to be able to include it in today's review.

This is unfortunate, and I do not wish to appear somehow stalling what I believe needs to be done; however, I am aware that the government will hopefully call a session soon, the next session, and perhaps that piece of legislation can be brought forward in an expedient way at that time.

Mr. Praznik: I will respond to it.

Ms. Mihychuk: Okay, I will let the minister respond.

Mr. Praznik: I know the issue exactly that the member is referring to, and if members of the committee want to deal with this now, I have no difficulty at least going through the background.

The problem under our current legislation was the ability to exempt work because of natural disaster. Currently under our act, a claim holder has to complete

certain work by a period of time in order to keep the claim or pay a monetary value to the Crown in which to do it. In some cases where we have forest fires and they do not have access within their time period, they cannot complete the work. We had that happen this year.

What we did, in essence, was those claim holders paid the required dollars to keep their claim which would be refunded to them when the work is actually completed, as I understand, and that is how this year's problems were done.

This amendment was suggested by many in the industry. It would be simply an amendment that would give the director, upon application, the ability to extend that period where, because of natural disaster or forest fire, they did not have access to the claim. The reason in fact I did not propose it was because of the arrangements that have been made by House leaders and our requirement to have all legislation to the opposition before the 30th of June.

This amendment was prepared and because of that arrangement that we had, we felt we were obliged, honour bound not to introduce amendments following that date, and of course the problem was brought to my attention following the 30th of June.

I am prepared today, if the member wishes us to deal with the issue, I have no problem with moving this amendment. I would provide her with a copy. It is very simple, and she has raised this issue as one that should be addressed. I have no problem with moving this amendment today. It was a preferred option at the time by myself to deal with this, but given our arrangement between House leaders I felt unable to move it, and she has raised it as an issue. I think we can easily accommodate that today, and the amendment is in itself a very simple one. I share this with her, and if she needs a few moments to look it over, I have no difficulty with that.

Ms. Mihychuk: Before I can make any type of comment, I need time to take the amendment—we must have concurrence from our House leader so we would need to have a recess or at this time I am not prepared to say that we are ready to accept an amendment

because of that agreement, unless the committee is prepared to go into a recess for awhile.

Mr. Chairperson: Ms. Mihychuk, are you asking—

Mr. Praznik: I appreciate the member has raised the issue and asked that we address it, and I have an amendment to address it today. It meets, I think, the issue that the member has in fact raised. I am very prepared to move the amendment here at committee now that she has raised the issue, as long as it is viewed as not having breached our agreement for the 30th of June. But what I would like to suggest, appreciating that she may have been caught somewhat off guard, and I understand that, I would be prepared to provide this amendment to her and when this returns for report stage, I understand we can move the amendment there and deal with this issue.

The only reason, I say, this was not dealt with is because it was not brought to my attention until after the 30th of June, so I appreciate her dilemma today having to deal with the caucus. If that is agreeable, then I will provide her with a copy of this and I will have this amendment moved at report stage.

Mr. Chairperson: That seems to be a satisfactory method of proceeding then. Is the committee agreed? [agreed]

* (1020)

I thank the members for these remarks. I will now proceed to consider the bill then clause by clause. During the consideration of the bill, the title and the preamble are postponed until all of the other clauses have been considered in their proper order by the committee. We will now begin with the clause-by-clause consideration.

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

Clause 4.

Ms. Mihychuk: This is one of the more substantial amendments. We are in fact opposed to this amendment. It actually moves the date of the release of the annual report, delaying it by six months, the

argument being that it would then be consistent with other departments. Our position is that perhaps the minister could review that and in fact look at a more timely release, perhaps moving other annual report releases to an earlier date rather than a later date, providing more meaningful and timely information.

Mr. Praznik: Mr. Chair, in appreciating the member's comments, I think there has been a directive across government of a common report date that is somewhat earlier, and this was meant for internal purposes. So, in reaction to the member's comment and that common date, I would so move

THAT Section 4 of the bill be amended by striking out "December 15" and substituting "September 30."

[French version]

Il est proposé que l'article 4 du projet de loi soit amendé par substitution, à "le 15 décembre", de "le 30 septembre".

