



Legislative Assembly of Manitoba

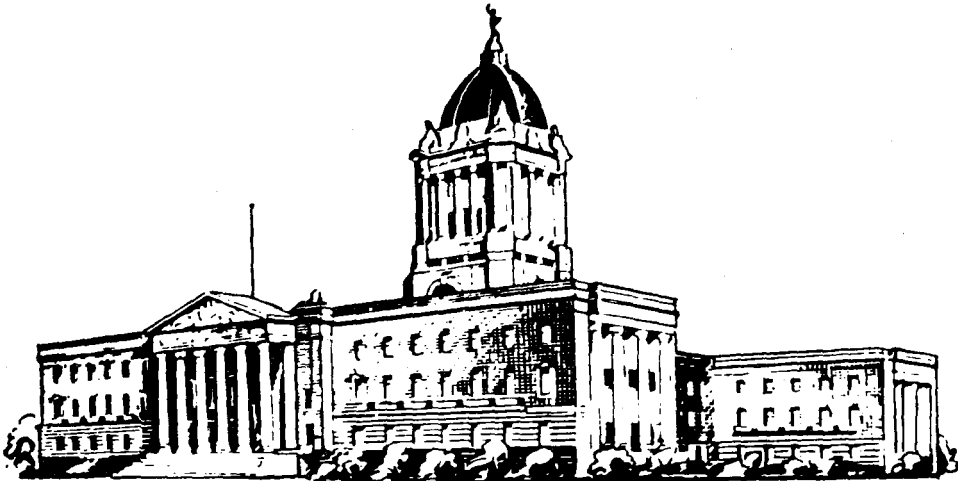
STANDING COMMITTEE

ON

MUNICIPAL AFFAIRS

Chairman

**Mr. Arnold Brown
Constituency of Rhineland**



Monday, June 11, 1979 3:00 P.M.

**Hearing Of The Standing Committee
On
Municipal Affairs
Monday, June 11, 1979**

me: 3:00 p.m.

R. CHAIRMAN, Mr. Arnold Brown (Rhineland): I'd like to call the Committee on Municipal Affairs to order. We are here today to give consideration to Bills No. 14 and No. 24. We have a presentation on Bill No. 14 by Mr. Jake Froese of Winkler and a presentation on Bill No. 24 by Mr. Newman Norton, Schwartz and Company. I wonder, are there any other people here who would like to make presentations? If there are no other people that would like to make presentations on these bills, I will now call on Mr. Froese of Winkler on Bill No. 14.

BILL NO. 14 — AN ACT TO AMEND THE PLANNING ACT

R. JAKE FROESE: Mr. Chairman, Honourable Ministers and Honourable Members of the Committee. In appearing before you today, this afternoon, I represent the Property Owners' Association, which was recently organized in the Stanley Municipality which lies in south central Manitoba.

It all came about because of the MSTW being formed and established. The letters MSTW represent Morden, Stanley, Thompson and Winkler, the four municipalities which formed the MSTW planning district. And since this came to light the people are, indeed, very unhappy of the situation at they're in.

I personally made appearances before the Municipal Affairs — no, not Municipal Affairs, the Standing Committee that the government establishes, the Municipal Committee I think it is. They had hearings on different occasions before the establishment, and I appeared at that time on two different occasions. Likewise did Mr. Harry Friesen, who is with me today and who will probably add some further comments after I am finished.

We, at that time, pointed out that we didn't like Stanley participating in the planning district and since then the district has been established by Order-in-Council and they are in the process now of conducting some meetings, prior to coming up with zoning by-laws. And it was at one of these meetings that I was asked to come down and sit in and witness what was taking place. And the following day after that there was a meeting called by the people in the area to discuss the matter and at that time we had about 80 people present and we formed what is now called the Property Owners' Association.

Our association is deeply concerned with the planning district that has been established and the complete control that Stanley will be under once the establishment and the zoning has taken place.

Now, Bill 14 amends The Planning Act and we've considered some of those amendments, but our chief aim is that this committee should consider Section 17, Subsection (3), which deals with the change of boundaries and dissolutions, and the particular section of the original Act says, "That on the application of the board of a district or the council of a municipality, the Lieutenant-Governor-in-Council may (a) change the boundaries of the district, or (b) dissolve the district." And the provisions of Section 13, 14 and 15, ". . . to supply to any such change or dissolution."

R. CHAIRMAN: I would like to call to order, Mr. Froese. We would like you to stick with Bill No. 14, The Act to amend The Planning Act.

R. FROESE: Well, that's what we're here for. We hope that you will amend it.

R. CHAIRMAN: The Member for St. James. —(Interjection)— Okay. Mr. Froese.

R. FROESE: Yes. Well, this is our intention, that you people on the committee will bring about change in The Planning Act so that a municipality can enter and withdraw more readily from

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a planning district.

MR. CHAIRMAN: The Member for St. James.

MR. MINAKER: Mr. Chairman, if I can through you to Mr. Froese. Are you asking this committee to consider recommending to the House that we amend Section 17, Subsection (3)?

MR. CHAIRMAN: Yes.

MR. MINAKER: I think, Mr. Chairman, that's out of order. If I know the rules of the House, I don't believe a committee of the House can make amendments to an Act before us that doesn't deal with that particular section, because I believe that came up last year in another committee.

MR. CHAIRMAN: Yes. That is correct. This committee cannot make amendments. We are here to hear presentation on Bill No. 14, An Act to Amend The Planning Act, and 17(3) is not in this particular bill.

MR. FROESE: I understood on past occasions that when you open a bill, that you can at least make comments on your concerns and possible amendments that could be brought in. Is that correct?

MR. MINAKER: Well, Mr. Chairman, I think Mr. Froese has come in to make presentation to the committee today and as a member of the committee I would listen to his concerns about the Act but I don't think we would have the power to make amendments to it. As long as Mr. Froese recognized that, I would have nothing against hearing the problems or concerns that the people might have on this particular subject, as long as we weren't setting some kind of precedent. I think that would have to be clarified by the Clerk of the House.

The fact that Mr. Froese did come in to make presentation, I wouldn't want to see us cut him off, but I think it should be clear that we can't deal with that specific request that he's dealing with.

