

LAW AMENDMENTS COMMITTEE

3:00 p.m., Friday, June 14, 1974

CHAIRMAN: Mr. D. James Walding.

MR. CHAIRMAN: Order please. The committee will come to order.

BILL 74

MR. CHAIRMAN: Bill 74, Page 2, the proposed new 4(3) and 4(4) - Mr. Evans.

MR. EVANS: Mr. Chairman, I don't know whether Mr. Spivak wanted to add anything to his discussion of the amendment. No? Well, I would just say this, that we have considered it over the lunch hour, and while we appreciate Mr. Spivak's concerns we prefer not to include these restrictions in the bill. But we will undertake to place necessary restrictions in the regulations as we see fit - we want to retain the maximum flexibility. Having said that, I can say that retailing or purchase of inventory will not be a major facet or portion of the operations. I'd also remind members that if we wanted to we could have purchased inventory in the past under the existing Export Corporation Act. This has never been done, and I think that's indicative of the fact that we are taking a very responsible approach in this particular matter. Also without going into detail, there are some difficulties posed by the wording, but I don't want to go into the detail because I suggest that the amendments 4(3) and 4(4) proposed be rejected by the committee.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, the Legislative Counsel actually changed the amendment based on sort of the saving clauses at the end, and he's really rewritten the amendment. I would like to withdraw that amendment if I can and place this one on the record, and then I'm quite prepared as I understand the Government's position, to make one comment and then proceed with it. And I would therefore move that Section 4 of the bill be amended by adding thereto at the end therefor the following subsections: "Restriction on retail sale in inventory. 4(3) Except as provided in subsection 4, the Corporation shall not (a) engage in the retail sale or distribution of products, merchandise or services or (b) retain as inventory any products or merchandise that has not been committed to a purchaser before it was acquired by the Corporation.

"Saving clause, 4(4). The Corporation may engage at trade fairs and exhibitions in the retail sale or distribution of products, merchandise or services manufactured, processed or provided within the province; (b) engage in the retail sale or distribution of products, merchandise or services manufactured, processed or provided within the province by a manufacturer, processor or provider of services designated in the regulations as an emerging industry; and (c) retain as inventory not committed to a purchaser products or merchandise for the purpose of sale under Clause (a) or (b)."

Mr. Chairman, this amendment will in fact allow the Corporation to do all the things that Mr. Evans suggests. He says, well we'll do it by regulation. We say, the restrictions and the limitations should be by Act. We, as a matter of fact, do not believe that Government in the case of the economy and business activity and the financial activity should be given the residual power and it should be up to them by regulations to make the decision, which is really Cabinet decision. We believe it should be, Mr. Chairman, based on what it intends to do, enacted in the Act, with the restrictions and limitations being specified. And therefore, Mr. Chairman, if the Government is not prepared to do this, there is a principle involved which is very important to us, and the principle's a simple one - that Government should not be, you know, governing by regulation, it is to govern by law; and if its intention is clear, then the law should be clear. It should not be in a position to have all the authority or the residual authority in every case, rather it should be limited just as the private areas are limited as well.

MR. CHAIRMAN: Are you ready for the question on the amendment? Mr. Evans.

MR. EVANS: Well, Mr. Chairman, just one last point. On the question of limiting the powers of the Government, I would just remind the honourable members of the committee that under the Act which was initiated and passed and implemented by the previous government, the Manitoba Export Corporation Act, the Minister was given carte blanche power. Under Section 4(d), the Corporation was given this power: "Subject to the approval of the Minister it could perform such other acts as will assist in achieving the objects of the Corporation." Nothing could be more carte blanche than that particular phrase, and I suggest that we have

(MR. EVANS cont'd) delineated the objects and powers much more clearly and closely in this particular bill.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, very clearly the object and powers of the other Act was for the export of Manitoba products. The object and powers in this Act is not just for the export of Manitoba products, and what the Minister is saying is not accurate. The Export Corporation was limited, this Corporation is not, and I think that there is a very fine distinction but a very important distinction to be drawn in this connection.

MR. CHAIRMAN: Mr. Evans.

MR. EVANS: Mr. Chairman, I dispute the fact that I am not accurate. The fact is that the Export Corporation could buy inventory.

MR. CHAIRMAN: Are you ready for the question? The proposed amendment, new 4(3) and 4(4).

A COUNTED VOTE was taken, the result being as follows:

YEAS 7; NAYS 14.

MR. CHAIRMAN: The amendment is defeated. Section 4--pass.

MR. EVANS: Section by section, Mr. Chairman.

MR. CHAIRMAN: (The remainder of Bill No. 74 was read and passed.) Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I would like a recorded vote on the bill.

MEMBERS: Question.

A COUNTED VOTE was taken, the result being as follows:

YEAS 14; NAYS 8.

MR. CHAIRMAN: The motion is therefore carried. Bill be reported.

BILL 75

MR. CHAIRMAN: Next bill before the committee is 75, the Northern Affairs Act.

Mr. McBryde.

MR. MCBRYDE: On Bill 75, there are two technical amendments as recommended by the person on Crown land and there are a number of typographical corrections to be made in proceeding with the bill.

MR. CHAIRMAN: The proposed amendments to this bill are being distributed. Bill 75, the Northern Affairs Act. Mr. Spivak.

MR. SPIVAK: Page by page.

MR. CHAIRMAN: Mr. McBryde.

MR. MCBRYDE: Just for the opposition, the amendments as I said are two technical ones that can be explained, the others are numbering changes. That's why I didn't send them around, because there was nothing substantive or important in the changes.

MR. SPIVAK: Let's go page by page.

MR. CHAIRMAN: Bill 75, Page 1--pass? Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I'd like to ask the Minister with respect to the definition section on Auditor. Can he indicate now, does he have an auditor within the Department of Northern Affairs?

MR. CHAIRMAN: Mr. McBryde.

MR. MCBRYDE: The whole section to deal with - I don't know all the technical types of auditors there are - we have people who work on books, whether they're called bookkeepers or auditors or chartered accountants, I'm not sure. The Legislative Counsel did considerable work with Mr. Richmond in Municipal Affairs to determine the nature that the wording of the legislation in terms of auditing of the books available. My understanding is if we did write in quite rigid qualifications in terms of this that we would have extreme difficulty getting enough people to do the work in this area.

MR. SPIVAK: I want to understand the procedure right now and then understand the changes that would occur here. For the incorporated communities right now or even for the community councils, does the Northern Affairs Department have auditors to examine their books or bookkeepers or what have you who actually look at their records?

MR. MCBRYDE: Basically, we have bookkeepers in our administrative staff who have given assistance on occasions. We've just hired and are in the process of hiring more persons to actually assist and set up their own bookkeeping systems to work closely with the community clerks to keep the records in an appropriate manner. But the actual, what you'd call the accounting part of it, is done by persons from the Administration Branch of Northern Affairs.

MR. SPIVAK: Does the Provincial Auditor audit the records that you examine? Or does he have any contact at all?

MR. McBRYDE: He audits the expenditures of the Department of Northern Affairs under the present Act. All expenditures are expenditures of the Minister, in law, so he audits the expenditures.

MR. SPIVAK: So in effect the Provincial Auditor is really auditing the bookkeeping . . .

MR. McBRYDE: Well, okay, just excuse me. He audits the direct expenditures of the Department of Northern Affairs. The things that would not receive that kind of direct auditing would be the unconditional grant which goes to community councils, and if in fact the community council received a federal LIP grant or something like that, would not be audited in that manner.

MR. SPIVAK: Can you indicate to me whether you've had a situation where you have found in the normal auditing by the provincial department of the maintenance of the records situations in which the records are in a state of disarray and there's confusion with respect to the documentation that's available? In other words, difficulty with respect to actually maintaining proper records?

MR. McBRYDE: There have been in some community councils situations of two types: one, where in fact there was no problem in accounting but in fact there was misspending on the part of the elected community council, and that had to be rectified. In the one specific case a new council was elected shortly thereafter. In the other case, it's a matter of assisting the communities to keep their records up-to-date. So in fact, there might have been some trouble getting all the accounts together and then somebody comes in and says, well here they are in this shoe box. So in fact we've been able to locate the records but they haven't been kept in the proper order.

MR. SPIVAK: In these situations, have these matters been brought to the attention of the Provincial Auditor, or is it not a function that you consider to bring these matters to the attention of the Provincial Auditor?

MR. McBRYDE: I haven't received as a Minister a direct communication from the Provincial Auditor on these matters.

MR. SPIVAK: Well, the point is, that in terms of a Minister with responsibility, in the case of the place where the documents are found in a shoe box or there have been some problems and you recognize that, do you refer that automatically to the Provincial Auditor or does it stop there?

MR. McBRYDE: Mostly it's the case of the council themselves asking for assistance and, you know, we haven't had the proper staff available to give them the necessary book-keeping assistance they need. We hope that in fact by the time the communities are ready to within the next few months move into the Incorporated Community Council, that we'll have the appropriate staff to be able to assist them with the bookkeeping.

MR. McBRYDE: What's happened thus far is that in fact our staff has asked the Provincial Auditor for some assistance, but the actual auditing was done by our administrative staff.

MR. SPIVAK: Now, in the Act itself - because I think we can cover one matter right at this definition section and sort of get it over with - with respect to the other sections dealing with the appointment auditor, the qualifications, realistically there's nothing in the Act itself which would automatically mean that in the event there is a problem area determined by an auditor appointed by you, that the Provincial Auditor automatically goes in. It's still an option that's left, it's not automatic.

MR. McBRYDE: So it's not an automatic thing. If the Provincial Auditor decides in fact what with his services . . .

