



First Session — Thirty-Fourth Legislature
of the
Legislative Assembly of Manitoba

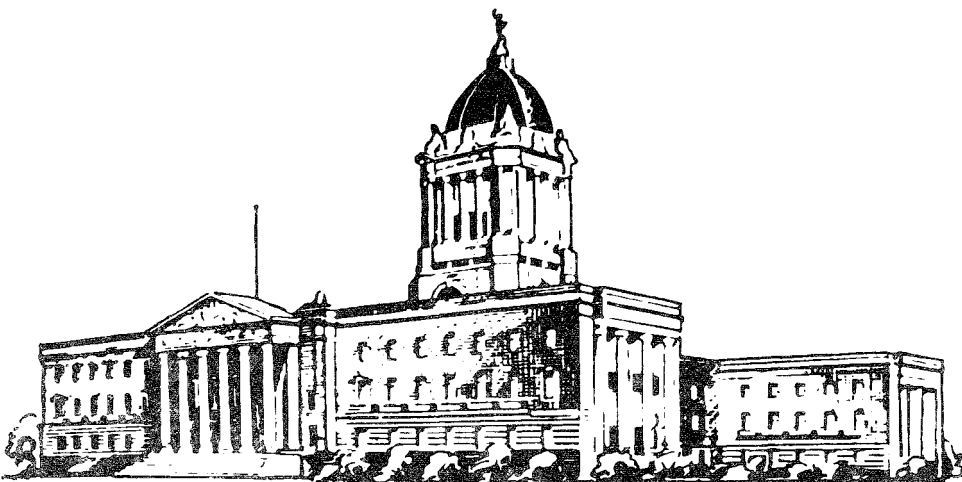
STANDING COMMITTEE

on

LAW AMENDMENTS

37 Elizabeth II

Chairman
Mr. H. Enns
Constituency of Lakeside



VOL. XXXVII No. 3 - 8 p.m., MONDAY, DECEMBER 19, 1988.

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fourth Legislature

Members, Constituencies and Political Affiliation

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	LIBERAL
ANGUS, John	St. Norbert	LIBERAL
ASHTON, Steve	Thompson	NDP
BURRELL, Parker	Swan River	PC
CARR, James	Fort Rouge	LIBERAL
CARSTAIRS, Sharon	River Heights	LIBERAL
CHARLES, Gwen	Selkirk	LIBERAL
CHEEMA, Gulzar	Kildonan	LIBERAL
CHORNOPYSKI, William	Burrows	LIBERAL
CONNERY, Edward Hon.	Portage la Prairie	PC
COWAN, Jay	Churchill	NDP
CUMMINGS, Glen, Hon.	Ste. Rose du Lac	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DOER, Gary	Concordia	NDP
DOWNEY, James Hon.	Arthur	PC
DRIEDGER, Albert, Hon.	Emerson	PC
DRIEDGER, Herold, L.	Niakwa	LIBERAL
DUCHARME, Gerald, Hon.	Riel	PC
EDWARDS, Paul	St. James	LIBERAL
ENNS, Harry	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Laurie	Fort Garry	LIBERAL
EVANS, Leonard	Brandon East	NDP
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen Hon.	Virden	PC
GAUDRY, Neil	St. Boniface	LIBERAL
GILLESHAMMER, Harold	Minnedosa	PC
GRAY, Avis	Ellice	LIBERAL
HAMMOND, Gerrie	Kirkfield Park	PC
HARAPIAK, Harry	The Pas	NDP
HARPER, Elijah	Rupertsland	NDP
HELWER, Edward R.	Gimli	PC
HEMPHILL, Maureen	Logan	NDP
KOZAK, Richard, J.	Transcona	LIBERAL
LAMOUREUX, Kevin, M.	Inkster	LIBERAL
MALOWAY, Jim	Elmwood	NDP
MANDRAKE, Ed	Assiniboia	LIBERAL
MANNES, Clayton, Hon.	Morris	PC
McCRAE, James Hon.	Brandon West	PC
MINENKO, Mark	Seven Oaks	LIBERAL
MITCHELSON, Bonnie, Hon.	River East	PC
NEUFELD, Harold, Hon.	Rossmere	PC
OLESON, Charlotte Hon.	Gladstone	PC
ORCHARD, Donald Hon.	Pembina	PC
PANKRATZ, Helmut	La Verendrye	PC
PATTERSON, Allan	Radisson	LIBERAL
PENNER, Jack, Hon.	Rhineland	PC
PLOHMAN, John	Dauphin	NDP
PRAZNIK, Darren	Lac du Bonnet	PC
ROCAN, Denis, Hon.	Turtle Mountain	PC
ROCH, Gilles	Springfield	LIBERAL
ROSE, Bob	St. Vital	LIBERAL
STORIE, Jerry	Flin Flon	NDP
TAYLOR, Harold	Wolseley	LIBERAL
URUSKI, Bill	Interlake	NDP
WASYLYCIA-LEIS, Judy	St. Johns	NDP
YEO, Iva	Sturgeon Creek	LIBERAL

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS**

Monday, December 19, 1988

TIME — 8 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Harry Enns (Lakeside)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Ducharme, McCrae; Hon. Mrs. Mitchelson

Messrs. Angus, Burrell; Mrs. Charles; Messrs. Doer, Edwards, Enns; Ms. Hemphill; Mr. Taylor

APPEARING: Public Presentations:

Bill No. 11

Mr. F. Arnold—In the Best Interest of the Child

Ms. M. Arnold—In the Best Interest of the Child

Ms. K. Thibert—In the Best Interest of the Child

Mr. A. Gowryluk—In the Best Interest of the Child

Bill No. 40

Mr. W. Kucharczyk—Private citizen.

MATTERS UNDER DISCUSSION:

Bills Nos. 11, 12, 38, 40, 47 and 52.

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Mr. Chairman: I inform members of the committee that although we had more or less concluded public presentation to the Bills that had indicated their desire to do so when last this committee sat, my understanding that there are nonetheless some additional public presentations that would like to be heard. Is it the will of the committee to consider these or should we proceed by clause-by-clause consideration of the Bills before us?

Do I hear some advice from the committee? Mr. Doer.

Mr. Gary Doer (Leader of the Second Opposition): I think at 1:30 in the morning we did, if I can recall correctly, contemplate perhaps other interventions tonight on behalf of the public. I think we should hear them this evening.

Mr. Chairman: Thank you, Mr. Doer. I take it that expresses more or less the will of the committee. I am reminded that we did sit until 1:30 the other evening when this committee sat, that I believe the committee patiently listened with a great deal of interest to all of the presentations whether or not we could ask presentations, particularly if the presentations had been

made on these Bills be made as expeditiously as possible. Do I have some names here?

I have one other piece of matter of business that I would place before the committee for some advice. We have one presenter, Miss Michaela (phonetic) Arnold, who is, I understand, of minority age. Is there any difficulty with that to committee members? My understanding is that she is requested to be heard.

An Honourable Member: No.

Mr. Chairman: Thank you.

**BILL NO. 11—THE CHILD CUSTODY
ENFORCEMENT AMENDMENT ACT**

Mr. Chairman: Then I will call in the order we are dealing with. We are dealing with presentations on Bill 11. Mr. Alan Gowryluk.

Mr. Fraser Arnold, please come forward.

An Honourable Member: Mr. Chairperson, do we have a list of delegations for this evening?

Mr. Chairman: I can read them out to the committee. Mr. Alan Gowryluk, Mr. Fraser Arnold, Ms. Arnold, Miss Kathy Thibert for presentations on Bill 11. I understand there is at least one presentation on Bill No. 40, Mr. Walter Kucharczyk and perhaps Mr. Sidney Greene. Mr. Arnold.

