



Legislative Assembly of Manitoba

STANDING COMMITTEE

ON

LAW AMENDMENTS

Chairman

**Mr. J. Wally McKenzie
Constituency of Roblin**



Thursday, June 14, 1979 9:00 P.M.

**Hearing Of The Standing Committee
On
Law Amendments
Thursday, June 14, 1979**

me: 9:00 p.m.

CHAIRMAN, Mr. J. Wally McKenzie.

R. CHAIRMAN: Mr. Balkaran, I hope, will be here momentarily. Members of the Committee, we'll proceed with Bill No. 3. The Honourable Member for St. James.

R. GEORGE MINAKER: Mr. Chairman, I believe it was the understanding that when we dealt with this bill, that there would be a straightforward discussion with the Provincial Auditor on this subject, and I would think that it would be proper for Mr. Ziprick to be present at the table to have a full discussion in this particular dealing, and I'm sure that the committee would agree with that. (Agreed)

Also, I might advise the committee that we have sent for the members of the finance administration who had worked with the Auditor on this bill and I hope that they will be here in a few minutes.

BILL NO. 3 — THE PROVINCIAL AUDITOR'S ACT AMENDMENT

R. CHAIRMAN: Agreed that we should proceed with Bill No. 3, An Act to amend The Provincial Auditor's Act and Certain Other Provisions of the Statutes of Manitoba respecting the Duties of the Provincial Auditor. (Agreed)

1(c)—pass; (d)—pass; (e)—pass — the Honourable Member for St. Johns.

R. CHERNIACK: Mr. Chairman, do I interpret correctly that (e) includes any municipality, any school board, any individual; is that a correct interpretation?

R. CHAIRMAN: The Provincial Auditor.

R. ZIPRICK: Yes, anybody that gets public money.

R. CHERNIACK: So, Mr. Chairman, it means now that, as we proceed with the Act, we will be dealing with the right of the Auditor to go into any schoolboard and do an inspection or review its affairs — is that a correct interpretation? Mr. Chairman, I don't know who should answer but I'm just asking the question whether it's the political side or the Auditor's side. But, is it clear that when we deal with recipients of public moneys in this bill, we will be dealing with the authority of the Auditor, whoever he is, to go into public schoolboards, and into municipalities, cities, towns, anybody that receives a grant, any individual that receives a grant, and give him authority to investigate it? Is that the purpose of the definition of recipient of public moneys being brought in?

R. ZIPRICK: Yes, that's the purpose of the definition of public money, and it's a limited audit that is prescribed. It's not a complete audit that would normally be done, just a limited test audit.

R. CHERNIACK: Mr. Chairman, I would only ask that the Auditor point out the limitation when it come to it. Otherwise, as long as we clarify that it is the intention of the government to bring the Auditor into schoolboards, municipalities, cities, private bodies, all associations, charitable organizations, that receive funds, like the Children's Aid. Does that include the various sports organizations that receive money — community clubs?

R. ZIPRICK: Yes, it involves all public money, except that it should be remembered that right

Law Amendments
Thursday, June 14, 1979

now there is provision for obtaining an accountability, an accountability is being obtained and we are looking at these financial statements in the departments, and the departments will have inspectors and this will just permit us to look at some of them — permit the auditor to look at some of them where there are difficulties.

MR. CHERNIACK: Mr. Chairman, well, then it means to me that this extends the powers of the Auditor. Otherwise, why bring it in?

MR. ZIPRICK: Yes, it does extend the power of the Auditor, in that in addition to government inspectors, the Auditor can go and have a look at certain specific things that he may feel warrant his attention.

MR. CHAIRMAN: The Honourable Member for Logan.

MR. WILLIAM JENKINS: Yes, Mr. Chairman, through you to the Auditor, in this recipient of public money, would the Auditor be looking just at the money that would be received as grants? No, I take a hypothetical situation — say the Winnipeg School Division, which receives grants from the Crown, but they also raise within their own right by special levy and things like that. Would the Auditor be auditing the complete books, or just auditing the receipt of money from the Crown? Is that what they mean by “recipient of public moneys?”

MR. ZIPRICK: Only those moneys that are public moneys would come under purview of the Provincial Auditor, and not any other moneys that are not public moneys.

MR. JENKINS: Well, it's public money because they raise by special levy, a school board raises money by special levy — that still is public money, but it doesn't come through a grant from the provincial government. Now, what I want to know is, does this Act by this amendment give you the authority to audit the books of the Winnipeg School Division, as far as the money that they raise by special levy — that's the money that they receive on the foundation program of the grants?

MR. ZIPRICK: No, it would just be grants from the government.

MR. CHAIRMAN: 1(e) — pass — the Honourable Member for St. Vital.

MR. D. JAMES WALDING: Mr. Chairman, I'd like to know whether this change to The Audit Act, would entitle the Auditor to enter a doctor's office — a doctor, who is receiving money under Medicare — to check whether that money was being spent with due regard to economy and efficiency.

MR. ZIPRICK: No, doctors — it's fee for services and that's different — that's not a grant. Hospitals would come under inspection and to a degree they do now, where you have inspected some hospitals so in that area it wouldn't be much of an expansion, except that it would tidy the situation up. But any money that's payment for services is not a grant, and the services have been realized at the time of payment.

MR. WALDING: Mr. Chairman, I understand — perhaps, it's later section that the Auditor is required under this bill to account for the proper use of public funds. Can he explain why that would apply to the medical uses that the hospital is making with its funds from the government?

MR. CHAIRMAN: Mr. Ziprick.

MR. ZIPRICK: With regard to the actual expenditure of money for medical use, we do that through the Health Services Commission. And there are reports being made by doctors, and their accounts are reviewed. There's a committee of doctors that review it. Their minutes are available to us; we inspect them. So in effect, we are now doing and overseeing as to how the money spent for medical purposes but that's at the Health Services Commission. And that would continue in that same way.

MR. CHAIRMAN: May I ask the members of the committee to — I know you like to have your private conversations — keep them low, because the Auditor is having problems in hearing your questions and the debate. So if you would be kind enough so we can proceed, keep your conversations back and forth at a low level, and we can proceed.

The Honourable Member for St. Vital.

R. WALDING: No more questions.

MR. CHAIRMAN: 1(e)—pass; Section 1—pass; 2—pass —(Interjection)—
Subsection 3: 4(1) — the Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Chairman, we did discuss on second reading the question of the limited term of 10 years as compared with the existing. And the Minister is quite correct, that some jurisdictions have extended terms, some jurisdictions have more limited terms than those.

I think, Mr. Chairman, it's not unfair, since the Provincial Auditor is not at all affected by this section. I think it's not unfair if we ask him if he can spell out for us what he sees are the advantages and the disadvantages of the present law and what is proposed. I don't think I am putting him on the spot because, as I say, it doesn't affect him at all. If he doesn't want to express an opinion, I wouldn't push that either. But he should be able to tell us about the advantages and disadvantages of a full-time security and limited in this way.

MR. ZIPRICK: Well, the only advantage I can think of from a legislative and government side, is that after ten years there is an automatic review of the situation. Now, ten years is a reasonable tenure, and I don't think that it would present undue difficulties for recruitment.

As far as tenure is concerned, I don't see too much difficulty there either, because I look at the security of this kind of provision. It's more on the short-term and sort of instantaneous reaction that could be taken that there's protection, because in the long run the only protection the Auditor has is to do a good job and be of pretty good standing. Because, if you're not doing too good a job and a lot of reaction and confidence is lost in your work, then the situation would become untenable anyway.

So that I would look at long-term tenure through that kind of a position, more than a guarantee law.

R. CHAIRMAN: The Honourable Member for St. Johns.

MR. CHERNIACK: The Auditor, who I know meets regularly with all other auditors in Canada, does he have knowledge as to occasions when auditors were dismissed by the Legislature — a two-third majority of those present, those voting — or where a term has not been renewed under circumstances where the Auditor would have been willing to stay on, but was not renewed by government?

MR. ZIPRICK: I don't know of a situation or don't recollect of a situation.

MR. CHERNIACK: Would the Auditor have any opinion as to whether or not the last few years of tenure might be a little more strained for an Auditor if he knew that he was being studied by the government of the day?

MR. ZIPRICK: It's possible, but by that time the Auditor has either built up a pretty high level of credibility, or if he hasn't he's in a very weak position anyway. If he has a pretty high level of credibility and if he wants to stay on, chances are he would not be too concerned. And besides, he's got a pretty high level of credibility, he wouldn't be too concerned about getting another job, either. So personally, I don't consider this would be too much of a problem.

MR. CHERNIACK: I'm just wondering if an Auditor would feel threatened by disagreements with his audits or certificates by influential Ministers. Would he feel that his credibility is threatened to the extent where he wouldn't want to stay on? Is that a matter which comes up at meetings, where auditors say, "Well, the Ministers don't agree with me, therefore I'm not happy." Is that really the kind of situation that occurs, such as we heard discussed in the second reading?

MR. ZIPRICK: No. Generally speaking, there's disagreements and there's been some pretty strong disagreements. But the Auditors were on sound ground, and there was no problem. I'm thinking of one in particular, the Auditor of Newfoundland, who got into a very strong disagreement with the Premier. But nothing had happened, and the Auditor feels it was an honest disagreement, and there's no problem.

MR. CHERNIACK: I wanted to speak to the Member for Inkster for a moment. Maybe one of the

other members . . .

Mr. Chairman, I don't want to ask the Auditor anything else on this, but I think I have the right to make the statement that the First Minister was absolutely wrong when he described a discussion I purported to have had with the Provincial Auditor. I believe there is no record to justify that statement; it was just part of the way he operates and this is the first opportunity I've had to say that and I'm saying that it's not the first time and I'm sure it's not the last.

MR. CHAIRMAN: 4(1)—pass; 3—pass; Subsections 5(2) and (3), then (4). Then we go to 5. Section 5 of the Act is amended.