MR. SPIVAK: Oh no, the Provincial Auditor makes that decision, and I appreciate that, but there's not an automatic reference by yourself. Yet I want to put this to you, that in effect you're the Minister in the sense of being the Minister in charge of the department who basically has control, who has the ability to set up the auditor, who will in fact audit the books in which government money is involved, and if there is a problem area it's not automatic necessarily that the Provincial Auditor goes in - and realistically should there not be a saving provision in those situations?

MR. McBRYDE: You see, in the cases of communities that do not move into the Incorporated Community Councils, the present situation is, that in law the Minister is the

(MR. McBRYDE cont'd) municipality in effect and the expenditure of funds then, the auditor deals with those the same as he would other expenditures by the Minister.

MR. SPIVAK: But even in the case of the Incorporated Community, you have the audit of the Incorporated Community as well.

MR. McBRYDE: Yes.

MR. SPIVAK: You have the audit function of the Incorporated Community, and the Incorporated Community has the ability to be able to do things with the Minister in which funds will be expended jointly.

MR. McBRYDE: In some cases.

MR. SPIVAK: In some cases. And what I'm saying is, there is no provision that if there is an error or some concern raised in the process of the audit, that it's automatic that the Provincial Auditor is notified for whatever action he wants to undertake. And what I'm saying with respect to this, one of the things that's lacking is the automatic referral to the Provincial Auditor for a decision as to whether he proceeds or not.

MR. CARTER: There's no reason, Sir, that they couldn't have a bona fide professional auditor go in if it seemed necessary, but the Act as it stands at the moment provides for a departmental individual to go in.

MR. SPIVAK: No, I'm not quarrelling with any - I'm saying to you in this particular situation - and I think this can be resolved that there's an agreement on it, and possibly when an additional clause is added, that because the auditor is appointed by the Minister and even though he may be involved in an Incorporated Community which may jointly with the Minister do something in which ministerial funds are allocated, or borrowing takes place, and if the auditor finds out that there's something wrong, there's some problems with records or what have you, it's not automatic at that point that it's notified to the Provincial Auditor. And I'm suggesting that there should be an obligation for that notification to be given to the Provincial Auditor and for him to make a decision as to whether he's satisfied by just a preliminary examination or whether he goes in and does a formal audit.

MR. McBRYDE: It is not at this stage, it's not in the legislation. It's been a practice of our Administration Branch to make extensive use of the Provincial Auditor and in fact we've, like you said, we've gone to him and asked for assistance on a number of occasions and got that assistance. So that would be our intended practice.

MR. SPIVAK: But would it not be wiser to put in as a matter of practice for yourself, because as Minister you are not subject to that supervision at this stage - in which the Auditor whom you appoint as the person responsible for the checking, and because government money is involved in terms of flowing through you as a conduit right through to the incorporated community, would it not be proper to have a particular clause that would indicate that where a problem arises, where the Auditor has found something to indicate there is something unusual, it's not norm, whatever the norm is, that it be referred to the Provincial Auditor and he makes a determination at that time whether he wants to go into it, he's prepared to accept that as being a minor thing, or whether he's prepared to allow the Auditor just to produce records for him. So there is in effect, but through the Provincial Auditor, some check on that. Because normally he would never follow through, normally it would not be his responsibility to follow through.

MR. McBRYDE: Whether in fact we can require him in our legislation to do certain things that's not required of him in his legislation . . .

MR. SPIVAK: Only if in fact as a result of the audit by the Auditor there is something brought to your attention which would indicate that there is some problem with records, books, or a mishandling of money. What I'm simply saying, if that's brought to your attention, it should be automatic that it's referred to the Provincial Auditor for his action, and it would be under normal circumstances in every departmental activity, but this is beyond this because this involves your activity along with the incorporated communities.

MR. McBRYDE: We don't have a problem with that, except that I would want to check with the Provincial Auditor first to see what his position would be in terms of having that in our legislation. As I've said, we've had no problem calling him in and he's been of great assistance to us when in fact we've required that assistance.

MR. SPIVAK: Let me put it in another way - and you've got your deputy - if in fact a director had misused money and that was brought to your attention, is it automatic that you refer to the Provincial Auditor? I mean, it has nothing to do with this, but I'm simply saying

(MR. SPIVAK cont'd) if you found that a director had misused money, either by his expense account - would you automatically refer it to the Provincial Auditor and say, this has been brought to our attention?

MR. McBRYDE: If I tell him that a director had misused money, I'd automatically refer it to the Attorney-General's Department.

MR. SPIVAK: Or is suspected of it. In other words, if there is some problem with the handling of expense accounts or what have you, is it not automatic that you refer this matter to the Provincial Auditor and he would in fact . . .

MR. McBRYDE: I would expect that our administrative staff who monitors all expenditures in fact, would be the first ones to catch that, and if in fact they found evidence we would refer it to the Attorney-General's Department.

MR. SPIVAK: And you would not refer it to the Provincial Auditor.

MR. McBRYDE: I think that he would probably come in in terms of his duties as outlined in his Act.

MR. SPIVAK: Mr. Chairman, I bring this point up, and I think we understand the thing very clearly. It would seem that it may very well mean that the Provincial Auditor's Act has to be examined in terms of his responsibilities, and it may very well mean that there has to be either an alteration or change of that Act with respect to the notice that is to be given to him. But I think the position should be very clear. I don't think the Minister is in a position to have an auditor appointed by himself, auditing a situation in which an incorporated community is involved and the Minister's department is involved in some joint venture of some type in which funds are flowing through - in which the auditor appointed by the Minister may in fact determine that there is something that could be improper and not be automatic at that stage, so the Provincial Auditor in the external audit immediately is called in to examine and to be able to take and advise what the course of action should be. If that doesn't happen, then what really takes place is the auditor appointed by the Minister is in fact investigating the Minister's department itself, involved in the situation within the incorporated community. And I don't think in principle that that's the way it should be, particularly - and I say this, particularly when the Auditor may not necessarily be the most qualified bookkeeper recognizing the problem areas of the remote communities and the availability of people that will be capable of taking that job. So that you can have that problem compounding it. I think if there's an agreement in principle on this, if it's not going to be changed in this Act, then I would hope that we will deal with that very effectively in the Provincial Auditor's Act next year. But I also believe that if that amendment could be brought forward in this section in this Act . . .

MR. McBRYDE: You know, we're quite willing to take a look at that. What we'll have now in fact in relation to the community councils, is sort of the person assisting the community councils, who is in fact a bookkeeper and not a highly technically qualified person. If in fact he runs into problems, then he can call upon the more senior administrative people who are fully qualified for their assistance. We have - when those people have found difficulties in terms of the system, called in the Provincial Auditor and received his assistance. So, you know, I don't think today at this time we can write that into the Act, but we're quite willing to take a look at that and in fact set it up as a procedure if the Provincial Auditor agrees.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Mr. McBryde made in his last sentence my whole point.

MR. CHAIRMAN: (Pages 1 to 4 of Bill No. 75 were read and passed.) Page 5--? Mr. Spivak.

MR. SPIVAK: I wonder if the Minister can explain the operation and functioning of 7(4)(d).

MR. McBRYDE: If the community council - and this relates to a section further on in the Act, it gives the community council authority if it so wishes to establish a business - does in fact go into a business operation, that in fact the department may assist them in that operation.

MR. SPIVAK: Does that assistance mean financial assistance?

MR. McBRYDE: No, I don't see the department getting involved with financial assistance to a business operation in a community.

MR. SPIVAK: All right. So the Minister may not be involved in a financial way with a business or commercial enterprise.

MR. McBRYDE: That's my understanding. Yes.

MR. SPIVAK: (inaudible)

MR. McBRYDE: The situation that we are trying to get at in that section is in fact - let's say the community decided to buy its own grader to do its own streets and maintenance and then we wanted as the department to hire that grader to clear off the airstrip, then we have the authority here to in fact pay for the work that is being done by the council, or to assist them if in fact they want to acquire something, and our staff in fact could assist them in an advisory manner how to go about that.

MR. SPIVAK: I wonder if the Legislative Counsel can look at that, because I want to understand - that's 7(4)(d): The Minister may make any arrangements or agreements with a community council, an incorporated community, a local committee or any person, respecting the establishment, acquisition and operation of a commercial or industrial business or activity by an incorporated community. Now I take that as an example without mentioning any particular members - one talked earlier today of being able to operate a store in opposition to the Hudson Bay Store in a remote community. Now that could happen. Now that's not contemplated by that section. They could operate a store by getting a loan from CDF, that's another question. I'm not arguing about that, but I'm simply saying it's not intended that the Minister's involvement in the arrangement is for the establishment, acquisition and operation of a commercial industrial business or activity by an incorporated community - or is it?

MR. McBRYDE: They are the ones that have the authority to go into a business, not myself. All this is giving in fact the Minister of the department the authority to make agreements with them if they do in fact . . . But it is not our intention, and I don't believe this gives legislative authority for in fact us to be a partner in a business or to be involved in that manner.

MR. SPIVAK: I think it does, and I think the Legislative Counsel indicated that it does. If that's not intended, then I think that has to be altered.

MR. McBRYDE: Maybe, Mr. Spivak, if we could get Counsel to explain that section, sort of the legal technicalities that I can't.

MR. CHAIRMAN: Would you identify yourself for the record, please?