This would be in compliance with what is being imposed on all other departments.

Mr. Chairperson: The Chair has received the copy of the amendment by way of motion, and the form of the motion is in order. Is there any further discussion on the amendment?

Ms. Mihychuk: I appreciate the minister's response and flexibility. We are going to be challenged to really oppose this. It seemed rather a significant delay when this year we had the release of the annual report, I think, two days or the day after Estimates concluded. So perhaps those who were somewhat more cynical might have thought that there was some reason for this delay.

So September 30, I understand that there may be a time frame in terms of the release of the annual report. Perhaps the minister could share with us. I noticed in the annual report this year that some of the figures were not perhaps finalized because of the publication date. Is that the reason for this extension?

Mr. Praznik: Mr. Chair, I think the member has hit the problem dead on. By the 30th of June, the

department just simply was not able to have all the data required. We can meet, I am advised, the 30th of September, and I think probably across government—I know the Minister of Finance (Mr. Stefanson) here who chairs the committee that deals with these reforms—and that date was felt to be one that all departments could meet in terms of their information gathering. There will be a consistency now.

So I think this should satisfy the member's concern. Of course, as soon as we can get it out, we will. But, as she appreciates from other days, data gathering in this department does have some difficulty based on field times, et cetera.

Mr. Chairperson: Is there any further debate on the amendment? On the proposed motion of Mr. Praznik to amend Clause 4 with respect to the English and French texts, shall the motion pass?

Some Honourable Members: Pass.

Mr. Chairperson: Passed accordingly.

Clause 4 as amended—pass; Clause 5(1)—pass; Clause 5(2)—pass; Clause 6—pass; Clause 7—pass.

Shall Clause 8—

Ms. Mihychuk: This is the clause which deletes the conflict-of-interest provision in The Mines Act, and, in terms of rationale, I understand that the minister or the department believes that it is too sweeping and all encompassing. Of course, the conflict-of-interest provision was put in The Mines Act, recognizing the sensitivity of information that may be available to employees and others that have the access to information that may be market sensitive and that the knowledge may be time sensitive. You may have information that still provides a certain degree of privilege to these individuals beyond the date of release.

Our concern is that indeed this information is still perhaps relevant and would provide certain individuals with opportunities they otherwise would not have and, secondly, that we wish assurance that all personnel,

those who are covered under The Civil Service Act and those who may not be, ministers and members of the Legislative Assembly, are subject to very stringent conflict-of-interest provisions. However, I am not sure those provisions cover executive assistants, and there may be sensitivity there. We want to ensure that our conflict of interest provisions do cover all personnel who have access to sensitive information, and maybe we are suggesting that we look at specific areas and amend those rather than deleting the whole provision.

Mr. Praznik: Mr. Chair, I certainly appreciate the comments of the member for St. James; certainly valid the concern that is there.

One difficulty in dealing with amendment acts is that one does not see the whole set of text that is in the existing legislation. I am advised that Section 22, which would follow the amended Section 21, still maintains the requirement of confidentiality which is the prime concern of industry.

The difficulty with the conflict-of-interest clause is it imposed upon any civil servants, not just civil servants in the Mines Department but any civil servant, the prohibition to hold a claim or lease. One could have a clerk in the Department of Northern Affairs working in Thompson who prospected part time, and they were prohibited from having a claim, even though they had no relationship to the Department of Mines or any of the work that was going on.

One could have an agricultural field rep who wished to acquire a lease for a private operation that they were dealing with in their personal life, and they were prohibited from doing so. So, as a consequence, we felt, and I tend to—[interjection] God bless you there—the advice received from the department that that was far more onerous than other provisions.

For example, an employee of the government who may farm part time is still eligible to participate in government farm-support programs. A person who works for the provincial government who has a business and may work for the Department of Natural Resources is still eligible in a private business to bid on contracts in provincial parks. So this particular provision imposed, the advice I received from the

department and I tend to concur in, a far more onerous restriction with respect to mineral claims than we impose on any other civil servant who would be in a similar position in another department.

So that is why this provision is being removed. But the confidentiality requirement is still specifically in this legislation, and the regular conflict-of-interest guidelines by which we govern all civil servants in the province still remain in effect. So I think we have met the concern that the member has, and yet I think been fair to people who serve the people of Manitoba in public service.