MR. CHAIRMAN: I have been advised that really all that we can consider over here today Mr. Froese is the bill that is before us and the amendments as such that it proposes to the original bill. So if you could contain your remarks as much as possible to the bill, Bill No. 14 that is before us we would appreciate this. I believe that the committee members would be prepared to give some lenience, I'm sure.

MR. FROESE: Well, that makes it very difficult. We have looked at Bill No. 14 and I think as far as our association is concerned it just worsens the situation rather than the people benefiting from it or from it. I had some comments made out but on the particular bill. I know on two different occasions that the word "shall" is supposed to replace the word "may" in certain sections, which then makes it mandatory to introduce certain things and we take exception to this. We feel that this just worsens the situation as far as we're concerned. I'm really sorry that you people will not allow me to make my presentation because this is of utmost importance to the people in our area to be faced with this and then coming in all the way and not being able to present our views.

MR. MINAKER: Well maybe there's a misunderstanding, Mr. Chairman, what do you think?

MR. CHAIRMAN: The Member for Seven Oaks.

MR. SAUL A. MILLER (Seven Oaks): Mr. Chairman, on a point of order. I think Mr. Froese has misunderstood you. It was my understanding and I think of the committee's that although the Speaker could not move an amendment himself, nor would the committee consider amending something that was not within the bill itself, nonetheless the committee was prepared to listen to Mr. Froese and hear his views. If Mr. Froese didn't understand it I think that is really what was decided.

MR. CHAIRMAN: The Honourable Minister.

MR. MERCIER: Mr. Chairman, I'd certainly be prepared to meet with Mr. Froese afterwards discuss with him further proposed changes in the Act for the next session of the Legislature, the situation is in fact that we can't deal with any amendments other than those that are contained

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the bill before us. I'd certainly be prepared to meet with him here or . . .

1. CHAIRMAN: I wonder, Mr. Froese, could you give us an indication as to how long your presentation would be? If we were going to open up the whole Act, you know, we could be here any number of hours. If you could give us an indication as to how many minutes you feel that you will require, we would be able to take it from there.

1. FROESE: Probably 15 minutes, and I am only concerned with this one aspect of the Act itself.

1. CHAIRMAN: In that case, Mr. Froese, then I would say that you can proceed in the way that you had planned.

1. FROESE: Thank you. I lost track of how far I had proceeded.

Our association has made representation to the local municipal Council to make an application to have the Stanley Municipality withdrawn from the MSTW Planning District. We presented a brief to them, where we outlined our protest, the reason why, and also made our appeal for them to make such a request under the bill, where there is provision for it.

Now, our difficulty is that Council so far has not acted and we don't know whether they will act. In the meantime, however, we have gone ahead and we're having a petition signed by the people in the municipality asking Council to withdraw. Our reasons given for that: Our people are deprived of their property rights and freedoms that we have held for all these hundred years since our people migrated to southern Manitoba way back in 1875. We have enjoyed these freedoms, these privileges, and now we see them snatched from us without the people getting a chance to vote on it or have a say on the matter.

Therefore, we are appealing to them and at the same time the reason for our coming here was that maybe the government of Manitoba could make it a little easier for us in case Council refused to act and the Planning District refuses to act, that there should be some way made for us so that we can, as a people, through a petition or a referendum or whatever the case may be, come forward and have some action taken. Because, under the present situation, the people have no direct representation on this MSTW Planning District Board. We will have two representatives but we don't know ahead of time who they are going to be and when they're on this Board they're always in a minority position. There are always six others coming from other jurisdictions, who will have control. That's that we find ourselves in a situation — and it has already happened — where our Councillors, Mr. Reeve, the representative to the MSTW District Planning Board, made motions and seconded them and then were lost and defeated. We feel that this is going to be a big detriment to us.

The petition that we are floating is asking that the Stanley Municipality withdraw. We are receiving wide acceptance. Some areas have already subscribed 90 percent and some local districts even 100 percent. And we feel that given some time we will be able to get a widely circulated and endorsed petition.

The basic planning statement has already been endorsed through By-Law 478, I think it is, and it will rule out some of our customs that we have been practising for the last 100 years where in the case of an estate inheritance, a number of the heirs would probably receive a small parcel of land. Under this statement now, this will no longer be possible because you are prohibited from splitting deeds or titles to smaller parcels.

The development standards, as listed in Section 41(2) certainly, once the zoning takes effect, would be a very great hindrance and certainly a lot of bureaucracy.

Presently, the MSTW also looks after permits for building and construction, and so on. And we don't know whether this is directly involved with the Planning District, but the Planning District Board carries out that function and people are charged with large costs for permits. The school division paid \$1,600 or more for a permit to build a school, a local school. Yet what do they get for it? Nothing. And the people that are supposed to do the inspection, for which they would get a fee, are not there. So they have to rely on the various trades and so on, and other government inspectors, who will do the job. So the permits that are being issued now are just an unnecessary cost.

Further, we feel very strongly that the Towns of Morden and Winkler are inflicting control on us. They have had some planning in their towns and now the first project that this new Planning District makes is to bring planning into the Rural Municipality of Stanley. The people are not prepared for it; they are not prepared to accept the bureaucracy that is contained in The Planning Act.

As far as rural Manitoba, I think, is concerned, that whole bill should be thrown out, or the whole Act should be thrown out. But certainly if there is provision for us to withdraw, that Stanley should withdraw, then at least we would be escaping from it and the people of Stanley would be

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Then also the costs. During the first year, the Planning District had a budget of \$100,000. I don't know what the budgets are going to be for this year. I asked them but they didn't know yet. But this cost could be increasing very fast over the years, especially if they hire the various inspectors and so on. So that there is an unnecessary cost that the people feel that they should not be asked to bear.

These are a few of the points, I had some more concerns, but since I'm supposed to stick to the bill itself, I will curtail my remarks, and let it go at that.

So our concern is that the Act be amended in such a way so that the withdrawal need not only come through an application from either the Municipality of Stanley or the Planning District Board, but that there would be some mechanism brought in so that the people themselves through a petition or referendum, could in some way enter and also withdraw from such a planning district. Thank you.