MR. HEFFERON: Yes. My name is Dennis Hefferon. As I understand the question, it was whether or not Section 7(4)(d) authorizes the Minister to carry on business in effect as a partner with an incorporated community. The section reads that the Minister may make arrangements or agreements with, say, an incorporated community respecting the establishment, acquisition and operation of a business, commercial or industrial business or activity by an incorporated community. And then it goes on to provide that such arrangement or agreement with a community council or an incorporated community may provide for the sharing of costs between the government and the incorporated community. Now the arrangement or agreement that is contemplated is a facilitating arrangement or agreement to assist the incorporated community in establishing the business or activity, or acquiring it or operating it. It strikes me that that is different from, say, the Minister setting himself up in business as a partner with an incorporated community or indeed with anyone else. This is a facilitation provision as I read it.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: If you say that they can share costs, which you indicate as facilitating, they can share costs for facilitating purposes, but basically it puts the Minister in a position to in effect indirectly if so desired by the community, basically involves himself in the setting up of business enterprises in the North. I accept the fact that there is a fund now called the Communities Economic Development Fund, which is capable of loaning money to groups, co-ops, incorporated communities, who would want to go into business - and that is their function, and theirs is a very different kind of function because that really is a banking function or a lending function. That's very different than allowing the Minister to be able to facilitate and then be able to proceed, and I think that frankly there should be some limitation in this respect. There exists right now a structure in which funds would and could be made available.

And then I take something else if I can, if the Counsel will hear me out. There are portions which allow for expropriation both from real and personal property, and in terms of facilitation it's possible that the Minister could exercise his rights of expropriation in the interests of the incorporated community going into business and basically acquiring a building that's vacant. Again, that puts him into the problem of being involved in the commercial undertakings and involved in the business transactions, in the business competition within any

(MR. SPIVAK cont'd) given community. And again, I'm not sure that the Minister (a) wants that power, really, in terms of his own involvement; and (b) should have that power - Section 7(4)(d). And when you look at 8(1) and 8(2) . . .

MR. CHAIRMAN: Mr. McBryde.

MR. McBRYDE: Mr. Spivak, there was certainly no intention in our instructions to the draftsmen of the Act that we would in fact become, you know, a partner or be able to run a business as a Minister, as a department. But it was the clear intention that in fact the community council be allowed to go into business and operate a business. To delete this section though, would then eliminate a number of things we want to do to assist them in terms of technical - or agreements - or in fact if we have a piece of equipment. I said if the community had a piece of equipment - let's say we had a piece of equipment, and somehow we cost shared with them on a business project using that piece of equipment . . .

MR. SPIVAK: That's a different thing.

MR. McBRYDE: But that section is necessary to enable us to do that. I'm not sure that we can write something in there, because we have no intention in fact of being a lending agency or going into that kind of partnership basis with the council. But . . .

MR. SPIVAK: Well, why don't we say exactly what you just said and put that in as an additional saving clause right after that. Because it also has to do with the expropriation power, because your expropriation power is pretty significant and under normal circumstances is really meant for community services; its' really essentially meant for the community itself, it has nothing to do with any commercial business enterprise. But technically speaking, unless there is that prohibition, expropriation will be used for that.

MR. McBRYDE: There is the fact that the incorporated community council has the power of expropriation as well, but it would be a question then of how they could use that expropriation and power.

MR. TALLIN: Sorry, but I don't know the question. I haven't read the bill, so I'm not in a very good position to give you any opinion.

MR. SPIVAK: Ray, that's a cop-out, but that's all right. Now, I want to be quoted of that.

A MEMBER: That's on the record.

MR. McBRYDE: Just a sec. We'll see if there's a way to do it. Maybe we could drop that for a moment and then come back to it. I wonder if it would be agreeable to proceed and come back to that, if we can come up with . . .

MR. CHAIRMAN: Mr. Osland wanted to speak on this.

MR. OSLAND: Just a question to the Minister. Was this not one of the points that the communities have been after, take for instance Brochet,

MR. McBRYDE: Well, the intent of the community or the wish of the community and our own wish, and one that Mr. Spivak hasn't seen any objection to, was the ability of the community to go into business. What Mr. Spivak is concerned about is the ability of the Minister or the department to go into business itself or in partnership with the community.

MR. OSLAND: Right. But I'm looking at the facilitating of what the communities have been asking for. If for instance as you mentioned, Mr. Spivak, the expropriation of a building or something in the area where their community is, if this was to facilitate the community going into business, I can't see anything wrong with it as long as the Northern Department turns it over to the community.

MR. SPIVAK: I'm saying the community has to do it, not the Minister.

MR. OSLAND: Oh, I beg your pardon.

MR. SPIVAK: The Minister's part of this expropriation are great and his powers, basically. You know, we have to bring land within the community, if there's private land next to community land . . .

MR. OSLAND: I see.

MR. CHAIRMAN: Page 6, Section 8(3)-- Mr. Boyce.

MR. BOYCE: I would move that Section 3 of Section 8 be deleted and replaced by the following: Disposal of real property. 8(3) All real property so acquired is Crown land within the meaning of the Crown Lands Act and vests in, and shall be in the name of the Crown in the right of Manitoba; subject to the provisions of this Act, it may be disposed of as provided in the Crown Lands Act.

MR. SPIVAK: Is this supposed to be technical?

MR. McBRYDE: Mr. Chairman, this change is to make it clear that the real property acquired by the Minister is Crown land. This is a technical rather than a substantive change and it was made on the advice of the Registrar General, Mr. Lamont. Our draftsman said it's not crucial to the bill but Mr. Lamont has recommended that wording be put in there for some technical reasons.

MR. CHAIRMAN: Agreed? (Agreed) Balance of Page 6--pass; Page 7--10 (1)--Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that subsection (1) of Section 10 be deleted and replaced by the following: Substitution of approval by the Minister. 10 (1) Whenever, under a provision of The Municipal Act there is incorporated by reference into the Act, or under provision of The Housing and Renewal Corporation Act, the Municipal Board Act, the Planning Act, the Real Property Act, or any other Act which is made applicable in whole or in part to incorporated communities, the approval, consent, authorization, direction or certificate of the Minister charged with the administration of The Municipal Act, The Municipal Board, or The Public Utilities Board is required to be given before,

- (a) a by-law or resolution may be passed or made;
- (b) a by-law or resolution comes into effect; or
- (c) a plan of subdivision may be registered;

the requirement shall be deemed to be a requirement that the Minister gives his approval, consent, authorization, direction, or certificate, as the case may be; but the Minister is not required to conduct a hearing in any case, before giving or refusing his approval, consent, authorization, direction or certificate.

MR. CHAIRMAN: Mr. McBryde.

MR. McBRYDE: Mr. Chairman, this change is again a technical one made on the advice of the Registrar General, although it does incorporate into it the principle of the other sections of the bill which there was some discussion of in the House. It makes explicit the fact that the Minister's approval is to be substituted for that of The Municipal Board where a plan of subdivision is to be registered. The clause 10 (1) (b) is deleted because it is redundant, the language is also reorganized to improve it stylistically.

MR. CHAIRMAN: Agreed? (Agreed) 10 (5), Mr. Boyce.

MR. BOYCE: I would move that subsection (5) of Section 10 is amended or be amended by deleting the number "7" at the end and substituting therefor the number "77".

MR. McBRYDE: This is just a typing correction.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: On this, Mr. Chairman, while we're on Page 7, I want to understand specifically the ability of an inquiry to be conducted by someone appointed by the Minister prior to a decision being made, and the ability to be able to compel the attendance of witness and to take evidence. And I'd like to understand and visualize a particular situation in which that authority would be given.

MR. CHAIRMAN: Mr. McBryde.

MR. McBRYDE: The intent of ourselves in consultation with the communities of this authority and the general intent of this section was in fact to attempt to make applicable to the situation in remote communities, or make more applicable the method in which municipal governments function. That is, to try and simplify the procedure and process so that the communities in fact could make use of it. So in effect we're not going through a full municipal board structure as the other municipalities go through, although in effect in The Municipal Act the Minister has the final authority over the board. But in fact it's a simplifying of the process at the request and in discussion with the communities, so in fact it's a process that would be understandable and usable and cut out some of the - I suppose you could say, the red tape of the southern system.

MR. SPIVAK: What you're really saying is, you're creating a remote community municipal board concept, that's what you're really saying.

MR. McBRYDE: Yes, it in fact is shortening the steps really.

MR. SPIVAK: Okay. But the problem here is then, the problem that for each situation that will arise you'll have the appointment by you of the person who will in effect be . . .

MR. McBRYDE: In fact, there may be. I mean, in some situations it might be a simple enough situation where you wouldn't need to have inquiries.

MR. SPIVAK: Yes, but you're saying that an inquiry isn't a matter of right insofar as

(MR. SPIVAK cont'd) a remote community is concerned, because you could make a decision without it. The ability to be able to go to the equivalent of a municipal board - and I'm thinking in those concepts - isn't necessarily a right that they should have. Further, you don't establish really the criteria of the person who will be doing the adjudication, yet you've given the person the powers of subpoena and the powers of taking evidence which are fairly significant. Again, recognizing the remote communities and recognizing problem areas, it's a question of the abilities in some cases in some appointments for people to be able to execute that function and at the same time provide what you are trying to do, which is not as heavy an effect that the municipal board has when it carries on its function and review.

MR. McBRYDE: Ideally the kind of person we're talking about here would be someone with a legal municipal background, but someone who also is familiar with the situations in remote communities. To be able to define that in legislation is, you know, is probably . . .

MR. SPIVAK: Well even if you put that in, if you put that in - that the persons to be selected should, if possible, have a legal and municipal background, that in itself . . .

MR. McBRYDE: That would be our intention. It would really be a meaningless section eh, because . . .

MR. SPIVAK: No, it wouldn't be a meaningless section. -- (Interjection) -- Yes, you can. It's done in other sections - you've got this with the auditor. If you put in a . . .

MR. CHAIRMAN: Mr. Miller, would you come forward and take a microphone, please?

