



**First Session - Thirty-Sixth Legislature**

**of the**

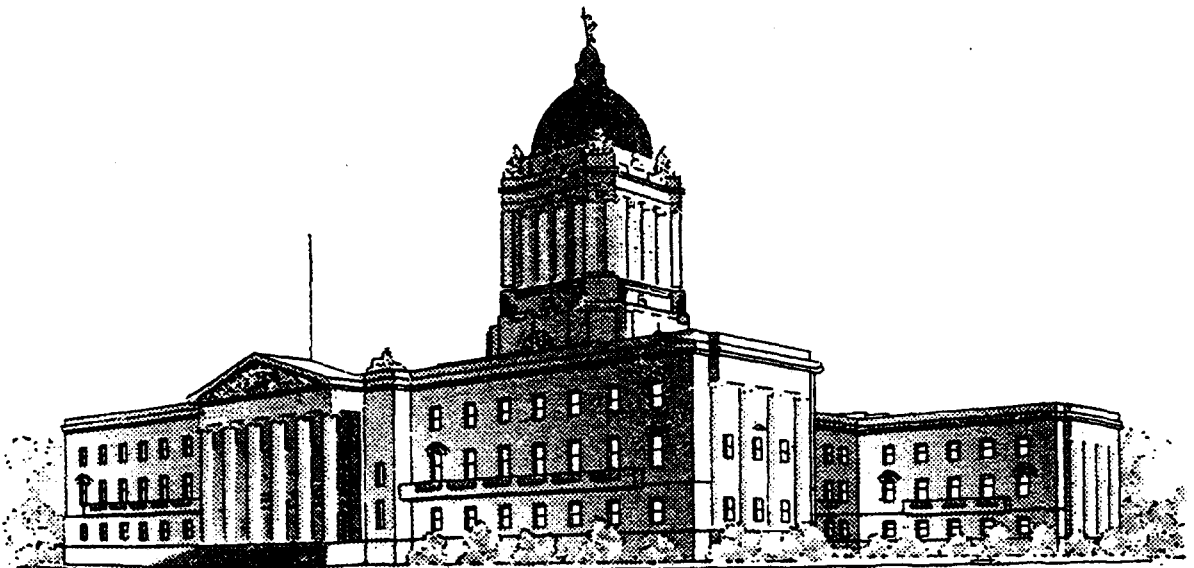
**Legislative Assembly of Manitoba**

**Standing Committee**

**on**

**Law Amendments**

*Chairperson*  
*Mr. David Newman*  
*Constituency of Riel*



**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.
DEWAR, Gregory	Selkirk	N.D.P.
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, Clif	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	Rupert's Island	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 LAW AMENDMENTS**

**Tuesday, October 24, 1995**

**TIME – 7 p.m.**

Bill 12–The Louis Riel Institute Act  
Bill 25–The Real Property Amendment Act(2)  
Bill 33–The Statute Law Amendment Act, 1995

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. David Newman (Riel)**

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**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Downey, Ernst, Praznik, Hon. Mrs. Vodrey

Messrs. Dewar, Dyck, Mackintosh, Martindale, Newman, Radcliffe, Robinson

**APPEARING:**

Ms. Marianne Cerilli, MLA for Radisson

**WITNESSES:**

Bill 12–The Louis Riel Institute Act

Ms. Roberta Carriere, Private Citizen  
Mr. Billyjo Delaronde, Manitoba Metis Federation  
Mr. Maurice Saint-Cyr, Private Citizen  
Ms. Marion McKinnon, Metis Women of Manitoba  
Ms. Audreen Hourie, Private Citizen

Bill 25–The Real Property Amendment Act(2)

Ms. Irene Groot-Koerkamp, Manitoba Telephone System  
Mr. Jim Wood, Professional Land Surveyors Business Group (Manitoba)  
Mr. Laurie LeClair, Association of Manitoba Land Surveyors

**MATTERS UNDER DISCUSSION:**

Bill 4–The Real Property Amendment Act  
Bill 9–The Wills Amendment Act  
Bill 10–The Development Corporation Amendment Act  
Bill 11–The Trustee Amendment Act

**Madam Clerk Assistant (Patricia Chaychuk):** Order, please. Will the Standing Committee on Law Amendments please come to order?

Before the committee can proceed with the business before it, it must elect a Chairperson. Are there any nominations?

**Hon. Jim Ernst (Minister of Consumer and Corporate Affairs):** I would nominate Mr. Newman.

**Madam Clerk Assistant:** Mr. Newman has been nominated. Are there any other nominations? Seeing none, Mr. Newman, you are elected Chairperson. Please come and take the Chair.

**Mr. Chairperson:** Order, please. As the first order of business, the committee will have to elect a new Vice-Chairperson. Are there any nominations?

**Mr. Ernst:** Mr. Radcliffe.

**Mr. Chairperson:** Any other nominations? There being no other nominations, Mr. Radcliffe is elected Vice-Chair.

Good evening. Will the Standing Committee on Law Amendments please come to order. This evening the committee will be considering a number of bills, including Bill 4, The Real Property Amendment Act; Bill 9, The Wills Amendment Act; Bill 10, The Development Corporation Amendment Act; Bill 11, The Trustee Amendment Act; Bill 12, The Louis Riel Institute Act; and Bill 25, The Real Property Amendment Act (2); and Bill 33, The Statute Law Amendment Act, 1995.

To date, we have had a number of presenters registered to speak to bills that have been referred for

this evening. At this point, I will now read aloud the names of the persons who have already registered to speak to the bills.

Registered to speak to Bill 12, The Louis Riel Institute Act: Billyjo Delaronde, Manitoba Metis Federation; Maurice Saint-Cyr, Private Citizen; Sandra Delaronde, Metis Women of Manitoba; Roberta Carriere, Private Citizen; and Audreen Hourie, Private Citizen.

For Bill 25, The Real Property Amendment Act(2), the persons registered to speak are: Irene Groot-Koerkamp, Manitoba Telephone System; Jim Wood, Professional Land Surveyors Business Group; and Laurie LeClair, the Association of Manitoba Land Surveyors.

If there are any other persons in attendance this evening who would like to register to speak to one of those bills and whose names do not appear on the list, would you please register with the Chamber branch staff at the table at the rear of the room.

In addition, I would like to remind persons making presentations who are handing out written copies of their presentations that 15 copies are required. If you require copies to be made, please contact either the Chamber branch staff at the rear of the room or the Clerk Assistant and the copies will be made for you.

Did the committee wish to establish a time limit on presentations heard this evening? There being no indication of a time limit, we will be proceeding, with self-discipline prevailing. Did the committee wish to hear presentations on the bills in numerical order of the bills?

**Mr. Ernst:** Mr. Chairman, I wonder if, for the sake of everyone, we hear all of the presentations. There are some eight altogether on two bills, barring any further people wishing to make representation. In order to facilitate those folks, maybe we could hear them first, then proceed to consideration of bills.

With perhaps one exception, my colleague the member for Arthur-Virden, the Minister for Industry, Trade and Tourism (Mr. Downey), would like to have

Bill 10, for which there are no presenters, at least none registered, if we could deal with that bill first, then proceed to the presenters, that would facilitate the minister's agenda considerably, and we would appreciate that.

**Mr. Chairperson:** What is the will of the committee in that respect? I noted nodding in agreement. [agreed]

Okay, then we will proceed with Bill 10, The Development Corporation Amendment Act.

### **Bill 10—The Development Corporation Amendment Act**

**Hon. James Downey (Minister of Industry, Trade and Tourism):** Mr. Chairman, I just, first of all, want to thank and acknowledge the co-operation of the committee to proceed with this. It does accommodate the work that I have to do and, as well, thank the presenting public for their tolerance. We will try and move as expeditiously as possible and accommodate them as well. So I thank the members of the committee and the public.

**Mr. Chairperson:** Mr. Minister, do you have a brief opening statement that you would wish to make?

**Mr. Downey:** Basically, it is what is indicated in the opening remarks in the House, Mr. Chairman. It is very much minor housekeeping amendments which gives the department the authority to administer the Manitoba Development Corporation. As previously it was administered by an outside board of directors, it is now being administered and directed by a board of directors which are civil servants of nature, and it brings the operations of the Manitoba Development Corporation within the law of the province. So that is basically what it is doing.

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

**Mr. Gord Mackintosh (St. Johns):** Just to reiterate what our concerns have been, if MDC is to be made a part of the ongoing functions of the regular bureaucracy and the government of Manitoba, then a proper branch should be created for that purpose. We also want to

reiterate our concern that the Provincial Auditor be the auditing authority for this function. Those are our comments. I think they reflect what was said in the Legislature.

**Mr. Chairperson:** Thanks, Mr. Mackintosh. Is it the will of the committee to have the bill considered clause by clause? [agreed]

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

Clause 1—pass; Clause 2(1)—pass; Clause 2(2)—pass; Clause 3(1)—pass; Clause 3(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—pass; Preamble—pass; Title—pass.

Shall the bill be reported?

**An Honourable Member:** No.

**Mr. Chairperson:** Okay, we must have a vote.

#### Voice Vote

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

**Some Honourable Members:** Yea.

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

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Yeas have it. The bill shall be reported.

\* (1910)

#### Bill 12—The Louis Riel Institute Act

**Mr. Chairperson:** I think, when we left off, the consensus was that we would hear from the presenters first so that we could accommodate their limited time earlier in the evening. That is the will of the committee as I understand it, so I would like to, at this point, call on the presenters in order. I note that a Roberta

Carriere is indicated as being an out-of-town presenter. Is it the will of the committee to have Roberta proceed first? [agreed]

Would Roberta Carriere please come forward.

**Ms. Roberta Carriere (Private Citizen):** Thank you for hearing from me first. I am not that far out of town though.

**Mr. Chairperson:** Do you have a written submission?

**Ms. Carriere:** No, I do not.

**Mr. Chairperson:** Okay. Would you please proceed with your presentation. This is Roberta Carriere, private citizen. Please proceed, Ms. Carriere.

**Ms. Carriere:** Good evening, ladies and gentlemen. I would like to address the committee on two parts, how The Louis Riel Institute Act would help the Metis people and give several examples why it is necessary to help the Metis people. I would like to do this by giving you a point on how the act will help the people and then giving you an example.

My first point is a resource centre. It would benefit the Metis people to have a resource centre. It needs material that is available to be put into government offices that is relevant throughout Manitoba, materials such as pamphlets, newspaper-type articles, posters, anything that would depict Metis culture. The reason for this is that there is a myth out there that the First Nations people and Metis are one and the same. This is very far from the truth, although we do share some cultures. The general public, educators, politicians, people who are acting on our behalf need to be educated on the differences between First Nations people and the Metis people.

My second point is cultural awareness training. We have a culture that is traditional. It is good for our people to know about the past. It is also good for our people to know where the future is coming, or where the future is going. They need to understand that we have a very rich culture that we all share and that we should be made aware that it is a proud culture and nothing to be ashamed of.

I will give you an example of something—when I was growing up, I was taught to be ashamed of bannock. We would never be able to take bannock sandwiches to school, yes. Although we could never understand that it took the same amount of flour, the same amount of ingredients to make bannock as it did to make bread, we could not understand why we should have been ashamed of our bannock. But those are some of the things out there that we have to educate people on.

The third one is student advisory services have to be established and staffed with counsellors at the significant post-secondary institutions. Our students, adults and youth, come from remote communities in a lot of cases and when they come to Winnipeg or even to Brandon or any urban area as such, there is a culture shock for them. They do not know what courses to take. They do not know what requirements are necessary for specific courses.

English in some cases or in most cases is a second language for these people. When you come from a small community, some of our remote communities, we speak a language that is, a lot of people would say is not English, but we think we are speaking English a lot of times, and when we come out of our community we have to be taught how to speak, I suppose, the other English. We need a support system to help our people to realize their goals and to reach them.

The fourth thing is job placement and counselling after they have been placed in a job. We find that a lot of our people have insecurities, and this is why they do not last at jobs. They are very qualified, and they can do it, but they have insecurities, and we find that if we give them the counselling and if we can be there with them and support them that we would have more of our people working and less on unemployment.

When the people are coming in from the small communities and they are coming to the urban areas, we need to set up a system where they have a place to stay and there is an orientation service for them in Winnipeg or in Brandon. It is a necessary service because they are very shy, they do not know what clothing they should be wearing. There are just a lot of things. Another thing is it is really a culture shock to put some of these people into the dorms. It would be

beneficial for us and for our people to have a board-and-room system set up so that they can stay in a home with another Metis family.

Number six, we need to have a research service to find out why our youth are not doing well in the existing school system. Once this information is compiled we can go about correcting it. The 1991 stats have the Metis people working in low-skill and non-skilled jobs. Metis drop-out rates are very high. We have the stats. Now we have to find out why, and we need this service set up.

The seventh thing is we need to be able to have representation on boards at the post-secondary institutions. Even institutions such as the one in The Pas, technical institute in the Pas, and I cannot think of the name of it. There is Crocus in Brandon, and then there are the Winnipeg institutions. We do not have any representation on any of those boards, and we need that.

Number eight, we need a high school preorientation for university and post-secondary education. We find that our people—we do not know for sure if this is what is happening, because we do need to set up a system where we can find out what is happening in the schools and why our people are dropping out, but we are finding that some of them are getting scared by Grade 9, that if they finish their high school why should they waste the other three years on high school, and when they get out there they are not going to get a job anyway. They are not even going to be able to get out of their communities. So these are some of the things that we need to do: to have a preorientation, get into the high schools and talk to our students, talk to our youth and get them out into the rest of the world.

Just for example, computers, you take a small community in the far North, computers are almost nil, and if they do have computers in those areas you have to stop and think of what kind of computers they are using. They are the older computers. They do not have the state of the art.

Also stop and think about the students that ride for hours on a school bus in order to get to school. They do not have the same opportunities as students in the

communities where the school is right in the community. They spend many hours on the school bus. They do not have that opportunity for extra curricular after school. They have to go back home on the school bus, and quite often in those small communities there is nothing there for extra curricular.

Another thing about stats—I cannot remember the number, but it is something like 30,000 people are functionally illiterate. That means they are reading at about a Grade 7 or a Grade 8 level, and a lot of those people are Metis people. If you can think about these small communities, they do not even have books in the communities.

We need an early education for all our people. When you think of a kindergarten student starting school, values have already been instilled in that small child, and, in a lot of cases, this is the first place they are getting an education, is at school and starting in kindergarten. Well, we do not have any Metis culture in any of the schools starting in kindergarten. So what our people are learning is other people's culture, not their own. So, even if they just had a little bit of their own culture—it is good to learn other people's cultures. I am not saying that is not right.

With this information, I would like to ask you to consider this bill, and I would like to thank you for your attention.

\* (1920)

**Mr. Chairperson:** Thank you very much, Ms. Carriere. If you would remain standing there, there may be questions from members of the committee. Are there any questions from members of the committee to the presenter?

There being no questions, thank you for your very thoughtful presentation and for taking time out to share with us your thoughts.

I would now like to call on Billyjo Delaronde, the Manitoba Metis Federation, please. Welcome, Mr. Delaronde. Do you have written copies of your brief?

**Mr. Billyjo Delaronde (Manitoba Metis Federation):** I do not.

**Mr. Chairperson:** Okay, it will be transcribed in Hansard, and you can proceed with your presentation.

**Mr. Delaronde:** Thank you. Honourable ministers, members of the Legislature, as the Chair said, I am Billyjo Delaronde. I am president of the Manitoba Metis Federation.

I am very honoured to be given this opportunity to address the committee. I think that Manitoba is unique and, I believe, the only province that has a provision to have such hearings.

I want to share with you that a few days ago, in Montreal, there was an auction that took place. Four particular items were of interest to the Metis and also to other Manitobans. One was the original picture of the provisional government of Louis Riel. The second was a picture of young Riel when he had finalized the bill of rights for the entry of this province into Confederation. The third item was a letter that he wrote on October 5, 1885, from his cell in Regina. The fourth item was the original minutes of the First Session of the Manitoba Legislature, date of Assembly on October 9, 1870, and there is only one other copy that exists anywhere that is known. It starts by saying that President Riel officially entered at 3 p.m., and the Legislative Assembly proceeded with business.