MR. CHAIRMAN: I'm sure, Mr. Froese, that there are some questions that will be asked of you. The Member for St. James.

MR. MINAKER: Mr. Chairman, through you to Mr. Froese. My understanding is that when the particular planning district was formed that the request came from all four municipalities to become a district. Is that correct?

MR. FROESE: I think it eventually did. Originally, Stanley was not going in for it, but through some blackmailing, I'd call it and I think a lot of other people call it that way, Winkler and Morden were going to increase the size of their towns, and they were asking for 25 sections, which would take all the distance between Morden and Winkler into the towns of Winkler and Morden. This they did not want, and then the towns came up with this alternative, that you support us in this and then we drop that. So, this is what happened.

MR. MINAKER: Mr. Chairman, in actual fact, either the minister can create a district or a group of municipalities can create a district under the Act. And it's my understanding that the four municipalities requested that this planning district be formed. Now, I don't know the politics behind it, but I'm just wondering. In actual legal fact then all the different councils did request to form this district, I understand.

MR. FROESE: I've never been . . . but I take it that is the case.

MR. MINAKER: Then, Mr. Froese, you represent some property owners, I understand, in the general area. Is it mostly in Stanley?

MR. FROESE: Yes, all in Stanley.

MR. MINAKER: Have they presented this brief to the Council and the Reeve of Stanley?

MR. FROESE: Yes. They presented a brief to Stanley municipality.

MR. MINAKER: And did they support . . .

MR. CHAIRMAN: Pardon me, gentlemen, if you would direct your questions through me, I appreciate it. The Member for St. James.

MR. MINAKER: My apology, Mr. Chairman. Then my next question, Mr. Chairman, is: Has your Property Committee got the official blessings of the Municipality of Stanley's Council and the Reeve?

MR. FROESE: Well, at the time that we made our presentation, members of Council were asked where they stood on the matter of withdrawal. Two of them came out straightforward and told me they were in favour of withdrawing; a third one said that if his electors were in favour, he was in favour. He would tend to go along. And the Reeve and the other two didn't give . . . one of them gave an indication that he was not; the other one didn't give any indication either way.

MR. MINAKER: Mr. Chairman, my understanding is correct then. The Municipality of Stanley, at least the Council and Reeves still officially recognize the district, and haven't made a request as yet for withdrawal? .

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MR. FROESE: No, as far as we know, they have not made a request.

MR. MINAKER: Thank you very much, Mr. Chairman.

MR. CHAIRMAN: e Minister.

MR. MERCIER: Mr. Froese, can you cite any examples where individuals in the R.M. of Stanley ave been adversely affected by The Planning Act or the Planning District?

MR. FROESE: Well, I understand it's not fully in effect because the zoning hasn't taken place yet, but already requests have been made to the Planning District Board for development and so on and they have been refused, and others made application and haven't heard from them. This came out at our public meetings that we had.

MR. MERCIER: Can you tell me which specific applications have been refused?

MR. FROESE: I haven't got the material with me, but pater on I could present you with material of that kind.

MR. MERCIER: I'd appreciate it if you would.

MR. CHAIRMAN: Are there any further questions? If there are no further questions, then thank ou, Mr. Froese.

MR. FROESE: I just wonder whether Mr. Friesen would like to comment. He is also involved in our organization, as Vice-Chairman.

MR. CHAIRMAN: Yes, Mr. Friesen, if you would come to the stand, please.

MR. HARRY A. FRIESEN: I'd just like to add that one thing that really hurts about this Planning Act is that we cannot act in a democratic way any more. We cannot vote those in or out, that are going to rule over us, you know. Up to now we could always do that, but now we people in Stanley, we cannot vote for the two representatives of Winkler; we cannot vote against or for the wo representatives of morden, nor of the two representatives of Thompson. So there is something acking here, which I think if the Conservative Party really thought this thing through they woul not orce this upon the people d of Stanley. Thank you, very much.

MR. CHAIRN: Are there any questions of Mr. Friesen? If not, then thank you, Mr. Friesen. The Member for St. James.

MR. MINAKER: Mr. Chairman, if I might, just for clarification, for Mr. Friesen.

MR. CHAIRMAN: Mr. Friesen, would you come back, please?

MR. MINAKER: Mr. Chairman, I believe the formation of the District Planning — I could be wrong on this but I believe it was formed or took place and was just in transition under the former administration; it wasn't under the Progressive Conservative administration. I don't know whether ou were aware of that or not.

MR. FRIESEN: I know that; I looked at the Order-in-Council and it was signed by Sidney Green. We are aware of that. And it amazes us even more then why the Conservatives make this whole Act even more against us people than less, by using the word "shall" than "may" in a number of cases, and I'm thinking of a particular case where a planning statement, that this has been passed by three readings. I think of this whole planning set-up as in three steps. The first step was the Act, which was put through by the NDP Party; the second time it was by Order-in-Council, in which his planning statement was formed; rough. the third step is that the zoning set-up has to be carried h And the way the Act is written right now, I think it reads that we "may" form a zoning set-up like in a rural municipality, but if it is changed the way the Conservatives want to do it, I think hen it will be "shall". So, in other words, we have lost, right now, if this thing goes through.

If I could add one little thing there which bothered us very much, is that the planning statement s set up so that district and sector studies had to be done before first reading was to be had.

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And if these district and sector studies in the villages are like in the Stanley municipality, ratepaye are a little bit in agreement or a little bit favourable, then the Planning Board could do First Reading on a statement. And before the Second Reading was supposed to be had, then they should have hearings in every one of the municipalities. They had a hearing in Winkler and they had one in Morden, and they had one in Thompson. I don't know if I am correct but I would almost venture to say they did not have the nerve to have one in Stanley because there would have been too many questions asked. At least, they did not have one in Stanley, and they passed the Second Reading. Then the Third Reading, even the Councillors in the Stanley Municipality were not aware of it for at least two months, because the two representatives from Stanley Council sitting on the MST Planning Board did not convey this to some of the other Councillors in Stanley.

So we people in Stanley feel that they have tried to put something over on us, and that's what we're fighting this.