Mr. Fraser Arnold (In the Best Interest of the Child): Thank you, Mr. Chairman, ladies and gentlemen for your kind consideration.

I think I am here to perhaps speak on behalf of an endangered species according to some recent readings I have read. I have taken a look and I am sure I do not have to remind you of the turmoil and stress of divorce. Some statistics have come to mind lately that have shocked me and I have been in that situation for 10 years.

I have read recently, in a textbook that I use with a high school psychology class, that socially isolated people suffer two to three times more likely the possibility of dying prematurely to those with strong social ties. Divorced men, of which I am one, before 70—and I am before 70—die from heart disease, cancer, strokes, and at the double rate of married men, three times as many die from hypertension, five times as many commit suicide, seven times as many die from cirrhosis of the liver and 10 times as many die from tuberculosis. The rates of all types of cancer is as much as five times higher for both divorced men and women.

I give you some of these statistics to perhaps provide some background in that I feel the stress and the social

fabric and the social ties that are ripped assunder when a divorce takes place are almost enough for a person without any kind of concern in relation to custody. I spent a stormy six years in relation to custody and access myself, several times through the custodial courts. I feel very strongly that a code is needed to stabilize most areas of dispute. I feel very strongly that the legislation we have in place for maintenance enforcement has gone a long way and I much agreed with my ex-wife on this that it is a very just thing and has gone a long way to settle one of the areas of dispute.

* (2005)

Basically, the major areas of dispute are payments of support and access. I know, however, that when I walk in the building kitty-corner across the street to make my access payments, I want to know who represents me. I see a highly-tuned, very well, world-renowned system for collection of payments for support for ex-spouses and for child support. I feel that is justified. I also feel that it is very much justified that someone should represent my interests. Because of my rather lackadaisical bill payment habits, I sometimes—I do not fall behind in my payments, because I live three blocks away from my ex-wife. I run over and give her the money, and then I run down a month later and pay it down here where I am supposed to so it can be done through the system as it is supposed to be done.

I very much resent when I get these notices, that there is nobody to give a notice on behalf of men who do not have access to their children. I must say, and I really want to stress that I have a very good working relationship with my ex-wife.

The only reason she could not come tonight and make presentation is she is doing a piano concert and I am sorry I am not at that. I really want to stress we do have a good working relationship. We have gone so far as to have community family holidays with my daughter, my ex-wife, her younger daughter, who is not my daughter, in Arizona last year. We have spent Christmases together.

The reason I am here tonight and not in Toronto with the rest of my family is my daughter knows the reason we are here and knows the meaning of sharing enough that she said my mother will be alone this Christmas if we do not stay. We are here so her mother will not be alone.

I feel there are a lot of fathers, including a very close friend of mine who went to deliver his Christmas packages and pick up his daughter and was told at the last moment, I am sorry that access is denied and I have the right to do that.

I feel very strongly about the whole question of access, because I lived for six years in access squabbles. I lived through Kenora 49, 29, whatever the forest fire was, I was surrounded by forest fire, and I was told that because I did not return my daughter according to Hoyle I would not see her till Christmastime. One of our airlines, and I will not mention anybody's name overbooked, and I was assured by the airline people that nobody was that unreasonable and I would have

no problem with my ex-wife assuring her that I did my very best to reach the airport on time and that everything possible had been done. The airport, the company people talked to my ex-wife on the phone and then they assured me that they knew what unreasonable really was and this was from a very reasonable woman who from Day One had said, we will share this child, we will have joint custody, we will have a sharing agreement. When the roads became icy between Peguis and here, and I could not return the child, I was told I would not have the next turn, I would not have the regular turns with the child. As I say, with forest fires, airlines, icy roads, things beyond control with a very reasonable person, I have suffered a great deal of problem. I have been told if I do not take the child to her ballet lesson, and I am not heavily into ballet unfortunately, but if I do not do that on a Saturday morning, I will not see the child for the rest of the weekend when I have come down from Peguis to pick her up. This is with a very reasonable woman, and I want to stress that, that my ex-wife has been more—we have as I say a very good working relationship.

I would say I have joint custody but I do not. Legally, my ex-wife has sole custody and she metes out the time as she sees fit, and she sees it very much to her advantage, to our advantage as a family to mete out a great deal of time. I do not think other men are so fortunate, and I speak more on their behalf than my own any more. I have no need to be here for my own person, I have need to be here for my daughter and for other children like my daughter who need these guaranteed rights, that they will have access with their father.

I know my family and the things that we do together are very dear to her heart, and are very much a part of her life, and if she had to have been denied these for any reason, she would find a great deal of distress in this.

* (2010)

I have considerable contact with children in my career as a high school teacher and part-time counsellor, and support person in contact with new faces, CGC, and other agencies. I find constantly in our school there is about a 40 percent single parent rate. In the area where my daughter and I live in Fort Rouge, there is about a 60 percent single parent rate. We are talking about areas where this is constantly a problem. I am talking about a child who came in and one of the other presenters today happened to be a student in my school at that time and I put the two children together after a while so they could help solve the problem. When the child came to me and said, I do not know what to do. My mother says she will never attend another school function because my father was invited to the high school band concert. I found that very distressful but I also wonder what can the access rights be of that father if he is not allowed to even be in the same building.

I am not saying there is never any cause for this, and I think there are certainly lots of safeguards for people when there are causes for fathers not to see

children. We have laws. We have provisions to look after those sort of things. Certainly the best interests of the child must be safeguarded. I also know what a complete human being I am for having had that access to my daughter over the 10 years, stressful though it was for the first six, it has been glorious for the last four.

I know how important it has been for me for my personal growth, for her personal growth. I think custody in itself denotes to one person; already you have been limited as a non-custodial parent in your contact with that child. Any threat of any kind to that precious, fragile time cannot be tolerated. The rights of the child to see a parent must be guaranteed, because it is that child's right. It is not my right as a father alone, although I would suffer greatly if I had lost my child, but it is the right of that child to see that parent. It is very precious to us. I do hope you will give it due consideration and it will be safeguarded. I thank you for your time.

Mr. Chairman: Thank you, Mr. Arnold. Do any committee members have some questions they would like to place to Mr. Arnold? Hearing none, thank you for your presentation.

Miss Arnold.

Miss Michaela Arnold (In the Best Interest of the Child): Hello, my name is Michaela Arnold. I am part of two families, my mother's and my father's. Both have me equally and they have allowed me to share the time with each of them. I believe that feeling good about yourself is important. Seeing both parents is important to me. If I did not see one of my parents, I would lack a sense of self-value. It makes me feel good to see that they bother to let me interrupt their schedules to drive me to choir.

If I did not have parents like this, I would be very insecure. Insecurity is a lack of love for yourself. If you do not love yourself, you will probably grow into an unstable relationship.

When my father lived in Ottawa and when I lived near Kenora, I felt resentment for my mother not letting me see him. Sometimes I felt that my dad did not love me. That is not good. I resented my mother then. It may have something to do with the way I feel about her now. Because I spend time with both of my parents, I have found out how great they are.

If I had not lived with both of them, I would not have the experience of knowing them both as parents and friends. When I was little, I felt it was my fault. In fact, I promised I would be good if they went back together. I have accepted that they will not go back together and that it is not my fault. But it took them both to convince me that this was the case.

The legal custodian should share the children with the other parent as much as possible unless there was alcoholism or abuse involved. If the person is not willing to do this, the system should make them. When the child grows up, he or she needs the influence of both parents to develop a proper and full identity. I have learned and loved doing many things with both parents. The things I love to do might not have existed without the love and caring of both my mother and father.

If my dad had not taken me to the beach I might not have learned to swim. If my mom had not taken me to church I might not believe in God. Right now I am looking forward to spending Christmas with my parents because they care enough to understand that I need and love both of them.