MR. MILLER: Do I have to?

MR. CHAIRMAN: Yes.

MR. MILLER: Mr. Chairman, Mr. Spivak points out the differences that pertain in this particular section as compared to what pertains in Southern Manitoba or in Winnipeg. It would have to be recognized we are dealing with remote communities and there has been a problem for many years trying to apply the southern standards, the methods and procedures used in southern Manitoba to Northern Manitoba, and it just doesn't work. These are remote communities. This is an attempt to streamline the whole operation so as to make it possible for the Minister to react quickly when he feels it's necessary to dispatch somebody to the scene, to take a look at it, to hold an inquiry, to report back. The Minister isn't required to do it, he can assign the authority if he wants to, just as the Minister of Urban Affairs does not have to refer anything to the Municipal Board. Despite any submissions, he can approve something the City of Winnipeg Council does and ignore the Municipal Board, but of course he very seldom does. In this case, to go through the Municipal Board, I think Mr. Spivak recognizes would be a very awkward way of doing it. And I think that in reality this is a step forward to try to meet the needs very quickly, very rapidly, and without a lot of rigamarole and red tape which is what the North really needs.

MR. McBRYDE: The only way I think that we could maybe deal with that - I'm not sure - is that, you know, if you built in the criteria that would be meaningful. You know, if you said the person must have A, B, C, D, E and F, then you've created a strait-jacket that probably you wouldn't be able to operate. The other thing that we could do is, in fact, that if such a person is appointed to conduct an inquiry, then in fact I could file somewhere in terms of the qualifications what that person's background is, so in fact you could keep yourselves aware of -- you know, the intent would be of course to find the best person possible, but I'd hate to try and make it rigid in legislation - and then you will have to wait for two months until that kind of person's available.

MR. SPIVAK: I'm not going to argue, and I'll just make the point that you're doing that with the employment of the auditor, because you're specifying exactly what I just said, and you're saying that you can try and do it there. I think it can be done here too. Well that's up to you.

MR. CHAIRMAN: Page 7 as amended--pass. (Pages 8 to 14 were read and passed.) Page 15, Section 30 - Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that Section 30 be amended by:

(a) deleting the word "and" at the end of clause (j); and further, renumber clause (k) as clause (1); and further by adding a new clause (k) as follows: 30 (k) subject to regulation made under Section 109, fix the term of office of the members of the first council; and..

MR. CHAIRMAN: Mr. Hefferon.

MR. HEFFERON: The purpose of the amendment is to make it clear that the Letters Patent incorporating an incorporated community may deal with the matter set out in the amendment. It's simply a clarification and a technical improvement.

MR. CHAIRMAN: Agreed? (Agreed.) Page 15--pass; Page 16--Mr. McKenzie, use the microphone, please.

MR. McKENZIE: I wonder if the Minister could advise if there has been a request by the Communities Council to select their mayor at large rather than as spelled out in the . . .

MR. McBRYDE: Yes, this was an important point in the discussion with the communities, and if you'll look at 34 (1): Subject to the regulations made pursuant to Section 109, the mayor of an incorporated community council shall be elected by the electors of the incorporated community council. That is the method that the majority of communities wish, and that is the main method incorporated in the Act. But there is an alternative method that was requested by a minority of the communities to, in fact, elect a mayor from council members. And sociologically, the people explaining it to me said it appeared that in those communities where there were sort of three or four major family groups, they would prefer not to fight over which one of them is going to be the mayor at that time, but sort of almost take their turns at who's going to be the mayor. But the main system is the mayor at large, in a minority of cases from amongst the council.

MR. CHAIRMAN: Page 16--pass; Page 17, 35 (7) - Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that Subsection (7) of Section 35 be amended by adding the words "of The Municipal Act" after the number "55" in the first line and adding the words "of The Municipal Act" to the heading thereof.

MR. McBRYDE: That was just a typing omission.

MR. CHAIRMAN: 35(7) as amended--pass. (Pages 17 to 27 were read and passed.) Page 28, Section 18 - Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that clause (g) of subsection (1) of Section 80 be deleted and replaced by the following: 80 (1) (g) Subdivision II and VII to X of Division VII of Part V;

I would further move that clause (a) of subsection (3) of Section 80 be deleted and replaced by the following: 80 (3) (a) subsection 206 (2);

I would further move that clause (b) of subsection (3) of Section 80 be deleted and replaced by the following: 80 (3) (b) clauses 239 (1) (c) to (e), (h) and (p) and subsections 239 (2) and (4) to (6).

I would further move that clause (g) of subsection (3) of Section 80 be deleted and replaced by the following: 80 (3) (g) clause 372 (1) (n) and subsections 372 (2) and (3).

MR. CHAIRMAN: Mr. McBryde.

MR. McBRYDE: One is a grammatical correction and a number of numbering corrections.

MR. CHAIRMAN: 83 as amended--pass; Page 28--pass. Page 29 - pass . . . Mr. McKenzie.

MR. McKENZIE: Mr. Chairman, on 81 (4) I wonder if the Minister could explain under this section who pays for the policing, the community or how is it shared? 81 (4).

MR. CHAIRMAN: Mr. McBryde.

MR. McBRYDE: At the present time the communities under Northern Affairs are served in a number of ways in terms of free services. One is if it's a regular RCMP service the community - it's a rural detachment type of thing they are not paid for by the community. Another is where there is a sort of a community constable concept who works with the RCMP but is not a full constable . . .

MR. CHAIRMAN: Mr. McKenzie.

MR. McKENZIE: Well under this section it's the municipalities, those that are deemed as municipalities and they'll serve under the provincial police act.

MR. McBRYDE: Yes. This is to make sure that the communities over a certain size qualify for the same kind of provincial assistance that other rural communities would qualify for.

MR. CHAIRMAN: (Pages 29 and 30 of Bill No. 75 were read and passed.) Page 31, 86 (2) - Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that subsection (2) of Section 86 be amended by deleting the word "dwelling" in the third line and substitute the word "dwellings".

MR. McBRYDE: A pretty important grammatical change.

MR. CHAIRMAN: 86 (2) as amended--pass; Page 31--pass. (Pages 32 to 41 of Bill No. 75 were read and passed.) Page 42 -- pass . . .

MR. BOYCE: Mr. Chairman, on Page 42 I would move that Section 109 be amended by (a) deleting the word "and" from the end of clause (i).

MR. CHAIRMAN: It's Page 43?

MR. BOYCE: You're right. Sorry old boy.

MR. McBRYDE: Go ahead. We passed 42 anyway.

MR. BOYCE: But then if I could move the remainder of these amendments to Section 109 which covers Pages 42, 43 and 44.

I would further move that the words "shall be" be deleted from the third line of clause (j).

I would further move that the word "deeming" be deleted from the first line of clause (y) and replacing it by the words "the deeming of".

I would further move the word "specifying" be deleted from the first line of clause (z) and replacing it by the words "the specification of".

MR. McBRYDE: Technical and stylistic changes. There is nothing of substance in those.

MR. CHAIRMAN: . . . 109 as amended - Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I made the suggestion in the Legislature and I put it now to the Minister, that because the regulations are now completed as to what the qualification of electors are, and I recognize the fact that the previous Commissioner of Northern Affairs Act had it to be provided by regulation and then the Act that the government brought in before this one had it, but nevertheless because it now is known who the qualifications of electors are and because that's pretty basic to our democratic system, that it not be enshrined in regulation but rather be enshrined in legislation, and I would ask that the Minister consider and the Committee consider taking from the regulations that are in draft form but nevertheless which contain the qualification of electors and placing that in the Act as a section indicating those who are qualified to vote.

I think in principle the question of who should vote should not be left up to Cabinet discretion and I recognize that it was before. But I also recognize that in the emerging situation that we have and in the involving situation that we have it should not be up to the Cabinet to determine who can or who should not be able to vote. Who should be able to vote should be enshrined in legislation without any question. And it is prepared in the regulations, and I've got them in front of me and I don't want to read the sections, I want to talk about this in principle, and if it was agreed to lift from the draft regulations the actual qualifications of voters and place it in the bill itself?

MR. CHAIRMAN: Mr. McBryde.

MR. McBRYDE: Well it's sort of a technical point. The regulations have been passed and circulated in the communities and they are working with those regulations at the present time. The regulations have been in effect for over six months up to a year now but not all communities have gone through an election with these new regulations. There have been a few minor problems develop with the regulations but sort of no . . .

MR. SPIVAK: On the qualification of voters? I'm only talking about qualification of voters. I'm not talking about any other point.

MR. CHAIRMAN: Mr. McBryde.

MR. McBRYDE: There is you know - there would have to be quite a bit. The regulation you have there in terms of just the qualifications is quite long to be added into the bill. But I understand from the Deputy that there hasn't been any problems experienced in terms of the qualifications of voters. I have a slight preference for not putting it in because we've got a new job here to put it all in there, but it's not that big of a deal one way or the other.

MR. SPIVAK: Well let me just make this point. You know, I want to facilitate the Committee, and I think it can be done by simply indicating that if reference be made to the qualifications listed in the draft regulations and that can be incorporated in the bill, if that's agreed on in the Committee without going through this, so we don't have to waste any time on it, but I think in principle once you have established now who is eligible to vote it should not be left to regulation, it should be in legislation, and it's here, and I'm accepting it, and unless there is some thought that there is a reason to believe that there will be a change - if there's not going to be a change -- (Interjection) -- Well if there might be but the question is, you know, should there be? I mean this is the difficulty.

MR. MILLER: Mr. Chairman, the problem is this. It's only been about six months

(MR. MILLER cont'd) and many of the communities haven't moved yet. The fact is that until more communities have tried it out and there's an assurance that what is in the regulations can be lived with exactly the way they are - if you put it in statute law then there's the inflexibility so that it cannot be changed until next year which may impede the progress within the community.