MR. MERCIER: Mr. Friesen, do you think there should be some planning or no planning then?

MR. FRIESEN: Oh yes, we definitely have to have planning. If I lived there in the country and somebody built a big pig barn right next to my kitchen there, I'd be so excited.

MR. MINAKER: I would be, too.

MR. MERCIER: Do you think the province should control the planning or the local municipality should control the planning?

MR. FRIESEN: If it is a choice between those two, then I wouldn't even mind which two. If it were the municipality, well, we could vote them in or out if they didn't please us. If it is the government in Winnipeg, we can do something about our voting, too, and we can talk to them. But if it is a group that we have set up right now, if you . . .

MR. MERCIER: Okay, just answer the questions, and we'll see after that.

MR. FRIESEN: Okay, I'm sorry.

MR. MERCIER: You said that if it was a choice between the two, the provincial or municipal; is the other a choice?

MR. FRIESEN: Well, the choice that we have right now, which is carried right now. No, it's not the municipal, the way I understand it. Now it is a district in where we have no . . . I don't know if I have a name for it, but it is not the municipal. We want the municipal. We would be quite pleased if our Council, our Reeve and our six Councillors, ran the Planning District, or Stanley Municipality. We would be very, very pleased.

MR. MERCIER: You would prefer the municipal council to the provincial government having control then?

MR. FRIESEN: I think I would like that because . . .

MR. MERCIER: It's closer.

MR. FRIESEN: Yes, yes.

MR. MERCIER: You elect the Council of the R.M. of Stanley.

MR. FRIESEN: Yes, we elect them.

MR. MERCIER: And the R.M. of Stanley passed a resolution to form a Planning District.

MR. FRIESEN: Yes, they did, but that was not the point.

MR. MERCIER: And they apparently did it in face of a proposal for annexation by the growing towns.

MR. FRIESEN: Yes, that would have something to do with that.

MR. MERCIER: Would you prefer annexation of your rural municipality, rather than a Planning district?

MR. FRIESEN: They did annex, in spite of forcing this planning on us. They annexed very, very much land around Winkler. Like two of my parcels of land have been annexed, which are far, far way from the residential area. They went through with the annexing anyhow. They just reduced the size a wee bit.

MR. MERCIER: The indication from Mr. Froese was that it would have been more substantial if hadn't been for a planning district.

MR. FRIESEN: Yes there is an area between Winkler and Morden, annexed land, which is maybe miles or 4 miles, yet, which would then have come into the annexation too, then it would have made one big district. Now it's two districts like Winkler and Morden —(Interjection)— Jake says that they were to annex 25 sections and they reduced that and how much they now have in total don't even know but they have lots.

MR. MERCIER: You would have been very unhappy over an annexation of that size.

MR. FRIESEN: Not particularly because what they have taken now and if they had taken a little bit more I'm sure they'd have not . . . I don't think they have reduced the amount they wanted at the first place maybe by 15 or 20 percent. I'm just guessing right here, but they reduced that a very little.

MR. MERCIER: Do you realize, Mr. Friesen, that the objective of the amendment and we're continually reviewing this particular Act, and hopefully you will have suggestions that you will send to me later that we can consider for improvements in the Act later, but that the amendments here are designed to enable us to delegate the whole planning approval authority to the local municipal councils, the planning district?

MR. FRIESEN: Yes, if you delegate that in such a way that every property owner has a right to vote on every one that has control over him, then okay, let's put that in.

MR. MERCIER: Well, you elect the councillors of the RM of Stanley.

MR. FRIESEN: Only two and they are losing out against the other six. I can bring you minutes on that effect.

MR. MERCIER: Can you cite to me individual cases where people have been adversely affected?

MR. FRIESEN: Yes, I can.

MR. MERCIER: Would you go ahead?

MR. FRIESEN: Pardon me.

MR. MERCIER: Which cases?

MR. FRIESEN: Oh, whether I can cite or whether I can send in, I thought you said whether I could send in to you . . .

MR. MERCIER: Can you tell us right now?

MR. FRIESEN: Well there was an application made for a subdivision and I knew the name of the people who made the application but I know oh no, eeve Warkentin made that councillor Warkentin — the motion to pass that and councillor Hapner, those are the two representatives from Stanley, he seconded it, and it says motion lost in the back, and somebody sort of sneaked those minutes on me. I don't know whether they are public or not but the person who gave them to me, he said he had sort of gotten them in a quiet way.

MR. MERCIER: Do you know whether that was the kind of subdivision that should have gone ahead?

MR. FRIESEN: Oh, now you're asking me a very difficult question. That requires study to answer a question like that.

MR. MERCIER: It requires some knowledge. Do you have any other examples?

MR. FRIESEN: I've only been shown one set of minutes, so I don't know how many others there are.

MR. MERCIER: Well perhaps, Mr. Chairman, if Mr. Friesen does have some other information from home that he would like to send in to me that would cite some examples, I'd be interested in looking at them.

MR. FRIESEN: Okay. I shall make an effort to send that to you.

MR. MERCIER: Thank you.

MR. CHAIRMAN: Are there any further questions of Mr. Friesen? Thank you, Mr. Friesen. Are these all the presentations on Bill No. 14? Then we'll proceed with the presentation on Bill No. 24.

Mr. Newman. —(Interjection)— Is Mr. Newman not here? —(Interjection)— I understand that Mr. Newman does not want to make a presentation. In that case we'll go clause by clause on Bill No. 14, An Act to Amend The Planning Act. Page 1, Clause 1(a) as amended —pass; Clause 1(b) —pass; Clause (b) —pass. Would it be the wish of the committee to go page by page? —(Interjection)— section by section, okay.

Section 1 —pass; Section 2 —pass; Section 3 —the Member for St. George.

MR. URUSKI: Mr. Chairman, on Section 3, Section 32(4), Action of a Minister. Could the Minister elaborate or provide details as to the broadness of the action upon receiving a development plan? The section that is being proposed is very broad because it states: "in his discretion, consider what is necessary," which leaves it totally wide open to the discretion of the Minister. Could the Minister indicate under what circumstances does he foresee such wide latitude and wide powers are being requested? —(Interjection)— That was raised during the second reading debate.