Mr. Chairman: Thank you, Michaela. I appreciate that the Chair ought not to editorialize, but I know that I speak on behalf of all the committee if we express our appreciation and thanks at your courage and at your presentations. Several members of the committee may have some questions of you. Would you be prepared to answer some questions? Do I hear any questions? Hearing none, thank you again, Michaela, and a Merry Christmas.

* (2015)

Ms. Kathy Thibert (In the Best Interest of the Child): Good evening, ladies and gentlemen. My name is Kathy Thibert and I am here for Bill 11. There is one word in the English language that can change a person's perspective on life and that word is "divorce." Although divorce is pretty common it can affect many people, especially if children are involved. I have seen and heard of many different reasons for divorce and the problems that can arise from it. I am very concerned about the child's outlook on life when a divorce occurs. Most children adjust, but some become withdrawn, moody, depressed and even suicidal. Most of these are caused when the parents cause friction against each other. If the parents would act responsibly and work out the best agreement for everyone, with the children being the No. 1 priority, maybe the symptoms would disappear.

I personally would like to see more group sessions set up for children and teens who would like to talk out their problems and receive encouragement in order to adjust to their new situation. I myself have gone through my own parents' separation and reconciliation. My parents were separated for six months. In that time I lived with both of them equally, and I am glad I did. I shared both their lives and they shared mine.

Being 16 at the time, I had a lot to do with their reconciliation. I was involved in a lot of activities and would always make sure both parents were there. That enabled them to talk and eventually work out their problems. They acted just like newlyweds up until my father's death in November 1987. Although my parents' outcome was wonderful, most are not. So by voting for this Bill, maybe you can make the outcome wonderful or at least liveable. Thank you.

Mr. Chairman: Thank you, Ms. Thibert. Any questions from committee members? Hearing none, thank you again for your presentation.

I will call on Mr. Alan Gowryluk if he is available, thank you. Mr. Gowryluk.

Mr. Alan Gowryluk (In the Best Interest of the Child): Thank you, Mr. Chairman. The two youngsters that we have with us today appeared on the television program which I began in 1985. We ran 13 programs, produced

them on VPW 13 and the reason I started that program is because my daughter asked me a question. The question was, after the initial separation arrangement, why does someone not ask me what I want? I could not answer her; I did not have an answer for her. That is why I produced these shows to the best of our ability and tried to have individuals like the two youngsters we have here indicate their feelings about separation and divorce, because I think there are periods in our lives, in the lives of normal people, when they are crazy, really certifiably, verifiably crazy. That is the time when a divorce takes place.

That is when characteristic good sense and judgment depart and all that is left is bizarre behaviour and pain. That is all that is left, and the children have to go through that. I feel that this Bill, along with the Maintenance Enforcement Program, is probably one of the most progressive steps in North America on this issue and I feel that anyone who would not vote for this would probably be voting in favour of, well, I guess suicide. That is how strongly I feel about it. The reason I state that is because we are living in a time right now where Statistics Canada reports that there has been a dramatic increase in the incidents of teenage suicides across Canada in the past 20 years. Twenty years ago our divorce laws were liberalized—1969. The rate of teenage suicides in Canada has doubled for children 10 to 14 and tripled for teenagers from 15 to 19.

* (2020)

Suicide is currently the second cause of death for Canadian teenagers after automobile accidents. Overall, my observations in the last Session on Bill 11 are the following, and some conclusions—these are my own:

No. 1, the feminists and other equality groups who advocate equality seem to forget to do so when they have the opportunity, as an example, on this particular type of Bill involving the equality of children, men and women.

No. 2, very often the best parents are driven from their children or they choose to stay away because of their desire not to cause the child more pain over custody and access arguments. This is usually caused by the sole custody award to one parent.

No. 3, the parent who denies access, and I believe very strongly in this, probably first of all should lose maintenance payments; secondly, go to jail on their non-access weekend; and No. 3, probably lose custody to the friendly parent.

That is how strongly I feel about this because of the way it affects children. Finally, I believe that in Canada a child should have the right to access of both parents and a child in Canada should have the right to custody of both parents.

That is my presentation. Any questions?

Mr. Chairman: Thank you, Mr. Gowryluk. Do any committee members have questions of Mr. Gowryluk?

Mr. Gary Doer (Leader of the Second Opposition): Yes, thank you very much for the presentation. The

Status of Women's Committee, which I have usually found to be a fairly reasonable body in their presentations and research, stated in their brief that the financial penalties, that they are very concerned about it in terms of the application that is considering the significant differences in the post-divorce income for women and men. Would you like to comment on that, their analysis of this Bill and their problems with it at this point? Not the issue of fairness but just the way the Bill seems to, in their opinion, address the problem.

Mr. Gowryluk: In my opinion, the problem we are dealing with here is teeth in legislation, the amount of—if you look at the Maintenance Enforcement Program, men go to jail if they do not pay their maintenance and if we are looking at equality and the equal clout, we should say, if we are looking at the amount of responsibility that will put someone in jail because they do not make their payments, and of course all the ramifications that goes with it, I think we should and feel very strongly that we should have the same amount of responsibility on the other side of the scale which is only natural for the children of course, the best possible interest for them, because I feel that if we look at a loss of maintenance payments going to jail or lose custody to a friendly parent, I can guarantee you that they are not going to get passed, No. 2, and if they do go, they only go once.

Mr. Doer: A number of briefs have been presented to us with considerable data encoded from the federal department studies on the perceived problem of access and quantified only at less than 15 percent in most cases. Is there any contrary data that we could have today? I know there are subjective opinions as groups on the side of this issue but to my way of thinking, having listened to the briefs, there was data presented by a number of organizations that would seem to support that the problem area was not as great as one may have expected, even though any one case is a problem in itself, I would agree.

Mr. Gowryluk: Yes, let me say this about that. When we deal with this access problem, we have a lot of situations where the non-custodial parent, because they do not want to cause any more pain or problem to the youngster, the children involved just back off. They give up, they either run out of money or they choose not to pursue it any further. The reason for that is probably because they love their children so much.

When you are dealing with an unreasonable person who has all the power, the custody order can keep you away from your child. What are you going to do? There are some who argue. Those who are very direct from a behavioural tendency point of view are the argumentative type. They are going to battle this, and we have classic cases in all the courts that indicate that these people will battle till the end. They do not even think of the children.

This is the whole issue. I think the key thing here is that after the separation arrangement occurs there are two things that happen. Underparenting is the most critical problem and then the second thing is, how do

I let my child spend time with someone I now happen to hate. That is the key issue there, and that is where this Bill, Bill 11, helps the parents get through that period of time where they can get rid of their anger.

* (2025)

We had presentations on Thursday night where there was just pure anger by two or three of the people. They were not past the anger stage. Once you get past the anger stage, three, four, five years, some people never make it. They go into a flat spin and never recover. During that period of time it is the children who suffer, no one else. So I do not know if that answers your question.

Mr. Chairman: Thank you, Mr. Gowryluk. Thank you for the presentation.

Mr. Gowryluk: Thank you for the time.

Mr. Chairman: Thank you. That concludes public presentation on Bill No. 11.

I will call Bill No. 12, The Statute Law Amendment Act. Do we have any public presentations on that?

Bill No. 38, The Mental Health Amendment Act. Any further public presentations on that?

BILL NO. 40—THE CITY OF WINNIPEG AMENDMENT ACT (2)

Mr. Chairman: Bill No. 40, The City of Winnipeg Amendment Act (2). Public presentations on that? We have one person listed, Mr. Walter Kucharczyk.