I want to tell these honourable members that the Manitoba Metis Federation is in possession of that document, that we bid on that particular document. We bid on all of them. However, I believe that the Manitoba Provincial Archives got one, and the Manitoba Metis Federation got those minutes. It is very touching and very moving when you can have something in your hands that is tangible to tie the Metis past and your past and everyone here that is from Manitoba. It is something that ties our past to our present in your hands and actually read it—that it is not somebody said this or somebody said that, it is the actual record—it is quite an experience.

This is why I think this act is important to the Metis people and to all Manitobans. Some time back, the director of the Glenbow Museum was asked permission to do a research and a history of western Canada. After he began that process, he made a statement to the effect

that he could not do a history of western Canada without doing a total history of the Metis. The Metis and Manitoba are intertwined; they are inseparable.

When this vision came out first about a Louis Riel Institute, it started many years ago. One lady who is not with us today was instrumental in developing this idea, a lady from northern Manitoba by the name of Ethel Deschambeault. She died of illness shortly after this thing started. I am sure she would be very proud to see that this dream has progressed this far.

It is important to Canadians; it is important to Manitobans that we know where we come from and how we came from there. Too many times the history of the Metis has been twisted and has been written from non-Metis eyes. An example is something I read the other day, an historian like Thomas Flanagan; it is said that he is so far right-wing that even the Reform Party has problems with him.

So we have to be able to find a vehicle to contribute to setting the record straight, not twisting it in our favour, but stating the facts. There are very, very many unanswered questions about our history. The only way that we can redress those mistakes is to be able to allow the Metis people to participate in the analysis of our history.

\* (1930)

As one of my predecessors said, who is now the Lieutenant-Governor of Manitoba, we do not want to rewrite history, we just want to fill in those missing chapters. We do not want to point out the weaknesses of our past leaders. There have been many negative things said, for example, like John A. Macdonald, but my point is so what. There are a lot of things that our Prime Minister did to develop this Canada. There have been many negative things said about Louis Riel. Again, so what. What about the things that he did to bring this province into Confederation?

The fact that Riel was one of the people who was very instrumental in bringing this province to the family of Confederation I think is worth noting and the disservice or what some people called, well, punishment. He brought this province into

Confederation, and his gift was to be exiled like a stranger, like an enemy of Canada. We have to know why those things happened.

For example, the then-Governor General made promises. Father Ritchot made promises to Archbishop Tache that there would be an amnesty for everyone including Lepine and Riel and those we consider as part of the Metis treaty. The Manitoba Act is part and parcel with the Metis treaty, and there are obscure promises and matters that have not been fulfilled today, but the average Canadian citizen, the average Manitoban, does not know that.

They do not know, for example, that speculators were trading and making deals with eight-year-old Metis kids for land. That is not readily accessible to the Manitoba public. So when the Manitoba public hears that we want to exercise our rights, they do not know the background of where those rights are derived from or the history behind what we want to do. As a result, support for the Metis is diminished considerably. An example, when the cold war was over between the U.S.A. and the USSR, the Kurds were no more important. They became fringe players and nobody cares. So it is with the Metis people.

Our ancestors were instrumental in bringing this province. We were the political might. We were the military might. We were the economic might of Red River, but soon thereafter we lost that control and not because we did not have enough brains. Maybe perhaps we were too trusting. But, again, that history is written from a different point of view. We do not want to, as I say, rewrite history, and we do not want to be put aside. We do not want special treatment. We are asking for equal opportunity.

In my opinion, if the Metis had been dealt with in a fair and reasonable manner in 1870 and after, we would not be, as a people, on the lower rungs of the economic ladder today. So, as in Quebec with their quiet revolution, we have to build ourselves and what we ask is equal opportunity.

I will be travelling to the capital of our country tomorrow to address the people of Quebec. This goes to the very heart of what we are trying to do here



because, without the Quebec people, there would be no birth of the Metis nation. We have a very historical connection with Quebec. The blood of the French in Quebec flows in the Metis veins. We want to point that out.

We believe that we are consistent. We have always been nation builders. We had a choice prior to the signing of the Manitoba Act, the Metis treaty. We had a choice. We could have created a country, a nation, that would have been bigger than Quebec and bigger than Ontario, but, because of our affinity, our belief that we wanted the nation built, we chose the route of entering Confederation.

So I take a lot of pride in the support that you have given this bill. I especially want to thank Honourable Minister Praznik for introducing this matter. I have had the pleasure of being involved with this minister when the bill was introduced to recognize Riel as the founder of this province. Mr. Minister, I thank you.

I also want to thank the other ministers and the members of the Legislature. We in the federation are apolitical. Our agenda is the Metis agenda.

When the former Premier Pawley was here, we had a very good relationship with him. We believe we have a good relationship with the current Premier (Mr. Filmon).

I am glad you have given me this opportunity to address you. I hope that this bill goes through as is and that, on November 16, which is the beginning of my assembly, I will have something very positive to report to all my Metis constituents from across the province. Thank you very much.

**Mr. Chairperson:** Thank you very much for your presentation. Do members of the committee have questions they wish to address to Mr. Delaronde? If not, thank you very much. Minister Praznik has a few comments to make.

**Hon. Darren Praznik (Minister responsible for Native Affairs):** Mr. Chair, I would just like to take the opportunity to thank President Delaronde of the federation and one of his board members who spoke

earlier. I know there are others here today. It has always been a pleasure to work on this particular project.

I was very glad that I could be involved, along with my colleagues. I know the Deputy Premier (Mr. Downey) was the mover of that resolution some years ago to recognize Louis Riel as the Father of Confederation for our province. I am very glad that at this time in our history, we are able to, I think, right some historical wrongs. I am very honoured to have been part of it. Thank you, Mr. Delaronde, for your presentation tonight.

**Mr. Delaronde:** I just make the comment, I want to acknowledge Mr. Downey. I believe that when we first started working together, he was the Northern Affairs minister, and I think that it was a pleasure to educate each other about what a minister does and what the Metis do.

**Mr. Chairperson:** Before I recognize Mr. Radcliffe, I wonder, since Mr. Praznik has exercised his privilege of speaking, whether the official opposition critic would like to make some remarks at this time while Mr. Delaronde is here.

**Mr. Eric Robinson (Rupertsland):** Thank you, President Billyjo Delaronde. I would like to also thank the previous presenter, Roberta Carriere.

I just want to assure our visitors tonight that we as the official opposition also regard the Metis people as a very important element in the province of Manitoba's history. For many years, the Metis people have been regarded as the forgotten people in Canada's history, and I want to reiterate what I said in the House earlier about the contribution of the Metis people to Manitoba's reality as we see it today.

\* (1940)

Oftentimes in the past, the treatment of Metis people has been somewhat disgraceful by past governments, and it is now today that we are starting to make corrections in the treatment of Metis people and other aboriginal people throughout this country. I know it has been through the efforts of people like Mr.

Delaronde and others who have led the Metis people that we are now slowly making progress in having the Metis people take their rightful place in Canada's reality. I believe that Bill 12 is a starting point in recognizing the Metis people's contribution to the development of this province.

As a First Nations person, I have relatives who regard themselves as Metis people, and they are rightly Metis people as proclaimed under the Constitution of Canada. I know that many of the people who have since gone on to the next world, people like Ben Thompson, the woman you mentioned who was a very important contributor to the Metis movement of this province, Ethel Deschambeault and people like Angus Spence, I am sure, would be very proud of this day.

I want to also assure Roberta that as a First Nations person—and my colleague from Selkirk, I am sure, will speak further on it—as an aboriginal person, we, too, were often shy of taking our frozen bannock sandwiches to school, and we share a lot of commonalities, I believe, among them, our languages.

I want to assure both presenters this evening, Mr. Chairperson, that as the official opposition we will join with the government in supporting this bill, and I want to commend the Minister of Native Affairs (Mr. Praznik) for the work he has done with the Manitoba Metis Federation and Metis leaders in this province.

So, as the opposition's critic on Native Affairs, I want to assure our presenters and also the members of this committee.

**Mr. Mike Radcliffe (River Heights):** I would just like to echo the sentiments of my colleagues tonight and say on the record that I found the presentation from Mr. Delaronde very moving, and this bill has my vigorous support, and I thank you.

**Mr. Gregory Dewar (Selkirk):** I, too, begin by thanking Mr. Delaronde and Ms. Carriere for their presentations this evening. As the member for Rupertsland (Mr. Robinson) has stated, our party, the official opposition, will be supporting this legislation.

We spoke in favour of the legislation when it was in second reading, the members for Wolseley (Ms. Friesen), Rupertsland (Mr. Robinson) and myself. We indicated the importance of this resource centre. We spoke about the significant contributions of the Metis people to the development of our province, and, in particular, we spoke about the role of Louis Riel as a founder of Manitoba. I am pleased that the letter that Riel wrote in 1885 and the minutes from the provisional government, both of those artifacts are back here in the province of Manitoba.

I also want to make mention of another issue. Thanks to the persistence of the member for Wolseley (Ms. Friesen), I understand that the government has agreed to display the portrait of the Honourable James McKay. He was a Metis leader in Manitoba, and he was a former speaker of the Executive Council. I understand the government will be displaying that in this building. [interjection] It is my understanding that they are considering it.

I also would like to add, along with that, if they would display the portrait of Louis Riel's provisional government—that should be displayed in this building, as well.

In closing, I would just like to once again reiterate our support, and we are very interested in your comments, sir, and the other presenters this evening.

**Mr. Gord Mackintosh (St. Johns):** President Delaronde, thank you for your presentation. It was a great presentation. I think the law will prove itself to be an important event in the history of the Metis nation.

I think what appears to be significant about the bill is not just the creation of the institute, but Section 2(2), as you will recall, it acknowledges in law, in other words, the highest acknowledgement that is possible, that Riel is the founder of Manitoba, and I think a lot of Manitobans do not understand that the first Legislative Assembly of Manitoba that you touched on was the provisional government headed by Louis Riel. That photo which I had the challenge of pursuing for an article that I wrote once is a great photo. It is very significant that it now has come to its rightful place.

I just had a couple of questions. First, with regard to the contents of the bill, I understand that there was some consultation ongoing between the organization and the government, which concluded on the wording here. Was there anything in the bill that you felt should have been in there that is not in there? Were there any significant points of contention that the committee should be aware of?

**Mr. Delaronde:** I think the bill is pretty intact as we presented it. The minor change, I think, that we had talked about, finally we have seen the merit of the way the bill is now, and that was the appointment from the universities. The first position was that the universities should appoint these people, but we were convinced after that it would be better if the Manitoba Metis Federation made those appointments with consultation from the universities because, in that way, at least we would have the opportunity to have a say on who those people are and also the part about that there will be seven members appointed from the Metis community. That way we feel that we can include community colleges, for example, like Keewatin, especially where there are Metis people on staff and they would fit into the Metis category.

With that small change, I believe that what we ended up with was satisfactory and will be presented to our assembly.

**Mr. Mackintosh:** President Delaronde, have the governments, the federal and provincial governments, committed dollars? I understand there has been a commitment by the province. I think it was \$155,000. I am not sure. Perhaps you could correct me if I am wrong. What is the position of the federal government in trying to advance the institute?

\* (1950)

**Mr. Delaronde:** We have a commitment from the province in two stages. I think you are correct in the commitment of about \$155,000. However, there is some progress that has to be made prior to that commitment being fulfilled. However, we did receive approximately \$35,000, I believe, for the hiring of a person who I believe has a masters degree presently and probably by this time has their doctorate, to do the

initial work in the initial laying out of the plan as it will unfold.

As for the federal government, we have had discussions with the federal government, and given the fact that the current Pathways process will come to an end on March 31, we are presently negotiating a Pathways 2, not necessarily at a national level but region by region, and region would mean province by province.

In this particular case, we believe that the federal government has agreed that we can utilize those training dollars from the new Pathways program into the Louis Riel Institute which would be a way, for example, of whether we actually hold the classes ourselves or we get seats in other places to the institute. It would be a decision of that board.

For example, we are looking at the possibility, keeping in touch with what is going on, that there may be some shortage of people in the garment industry. We believe that perhaps we can play a role in finding those employees here in Manitoba among the Metis community. I think that there has been a change as far as the image of the garment industry where they used to be considered a sweat shop. I think things have changed so much.

So we are looking at using the new Pathways programs that will be starting after this fiscal year, perhaps create a training centre where we can train Metis people to prepare them to take on these garment industry jobs.

**Mr. Mackintosh:** If there is any assistance that you think we can lend in terms of getting, securing funding, I trust you will let us know—of course from the federal government or the province.

In terms of sort of sketching out the dream that you have, is there an idea as to when the start-up might be, and is there a facility you have in mind?

**Mr. Delaronde:** I guess we try to take the situation one step at a time. It has been a long and many, many miles and many steps, I guess, to get to where we are now. We do not envision at this time to start creating

what some people for example would call white elephants. You know, if we start envisioning buildings and creating new buildings when there is no purpose for that, then we would not do that.

There is, for example, all kinds of schools that are empty in the evenings that we may be able to utilize as opposed to creating a new building.

**Mr. Chairperson:** Thank you very much for responding to those questions. Is that the questions for now? Mr. Delaronde, thank you very much for your very complete presentation for fleshing out the bill and your intentions as to what you are going to be doing with it. Godspeed and safe trip and a successful trip to Ottawa from all of us, I am sure. Thank you for your presentation.

I would now like to call on the next—

**Mr. Delaronde:** If I could just close with one comment, Mr. Chair?

**Mr. Chairperson:** Certainly, Mr. Delaronde.

**Mr. Delaronde:** I want to first of all thank my MLA for the questions. I live in Mr. Mackintosh's constituency. Thank you very much for his questions. Again, as I say, if they say that the race is too tight whether we remain as a country, so perhaps in some way we can make a difference again.

**Mr. Chairperson:** I would now like to call on Maurice Saint-Cyr. Maurice Saint-Cyr, do you have written copies of your brief?

**Mr. Maurice Saint-Cyr (Private Citizen):** Yes, I do.

**Mr. Chairperson:** Okay, you can have those then distributed to members of the committee. Perhaps while they are being distributed, you can proceed with your presentation.

**Mr. Saint-Cyr:** Mr. Chairperson, honourable MLAs, other members of the standing committee and citizens of Manitoba. I appear before you on this date, the 24th of October, 1995, to present my views as a private citizen on Bill 12, The Louis Riel Institute Act.

I feel that this act, especially with its educational and training components, will set in motion many ripples that will impact positively not only on the Metis people in Manitoba but on all Manitobans generally.

Being an educator, a teacher of mathematics for almost 30 years in the St. James-Assiniboia School Division No. 2, I understand to the nth degree the rewards of a good education. After many years of study, mostly through attendance at evening and summer sessions, I graduated from the Faculty of Education, University of Manitoba.

During my youth, the proximity of a large city like Winnipeg and its amenities served as a catalyst in my quest for a post-secondary education.

I had been exposed to the so-called big city life and strived to become part of it. However, for those people who do not have access to such tangibles, the conclusions can be very different. The results can be a lifetime of frustrations, not only for themselves, but also for their children and their grandchildren. A vicious, cruel circle can thus be set in motion. Such scenarios and the resulting physical, social, emotional and mental anguish must be avoided if humanly possible.

The LRI presents us with a unique vehicle that will give the Metis an opportunity to become established as an accepted, respected and contributing sector of our society as a whole. Every member of a community should be given the opportunity to develop his or her talents to the fullest extent. The Metis people also must have the opportunity to pursue studies in their chosen field and develop in their careers as professionals, technicians or tradespeople.

The promise of hope in this fast-paced, complex and technological age is a fragile one, with leaders on all sides facing delicate journeys along rugged byways strewn with the detritus of grievance and sometimes bias, discrimination and hatred. However, a beacon must be held out to a forgotten and troubled people. The Metis have understood only too well the meaning of exploitation. Let us put ourselves immediately on the side of the poor, the disinherited, the marginalized, and the defenceless.

The mission of any government is to provide vision and leadership in improving the standard of living for its citizens so that every person is ensured an equitable education and also ensured the opportunity to grow professionally.

\* (2000)

The ramifications of retaining the status quo are alienation and despair. Innovative measures have to be taken in order to optimize the potential of all individuals. For much too long the Metis have languished as an incongruous group of people. They must be given the opportunity to pass on to their descendants a legacy of self-esteem and respect.