MR. CHERNIACK: 5(3).

MR. CHAIRMAN: Oh, 5(3). I'm sorry.

MR. CHERNIACK: I just want to confirm my impression that this is the law and I'm wondering why it's in here.

MR. CHAIRMAN: Well, can I move on to pass 5(2) first and then we get to 5(3)?

MR. CHERNIACK: Well, I thought you did because you're almost into 6.

MR. CHAIRMAN: Well, no, I was trying to get the terminology of it correct and I'm not an auditor nor a lawyer. Then 5(2)—pass; 5(3) — the Honourable Member for St. Johns.

MR. CHERNIACK: I just said I had the impression that this was the law and if it wasn't the law I want to know whether it wasn't the law and if it is the law, then why is it in here?

MR. ZIPRICK: Right now, I can employ individual people from firms but not the firm itself and it's a bit of a nuisance and by being able to contract with the firm of professionals, it makes it much easier, so really it does away with a lot of red tape.

MR. CHERNIACK: If the Auditor would want to employ a firm, would he not want to know in that firm would be responsible for carrying out the audit?

MR. ZIPRICK: Yes, but the contract generally is with the firm and in these particular cases we have to make special arrangements for contracts to be with individuals and still pay the firms. It's just a nuisance situation so it's a tidying up of a nuisance situation.

MR. CHERNIACK: When the government instructed the Auditor that it wished him to employ certain named firms, did he therefore not enter into a contract with those firms?

MR. ZIPRICK: We haven't completed any contracts as yet.

MR. CHERNIACK: I thought that some of them were already doing their work.

MR. ZIPRICK: Well, they've made a submission and the submission has been accepted, but we still have to complete the contracts. So there is in fact a contract in existence as far as that is concerned.

MR. CHERNIACK: But there is no contract in existence. Mr. Chairman, I didn't hear what Mr. Zipr said. There is or there is not a contract?

MR. ZIPRICK: As far as I'm concerned, there is a contract by submission of a letter and acceptance. Now, we've got to prepare formalized contracts. The formalized contracts have not been prepared as yet.

MR. CHERNIACK: There is a submission and there is an acceptance?

MR. ZIPRICK: That's right.

MR. CHERNIACK: And is that a conditional submission or a conditional acceptance? Is it not a contract now?

R. ZIPRICK: Oh, it's a contract but the contract forms itself and the setting out of people — now we know what people are involved — but the setting out; that is still not complete in the contract.

R. CHERNIACK: Well then, without the passage of this section, there cannot be a contract entered into with a firm? Is that Mr. Ziprick's interpretation?

R. ZIPRICK: That's my interpretation. I'd have to have contracts with the individual auditors.

R. CHERNIACK: And when the contract is entered into, in that contract will you stipulate who the people are that will be doing the work?

R. ZIPRICK: It would have to be yes and under my present provisions.

R. CHERNIACK: No, I mean under this.

R. ZIPRICK: Well, with this amendment, no; that's why this is in so that I can contract directly with a firm without necessarily stipulating the people.

R. CHERNIACK: You would not want the right to stipulate who the , people will be; the individuals?

R. ZIPRICK: Well, it depends on what kind of an assignment it would be.

R. CHERNIACK: So in order to carry out the instructions from government, you need this section passed.

R. ZIPRICK: No, I could complete the contracts with the individual because we know the hours that are going to be spent and the people, and the rates per hour.

R. CHERNIACK: But the government didn't actually name the individuals, ? it named the firms, didn't it?

R. ZIPRICK: Yes, but the firms are assigning individuals and the individuals are working with / auditors — my auditor that's overseeing it — so we know who the individuals are.

R. CHERNIACK: So the government named the firm and the firm names the individual, and Mr. Ziprick, you then approve the individuals? But passing this section will make it possible for you to carry out the government's instruction to contract with the firm?

R. ZIPRICK: It will reduce some of the red tape in contracting; yes.

R. CHERNIACK: Okay.

R. CHAIRMAN: The Honourable Member of it. James.

R. MINAKER: Mr. Chairman, just through you to Mr. Ziprick. If I understand correctly, Mr. Ziprick, if what this particular section will allow you to do is rather than maybe issue fifteen contracts with fifteen individuals in a firm, you can issue one to cover them. Is that correct that you could just issue the contract for the services of that firm and they would provide the services to provide that audit rather than have to hire fifteen individuals or ten individuals?

R. ZIPRICK: That's right.

R. CHAIRMAN: 5(3)—pass; (4)—pass; Section 5—pass — the Honourable Member for St. Johns.

R. CHERNIACK: Mr. Chairman, maybe Mr. Balkaran will tell us just how much broader this power made by the inclusion of this phrase?

MR. ZIPRICK: Mr. Chairman, this really is just to be consistent with the preceding section, where it says that — I don't know if you've got the Act 6(4) — now 6(4) says that if certain orders or regulations made by me in my office; if they're in conflict with The Civil Service Act, then my office wants to proceed yet there is no provision for such, so we've put it in to balance off the two that when the regulations are specified in my office, then those will be the regulations that would be meant under 6(4). And that's why the wording is completely consistent as in the present 6(4).

MR. CHERNIACK: Have you made such orders, rules or regulations that are in conflict with The Civil Service Act?

MR. ZIPRICK: I would say, for instance, participation let's say in any kind of election work. The Civil Service Act has been broadened. As far as I'm concerned, my senior auditors would not have that privilege. I would find that to be in conflict with their positions at work?

MR. CHERNIACK: Would you clarify that? The Legislature, in its wisdom, said that civil servants shall not be restricted from participating in elections. Are you saying that in spite of the opinion of the Legislature, that your auditors should not have that right?

MR. ZIPRICK: That could be my ruling. Now, they can challenge my ruling if they want, through the Civil Service Commission.

MR. CHERNIACK: But they wouldn't be able to, once you have this amendment; would they?

MR. ZIPRICK: Well, it could well be that the way it is now, any rulings that are made in my office are made with the idea to ensure their independence and no conflict of interest and if The Civil Service Act permits them to be involved. Now, other than this one that comes to mind, I just do not know of any others but if there are any that would impinge on the independence of an auditor we'd find it very difficult to . . .

MR. CHERNIACK: Mr. Chairman, that means that Mr. Ziprick requires of his auditors that kind of restraint, which the Minister of Finance cannot impose on members of his department or the Minister of Health impose on people in his department, or the Attorney-General. Does that make sense, that the Auditor should have such powers that are greater than that of Ministers of government? I find it rather surprising that that should be the case. I believe there is or has been an effort to change The Civil Service Act, which is fair game, but if the Legislature has passed certain rights onto civil servants, which no Minister can override, I wonder why the Provincial Auditor should be able to override that and affect his people.

I really didn't expect his answer I got and therefore I am both surprised and doubtful as to whether or not Mr. Ziprick should have any greater power over his employees than the Attorney-General has over his employees. I wonder if the Minister of Finance or the Attorney-General doesn't accept this higher power of the Auditor than they have.

MR. ZIPRICK: That's in my Act. That's been there. That's in other Acts of Legislative Audit and, as a matter of fact, Ontario, for instance, they have removed the Auditors completely from the Civil Service, and even their tenure of employment; everything is under the control of the Auditor. So they have gone to ensure independence to that extent. Now, we've had no complaints. It has been in existence for nine years. It has presented no difficulties and I can't even cite a situation but I would want to be sure that every Auditor has to make sure that he is independent and so I make a point of that myself. I restrict myself to the extent that I do not vote; I just don't vote in the provincial election. Now, it doesn't say I can't, but I don't.

MR. CHERNIACK: I must tell Mr. Ziprick that Stuart Anderson always said the same thing. I always disagreed with him. I think that a vote is a very secret thing, and it's a very personal right and I personally think it should be exercised. He has a right not to vote, but to deny himself. I don't agree with that, but that's his business.

But, Mr. Chairman, I'm just wondering, here we find members of the Civil Service, for whom the Civil Service negotiates and for whom the Civil Service has some responsibility, and we have something I didn't read into the Act. I thought that the Orders, Rules or Regulations dealt with methods of conducting an audit; the method of reporting; the need especially in the case of private firms to comply with procedures of audit procedures laid down. But to find now that there is interference in what I consider their personal rights — and when I say "I consider" I think

it because the Legislature gave them those rights — I find that objectionable, Mr. Chairman. Ziprick can justify it all he likes, I wonder if his political representative — I don't even mean it, representative — the Minister reporting for him, or other Ministers of the Crown, several of whom are present, agree that he should have the kind of power that the Legislature has denied them.

As I say it has nothing to do apparently with the way they conduct an audit, their integrity in conducting an audit, the procedures used. I must find that objectionable. I really would like to hear me argument in favour of it, other than that of the Auditor, because this Act is one of the legislature, not of the Auditor.

R. CHAIRMAN: 5—pass — the Honourable Member for St. Johns.

R. CHERNIACK: So, Mr. Chairman, then I have to assume that no one on the government side responding. I mean, they didn't respond. Does that mean that they want to pass it without a response?

R. CHAIRMAN: All in favour of signifying in the usual manner, of passing this section? Put your hands up please. Those opposed to the motion? 5—pass; Section 7.1 added, 6—pass, and we to 7.1.

R. CHERNIACK: Mr. Chairman' why is this needed?

R. CHAIRMAN: The Honourable Member for St. James.

R. MINAKER: This is section 7.2?

R. chairman; 7.1, 6.

R. MINAKER: Mr. Chairman, this particular section, the amendment is to provide to clearly indicate that the office of the Auditor shall be funded with funds provided by the Legislature. If an Auditor feels he has not been provided adequate funds, a new Section 18(1) and 18(2) has been provided to allow the Auditor report to the Legislature on this matter.