Mr. Walter Kucharczyk (Private Citizen): Mr. Chairman, ladies—it is so nice to see the ladies—and you gentlemen. Wednesday last I was very much tempted to appear before another committee. Some of you were here, but since I am not very good in delivering the eulogy, you had a funeral of ManOil, so I give up. However, unfortunately, nobody even said a nice word about it. Well, I will say a couple words about you—I mean the politicians.

Mr. Chairman, since it is my last appearance before the committee, my wife and daughter said you made a fool out of yourself enough, quit. So you bear with me while I throw a few things at you.

Mr. Chairman: Mr. Kucharczyk, this committee and this Chairman has a great deal of flexibility in listening to you, but we would remind you that we are dealing with Bill No. 40.

Mr. Kucharczyk: Yes, Sir, I will come to it—

Mr. Chairman: The City of Winnipeg Amendment Act.

Mr. Kucharczyk: Mr. Chairman, everything I say will relate to Bill No. 40—

Mr. Chairman: Thank you.

Mr. Kucharczyk: —and you being a dean of the Members here, you will appreciate in the due course,

some of those young people will not appreciate or even understand. As I mentioned before about ManOil, I just will quote to you somebody who is more knowledgeable than I am.

You may have heard about the two old ladies strolling through a church graveyard. They came across the headstone inscribed John Smith, a politician and an honest man. Is that not terrible, one of them said to the other, they buried three people in the same grave. I think it is self-explanatory.

Why I mentioned ManOil, a number of the worse arguments, etc., were put forward to the committee by people who did research and who did not worry about the votes to come in the due course of the election. The powers to be ignored the advice. They took the attitude, as the majority of people in power, that they know better what is good for the people than the people themselves.

* (2030)

So you have one example, made myself quite a few enemies at the time by telling the truth about ManOil. Well, may it rest in peace, till the next election, of course.

I will give you another example. You will spend many hours in the House debating the issue of the mental health and health as a whole. However, again, in the past when there was a discussion, when Bill 2, An Act to amend The Health Services Insurance Act, June 6, 1985, for powers to be it came to one year, through to another and there you even had a headline like that. They could have done back in '85. Check your Hansard way back.

There is one more. Just to be on the safe side that I will not twist the name, I better look up on the card. Public Inquiry into the Administration of Justice and Aboriginal People—you should be aware that right now there are some financial difficulties. No doubt they will be so. It is not my problem. My problem is again being ignored.

July 25, 1983, when Honourable Mr. Penner was Attorney-General—Oh, the young one is not here, I mean the young Attorney-General. I just have few remarks to give him the advice.

Mr. Chairman: Mr. Kucharczyk, I do have to ask you to direct your comments towards the Bill that is under consideration, Bill 40, The City of Winnipeg Amendment Act.

Mr. Kucharczyk: Sir, you will see that within seconds I will tie in to Bill 40. Back in July '83, when the LERA was discussed, the honourable gentlemen were—LERA, Law Enforcement Review Agency—well advised what should be done prior to having a band-aid approach. They did not do a darn thing other than LERA. After all, if you polish your shoes you have to put them on your feet or otherwise you walk barefoot.

Coming to Bill 40, now this is fascinating, really, just fascinating. You cannot discuss the Bill 40 without going back to the days of Mr. Schreyer and that three-ring circus—Mr. Schreyer, with all due respect to him on

that issue—Mr. Cherniack and Mr. Green, how they tried to convince us what a wonderful city you are going to have, etc., etc. Fine.

Hearing after hearing—P.R., they did their job. Politicians say those P.R.s, they give us very sound advice, and Walter told them, yes, sure, 99 percent sound, 1 percent advice. That is what people want to hear sometimes. So here we come to the hearings when Mr. Cherniack—oh, boy, that man should get a medal for his patience. I regret that he is not here.

Mr. Chairman, ladies, and gentlemen, just visualize for a minute how enthusiastic the people of the City of Winnipeg have been. That Mr. Cherniack and four others, they were not glorified politicians with a background. They were just ordinary people with knowledge. They have had 29 hearings, 216 presentations and 80 written briefs that were received.

When I look here at the names who appeared before Mr. Cherniack—any extra charge for a drink of water? Thank you. I see some famous ladies here, some names known, who appeared at the time, but I did not hear their objection to the Bill yet, but maybe I missed them in the House.

I believe Mr. Jim Ernst is a Cabinet Minister now. Mrs. Iva—sorry, I cannot pronounce your name, I will spell it. Oh, she does not give a damn anyway, so let her talk—Yeo, her last name, she attended the meetings. Mr. Taylor—and I see I am getting dirty looks from the Chairman so I had better quit reading. I will provide you, Mr. Chairman, with the list of all the people who had verbal submissions and written submissions so that Hansard will not suffer with my spelling of those names and pronunciations.

Now all the avenues explored in that Bill, and now I want to talk about the White Paper because the previous administration made the mistake, they were too slow in their procedure because otherwise they should have put the darn thing through and be over with it. Mr. Chairman, to Mr. Minister, if you spend some time in the library here and go back to Mr. Roblin's days and see how he listened to the grass roots. That is why he became Mr. Roblin, eh, well-known, including his ditch. But you people do not even advertise to those who attended the meetings with their opinions and submissions, that you are having a band-aid approach or cosmetic touch-up to that Bill. I urge you, give it to kids, let them play with it as a kite and just forget about Bill 40 and have the whole issue debated in the House at once.

Do you agree with me, Mr. Chairman?

Mr. Chairman: The Chair has a neutral position, Mr. Kucharczyk.

Mr. Kucharczyk: Oh, my, I feel sorry for you, Sir.

Before I wear out my welcome completely, I only in conclusion will say that you were elected not as Members of the caucus, you had a platform, but people should be first, not your political goal, not what your Leader said. So perhaps one day, if you will have nothing better to do and your people from your constituency

will not be bugging you, when you will have peace of mind, ask yourself a question: what am I supposed to represent and what am I supposed to do? Is my caucus No. 1? Is my political Party No. 1? Is Canada No. 1, or perhaps the Province of Manitoba? I would urge you to put people first and put Canada first. Thank you.

Mr. Chairman: Thank you, Mr. Kucharczyk. Do we have any questions of our presenter? Mr. Doer.

* (2040)

Mr. Gary Doer (Leader of the Second Opposition): Thank you, Mr. Kucharczyk. You are talking about the grass roots. As I understand it, there have been public hearings on the proposed two sets of boundaries that have been distributed by the Minister for the Independent Boundaries Commission established under The City of Winnipeg Act. Are you aware of those public hearings on the configuration of those boundaries in terms of the 23 versus 29?

Mr. Kucharczyk: Sir, it is news to me, period. I never heard that they have had.

Mr. Doer: So, you cannot confirm what we have heard that most of the majority presentations when they were presented with the two maps wanted the old boundaries, the 29, rather than the 23?

Mr. Kucharczyk: In that connection, since Mr. Chairman acted like a dictator, and I am putting that in a mild way, I overlooked to mention about cutting down City Council. That would tie into the boundaries. Now, since we do not know as yet about the size, division on the wards or whatever the correct English is, how can we discuss logically how many? The only thing, one thing, Mr. Chairman, I say that good things come in small doses and when I had the trouble with Mr. Cherniack in his committee, I suggested that he would take a look at Mrs. Pawley and that would prove my point.

Mr. Chairman: Hearing no further questions, I thank you for your presentation.

Mr. Kucharczyk: Do you mean it?

Mr. Chairman: Yes.

Mr. Kucharczyk: Thank you.

Mr. Chairman: I really mean it, Walter, and Merry Christmas and a Happy New Year to you on behalf of all the committee.

Mr. Kucharczyk: And I wish you good health, Sir. From time to time, you have lessons for those juveniles.

Mr. Chairman: Thank you, Mr. Kucharczyk.