With respect to comments about ministerial assistants, as the member is well aware, my now special assistant, formerly executive assistant, prior to joining my staff as Minister of Labour and Civil Service Minister, was in the prospecting business. He joined my staff when at a time it was totally unrelated to the mining industry and because of this had to relinquish claims and things that he had in Manitoba and restricted his activity thereafter to the province of Ontario in his claims.

I am not arguing good or bad. Those were the rules. When he came to work for me as Minister of Labour, he met, to my understanding, those requirements. So I appreciate where the member is coming from, and I appreciate the context of the paper in which we are dealing, but I think we have addressed her concerns.

* (1030)

Surely I do not think any of us would argue that anyone who is employed in the Province of Manitoba in something unrelated to mining should not have the right of any other citizen in their own private time to be able to have a lease or stake a claim and do that on their own time as long as they are not breaching any of the regular confidentiality or conflict rules. It was a very onerous provision.

Ms. Mihychuk: Well, the minister provides additional information, and obviously we do not wish to have a provision which impedes people that are not access to this type of information from participating in exploration and prospecting. I mean, it is a wonderful life actually, but that does not eliminate my concern about the time sensitivity.

For example, the act as it is—and perhaps if I am wrong the minister can enlighten me—prohibited people within the department or people privy to this information from participating in mining or staking of claims for a year after the end of their employment in these areas. Will this provision still be maintained? Again, this is to protect the public interest as certain members of the department, in particular those in the minister's office, are privy to information that has a longer life than the immediate closure as soon as the termination of employment. These economic investments often take a year to develop, so those concerns are still before the people of Manitoba.

Mr. Praznik: Mr. Chair, I recognize the time-sensitivity issue that the member indicates. I am advised by my staff that that may be covered, in fact, by our policy which we ensure that the employee signs.

I appreciate the special sensitivity to any Mines minister of any political stripe who would have staff who in fact come from the industry. And always the balance of course to have staff—you want to have somebody who knows the industry, and one appreciates that. If in fact we do not have some coverage, we will check into that, but that is a matter we feel we can deal with by policy in terms of the contracts of employment and the requirements for confidentiality.

The problem with the previous wording in the legislation of course and the problem with definition is you may in fact have someone who is working in a totally unrelated field, maybe in the Petroleum branch as a clerk, and a prospector on their own time and have nothing that is related. You may have someone who works for the Department of Health or Department of Agriculture and the previous provision, as I understand it, in fact covered all of those people and was felt to be too strong and certainly unfair.

I will take her comments and her advice, and I will have my staff check on that with our policy arrangement. She brings forward a very important issue.

Ms. Mihychuk: I appreciate the minister's appreciation of the sensitivity of this issue. For those reasons, at this time we are not prepared to concur with

this amendment which would delete the conflict-of-interest provision until we can be assured that the public interest is protected. I look for further information on this.

Mr. Chairperson: Are the comments with regard to Clause 8 concluded? Anybody else have anything further to add? Shall the clause pass?

An Honourable Member: Pass.

Mr. Chairperson: Pass.

An Honourable Member: On division.

Mr. Chairperson: On division.

Voice Vote

Mr. Chairperson: All those in favour of Clause 8, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those against Clause 8, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: I declare Clause 8 passed.

Mr. Praznik: I believe, Mr. Chair, there was a request by the member for St. James (Ms. Mihychuk) to have that recorded as on division, and that should be so noted.

I think, Mr. Chair, that you have declared the clause passed. I think if you note on the record that the member for St. James has requested that that be done on division, I think that has dealt with the matter.

Mr. Chairperson: The Chair acknowledges that the member for St. James has requested a vote on division. The clause has been passed on division.

Clause 9—pass; Clause 10—pass; Clause 11—pass; Clause 12—pass; Clause 13—pass; Clause 14—pass; Clause 15(1)—pass; Clause 15(2)—pass; Clause 16—pass; Clause 17—pass; Clause 18(1)—pass.

Clause 18(2).

Ms. Mihychuk: Mr. Chairman, I am prepared to move along in blocks if that would move this a little bit more quickly. I have concerns under Section 161, Clause 31, so we can move through most of this area.