R. CHAIRMAN: The Honourable Member for St. Johns.

R. CHERNIACK: Mr. Chairman, when we come to 18(1) and 18(2), I am going to agree with it, if my question still applies. Is this needed? How has he been paid up to now? Has he been paid equally up to now? Surely not.

R. CHAIRMAN: Mr. Ziprick.

R. ZIPRICK: In looking at the Act, the Legislative Counsel felt that it really tidies it up and would have been better to have it in the old Act. And it was inserted.

R. CHAIRMAN: The Honourable Member for St. James.

R. MINAKER: Mr. Chairman, it's my understanding it's primarily for clarification to dispel any doubts to why the Auditor shouldn't be funded in this manner.

R. CHAIRMAN: The Member for St. Johns.

R. CHERNIACK: So, how else could he be funded?

R. CHAIRMAN: 7(1)—pass; 6—pass. Section 7—pass; Section 8 . . .

R. CHERNIACK: Could we get clarification on that, Mr. Chairman ?

R. CHAIRMAN: Section 7.

R. CHERNIACK: I raised the point, I want to get clarification.

R. CHAIRMAN: Did you want Section 7 or Section 8?

MR. CHERNIACK: Section 7.

MR. CHAIRMAN: The Honourable Member for St. James.

MR. MINAKER: Mr. Chairman, this section has been amended to allow the Minister of Finance and the Provincial Auditor to negotiate those situations where it is no longer felt necessary that the Provincial Auditor pre-audit every payment from the Consolidated Fund.

MR. CHERNIACK: Mr. Chairman, that's exactly what I read into the present 11(4). It says that where pre-audit is not practical, the Minister of Finance may direct payment be made without pre-audit. That's what it says in the present law. Why does it have to take Section 10 out and say it doesn't apply? Because Section 10 deals with certification, I think.

MR. MINAKER: Mr. Chairman, it was to clarify that under Section 10(1) of the present Act, which reads, "Without limiting or restricting the responsibilities of any Minister, Deputy Minister, Departmental Officer or other persons charged with the administration of public moneys, the Provincial Auditor shall examine on behalf of the Assembly all accounts of expenditure of public moneys from the Consolidated Fund, whether held in trust or otherwise." So that, he would have to certify a payment out of that.

And then he also has to certify under 10(3), so it's with verification.

MR. CHAIRMAN: The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Chairman, it seems to me we're now being told that under Section 10 we must certify, and under Section 11 we don't have to. And assuming that he has been doing under 11 where he didn't have to, he's been in conflict with 10 where he did have to; and by God the Auditor himself didn't catch that what he was doing, or not doing, was contrary to the law. I don't know whether the Auditor shouldn't be blushing. Am I wrong in my interpretation of what the problem seems to be?

MR. ZIPRICK: Well, it's a clarification. I feel that under 11 when it was waived, that what was done in the pre-audit, then we would carry out a post-audit and so 10 would not apply. Obviously, in two of them couldn't apply.

MR. CHERNIACK: Mr. Chairman, I am amused, because it does appear as if there's been a conflict and yet we've been stumbling along and managing, I think pretty well, and labouring under what appears to be a real conflict in interpretation between 10 and 11. I think that, even though it seems to have been wrong all these years, and yet we managed, that the correction is probably advisable. I couldn't say it's necessary because we've been doing all right, I think.

I want to have some assurance that there will be a post-audit, that waiving 10 does not take away from the requirement that the Auditor has to doubly check what is being done by way of waiving his pre-audit by the Minister of Finance.

MR. ZIPRICK: No. No, we do not take it that the post-audit is waived. We carry out the post-audit to the extent necessary. But that's, of course, the payments have already been made.

MR. cherniack; Where does it say that?

MR. ZIPRICK: Well, that . . .

MR. CHERNIACK: Where is the requirement for a post-audit?

MR. ZIPRICK: The requirement for the post-audit would be in the regular checking of expenditures and that would be under 12(1).

MR. CHERNIACK: Okay.

MR. CHAIRMAN: 7—pass; Section 8, 12(1)—pass.

MR. CHERNIACK: Well, that's the new 12(1). How does the new 12(1) vary the old 12(1)?

R. ZIPRICK: There's a change in approach. The 12(1) here sets out that I'm the Auditor of the accounts, and I have to carry out an audit. Whereas previously, it really specified certain ways to carry out an audit. Now, that provision now is shifted into the reporting side, where these specific items are shown in the reporting. Because as far as the ways of carrying out the audit, this is very complete. There are additional audit procedures that are carried out in addition to that, as part of a general accepted audit procedures. So that this part here now just makes a statement that the Auditor carried out the audit. Then, what has been in the other section is now placed in the reporting requirements, to ensure that the same kind of things are still being given attention.

R. CHERNIACK: Mr. Chairman, I think I understand that. The question then is, . . . well, maybe should wait for 13(1) and ask the question then.

R. CHAIRMAN: 12(1)—pass — the Honourable Member for St. Vital.

R. WALDING: Mr. Chairman, I would like to ask either the Minister of Finance or Mr. Ziprick whether this section or perhaps some other section would permit departmental managers to appear before the Public Accounts Committee and answer questions?

R. CHAIRMAN: Well, I know who can answer the question. Mr. Ziprick.

R. ZIPRICK: No, this has got nothing to do with the Public Accounts. Whatever the Public Accounts does, it would have to be rules set by the Public Accounts Committee.

R. WALDING: I'd like to ask if there is anything in this Act having to do with the appearance of managers before the Public Accounts Committee?

R. ZIPRICK: No, as a matter of fact this Act has nothing to do with the Public Accounts. The report of the Auditor is referred to the Public Accounts by the Legislature, and not by this Act.

R. WALDING: Mr. Chairman, perhaps I can ask a question of the Minister of Finance then, as a matter of policy. This matter was discussed at Public Accounts Committee. My question, Mr. Chairman, is to the Minister of Finance.

R. CHAIRMAN: Well, he's not . . . can you direct the question to the committee?

R. WALDING: Well, it's a matter of policy, Mr. Chairman, that's why I'm directing it to the Minister rather than to the Member for St. James.

R. CHAIRMAN: I can see him, but I just don't see . . . order please. I don't see any way that you can ask the Minister of Finance to come in and ask that question. Now I . . .

R. CHERNIACK: Mr. Chairman, on a point of order.

R. CHAIRMAN: On a point of order, the Member for St. Johns.

R. CHERNIACK: I don't think you do have a right to ask the Minister of Finance to come in. I think that the Member for St. Vital has the right to ask him, and I think he's just asked them.

R. CHAIRMAN: I agree.

R. CHERNIACK: He's coming.

MEMBER: Mr. Chairman has the right to rule.

R. CHAIRMAN: But I have the right to rule as to what witnesses will be here, and I don't see anything in my jurisdiction. However, the Member for St. Vital jurisdiction asked me to call the Minister of Finance to come and answer a question at this Committee.

R. WALDING: No, Mr. Chairman, I did not.

MR. CHERNIACK: On a point of order. I believe the . . .

MR. CHAIRMAN: The Member for St. Johns on a point of order.

MR. CHERNIACK: . . . Member for St. Vital said out loud he'd like to ask the Minister of Finance a question. Nobody can force the Minister of Finance to reply, I believe.

MR. CHAIRMAN: Right.

MR. CHERNIACK: But the Minister of Finance, having heard the question, has the opportunity to reply, doesn't he? Well, you wouldn't tell him that, Mr. Chairman?

MR. CHAIRMAN: 12(1) — the Honourable Member for St. Vital.

MR. WALDING: Mr. Chairman, my question is to the Minister of Finance. It has to do with discussions that were held at the Public Accounts Committee. On this matter of departmental managers appearing before the Committee and answering questions as to the stewardship of particular programs. It was suggested to the members of the Committee, that this was a matter of policy that the government was looking into and that it would be dealt with when the new budget came before the House. Now, we have been told that it is not in here; I'd like to ask if the Minister or the government has made a decision on policy grounds as to whether it will require or permit departmental managers to appear before the Public Accounts Committee.

MR. CHAIRMAN: Now, can I advise the Honourable Member for St. Vital, he can ask the question of Mr. Balkaran, the Auditor or the Honourable Member for St. James or these gentlemen who are at the table. The Minister of Finance, unfortunately, is not sitting at the table.

MR. WALDING: Well, Mr. Chairman, the record will show that the Minister of Finance has answered the question.

MR. CHAIRMAN: The Honourable Member for St. James.

MR. WALDING: I will address it then, in his absence to his legislative assistant, the Honourable Member for St. James.

MR. CHAIRMAN: The Honourable Member for St. James.

MR. MINAKER: Well, Mr. Chairman, in reply to the Honourable Member for St. Vital, the particular section that we're dealing with is to clarify that the Auditor has the authority to discuss his audit with an appropriate official, and it's clearly defined — it does not deal with an actual department head coming before a Public Accounts. And at the present time, my understanding is that the decision of the government has not been made at this present time. But what we're dealing with at the present time is a section which allows the Auditor or clarifies that the Auditor can discuss his audit with the appropriate officials of various departments. It doesn't pertain to the Public Accounts Committee as such.

MR. WALDING: Mr. Chairman, I thank the Honourable Member for St. James. I do realize from previous comments that this particular section had nothing to do with the question that I brought up, but since I did observe the Minister of Finance in the room, I put the question to him to ask if he was willing to respond to this matter of policy, and I will give him the opportunity again if he wishes so to reply and let us know what the government's position is on this matter that the Auditor has raised several times with the Committee and with the government and has recommended several times to the Minister and to the Public Accounts Committee.

MR. CHAIRMAN: May I advise the honourable member that the Minister of Finance is not sitting at a table and I have no way that I can ask him to come here and respond to the question?

MR. CHERNIACK: On a point of order.

MR. CHAIRMAN: The Member for St. Johns on a point of order.