MR. MERCIER: Which section . . .

MR. URUSKI: 32(4), Mr. Chairman.

Mr. Chairman, the points that were raised during debate related to the contention that now that the province has adopted its land use, provincial land use guidelines, that there is a basis in which development plans that are being formulated by Planning Districts will have to work around and be within the parameters of the provincial land use guidelines. That being the case, what additional problems does the Minister foresee in terms of requesting certain changes and amendments other than the new development plans not being part and parcel or at least be close to the provincial land use guidelines?

MR. MERCIER: Well, the basic concern, Mr. Chairman, would be the compatibility with the provincial land use guidelines.

MR. URUSKI: That's really my point, Mr. Chairman, but the amendment as I read it, unless I'm mistaken, it gives the Minister much wider latitude, much wider powers than just the issue of not being compatible with the provincial land use policies. "It isn't, in his discretion" consider what is necessary.

MR. MERCIER: Mr. Chairman, it's basically the same as the previous legislation. The following sections 32(5), would provide for amendment of a minor nature and then 32(6) would deal with any amendment of a substantial nature to be referred to the Municipal Board.

MR. CHAIRMAN: Mr. Miller.

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MR. SAUL A. MILLER (Seven Oaks): Mr. Chairman, the Minister can correct me if I'm wrong, but I believe the original bill, the bill that is being amended, I think the provision there was that the Minister may recommend approval or refer it to the Municipal Board. Is that still contained? When what we're dealing with here is the rewording, which gives the Minister the powers solely at his discretion, really, to consider what he deems necessary. Now, that is, I think, Mr. Uruski has, that it isn't limited just to whether it deviates from the provincial land use guidelines or not.

In other words, this suggests that he could go beyond that and ignore the provincial guidelines entirely, if at his discretion he considers it necessary. I think that's the concern. It's the wording, I think, that is the concern.

MR. MERCIER: Mr. Chairman, the previous wording of the section allowed the Minister to recommend approval of the plan, subject to such modification, revision or adjustments as he deems necessary, which was wide open, or before recommending approval of the plan and direct a hearing before the Municipal Board, and so forth. It's really, in the same way, very broad. And I think that although the wording is very broad, there is a political reality that you're dealing with an elected Council at the other end and I think you have to very seriously consider, certainly, any major changes. Without any consultation, it's difficult to imagine it occurring.

MR. MILLER: Well, all right, Mr. Chairman, I can appreciate the wording is very similar to what was in the Act before and perhaps in the original instance it was too vague, but I am satisfied, after the Minister has spoken, that it's not his intention to deviate from the original idea.

MR. MERCIER: No, no.

MR. MILLER: And that he will simply be following it. The wording, as I say, when you first look at it, seems very, very general but I'm prepared to accept that the Minister will follow the Act and he guidelines in anything he does.

MR. MERCIER: Correct.

MR. CHAIRMAN: (Clauses 3 to 26 were read clause-by-clause and passed) Clause 27 — Mr. Miller.

MR. MILLER: On Clause 27, I believe at Second Reading there was some concern expressed that there is absolutely no appeal from a decision by the municipality and, as I am informed or advised, that in rural Manitoba, in particular, where everyone knows everybody else, where there are much closer relationships than, let's say, in the City of Winnipeg, that problems do arise whereby individuals, for whatever reason, cannot get certain things approved, their applications are rejected. And the suggestion, I think at Second Reading, by one of my colleagues was that there should be some appeal rather than a final no appeal at all. I think I know why this clause is here: Because of the fear that local Councils will use that, will take advantage of the appeal mechanism to simply let somebody else make the hard decisions for them. But nonetheless, the fact that there is no appeal here is pretty rigid or a pretty final sort of action. And whether or not there should be an appeal from the Council of the municipality, then it is perhaps going too far, even though this may have been in the original Act, in denying people some opportunity of a second hearing or another objective board looking at the matter.

MR. MERCIER: Well, Mr. Chairman, as the Member for Seven Oaks indicates there is no change under this section. I have discussed it with the Municipal Advisory Committee, who support that position that there be no appeal. It's similar to and the same as the City of Winnipeg, where there is no appeal from a Council decision. The feeling generally has been that those decisions are made by the elected people and the recourse is every three years.

MR. MILLER: Mr. Chairman, I can appreciate what the Minister says, and certainly in Winnipeg I know what the situation is. The only thing I'd ask the Minister is to monitor this very closely and to really discover whether rural Manitoba is different and whether, up-to-date or in the immediate future, you run into problems where in fact, for whatever reasons — antagonism within a small community — certain individuals are simply rejected out of hand. And it's true you can defeat the Council three years from now, but it's a long way off. And I would ask that he monitor, just to examine whether next year or the year after he is satisfied that it's working smoothly. And if it's not working smoothly, perhaps some mechanism could be brought in, which may be a deviation from what happens in Winnipeg but I don't think you can measure what happens in rural Manitoba

MR. MERCIER: Mr. Chairman, we hope that that is in fact what takes place if they do adopt the development plan or basic planning statement. There is no provision in the legislation at the present me to cover the situation if they don't. We'll just have to monitor that in those municipalities in the next year or so.

MR. MILLER: Mr. Chairman, then I was right. I have a concern, there's a lot of municipalities and unless you're sure that in fact they're going to have a bylaw dealing with a basic planning statement or re-zoning bylaw, then in that period, if they miss it by a third year then you have a real void where almost anything could happen with the municipality quite legally — I'm just posing that as a danger — unless you're really on top of it and force the zoning bylaw through, because these things take time.

MR. MERCIER: That's the situation now, I think, Mr. Chairman, because they're really not legally in existence. This is to make them operative for three years.

MR. MILLER: So for three years it will be binding, the existing bylaws will be enforced and at the end of three years it will end, it will lapse. And you're hoping that within that three years councils will either vote new zoning bylaws or simply reiterate the existing zoning bylaws, but something will have to be done within the three-year period and you're prepared to monitor that to make sure that nobody slips through. Good luck.

MR. FROESE: Yes.

MR. MERCIER: Well, I think I've given him the detailed notes that indicate there are just twelve municipalities in that situation.