I would suggest that we certainly take this into consideration and once they have lived with it for a while and we know that it works and the regulations are adequate and needn't be changed during the course of a year, then next year the Minister certainly could consider putting it into the Act itself.

MR. SPIVAK: Mr. Chairman, let's understand something very simple. The only regulation is who is eligible to vote. We're having a federal election on July 8th and who is eligible to vote in the remote communities is determined; it's already enshrined in legislation. Now it's already contained here. I'm not asking for any of the other things that are involved in the regulation but I think it's pretty basic, and I think it's pretty important that if once you know it, and once you've determined it, and it's been agreed on, then it should be enshrined, and you know I would opt for that rather than opt for regulation. I would say to you that I don't think there's any difficulty. We asked that this matter be withheld and referred to a committee in between sessions; you know that's been rejected, but at the same time I don't think that we should then say well . . . - who should vote is pretty important, you know, it's pretty basic to our whole system and it would seem to me it's contained here. I mean I could read the section as an amendment and that's it. So without getting involved, if there's a disposition to do it, it can be added to it and I think this would be important in the long run.

MR. CHAIRMAN: Mr. Petursson. Use the microphone please.

MR. PETURSSON: . . . the matter just be left as Mr. Miller was suggesting and taken under consideration during the period between now and the next session, and if there's any indication that there's a wish to make the change at that time it can then be done just as easily as now, and probably with the background of having looked at it and given some thought rather than the thought that Mr. Spivak has given it and is wishing to have injected into the bill at the present time. You know, if you wanted I could move a motion to that effect.

MR. CHAIRMAN: Mr. Bostrom.

MR. BOSTROM: Mr. Chairman, I think the key word here is the phrase "agreed on". I know in fact that these regulations have been drawn up in this form by a committee which was composed of residents of these northern communities. They did have consultations and decided on this draft sort of set of regulations for qualifications of voters, but they have not in fact been used in all of the communities yet and I think it's a good idea as Mr. Miller suggests to let the thing have a trial run and if there are changes to be made those changes can be made and they can be implemented into legislation at a later date.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: This is my dilemma of course that Mr. Bostrom spoke right on. The validity of Mr. Spivak's argument I don't question, but nevertheless when a Minister tells us it's six months that they've been working with these things and then when Mr. Bostrom as one of the northern members draws to our attention some of the problems, I wonder you know if the other northern members express the same apprehension. I don't think there's any question, at least I haven't heard any question raised about the validity of the argument of putting it in the bill at the proper time but I personally would like to see a little more lead time to see that the thing does work out. Especially when it's done by agreement.

MR. CHAIRMAN: Mr. McBryde.

MR. MCBRYDE: . . . Mr. Spivak has the regulations now. If in fact there is any changes in those regulations I give him a commitment to notify him immediately so he would know that, you know, there was some concern why would you change regulations, for what purposes, etc., to notify him if in fact there has to be any changes in those . . .

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: No, I think the problem here - I think the eligibility of who can vote should be enshrined in legislation. In principle it should not be given to Cabinet. I realize it had happened before in the Commissioner of Northern Affairs Act and in the present Act that's now being amended, but I'm saying as a matter of principle - and I think this is the obligations of government, the obligation of the government is to insure that it not be left to their discretion. I don't think they want that discretion; I don't think they should have the discretion.

(MR. SPIVAK cont'd) -- (Interjection) -- Well, yes, in the long . . . But if any argument's advanced that you need the time to go to the communities then all you're doing is supporting our basic position that the whole Act should have been given to the communities.

A MEMBER: Oh come on.

MR. SPIVAK: Well all right. You could argue all you want but at the same time I'm saying that I think that position would be supported. I'm not going to - you know, it's up to the government and I don't think it should be delayed any more. I have made the point and the government make the decision, and I'm now prepared to go on it and let's get back to 7 (4) (d) and let's see if we can get the other section agreed on.

MR. CHAIRMAN: 109 as amended--pass. Remainder of Page 44--pass. -- (Interjection) -- On Page 5, 7 (4).

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that a new subsection (5) be added; for the avoidance of doubt, subsection (4) does not authorize the Minister to establish, acquire or operate a commercial or industrial business or activity himself or in partnership with an incorporated community.

MR. McBRYDE: That doesn't affect Bill 17 where in fact you have authority. Only to this?

MR. CHAIRMAN: Agreed? (Agreed) Title passed. -- (Interjection) -- Hold on a minute till I get this straightened away. (The remainder of Bill No. 75 was read and passed as amended.)

I don't see the House Leader around. He suggested to me a little earlier that the Committee might discuss Bill 97 before we get to 83. If someone could notify the Premier for me, it's his bill.

BILL 97

MR. CHAIRMAN: There's an amendment. Bill No. 97. Mr. Uruski.

MR. URUSKI: Mr. Chairman, to Bill 97. I move that Section 2 of Bill 97 be struck out and the following section be substituted therefor: Commencement of Act. Section 2. This Act comes into force on a day fixed by proclamation.

MR. CHAIRMAN: Agreed? (Agreed) (Bill No. 97 was read and passed.)

BILL 83

MR. CHAIRMAN: Bill 83.

MR. URUSKI: Mr. Chairman, before we proceed there are some amendments that we will distribute to the Committee.

Where is the third one, the minor one? We can give it to them, then do you want to move our amendments?

MR. CHAIRMAN: Are you ready to proceed? (Pages 1 to 4 were read and passed.) Page 5, 2 (7) - Mr. Hanuschak.

MR. HANUSCHAK: I move that the proposed subsection 2 subsection (7) of The Automobile Insurance Act as set out in Section 3 of Bill 83 be struck out, the following subsection be substituted therefor 2 (7). Each director shall be reimbursed by the corporation for any reasonable travelling and other out-of-pocket expenses necessarily incurred by him in discharging his duties; and in addition, any director may be paid and accept as remuneration for his or their services, such daily or periodical amounts as are fixed by Lieutenant-Governor-in-Council.

MR. URUSKI: Mr. Chairman, this change is made to facilitate the - if a civil servant should be on the Board of Directors, it is deemed that his salary is being paid at that time and he will not receive any extra remuneration.

MR. CHAIRMAN: Agreed? (Agreed) The remainder of Page 5--pass. Page 6, 2 (12), Mr. Hanuschak.

MR. HANUSCHAK: Mr. Chairman, I move that the proposed subsection 2 (12) of The Automobile Insurance Act as set out in Section 3 of Bill 83 be amended by striking out the word "or" where it appears for the first time in the second line thereof, and substituting therefor the word "of".

MR. CHAIRMAN: "discussion of any matter". Agreed? (Agreed) Page 6--pass; Page 7-- 6 (1) (d). Mr. Blake.

MR. BLAKE: Mr. Chairman, I want to question section (d) but you may not be down to the subsection yet.

MR. CHAIRMAN: No, we're on . . .

MR. HANUSCHAK: On subsection which?

MR. BLAKE: 6 (1) (d). To engage in and carry on the business of repairing any property, so and so and so and so, salvaging and disposal. Does this mean that the Insurance Corporation is going to go into the contracting business?

MR. URUSKI: No. Well, Mr. Chairman, in the event that in a settlement of the claim that the corporation takes possession of the assets that may be remaining after settlement rather than repairing, that the corporation would then have the authority to handle that salvage, as is in the case now of automobiles where the corporation now writes off automobiles, total write-offs, and it does dispose of them by various means, either by public auction, tender, or by direct sale.

MR. BLAKE: Is this normal now to the insurance business?

MR. URUSKI: That is correct, yes.

MR. CHAIRMAN: Page 7, 6 (1) (e), Mr. Hanuschak.

MR. HANUSCHAK: 6 (1) (e), Mr. Chairman, I move that clause 6 (1) (e) of The Automobile Insurance Act as set out in Section 5 of Bill 83 be amended by striking out subclause (iii) thereof and renumbering subclause (iv) as (iii).

MR. CHAIRMAN: Agreed?

MR. BLAKE: What does it mean?

MR. URUSKI: Mr. Chairman, it's striking out the clause, "acquired and held by it as an investment". There is basically no intent on the Corporation to actually purchase buildings and hold as an investment. In other words, if there is going to be any holdings by the corporation, it will be at the authorization of the Lieutenant-Governor-in-Council and it will be as a result of possibly acclaim or otherwise, but not specifically as investment.

MR. CHAIRMAN: Agreed? (Agreed) Page 7--pass; Mr. Blake.

MR. BLAKE: 6 (1) (f). To acquire by purchase or other means the business and property, and so and so.

MR. URUSKI: Then you've got one. Mr. Chairman, there is an amendment on the small page there.

MR. HANUSCHAK: That the proposed clause 6 (1) (f) of The Automobile Insurance Act as set out in Section 5 of Bill 83 be amended by striking out the words "or other means" in the first line thereof.

MR. CHAIRMAN: Agreed? (Agreed) Mr. Craik.

MR. CRAIK: Mr. Chairman, before we leave this Section 6, I wonder if there's any particular reason why Sections (a), (b) and (c) are all undertaken, are powers undertaken with Lieutenant-Governor-in-Council approval and (d), (e) and (f) are without LG in C approval. Is it deliberate, or is it just hasn't been added?

MR. URUSKI: Mr. Chairman, when the Corporation is engaged in the powers that are authorized by the Lieutenant-Governor-in-Council, and when you come to (d) and (f), it would only be natural that the corporation would not have to run back to the Lieutenant-Governor-in-Council in order to receive authority to fix and repair and salvage claims that it has. In other words, it will carry on as normal course of action in the repairing and the other powers.