MR. CHERNIACK: It is my impression that we are sitting here at 12:45 at night or in the morning.

order I thought to accommodate the fact that the Minister of Finance would not be here tomorrow, and I thought we agreed to sit late tonight to deal with this bill in order to accommodate to the fact that the Minister of Finance wouldn't be here tomorrow. Are we sitting here late at night at this hour of the night, knowing we must come back tomorrow for any reason other than to accommodate the Minister of Finance? I thought that's why we agreed to sit late.

J. CHAIRMAN: Order please. I doubt very much if the Honourable Member for St. Johns has a point of order on the matter that he raised. It's a matter of who wants to sit at this Committee. I have no way as a Chairman to drag people here to sit at the Committee, so I don't think the Honourable Member for St. Johns had a point of order.

J. CHERNIACK: I was raising it for the House Leader to respond, if he wanted to.

J. CHAIRMAN: 12(1)—pass — the Minister of Finance.

J. CRAIK: Mr. Chairman, I think the question that basically was, has there been a policy established by the government, that they would bring managers of the various departments, etc., before the Public Accounts, and there has been no policy as such at this point in time.

J. CHAIRMAN: 12(1)—pass.

J. WALDING: Thank you, Mr. Chairman.

J. CHAIRMAN: 8—pass; Section 9—pass; that's 9 12(4) first of all—pass; Section 9—pass; Section 10 13(1)(a)—pass; (b)—pass; 13 (1)—pass; 13 and then (1.1)(a) okay—pass.

J. CHERNIACK: Mr. Chairman, I didn't hear what was said to . . .

J. CHAIRMAN: 13(1.1)(a)—pass — the Honourable Member for St. Johns.

R. CHERNIACK: I want to get a clarification as to why the wording has been reversed, so that an Auditor has to report what he sees is wrong, rather than report as the old section reads in a positive way.

R. ZIPRICK: This wording has been lifted from Canada's, it's the same as Canada's and . . .

R. CHERNIACK: Mr. Chairman, Mr. Ziprick has given us the source, but he has not given us the explanation as to the reason. Does that make it right, because Canada had it?

R. ZIPRICK: We've always reported on an exception basis, so that really I guess that's the reason that it's consistent with the method of reporting.

R. CHERNIACK: So, we're adapting the Act to be in accord with the practice.

R. ZIPRICK: That's right.

R. CHERNIACK: And the practice has not been in accord with the present Act. Is that correct?

R. ZIPRICK: Well, it wasn't clear.

R. CHERNIACK: Boy, that old administration was a sloppy administration.

R. CHAIRMAN: 13(1.1)(a)—pass; (b) — the Honourable Member for St. James.

R. MINAKER: Mr. Chairman, just for the information of the Committee, I believe that the positive approach takes place under Section 12, and I think under this section we're dealing with is it's a part of a generality of the responsibilities of the Auditor, but I think if we look under Section 12, then we'd take the positive approach under that section.

R. CHERNIACK: Mr. Chairman, I'm sorry that he can't get away with that. Section 12 deals with

Law Amendments
Thursday, June 14, 1979

his examination; Section 13 deals with his reporting, so it's two different things. Sorry, that was a good effort, but it didn't succeed.

MR. CHAIRMAN: 13(1.1)(a)—pass; (b)(i)—pass; (b)(ii)—pass; (iii)—pass; (b)—pass; (c)—pass; (— the Honourable Member for St. James.

MR. MINAKER: Yes, I believe that as the First Minister indicated that we were listening with interest to the opposition with their contribution to the debate on this particular bill, and that not only the Honourable Member for St. Johns, but also the Honourable Member for Inkster had indicated concern under sections (d) and (e), and I believe that it might be in order that we review this section because of the importance of it, and that possibly we might look at an intersessional study by the Public Accounts' Committee on this section, and I think this might be considered by the Committee at this time.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: Mr. Chairman, I move that the proposed Clauses 13 (1.1)(d) and (e) to The Provincial Auditor's Act as set out in Section 10 of Bill 3 be struck out.

MR. WALDING: On a point of order, Mr. Chairman. Mr. Chairman, I believe the accepted practice is simply to vote against what you don't want in rather than to move it be taken out — it's the simplest way.

MR. CHAIRMAN: May I have a clarification for the Auditor from the Attorney-General regarding this . . .

MR. ZIPRICK: Regarding Section (d), we've been carrying it out . . .

MR. CHERNIACK: Mr. Chairman, we have a Motion. We could debate it if you like, Mr. Chairman but there seems to be an indication to withdraw it so why . . .

MR. CHAIRMAN: If the committee would first give me a chance to . . . The Provincial Audit has asked for clarification. Now, am I out of order by permitting him to have this matter clarified?

MR. GREEN: Well, Mr. Chairman, I believe that it is out of order. I believe that the Provincial Audit is called upon by members of the committee, and really what he is carrying out is beside the point. The minister and the members have indicated that they don't want these clauses, and I think I'm right, and I don't think it will interfere with the Auditor's functions and therefore they should be removed.

MR. MINAKER: Yes, Mr. Chairman. It's my understanding at committees that I've sat in for the last six that if a member of that committee makes a Motion that a section is deleted, that it's quite in order. We have amendments quite often . . . The Honourable Attorney-General has made a Motion that Sections (d) and (e) be deleted, and I think it would be in order that we vote on that Motion.

MOTION presented and carried.

MR. CHAIRMAN: So that's (d) and (e). So then 13 (1.1)—pass, as amended; Section 11 (13 — the Honourable Member for St. Johns.

MR. CHERNIACK: I made the point that I didn't quite understand the procedure here — last year on we're going to deal with the Auditor making a special report, sending it to the Speaker for distribution, but when he deals with his regular report, apparently he's expected to send it to the Lieutenant-Governor, which may direct that copies be sent to members. I made the point and it was not a big point; it's not a big deal, but why shouldn't it be sent to the Speaker for distribution or to the Clerk for distribution?

MR. MINAKER: Well, Mr. Chairman, it's my understanding that the Minister of Finance traditionally has tabled the Provincial Auditor's Report, and this section really just clarifies the distribution process. I think the years that I've been here that it's normally come through that avenue, strictly

Law Amendments
Thursday, June 14, 1979

clarify it.

R. CHERNIACK: Yes, well then my question is why the “may?” It seems to me it should be, “shall direct that copies be sent.” Maybe Mr. Balkaran can clarify the reason for the “may” instead of the “shall” — 13(3).

R. CHAIRMAN: The Member for St. James says he has the answer.

R. MINAKER: Well I think, Mr. Chairman, that under Section 13(2) of the present Act that it very clearly defines that the minister shall submit the report before a certain deadline.

R. CHERNIACK: The point, Mr. Chairman, is “It shall be filed within 15 days after commencement of the ensuing session.” But 13(3) enables, and I think it should require that it be sent to the MLAs when the session is not on, which I believe is the practice.

R. MIAAKER: Well, Mr. Chairman, I would have no objections to the word being changed from “may” to “shall”.

R. CHERNIACK: See look at the great accomplishment.

R. CHAIRMAN: Well, by mutual agreement can we change the word to “shall” or do we have to move it officially? (Agreed) 13(3) as amended then — pass; 13(4)—pass; Section 11— pass; 12—pass; 14—pass — the Member for St. Johns.

R. CHERNIACK: I don’t know just the right point, but I’ve already discussed with the Auditor and I felt that there should be a requirement that he review all financial statements of Crown Corporations. I mention it now because I’m not sure if it belong in 14, or maybe it belongs in Section 13, etc. And if the Auditor can point out where it belongs then I’ll raise it at that stage.

R. ZIPRICK: Section 17.

R. CHERNIACK: Okay. Then I’ll wait for that, Mr. Chairman. Could the Auditor explain the effect of the change in 14 from the previous?

R. ZIPRICK: Essentially there is no change; the reference See, this replaces 14(1) and that essentially is the same, and 14(b) is a requirement, whether he has obtained all the information that’s already provided in another place so that there’s no change.

R. CHERNIACK: Tidying it up is the word.

R. ZIPRICK: Yes.

R. CHAIRMAN: 14—pass; 12—pass; 13—pass; Section 14; 15(2)— pass; Section 14—pass; 15; 16(1)—pass — the Honourable Member for St. Johns.

R. CHERNIACK: I just want to know, what’s the point to this? What’s the point to changing 14? Is there a change there?

R. ZIPRICK: Well, the Minister of Finance has changed that. The Department of Finance has made that change.

R. CHERNIACK: You better watch that. Mel Anderson got his hands on it.

R. MINAKER: Well, Mr. Chairman, it’s tied to Section 15(2) of the Act, whereas if the Auditor would not perform the Act, then under 15(2) where the Provincial Auditor is of the opinion that the examination audit which he has been directed to make under Subsection (1) interferes with his primary responsibilities, the member of the Executive Council charged with the administration of the Financial Administration Act may employ someone to make the examination and audit directed. So because of that addition, the Section that we’re dealing with, this Section was added to clarify how the special audits ordered in Section 15 could be paid for. The Section is broad enough to allow payments from any source or combination of sources. The rate would be set under Section 15(2) by the Lieutenant-Governor-in-Council.