We have one more Bill, or two more Bills. Bill No. 47 of The Liquor Control Amendment Act. Are there any further public presentations?

**BILL NO. 52—AN ACT
TO INCORPORATE “THE WINNIPEG
CANOE CLUB”**

Mr. Chairman: Bill No. 52, an Act to amend an Act to Incorporate “The Winnipeg Canoe Club.” Any presentations? Hearing none, thank you.

I will now call the committee to the clause-by-clause consideration. I recognize the Attorney-General, Mr. McCrae.

Hon. James McCrae (Attorney-General): Mr. Chairman, I believe there would be agreement to proceed with Bill No. 52 first, since it is basically a non-controversial type of Bill.

Mr. Chairman: The suggestion is made that we deal with Bill No. 52. I take it that there is concurrence in that suggestion. (Agreed) We will deal with Bill No. 52.

Mr. Gary Doer (Leader of the Second Opposition): I would like to declare that I have a very small share in the Winnipeg Canoe Club and, in light of the conflict-of-interest legislation today, I will disclose and withdraw from the meeting.

Mr. Chairman: Your declaration of potential conflict of interest is noted. Order, please. Bill No. 52, An Act to amend An Act to Incorporate “The Winnipeg Canoe Club.” Pardon me, I have to have a report read into the record by—what is your official title, the law officer?

Ms. Shirley Strutt (Legislative Counsel): Mr. Chairperson, as required by Rule 108 of the Rules of the House, I now report that I have examined Bill 52, An Act to amend An Act to Incorporate “The Winnipeg Canoe Club” and have not noted any exceptional powers sought or any other provision of the Bill requiring special consideration.

Mr. Chairman: Thank you, committee has heard that. We can now proceed legally with consideration of the Bill. Section 1—pass; Section 1(a)—pass; Section 2—pass; Preamble—pass; Title—pass. Bill be reported. Thank you.

Mr. Bob Rose (St. Vital): I would just like to briefly state, and I have a problem here, I would like to say that—

Mr. Chairman: Pardon me, Mr. Rose, can you indicate what you are dealing with?

Mr. Rose: Bill 52.

Mr. Chairman: Thank you, we are now dealing with Bill No. 52.

Mr. Rose: Still.

I just wanted to say that in Hansard it came out that I was commenting on how many people belonged to it, saying tradesmen and lawyers, etc., had also come out as the odd politician. I did not refer to the Leader

of the other Party when I said that. It was inadvertently meaning, you know—but Mr. Chairman, there is a Section 105 that allows the fee for petition be waived and I have a motion here. My only problem is I do not seem to be able to find a mechanism that says which are appropriate and which are not and in perusing Webster’s I feel in my own mind that this certainly covers the section that calls them a benevolent organization.

So therefore, I move

THAT this committee recommend to the House that in accordance with Rule 105.3, the appropriate fee be refunded to the Winnipeg Canoe Club.

Mr. Chairman: Has everybody heard the motion? Agreed? (Agreed) The motion is to waive the normal fee for the petition.

Hon. Gerald Ducharme (Minister of Urban Affairs): Just a question on that. What has been previous practice when it is a profit maker usually? I know this one is a private club. What is the usual procedure on this?

Mr. Chairman: I can just indicate, Mr. Ducharme, from the Chair that it is not unusual for this to be entertained by the committee for these kinds of Bills. I would beg for some support from staff as to whether or not that is the case. My understanding is that that is the case. Perhaps we could have the law officer come and join us for a moment and indicate.

Ms. Strutt: The rule expressly provides where the petitioner is an institution, organization or association with charitable, religious or benevolent purposes and is not carrying on or intending to carry on business for gain, the deposit may, subject to various rules, be remitted to the petitioner.

Mr. Chairman: I think we can safely conclude that the Winnipeg Canoe Club is a benevolent association or institution.

Mr. Ducharme: I wanted to make sure it was on the record that it was not making money right now and just wanted it clear. So that in future when other organizations come forward that have and are making a profit, that they not be—that we use this as a precedent. We have to watch.

Mr. Chairman: Thank you, Mr. Ducharme.

The motion, Mr. Rose, has been carried.

Mr. Kevin Lamoureux (Inkster): Mr. Chairperson, on this point, at this point, I would like to ask the committee to consider, with unanimous consent, to replace Mr. Rose with Mrs. Charles on this committee.

Mr. McCrae: That is agreed, Mr. Chairman, and in the same vein, it may be necessary to ask for similar leave of the House to allow the Honourable Minister of Culture, Heritage, and Recreation (Mrs. Mitchelson) to replace the Honourable Minister of Health (Mr. Orchard).

Mr. Chairman: Agreed. Thank you. Mrs. Charles replaces Mr. Rose.

**BILL NO. 11—THE CHILD CUSTODY
ENFORCEMENT AMENDMENT ACT**

Mr. Chairman: Will the committee members turn their attention to Bill No. 11, The Child Custody Enforcement Amendment Act, for clause-by-clause consideration. Turn to page 1, Section 1.

Mr. Gary Doer (Leader of the Second Opposition): Is there going to be any debate on this Bill?

Mr. Chairman: I thank you, Mr. Doer, for the reminder. Perhaps if the committee is willing, I would ask committee members to consider making any general remarks about the Bill at this stage, and then reserving specific comments about specific sections at the point in time that we actually arrive at those clauses. The Chair will entertain any representations at this point.

* (2050)

Mr. Doer: This is a very, very difficult situation for us, and anybody that did listen to the presentations that were made last week.

I would acknowledge that it would be difficult for any Attorney-General and any Minister responsible for the Status of Women to resolve the conflicting opinions on what this Bill will mean to Manitobans that are effected by the Bill. I, quite frankly, think it raised a lot of questions, certainly in my mind, and not about the intent of programs. Certainly our Party has a tremendous deal of respect for the administration in the Attorney-General's Department that I believe under the leadership of Ms. Diamond over the years has been the best in the country. I think it has been acknowledged that way, notwithstanding changes in Government, etc., and changes in Attorneys-General, etc., the programs we have pioneered have been exemplary in their nature and have been in the leadership role.

I have read all the briefs very seriously. I have tried to engage in as much discussion as possible with groups on the Bill over the weekend. It was not a lot of time. We are just getting another article today about it. I have some serious concerns that have been raised by the Status of Women's committee in their brief last Thursday night, and their call for caution, perhaps in the next few months, to hold the Bill and work it out to a somewhat greater degree.

I know that one must have the wisdom of Solomon in terms of dealing with this issue in terms of the way it was presented to this committee. But it seemed to us, I do not believe you could ever get consensus on something that groups see in such different ways in our society. But I am not so sure that the advice given to us by the Status of Women's committee is not the correct advice to take at this time, to spend some more time reviewing this issue and reviewing the legislation and its implications on some very tough situations for Manitobans effected by this law. It is not as easy to debate as normal Bills. There is no question about that. But we certainly had a lot of bells rung, in terms of our Members, last Thursday night. We were very concerned about the Bill and what it will mean. We

think that perhaps maybe the prudent way to deal with this is to wait a couple of months, try to deal with some of the concerns that were raised, not necessarily in legislation but the concerns and fears that the groups have. Perhaps they should, to some degree, be put more to rest before we as legislators proceed with this Bill, whether it is in the present form or an amended form as the Attorney-General has suggested or in another form as may be possible.

I just raise that as a concern and I recognize that it would be a very difficult issue for any Attorney-General to deal with. But I was very concerned about the presentations we received last week and the speed at which we were passing this Bill even though it has been introduced at an early stage in the Legislature. But one must admit that the public presentations have only come to us in the last, literally, 100 hours, in terms of the very, very well thought out briefs from both sides on this obviously very important issue.