Mr. Chairperson: All right. We will move along with blocks as they appear on the pages.

Clause 18 through Clause 19(2)—pass; Clause 20 through Clause 23—pass; Clause 24 through Clause 27(1)—pass; Clause 27(2) through Clause 29(3)—pass; Clause 29(4) through Clause 30—pass.

Shall Clause 31 pass?

Ms. Mihychuk: I am not speaking against this amendment. I wish to ask some questions on this area.

This was an omission by the new Mines Act which did not recognize the basic stratigraphy of our landscape. I am asking the minister how many requests we had for quarry leases that were not able to be fulfilled, and did this cause inconvenience for people who did wish to remove quarry materials?

Mr. Praznik: Not being an expert in all of the legalities and operations of the department, I enter, with some trepidation, into what is in essence a debate between a former employee who understands this and my officials that administer it, but I am advised it is two.

Ms. Mihychuk: It is an area where—I find it a little disturbing that we actually did not catch this in the first Mines Act.

In terms of procedure, were there members from the aggregate unit perhaps or a member who would understand the geological setting for quarry materials included when we reviewed The Mines Act in this area?

Mr. Praznik: Mr. Chair, I am advised that that was the case. I suspect there was some oversight here in the way that information gets communicated between departmental staff and drafting people. In fairness to

our legal draftspeople, they are obviously not fully cognizant with all the nuances of a particular area of expertise, and these things sometimes get missed. That is why we bring forward amendments.

* (1040)

But I understand in the two particular cases, just to elaborate, both are being held pending the passage of this, so their interests are secured. Once this legislation is passed, it will be dealt with.

So the problem has been discovered, corrected. Interests have been looked after, and, hopefully, that should deal with the situation.

Ms. Mihychuk: A theoretical question to the minister: Is it possible to have three types of extraction going on at one location: the removal of aggregate materials, the quarrying of Paleozoic limestone or dolomite, and then a claim on the metallic mineral rights?

Mr. Praznik: Mr. Chair, the answer would be yes in theory, and I gather if you had some crazy formation that I would not even pretend to understand, you might even have a petroleum lease in that, too; but, as my staff point out to me, it would depend largely on how the application was applied for, whether it be all industrial minerals there or quarry minerals as opposed to just the limestone, et cetera. Yes, you could have three interests on the same property.

Ms. Mihychuk: I have no further questions.

Mr. Chairperson: Clause 31—pass; Clauses 32 through 35(1)—pass.

Clauses 35(2) through—

Ms. Mihychuk: I have some questions in terms of Clause 37.

Mr. Chairperson: Clauses 35(2) and 36—pass.

Clause 37.

Ms. Mihychuk: This section removes the requirement for an Order-in-Council, if I understand it correctly, for

the expenditure of monies on the Quarry Rehabilitation Reserve Account.

I raise this not because I have concerns specifically about this reserve or this account, but rather—I am going to ask the minister about what measures the ministry has taken to enhance its regulation component.

We have seen an example, and I am going to link a fairly unfortunate regulation issue that was raised by the Auditor with the Exploration Incentive Program. There were a number of issues raised about how the funds were given, who sits on the committee to decide on the appropriate projects, was the work done, were there appropriate inspectors present to ensure that the monies were being expended efficiently? I think the minister would agree, these are important questions that we have to cover.

Here we have another reserve dealing with millions of dollars. I believe it is about between \$2 million and \$3 million right now, if I am correct. Although we are dealing with fairly small amounts of money in each expenditure, what measures do we have to ensure the public accountability of these monies? Has the minister increased the number of inspectors, increased, perhaps, or improved the—is there a committee that decides on the projects that are awarded this? I will give the minister a chance to explain how the monies from this are expended and what type of accountability procedures are present.

Mr. Praznik: Yes, a very good question in the context of this amendment. First of all, the applications or the process begins with an application to access that particular fund. We have increased our number of inspectors from three to four, so we have added additional staff. The inspector attends the site, does the inspection, I understand, even does a video of the site for future reference, makes recommendation as to what should be done and what can be done. Obviously, we do not want to be rehabilitating sites that still have material that can be quarried in the future, although there are some sites where we have done work, I understand, on a progressive basis. Then the application goes to senior staff for review and recommendation to me, and then I take it forward to cabinet under the current process.