In keeping with its stated purpose and objectives, The Louis Riel Institute Act will help promote the advancement of education and serve to alleviate the socioeconomic conditions of the Metis people of Manitoba.

In these trying times, a great challenge has been placed before us. Let us, as a people, unite and be equal to the task. Let us not fail the Metis people.

**Mr. Chairperson:** Thank you, Mr. Saint-Cyr, for your very compelling presentation. If you would stay at the podium, it may be that members will have questions they wish to put to you. Any questions from members of the committee?

**Mr. Doug Martindale (Burrows):** If I could just make some comments and then a question, Mr. Chairperson.

I was struck in your paper by your observation, let us put ourselves immediately on the side of the poor, the disinherited, the marginalized and the defenceless, and I think that pretty well sums up the history of Metis people in the past and up to the present for many of them.

If one considers what has happened to different groups in our society in the last several hundred years, some great changes have taken place. For example, if you look at Treaty No. 1 and the people who lived in southern Manitoba who are now on reserves, and you

look at the people, most of whom are immigrants who are now living in southern Manitoba, the immigrants have prospered and aboriginal people, many of them are still living in poverty. If you look at the Metis people, many of them actually were prosperous because they were self-sufficient, independent and employed, but because they were cheated out of their land base, many of them today live in poverty.

Much of this history is well documented, and some of it is actually in some very poignant photographs which were on display at the Metis pavilion at Folklorama during the summer. They are very sad, they are very moving photographs.

That is the past, and it is the present for many Metis people. I think the promise of the Louis Riel Institute is that this can change and that Canadians and Manitobans can be educated about the history of the Metis people and Louis Riel and that Metis people can take a new pride in their history.

I would like to see this institute attain the same kind of stature in the community that other groups in society have, for example, the Ukrainian community has Oseredok, the Ukrainian culture and education institution which has their own museum, their own archives, their own art galleries and their own cultural displays. It is a great source of pride to the Ukrainian community. It has been there for decades, so I think something like the Louis Riel Institute is long overdue. Hopefully, it can be a source of pride for the Metis people and a source of education for all of us as Manitobans, and that some day maybe it will have a permanent place.

My question to the presenter is, what are your hopes and dreams for the Louis Riel Institute? I guess I have suggested the role that I see it might play, but as a Metis person, what do you hope for the Louis Riel Institute?

**Mr. Saint-Cyr:** Very simply, I agree with all you said, and thank you very much for so eloquently stating the points that you made. Being an educator, I guess my leaning would go towards being able to help any Metis person who wishes to pursue studies, especially post-secondary studies, at the universities and the colleges,

anywhere they could become experts in their chosen field. That is one thing that I would like to see very, very much.

I know when I went to university it was a long drawn-out process. I was married at the time, and it was simply through the loans that the government made at the time, the student loans, that I was able to pursue my studies. My wife and I had two children at the time, but it took me 14 years from the very beginning until I finished to be able to graduate from the University of Manitoba.

I would hope that people coming after me, people of today would not have to go through that. So I would very much like to see some help given out to these individuals so that, when they come into the city or even if they are in the city, they can proceed with their studies without having to go through the hell, if you might say, that I went through, because it was difficult. It was hard. It was hard on myself. It was hard on my family, but, having a great wife, I was able to pursue those studies and after quite a while come out of the U of M with a degree.

**Mr. Chairperson:** Any other questions from members of the committee? There being no other questions, thank you very, very much for your presentation, Mr. Saint-Cyr.

I would now like to call on the next presenter, and that would be Sandra Delaronde. Ms. Delaronde, do you have copies of your brief?

**Ms. Marion McKinnon (Metis Women of Manitoba):** Yes, I do.

**Mr. Chairperson:** Okay. It will now be distributed to members of the committee. Ms. Delaronde, please proceed. Thank you.

**Ms. McKinnon:** My name is Marion McKinnon, a student of River East Collegiate. I am making this presentation on behalf of Sandra Delaronde.

**Mr. Chairperson:** I am sorry. Maybe you could repeat your name.

**Ms. McKinnon:** Marion McKinnon.

**Mr. Chairperson:** Marion McKinnon—and that is in place of Sandra Delaronde?

**Ms. McKinnon:** Right.

**Mr. Chairperson:** On behalf of her, on behalf of Sandra Delaronde, please proceed.

**Ms. McKinnon:** I wish to first thank the committee for the opportunity to make this presentation regarding The Louis Riel Institute Act. I know the Louis Riel Institute has been one of the primary focuses of the tripartite negotiating process in most recent years. More importantly, it is the realization of a nation's dream of self-determination and self-governance in the area of education.

As most are aware, the Metis treaty, commonly referred to as the Manitoba Act, specifically guaranteed the right of education to the Metis. As Manitoba grew, that right never became reality but remained a vision for the Metis and formed a component in the legacy of betrayal in double dealing that the Metis had been subjected to.

As youth involved in the re-emergence of the Metis nation, once again we claimed the guaranteed right to education. At that time, we named our vision the Metis Academy. I believe the work of the Metis Academy and the collection of work that has been realized since then through the community-based consultation will serve as an enduring foundation for the Louis Riel Institute. We do not view the institute as the quick fix to all the problems we encounter but certainly as the foundation for all the building blocks as we regain our rightful place in Canadian Confederation.

We wish to thank the people of the Metis nation for keeping education and the Louis Riel Institute on the political agenda, and we wish to thank the Honourable Mr. Praznik for his work and efforts to bring this bill, The Louis Riel Institute Act, to the legislative process. We urge all members of the Legislature to consent to a new relationship with the Metis nation and vote to support and pass this bill.

**Mr. Chairperson:** Thank you very much, Ms. McKinnon. Are there any questions?

**Mr. Robinson:** Mr. Chairperson, I do not really have a question. I would just like to thank Ms. McKinnon for presenting this on behalf of Sandra Delaronde, the president of the Metis Women of Manitoba. I think that you should be commended. Thank you very much.

**Mr. Praznik:** I just add the comment, it is so good to see a young person coming here to make this presentation, and I must admit, when you came up, we all looked and we thought—those of us who know Sandra DeLaronde—that we had missed something in the last few weeks. Thank you again for your presentation.

**Mr. Dewar:** I just would like to add our thanks to you for your presentation. You can take back to Ms. Delaronde our support of this legislation.

**Mr. Chairperson:** Thank you very much for your presentation.

**Ms. McKinnon:** Thank you.

\*(2010)

**Mr. Chairperson:** The next presenter, please come forward, Audreen Hourie. Ms. Hourie, welcome. Have you written copies of your presentation?

**Ms. Audreen Hourie (Private Citizen):** No, I am making an oral presentation.

**Mr. Chairperson:** Okay, it will be transcribed, and you can proceed with your presentation.

**Ms. Hourie:** I will try to make this as brief as possible.

One of the reasons I chose to do an oral presentation is because I decided in speaking to you tonight that I would focus on oral tradition. It is one aspect of Metis tradition that is fairly strong in our communities, and it is something I think that the Louis Riel Institute, now that it is in the home stretch, will be able to get other people to appreciate and understand what it is like to

come from a community, in the larger sense, that depended quite largely on oral tradition historically.

In my family—and I was born in Grand Marais, which in the 1940s was almost 100 percent Metis, as was Camperville. There were two communities quite similar. One survived and one did not. Our little community of Grand Marais now is almost totally consumed by tourists and the tourism industry without very much participation of the local population. My mother is 85 years old and does not live there any more, and her little patch of land will be the last little Metis corner of that community fairly quickly.

My mother learned to speak English. Our family did not speak to us in our languages, and my mother is 85, so we are looking at a language cutoff in my family of 80 years ago. So I was raised in an English-speaking household and went to an English-speaking school in the 1940s. But I did know that there was something my family was doing that I was not a part of, and I sense that I was not the only one. By the time I was 14, I had to leave Grand Beach and go over to Selkirk to finish my high school education. There were not too many people in that large high school in Selkirk who looked like me, maybe two of us in Grade 12.

I got a sense that there was something very different about me, about the young Clemons girl that was in my class with me in this very, very large high school. I started asking my questions at 14 years of age because that is how old I was when I was in Grade 12—do not ask me how I got there at that age—away from home to finish education and being in a society that really did not reflect the way I was raised in how the community make-up is there.

So I started asking questions at a very early age at 14, and I am 52. So I really grabbed on to, in the 1970s, researching about Metis people. I was one of the land claims researchers coming through the 1970s, early 1980s, and I started asking myself why in these land claims records are there so many Xs by our people. Most of the records I am looking at are government, church, Land Titles. We would have had a few writers. We all would have been one of them, maybe a few more, but for the majority of records I looked at, there is very little of a record left by our people.

I thought, well, I guess we will go back and have another look at this, and that is when I started looking at oral traditions. In the early 1980s, we started to look at the Michif languages, which is a part of the mandate of the Riel Institute, to address the issue of the languages of the Metis because there are no writing systems to our languages. The majority of public people would never have heard our languages. Because of what happened to our people over the years, they tend to be spoken at home. When you go outside, you switch to the language of the people that you are going to meet. I did not experience that at an early age because I was forced to speak English, and so I did not associate with switching languages to communicate with somebody else in the broader society.

There are still no writing systems to our languages in 1995. There are three of them and I will refer to them by research names because they really do not have a name. Michif French would not necessarily be the dominant or the first language. I am just naming them. His Honour the Lieutenant Governor Yvon Dumont is fluent in Michif French, as are other people around the province and across the west.

Michif Cree is another language and that is spoken across the west also and the northern border states. It is interesting to know that Oglala Sioux can speak Michif French. The only reason we know that is because we have been at meetings where they have attended, and they are fluent in that language.

The third one and the lesser researched one, and this is going to be a job of the institute to carry this kind of research on, is what I call Michif Sauteaux. It really does not have a name, but it has to have a working name. There are, I think, very, very few people who are still speaking that third language. That is only an opinion based on language contact, that we have work to do very quickly if we want to capture that language.

There are no writing systems to the languages, and so we put them on audio tape. Last year, we put them on video. In 1994, I went to a language conference helping out the Metis people in the Northwest Territories, and Father Guy Lavallée, as one of the researchers that I worked with and who has done the major part of the field work, we zoomed up there to go

and help them. It was interesting to know that there is Michif French language speakers all over the Northwest Territories. Predominant speakers or numbers would be in Fort Providence, but they did not know they were speaking Michif French. They said, we thought it was just a language that we made up because nobody else could understand it.

Our people had no reason to explain to anybody who they were, because we were the dominant population in the west. We had no reason to explain to anybody what the languages were. They do not have names because those are simply the languages that the people spoke. We had no reason to explain too much until we had a couple of run-ins with Canada.

I walked around the grounds here tonight and I looked at how much progress we are making, because I am a firm believer in partnering and working. I have worked with the Province of Manitoba for a few years—not for, with—on the redevelopment of the Louis Riel Park, you know, how is it coming? There are plaques going up, working on the inscriptions, looking to see what we are going to have when it is completed. Looking around here, noticing that—I believe somebody raised James McKay. I have them listed here because I had it on my list to speak to the issues that those pictures that were removed from this Legislature should be put back, not just for the Metis, but for all Manitobans.

John Norquay's picture should be in, okay, and we know that it is available. James McKay, I had the list, and I said, well, by golly, James McKay is coming or is here. I am not asking a question, I am just saying I really appreciate that being raised. The other one is an unknown to me, but I believe Colin Inkster's portrait is out there too somewhere. I am guessing that it is Colin because I did not see him. I am referring to him by name because when you research you think you know these people. They become very, very real to you.

By working together, and this is I think the heart and soul of the institute for what I see, to work together to get some distortions off the history, get some of our history back in place. I do not think in this day and age anybody is going to contest the fact that this was a Metis province when we joined Canada, that the Metis



were dominant in the population in the West and fought and died—people do not always see that side of the picture—fought and died to defend their homes, their families and their lands in the west, not just for the Metis, but for all of the people who were in the west. Those histories come to us, and quite a bit of it comes orally.

There is a gap in history that I just wanted to speak to for a couple of minutes. When we had military encounters with the east, we tended to fight the British in 1870, because Canada was only three years old, it did not have an army. But it did have an army in 1885. People understand what it is like to fight wars in other countries; they do not understand when you are fighting a war at home. People do not see that yet.

\* (2020)

I looked for quite a while for the battle of the Fort Garry Horse. It is at the front door of the Legislature. If you look at the battle standard of the Fort Garry Horse, their first two encounters in military action were Fish Creek and Batoche. We have to own our history because I know, from doing research, our people fought on both sides of the war. That is a fact. It is a fact in any war. But we should not deny that a war was fought.

A lot of the problems we are having today come from persecution for having defended the West. We have survived to a good extent. Goodness knows how our languages survived, but they did. Right now we are out in about 150 communities in this province, and that is a lower count, not an upper count, where our people are hanging on.

Even in the darkest of times, you have to understand that Metis people have a notorious sense of humour. You hear comments like, if those people do not come out of those communities pretty soon, we are going to have to send them some economic development one of these days. Well, you know, that kind of comment causes a chuckle amongst our people because they have no intentions of leaving their communities. A lot of what has happened in disintegration of these communities over time has been from persecution.

You will hear our people still talking of stories of what it was like to be persecuted by the military, to be

burned out, not just forced off the land, but actually burned out and forced out.

There are no written records that are tangible enough for you to say, there is the story. I want you to understand that it is not history we are talking about.

The only thing between the military encounters with the British troops in 1870, between me and them, is my dad, because my grandfather was six years old at the time living in the parish coming out from St. Peters and St. Clements. All the Houries were in there. You will not find any there today. We are not lamenting on that point over simply being chased off the land, but the whole thing went down.

If you look, we do a lot of our learning and teaching through our elders. I am always cautious doing research because, this is my own opinion based on some experience, that not all of our people want radical change either in their lifestyles or their way of living. They simply want to be able to live and not just exist.

I was at a meeting, and this elder got up and closed the conference. I said, what am I doing here anyway, there is so much work to be done at home—I was in Ottawa—I think I had better go back. And he got up to close the conference, and it was the same time the cod fisheries went down in the East, and he was quite concerned. But one of the things about oral tradition is, if you do not learn to listen, you cannot learn, because you do not have any writing to check back when the meeting is over or when the speech is done.

He got up and he said, not until every fish has been caught and not until every river has been poisoned will they know that they cannot eat the money.

He was referring also to technology because technology can be very useful to us in the Louis Riel Institute if we remember that traditionally we are a practical people and you only use it for practical purposes, and that is it, because I know, I have tried.

We tested a lot of things, research on computer in the 1970s when we did not even know what a computer looked like. Bang on, we got it. We got our analysis, we got our information, and the materials that we were

using to store the information on is obsolete. You cannot transfer the technology.

It is the same with the old VTR. People do not know what VTR is anymore. We start putting our early research on VTR, now you go to the VCR. I am so afraid that we are going to lose a lot of our heritage and our culture, our languages and everything to technology unless we can come up to speed. People talk about training. That is the kind of training that we need. Otherwise, you are risking turning your knowledge base over to a machine.

These are some of the things that I think are important that the Louis Riel Institute is going to have to come to grips with in partnership with other people, because it will not just be Metis people on this working board, and we will not be just working on behalf of Metis people, especially in heritage and history, but the history of Manitoba and the northwest.

I wanted to close on one note, and that is the women. I am not speaking simply as a woman but, as a researcher, I noticed that most of the history that was available to me to work with is about men, and it is written by men. So if I wanted to tell you about the war of 1885 and what were the women doing, I would have to tend to depend on oral stories to talk about the women who were melting down their teapots and their boiling pots to make bullets for the men. People would not know that they were even in the trenches. They would not know that those families knew that they were at war. If you talk about the Chipewyan and the Dene, there is no word in those languages for white man, but they knew that there was a war and the word that went out to their people was, we are at war with the stone people.

It is not history is what I am trying to tell you. What we are doing right now is trying to struggle back from a very, very bad experience, and I think we have to learn to see our people. I work with the province here, with the historian, with the archives, with the museums, trying to partner, to rebuild the heritage and the history of the West.