MR. CHAIRMAN: 16(1)—pass; 16(2)(a)—pass; (b)—pass; 16(2)— pass; Section 15—pass; Section 16; 17(1)—pass — the Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Chairman, at this stage the Auditor is given the opportunity, I think that probably the word to use, to ask questions about accounts of Crown agencies which he himself has not audited. The government is obviously and very clearly intent on taking from him the audit which have been assigned to him up to now and giving them to him or a private auditor, but the policy is clearly enunciated that they intend to use private auditors. And accepting that, from the point of view of dealing with this section, I think that the Auditor ought to be required to have a look at those statements, and see if they satisfy him. Let me make this point, Mr. Chairman we've had lots of debate, vituperative and otherwise, as to what our policy was in relation to having the Auditor do these Crown agency audits. I want to tell the committee that I discussed this with Mr. McFee, Mr. Ziprick's predecessor, a long time ago, and one of the problems that arose according to Mr. McFee, and Mr. Ziprick may be able to confirm it or correct me, was that it was found that certain audits that had been done by private auditors in the past, did not follow the same kinds of procedures, which then, I guess he was called the Comptroller, or whatever he was called, whatever Mr. McFee's role was — the kinds of procedures that he had adopted which I thought were applicable to the expenditure of public moneys, as compared with the private audits which dealt more with business accountability, taxation and other features. And that was probably one of the greater motivating forces in deciding that Mr. McFee and his group should conduct the audits, the point being that there would be a form of uniformity of approach that would apply to all audits. Now, that was probably the greater consideration.

Now the other consideration to us was that we felt that it could be done more cheaply by the Provincial Auditor and at times that suited his organization. Now, the government has, for its own reasons, and I certainly dispute them, because I think it's a phony statement to say that it is being done to help the Auditor — I'm sure the Auditor didn't request it, and I'm sure the Auditor did not need to be relieved of the responsibility — I'm sure he was capable of doing it. One statement was made that it would make it more independent, and I said that I noted that when Mr. Ziprick was asked to comment on the independence of outside auditors, he was upset at the thought that he was less independent than they were. I think the First Minister challenged my comment; I stick by it. I think that he did not accept the thought that any private auditor could be more independent than he, one point.

The other point was that he never, I believe, found it necessary to be helped by private audits as described by the First Minister. So I say those reasons were phony. The acceptable reason was that the government decided they wanted to employ private auditors, and I, for one, don't think that they're going to do a bad audit or a wrong audit; I think they're going to do a more expensive audit — more important, that's the point I'm getting at. Their audit ought to be done in such a way that the Provincial Auditor, on behalf of the Legislature and the people of Manitoba can fully comprehend it, understand it, and be able to ask questions about it, and therefore, what I would like to see and I hope Mr. Minaker could accept a suggestion, if Mr. Ziprick concurs in it, is that the Auditor's statements that are presented by auditors other than the Provincial Auditor should be required to be reviewed by him. The difference, the nuance, if it's just a nuance, is that he should be required to look at them, rather than he may, if he wants to look at them. And that's really the difference. I know Mr. Ziprick well enough to know that he would look at them, but he is going to be succeeded all too soon by another Provincial Auditor, and I want to make sure that the Provincial Auditor is expected and required to do so. I wonder if Mr. Minaker would consider the change in the provision of the legislation, after Mr. Ziprick's comments.

MR. CHAIRMAN: Mr. Ziprick.

MR. ZIPRICK: The question, I recollect, was what would be the difference. The auditors that carry out the audit, carry it out for certification of financial statements. When we are carrying out the audit, we are carrying it out under The Provincial Auditor's Act, which has a broader responsibility than just certification to the financial statements, because the onus is placed on the Provincial Auditor and on its requirements are broader than just certification to the financial statements. So that's the difference.

MR. CHERNIACK: Mr. Chairman, at ten minutes after one o'clock in the morning, I think I heard Mr. Ziprick make a statement which prompts me to question again the government's decision to employ outside auditors. I want to know if I understood correctly that Mr. Ziprick is saying that the nature of his audit, under The Financial Administration Act, is such as to do a broader — a

at to me means a more intensive or more comprehensive audit — than the kind of audit that could be expected to be received from private auditors. Am I rewording Mr. Ziprick's statement incorrectly?

R. ZIPRICK: That's correct, and Section 17 permits me to carry out that portion that the private auditors will not carry out and I still intend to do it, and report to the Legislature.

R. CHERNIACK: Mr. Chairman, I think this is really an important statement which is new to me, I must say. You know, we have been accused of changing things and bringing in the Auditor, and tried to describe why it is that when I discussed it with it with Mr. McPhee I decided that it would be better to have him do the audit, and I don't know that I really comprehended that the nature of his audit was more extensive. I knew that he felt it was more in accord with a certain system of approach he had, but now we are finding out, Mr. Chairman — I think this is really important that it is costing the Crown agencies \$100,000 more than they were paying the Provincial Auditor for the audits that they were getting are less broad — is that the word? — than that of the Provincial Auditor, and he has to add his input to satisfy his needs.

Now, Mr. Chairman, I'm putting it in words which I think are a rewording of what Mr. Ziprick said, and if I'm right that's a very important accusation I am making. But not only did we feel that was a wrong decision to make from the standpoint of money, now I am beginning to sense or infer from what was said, that it's inadequate and must be augmented by the Provincial Auditor. Where's all this talk about an independent audit? And worse, what is all this talk about helping the Auditor if indeed, he has to go back, review what was done and add to it?

Now let's remember, the First Minister said again today why this is being done: to help the Auditor. I said that's nonsense, apparently.

R. CHAIRMAN: The Honourable Attorney-General.

R. MERCIER: Mr. Ziprick, what prevents you from requiring outside auditors to do the same kind of audit that you would do if you were auditing one of these accounts?

R. CHAIRMAN: Mr. Ziprick.

R. ZIPRICK: I'd have to contract with them and then they'd have to report to me on the portion of the audit that they do, to comply with The Provincial Auditor's Act.

R. MERCIER: In your correspondence with the private auditors that you referred to earlier are you not, in fact, asking them to do that?

R. ZIPRICK: No, we presently are going to do it ourselves.

R. MERCIER: This has been your decision?

R. ZIPRICK: The Act, the way I prepared, was that they would do this and report to me. The private auditors feel that reporting to the Board and reporting to me may put them in a somewhat difficult position, so they prefer not to report to me. So I'd be looking at the reports of the private auditors in the agency and then carrying out what, in addition, I was required to comply with my legislative requirement with my own staff.

R. MERCIER: What do you have to do in addition?

R. ZIPRICK: Well, the addition, such things as tendering, budget systems and these kinds of operations.

R. CHAIRMAN: The Honourable Member for St. James.

R. MINAKER: Mr. Chairman, it's my understanding that the intent of Section 17 is to safeguard what the Honourable Member for St. Johns is concerned about, that it gives the Auditor the overview looking at the audit and safeguarding any situation which might occur, where he would approach the Board or a commission and make requests for certain items, and if they were refused that he would then proceed to the LGC. So I think the Honourable Member for St. Johns recognizes that we are dealing with professional people who have ethics like he and I have as professional people, that they presumably would do a proper audit. But if there is a situation that occurs, the authority

of the Provincial Auditor is there, that gives him the independence so it doesn't place him in jeopardy that under these sections he can do the proper procedures to make sure that a proper audit is followed through. And then further to that, later on in the Act there are sections dealing with the special audits that further safeguards any situation which the Honourable Member for St. John might consider himself occurring.

MR. CHAIRMAN: The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Chairman, I appreciate the response and I really appreciate the fact that the Attorney-General was listening and is reacting because I really think this is important, Mr. Chairman. It is not a question in my mind of the ethics of the private professional doing the audit. He will be doing it with all his ethics intact and with all his skills, no doubt to the best of his ability but he will be doing it in the light of a private audit in the commercial sense as is done. And Mr. Ziprick has made it clear that that may suit the shareholders of a private corporation but it does not suit the requirements of government as set out in The Financial Administration Act and he would therefore, have to have additional input and he said so and the Attorney-General got that from him.

So, Mr. Chairman, if the government is intent — and I believe it's intent — and I think that the government is . . . I never know what it means but I think it's "hoist with his own petard," I must find out just what that means and it will not back away, at this stage, from its decision to employ private auditors. You know, I think they did wrongly and I think that they're trapped. They can't admit that they did wrongly. So I accept the fact that they're going ahead with it.

But Mr. Ziprick pointed out that he had suggested — and that's why I made it a point to attempt to correct the Minister of Finance when he spoke on Second Reading — Mr. Ziprick says that I had suggested that the reports be sent to him. And that was not done in this bill and they are not reporting to him, and therefore he has to use special powers to go back and review what they're doing and ask questions.

Now, I am now in a position where I have to deal with a government that's in control and whom I want to try to influence to improve the system. This is a bill in the interests of the House and the people and is not here to serve government. I wish I could persuade government to accept Mr. Ziprick's original request and make these reports that they have to report to him. I wish they would do it. But if they don't do it then I would want to say that he shall be required to review them. Well, it's not quite the same thing but I don't want it to slip between two stools and, first that they don't report to him and, secondly, that he may overlook the need to look over their statements. I don't mean Mr. Ziprick; I mean the Provincial Auditor, whoever he may be.

I would point out that under the sections we have yet to deal with, dealing with specifically named Crown corporations, we will be taking away from him entirely the responsibility for the audit because we will be saying that the Lieutenant-Governor-in-Council may appoint, "shall" appoint an auditor who "may" be the Provincial Auditor. Now, we know the intention is that he should not be appointed. It will be a private corporation appointed. That's the reason for the change. And once that's appointed then I have to point out to the Attorney-General that indeed the audit is expected by Mr. Ziprick not to be adequate, and he then expects that he would have to broaden it.

Now, I don't question the competence of private auditors; I don't question the ethics of private auditors. I do say they have, by tradition and by practice and by their own professional requirement don't have the extensive obligation to review accounts to the same extent and the same manner as the Provincial Auditor has in dealing with public moneys. Let us remember that the Provincial Auditor is not there to look for the greatest savings and the greatest profit, whereas in the commercial corporation it is more related to savings, efficiency and profit, and the Auditor has to make sure that the will of the Legislature and the will of the Minister is carried out to carry out program not to produce a profit. And obviously the motivation is slightly different and he has to do more.

Now, since I assume — and I wish somebody would stop me and say I can persuade government to change it — since I assume I cannot persuade them to change their minds about appointment of private auditors, at least agree that their reports shall be made to the Provincial Auditor and then the euphemistic expression used by the First Minister that they are there to help him make in some way, prove to be a prediction and truthful, by making sure that they report to him and then he will review it and add what is on it. The extra cost is the burden of government.