MR. CHAIRMAN: Agreed? (Agreed) Page 7 as amended--pass. (Pages 8 to 11 were read and passed.) Page 12 - Mr. Hanuschak.

MR. HANUSCHAK: Mr. Chairman, that the proposed Section 6.6 of The Automobile Insurance Act as set out in Section 5 of Bill 83 be struck out and the following section substituted therefor:

Investments.

6.6 (1). The Corporation shall take to the Minister charged with the administration of the Financial Administration Act for investment for the corporation, moneys and any reserve established under Section 12, and such additional moneys as are not immediately required for the purposes of the corporation and are available for investment.
Moneys to be credited to the corporation.

6.6 (2). Moneys paid under subsection (1) for investment shall form part of the trust and special division of the Consolidated Fund and may be invested in accordance with the Financial Administration Act, and the interest earnings thereon shall be credited to the account of the corporation in the trust and special division of the Consolidated Fund.

(MR. HANUSCHAK cont'd)

Payment of earnings.

6.6 (3). Any earnings, whether loan or with the principal sum invested for the corporation under this section or any parts thereof, shall be paid over to the corporation by the Minister charged with the administration of The Financial Administration Act on the request of the corporation.

MR. CHAIRMAN: Agreed? (Agreed) Page 12 as amended--pass. Page 13, 8 (2), Mr. Hanuschak.

MR. HANUSCHAK: Mr. Chairman, that the proposed subsection 8 (2) of The Automobile Insurance Act as set out in Section 8 of Bill 83 be amended by adding thereto immediately after the word "except" in the second line thereof the words and figures . . .

MR. URUSKI: The second last line.

MR. HANUSCHAK: Okay. In the second last line thereof, the words and figures "as provided under Section 6.6 (4)".

MR. URUSKI: Okay. 8 (3).

MR. HANUSCHAK: 8 (3). That the proposed subsection 8 (3) of The Automobile Insurance Act as set out in Section 8 of Bill 83 be amended by adding thereto immediately after the word "personal" in the third line thereof the words "acquired, administered".

And that the proposed subsection 8 (4) of The Automobile Insurance Act as set out in Section 8 of Bill 83 be struck out and the following subsection substituted therefor:
Premium Tax.

8 (4) The Insurance Corporation Tax Act applies to the corporation and the corporation is an insurer for the purposes of that Act.

And, Mr. Chairman, that Section 9 of Bill 83 be struck out and Sections 10 to 58 be renumbered as Sections 9 to 57 respectively.

MR. BLAKE: Could we have a layman's explanation?

MR. URUSKI: Of Section 8? -- (Interjection) -- Pardon me?

MR. BLAKE: The amendments in 8, yes, Section 8.

MR. URUSKI: Well No. 8 is mainly a draftsman change. There is really no basic change in the amendment, it's a drafting change.

MR. CHAIRMAN: Page 13 as amended--pass. (Pages 14 to 16 were read and passed.) Mr. Blake.

MR. BLAKE: Section 18. We're wondering there if the powers there might be rather wide and I'm thinking particularly of a case where someone maybe using alcohol, for example, might have pulled off the road.

MR. CHAIRMAN: Is that Section 18?

MR. BLAKE: Section 18.

MR. CHAIRMAN: We haven't got there yet.

MR. URUSKI: Okay, go ahead.

MR. BLAKE: And decided that possibly he shouldn't be driving and yet if he were--he could be convicted, if having the keys in his possession, of being in control of a vehicle while impaired, should he be given a test. I'm thinking if someone were to run into him while he was parked and no fault of his own, he could still be convicted of impaired driving and really he hasn't been at fault.

MR. URUSKI: Well, Mr. Chairman, we have followed similar Acts as I believe in Saskatchewan and B. C. and other Acts where . . .

MR. BLAKE: This is taken from . . .

MR. URUSKI: Yes - where in effect now the situation is that even though a motorist may be convicted of failure to take a breathalyzer test, just of that section not of impaired driving, but failure to take a breathalyzer test, we would still have to take that motorist to court by due process of law to prove whether or not he was in fact impaired in order to make judgment against him. We are saying that if he is convicted for failure to take a breathalyzer test, that means that in effect he is in effect as being convicted of impaired driving.

MR. BLAKE: If he got far enough off the road it might be difficult for him to be hit from behind but . . .

MR. URUSKI: It's only if he has been convicted. If he has not been convicted, there is not . . .

MR. BLAKE: Yes, that's what I'm saying, but a conviction is possible even though he may not have been driving.

MR. CHAIRMAN: Page 17--pass; Page 18--pass. Page 19, Section 18-- Mr. Hanuschak.

MR. HANUSCHAK: Mr. Chairman, that Section 18 of Bill 83 be struck out and the following section be substituted therefor: 18 Sec. 22 am. Section 22 of the Act is amended by striking out the word "insurer" in the 2nd and 5th lines thereof and substituting therefor in each case, the word "corporation".

MR. URUSKI: That's in the Act now, it's in the Act now. The whole of Section 18 is struck out. Except that portion that has been amended, yes.

MR. CHAIRMAN: (Agreed)

MR. CRAIK: Mr. Chairman, what section are we now on?

MR. URUSKI: 18 on Page 19, Mr. Craik.

MR. CHAIRMAN: 18 as printed.

MR. CRAIK: I wonder if I could ask a question on Page 17, we've slipped by. 21 (2) (a) (ii) this makes a provision here where a person - the first ones makes provision for a person not qualified to drive a motor vehicle, but (ii) is a person not authorized. Now this would put a person in a position where he could be qualified but not have a licence, and I understand that under the insurance laws of Canada that the company is responsible in the case of a person who is qualified but not authorized. This removes Autopac from responsibility in case of persons although he can drive he hasn't paid his licence fee. I wonder if this doesn't maybe just go a step too far.

MR. DUTTON: If I may, Mr. Chairman . . .

MR. CHAIRMAN: Would you identify yourself for the record, please.

MR. DUTTON: Mr. Dutton, general manager. The situation as it pertains to the extension coverage under the Act is similar to what it is in other provinces of Canada. But the basic coverage itself, and the only other areas where they have a similar form of universal coverage on a mandatory basis would be in British Columbia and in Saskatchewan where they follow the same pattern, and the rationale behind it is that there is an insurance premium chargeable in the three provinces under a driver's licence and therefore the person that hasn't got a driver's licence has not contributed a premium, or a portion of the premium therefor to the fund itself. But if he'd buy an extension coverage, at least under Autopac he is covered for the full amount from the bottom up if he hasn't got a driver's licence but was otherwise qualified.

MR. CRAIK: Maybe you'd just explain, Mr. Dutton, how this does apply here now, a typical example. If a person doesn't have extension coverage and he wasn't a qualified driver and he was driving a vehicle what . . .

MR. DUTTON: He has voided his insurance if he hasn't -- he hasn't paid his premium, in other words, or all of his premium. So under the basic part it is void. But there is a provision in our extension coverage to the effect that if he has extension coverage with us, we will then pick it up from the full amount.

MR. CRAIK: But if a person doesn't have extension coverage . . .

MR. DUTTON: Then he voids his insurance.

MR. CRAIK: Then his insurance is void.

MR. DUTTON: That's right.

MR. CRAIK: What happens in the case of the driver just being not authorized, but the vehicle being insured through - you know, it's an unauthorized driver.

MR. DUTTON: Yes. If the person is the owner of the car he has voided his entire insurance package. But if the owner of the car loans his car to someone, or permits someone else to drive it, under the understanding that that person is qualified and authorized, then of course he's looked after.

MR. CRAIK: If he lets a person drive his car and the person is not authorized . . .

MR. DUTTON: Yes, but if it is his understanding that the person is authorized. This does happen at times where you may have known someone very well; you know he's got a driver's licence, or he's had a driver's licence in the past; he may not have renewed it, he may have forgotten, but you loan him your car in good faith, then you would be protected.

MR. CRAIK: Right. But if he drives it and you know he's not authorized, you have no insurance if he gets into trouble.

MR. DUTTON: If you have no insurance, that's right. You void your insurance if you allow him to drive knowing that he is not authorized and qualified to drive.

MR. CRAIK: What happens in the case of a stolen car? The driver is unauthorized, unqualified, but steals a car.

MR. DUTTON: If a person steals a car then we'll pay the full amount to you because you are certainly not permitting him to drive it with your authority.

MR. CRAIK: Third party liability too?

MR. DUTTON: And third party liability, whatever protection is afforded to you. That's right.

MR. CRAIK: But this particular clause you say is in B.C. and Saskatchewan. My understanding is that under companies operating privately in other parts of Canada under the Insurance Act of Canada, don't get out from under responsibility in the case of an unauthorized driver.

MR. DUTTON: That is right. But there is a basic concept behind it that I was trying to get across and that is, part of the premiums is attached to the driver's licence, and it is not that way in the rest of Canada. The full premium is paid under the owner's certificate, if you want to call it that, and therefore all they're saying is provided a person is qualified or authorized to drive, it's fine. But here he must be both qualified and authorized because a part of that premium, which comes out of the Fund to pay the claims, is payable under his driver's licence. Of course, you know, that can vary anywhere up to in excess of \$300.00 in some cases.

MR. BLAKE: Mr. Chairman, we are on Page 19 now?

MR. CHAIRMAN: Page 19 as amended--pass?

MR. BLAKE: Section 22, Mr. Chairman.

MR. CHAIRMAN: Mr. Blake.

MR. BLAKE: Section 22 (2) . . .

MR. URUSKI: Yes. That's been struck out, Mr. Chairman.

MR. BLAKE: That's deleted?