People do not really know who we are. They do not know that we were factors in the fur trade, as well as

rowers of the York boat. They do not see us as factors in the fur trade. They do not know that we invented the York boat and commercialized the fur trade by bringing it out of the rivers and streams into the lakes. The Hudson Bay gets the credit for that. They do not see us as inventing the Red River cart and commercializing the buffalo hunt. They do not see us as being the early experimental farmers, as the limestone makers. A lot of the buildings around Winnipeg are made with that stone. We are not seen. People think they know who we are, but they do not see us.

I give that to you just because I wanted to share it. I believe that the education training inside of this institute is going to be really important as we come into such a fast pace of technology. It can be practically used. Hopefully, we will know how to do it wisely, but where I had to decide to focus most of my time was look to Riel.

He leaves a lot of quotes. He was very, very articulate and very good. I do not know English well enough to pull the word. He was very good. He had very good oratorical skills. How is that? He was an excellent speaker, and he left a lot of quotes. Even though they may be translated back and forth, French and English, the one I picked up that nailed it home and where I decided I was going to focus a good deal of time is: we must cherish our inheritance; we must preserve our nationality for the youth of our future. The story should be written down to pass on.

I think by putting the institute in place, getting it working, it is something that Manitobans can do together. However, I would put it to the members present that the Metis must always play a leadership role in the institute. Thank you.

**Mr. Chairperson:** Thank you very, very much for that presentation. You have not only educated us but wet our appetites for more that will follow from the institute, I am sure. There are some questions?

**Mr. Robinson:** Not so much a question, Mr. Chairperson—I have long admired Audreen's ability to educate people over the years. She has been a long-time advocate for the Metis people and truly a historian. I believe that she is one of the exceptional

spokespersons for the Metis cause in this province and indeed throughout Canada.

\* (2030)

It is very important what she said about the preservation of a nationhood, and this being a Metis nationhood, and that is the importance of retaining the languages. I agree with her in her sentiments with respect to what she shared with the committee tonight, and I want to tell Audreen, although in this House and in this committee we may not always agree on matters, I want to assure her that I think you can almost count on all the support of all members with respect to supporting this bill. Thank you very much for presenting this to us tonight.

**Ms. Hourie:** Thank you.

**Mr. Chairperson:** Thank you very, very much for that presentation.

**Mr. Praznik:** Mr. Chair, I just wanted to take the opportunity as well to thank Audreen. We have spoke on many occasions. We have jigged in many halls in Manitoba, and I know your efforts and work along with others to bring this bill to this stage and to see it passed. What I am most excited about, and it comes forward very much through your presentation, is this bill creates a body. It is those who are in the body who will make it a success and seeing your involvement and the involvement of others goes a long way to making this into something I think even larger than anyone could have dreamed a few years ago. So thank you very much for your presentation.

**Ms. Hourie:** Thank you.

**Mr. Chairperson:** Are there any other persons in attendance who wish to speak to this particular bill, that is, Bill 12, The Louis Riel Institute Act? I am wondering—we earlier indicated we would proceed with all presentations—since there seems to be such consensus and harmony, is it the will of the committee to proceed with this one while the presenters are in attendance, Mr. Ernst?

**Mr. Ernst:** Sure. Okay. Let us do it.

**Mr. Chairperson:** The bill will be considered clause by clause. During the consideration of the bill, the title and preamble are postponed—Mr. Praznik has forewarned that he has an amendment with respect to the Title—until all other clauses have been considered in their proper order by the committee. I gather now the proposed amendment is being distributed.

**Mr. Praznik:** Mr. Chair, I am advised by our legal counsel that the amendment which I would like to move is a technical one. It has to do with the translation on the French version, very simply that in the French version the title Institut Louis Riel, Louis Riel should be hyphenated for proper grammar, but it also affects the definition section I understand as well. So, with leave of the committee, I would like to be able to move this motion at the beginning and this is what legal counsel advises me is necessary. So if I may have that leave and make the motion.

**Mr. Chairperson:** Is that leave granted, proceed with the title and definition section first, together perhaps? Okay. Leave is so granted and so ordered.

**Mr. Praznik:** Mr. Chair, I would so move

THAT the following provisions of the French version of the Bill be amended by striking out "Institut Louis Riel" and substituting "Institut Louis-Riel":

- (a) the title;
- (b) the definition "Institut" in section 1;
- (c) subsection 2(2).

**[French version]**

Motion de M. le ministre Praznik

Il est proposé que la version française du projet de loi 12 soit amendée par substitution à "Institut Louis Riel", de "Institut Louis-Riel":

- a) dans le titre de la loi;
- b) dans l'article 1, à la définition de "Institut";
- c) dans le passage introductif du paragraphe 2(2).

**Mr. Praznik:** Just for the interest of the audience, the amendment, all it does is simply add a hyphen to Louis Riel in the French version.

**Mr. Chairperson:** You have the amendment before you. Would you signify your approval of the amendment by saying yea?

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Anyone nay, to the contrary? No one saying nay, the Title and the Definitions section are accordingly passed, amended. Now the Title and the Definitions section, and the Definitions section is Section 1. Is it the will of the committee to do this page by page? Okay. Blocks of clauses by page.

Clauses 1 through 2(2) including the Title as amended—pass.

Page 2, Clauses 3 through 5—pass; page 3, Clauses 6 and 7(1)—pass; Clauses 7(2) through 11—pass; Clauses 12 through 15—pass; preamble—pass. Bill as amended be reported.

**Mr. Martindale:** I have a question for information from the minister. When do you expect Royal Assent to happen?

**Mr. Praznik:** Mr. Chair, the member and I both served in the position of opposition House leader, and we know that obviously this bill has to have a report stage and third reading stage and then will receive Royal Assent, I believe, probably with most of the other bills, I would expect, on the last day of the session which I expect is the 3rd of November. [interjection] Did we move ahead a little bit? I expect that whatever time the Lieutenant Governor is called upon to grant Royal Assent to various legislation, this should be included in the passage.

### **Bill 25—The Real Property Amendment Act (2)**

**Mr. Chairperson:** I would now like to call on the persons registered to speak on Bill 25, The Real Property Amendment Act (2). The first speaker was scheduled to be Irene Groot-Koerkamp, Manitoba Telephone System. Do you have written copies to distribute?

**Ms. Irene Groot-Koerkamp (Manitoba Telephone System):** Yes, I do, Mr. Chairperson.

**Mr. Chairperson:** Okay. Those will be distributed.

**Ms. Groot-Koerkamp:** Good evening, Mr. Chairperson and members of the committee. I am a counsel with the legal department of the Manitoba Telephone System, and I am pleased to appear on behalf of MTS to speak to Bill 25, The Real Property Amendment Act (2).

Mr. Chairperson, MTS wishes to express its support for Sections 12 and 13 of Bill 25. These sections of the bill remove the current requirement for utility companies to file plans of survey in all cases when registering utility easement agreements and provide that plans of survey will be required only in circumstances deemed necessary by the district registrar.

The amendments proposed by Bill 25 will enable utility companies such as MTS to register easement agreements on essentially the same basis as was permitted prior to 1987, when The Real Property Act was amended, to require survey plans for utility easement registrations. Prior to 1987, the registration of utility easement agreements could be affected in the same manner as the registration of other easement agreements for which plans of survey are not required.

MTS understands that one of the main reasons for the 1987 amendment was to address the problem of some utility companies attaching sketches to their easement agreements which were not referenced in the caveat. As these sketches often went astray for a variety of reasons, the Land Titles Office records were incomplete, and members of the public seeking information on a particular caveat would have to be referred to another source such as the utility company to obtain information on the location of the easement. MTS understands that due to changes in technology which enable the Land Titles Office to microfilm the entire caveat, this problem no longer exists.

\* (2040)

Mr. Chairperson, as a result of the 1987 amendment requiring utility companies to file survey plans when registering utility easement agreements, MTS discontinued the registration of the majority of its easement agreements relating to voice frequency cable installations due to economic considerations. MTS estimated at that time that it would incur additional costs of approximately \$2 million per year in order to obtain the plans of survey required to register these easement agreements.

In addition to prohibitive costs, the registration of survey plans also has created delays in registration. With respect to those easement agreements that MTS has continued to register, the corporation has experienced extensive delays in effecting these registrations pending the completion of the required plans of survey.

As the amendments proposed by Bill 25 will reduce the costs associated with the registration of utility easements, the enactment of these amendments will enable MTS to register all of its utility agreements including, as resources permit, agreements that have not been registered to date.

Such registration is in the public interest, as it discloses the existence of MTS's property interests as well as the general location of MTS's telecommunications facilities.

It should be noted, however, Mr. Chairperson, that since easement registrations disclose only the location of the easements and not the specific location of telecommunications facilities within these easements, MTS, nevertheless, should be contacted by parties contemplating excavation in order that the corporation can stake the precise location of its facilities within the easement.

Mr. Chairperson, it is important that interests in land are disclosed in the records of the Land Titles Office. This is the basis of the Torrens system of land titles introduced in Manitoba by The Real Property Act, which is intended to give certainty to title to estates and land as the title appears in the Land Titles Office. Under the Torrens system, subject to certain specified

exceptions, a party contemplating the acquisition of land can ascertain the particulars of title at the appropriate Land Titles Office and deal with that land with confidence by relying upon the information disclosed at the Land Titles Office.

Therefore, parties such as MTS which have interests in land by virtue of their easement agreements must be in a position to register such interests to give notice to the public of their existence. Although a survey plan still will be required under certain circumstances where an easement cannot be described by a simple metes and bounds legal description, MTS believes that Bill 25 will facilitate the registration of its utility easements and reflects a responsible and efficient approach to such registrations.

The amendments proposed by Bill 25 also will create some consistency between practices relating to the registration of utility easements and practices pertaining to subdivisions. At present subdivisions entailing two splits in a title per quarter section can be described by a simple metes and bounds description and do not require a plan of survey. Since utility easements only represent an endorsement on the title to the land and affect the title significantly less than a subdivision of the land, it is reasonable to allow the use of metes and bounds legal descriptions for routine utility easements.

As well, plans of survey relating to easement agreements can clutter titles and generate additional work by the Land Titles Office where there are future dealings with the caveat. When a caveat or a portion of a caveat is withdrawn, a plan of survey relating to that caveat must be amended or declared obsolete.

If this is not done, titles affected by utility easement caveats are unnecessarily cluttered.

Mr. Chairman, MTS also notes that other provinces do not require plans of survey for the registration of utility easement agreements in all cases. For example, legislation in British Columbia, Alberta and Saskatchewan commits the registration of utility easement agreements without a survey plan where easements can be described by simple metes and bounds descriptions.

MTS is aware that some parties are concerned that the removal of the requirement for utilities to file plans of survey in all cases when registering easement agreements may adversely impact the protection of the survey fabric in Manitoba. MTS does not believe this to be the case. More importantly, The Real Property Act was never intended to deal with issues of survey monument protection.

This matter is addressed by The Surveys Act of Manitoba, which obliges parties when making improvements to land to avoid disturbing survey monuments and to restore survey monuments in the event of disturbance. MTS is well aware of these requirements and has undertaken several initiatives over the years to ensure the preservation of the survey fabric in Manitoba.

Mr. Chairperson, these initiatives are outlined in Attachment A to the submission that has been distributed. It is not my intention to review Attachment A. You have it before you. It is not directly relevant to Bill 25, but it has been included with the submission because we are aware of the concerns of the Association of Manitoba Land Surveyors, who, I understand, will be making a presentation this evening as well.

In summary, Mr. Chairperson, MTS supports and endorses Bill 25 and looks forward to its enactment in order to facilitate the corporation's registration of its easement agreements.

Thank you, Mr. Chairperson.

**Mr. Chairperson:** Thank you, Ms. Groot-Koerkamp. Did you wish to have that Attachment A read into Hansard or treated as if it were read into Hansard?

**Ms. Groot-Koerkamp:** We can accept it as filed and assume it was read into Hansard. As I have indicated, it is not directly germane to Bill 25 but has been provided for the information of the committee in anticipation of submissions that may be made by the groups representing the Manitoba Land Surveyors.

**Mr. Chairperson:** Okay. We will provide Attachment A to the Hansard reporter in that case.

Are there any questions from members of the committee?

#### **ATTACHMENT A**

#### **THE MANITOBA TELEPHONE SYSTEM SURVEY MONUMENT PROTECTION INITIATIVES**

*1. Since 1980, MTS has had a written construction practice in place which establishes standards for cable installations and other construction activity undertaken in proximity to survey monuments. This practice provides, in part, that buried cable should be located on either the north or east sides of the road allowance, as survey monuments are located on the south or west sides of the road allowance. The practice also states that where MTS' facilities must be installed on the south or west sides of the road allowance, the engineer designing the cable route must investigate the presence of survey monuments and must ensure that the cable route is designed in such a manner so as to avoid disturbing these monuments. MTS believes that the application of this practice has resulted in the occurrence of relatively few instances of damaged survey monuments. Where MTS' construction activities have caused damage to survey monuments, however, MTS restores or re-establishes any such damaged survey monuments.*

*2. In 1992, an MTS staff member, who is a Manitoba land surveyor, developed a brochure on protecting Manitoba's survey fabric. This brochure is provided to all MTS contractors and plowing crews prior to the commencement of cable plowing activities. Commencing in 1992, MTS also has conducted annual educational seminars with these parties to re-emphasize the necessity of undertaking construction activities with due regard for survey monuments.*

*3. In 1993, MTS implemented a Survey Monument Protection Program, which is conducted under the supervision of the company's staff Manitoba land surveyor. As part of this program, all outline survey monuments located before construction are reconfirmed following the completion of construction. Where any damage to survey monuments has occurred during construction, the monuments are restored by*

*MTS. Approximately 4,000 legal outline survey monuments adjoining MTS' easements have been located and marked since the inception of this program. One quarter of these monuments have been referenced prior to construction to afford greater protection.*

*4. Commencing in 1995, all unmarked block outline survey monuments in the vicinity of MTS cable installations are marked with six foot long T-iron markers by MTS' surveying staff. MTS estimates that approximately 400 of these markers will be installed in 1995. Commencing in 1996, in cases where plans of survey are required, the surveying firms retained by MTS will be required to place T-iron markers at all unmarked outline monuments that are used in performing the required surveys.*

*5. MTS has advised both the Association of Manitoba Land Surveyors and the Union of Manitoba Municipalities that it wishes to receive reports concerning the disturbance of survey monuments resulting from MTS' construction activities. Upon the receipt of these reports, MTS will arrange for the restoration of any survey monuments that have been damaged as a result of MTS' activities.*

*Ms. Groot-Koerkamp*

*Submission to Standing Committee on Law Amendments*

*Bill 25—The Real Property Amendment Act (2)*

**Mr. Gord Mackintosh (St. Johns):** Thanks for your detailed presentation, Ms. Groot-Koerkamp. Was it MTS, have they been involved in a request to the government for this amendment to be presented to the Legislature?

**Ms. Groot-Koerkamp:** Over the years, MTS has had numerous discussions with staff of the Land Titles Office with regard to the registration of MTS' utility easement agreements. We recognize that it is a problem not only for MTS but for the Land Titles Office. With MTS not registering the majority of its easement agreements relating to voice frequency cable, we recognize that the records of the Land Titles Office should be complete, and that parties with property interests should be registering those property interests

at the Land Titles Office, but as I have indicated, due to economic considerations, the corporation made a decision to discontinue the registration of certain of its easement agreements.

Over the years, we have been trying to develop, with the Land Titles Office staff, a means by which we could make the registrations. However, The Real Property Act is clear as it presently is drafted and provides that you must have a survey plan in order to register a utility easement agreement. As a result of those discussions over the years with the Land Titles Office staff, they recognize that it would be appropriate to take some action to facilitate utility easement agreements, which is in the public's best interest.

**Mr. Mackintosh:** You say that economic considerations were driving MTS's position on this. I am wondering what impacts you see on the protection for the public in terms of identifying where utilities are buried on their properties, not just homeowners but other businesses?

My colleague for Radisson (Ms. Cerilli) is wondering about environmental impact assessments, but the discovery by the public of where utilities are buried, how is that affected?

**Ms. Groot-Koerkamp:** Should the amendment be passed, the protection of the public is enhanced. At present, MTS estimates that we have approximately 30,000 easement agreements that have not been registered since 1987.