MR. MILLER: Oh. I didn't see them.

MR. CHAIRMAN: 34—pass, pardon me, have we passed 33?

MEMBER: Yes.

MR. CHAIRMAN: 34—pass; 35—pass — Mr. McBryde.

MR. McBRYDE: I just wonder if the Minister could indicate that the reason for this appears to be that because of the drastic reduction in the Northern Affairs staff, that this position doesn't exist any more, is that why we have to have this change?

MR. MERCIER: No, Mr. Chairman. The Act simply will be amended to . . . what happened with the planning staff on Northern Affairs, were moving to Municipal Affairs. There's a need for some person to act as the approving authority, so the director of the Community Subdivision and Planning Branch will be designated as the person who will have the approving authority for northern Manitoba.

MR. McBRYDE: What appears to have happened, to the Minister, that that's being deleted now, and if it's going to be as he described then you wouldn't have to make the change.

MR. MERCIER: I'm reading from the old Act; it'll simply be the name of person — that position has been really deleted — it would simply be the name of person as the approving authority.

MR. McBRYDE: Okay, so there's no such position any more; therefore you want to leave it open to name anyone, regardless of title.

MR. MERCIER: But I would think we would be dealing with the —(Interjection)— somebody probably out of the Thompson office.

MR. McBRYDE: It's okay then, Mr. Chairman.

MR. CHAIRMAN: 35 —pass; 36 —pass; Title—pass; Preamble—pass; Bill be reported—pass.

BILL NO. 19 — AN ACT RESPECTING THE GLENBORO HOSPITAL

MR. CHAIRMAN: Bill No. 19, An Act Respecting the Glenboro Hospital, Page 1—pass; Page 2—pass; Title—pass; Preamble—pass; Bill be reported—pass.

BILL NO. 24 — AN ACT TO AMEND THE MUNICIPAL ACT

MR. CHAIRMAN: Bill no. 24. What is your wish gentlemen, page by page or clause 1 clause?

Clause by clause (agreed).

Clause 1—pass; Clause 2—pass — Mr. McBryde.

MR. McBRYDE: Yes, Mr. Chairman, on Clause No. 2, dealing with the Indian Reserves excluded from municipalities and LGDs, I wonder if there is some way to put a provision in here? The general purpose of the Act is quite clear and should be done, should be carried out. There is a problem that exists in a couple of areas where in fact a reserve through its development, such as a trail park or area where people are allowed to live, may be included in a municipality or an LGD.

I would be concerned that if in fact there is an arrangement between that reserve and the LG or the municipality whereby the people who are resident on reserve are actually paying a tax or taxes to the municipality or to the LGD, that somehow a provision be made so that those persons then would become eligible to vote because basically this is what this change is, it is that the eligibility to vote in municipal elections or LGD elections is taken away, which is as it should be unless in fact there is an arrangement where there are non-treaty people living on a reserve who are in fact paying taxation, and then we would have a situation arise whereby people are paying taxation but are not able to have a representative within the local government.

The general situation is such that this makes sense, but there are a few circumstances where that could arise. I don't believe it exists at this particular moment. I don't believe that there are people paying municipal taxes or education taxes in such a way where they don't have a vote but it could easily arise in The Pas area that I'm familiar with, where there were people paying municipal taxes through an agreement, where they would be deprived of a vote and I would like to see some way that that situation could be handled.

MR. MERCIER: I don't think it can be, Mr. Chairman. If they reside on an Indian Reserve they will be outside of the boundaries of a municipality, they will not be entitled to a vote for the municipal council in which the reserve may have been formerly located.

MR. McBRYDE: Mr. Chairman, this is my concern because there are at this time for example persons living within the LGD of Consol, and within the town of The Pas boundaries that are in fact voting in local municipal elections. Now I think it's quite fair and reasonable that those persons not vote in municipal elections unless they are in a situation where they are paying municipal taxes and, Mr. Chairman, that could quite easily come about. I know that when the students come from my own constituency, I give them a little lecture, I said there are three levels of government. There is your local government, and your parents are either voting in the town election, or the LG election, or the Band Council election, and there is a provincial and a federal, and I'm going to have to change my speech now because if in fact there would be people that would have no local government for which they could vote, and yet that is not as big a problem if in fact they were not paying taxes to that local government. But I could easily see a situation arising where a Band would negotiate a tax payment for example: If there were a trailer court a certain amount of the trailer fee would go towards municipal taxation, then the people living there would in fact be deprived of a vote even though they were paying taxes. I think it's called taxation without representation. So that's the situation we're up against.

Although I agree in general with this amendment, there might be some refinement necessary to take care of that kind of specific situation.

MR. MERCIER: Mr. Chairman, they would not be paying taxes specifically. They might be paying for example in that situation through the trailer court, they might be paying a portion of their fee in an indirect way, for services that the municipality might provide to the reserve, for example fire protection or extension of water and sewer services, but they would not be paying taxes as such.

MR. McBRYDE: Yes, Mr. Chairman, this part of the negotiations with the particular Band that I'm familiar with has evolved around ways of getting them to pay taxation in fact, when it would be fair and just that they do, and I don't know how . . . Like there might be a simple way to overcome

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is problem by having as part of this clause, part of this section, something like except when the local government authority wishes to have them excluded within their boundary and then if a development was going to take place and there was negotiated facts, which could be a straight tax as opposed to a specific tax, that is in some places in some municipalities and LGDs, trailers pay so much a month. So much a month of the trailer fee goes straight into municipal taxation. And if that kind of an agreement were negotiated then I wouldn't like the people in that situation to be deprived of a vote in the local government authority.

Mr. Chairman, maybe to get the Minister off the hook here, if the Minister would undertake that such a situation arose, to introduce an amendment then I'd be satisfied with that, because at this time it might be awkward to come up with something in terms of legal counsel that would cover that situation.

MR. MERCIER: I'm afraid I can't make that undertaking, Mr. Chairman. Again they will not be paying taxes as such. If they pay any money indirectly, and only indirectly, to the municipality, it will be for those services that the municipality agrees to provide to the reserve. So they cannot be said to be paying municipal taxes.