MR. CHAIRMAN: Was an amendment put in there?

MR. URUSKI: The entire Section 18 was struck out but put back in was the portion as noted under (b). That's all that was put back into the clause. That was the amendment, the rest was struck out.

MR. BLAKE: Yes, and this is requiring municipalities, and what not?

MR. URUSKI: That's right.

MR. BLAKE: Okay. Fine.

MR. CHAIRMAN: 18 as amended--pass. (Pages 20 to 31 were read page by page and passed.) Page 32, Section 33 - Mr. Hanuschak.

MR. HANUSCHAK: Mr. Chairman, I wish to move that Section 33 of Bill 83 as printed and renumbered as Section 32, be amended by striking out the clause (a) thereof and re-lettering clauses (b) and (c) thereof as clauses (a) and (b) respectively.

A MEMBER: What does this do?

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: The clause (a) of this purported to amend a heading, and the headings are not parts of the Act and we like to keep them out of bills so that we don't get headings enacted by the Legislature. They're editorial assistance to the people reading the bill and we change them from time to time as an editorial change. So we like not to get them enshrined in legislation.

MR. CHAIRMAN: Agreed? (Agreed) Page 32 as amended--pass; Page 33 as amended--pass; Page 34--pass? Mr. Blake.

MR. BLAKE: Mr. Chairman, on Page 34, Section 43, No Registration, etc., without Certificate. I wonder if we could have an explanation of that section.

MR. CHAIRMAN: Mr. Uruski. Page 34, Section 43.

MR. URUSKI: Mr. Chairman, it basically points out that the document of insurance and registration is a coterminous document, that if you have one and not the other you really don't have any. That's really what it comes out. In other words, when you register your vehicle you receive registration and insurance at the same time. It provides for both of them being coterminous.

MR. CHAIRMAN: There is a misspelling in the first line of that section. It should be "may" and not "my". Would you make the change. Page 34 as amended--pass; Page 35--pass? Mr. Blake.

MR. BLAKE: Mr. Chairman, on Page 35. The sections on that page, particularly 47 at the bottom of the page, requiring employees to furnish statements on request of the Corporation, would this not be invasion of privacy? I understand that some of the information is available now from medical reports and police reports, but the employer's report is one that concerns us.

MR. URUSKI: Mr. Chairman, those as I understand it, those reports that we are requesting become mandatory mainly in the areas of payment of Part II, disability payments, and the speeding up of reports so that accident victims can be paid promptly by the Corporation upon receipt of these reports.

Now I believe the employer portion of it would be the verification of reports that the employee is not working, and has not worked and is disabled, and therefore it is a verification. It would be sort of the steps that the Corporation would take - as a result of the accident they would receive a police report promptly, get the doctor's report, so they could pay medical benefits, and verification by the employer that he is not working.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Mr. Chairman, can't the same be achieved by having the applicant swear an affidavit that he is unemployed?

MR. URUSKI: I'm sorry, I didn't hear that.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Cannot the same be achieved by having the applicant swear an affidavit that he is unemployed?

MR. URUSKI: (. . . do you have any comments on that?) Primarily, Mr. Chairman, it is to prevent any fraud so that verification is made from the employer that the employee was, in effect, off work and not working.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Mr. Chairman, again it seems to me that this does infringe or impinge upon an employer, does require additional staff, additional work, and I see no attempt here on the part of the Corporation to pay the employer for any information that he provides in that manner.

MR. CHAIRMAN: Mr. Uruski.

MR. URUSKI: Mr. Chairman, really the section is intended to assist the victim of the accident for benefits that he might receive for accident benefits. And if he checks, or the information that we would like to make is not forthcoming, the individual may be left in a position where he is requiring funds, is disabled, and we are caught in the bind of saying, "Well, I'm sorry we can't pay you because we have not been able to get the correct information, or any information, from your employer." We've had the same circumstances happen with doctors' reports where we've had calls from people saying, "Well, what's the matter with you, why don't you pay that claim?", and yet we've received in certain instances an updating report from a doctor, but we've never received the original report verifying the claim that the individual is disabled. And we're saying that if we say to the employer, "Look, your employee is off work, can you verify this so we can begin paying him the benefits that are due to him."

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Mr. Chairman, when the Corporation receives a report of that nature from a medical doctor, does the medical doctor get paid for filling in that report?

MR. CHAIRMAN: Mr. Uruski.

MR. URUSKI: Mr. Chairman, I'm just informed -- I'm sorry, I think Mr. Graham should know that this section - and I wasn't aware - has been in existence since the beginning of the Act. It's not a new addition.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Mr. Chairman, on the same point, extending the rights to get reports from employers is of course -- the government faces the same problem as anybody else faces when they want to get information from an employer. But nobody else has legislation to back them up to get information from an employer, and this is infringing on an area that is an employer/employee relationship that's very private. I don't doubt for a minute but what the Corporation has problems sometimes getting that information. But when you start writing in these clauses into legislation, you're getting into an area that goes beyond the many clauses that we have in other Acts that are commonly referred to as "snooper" clauses. And this

(MR. CRAIK cont'd) extends the rights of a -- although it's a Crown corporation it's still a commercial corporation operating in a field where they can go to an employer, ask for information on an employee, and although it may be very helpful to the corporation to get that information it is very definitely, the minute you write that into legislation, an infringement on human rights, and this section should not be in there. It's quite understandable that the corporations might in the interests of efficiency get direct reports from the police. That's not questioned. The medical doctor thing was fought out at great lengths when the Autopac was first brought in. As you recall, the doctors fought it and there were debates in this issue. Now, we've accepted that fact. This goes one step further. This says the Corporation can go to an employer and exact information . . .

MR. URUSKI: This was in the Act as well.

MR. CRAIK: . . . with the force of law . . .

MR. URUSKI: This was in the Act as well.

MR. CRAIK: Mr. Chairman, if it was in the Act to the same extent it's in here, it shouldn't be necessary to bring it in again. But whether it was in or not, it is a right and privilege of an employee and employer that shouldn't be breached by legislation. It may in a particular case. I'm sure the Corporation can go to the employer and say, "You have a person. We would like to get information on him." And then very likely if it's requested, the employer would give it. But to write it into legislation is going just a step beyond where we should be going.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Well, Mr. Chairman, I want to indicate to my honourable friend the Member for Riel that the Workmen's Compensation Board Act has certain requirements as to the reporting of accidents and they cannot, in my opinion, and I must say I'm not trained legally, but there cannot be in this Act, or any other Act, provisions which would supersede the Act of the Workmen's Compensation, so that the employee is protected, and that the employer is knowledgeable of any accident that occurs. Just recently we passed in the House under Bill 44, if I recall correctly, certain provisions as to reporting. So I don't see any conflict between the provisions as contained in the Act introduced by my colleague the Minister responsible for Autopac.

I am concerned as I'm sure the Member for Riel is concerned, that in all instances the workman is protected. And I see no problem at all.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Mr. Chairman, again I would like to go back to the original suggestion that I had made that the information that is required here can be obtained from the employee by affidavit, or sworn statement if you so wish. In most cases the payments are an ongoing thing and as far as the ability of the corporation to collect in cases of fraud, I think that they will find they're adequately covered.

MR. CHAIRMAN: Mr. Uruski.

MR. URUSKI: No, no. That wasn't the intent. But, Mr. Chairman, I think there is a possibility, and if one of the members would move it, I think it would satisfy the members. If you look at the section and in the second line thereof: "Whenever requested by the Corporation", and if we added the words "and the employee". In other words, if we said the employee was requesting at the same time, because it would be to his benefit that that information be given. Well, "whenever requested by the corporation and the employee". In other words the employee would have to request the Corporation to get it. Okay?

MR. PAULLEY: Again, Mr. Chairman, if I may, to the Committee point out that in the recent agreed upon amendments of the Workmen's Compensation where a third party liability is concerned there is protection for the employee, the employer, and the Workmen's Compensation Board.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Well, Mr. Chairman, if it has the employee's approval to do so, then there should be no problem.

MR. CHAIRMAN: Agreed? (Agreed). Page 35 as amended--pass; Page 36--pass; Page 37 -- Mr. Graham.

MR. GRAHAM: This is just a technical point under Section 45 and No. 49 notice, and you're talking about the expiration of five days on mail. I just want to bring to the attention of the Committee that after that past mail strike for about a month it took me about eight or nine days to receive mail, and I just wonder if five days is adequate time.

A MEMBER: We can't even get the mail in the building in five days.

MR. DUTTON: Well, there's such considerations, of course, as mail strikes that are taken into consideration at the time, and I'm sure, I know, as a matter of fact, that the five days wouldn't be adhered to in the case of a strike like that. And secondly the five days itself, I think if you look at the -- throughout the insurance industry, they are following the same sort of procedure.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Mr. Chairman, I think many in the insurance industry have also gone away from the mails because of that fact that much of this is incorporated in legislation and they have gone to a courier service just to make sure that they could get it there in the five-day basis. So . . .

MR. URUSKI: You mean about payments.

MR. GRAHAM: No, no, because of legislation in the insurance things, and so forth, that have a time limit as far as registration. And, Sir, may I also suggest that there are strikes, and there are what they call slowdowns where mail is held up considerably longer than five days, and I would suggest that that period be extended to ten. I would so move.

MR. URUSKI: Mr. Chairman, -- (Interjection) -- The date of posting. Having received the notice at the expiration of ten days following the notice.

MR. CHAIRMAN: Agreed? (Agreed)

MR. BLAKE: Mr. Chairman, on 51 (2), where the Corporation may deduct from any benefits payable to any person the amount of any unpaid premiums or any other debt owing, this would mean that the public would be paying for the mistakes of the MPIC.