But the point I am making I think has great validity and I would really like to persuade government to have a good look at what we're doing and improve the bill, and that's what Law Amendment is about, not just to slap down the Opposition when it makes a point but rather — and this has been done often — I shouldn't have put it that way. I want to persuade government to have a look at this from the standpoint of the best method of achieving accountability and the best method

if having proper reporting in a proper system, rather than proceeding with what has been the range.

R. MINAKER: Mr. Chairman, it's my understanding that this particular section has been drafted in accordance, basically, with what the Government of Canada operates under and that what the honourable Member for St. Johns is requesting is similar to the way that the Province of Ontario operating under, and I understand that Canada's legislation is operating quite satisfactorily where the Province of Ontario isn't. I would maybe ask through you, Mr. Chairman, to the Provincial Auditor, that's the same understanding that he has and this is why, basically, that the bill has been drafted in this manner.

R. CHAIRMAN: Mr. Ziprick.

R. ZIPRICK: Ontario's Act is pretty tight and really the Auditors are working for the Provincial Auditor of Ontario and where they are having difficulties, as I understand it, is the work papers. The Auditor has to review the work papers and really direct the audits very closely, and that's getting somewhat unwieldy.

R. CHAIRMAN: 71—pass — the Honourable Member for St. Johns.

R. CHERNIACK: Mr. Chairman, have we not persuaded that we don't have to go all the way in Ontario, but the fact that Canada doesn't, doesn't make it right or the fact that Mr. Ziprick would advise to recommend that they report to him is a fact. He said so. So that this Act is not in accord with his recommendations and rather than have to look at work papers shouldn't it be a minor change of saying that the report shall be made to him? Now he says they don't like it and that doesn't mean that we have to make our law in accord with what the private auditor wants. The report should be in accord with what we think is right. And if we have respect for Mr. Ziprick's opinion and his integrity and you do know that I've accepted his opinion on some matters in this bill where I had a different point of view, but I accepted it because I believe in his independence and objectivity, I want to ask again whether the Attorney-General or Mr. Minaker would be prepared to make the change to provide that the report shall be to the provincial auditor. That then means that he has the responsibility and the obligation to look it over. Not that he may intrude, which is the way I see in these sections, he has the right to intrude himself there and I don't think he should have to have that right to intrude, he should have the right to receive and review.

Now I — you know, it's late enough. I don't want to make a big issue of it if I'm not being that all persuasive. Let's hear that my point is rejected and the responsibility is no longer mine.

R. CHAIRMAN: 17 (1)—pass; 17 (2)—pass; 17(3) —pass; The Honourable Member for St. Johns.

R. CHERNIACK: Mr. Chairman, have we passed everything up to here?

R. CHAIRMAN: 17 (3) were at.

R. CHERNIACK: Okay.

R. CHAIRMAN: 17(4)—pass; 17(5)—pass; 17—pass; Section 18, Subsection 1—pass; 3(2)—pass; Section 18—pass; Section 19 —pass; Now 16—pass; 17—pass; 18(11)(iii)—pass — the Honourable Member for St. Johns.

R. CHERNIACK: Mr. Chairman, I'll make this statement and it is to apply to Section 19 and I think the others. Mr. Chairman, I think it's really a disgraceful show that we have before us. We've talked about private auditors. We've talked about their supposed assistance to the auditor, the dependence, it's all nonsense, Mr. Chairman. This government in its dogmatic way has decided that a private auditor is better to use than the provincial auditor and has thought up excuses which are not correct, which they have not supported, they've just made the statements. It is proven now that it is more expensive. It is proven to my satisfaction and supported only because Mr. Ziprick said so, because I don't know anything about audits, that their audits are going to be less extensive and less complete than his, that they are being brought in because the government dogmatically is so committed to the private enterprise system that they can't even recognize that a provincial auditor who is the appointed servant of the people, is more capable of doing an objective job than the private auditors and I want the Attorney-General to know that to be consistent he ought to

fire each and every one of the people who works for him and go out and get the law firms that he favours for whatever reason and let them do the law work for him.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: Mr. Ziprick, you've indicated the private auditors will go as far as certification of accounts, was that . . .

MR. ZIPRICK: Financial statements.

MR. MERCIER: Financial statements. You're not suggesting that those will be done to any lesser extent or less ably than your own auditors would do it?

MR. ZIPRICK: No.

MR. CHAIRMAN: The Member for St. Johns.

MR. CHERNIACK: But, Mr. Ziprick in your audit you go beyond that which you know the private auditors employed by the government will do. Is that correct?

MR. ZIPRICK: Yes, we go beyond the certification of the financial statements, and we would carry out the requirements of The Provincial Auditor's Act.

MR. CHERNIACK: And unless there is some change in these amendments you cannot expect that private auditors to have to carry out the audit to the extent that you are required to under The Provincial Auditor's Act. Is that correct?

MR. ZIPRICK: That's correct.

MR. CHERNIACK: Your turn.

MR. ZIPRICK: But I will be carrying out under Section 17, the remainder so that the accountability to the Legislature will not be diminished.

MR. CHERNIACK: So, Mr. Ziprick, it will be necessary from your standpoint to have the private audit done by the private auditor, and then you will have to add to that your input in order to have compliance. Is that correct?

MR. ZIPRICK: Yes and that will basically consist of an overview of the financial statements and their reports and certain areas that would be a requirement of my Act.

MR. CHERNIACK: And you have told us that the Crown agencies will be paying about \$100,000 more for the privilege of having private auditors than they have been paying to you. That correct?

MR. ZIPRICK: That would probably be about right except that it must be appreciated that not all costs are not all costs.

MR. CHERNIACK: I think we also appreciate the fact that your costs are not any less because of the fact that you're not doing the audits except to the extent of the personnel that involved.

MR. ZIPRICK: Yes, but I just want to make sure that this \$100,000 is not an overcharge by the private auditors, that their charges are quite reasonable and the difference arises because what we charged were not all the costs.

MR. CHERNIACK: Yes, because we have confirmed that the space you occupied, the telephone you use, the lights, the power that you use are all continuing whether or not you do the private audits. Is that correct?

R. ZIPRICK: Well they're continuing but no billing is made for this. We are not billed, my appropriation isn't billed and we didn't bill it out, and that's set out by the Lieutenant to how the billing is supposed to be made.

R. CHERNIACK: Right, and your charges do not include a profit which the others do and for which neither you nor I begrudge them.

R. ZIPRICK: They have to operate at a profit or otherwise there would be no business.

IR. CHERNIACK: All right, so now we've agreed. We've agreed and I don't quarrel with your statement that from their standpoint they are not being unreasonable. The fact nevertheless is it will cost \$100,000 more, more or less \$100,000 more, and in addition thereto you will have an input which will also cost some money. Is that correct?!

IR. ZIPRICK: There will be some costs but not significant.

IR. CHERNIACK: All that in order to comply with the government's decision to have private auditors and at the same time produce the same finished product that they would get if you did the audit. Is that correct?

IR. ZIPRICK: As far as I'm concerned there's the two systems, that I do the audit or the private auditors, and I do whatever else is needed. I find both systems to be satisfactory and there is no doubt that with having private auditors involved there is a broadening of involvement, and some element of check involved. I can't deny it. Now how much that's worth I won't pass on.

MR. CHAIRN: The Honourable Member for St. Vital.

MR. WALDING: Mr. Chairman, I'm glad that the Attorney-General is involving himself in the discussion on these matters because I'd like to ask him a question if I may through you. I note, Mr. Chairman, . . .

MR. CHAIRMAN: . . . I'll have to — with his permission you — because he is not sitting at the table here tonight as the Minister . . .

A MEMBER: No he's just right here.

MR. CHAIRMAN: He's sitting across the table from you, Sir, and if he cares to answer the question that's his prerogative, but it's with leave that we must give you the permission to ask the question of the Attorney-General.

MR. WALDING: Really, Mr. Chairman!

MR. CHAIRMAN: Right — we're not dealing with the Attorney-General's department here. He's not the Minister of Finance —(Interjections)— You have the leave of the Chair, Sir. You can question the honourable member here or the Provincial Auditor . . .

MR. JENKINS: Mr. Chairman, on a point of order. Either the Attorney-General will answer it here or answer it in the House. I mean if you want to get sticky about it . . .

MR. CHAIRMAN: Well, I'm sticky about it, I am the Chairman of . . .

MR. JENKINS: At this time of night I think it's dam ridiculous.

MR. WALDING: Well, Mr. Chairman . . .

MR. CHAIRMAN: Just let me clarify how that I as the Chairman of this Law Amendments Committee dealing with Bill No. 3, can give the Member for St. Vital the right to question the Attorney-General. Now if you show me —(Interjection)— under this vehicle . . .

MR. CHERNIACK: It's the section dealing with The Lotteries Act which come under him.

MR. CHAIRMAN: Order please. I'm not dealing with the Honourable Member for St. Johns. I'm dealing with a point that's raised by the Honourable Member for St. Vital, and if the members of the committee are prepared to let me allow that, I'm prepared to allow the question. But I don't see how I have that permission.

MR. WALDING: But to the same point of order, Mr. Chairman, you are very aware I'm sure that we all are that all comments made at the committee and in the House are directed to the Chairman and that when I ask the question I will direct it to the Chair, but indicating that the Attorney-General might wish to take particular heed of it and might wish to respond to it. So in order to attract his attention to the question that is coming up, I use his title in the preamble to the question. That was really the only reason for it. I didn't want to get into any technicalities as to whom I may not address a question, Mr. Chairman. That completes my point of order.