We have not had many, I would suspect, that we have turned down that have actually had—it is not a matter of having X number of dollars and only so many projects you could do in choosing. Basically, everyone who has come forward with a project that our inspectors viewed as a proper process, et cetera, has received approval, and then of course it goes to cabinet for approval.

The reason why this amendment is coming about is when one looks at in totality, the number of issues across government that require an Order-in-Council for approval, it is very significant. Cabinet has taken the initiative, and I think somewhat overdue, to review what in fact should be coming to cabinet and what should not be. These expenditures, of course, have to be audited. They ultimately have to receive the approval of Treasury Board. I believe under this process they will still require the approval of the Treasury Board for the expenditure.

I look to my staff—[interjection] In totality, the fund has to be approved by Treasury Board. So we still have those safeguards built in. What in fact happens, of course, is like a number of other things that require Orders-in-Council, is it becomes very much a perfunctory process to go to cabinet with a list every so many months of areas of land where expenditures are to be made.

It was felt, as in that spirit of trying to review the way we do things in government, this was one area that did not require that approval of cabinet to expend relatively small sums of money on quarry rehabilitation, particularly given the fact that it is not like we are vetting and choosing 10 of 20 applications. Virtually every application that has come forward that our department inspectors have viewed as being legitimate and proper work has received support.

I hope that meets the questions and concerns of the member.

Ms. Mihychuk: Thank you for the explanation. There are still some areas of concern. The process, as it is, is I think a makeshift one with the number of personnel and resources available, and my concerns about the process, itself, have not been satisfied in terms of the fundamental way that it is carried out.

We have quarry inspectors that, I understand, actually even select the sites, in some cases, bring them forward. These are the same individuals that are required under the act to ensure that the regulations are followed, so they are the policing body of the department, and then they are also the ones that award the contract. This, in particular, is of concern because you have the very people who have to cite the infractions awarding the contracts to the same contractors that are obviously working in the field. It may be very difficult for these same people to be totally unbiased, and that is what we want.

I am not faulting the department. In my opinion, there have been greater and greater demands put on in terms of regulation and with various different funds and new initiatives without the corresponding supports put in. I do not wish to suggest that I do not support the rehabilitation program, hardly, but those concerns I do not think are addressed by what the minister has commented.

I would suggest that perhaps we can review some of the policies of the department, perhaps look at different accountability structures. Although the Orders-in-Council—and I would agree, if we had a good process we would not need Orders-in-Council and I agree with the minister. However, at this time, it is the only public accountability that we have of this fund, and unfortunately, when we look at the Orders-in-Council, many of the expenditures that have been approved exceed the \$10,000 recommendation for public tender, not by much, granted, but again it raises the question of process.

If a contract is above what we normally consider the limit for public tender, then why indeed did it not go for public tender? How can the public be ensured that there are legitimate processes that ensure these practices are actually occurring?

* (1050)

Mr. Praznik: Mr. Chair, I appreciate the concern of the member. As the member, I am sure, is aware, we did have a particular problem in one case. It was probably brought to her attention, as it was to mine. I would suggest to her that the Order-in-Council process

would not do anything, quite frankly, to add another safeguard to that. Simply, one could not expect 17 or 18 ministers, in looking through a list of projects, to be able to identify the kind of problem that she talks about, so the Order-in-Council process is not going to solve it. That is why it is being removed.

The member uses the word "bias." I would suggest honesty or dishonesty is a more accurate word. We can never account for in our own public employees. I have been a minister for five years and during that period we have seen three or four people in departments that I have been minister of who have either resigned or been let go for actions that breached their requirements of employment, some involving basic questions of honesty, and that is no reflection on public servants. Public service has as many—reflective of society.

We always have people who will take advantage or find a way to deal with that; that is life. The question is how do you find that, and how do you turn it out and ensure they are not biased? The problem we had that she refers to of course was picked up under our audit procedure and was dealt with, and the employee involved is no longer with the provincial government, so they have paid a price for that activity, and we of course have to ensure that our audit is proper.