As a result, the Land Titles Office records do not disclose the existence of those easement agreements. Should the amendments proposed by Bill 25 be passed, that will enable the corporation to proceed to register those old easement agreements, and, therefore, they will be in the public registry, where you would look to ascertain titles, and it would be the Land Titles Office, so we see an enhanced protection of the public interest by enabling MTS to disclose its property interests.

\* (2050)

**Mr. Mackintosh:** How can you see us best protecting the public? Would it not be by requiring the filing of surveys, of plans?

**Ms. Groot-Koerkamp:** There might be some misunderstanding as to the information that is provided in a plan of survey. The plan of survey discloses the location of the easement. It does not disclose the location of the telecommunications plant within the easement, and, as such, you really do not get greater information with a plan of survey other than a pictorial depiction of the location of the easement.

With the registrations, with a metes and bounds description, you will get the same information as to the location of the easement, except it is described by a metes and bounds description as opposed to referring to a plan of survey number. This actually can facilitate parties who want some very basic information about a property interest.

If you wanted to search a title to a property electronically, if you look at an electronic title which has an MTS caveat against it that was registered prior to 1987, it will show you MTS caveat right-of-way agreement, and then it will say the westerly 30 feet. If you look at an electronic title which has an easement agreement registered with a plan of survey, all it will say is caveat right-of-way agreement plan number whatever, so that does not give you any basic information. What you would have to do is go to the Land Titles Office, get a copy of the plan of survey and then look to see what is there.

So right now, with metes and bounds descriptions, the Land Titles Office staff can indicate some basic information such as the westerly 30 feet, which is more meaningful than plan number, whatever the plan number might be, because it compels you to go to the Land Titles Office to get a copy of that plan to find out where the location of that easement might be.

**Mr. Mackintosh:** The amendment enables the district registrar to require the filing of a plan. I am wondering what would trigger that requirement on the part of the deputy registrar. How would the deputy registrar know when to make such a requirement?

**Ms. Groot-Koerkamp:** It is my understanding, Mr. Chairperson, that the Land Titles Office is developing or has developed guidelines for plans of survey and when they will be required. Those guidelines have

been available in draft form for some time, and they have been reviewed with the Manitoba Telephone System, Manitoba Hydro and some other utilities as well as the Association of Manitoba Land Surveyors, so they will deal with that issue in the same manner that other registration requirements are dealt with, namely, in the form of guidelines that are available to the public and parties who use the Land Titles Office.

**Mr. Mackintosh:** From what you are saying, MTS discontinued registering easement agreements because, if it did so, it would have to file survey plans. Is that interpretation correct?

**Ms. Groot-Koerkamp:** Yes, Mr. Chairperson, that interpretation is correct.

**Mr. Mackintosh:** I recognize that MTS disputes the value of the current legislation, but I wonder how MTS came to the conclusion that that was the best way to deal with the legislation, in other words, avoiding filing the agreement entirely to get around the provision of the act.

**Mr. Chairperson:** Mr. Radcliffe, did you have a comment, clarification?

**Mr. Mike Radcliffe (River Heights):** One clarification I think, the speaker was saying, how did MTS come to the conclusion that this was the best form of dealing with the legislation? I would suggest, Land Titles was the active party.

**Mr. Chairperson:** Maybe you would let Mr. Mackintosh continue.

**Mr. Mackintosh:** Well, just to rephrase what I was saying, we have a Crown corporation which is now saying that it was avoiding the legislative requirement for filing plans of survey by not even filing the easement agreements, and I have some concern whether that is either within the spirit and intent of the legislation and if that is a proper role or proper decision making for a Crown corporation to be making.

**Ms. Groot-Koerkamp:** Mr. Chairperson, MTS certainly was not seeking to avoid any legislative requirements. Under The Real Property Act, you were



not obliged to file easement agreements or disclose property interests. However, it certainly is in the best interests of the public and the party which has the property interest to disclose that property interest.

Mr. Chairperson, I made reference to economic considerations that resulted in the decision MTS made to discontinue the registration of certain of its easement agreements. The economic considerations flowed out of MTS's Service for the Future program, which it embarked upon in 1988, and Service for the Future consisted of the conversion of approximately 47,000 multiparty lines to individual line service and the expansion of the number of toll-free calling areas in the province of Manitoba, which service is referred to as Community Calling Service and Urban Unlimited.

As a result of this Service for the Future program, which actually was an improvement of service for rural Manitobans, the number of easement agreements required by MTS in relation to Service for the Future increased dramatically.

For the information of the committee, I can advise that in 1987, prior to the Service for the Future program starting, MTS had approximately 2,300 easement agreements. That increased over the years until it reached an all-time high in 1992 of about 8,800 easement agreements. So from 1987 to 1992, the number of easement agreements increased by about 289 percent. That goes to show you that if we had registered all of those easement agreements with plans of survey, the cost would certainly approximate the \$2 million MTS estimated, if not more than that.

So it was really the very, very significant increase in MTS's easement agreements that caused the corporation to make the decision that it did.

**Mr. Chairperson:** Any further questions from the committee for this presenter? There being no further questions, thank you very much, Ms. Groot-Koerkamp, for your presentation.

I now would like to call the next speaker. The next presenter is Jim Wood, representing the Professional Land Surveyors Business Group.

**Mr. Jim Wood (Professional Land Surveyors Business Group (Manitoba)):** Thank you, Mr. Chair.

**Mr. Chairperson:** Mr. Jim Wood, do you have a paper to distribute?

**Mr. Wood:** Yes, I do. Mr. Chairperson, you will have to excuse the quality of the typing. That is not my long suit, even with a word processor.

Good evening, ladies and gentlemen. I am here this evening representing the Professional Land Surveyors Business Group (Manitoba) and to speak against the passing of Bill 25, in particular the repeal of Section 112, subsection (1) and subsection (1.1) of The Real Property Act.

Manitoba land surveyors are authorized to practice by virtue of The Land Surveyors Act and are members of the Association of Manitoba Land Surveyors. The Professional Land Surveyors Business Group (Manitoba) represents almost all of the land surveyors in private practice in Manitoba. Prior to 1930, the Government of Canada surveyed and maintained the legal survey framework in this province with a regular program of resurvey and restoration of survey monumentation.

\* (2100)

Since the transfer of natural resources to the province of Manitoba in 1930, virtually nothing has been done to continue that practice, and as a result, the condition of the survey framework in this province, particularly of the parish lot system in the Dominion Government survey system is appalling.

Aside from the lack of a regular program of maintenance, the Land Titles system has been the largest single contributor to the deterioration of the survey fabric by allowing subdivision of land without requiring the registration of a plan of subdivision.

The honourable Minister of Justice (Mrs. Vodrey) appears not to appreciate that the Torrens system of land registration in operation under The Real Property Act is wholly dependent upon a strong framework of organized survey monumentation.

When the act was amended, apparently in 1987 and not 1990 as I have, it placed the onus on utilities to file a plan of easement defining the location of underground plant when caveats respecting easement agreements were to be registered. However, the Manitoba Telephone System avoided the requirement by simply not registering caveats. The agreements were signed by the landowners and simply filed internally by the utility. This whole process defeats the principle behind The Real Property Act wherein any interest affecting the state of ownership can be determined without going beyond the certificate of title. It also removes one more means of preserving what is left of the survey framework.

Just incidentally, it is our opinion that Section 111(3) of The Real Property Act restricts the caveator from making use of the land for the intended purpose until after registration of a caveat. That may be arguable, but that is our opinion.

It is apparent that for economic reasons alone the Land Titles Office has been pressured by the Manitoba Telephone System to eliminate the requirement of a plan of easement.

Another important result of eliminating the need for a survey is the destruction of existing survey monuments by the installation of the cable. MTS contends that the preliminary inspection done by their staff is sufficient to protect the monumentation. However, without an actual survey it is impossible to locate many of the existing monuments or even the evidence of them. It may be simple to protect those monuments which are easily visible, but what of those that are not visible. Those form the majority, I am afraid, in the province. Many survey monuments have been destroyed by the installation of voice cable.

The Land Titles Office argues that these easement plans are cumbersome to deal with, that they often overlap and that when the utility plant is removed the plan is no longer required. If that is so, would it not be more appropriate to provide legislation to deal with those few cases where the physical plant is removed, by discharging the plan at the same time the caveat is discharged?

We understand that some utilities have found that many hours and dollars have been saved in administration costs as a result of having plans of easement on public record. Instead of having agreements refer to legal descriptions or sketches of suspect quality prepared by staff, these utility managers are now able to refer to unambiguous, accurately and professionally prepared plans. I wonder if these savings have been taken into consideration.

The present government has been extolling its desire to implement a province-wide land-related information system. An accurate survey framework is universally recognized as a prime requirement for such a system. The poor condition of our survey system in Manitoba is an obvious hindrance to the development of any LRIS.

One method of improving the quality of this framework is to require surveys for property transactions. The procurement of easement agreements for the installation and maintenance of utility plants is a property transaction.

We believe that users of the land titles system should pay for the maintenance of the framework it is founded upon. Utilities are certainly major users of the system. Why should these utilities be able to encumber a landowner's property, thereby restricting the owner's use of the property, without contributing to the maintenance of the very system which they utilize?

As land surveyors we might be accused of self-interest in any matter promoting surveys. However, the Land Titles Office could also be accused of self-interest by introducing wholesale production of such things as "special plot" plans without consultation with land surveyors, by the way.

The original intention of special plots was to create a picture of land defined by lengthy and convoluted metes and bounds legal description. Land Titles, for reasons of its own, has expanded this to include such descriptions as, lot 5 and the westerly 10 feet of lot 6. We submit that even the most unsophisticated layperson would have no trouble understanding this description.

Why this wholesale production of special plots creating one more piece of paper, that paper without supporting monumentation, one more piece of paper into the system and adding additional cost to the surveyor and his client? Simply to make life simpler for Land Titles Office officials, but to the detriment of the public.

The honourable minister stated at the introduction of Bill 25 that this amendment will provide improved protection for the public by facilitating registration of utility easement agreements which disclose the location of utility installations such as telephone, power or gas lines, which are often underground.

We submit that in fact the public is put at risk by not being able to easily determine what portion of his or her lands actually contain the utility plant. Without a plan, the easement will not disclose the location of the plant, it will only disclose the existence of the plant.

Under the existing legislation the owner can refer to a plan filed in the district Land Titles Office which clearly indicates the lands affected by the agreement. The amendment may in fact not cost the government any more and will almost certainly reduce cost to the utilities, but at what cost to the citizens of Manitoba?

The honourable Minister of Justice (Mrs. Vodrey) has rejected the proposal of the Association of Manitoba Land Surveyors and others to establish a special fund for the restoration and maintenance of survey monuments funded by a surtax on all transactions of the Land Titles Office and now proposes to eliminate another source of survey monument restoration.

We appeal to this committee that it not permit the repeal of Section 112(1), (1.1) of The Real Property Act. Thank you.

**Mr. Chairperson:** Thank you very much, Mr. Wood. Do members of the committee have questions for the presenter?

**Mr. Mackintosh:** Thank you, Mr. Wood, for your presentation.

First question: Has your organization been consulted by the minister or by the government in the development of these amendments?

**Mr. Wood:** I spoke to them after the draft, after the legislation of the draft, I guess.

**Mr. Mackintosh:** Was that after the legislation was introduced, do you mean?

**Mr. Wood:** No, I believe it was before.

**Mr. Mackintosh:** Further to your submission regarding Section 112, do you in fact think that the public would be better protected by amendments to the current legislation requiring the filing of plans of survey?

**Mr. Wood:** Plans of survey for easement purposes you mean?

**Mr. Mackintosh:** Yes.

**Mr. Wood:** Definitely. The legislation the way it is, as far as we are concerned, is fine.

**Mr. Mackintosh:** Just to make it clear then, you think the legislation as is is best for the protection of the public? Is that the view of your organization?

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

**Hon. Jim Ernst (Minister of Consumer and Corporate Affairs):** Just in response then to your question, if the legislation as it stands is okay, why is it not okay that MTS does not file any easements?

**Mr. Wood:** I am sorry?

**Mr. Ernst:** Let me put it in another way. You agreed with Mr. Mackintosh a moment ago that the legislation as it is presently on the books is okay in your opinion.

**Mr. Wood:** I am sorry, I was referring strictly to Section 112 and not to the whole act. Certainly, the nonrequirement to register caveats is a feature we would like to see.

**Mr. Chairperson:** Any other questions for the presenter?

**Mr. Radcliffe:** Mr. Wood, you state on page 3: "We submit that, in fact, the public is put at risk by not being able to easily determine what portion of his/her lands actually contain the utility plant."

My understanding is that if the easement describes the metes and bounds location of the easement, then one is capable of knowing where the actual utility is found, the conduit or the gas line or whatever. Do you agree with that?

**Mr. Wood:** No, I do not agree that, by saying that it is within that 20- or 30-foot easement that is described by metes and bounds, you can determine the location of the actual plant any more than you can by putting a plan of survey on it, plan of easement. All they are saying is that the plant, we hope, is underneath this easement area.

\* (2110)

**Mr. Ernst:** Mr. Wood, if you surveyed a plan then of that easement, would you know by virtue of your plan of survey where those utility lines are located?

**Mr. Wood:** No, we would not. We would know where they intend to put the line; and most of these lines, as I understand it, are fed underground. They do not dig a trench and lay the cable in. My understanding is that they push these cables.

**Mr. Chairperson:** Mr. Radcliffe, did you have another question?

**Mr. Radcliffe:** I think Mr. Ernst has made my point, thank you.

**Hon. Rosemary Vodrey (Minister of Justice and Attorney General):** Mr. Chair, I would like to thank Mr. Wood for his presentation. However, we seem to have some differences of opinion on this matter, and again it appears to me, and the information I receive is, that the easement does not provide the exact location of the line. I believe that you have said that. In fact, I understand sometimes the surveys are done before the line is even in.

So I am having trouble understanding that there seems to be some reference as if this requirement will somehow show where the line is, and it does not. Our interest in making this amendment is to make sure that there is in the public interest at least some registration on the title that would indicate an interest in the property so that the owner would then have the opportunity to look at what that interest is. At the moment, that is not what is required, and so that appears to be where we have our difference.

**Mr. Wood:** I guess I can answer that. Obviously, there is no requirement to file the caveats in any event. So, regardless of which way it is done, Manitoba Telephone System or any other utility may decide not to file those caveats, and that may be another matter for a change in legislation, but that is not before us today.

Our concern is twofold; there is nothing of public record to indicate that there is an easement across a particular portion of an individual's property other than what is stamped on his title, and that may or may not say the westerly 30 feet. Many times when the endorsement is put on to the title, it does not describe a particular area. It simply states that there is an agreement.

**Mrs. Vodrey:** Mr. Chair, but we understand that this amendment will at least facilitate the filing of that caveat, and that, in fact, we understand from discussion that there is an intention to file the caveat so that the landowner will in fact have some indication, and that the exceptions to this requirement of the survey plan are in areas where it is easy to describe the easement in words. Where it is not easier, where it is in fact more technical, then a plan of survey would be more helpful. But, in this way, we believe that there is now going to be a greater protection for landowners who will be able to see that there is an interest in their title.

**Mr. Wood:** I believe you are correct in that it will be endorsed against the title, but it would be with the plan registered as well. The purpose we are here mostly is twofold. One, to have a public record of the area covered by the easement and that public record should be in the form of a plan, in our opinion. Secondly, we think it is a responsibility of any utility, certainly a Crown corporation utility, to help maintain the system

of survey in the province, and they are certainly not doing it in this manner. To eliminate the need to pay for the cost of a survey, they decided not to register the caveat.

**Mr. Mackintosh:** We have talked and heard about MTS's recent experience and practices. I know it is one thing with a backhoe maybe to hit a telephone line; it is quite another to hit a gas line or a hydro line. I am just wondering what your understanding is as to the practice of those utilities when it comes to filing agreements and plans.

**Mr. Wood:** It is my opinion that certainly Manitoba Hydro requires a plan to be registered when they put in a major line.

**Mr. Mackintosh:** This goes back to the question I had earlier. As I see it, there are three possible scenarios: the current legislation which requires the filing of a plan when an easement is filed, which causes some concern because, as MTS is doing, they are not filing the easements, to avoid filing the plan. Then there is the second option, which is what is in the bill, which is to do away with the requirement to file a plan. Then there is a third option, which is to in all cases require the filing of a plan with the easement agreement.