Hon. James McCrae (Attorney-General): This legislation is not something new, not something foisted upon the Legislature at a late date as the Leader of the New Democratic Party (Mr. Doer) himself has said. It has been on the Order Paper for some time.

I might remind members of the committee that Manitoba can take pride and does, I suggest, in having the best Maintenance Enforcement Program in this country. Very soon we are going to be able to claim to have the best unified Queen's Bench Family Court in all corners of our province. We are now working towards have an Access Assistance Program. I ask the members of the committee to recognize the difference between Maintenance Enforcement and Access Assistance. There is quite a difference. The presenters who came before us, detailed for us very adequately the kinds of differences there should be in such programs.

In terms of the consultation that brings us to the point we are at, I remind the committee that since 1985 this matter has been in the consultation stage which brings us to the stage we are at now. The previous Government was very much involved in terms of negotiations with the federal Government to provide the funding for this program. The previous Government was involved in this matter and supportive of this type of thrust right up until the time they were removed from office and the new Government took over.

Now, Mr. Chairman, this has been the subject of extensive community discussions and consultations with the groups who attended before this committee, including the fathers' group that was here, including the Advisory Council, including the Association of Women in the Law, the City Police, and certainly the Family Law Subsection of the Manitoba Bar, the YWCA, The Manitoba Committee on Wife Abuse. So that it is not that we are here tonight without adequate consultation. The comments the Leader of the New Democratic Party (Mr. Doer) made about the director of the Family Law Section are, I suggest, true. The director has worked very hard in terms of the consultation process.

Now, what we are trying to do with this is to round out the range of family services that we provide in this

province, so that we can justifiably say that we not only have the best system but the most complete system of family services available to Manitobans.

If it is necessary, I can run through with Honourable Members the careful steps that are taken from the time a case comes before a counsellor under this proposed program. I do not think I need to go on all night, but I should not stop before I say to Honourable Members that this is being entered upon as a pilot project. We are going to be extremely careful and sensitive with the way this program is handled. There will be an extensive monitoring and evaluation of this pilot project.

When I announced this project, I said that I hoped that it would be successful, and that if it were successful that we would be able to extend this program as well province-wide. When we announce a program and say we hope it is successful, we are obviously talking about a pilot project, and I cannot stress this enough to Honourable Members. It is a project which has enjoyed the support, I suggest, of all the Parties in our Legislature.

Certainly there are reservations. There should be reservations, I suggest, before we embark upon any pilot project. If we knew exactly how the evaluation and the monitoring was going to turn out, we would not need a pilot project. We would go right into it. But no, this province is taking a more careful and sensitive approach, and I suggest that the program should be given an opportunity to see how well it will work to serve the children of this province who are the people who are at the most focal point of the discussion here tonight, the children of the parents in this province who do have difficulties with family relationships.

It is becoming more common than we would like to admit but, let us face it, Mr. Chairman, the children of this province are going to need the kind of support we can give them more and more in the days ahead and the months and the years ahead. So I suggest that there should not be a problem with proceeding on a pilot project which will be as carefully monitored and evaluated as I have suggested.

In addition, Mr. Chairman, we will be proposing an amendment which will take some of what Honourable Members may be concerned about out of the Bill in terms of security being put up in order to secure the performance of certain things. So, as we go along this evening, Honourable Members will see what we are proposing. But basically, we are trying to get a program into place that we can make better and build on, so that we can round out the services we provide to families in Manitoba.

Mr. Chairman: Thank you. Mr. Angus?

Mr. John Angus (St. Norbert): I will pass to Mr. Edwards.

* (2100)

Mr. Paul Edwards (St. James): I have looked at this Bill and looked at the amendments many, many times and I have taken a lot of time to look at them. I have

been looking at this since it was first introduced into the House and, I daresay, even before that I was looking at the issue. This issue, as my honourable friends have pointed out, has been discussed in this province for some years. I believe, since at least 1985, it has been being looked at seriously as a potential program and pilot project, as I am sure the Member for Concordia (Mr. Doer) knows well.

The program, no doubt, has its flaws. The legislation, no doubt, has its flaws. I think what we are doing here tonight is looking at an initiative which will, hopefully, be monitored closely in the coming years, which no doubt will be changed, perhaps substantially, with the continued input and cooperation of the various interested parties. I think the level of concern shown by those parties and the quality of their presentations bodes well for this program in that they have shown a high level of interest in this issue.

I recognize that the Action Committee on the Status of Women and the Charter of Rights Coalition and the Women in the Law groups all suggested that there was not a sufficient need to proceed. I dispute that. They relied on the Attorney-General's (Mr. McCrae) study, which cited some 15 percent of non-custodial parents who were surveyed did say that there were problems. I think that the Attorney-General's Department has admitted flaws in that report. I think that there is a need and that it is something that needs to be addressed.

I think that we have been talking about this for three years and it is time to go ahead with the pilot project. If we have made mistakes, they will become apparent. I think what we can look for is the continued monitoring by the community and by the department. I have an enormous amount of faith in Ms. Diamond's abilities. I know that she has monitored the Maintenance Enforcement Program and has made many changes to that program on a regular basis. I think that is the type of thing that we can hope to come out of this new initiative, which indeed is new for this jurisdiction, but not just that, it is fairly new for the country. I think that Manitoba will, no doubt, become a leader.

I also looked at the presentations, and there were many. I listened closely to the presentations, and I looked at the documents which were put to us. I spent some time this weekend going over them. They were extremely informative. I agree 100 percent, and I think we all agree, that the child has to come first. It is important that this be a child-centred program. If I leave any lasting comments that are remembered, I hope it is that this program, as it goes on, be monitored with that goal in mind always and that goal at the forefront. I believe that our Family Law Branch has made that commitment clear, and I look forward to them monitoring it in that vein.

I note that the security for cause aspect of the Bill, that is Subsection (b) which was in the proposed Act, which required the respondent to give security for the performance of his or her obligation to give the applicant access to the child, has been dropped in the amendments. I think that it is good that it has been dropped. It is not something that we want to use. We can hope to look to more progressive remedies.

I also note that it has been replaced in the proposed most recent amendment by the ability to require supervision of the access where the court is satisfied that a person or agency is willing and able to provide proper supervision.

It remains to be seen, of course, whether or not this statute will be sufficient. I think they have taken the initial step, keeping in mind the most important aspect of this whole subject and it is an aspect which we have heard again about tonight, and that is the need to serve the best interest of the child, whatever that means.

The hope is that the Attorney-General's Department will have a role but that the bulk of the program can in fact be done by the Community Services Department. That is the assessment and the mediation, and time will tell whether or not that is the case.

In conclusion, Mr. Chairman, I simply want to say that I thank the many groups that came to speak to us and I—contrary I think to what the Member for Concordia (Mr. Doer) suggests that we have just gotten their presentations recently, these groups have been involved for a long time. They have been involved way back with the Attorney-General's Department. They have been involved with me. I met with the Manitoba Action Committee on Status of Women months ago. I met with the Concerned Families months ago. I have made myself available to all groups wanting to make input on this issue, and I have been informed that the Attorney-General (Mr. McCrae) has also made every effort to make himself available to speak to those groups, both this Attorney-General and past Attorneys-General.

To that extent, I think that we have gone through a fairly extensive consultation process. I doubt that this is the perfect Act, but I look forward to the pilot project and a regular review of it by all interested Parties. I have been encouraged by the advice from the Family Law Branch that invitations have been extended to, in particular, the four major groups that presented to us last week in opposition to this legislation. I would hope that even given their opposition to this Bill that they will take up that invitation and work to create a successful program. We will monitor it at the end of three years and, hopefully, the monitoring process will be thorough and tell us whether or not it is a needed program. At this point, I think that it should go ahead and I thank the committee for this time.