If I may now go to the question to ask you, Mr. Chairman, given the fact that I notice that the bill comes into effect on the day it receives the Royal Assent which may be in a few days time we know from replies from the Minister of Finance and from other spokesmen from the government that the government has in the past entered into contracts and agreements for the auditing of various Crown corporations with persons other than the person who is presently as of today, required to do that audit. My question to you, Mr. Chairman, is, is this not in conflict with the present legislation and I would seek a legal opinion from any member around the table who is prepared to give as a Law Officer of the Crown or anything else; whether the government has been in breach of its own legislation in awarding these contracts outside as is allowed by this bill but prohibited by the Act?

MR. CHAIRMAN: May I suggest to you, Sir, that you raise that question in the house tomorrow — (Interjections) — Well, the Legislative Counsel if you so desire.

MR. BALKARAN: Mr. Chairman, I don't know if I can satisfy the members of the committee except to say that my information is that there's been no formalized contracts yet, you know, there's been letters of intent, but that no formal contracts have been entered into so that technically in my view as yet, there's been no breach of the existing legislation.

MR. CHAIRMAN: My apologies to the Honourable Member for St. Vital. I apologize, and accept his question.

The Honourable Member for St. Vital.

MR. WALDING: Mr. Chairman, we have been informed that all but one, in all cases but one, that an agreement — and I believe that was the word — has been entered into with different auditing companies, and that in at least one case where we've been told of it directly — that is the Telephone System — that the auditors have commenced to do their work. Now, what the legalities are, actually signing a contract, not being a lawyer, I couldn't give an opinion on. But the fact that an agreement has been entered into, and one of the parties has begun to do the work that he has agreed to do, suggests to me a contract in fact, if not into the last final letter of the law.

Now, that's what I am questioning here, is the government not in conflict with its own laws?

MR. CHAIRMAN: Mr. Balkaran. Can you answer that question?

MR. BALKARAN: Mr. Chairman, I'm not so sure that the Honourable Member for St. Vital would be satisfied with what I have to say. I think, in the Civil Service itself, as an ongoing thing we often have Civil Servants recruited from various parts of the country. Recently there was at least one person to my knowledge who came from the federal government and the formal appointment wasn't made until maybe a month later, after he was already in the government service here. My information is that Letters of Intent, or part-performance, if you like, of some of these contracts have taken place but that formalization of the terms, and final terms, might probably take place after this bill has been passed.

R. CHAIRMAN: The Honourable Member for St. Vital.

R. WALDING: Mr. Chairman, I wouldn't dream of entering into a legal argument with Mr. Balkaran. It is, in the case that he quotes, if his friend had agreed to work for the government, and was being paid by them, and the government had agreed to employ that person, and was paying him, would that not constitute a contract, just as surely as if it had been written down in black and white?

R. BALKARAN: Mr. Chairman, in the instance cited, no payment was made until a formal contract of employment was signed and the Order-in-Council passed.

R. WALDING: The question still stands, Mr. Chairman, since the agreement had been made by both parties, did that not constitute an agreement, just as much as if it had been set down in writing?

R. BALKARAN: That's true, Mr. Chairman. That's true.

R. WALDING: Then the original question still stands, Mr. Chairman. Has not the government been in breach of its own legislation, in entering into such a contract with firms of private auditors, to begin and actually do the work, in auditing the books of Crown corporations?

R. CHAIRMAN: Mr. Balkaran. Mr. Ziprick.

R. WALDING: And, in posing the question originally, Mr. Chairman, you will recall that I mentioned the Attorney-General, hoping that I would get a response from him.

R. CHAIRMAN: I apologize to the honourable member. The Attorney-General, this is not his Bill, and if he wishes to answer it, that's his prerogative. In the meantime, if he doesn't, I only have the alternative of Mr. Balkaran or Mr. Ziprick. The Honourable Member for St. Vital.

R. WALDING: I realize that, Mr. Chairman. I'm sure that the record will show that the Attorney-General did not respond to my question.

R. CHAIRMAN: Mr. Ziprick.

R. ZIPRICK: In these particular instances, the Letter of Intent is with me, not with the government. And in all these the proposal's been made to me, and I accepted the proposal, and that would be on individual employee, or individual auditor basis. So that just like in any other situation, the government approves the rates, but the Letter of Intent, or the proposal letter, was addressed to me, and I've accepted it. And they are working for me.

R. CHAIRMAN: The Honourable Member for St. James.

R. WALDING: I hadn't finished.

R. CHAIRMAN: The Honourable Member for St. Vital.

R. MINAKER: I was going to answer the question to the Honourable Member for St. Vital, but . . .

R. CHAIRMAN: The Honourable Member for St. Vital.

R. WALDING: I want to see if I have Mr. Ziprick's comments clear. He is saying that a contract exists between — or a Letter of Intent, between the government and the Provincial Auditor, but there is no agreement or contract between either the government or the Provincial Auditor on the one hand, and the private auditors on the other — is that what he's saying?

R. CHAIRMAN: Mr. Ziprick.

R. ZIPRICK: No, I'm saying, in these cases where I'm the Auditor of record, the private auditor's proposal is to me and the acceptance is by me. The government approve the rates to be paid, and that would be the same as the government approves the pay that I'm going to pay any auditor

on my staff.

MR. WALDING: Mr. Chairman, is Mr. Ziprick telling us that a proposal came from a firm of private auditors to him, saying that they were prepared to do a certain job at a certain rate, and that on the instructions of Cabinet, or the government, that he agreed that they would so do?

MR. CHAIRMAN: Mr. Ziprick. The Honourable Member for St. James.

MR. WALDING: Can I repeat the question, Mr. Chairman?

MR. CHAIRMAN: He says he has the answer, too, so I . . . Okay, now, Mr. Ziprick.

MR. ZIPRICK: I'm sorry, I was distracted.

MR. CHERNIACK: It's 1:45; you're entitled to be.

MR. WALDING: Is Mr. Ziprick telling us that he received a letter from a number of different private auditing companies, suggesting that they would be prepared to do this work for a certain rate at a certain fee, and that the Cabinet, the government, agreed with that rate, and that this is the basis for the work being done?

MR. ZIPRICK: That's right.

MR. WALDING: So, in that case the contract would then be between private auditing firms on the one hand and the Provincial Auditor on the other hand.

MR. ZIPRICK: That's correct.

MR. WALDING: Is the Provincial Auditor satisfied that he had the authority to enter into agreement with an outside company to do work that he was required by statute to do himself?

MR. ZIPRICK: That's the point we dealt with at the start, that I can't enter into agreement with a company, but I can enter into agreements with individual auditors. And this is the kind of red tape that we have to go through, and the amendment here that's gone through will make it possible for me to also contract. Because I've done it on a number of occasions, and I have to contract with the individual, not the firm. So, in this case, I'll have to contract with the individual auditors.

MR. WALDING: Mr. Chairman, I'm trying to get clear what happened in the past. The Auditor says that his contracts were with individuals. Is he now suggesting to us that he received letters from individual auditors who worked for a company, that those individual auditors were prepared to do the auditing work on various Crown corporations, at a certain rate?

MR. ZIPRICK: No, I've got a letter that the firm will do that, and will make the auditors available — qualified auditors available. Now, the auditors are working, I know which auditors they are because they are working under the direction of my auditor, and I see no particular problem.

MR. WALDING: So the Letter of Intent came from the company in each case, to you, Mr. Ziprick.

MR. ZIPRICK: That's right.

MR. WALDING: So the contract . . .

MR. CHAIRMAN: The Honourable Member for St. Vital. Would you just give me a chance to put it in the record, please.
The Honourable Member for St. Vital.

MR. WALDING: Yes, Mr. Chairman. So, the contract that we have agreed earlier exists verbally if not down in writing, exists between the company who wrote to you, on the one hand, and yours on the other.

R. ZIPRICK: That's correct.

R. WALDING: So, then, Mr. Chairman, I come back to asking Mr. Ziprick, is he satisfied that he had the authority to enter into a contract with a private company to audit these books, when a statute requires him to do it personally?

R. ZIPRICK: I can't do it personally, under any circumstances. I have to have staff, and whether the staff is provided by contract, or by permanent appointment, as long as it's qualified staff, it doesn't matter to me.

R. WALDING: Mr. Chairman, when I said "you, the Auditor" I was using a similar expression to what is used in the Act, that requires the Auditor to audit the books. Now, I realize that Mr. Ziprick doesn't sit down and do the work personally, that people in his department, or his employ, go out and do the work. But it's still under his responsibility. Now, the question still remains, was Mr. Ziprick entitled, under the statute, to contract with a private company which had written to him asking for the work, when the statute says that the private auditor shall do the work.

R. ZIPRICK: Well, my understanding is that I can contract, as long as it's for specific individuals.

R. WALDING: But, Mr. Ziprick, you have told us earlier that it was a private auditing company that wrote you a letter, offering to do that work at a certain fee, and that's with whom you have a contract.

R. ZIPRICK: I've been doing this for quite a while, and any assistance I've been getting from private firms, I've arranged with the firm, and then they designate the person, and that's the person, at the agreed rates that I'm paying for his service. And the government does that, and has been doing — hiring people on contract from firms for years, and I see no particular problem.

R. WALDING: Let me ask a little different question, Mr. Chairman. The Minister of Finance made an announcement by press release, back in December, perhaps, that certain companies which he had named would do the auditing work for certain named Crown corporations. Now, did that news release come about subsequent to Letters of Intent from private companies or was it the other way around?

R. ZIPRICK: The companies were contacted, and they said that they would submit proposals. At the time the news release came out, it was still not accepted, because we had no quotations of fees or anything. So it was just a release that the negotiation will take place. If the rates were satisfactory, fine; if not, then there'd be negotiation with somebody else.

R. WALDING: Mr. Chairman, I'm trying to get clear whether the government specified the companies and then the companies wrote their Letter of Intent to Mr. Ziprick. Was that the order in which these events happened?