That is not on the table but, Mr. Wood, if we were truly to protect the best interests of the public, would the third option not be the preferred one?

**Mr. Wood:** Yes, I would believe that to be true. I think we cannot look at this simply as a matter of satisfying when utilities attempt to save some money and thereby do what they think is the proper thing to do, and that is to have some registration against a person's title.

I think the more important fact is that these utilities are using the landowner's land, they are not paying for any of the maintenance of the survey fabric upon which the land title system is based, and that to us is critical.

**Mr. Radcliffe:** Mr. Wood, I think we all at this table believe that the survey fabric should be maintained. It is integral to our land title system in Manitoba. However, having said that, my understanding is, sir,

that you said to us earlier that the plans that you would propose or advocate that would be filed by the surveyor would do no more than lay out in graphic form the right-of-way where some conduit had been laid, because in fact if these conduits are pushed through, which is the modern technology, then you are not there to actually supervise the installation. You do not know beyond a metes and bounds description where that actual cable or pipe or conduit is located, do you, sir?

**Mr. Wood:** No. That is quite true, and I do not think that is the argument. We are not saying that we can locate the actual position of the cable. That is not our intention. Our intention is to have a public record in plan form, and the reason for the plan, the reason we want the plan filed in the Land Titles Office is so that the survey monuments defining where that line goes are put back in the ground. If it is the easterly 30 feet of a quarter section, we think it should be referenced to the survey monuments defining the east boundary of that quarter section.

**Mr. Radcliffe:** So is it a fact then, Mr. Wood, that you are wanting to use the installation of the utility and the creation of the easement as a handle or a leapfrog to restore the monument from which the metes and bounds description would be fixed to locate the easement or right-of-way?

**Mr. Wood:** Yes, that is true. However, the legislation doing that is there now. We are not asking for any change to effect that. That is already there.

\* (2120)

**Mr. Radcliffe:** I am sorry, Mr. Wood, I thought that that was in fact the directive, because you have agreed with me, and I do not want to be argumentative, but you have agreed with us that you are not in fact interested in actually locating the specific or precise location on the land of the conduit. What you are more concerned with is the structure of the monument, and you are saying that this is something that can be done better than just a metes and bounds description.

**Mr. Wood:** I guess as land surveyors we do not understand how anyone can go out there and lay a cable and say it is contained within the easterly 30 feet of a quarter section without having the line surveyed.

**Mr. Mackintosh:** I trust you do not have this with you here tonight, Mr. Wood, but it may be of assistance to members of the committee and myself in particular, perhaps the minister would want this, to actually compare the information available from an easement agreement versus a plan of survey of a utility installation. Would you have that here today just so that graphically we can see the difference?

**Mr. Wood:** There is very little difference in the form of the easement agreement. It simply, instead of giving a metes and bounds description of the area covered, shows it in pictorial form and it is registered and filed in the Land Titles Office for public record.

**Mr. Chairperson:** Any further questions? Thank you very much for your presentation, and I wonder if the next speaker would please come forward.

The next speaker is Laurie LeClair, this time representing the Association of Manitoba Land Surveyors.

Mr. LeClair, do you have a written submission?

**Mr. Laurie LeClair (Association of Manitoba Land Surveyors):** No, I do not.

**Mr. Chairperson:** Okay. You can proceed. Thank you.

**Mr. LeClair:** Good evening. I am here representing the Association of Land Surveyors, and I just have a few brief comments to make with regard to the proposed legislation.

The first concern our association has is that we feel that deletion of Section 112(1) of The Real Property Act is going to allow for the registration of caveats which affect the entire title. We realize that metes and bounds legal descriptions will be used at times in order to delineate that land. However, we feel that there will be several instances where the entire title will be affected by the caveat or the utilities easement.

We have a concern with this in respect to the public or the landowner that their title now becomes entirely encumbered by a utility interest that should not affect

the entire title. This in turn causes difficulty for them in dealing with those portions of their property that should in effect be unencumbered. This causes aggravation for the landowner as well as needless expense and consuming of their time.

We feel that if the caveats when they are registered were carefully scrutinized in conjunction with the agreements which are to be attached to the caveats, ensuring that the area that is described relates only to the area that need be affected, the proper owner is identified on the agreement and it is not somebody that owned the land five years ago and not who the owner is today, those types of things need to be done in order to ensure that the effect of what could be blanket caveats is not condoned by the Land Titles Office.

With respect to the delegation of power to the district registrar in order to be the one who determines when a plan is or is not required, we believe with all due respect to the district registrar that that delegation should in fact be left with the Examiner of Surveys. He is a land surveyor, he is a professional trained in the relationship of the survey fabric and the land tenure system. There would be one common voice making the decisions as to when plans were required or were not required rather than various district registrars, and we feel this would aid in ensuring that plans are required when, in fact, they are necessary.

That is really all I have to say. Thank you.

**Mr. Chairperson:** Thank you, Mr. LeClair. Are there questions for this presenter?

**Mr. Mackintosh:** Is the association the governing body of land surveyors in Manitoba.

**Mr. LeClair:** Yes, we are.

**Mr. Mackintosh:** I wonder if you could comment on the discussions here tonight as to whether the proposed amendments regarding the filing of plans of survey will or will not affect the protection of the public.

**Mr. LeClair:** Speaking as a land surveyor, I have a concern that a metes and bounds legal description will be used in place of the plan. The metes and bounds

legal description gives a theoretical picture or definition of where this piece of property may be.

The plan accurately depicts where the utility easement is on the ground. I think that is a distinct difference between the metes and bounds legal description and the plan of survey.

**Mr. Mackintosh:** What about the information here tonight that a plan of survey still will not show, except within a broad range of footage, where the utility is actually buried?

**Mr. LeClair:** The same applies for the metes and bounds legal description. But what can happen is you can physically locate, if the utility identifies where their plant is, exactly where it is in relationship to the property, whereas you cannot do that if the utility physically locates their plant—and try and relate that to the metes and bounds legal description if you do not know exactly where that is on the ground.

**Mr. Mackintosh:** So what you are saying then is that the easement agreement may not, in fact, describe where the utility is at all. It could be off in terms of where the monuments—in relationship to the monuments.

**Mr. LeClair:** I believe the easement agreement will describe where it is intended the easement utility is to put its plant. Whether or not it is in that plant or anywhere in relationship to that plant, it does not tell you.

**Mr. Mackintosh:** What would be your opinion as to what better protects the public, the current Section 112 or the proposed amendments in this bill to 112?

**Mr. LeClair:** I believe the current legislation best protects the public because for the landowner, particularly, it will ensure him that if there is a plan, the utility can be accurately located on the ground with respect to that.

**Mr. Radcliffe:** Mr. LeClair, you said during your verbal remarks that one of your anxieties was that the easement might affect the entire certificate of title. Am I correct in presenting that remark?

**Mr. LeClair:** Yes.

**Mr. Radcliffe:** Mr. LeClair, you are no doubt aware, though, that when one is reporting out to a bank or credit institution with regard to a mortgage or other disposition, that utility agreements or utility easements in fact have no injurious effect as to the credit worthiness of the land that has been proffered as the source of the mortgage.

**Mr. LeClair:** That is correct.

**Mr. Radcliffe:** So then what is the difficulty that you anticipate with regard to the general or broadcast effect of the easement on an entire, say, quarter section of land?

**Mr. LeClair:** Well, my concern is the fact that should the landowner, let us say, want to deal with the north half of that quarter section of land and the utility easement is contained along the south limit of that quarter section of land, he is subjected to having to obtain discharges and the cost and time that go with that in order to deal with that portion of his property that should not have been affected by the utility or is not actually affected by the utility.

\* (2130)

**Mr. Radcliffe:** What sort of commercial transaction or land titles transaction would you anticipate, would envisage or require the discharge of a utility caveat of this fashion?

**Mr. LeClair:** I guess, if an individual was wanting to subdivide a portion of his land, if he owned the north half of a section, and he wanted to subdivide the north half of that half, and the utility caveat encumbered the entire property, then he would have to deal with obtaining discharges and the time and costs associated to that.

**Mr. Radcliffe:** I would suggest to you, sir, that that would be speculative that it would be required or necessary to effect those discharges, that in fact, the practical application is that nobody in the current use of land today really objects to the imposition of the utility caveat.

**Mr. LeClair:** I disagree with that slightly because, if the individual subdivided, let us say this north half of his land and he created lots on a plan of subdivision and he wanted to build a house on that lot, he would be restricted in doing that by virtue of the utility easement agreement. He would have to start searching out what piece of land it affected. Where did it affect that lot that he had now bought in that plan of subdivision when in fact it should not even be affecting that lot?

**Mr. Radcliffe:** I do not want to push this to any greater extreme, but in fact if there were going to be a subdivision of the property other than for a yard site, or even actually for most yard sites, in rural property, if you are chopping up pieces of property, you have to plan a subdivision in any event which takes all this into account so therefore this discussion would be hypothetical.

**Mr. LeClair:** I believe you can register the plan of subdivision and make everything subject to the easement, simply carry the easement forward.

**Mr. Radcliffe:** And then the other remark I believe you made, Mr. LeClair, was that it was your impression that the ultimate decision for registration ought to be left in the hands of the surveyor rather than the district registrar.

**Mr. LeClair:** Examiner of surveys.

**Mr. Radcliffe:** The Examiner of Surveys. I see. Mr. LeClair, is it not the practice though inside the Land Titles Office that the survey departments and the examiners all do relate with one another and discuss with one another and compare notes and collaborate?

**Mr. LeClair:** I am sure they do.

**Mr. Radcliffe:** Thank you, Mr. Chairman.

**Mr. Mackintosh:** Do you know with the gas utilities in Manitoba—I guess that is singular—files plans of survey with easement agreements?

**Mr. LeClair:** I am not really familiar with the gas utilities. My extent of practice is in the city of Winnipeg, and I believe in 99.9 percent of the cases their utility is contained within the right-of-way.

**Mr. Chairperson:** Any further questions for Mr. LeClair?

**Mrs. Vodrey:** Mr. LeClair, I would just like to thank you for your presentation and the information you have brought forward.

It seems again obvious that we have some disagreement about what in fact will be in the public interest, and my concern is still that simply with the easement we do not have any description actually of where the line is. I think that it is important to register the caveat on the title so that the holder of that title will at least have some indication of the interest in the land and is able to go to MTS to find out exactly where the line is.

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

That now concludes all of the listed presenters. Are there any other persons in attendance wishing to speak to any one of the bills that is before the committee this evening? If so, would you please identify yourself now? Seeing there are none, did the committee wish to proceed now with clause-by-clause consideration of the last bill presented to us and then we can proceed with each bill in sequence? [agreed]

Does the minister wish to make any further statements at this time before we proceed with clause by clause?

**Mrs. Vodrey:** Thank you very much, Mr. Chair. It is my privilege to present The Real Property Amendment Act (2) for the review of this committee.

One of the amendments relates to the days Land Titles Offices are open. Under the existing act a regulation sets out what days Land Titles Offices are to be open. The amendment we are proposing makes it clear in the act itself that the Land Titles Offices will be open Monday through Friday, subject to The Civil Service Act, and regulations and closures such as holidays or reduced workweek negotiated under the collective agreement.

Another amendment will eliminate the requirement for notices the district registrar requires to be published



in a newspaper, also to be published in the Manitoba Gazette. These are notices which are intended for a specific person or persons, such as a particular landowner, not general notices to the public. Eliminating the requirement for publication in the Gazette, in addition to the newspaper, will reduce the costs of parties in some land titles proceedings such as mortgage sale and foreclosure proceedings.

The amendment related to utility easements will provide improved protection for the public by facilitating registration of utility easement caveats which disclose the existence of utility installations such as telephone, power line, gas line, which are often underground.

Mr. Chair, I have three small amendments of a minor nature which I will introduce at the appropriate time. These amendments arise from suggestions received from the Association of Manitoba Land Surveyors after the bill was tabled.

**Mr. Chairperson:** Does the critic from the opposition wish to make a statement?

**Mr. Mackintosh:** Just following the comments from the House, I am wondering what the minister's view is as to the future of the Manitoba Gazette, and what representations were made to her office which led to the amendments to do away with the requirement for giving notice in the Gazette.

**Mrs. Vodrey:** Mr. Chair, as I made clear in my opening comments, these are notices to a very specific person about issues relating to a property, and so we believe, especially if we are having trouble finding that person, that there is a much greater likelihood of the person finding that in one of the local newspapers, finding the information. If they do not find it in the local newspaper, we believe that, you know, it would be very unlikely that they would also find it in the Gazette—if they did not find it in the newspaper.

So this has nothing to do with the future importance of gazetting or the Gazette by any means. This has to do with this very specific situation in which we are attempting to get information or notification to a very specific landowner, and this process appears to be the

most efficient, most likely to reach them, and also the most cost efficient.

**Mr. Mackintosh:** Perhaps we can deal with the issue raised by Section 112 now. The minister has apparently listened closely to the advice of Manitoba Telephone System, and her views, and apparently those of the government, appear to conflict with the surveyors of Manitoba in a very significant way.

\* (2140)

We have here tonight two individuals who represent the surveyors of Manitoba in different approaches who both say that the amendments that are proposed will not enhance the protection of the public, as the minister has said in the Legislature, but, in fact, will deteriorate the protection of the public.

Indeed, there is some information before the committee that if the government really wanted to protect the public better, it would move to a requirement that plans of survey be filed with easement agreements. It seems that the proposed changes have not been thought through as they should have been. It appears that the consultation was not as extensive as it should have been, and I think that the government's position is premature.

I am wondering if it is the minister's view that these amendments, or the consideration of them, could be put off at least until the next session of the Legislature. In the meantime, we would urge the government to more fully consult to ensure that these amendments are in the interests of greater public protection.

**Mrs. Vodrey:** Mr. Chair, of course, we would not be stopped from continuing consultation with these groups. There has been consultation, and I would say this evening that further consultation and kinds of consultation, open discussion, would continue. But it is our belief that a step must be taken to provide information to a property, to a titleholder, and we believe that this is at least a signal to that titleholder that there is an interest in the property.

Bearing in mind what was brought forward by presenters this evening, and what I have previously said

myself, the easement does not give the exact location of the line, and I understood from the members' earlier comments, and that of the member for Radisson (Ms. Cerilli), that it is that exact location that they want to know about. What I am saying is, then, the importance is to at least signal on the title that there is that interest in the property so that anyone who wishes to follow up can then in fact go to the utility and get that very specific information.

So we believe that this is certainly going to improve the public interest, but I would say openly to the presenters who are still here in the committee room, we certainly continue to work with you and in no way do we want to close any doors to a continued discussion of what will be in the best interests of Manitoba. So certainly we will continue, but we do believe that what is contained in this bill tonight is in fact at least a step in the right direction because it signals the interest and at the moment I feel that that is not necessarily always recorded, and we would like to see it.

**Mr. Mackintosh:** Just a further appeal to the minister. Would it not be more appropriate to direct Manitoba Telephone System, through whatever means, to file their easement agreements, as I understand Hydro does, and that it fulfil its commitment to public protection first and foremost. Is that not the way to deal with it rather than draft legislation based on MTS's skirting of what is at least the spirit of the legislation as it now is?

**Mrs. Vodrey:** Mr. Chair, we certainly have every indication from Manitoba Telephone System that they intend to register the caveats, that they intend, because this process facilitates that registration, that they intend to proceed doing that. The member would somehow prefer the heavy hand of government to do that. We have, through the process of consultation, every indication that this in fact will occur. Now I made it clear that this is a step. We believe it will afford protection, but the doors are not closed and we will be interested to see, too, that there is a follow-up on the intention that has been indicated by the utility.

**Mr. Chairperson:** If there are no further questions at this time, I wonder if we could now proceed clause by clause with the bill.

Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass; Clause 5—pass; Clause 6—pass; Clause 7—pass; Clause 8—pass; Clause 9—pass; Clause 10(1)—pass; Clause 10(2)—pass; Clause 10(3)—pass; Clause 11—pass.

Clause 12?

**An Honourable Member:** No.

#### Voice Vote

**Mr. Chairperson:** Okay. Those in favour, say yea.

**Some Honourable Members:** Yea.

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

**Some Honourable Members:** Nay.

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

Clause 13(1).