MR. McBRYDE: Mr. Chairman, I'm not 100 percent clear in that. I'm not sure if the officials are advising the minister or not. I was under the understanding that part of the trailer taxation was direct municipal amount to taxation, and not for a specific service, a, b or c. That is not a contract or service from the municipality, but straight municipal taxation. I could see that situation arising, and I think that in fact the minister and the officials of the department should attempt to encourage that situation, so that in fact you don't have people that, for example, are not paying education tax, that are not paying municipal tax, and that they would probably like to negotiate a situation where everyone was paying their fair share of taxation. And you're going to have more trouble doing that if there's no provision, that if they are, in fact, paying local municipal taxation, they don't have any say in the local municipal election.

MR. MERCIER: Mr. Chairman, the practice was they were paying taxes before, that's true, but once this amendment is in effect the municipality will have no right to levy any taxes within the Indian Reserve, and the Indian Reserve will simply, if they want any services from the municipality, will have to negotiate and make that arrangement with the municipality, and then, in this example with the trailer court, the reserve would include in the rent to be paid by the people living in the trailer court a certain percentage that would be indirectly paid to the municipality for the services which the municipality agrees to provide.

MR. McBRYDE: Yes. I suppose, sort of the only difference between us is that I can foresee a situation developing, and that is a Band wants to develop a certain area for a trailer court, for housing, etc. The Band feels they need the goodwill of the municipal authorities in order to do that, for a number of reasons, and therefore, they commit themselves, or they commit that in fact, regular taxation will take place on this development. That would be a good thing if it happened. I think everyone would be happier if that kind of situation did take place, and I can see that it could happen, and if it did happen though, now this new section of the Act would prevent those people, even if they're on regular taxation, being able to vote for their local government. In this case, it would only be a small part say, of a reserve, as opposed to the whole reserve.

MR. MERCIER: Well, it would be a good thing if regular taxation were allowed and were the practice. And if it were the practice and were allowed, this whole situation wouldn't have arisen.

MR. McBRYDE: Well, no I don't think that the minister is correct in that part. This problem originally came to light in terms of, I think, some southern municipalities where there is no service; there are basically two separate local governments, and yet through some wording in the Act that people were allowed to vote even though they had their own local government.

MR. MERCIER: Could the member repeat the last comments he made?

MR. McBRYDE: Well, the reason this arose was not related to the examples I was raising.

MR. MERCIER: There have been a number of instances that have occurred throughout the province which have raised this particular matter.

MR. McBRYDE: I agree with that general principle, Mr. Chairman, which in fact says that if you

vote in your Band Council elections, you don't vote in the other municipal elections where you have no taxation, etc. So, as I said at the start, I'm in agreement in general with what's happening here. I'm just worried about some specific instances that could arise in the future, that would deprive people of their right for representation with taxation, and if the minister would make some commitment to look after that, if and when it arises, then I would . . .

MR. MERCIER: My difficulty is that I can't make any undertaking, Mr. Chairman, because there is no taxation. The member's premise is based on the principle of requiring representation where there's taxation, but in this instance there is no taxation.

MR. McBRYDE: Mr. Chairman, what the minister is . . . and I think that his officials are aware of this, that if we let this go through exactly the way it is, it will ensure that there is no taxation in cases where, in fact, there might be a possibility of taxation, but it would ensure that there would be no taxation. I don't know if he's that comfortable with that possibility.

MR. MERCIER: Well, we're not aware of any particular situations like that, and I believe the member isn't either. Perhaps it's a case, Mr. Chairman, of if these arise, or are appearing to arise, then we can review them at the time and determine if there is anything that we can do to accomplish the member's objective.

MR. McBRYDE: Then, Mr. Chairman, I'll accept that from the minister; it's as close as I'm going to get any commitment.

MR. CHAIRMAN: Clause 2—pass; Clause 3 — Mr. Uruski.

MR. URUSKI: Thank you, Mr. Chairman. With respect to the amendments that are proposed here, I presume that there is a decision, or at least you're thinking, and I ask the minister whether there is a thinking in government that the time is fast approaching that local government districts, or some local government districts will be in a position to be able to assume full municipal status. Am I correct in that?

MR. MERCIER: The present situation?

MR. URUSKI: By the amendment.

MR. MERCIER: By the amendment would allow the minister to recommend to Cabinet the formation of an LGD, and there are further amendments in the Act that refer to the date of incorporation. I wonder if the member could suggest any LGDs to me that . . .

MR. URUSKI: No. Well, then I could ask the minister: What is the necessity of that amendment?

MR. MERCIER: Mr. Chairman, it appears that there may very well develop in the future some LGDs who are in a financial position which would justify their becoming municipalities; if they are in a worse financial position than many municipalities presently existing, they should be incorporated.

MR. URUSKI: Well, Mr. Chairman, the Minister then is slowly getting around to answer my initial question. I ask, and I hope that the intent behind this amendment, that before any such move is made by the government, that the Minister would at least give an undertaking that there will be consultation with the Council and residents of the local government district, in particular, as well as there is no doubt that most LGDs are receiving certain amounts of financial benefits over and above some municipalities, that negotiations would be undertaken by the government in order to arrive, if that is the government's decision.

And I would hope that the government does not just walk in and say, well, boys, you're old enough and big enough and financially strong enough, good-bye, and bang, the transition is made. I would hope that there will be consultation, that there will be negotiations in terms of some saw-off from the benefits that the LGD will no doubt, if it is moved to full municipal status, be removed from like the road question; like maybe some of the drainages or some other road-building equipment or some other areas that could be opened up to negotiations, in terms of the long-term viability of the local government district.

I hope that the Minister can at least give us that undertaking, that before any move is made

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t this process will be gone through.

MERCIER: Mr. Chairman, I believe there should be discussion with the LGDs and that there would be some sort of compromise with respect with respect to the financial benefits to some short-term assistance which they presently have, particularly relating to the Department of Highways.

CHAIRMAN: Clause (3) — Mr. Uruski.