Mr. Angus: I also listened with interest and some concern as the representations were made by the groups as to their input and to their participation in the proposed legislation. I admit I had some concerns. I was concerned about the amendments and the lateness of the amendments, the effect they would have and the whole general direction of the Act but, after consideration and consultation with my colleagues, I believe that it is a positive step to address a very icky issue. It is an uncomfortable issue that was very easily avoided and it is very easy to stick your head in the sand and hope that the problem will go away or will rectify itself, but it will not, it simply will not.

While I believe that this program will require adjustments and would like to see a vehicle and some

assurance for regular review so that those adjustments can be made, I will have to rely on the compassion, I guess, of the Minister and the ability of the Opposition to bring to his attention areas where we see flaws and see required improvements. I am very supportive of the initiative that is being made and would like to see it work the way the authors have desired that it will work, and I hope that it will. I think it is a very, very positive step to try and resolve a problem that would much more easily be avoided and has been avoided for a long time.

* (2110)

Mr. Harold Taylor (Wolseley): I have followed this issue with some keen interest since the time it was actually announced in the Throne Speech. I have had discussions with staff, I have had discussions with the Attorney-General (Mr. McCrae). I have had discussions with interested parties on this matter. I guess the question is how many more years do we as a society have to go on before we start dealing with this issue? How many more families have to live through artificial and, I might say, illegal separated status in the sense of access not being permitted when ordered by law? One has to be sensitive to the needs of the children, quite obviously. One has to be sensitive to the interests of the mothers and the fathers.

Also, I think and it was brought out by a number of delegations, the extended family as well, because there have been far, far too many cases of grandparents cut off from access to grandchildren for no good reason. I have had some questions about the amendments that were brought forward and as to whether there was basically questioning being put in by the thrust of the amendments as to whether the variance orders that are in existence were going to be put up to question. It would appear that maybe there is some question along that line that is valid, and the drafters have suggested as much. That would not be a norm but, where necessary, yes, there should be a review. That is one of the things that does happen is that court orders on access are not maybe varied sufficiently frequently, whether that is to do with an increase on access or a limitation on access given the circumstances of the children.

I found it interesting that there were very few statistics offered as to the justification of the program, the real need, and yet at the same time we heard from a number of experts who would say, given the practice that they were facing, be it a psychiatrist, be it a lawyer representing the Manitoba Bar Association or others like that, that the scale of the problem is there. It is rather interesting that we are dealing with a social issue with maybe not as much documentation and yet everybody can cite hundreds of cases per year for Manitoba, and Manitoba not being a terribly large province. I find that rather interesting. I think that maybe says something about the state of maturity and maybe the state of the sensitivity of our society that we are not dealing with an issue like this.

I would commend the NDP for having initiated the Maintenance Enforcement Program and put it in place and made it work. I think also though I would like to

commend them as being the initiators of this program on the access assistance, because I believe it was in 1985 under their administration that this program was initiated and, for well over three years now, staff have been dealing with various interested groups and individuals on the matter of access assistance.

I think what we have here is a vanguard program for Canada. I think, though it will have its flaws, there will be things in it that we learn that maybe are not quite as they should be and should be improved. The reassurance that we have had is that there is to be not a review at the end of three years, but a review on an ongoing basis. I think that is rather exceptional, because I cannot say that there are that many Government programs that operate in that fashion. I think that is very, very important to a subject like this.

It is very much a pilot program, it will not cover all of Manitoba. It will not answer all the needs, but it is a start in the direction of answering the needs of parents and children and extended family that are crying out to be listened to and who do not have the thousands of dollars to go back to court now, which is the only way that there can be an insurance of compliance with an access court order.

There is no mechanism in place today in which the Government offers assistance to enforce the orders of the Family Court judges. Most families, whatever side they are on, whether they are the custodial or the access parents, do not have the money to start putting out \$1,000, \$1,200 for each court appearance. That can gobble up very, very small reserves if they even exist in the family pocketbook.

I am not sure that I am fully assured as to the amendments that have been put forward and put forward late, but in any case, I am prepared to support this legislation as it now stands, and will be a keen supporter of the principle of the program, but also a keen vigilant as to its performance.

I had a concern about the performance aspect originally proposed in the original legislation, talking about the use of dollars only to assure performance. I think performance is something that maybe should be still on the table. But I am not certain those are the sort of mechanisms that we wish to see to try and ensure performance by either side in a manner like this.

I think there are other things that can be used, if necessary, to encourage compliance with court orders on a matter that people have not decided to bring back to court, but I certainly do not think tapping into the family income is the way to go about it.

So I will be looking forward to this program. I hope we will do some learning on this, that the review process will be a keen review process and not lip service, that changes will be made during the three-year program and, at the end of the three years or maybe even sooner, when we feel that we have as a province a handle on this issue, we will see a permanent program province-wide brought in place.

I hear some nervousness on the part of the other Opposition Party. I am sorry that they have the

reservations that they do because, as the initiator of this type of a program, I would have thought that they would have the conviction to proceed on this. I think we received varying information the other night. I would suggest that the reference for the most part with Dr. Richardson's report, a report that is not always held up in the highest esteem all across the country, in fact in which the federal Government itself had reservations, that seemed to be the main defence that there is not an issue, or certain other studies in other jurisdictions. I think you can take varying interpretations of studies done, be it that one or the Crane study that was also referenced. I have a lot of trouble dealing with the statement that there is not a problem. There is a problem, and there is a crying need, and it is time we dealt with it. I am very pleased to support this initiative and we will be watching it keenly. Thank you.

Mr. Chairman: Thank you, Mr. Taylor.

Ms. Maureen Hemphill (Logan): Just a few points since a number of references have been made to the initiation for this program by previous Government, so I think we want to make it very clear that we are not opposed at all to the intent and principle of this program.

At the time that we were looking at implementation, we were not looking at legislation. We were looking at implementing a program without legislation. I think that is an important point, especially when you are talking about the importance of a pilot project that can and is open to change with experience. It is a heck of a lot harder to change legislation that is companion legislation that goes along with a program than it is to alter a program as you go along.

I feel this is one of the most difficult things that is coming before us in this Session because of its importance and knowing whether we should go ahead with it now or not. If there is one thing that I felt at the end of it—first of all, I think I want to say that there was information that came out in the public hearings that I think we had not thought of or had not heard or discussed before, and that is what public hearings are for. They are so that people can come and present varying experiences and information, so we can consider and decide, albeit at the last minute or not, that there should be some amendments or there should be some changes made in the legislation that is before us.

I would hate to think that we were going to argue that because it had been negotiated with the federal Government and we have been looking at it for a long period of time that if something came forward that suggested we should take another look at it, not that we should scuttle it or not bring it in but that just simply we should take a little more time, I think we should be open and prepared to do that.

I think that what we are saying on this piece of legislation right now is that it needs more time. I am not sure it needs a lot more time, but I think there were enough questions raised about the legislation and the program that we should just try to deal with them to see if some improvements can be made. I think in terms of the program, there were a number of rather

serious questions that were raised about the volunteers who are going to do the supervision. Where they are going to come from is not I think the critical thing because volunteers always come forward when we need them, thank goodness. But the question of screening of the volunteers and training of the volunteers and the amount of time they stay with supervision, it being a three-month period and that it may need to be longer, and that flexibility should be built into the program.