MR. URUSKI: No, no, Mr. Chairman. In the event that there is a claim outstanding and a motorist has not paid a portion of his premium or surcharges, this would be in those cases.

MR. CHAIRMAN: Page 38--pass; Page 38, Section 56, Mr. Hanuschak. Page 39, Mr. Blake.

MR. BLAKE: Mr. Chairman, Section 62 (4), the Rates Appeal Board, the power of one member. Is this common in the -- was this in the last Act?

MR. URUSKI: Mr. Chairman, I believe that the Licence Suspension Appeal Board to hold hearings, this would be similar to the Licence Suspension Appeal Board where one member may go into rural Manitoba and hold hearings on suspensions. This would be the same circumstances where a person would make an appeal against the accident surcharge and the member of the Commission may go out and one member would hold a hearing.

MR. BLAKE: This sets him up as a judge and jury. Does he file a report and come back, and is that considered by the full board then or is his decision on that particular case final?

MR. URUSKI: No, his decision would be final as it's shown here, Mr. Chairman.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Mr. Chairman, when the Minister referred to the case of the Licence Suspension Appeal Board, I believe that in that case if the applicant is still dissatisfied he has the right of a further appeal to the courts, and I see that that has been taken out, that the Rates Appeal Board is now final.

MR. URUSKI: That is correct insofar as the accident surcharge provision.

MR. GRAHAM: Mr. Chairman, does the Minister not feel that while no doubt the Rates Appeal Board will in all probability never be challenged, that the additional avenue to safety of the rights of the individual to a further appeal should not be considered?

MR. URUSKI: Mr. Chairman, I believe that there could be an amendment to, say, that his decision could be reviewed by the other members of the Rates Appeal Board, by the entire board.

MR. GRAHAM: But there would be no opportunity of any further appeal from the decision of the Rates Appeal Board?

MR. URUSKI: That is not the intent, Mr. Chairman.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Well, Mr. Chairman, I think that it's pretty explicit here; it says that the decision shall be final and there is no appeal from that decision. Now the powers are given to one individual on the Appeal Board to go out and make the decision, and this legislation says that decision has no . . .

MR. URUSKI: We can change that, Mr. Chairman, in that his decision can be reviewed by the entire board if it is a one-man hearing.

MR. CRAIK: I see, you said you were going to change this.

MR. PAULLEY: We're prepared to accept that as an amendment.

MR. CRAIK: Yes. Can you tell us, are there particular cases, since you used the parallel of the Licence Suspension Appeal Board, there is an appeal to the courts. If you're going to use that parallel, you know, if he continues to have that appeal to the courts as well, can you tell us what the experience is here, are there cases . . . ?

MR. URUSKI: We have had no experience because we haven't had one case. We are just setting it up.

MR. CRAIK: We're down really again to a matter of principle here on the rights of the individual. If there hasn't been a problem with it, why would you not leave John Doe citizen always with the knowledge in mind that if he has a real problem, he can appeal it beyond the body that has set its rates, or the individual that has set its rates, and simply leave it as an appeal to the courts? If there's no problem, I don't see why you're removing that appeal to the courts that John Doe citizen in a democratic society thinks he enjoys.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, as I read this section, it is a delineation of responsibilities to one member of the Appeal Board, and there is - my friend Graham nods his head - but it seems to me that as we look at 62 (4), "the jurisdiction of the Rates Appeal Board may be exercised by one member" - instead of the board itself - "in the region assigned to him by the chairman and the decision of that member is the decision of the Rates Appeal Board." Now if there is, and we've recently done this insofar as Bill No. 7 and the Civil Service Commission, that if there is a desire on the part of the aggrieved person to have this further reviewed, the proposition of the Honourable the Minister responsible has validity. That if there is a further appeal that it be to the full board insofar as the decision of the individual member is concerned. And as I understand my colleague, and I am sure he will consider as to whether or not I am being correct, that if we have a provision in there that if there is an appeal from that one member to the board itself, then the board will hear. Now I think that's being reasonable.

MR. CRAIK: But it doesn't . . .

MR. PAULLEY: But there is another section, is there not, Mr. Chairman? I don't want to interrupt my colleague - there is an appeal anyway from the decision if necessary from the board.

MR. URUSKI: Mr. Chairman, I'd like to explain the procedure. You see an individual - this relates to the accident surcharge - if an individual is found to be 50 percent or more liable by the Corporation at the time of the claim, he has the opportunity to appeal first to the Corporation and then to Small Debts Court to adjudicate whether or not he is responsible for that accident. So that he goes to court in the first instance in order to have his liability adjudicated vis-a-vis the provisions of this board prior to that. Then if the Small Debts Court rules that he is liable for that accident, the Rates Appeal Board would sit in judgment insofar as varying the harshness of the penalty, or upholding the penalty being imposed by the Corporation. You see, the individual does go to court in an initial instance if he disputes the liability aspect of the claim. He has the opportunity . . .

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Mr. Chairman, under our courts and our judicial system, we have appeals from one court to another, and we protect those very religiously and consider that very precious. But the only appeal, the only judicial appeal of any type that is allowed an applicant here is to a Small Debts Court.

MR. URUSKI: Insofar as liability, insofar as . . .

MR. GRAHAM: . . . determining the rates and the degree of whether it's 50 percent or more. He has no recourse to any further court . . .

MR. URUSKI: But, Mr. Chairman, in a Small Debts Court if he does not agree with the Small Debts Court, he can appeal it to the higher court. The Small Debts Court in the initial case is not final. He can appeal the decision of a Small Debts Court in the initial instance, so that doesn't end his -- in other words, if he is not satisfied with the judgment of the Corporation and the Small Debts Court at the time who are assessing his liability, he can go right up.

MR. CRAIK: Perhaps the Minister would explain then what this particular clause

(MR. CRAIK cont'd) means then? You're striking out "by the County Court", and so on, which removes his appeal to any court and in which cases does this apply then.

MR. URUSKI: This would apply, Mr. Chairman, to the demerit point surcharge and the accident surcharge that has just come in.

MR. CRAIK: At what point then . . .

MR. URUSKI: You see, he has with respect to his surcharge, he has the steps that I've outlined earlier; with respect to his demerit points he has the time at the time that the trial is being heard to appeal and to go to higher courts in respect to his conviction.

MR. BLAKE: Similar to the case that you're . . .

MR. URUSKI: That's right. He would contest the case in court in the initial -- but, Mr. Chairman, as I've indicated before, I think, Mr. Hanuschak, the words that we could add "but the decision of a single member may be reviewed by the Rates Appeal Board" - by the entire board.

MR. CHAIRMAN: Is that agreed?

MR. BLAKE: There will be still the right of appeal for him to go to the courts?

MR. URUSKI: Once all steps have been taken, he is finished.

MR. PAULLEY: That's right, and that's the way it is at the present time, is that not correct, Mr. Uruski? We're eliminating the dictatorial - if we use that term in its broad expression - of one member.

MR. CHAIRMAN: Order please. One at a time. Mr. Dutton.

MR. DUTTON: Mr. Chairman, I think the point is that we are introducing now a surcharge for accidents, and responsibility for accidents, where as previously it was only for convictions which was outlined by the court. And previously in this Rates Appeal Board all you could appeal was the points that you were given on convictions, and the power of the Rates Appeal Board was to simply total up the points and if they were correct their powers ended there. Now we have in this case the problem of a person being surcharged if he is found at least 50 percent at fault for two accidents or more in a twelve-month period. There if he will contest that, he contests the decision of the adjuster, he goes to a Small Debts Court and he says, "Look, it's not a matter of quantum that I'm worrying about, it's a matter really of, am I at fault in this accident and to what degree." He will get a decision and if he doesn't agree with that decision, that's where he can appeal to a higher court at that stage. But once he has gone through these appeals, he has two or more accidents in a year, he goes through that, then he simply appears before this court, he may be arguing undue hardships which could be a matter of quantum, but the facts have already been decreed by the courts that he was at least 50 percent or more at fault in two or more accidents during the year.

MR. URUSKI: The Rates Appeal Board would have the power to vary the surcharge in this.

MR. CHAIRMAN: The amendments to 62 (4) as read by Mr. Uruski and moved by Mr. Hanuschak, pass -

MR. CRAIK: Are you going to bring in the change to the . . .

MR. URUSKI: That the decision of a single member may be reviewed by the Rates Appeal Board, that's been moved.

MR. CHAIRMAN: 39 as amended--pass. Page 40--Mr. Hanuschak.

MR. HANUSCHAK: 62 (5), Mr. Chairman, that the proposed subsection 62 (5) of The Automobile Insurance Act as set in Section 56 of Bill 83 be struck out and the following subsection be substituted therefor: 62 (5) The members of the Rates Appeal Board shall be reimbursed for any reasonable travelling and living expenses incurred by them in carrying out their duties, and in addition any member may be paid such remuneration as Lieutenant-Governor-in-Council may order.

MR. CHAIRMAN: Agreed? (Agreed) Balance of Page 40--pass; Preamble--pass; Title--pass. Bill be reported. Mr. Graham.

MR. GRAHAM: Mr. Chairman, I would move the bill not be reported.

MR. CHAIRMAN: The motion is out of order, you can vote against it. Bill be reported.

A COUNTED VOTE was taken, the result being as follows: Yeas 14, Nays 6.

MR. CHAIRMAN: The motion is passed, and so ordered. Bill be reported.

MR. PAULLEY: Mr. Chairman, then I would move that the Committee now rise and report. May I indicate to honourable members that I would like them to attend the House immediately where in accordance with what was decided, we will then consider what procedures will take place from then. So please immediately return to the House.

MR. CHAIRMAN: Committee rise.