With respect to the tendering issue, it has been pointed out with me, one of the problems is when you are doing these estimates is how accurate they can be, and sometimes the estimate will be \$10,000, and the actual cost might be \$11,000 with which to do the work, or \$12,000. It has not been out of that range, and it is always the balance of how much does one spend. I appreciate one draws a line of \$10,000 and sometimes one is going to be over, and the question is why was it not tendered, and it is a valid question.

That is something we have to watch. Obviously if it is happening too often then we should be putting them out to tender. Those matters, correctly raised, rightly raised—I can concur in her concerns—need to be dealt with our internal procedure. The Order-in-Council process I would suggest—I do not think she would disagree—is really not going to solve that.

So given the fact she has highlighted this matter, and given the fact we had some problem before with this

change in the act, and now the director and I have spoken about this on a number of occasions, we are watching very carefully internally to make sure that we do not have a similar problem arise. If we are required to put in some changes in our process to deal with that internally, as an administrative process, we will.

If she has some suggestions, we would be glad to hear from her about them, but the genesis or the issue in this bill is whether the matter should go to Order-in-Council, to cabinet for approval or not, and given the amounts of money involved and given the process or given what we are talking about, I do not think that would add anything, quite frankly, to the public scrutiny part.

We have to ensure that how we are dealing with it at an administrative level deals with it correctly. So I appreciate her concerns, and in fairness to employees and what have you—we have to be a little careful getting into detail—but we know the same situation.

Ms. Mihychuk: I have raised some issues that I think can apply to this one individual but can also apply to virtually anybody in a position which is the enforcer of regulation and dealing with companies that maybe have a history of not complying with the regulation. I still believe that it is going to be difficult for them to be fair in the awarding of contracts. So I am looking for a procedure of the projects selected, similar to the Mineral Exploration Incentive Program.

We have there a committee, and certain questions were raised by the Auditor because the members were not identified, but until there is a certain level of assurance that we have a process that assures accountability, I am not prepared to concur with the minister's request to eliminate the Orders-in-Council and the reason being that, although Orders-in-Council are not the, I think, appropriate way to expend public monies, it does provide an opportunity for example the public and myself to review individual projects that were approved, and in my role as a critic I may be able to identify areas of concern, which I was able to do. And although I have a confidence that the minister will review this, until I see a significant plan to ensure public accountability, I am not prepared to pass this amendment.

Mr. Chairperson: Any further discussion on Clause 37?

Mr. Praznik: Just one comment I hope never comes home to concern me or give me cause to be concerned, but ultimately in our British Parliamentary system there is one person who is responsible, and that is the minister. I sit here today recognizing that responsibility, and should there be problems, I am responsible to ensure, as minister, that they are in fact corrected, so there is a level of responsibility, and I sit here accepting that fully as Minister charged with the administration of this department. I appreciate the member's concerns.

Mr. Chairperson: Are there any further comments on this clause? Shall Clause 37 pass?

An Honourable Member: On division.

Voice Vote

Mr. Chairperson: All those in favour of Clause 37 say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those against say nay.

Some Honourable Members: Nay.

Mr. Chairperson: Clause 37 shall pass on division.

Ms. Mihychuk: Mr. Chairman, we can move fairly very quickly. I have no other significant concerns.

Mr. Chairperson: Clause 38(1) through Clause 38(4)—pass; Clause 39(1) through Clause 43(2)—pass; Clause 44 through Clause 48(1)—pass; Clause 48(2)—pass.

Preamble—pass; title—pass.

This completes consideration of Bill 14. Bill be reported as amended.

Some Honourable Members: Agreed.

Mr. Chairperson: Agreed. What is the will of the committee?

Mr. Praznik: Yes, just before we rise, I just asked to the member for St. James, if she is asking that we take all the opposition for lunch, we do not have the budget.

I should just say to the member, I would hope that she would get back to me in rather short order on that amendment because I would like to move it in the report stage.

Mr. Chairperson: Shall the committee rise?

Some Honourable Members: Agreed.

Mr. Chairperson: Agreed and so ordered.

COMMITTEE ROSE AT: 10:58 a.m.