R. ZIPRICK: Yes, the government specified the companies. And the only condition I put is as long as they're a firm, or auditors in good standing with the Institute of Chartered Accountants, and there's a large enough group to be able to handle the situation, it was quite acceptable to me.

R. CHAIRMAN: The Member for St. James.

R. MINAKER: Mr. Chairman, in reply to the Honourable Member for St. Vital's question, it's my understanding, Mr. Chairman — maybe Mr. Ziprick can comment on it — that if, in fact, this bill hasn't passed by the Legislature, it's my understanding that you would have the authority — the right that there was a Letter of Intent that you could not enter into agreement with the company — that you would still have the authority to enter into agreement with them, or contract on an individual by individual basis. Is that correct?

R. ZIPRICK: That's right. That's right.

MR. MINAKER: So that really, Mr. Chairman, the intent of the bill is to clarify this, and make more simple and less red tape as the Provincial Auditor has indicated to the committee tonight that if he chooses to employ outside auditors, that he will be able to do so in an easier fashion. I think there's no argument that it's the government policy that we feel that outside auditing is proper and in the best interests of the people of Manitoba. So, we're not going to debate that. That was debated this afternoon, I think, to a great extent, that particular subject, so that to answer the Honourable Member for St. Vital, my understanding is that, should —this bill not be passed —the Auditor has full authority to enter into an agreement on an individual by individual basis.

MR. CHAIRMAN: The Honourable Member for Winnipeg Centre.

MR. BOYCE: Mr. Chairman, . . . what the Legislative Assistant to the Minister of Finance just said but nevertheless, we are trying to understand what is happening at the moment in one sense, a harkening back to what the Member for St. Johns said a little while ago about understanding about how the pre-audit was carried out in the past, and the post-audit, and bringing into juxtaposition the questions asked by the Member for St. Johns and the Member for St. Vital; the fact that earlier when we were considering the Estimates of the Provincial Auditor, we discovered I think it was 11 vacancies in the department. And you know, I'm not a lawyer, Mr. Chairman, albeit we've learned around here to throw around a few ipso facto's and mutatis mutandis's and a few other terms. I'm not a lawyer but nevertheless, as a lay person, I understand a contract exists in law if there is a meeting of minds.

But from the Provincial Auditor's response to the questions, it would appear that there exist contracts. I have one specific question and then a more general one. Have these people actually been paid any money in reference to the work that they have already been performing, for themselves? Have cheques been issued by the provincial government to the firms for the work done albeit by individuals?

MR. CHAIRMAN: Order please. I wish the honourable gentlemen would take their conversation someplace else because I don't see how possibly the Provincial Auditor can hear the point that is being raised by the honourable member. Proceed, sir.

MR. BOYCE: Thank you very much, Mr. Chairman, I appreciate your assistance. Perhaps the Provincial Auditor heard me.

MR. CHAIRMAN: I doubt if he did because I couldn't hear it.

MR. ZIPRICK: Yes, I did hear it. I think that there has been one progress payment made in that situation.

MR. CHAIRMAN: The Honourable Member for Winnipeg Centre.

MR. BOYCE: Well, of course, that further complicates it. How can you make an advance payment on a non-existent contract? But nevertheless you see, our apprehension. . .

MR. CHAIRMAN: On a point of order, the Honourable Attorney-General.

MR. MERCIER: Mr. Chairman, there has been a lot of discussion go on which is really irrelevant to the clause before us. I think the discussion really that's taken place is with respect to the clause, 24, as to whether this bill comes into force on the day it receives Royal Assent or whether it is to come into force retroactively.

MR. BOYCE: Well, I thank the Attorney-General for demonstrating his prowess to point out the obvious and this is exactly what I'm trying to ascertain. I believe it is my right of the committee to ascertain it albeit not so in my way, sophisticated as some lawyer perhaps.

Mr. Chairman, when we're talking about the Provincial Auditor's vacancies, I would assume that in those areas where there has not been legislative authority for outside auditors to perform the function of the Provincial Auditor, that they are changing the Acts in the Legislature to allow that to be done, that the work that has been going on over the past several months is being done as if this bill had already been passed. Is that not true?

MR. ZIPRICK: No, the work that's being done now in these particular cases is under my direct

Law Amendments
Thursday, June 14, 1979

id I have a senior auditor assigned and he's working with the auditors, the auditors are overseen. e are satisfied how much time they put in and the work they're doing and so we can certainly y on the basis that we're satisfied that the work has been performed, and we know what people rformed it.

R. BOYCE: Well, Mr' Chairman, I'm not questioning the Provincial Auditor in that area that the ublic won't be protected as well as, you know, his staff is able to perform in this new change, it nevertheless, . . . well, if I can come at it perhaps from another direction, Mr. Chairman, and ntend to be brief; I know the hour is getting late. As I understand it, in the past the Provincial ditor's office was involved in one of two ways: in being involved in the pre-audit or afterward, i in auditing the books after they had already been audited? Is that correct?

Well, the Crown agencies; it's always been after. We never did any pre-audit on Crown gencies.

R. CHAIRMAN: 11(3); if you read the section we're dealing with. We're dealing with: "The accounts the Corporation shall, at least once in each year be audited and reported on by an auditor, o may be the Provincial Auditor, or appointed by the Lieutenant-Governor-in-Council and the sts thereof shall be paid by the Corporation." That's the matter that's before the committee. ould you please just discuss that section; 11(3).

R. CHERNIACK: On a point of order.

R. CHAIRMAN: The Honourable Member for St. Johns.

R. CHERNIACK: Mr. Chairman, we have been discussing whether or not that is the law now ' whether that is the law that is being proposed. And the questions that have been asked as I nderstand it are: how is the law now — today's law — being applied, and the suggestion seems be coming about that the practice is being carried on as if this were the law; the amended law, erefore it seems to me that's in order to be asking the questions.

R, CHAIRMAN: I don't think the Honourable Member for St. Johns has a point of order because e honourable member was straying widely from 11(3) what we're dealing with at the moment. e Honourable Member for Winnipeg Centre.

R. BOYCE: Well, I guess, Mr. Chairman, we were trying to elicit answers from the Provincial ditor, whom I would suggest everyone at this table has a profound respect, and without going to perhaps a royal commission or perhaps Mr. Tritschler isn't busy again, to see exactly how e government functions — I don't question the Provincial Auditor, I am questioning the government r the past two years experience on how they do things. They fire people before they have authority do so.

R. CHAIRMAN: Order please, order. I, again, have to rule the honourable member. Let's deal ith 11(3) that's before us. We will deal with the other matters later on, on the report stage of e bill, but let's deal with 11(3) if we can, please.

R. BOYCE: Well, as pointed out by my colleague, the Member for St. Johns, I thought we all ad been dealing with the import of this particular amendment and we're trying to ascertain whether is is correcting retroactively that which the government has been doing. But we're not going to at the answer, so I will shut-up at the moment.

R. CHAIRMAN: 11(3)—pass — the Honourable Member for St. Vital.

R. WALDING: Mr. Chairman, I just wanted to reply to the Member for St. James, who made couple of comments there which were very germane to the section that we were speaking of hen he said that what we are talking about is a matter of government policy. We realize only o well, Mr. Chairman, that it is a matter of government policy and that's why this change has me about, because that is what the government wants to do.

The Member for St. James said, further, that if this were not passed that the Auditor could rter into contract or employ individual auditors. But that is exactly what has not happened. The uditor has told us here this evening that he has entered into contracts or agreements, whatever e official term is, with corporations to do the auditing of MPIC and MHRC and various others at we will get to later.

Law Amendments
Thursday, June 14, 1979

So what the Member for St. James is saying to us is that we need these sections of the Act to legalize what the government has been doing illegally up to this time. That's the whole point of my question, Mr. Chairman.

MR. CHAIRMAN: The Honourable Member for St. James on a point of order.

MR. MINAKER: Mr. Chairman, I did not say that it was illegal or to legalize, and I think the Honourable Member for St. Vital recognizes that when the Auditor was questioned on the subject he indicated that he had the authority to hire auditors on an individual basis. The legislative solicitor also indicated that nothing had been done illegally, in his opinion, to date and that all I was indicating that what we were arguing was half a dozen of one and six of another, really, at this point in time and what we had before the committee was to clarify the situation and make it completely clear to everybody the authority of the Auditor at this time.

MR. CHAIRMAN: It is not a point of order. 11(3) — the Honourable Member for St. Vital.

MR. WALDING: Mr. Chairman, I believe that the matter was crystal-clear. Members can look at the statutes for any of these five different companies . . .

MR. CHAIRMAN: Well, let's stay with 11(3), if we can.

MR. WALDING: . . . including 11(3), MPIC, and they will find there that there is a legislative requirement for the Provincial Auditor to audit the books of MPIC.

Now, he has told us that he has contracted with a private company to do that, to do what he is obliged to do under the Act and what this bill is doing is to make retroactively legal what has been illegal, in my opinion, Mr. Chairman.

MR. CHAIRMAN: Mr. Ziprick.

MR. ZIPRICK: With regard to MPIC, there has been no contract because we finished the audit not very long ago and the new audit is still not due. So there is nothing with MPIC.

MR. CHAIRMAN: The Member for St. Vital.

MR. WALDING: Mr. Chairman, I would pick the one where there was no contract, would you?

MR. CHAIRMAN: 11(3)—pass; 11(4)—pass; 18—pass; 19 Section 4(2)—pass; 4(2.1)—pass; 19—pass; Section 28 subsection (3)—pass — the Honourable Member for St. Johns.

MR. CHERNIACK: I just wondered about it.

A COUNTED VOTE was taken, the results being as follows: Yeas 9, Nays 2.

MR. CHAIRMAN: I declare the motion passed.

28 subsection (4)—pass. (Sections 21 to 24 were read section-by-section and passed) Title—passed. Preamble—pass. Bill be Reported—pass.

Committee rise.