URUSKI: Mr. Chairman, can the Minister indicate whether there is any discussion now, now that the Crown lands' issue is being negotiated with LGDs, whether that will prove or at least point out to be one of the guiding points where it may be the time during these negotiations that the government will in fact move the local government district into full municipal status, since there is no doubt in some areas if there is a cash exchange between the province and the local government district for the Crown lands, that would be reverting nominally to the LGD. But if the LGD wishes these lands to be maintained by the province there would be a cash amount — in some cases, quite substantial — to the LGD, whether that will be a time when the LGD may go to — well, the government may wish the full status, along with other areas. LGD to move to full municipal. And would the Minister at this point in time — it may not be directly related but it certainly has some bearing on the government's intent as to how quickly they want to move with some of the LGDs to municipal status.

MERCIER: Mr. Chairman, the discussions that we're having now on Crown lands and the exchange, etc., is following along exactly the same guidelines as under the previous administration, but I don't particularly see that as being essential to this. There have been no formal discussions with LGDs on this particular subject matter, mainly because up until now you could only create them by a special Act of the Legislature, The Municipal Act, but there may very well, if and when this is passed, some discussions may start to be held with some of the LGDs.

CHAIRMAN: Clause (3)—pass; Clause (4)— pass; Clause (5)—pass; Clause (6) — Mr. Baker.

MINAKER: Mr. Chairman, we had a motion that Section 6 of Bill 24 be amended thereto immediately after the word "applies" in the second by adding line thereof, the word "thereto".

CHAIRMAN: Clause (6), as amended—pass; Clause (7)—pass; Clause (8)—pass; Clause 9—pass; Clause (10)—pass; Clause (11) — Mr. McBryde.

McBRYDE: I want to apologize to the Minister, because I wasn't there for the Second Reading. Could he just give me a brief explanation of that section 11?

MERCIER: Yes. That's 283(3) of 11, and (4), as well. Essentially it allows the municipality to pay the cost of fire protection only for that area of the municipality that receives the protection.

McBRYDE: So in the past if a municipality wanted to make a levy of this kind, it had to be a general levy, and now it allows it to be a specific levy.

MERCIER: Right, right.

McBRYDE: So like within the LGD of Consol a specific levy could go on property on private land, namely a trailer park, whereas in the past it couldn't have been done on numerous properties on one piece of private land.

MERCIER: Yes, it allows just a part of a municipality to have the cost of the fire protection that area levied just against that area.

CHAIRMAN: 11—pass; 12—pass; 13—pass; 14 — the Member for St. James.

MINAKER: I move that the proposed 372(3.1) of The Municipal Act, as set out in Section 3 of Bill 25 be amended by striking out the word "may" in the sixth line thereof and substituting therefor the word "shall".

MR. CHAIRMAN: 14 as amended—pass — Mr. Miller.

MR. MILLER: I wonder if the Minister could give the information as to why the "shall". I mean I can understand it if part of the municipality is not in the hospital district that they shouldn't be included, but this allows no flexibility whatsoever. The "shall" is very strong here, and I'm wondering whether the Ministers had problems where a municipality has levied beyond the boundaries of hospital district. Is that the reason? It's the amendment I'm talking about.

MR. MERCIER: There has been some indication that that might become a problem.

MR. MILLER: But never has.

MR. MERCIER: There was apparently a problem where a number of municipalities are part of more than one hospital district, and they have been requested to grant one mill on the total assessed value of the taxable property in the municipality, and yet the lands which are within the specific hospital district may be significantly less than the total. So that the note I have is what may be one mill on the entire municipality might end up in resulting in a significantly larger mill rate over the hospital district area. So there has been a problem and we have to head off that problem.

MR. MILLER: Mr. Chairman, I understand that part of it. I am questioning the amendment move by Mr. Minaker, which changes the word "may" to "shall". You know, it seems to me that council certainly would not levy beyond the area that is covered by the hospital district. I'm just wondering why that word "may", which made sense, because there may be cases where there might be justification for it, but council would have no authority now at all, except they "shall" be bound by the wording here.

MR. MERCIER: The problem, apparently, is that because you obviously have varying levels of assessment throughout the municipality, that it's considered necessary to restrict it specifically to those lands in the municipalities that are within that particular hospital district.

MR. MILLER: The Minister feels that it's required to change "may" to "shall", I guess so. I was just wondering why the need to do it. It's so obvious what they have to do. I don't know why they "shall", that's all.

MR. CHAIRMAN: 14 as amended—pass; 15—pass; 16—pass; 17—pass — Mr. Uruski.

MR. URUSKI: Mr. Chairman, the amendments to 710(1) appear to be very broad. The amendment is very broad, that is contained, and the prime difference are the words "or any business". Could the Minister indicate what is the necessity of broadening that section when there appears to be in 710(1) of the Act, sufficient powers of a council to deal with the nuisance or the types of businesses that they feel should be designated to certain areas or kept out completely as their discussion. But the amendment that is proposed here goes way beyond the businesses and the type of industries that are set out in Clause (a). This gives the council the power to regulate any business. The City of Winnipeg has a massage parlor; they didn't change The City of Winnipeg Act.

MR. MERCIER: The problem, Mr. Chairman, is that in the previous section, which I think you have in front of you, refers to any specified place or areas, stores and shops of the kind in which Clause (a) applies; it's being changed to, "or any business to which Clause (a) applies." This arose, frankly, out of some correspondence with the solicitor for the RM of Portage la Prairie. They indicated that the existing subsection really would authorize the prohibition as to stores and shops, etc., but it would not cover a secondhand area or yard if there was no store or shop.

MR. URUSKI: Mr. Chairman, I could see the inclusion of junk yards and secondhand stores, which you have in there, but then you are going beyond that, "or any business."

MR. MERCIER: . . . and to which Clause (a) applies was in the previous wording.

MR. URUSKI: Well, would it not be just as easy, Mr. Chairman, to indicate "to provide for regulating for prohibiting altogether or prohibiting in any specified place or area," those businesses set out to which Clause (a) applies? Those businesses, but not "or any business."

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R. MERCIER: That's the same thing — any business. It's really the same thing because it's limited Clause (a).

R. CHAIRMAN: Clause 17—pass; Clause 18—pass; Clause 19—pass; Title—pass; preamble—pass; Bill as amended be reported.
Committee rise.