**Mrs. Vodrey:** Mr. Chair, this is where I would like to move an amendment. I move

THAT the proposed subsection 127(1), as set out in the subsection 13(1) of the bill, be amended

(a) in the section heading, by striking out "explanatory plan" and substituting "plan of survey"; and

(b) by striking out "an explanatory plan that is certified by a Manitoba land surveyor, approved by the Examiner of Surveys and satisfactory to the district registrar" and substituting "a plan of survey".

#### [French version]

Il est proposé que le paragraphe 127(1) énoncé au paragraphe 13(1) du projet de loi soit amendé:

a) par substitution, à son titre, de "Plan d'arpentage";

b) par substitution, à "qu'il dépose un plan explicatif jugé satisfaisant. Ce plan doit être certifié par un arpenteur-géomètre du Manitoba et approuvé par le vérificateur des levés. Si le propriétaire ou le

fournisseur ne se conforme pas à ces exigences", de "qu'il dépose un plan d'arpentage. Si li propriétaire ou le fournisseur ne se conforme pas à cette exigence".

**Mr. Chairperson:** I think we will deal with this one first. This is the amendment to subsection 13(1) proposed. Shall the amendment pass?

**Some Honourable Members:** Pass.

**Mr. Chairperson:** The amendment is accordingly passed.

Now, another amendment proposed with respect to 13(1.1).

**Mrs. Vodrey:** Mr. Chair, I move

THAT the following be added after subsection 13(1) of the bill:

13(1.1) Subsection 127(2) is amended by striking out "an explanatory plan" and substituting "a plan of survey".

**[French version]**

Il est proposé qu'il soit ajouté, après le paragraphe 13(1) du projet de loi, ce qui suit:

13(1.1) Le paragraphe 127(2) est amendé par substitution, à "plan explicatif", de "plan d'arpentage".

**Mr. Chairperson:** Shall the amendment to 13(1) with the addition of 13(1.1) pass?

**Some Honourable Members:** Pass.

**Mr. Chairperson:** The amendment is accordingly passed. Shall 13(1) as amended pass?

**Some Honourable Members:** Pass.

**Mr. Chairperson:** Subsection 13(1) is accordingly passed. Shall 13(1) as amended with the addition of 13(1.1) pass?

**Some Honourable Members:** Pass.

**Mr. Chairperson:** 13(1) is accordingly passed. Clause 13(2)—pass; Clause 13(3)—pass; Clause 14—pass; Clause 15—pass; Clause 16—pass.

**Mrs. Vodrey:** Mr. Chair, I move

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

**[French version]**

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

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

**An Honourable Member:** Pass.

**Mr. Chairperson:** The amendment is accordingly passed. Preamble—pass; Title—pass. Bill as amended be reported.

\* (2150)

#### **Bill 4—The Real Property Amendment Act**

**Mr. Chairperson:** The next bill for consideration would be Bill 4, The Real Property Amendment Act.

The Honourable Jim Ernst has joined us here. Does the honourable minister have a statement at the outset?

**Hon. Jim Ernst (Minister of Consumer and Corporate Affairs):** Not long, Mr. Chair. Firstly, let me introduce the Deputy Minister of Consumer and Corporate Affairs, Mr. Don Zasada, and Mr. David Cheop, who is senior counsel to the Manitoba Securities Commission.

Mr. Chair, historically, real property amendments, of course, come from the Minister of Justice, as we have just witnessed over the last half hour or so. However, an issue was raised some time ago with respect to the desirability of having personal covenants attached to mortgages and residential property continue after a property has been sold.

The personal covenant does continue once the property is sold, so in the event that someone having sold their house and moved into a new property or away or out of province or whatever had a continuing liability, although not often exercised under their mortgage document, because they had signed a personal covenant.

It came to light that in certain cases this personal covenant was being pursued by lenders. Given that consideration, it appeared to me and others in the Legislature, including the member for Radisson (Ms. Cerilli) and the member for Transcona (Mr. Reid), that this was an unfair circumstance.

**An Honourable Member:** It is those evil banks again.

**Mr. Ernst:** I will not comment on the member for Burrows (Mr. Martindale).

The fact of the matter is it seemed an unfair practice. Accordingly, I asked the Manitoba Securities Commission to review with the industry that current practice. I was fearful at the time that simply a blanket removal of that requirement could significantly affect the money supply available to people trying to purchase homes. If that were to be the case, then we did not want, by virtue of a practice that did not occur very often, to create difficulties for people trying to purchase homes.

It is tough enough today for a family to purchase a home, to be able to finance it, to be able to meet the mortgage obligations and so on, without us trying to artificially create further impediments. So I asked the Securities Commission to conduct an investigation into that situation, which they did over a period of months, returning to me with a recommendation that, yes, we could meet substantially the changes that we were looking for without significantly impeding the ability of people to borrow money in order to purchase a home.

So we have proceeded with that. We did introduce Bill 2, prior to the provincial election. Unfortunately, there was insufficient time available to pass that bill before the election was called, and so we have reintroduced the matter here with one further amendment than what was originally planned in Bill 2,

and that as a result of further consultations during the time that occurred between Bill 2 being tabled and Bill 4 being tabled.

As a result of that, that further amendment related to another issue. We can go into it if you would like, but nonetheless that basically brings us to Bill 4 before us today, which we hope the committee will support.

**Mr. Chairperson:** Does the critic from the official opposition wish to make a submission?

**Ms. Marianne Cerilli (Radisson):** As the minister indicated, even though this was not in my critic responsibilities, I was involved in the issue related to this bill, because it arose in constituent matters, problems that arose for constituents in Radisson who were held liable and were pursued by lending institutions for arrears incurred under no fault of their own for over, in some cases, \$23,000. I am pleased to see that the bill has come forward.

I will have a number of questions for the minister with respect to some of the provisions in the bill. I think we all want to ensure that we keep the options open for assumed mortgages, and we do that, knowing they allow for more Manitobans to purchase and own a home. The usual reason that someone would assume a mortgage is because they can take advantage of a lower mortgage interest rate, and we want to make sure that that is going to be as secure as possible.

The minister referenced to the infrequency in which this is a problem. As I have come to learn, there are a number of lending institutions who have had policy that would allow them to get around the problems in The Real Property Act that this bill deals with by simply automatically approving the assumption of a mortgage or doing that after a year's time. That is what I have learned from talking to a few banks about the bill. I have been listening to the comments that the government has been making with respect to this legislation and there has been reference often to the need for balance, to balance the interests of homeowners and citizens in the province with the interests of banks and lending institutions, and I have often said that is difficult because there is such an imbalance of power.

The bill does offer the opportunity to go to court and we know the banks will have far greater resources and wherewithal to pursue liabilities and go to court than would individuals and homeowners in the province, and that is one of the concerns that I have had with respect to the approach of the government to this bill. I will have one amendment that I believe will indeed make the bill more balanced and I hope that the minister will consider seriously the amendment.

I have had a number of discussions with real estate lawyers and individuals from lending institutions and have had some agreement that the provisions in the bill with respect to the area that I seek to amend do not seem to have any reasonable explanation, so that is one area for sure that I will hope to get more detailed explanation on.

Other than that, I will just say that after waiting a few years and doing a fair amount of work in this area of introducing our own private members' bill on the area, I am pleased to see that this bill has come forward now after the election.

I am interested in finding out the reasons for the difference in the pre-election, post-election bill, and I am wanting to say, too, that it is somewhat satisfying as an opposition member. We do not often get the opportunity to feel like we can really contribute, but a few of us on the opposition side feel like we have, through this type of bill that comes out of constituency work, had the opportunity to make a difference and influence legislation.

So I do not know if the minister can tell me if this was an issue that was on the government agenda prior to 1990, but I think that considering that, as well, there will be serious consideration of the one amendment that I will put forward which I do believe will make the bill more balanced considering the imbalance of power between banks and individual homeowners. With that, I look forward to going through the bill.

\* (2200)

**Mr. Ernst:** I can say to the member of Radisson that she can fairly take a measure of credit with respect to this situation. To be fair and reasonable in the

circumstances, the issue was brought to her, it was brought to me. She advanced her views on the matter and the government took the action that it did to try and reach this conclusion, so I do not have any fear of sharing the credit, if credit is sought in this matter. There was an opportunity to make a difference and you did.

**Mr. Chairperson:** The bill will now be considered clause by clause.

**Mr. Ernst:** You have no idea how hard it was for me to say that.

**Mr. Chairperson:** We will now proceed with consideration of the bill. The Title and Preamble will be postponed until the other clauses have been considered.

Clause 1—pass. Clause 2?

**Ms. Cerilli:** Clause 2 is the one that references the Section 77—

**Mr. Chairperson:** Ms. Cerilli, I gather that an amendment is going to be proposed from a member of the committee, or do you have a question in relation?

**Ms. Cerilli:** I just have a question.

**Mr. Chairperson:** Okay.

**Ms. Cerilli:** I do have a number of questions, as I said in my introductory comments. I am referring to Clause 2 which makes reference to Section 77 being amended, and this is one of the parts of the bill that was added after the election. I am just wanting to clarify: What led to this, and why was it not included in the original bill, Bill 2, which was the pre-election bill?

**Mr. Ernst:** The intent under Bill 2, the original bill, was to remove the requirement for all entitlements related to the question of the personal covenant. It came to our attention between the time Bill 2 died on the Order Paper and Bill 4 was introduced that there were other obligations that needed to be released.

Those additional obligations included the obligation to ensure and some other nonmonetary items. So the

intent was to make sure that—not just the monetary items, not just the cash or mortgage payment or whatever, but in fact other obligations that were included there were also removed. So, when the seller sold the property and had his or her personal covenant obviated, then it was to ensure that all of the covenants thereto were obviated.

**Ms. Cerilli:** I understand that is what these provisions will do, will ensure that not only the mortgage gets paid but also insurance and repairs are done. We know one of the reasons that this becomes problematic, that an assumed mortgage becomes problematic, is because the value of the property is not maintained. The property is allowed to deteriorate.

I am concerned that that was not identified prior to the election, and I am just wondering how that is. I have been in contact with the subcommittee of the Law Society that is responsible for real estate law, and I am wondering how much contact and consultation the minister did on the bill prior to the election.

**Mr. Ernst:** The Securities Commission did, in fact, meet with and receive submissions from all kinds of associations, individuals, corporations and the like with respect to this bill. It does not really matter because Bill 2 is not before us and Bill 4 is, and this issue is included in Bill 4.

The fact of the matter is that, while it may not have been identified earlier, it has been; it may well have been identified in a subsequent amendment to Bill 2, but that is all speculation at this point. The fact of the matter is, it is included.

**Mr. Chairperson:** No further questions concerning that clause.

Clause 2—pass. Shall Clause 3 pass?

Mr. Mackintosh, and then Ms. Cerilli.

**Mr. Gord Mackintosh (St. Johns):** I move—

**Mr. Chairperson:** Perhaps, Ms. Cerilli, did you have something to say before?

**Ms. Cerilli:** A lot of questions prior to the area that you are going to amend.

**Mr. Chairperson:** Is that fair, Mr. Mackintosh?

**Mr. Mackintosh:** Yes.

**Mr. Chairperson:** She is on a roll tonight.

**Ms. Cerilli:** I have a question with regard to Section 77.2(1), and I have some concerns about this area, because it allows for what I feel is a liability still to be incurred by the original homeowner. I am going to pose a scenario, and the minister can tell me if this is true or not.

If, after the terms of the mortgage have expired and during that three-month window, the second homeowner is rejected by the lender as being unable to qualify for a mortgage, can the bank then go and make a claim on the original homeowner?

**Mr. Ernst:** With respect to that scenario, I guess there are really two potential situations that occur. When the original vendor of the property sells the property, he should seek concurrence of the lender to assume a mortgage. If he does not, then the three-month window applies, and the deal is not consummated until such time as that occurs.

After the end of the term of the mortgage, the mortgage company then has three months to decide whether or not they are going to accept any extension of that mortgage with the new mortgagor. But, in most cases, when the property is sold, the deal is not consummated until such time as both the lender and the purchaser agree that one will assume the mortgage and will continue on. So, anywhere the mortgage expires, this three-month window of opportunity exists for the mortgage company to decide whether they want to continue or not.

**Ms. Cerilli:** We could have a situation then where the bank has no contact with the new homeowner. They are just getting the checks from a new homeowner. The personal covenant and the mortgage still are with the original homeowner, and the term can go for over four years. After that point, when the new homeowner

wants to have their own mortgage negotiated, that would be the first contact they would have with the bank and then the bank could say, forget it and pursue a claim on the original homeowner. Could that occur?

**Mr. Ernst:** I am advised that could well happen, that if the mortgage company is not notified that the property has been sold and that there is a new mortgagor, they could continue on for a considerable period of time, not knowing there has been a change in owner of the property.

The law intends, as proposed here, that at the end when a mortgage expires, they have three months to make up their mind as to whether they are going to refinance with this person or not, or whether they are going to extend the mortgage under the existing conditions or not.

**Ms. Cerilli:** I just want it to be clear that we still can see some problems in this area then.

\* (2210)

**Mr. Ernst:** Mr. Chairman, when somebody borrows money with respect to a mortgage, it is a personal promise to repay the money. It is a very serious matter and one that ought to be addressed most seriously by anyone who is signing such an agreement.

There is some responsibility on the part of the person who is selling the property to ensure that notification of the mortgage company is made, whether it is simply a handwritten letter by him saying, look, I have sold the house and Joe Brown is taking over and will be making the mortgage payments—some kind of contact with the mortgage company. This applies only in the event that there is no contact.

**Mr. Chairperson:** Mr. Mackintosh, you were deferring. Do you have a question?

**Mr. Mackintosh:** I move,

THAT the proposed subsections 77.3(2), as set out in Section 3 of the Bill, be amended by striking out "not later than three months after the registration of the transfer."

**[French version]**

Il est proposé que le paragraphe 77.3(2) figurant à l'article 3 du projet de loi soit amendé par suppression de "dans les trois mois suivant l'enregistrement du transfert".

**Mr. Chairperson:** It is being distributed now, the amendment proposed.

The amendment has been distributed.

**Mr. Ernst:** Mr. Chairman, first of all, the member for Radisson has a plea that we consider this amendment, the first time having seen it is at this moment. No previous consultation was sought, so we will need a couple of minutes to review that.

**Mr. Chairperson:** Is there leave of the committee to defer perhaps this particular one and then move this clause? Does that make sense? [agreed]

Shall Clause 4(1) pass?

**Ms. Cerilli:** What are we doing?

**Mr. Chairperson:** We are deferring the one that is at issue or has a proposed amendment to it which is Clause 3, as I understand it.

**Ms. Cerilli:** Can you wait a moment, please? I think there is someone here that may have been wanting to present on this bill.

**An Honourable Member:** Too late now.

**Ms. Cerilli:** I know it is too late. I just want to see if that is the case.

**Mr. Radcliffe:** Mr. Chairman, could we recess maybe for a few moments?

**Mr. Ernst:** Well, no, we will continue on with the consideration of the bill, and then while staff have an opportunity to look at the amendment, and then we will consider whether we agree with it or not, so we will continue on with the balance of the bill.

**Mr. Chairperson:** That is what I understood was the will of the committee, and we will proceed and then come back to this.

**Mr. Ernst:** We have lots of work left yet to do tonight.

**Mr. Chairperson:** Shall Clause—

**Ms. Cerilli:** Well, I do not want to pass to the next clause because I have some other questions about the clause that we are in.

**Mr. Chairperson:** Okay, you can ask the questions now.

**Ms. Cerilli:** With respect to provisions in the bill to allow approval of the assumed mortgage, could the minister explain under the current legislation what opportunity or requirements or availability for this option there is in the existing legislation?

**Mr. Ernst:** Under the current legislation, there is no requirement for the lender to act reasonably. He may simply act very arbitrarily. They do not have to give any reason; they can simply refuse to lend money to somebody or approve a transfer of mortgage to somebody. They do not have to give any reasons. They can be totally arbitrary, meanspirited even, if you wish, if that can be deemed so.

We felt it was important that in terms of the transfer that they should not unreasonably withhold their consent, and so we put provisions in the bill to ensure that they act in a reasonable manner, undefined, but at the same time, and if they do not, there is a provision to be able to go to court to seek redress if they are in fact being unreasonable.

**Ms. Cerilli:** Okay. What is a reasonable fee? Has that been determined? Is that going to be completely up to the banks and lending institutions? How are they going to decide what a reasonable fee is?

They have still a lot of authority in this case. They are the ones that are going to be able to decide if the mortgage is approved, the assumption of the mortgage is approved. They are going to be able to have a check

for information, but they get to charge a fee to do that, so they still have a lot of authority here. It may be reasonable, given as you have said it is a serious matter where they are lending money, but I am wondering what we are going to see as a reasonable fee, given the fees that banks are known to be charging these days for any kind of transaction or service. So what do we think is a reasonable fee here?

**Mr. Ernst:** By and large, lending institutions today have a schedule of fees that surround these types of transactions. In fact, they charge now a fee for assumption of mortgages and so on. Our feeling here is that the fee should be reasonable.

If in fact the industry prescribes a fee of whatever, \$100 let us say, for similar types of transactions, then we have something to gage the reasonableness of a fee for assumption of mortgage against. If they become unreasonable then there are opportunities in the future to prescribe what the fee will be, but by and large that has not been a problem.

The industry itself tends to—you know, it is a highly competitive industry at the moment, as well. The fact of the matter is that if somebody gets too far out of hand—I believe I saw a sign, a billboard today, driving back from the opening of the Charleswood Bridge at noon, nonpolitical statement, that said we refund our fees from a particular credit union, and the others do not, I believe is the bracket attached to the end of it. So I would say it is a highly competitive market, and I do not think we need fear too much an unreasonable fee to be charged.

There are costs associated with changing over a system. First of all, to investigate the potential persons who are going to assume the mortgage to determine if they can in fact have the ability to repay, change over computer systems and re-amortization schedules and all kinds of things that are associated with a mortgage. There are costs associated with that, and it is not unreasonable that a lending institution should be able to recover those costs.

So the issue can be monitored. If there is a problem in the future, the potential always exists to bring further amendments that will in fact prescribe a fee.



**Ms. Cerilli:** As I said earlier, we have heard from banks that they currently, in a number of cases, have a policy where they automatically approve the assumption of the mortgage, after a year in some cases, or in some cases less than that. In those situations, is the minister aware if there is a fee charged?

**Mr. Ernst:** No, I do not specifically, but as I said earlier this is an extremely competitive business at the moment. I mean, there are, I am told, circumstances where an offer to purchase is written subject to financing, the financing given the mortgage lender hours to approve or disprove. That is how competitive it is. I mean, it was not unreasonable a few years ago when I was in fact practising in this area that it would take two, three, four days, a week, in terms of getting approval for financing. It is so competitive today, I am told it is a matter of down to hours in many cases. So what fees they charge and so on I am not aware.

\* (2220)

**Ms. Cerilli:** It is interesting. I think the banking industry is booming, because in my fairly short tenure as an MLA I have gone to three bank openings in my own constituency.

**An Honourable Member:** They have been closing in mine.

**Ms. Cerilli:** They are moving out to East Kildonan-Transcona. I am wondering who the minister has consulted with on the industry side and what kind of form on these matters.

**Mr. Ernst:** The Manitoba Securities Commission consulted widely in Glenee Industry with, you name it they consulted with them, the Mortgage Loans Association which represents a large number of lenders, Canadian Banker's Association, the mortgage insurers.

Virtually the entire industry was aware of this proposal. We sent it out to a wide variety of people, and there were people from everywhere, from the Law Society to, say, all of the financial institutions who commented, and there is quite an extensive report, I

think, of which you have a copy, that elicited their comments and so on.

**Ms. Cerilli:** That was who the minister consulted with on the perspective of the lending institutions. From the perspective of the homeowners, how was that balanced?

**Mr. Ernst:** I am sorry.

**Mr. Chairperson:** Repeat that question, please, Ms. Cerilli.

**Ms. Cerilli:** How did the minister balance from the perspective of the homeowners after consulting with those groups from the perspective of the lending institutions?

**Mr. Ernst:** Balance in what way?

**Ms. Cerilli:** The minister has often talked about balancing the interests of homeowners with the interests of the lending institutions, and I am just asking the question: If those are the folks that you consulted with from the banking side, what was the consultation in terms of the homeowners?

**Mr. Ernst:** Mr. Chair, in the Securities Commission consultation process, they sent documentation to the Manitoba Real Estate Association, the Winnipeg Real Estate Board, the Consumers' Association of Canada, all of whom have general interests in terms of these kinds of things, for their input.

I also personally met with a number of people, three or four, I believe, who had personally experienced this problem where they were in fact sued under the covenant after having sold the property and left sometime before that, but did I personally go out and grab people off the street and ask them? No, I did not.

**Mr. Chairperson:** Shall we proceed then? Shall Clause—

**Mr. Ernst:** With respect, Mr. Chairman, to the proposed amendment, I am afraid that we are unable to accept the amendment.

The intent of the three-month window in this circumstance is to create a certainty and end-date their reasonableness to the question of whether the mortgage company approves or not approves. Accordingly, we think that, throughout all our consultation process, through reviewing legislation elsewhere in the country that deals with this matter, this is a reasonable position to take, and to arbitrarily cut it off and not provide that formal window of opportunity and set a reasonable time limit on this issue is something that ought to continue. So I am sorry, but we cannot accept the amendment of the member.

**Ms. Cerilli:** I would like to have an opportunity to speak to the amendment because I, of course, after proposing the amendment, think that it is reasonable. It is reasonable to afford homeowners dealing with an assumed mortgage as much opportunity as possible to have the assumption approved. I think it is in the interest of balance and fairness, and it will increase the security for homeowners.

The banks in the bill have no time limit that will deter them or limit them from seeking a demand throughout the term of the mortgage. I have not really heard an explanation for the necessity of this three-month window. That is a question I would like the minister to answer, but I also want to propose a scenario for him.

If we have a family that has purchased a home and assumed a mortgage and they have not had it approved, and let us say there is four years left on the mortgage, and perhaps at the beginning of their ownership of the property, they only have one individual in the family bringing in an income, and a year down the road they have two individuals bringing in an income.

Their credit rating or their financial assessment in the eyes of the bank would improve tremendously, and it seems to me that they should then at that point still be able to go to the bank and have the mortgage assumption approved.

I would ask the minister if he would not agree with that; and, if not, there has to be some greater explanation for a reason for providing the banks with this three-month window.

\* (2230)

**Mr. Ernst:** Under your scenario you can still do that, but the lender is not obligated at a later time. The fact of the matter is that under this three-month window the lender is obligated, so the fulfilment of your obligations is there within that three-month window and that is it. There has to be some—you cannot leave this thing open-ended forever. You cannot leave it for four years down the road, a week or a month before the mortgage expires that the mortgagor can then go to the lender and exercise their option or something like that. The fact of the matter is there has to be some reasonable end period, and we have identified that 90 days is the reasonable period with which to conclude that.

**Ms. Cerilli:** Perhaps I am misunderstanding this, but there is an end date, There is the term of the mortgage which is an end date, and I am not clear as to why the minister is saying that there should not be the opportunity for the mortgage to be approved throughout that period of time. I do not understand why that is not reasonable, given the fact that the lending institution can charge a fee, can ask for full financial information. I am not sure if the minister is saying now that that is something that occurs only after that three-month window, and before that they approve it outright.

**Mr. Ernst:** What we are talking about here is a mortgage that is not assumable without condition so that the obligation of the person who borrowed the money in the first place is to advise the lender. The lender then has a period of time to agree or not agree with respect to the assumption of the mortgage, but the fact of the matter is that the original borrower, the person whose covenant is now going to be released in full, has an obligation. In cases where there is no contact, then you have this three-month window for them to conclude that obligation. After that, he is in breach of his original mortgage because he has not advised the mortgage company of the conditions as required by the mortgage.

**Ms. Cerilli:** I guess we will have to disagree on this point. I do not see it that way, and I am disappointed that—this is an amendment, I think, that would have created more balance for all the reasons I have referred

to already between homeowners and lending institutions.

I also just want to make mention to the committee that there is an individual present that was wanting to make a presentation on the bill. He did not register prior to the committee beginning tonight.

I am wondering if we can have leave of the committee if this individual would like to make some comments on the bill at this point to do so. I would just like the opportunity to ask the individual that.

**Mr. Ernst:** Mr. Chairman, I am as liberal as anyone with respect to wanting to sit down, Gary, it is all right—with respect to allowing the public to come and make representations. But, quite frankly, this bill has been before the House since last spring, and there has been ample opportunity for people to register if they want to make comment before the committee. No one did. This bill has been back, activated again, since the session has occurred. It is now 10:30 at night, and I would not grant leave.

**Mr. Chairperson:** Okay. Back to the amendment. The amendment proposed is Mr. Mackintosh's amendment with respect to Section 3 of the bill. Shall the amendment pass?

**An Honourable Member:** No.

**Mr. Chairperson:** The amendment accordingly shall not pass. It is not quite unanimous. We will go back to that again. We will give Mr. Martindale a chance.

#### Voice Vote

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

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed to the amendment, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The Nays have it. The amendment is accordingly defeated.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

**Mr. Ernst:** Mr. Chairman, I appreciate that I have answered Ms. Cerilli's questions and so on. She is not a member of the committee. She is not entitled to make motions.

#### Formal Vote

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

**Mr. Chairperson:** The amendment is accordingly defeated.

Clause 3—pass; Clause 4(1)—pass; Clause 4(2)—there is an amendment to Clause 4(2) proposed.

**Mr. Ernst:** Mr. Chairman, I move in both official languages

THAT subsection 4(2) of the Bill be amended by striking out "Subsections" and substituting "Section 2 of this Act and subsections".

This being a technical amendment, I am advised.

#### [French version]

Il est proposé que le paragraphe 4(2) du projet de loi soit amendé par substitution, au passage qui précède "s'appliquent", de "L'article 2 de la présente loi et les paragraphes 77.2(3) et 77.3(2) édictés par l'article 3 de la présente loi".

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

**Some Honourable Members:** Pass.

**Mr. Chairperson:** The amendment accordingly passes.

Clause 4(2) as amended—pass; Clause 5—pass; Preamble—pass; Title—pass. Bill as amended be reported—agreed.

#### **Bill 9—The Wills Amendment Act**

**Hon. Rosemary Vodrey (Minister of Justice and Attorney General):** This bill is a short but important bill, and it implements the recommendation of the Manitoba Law Reform Commission. When Section 23 of The Wills Act was first enacted Manitoba was the first jurisdiction in North America to recognize that the clear intention of the maker of a will should not be defeated because he or she has failed to meet the execution requirements of The Wills Act. A court should be able to save such a document and give effect to it when the court is convinced that the document represents the true testamentary intentions of the maker of the will.

This bill clarifies Section 23 of The Wills Act following a decision of the Manitoba Court of Appeal which gave the section a narrow interpretation. The bill restores Section 23 to the broad scope which was originally intended, and allows a court to give effect to the clear intentions of an individual whether he or she has failed to meet only one of the execution requirements of The Wills Act or all of those requirements.

**Mr. Chairperson:** Does the critic for the official opposition have any comments to make at this point?

**Mr. Gord Mackintosh (St. Johns):** I will not reiterate the comments in support from the House. We look forward to this bill being in force, and we think it will lead to a better application of fairness when the courts look at how wills are to be interpreted.

**Mr. Chairperson:** We can proceed quickly clause by clause. Clause 1—pass; Clause 2—pass; Clause 3—pass; Preamble—pass; Title—pass. Bill be reported.

#### **Bill 11—The Trustee Amendment Act**

**Mr. Chairperson:** Bill 11, The Trustee Amendment Act, does the minister responsible have a brief opening statement?

**Hon. Rosemary Vodrey (Minister of Justice and Attorney General):** Mr. Chair, this bill also implements a recommendation of the Manitoba Law Reform Commission. The purpose of this bill is to clarify an aspect of the law respecting the duties of trustees.

The amendment provides that it will not be a breach of trust for a trustee to consider nonfinancial factors such as ethical criteria when formulating investment policies or making investment decisions. At the same time, a trustee will still be obliged to meet the usual standard of prudence, and his or her predominant goal will be the securing of a reasonable return for the beneficiaries of the trust.

Of course, this section will apply only where the document creating the trust is silent on the use of nonfinancial factors. The creators of trust will remain free to provide contrary instructions if that is their wish. Thank you.

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

\* (2240)

**Mr. Gord Mackintosh (St. Johns):** We, as indicated on second reading, support very strongly the principle of this bill, but as stated at second reading we do have one concern and would like the minister to comment as to the basis for her assertion that the predominant goal is still a financial return, given the wording in the proposed amendment.

**Mrs. Vodrey:** Mr. Chair, I am advised that the courts have already clarified or indicated through their comments that the predominant goal is the securing of a reasonable return for the beneficiaries of the trust.

**Mr. Mackintosh:** Well, does the predominant goal come from the words: "the judgment and care that a person of prudence, discretion, and intelligence would exercise in administering the property of others"? Are those the effective words?

**Mrs. Vodrey:** Mr. Chair, I am advised, yes, that the courts have interpreted those words to indicate the predominant goal.

**Mr. Mackintosh:** The Law Reform Commission recommended that the predominant goal remain securing a reasonable financial return. I am wondering if it is the minister's interpretation, though, that that predominant goal will defeat the nonfinancial goal. I mean, is a balance maintained in her opinion, or does predominant mean clearly overriding?

**Mrs. Vodrey:** Mr. Chair, I am advised that at the moment the only goal that a trustee is to pursue is that of securing a reasonable return, and what this amendment does is that it says that trustees now can consider other criteria.

**Mr. Mackintosh:** Well, I am relatively satisfied. I suspect there will be some litigation on this one. I just have that feeling, and I do not have any other wording to suggest at this time. I wish the Law Reform Commission had proposed wording. It certainly, I think, thoroughly considered the different criteria that should be weighed, but I am prepared to see this section pass. I do not know if the minister has consulted further. If she has any further comments on this, or if there has been consideration of any particular wording changes, she might want to share those with the committee.

**Mrs. Vodrey:** Mr. Chair, I do not believe I can add anything further to the discussion at this point. I believe this does follow the recommendations of the Law Reform Commission. We are prepared to act on those recommendations.

**Mr. Chairperson:** The opening statements having been made, shall Clause 1 pass? Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass; Preamble—pass; Title—pass. Bill be reported.

**Bill 33—The Statute Law  
Amendment Act, 1995**

**Mr. Chairperson:** Bill 33, The Statute Law Amendment Act, 1995, and the very busy minister responsible with a brief opening statement.

**Hon. Rosemary Vodrey (Minister of Justice and Attorney General):** Mr. Chair, Bill 33, The Statute Law Amendment Act, 1995, is before us to correct minor errors in the statutes, primarily with regard to cross-referencing typographical or other editing errors as well as inconsistencies in the French versions.

In my second reading speech I advised my colleagues of the few substantive matters included in the bill, and I have given a briefing note to colleagues about the amendments found in the bill. I do not believe that I have anything further to add at this time, but I will be pleased to answer questions members may have as we proceed for clause-by-clause consideration.

**Mr. Chairperson:** Can we proceed in block, perhaps page by page?

**An Honourable Member:** Okay.

**Mr. Chairperson:** Okay. Clauses 1(1) through 1(4)—pass; Clauses 1(5) through Clause 2—pass; Clauses 3 through 5(4)—pass; Clauses 5(5) through 6(4)—pass; Clauses 6(5) through 6(9)—pass; Clauses 6(10) through 6(14)—pass; Clauses 6(15) through 6(20)—pass; Clauses 6(21) through 6(26)—pass; Clauses 6(27) through 9(2)—pass; Clauses 9(3) through Clause 10(7)—pass; Clauses 10(8) through 11(4)—pass; Clauses 12 through 14—pass; Clauses 15(1) through 16(3)—pass; Clauses 17(1) through 18(2)—pass; Clauses 18(3) through 20—pass; Clauses 21(1) through 24(2)—pass; Clauses 24(3) through 24(7)—pass; Table of Contents—pass; Preamble—pass; Title—pass. Bill be reported.

The time is now 10:51, what is the will of the committee?

**Some Honourable Members:** Committee rise.

**Mr. Chairperson:** Committee rise.

**COMMITTEE ROSE AT:** 10:51 p.m.