* (2120)

I think they were, first of all, saying do not bring it in or delay it and give us a little more time to look at some of those issues but, if you do bring it in, make some of these changes in the program. That seemed to make a lot of sense to me. The Attorney-General (Mr. McCrae), in bringing in amendments and changes, does not seem to have dealt with any of those things which I think are very serious issues, the question of training and supervision of the volunteers. That is not the only issue that was raised. So I would like to have seen if he was prepared, wanted to continue to go ahead right now and not give what may only require another few months of examination before it is brought in, that there would have been some more serious consideration in some of the elements of the program.-(Interjection)-

There is a considerable caucus meeting going on, Mr. Chairman, as I am making my remarks. If you want to caucus, perhaps you could do it after. It appears to be a caucus meeting going on. If I came out of the hearings the other night, and I think we were all listening very carefully because we all considered it to be such a serious issue, I ended up being very confused about the different statistics and information that was presented and not being at all sure about the quality of any of the studies, not the original study that said all kids should be with both parents under all circumstances, and then was refuted by the later study that came in saying it appears now that it may not be good for kids to be with both parents, particularly where there is serious conflict between the two parents.

One of the presenters said that the empirical data in all of the studies is at question which means what is the basis upon which we are moving. I just think, once again just to end, it was very confusing about the survey information and about whether or not the need is there and to what degree the need is there. Even the Attorney-General's (Mr. McCrae) own statistics which were supposed to give us the snapshot at this time, the latest information we had, pointed out there were 15.9 percent who did not make any attempt to verify the degree of difficulty. These were people who said, we had some difficulties. It did not say two things. It did not say how they were resolved, since a number of them were resolved.

One of the points that was clear is that often the difficulties with custody ease over time and I think that a further, more detailed examination or breakdown of that should have been made and maybe you have it. But what percentage of the 15.9 eased up after the first few months of the separation when people settle down and became a little more accommodating? What

was the degree of difficulty was that I had trouble getting my kid one weekend because she did not like something I had done, or on an ongoing basis the other spouse does not follow through with the time that I have been allocated. In how many cases were there significant and reasonable reasons for denying access, which I think was admitted by most parties, that we should not assume that when access is denied there are no reasons and no times when access should be denied because there probably are.

So, if those questions had been answered in the 15.9 percent, I think we would have a lot stronger feeling about how serious the problem was.

Given all that, we would just like to see that we would agree to a delay, not for a long period of time, for a few months, so that we could work out some of these questions and improve the program that we all agree to in principle and intent.

Mr. McCrae: With all due respect, may I suggest that in my submission one of the best ways that we could think of to improve the program is to get the program going and to monitor and evaluate every aspect of the program. That includes the dimension that the Bill presents the program with, every part, whether it be the judicial part, what we find in the Bill, conciliation part, supervised access part. All of that will be part of intense scrutiny and evaluation.

I suggest the best way for us to learn about how this program will operate is to operate the program and to see it in real and practical terms. I want to assure the Honourable Member for Logan (Ms. Hemphill) and her Leader that part of that evaluation will include an evaluation of what part this Bill plays in the whole Access Assistance Program. The department under both administrations has attempted to be sensitive in its consultation process and I think the department will also handle itself in a sensitive fashion in evaluating this.

Let us not forget, part of this program is to give us, to give the people, certainly of the City of Winnipeg under this program, access to conciliation and mediation services, more than there are now. The program itself gives that to families, or makes that service available to families, so that what remains is to see how it all works.

I would ask the Honourable Member and her Leader to bear with us and to take an interest in the progress of this program. The best way to get that going is to get it going with the assistance that the Bill can provide. Do not forget, judges still have discretion. Do not forget also that this Bill provides that discretion through the use of the word "may."

In our family court, our Queen's Bench Family Division, our judges are specialists to a large extent and trained in family law matters. I would be surprised to see the provisions of this Bill recklessly applied by our judicial system. I just ask the Honourable Member to watch with us and to watch us as we evaluate this program. Remember, also, it is a pilot project and the best way to learn is to see it working.

Mr. Edwards: I will be brief. I listened with interest. Despite the comments during the speech by Ms.

Hemphill I did listen with interest to her comments and I want to respond briefly to them. I feel compelled to pick up on her final statement, which was that we wait for a few more months to try and improve this program.

Of the four major presenters who presented large briefs last week, three did not feel this program had a basis for existence. They did not ask for a delay to improve it. They asked that it not go ahead, period. So I do not think that we should be misled into thinking that this is some kind of accommodation for the Manitoba Action Committee on the Status of Women, the Charter of Rights Coalition or Women and the Law. It is not.

They feel confident in their studies, and they said to us they feel confident. There is no need, so the position that we should wait a few more months to study it does not in any way assuage their concerns, I would suggest, and should not be put across with that purported goal.

If the need is not there, I would suggest the pilot project will show that. It will show flaws in its own being, but it will also show if the need truly is not there, and I suggest that we all hope that would not be the case. If it is not a needed program in any way, shape or form, then that suggests we do not have a problem, and I think we would all be happy about that but at this stage I think my colleagues and I are convinced that there is a problem to be addressed.

Mr. Chairman: Bill No. 11, Section 1—Ms. Hemphill.

Ms. Hemphill: We do not want to spend all night responding to each other but I do just want to pick up on—

Mr. Chairman: The Chair feels compelled to intervene, while there is a great deal of latitude allowed at this committee hearings, I would remind and ask Members to refrain from debating the Bill in principle which is our position that we take on the Bill at second reading. Committee is for further clarification of the actual details of the Bill, for utilization of staff who are present, for further clarification of the Bill. I would simply ask that it would appear to me that what is beginning to take place is a debate between Opposition Parties, which is quite legitimate at its appropriate time, namely at second reading of the Bill.

* (2130)

Ms. Hemphill: I just wanted to comment when we are discussing how we feel about this Bill, all of us tonight have referred to the presentations that were made in the hearings.

I did just want to say that I do not quite have the same feelings as my colleague does about the position of the presenters who were opposed to the Bill. I believe, and I talked to them too, I believe their first position is that they would prefer not to see it brought in but that in the absence of that being a possibility, their second position is a delay and that they would find it useful to have a delay, to talk out and try and get some improvement in some of those areas.

Mr. Angus: The editorial comment I might have made, if I was given the chance was that in the House during

the whole time we were doing principle on the Bill, they said wait until you get to the committee, then you will be able to discuss it. Now we got to the committee and you turn around and say, well look, let us pass this through because you should have talked about it then. As a newcomer, I find the whole process quite confusing. But I will not say that.

Mr. Chairman: I certainly did not mean to convey that impression to the Members of the committee. It is the opportunity for an informal setting to discuss the Bill a little more informally.

Bill No. 11, Section 1—pass; Section 2—

Do we want a recorded vote on Section 1? For information of the committee Members, if it is the will of individuals to oppose the Bill, the title, Bill be reported, they may do so when I call that section, not necessarily to call it to register your protest on every cause.

Mr. Doer: We will register our vote at the report . . .

Mr. Chairman: Thank you, Mr. Doer.

It be noted that these sections passed are passed with the Opposition as voiced in the voice vote.

Section 2—Mr. McCrae.

Mr. McCrae: An amendment for Section 2.

I move—

Mr. Chairman: Could I also just simply ask the Attorney-General to indicate that the amendment applies in both official languages.

Mr. McCrae: Indeed it does, Mr. Chairman. Absolutely. I move

THAT Clause 14.1(1) of The Child Custody Enforcement Act, as proposed in section 2 of Bill No. 11, be amended as follows:

- (a) by striking out "where it would be in" and substituting "taking into account";
- (b) by striking out clause (b) and substituting the following:

(b) require supervision of the access where the court is satisfied that a person or agency is willing and able to provide proper supervision.

(French version)

Il est proposé que le paragraphe 14.1(1) de la Loi modifiant la Loi sur l'exécution des ordonnances de garde, figurant à l'article 2 du projet de loi 11, soit modifié:

- (a) par la suppression de "si l'intérêt véritable de l'enfant le justifie" et son remplacement par "en tenant compte de l'intérêt véritable de l'enfant";
- (b) par la suppression de l'alinéa (b) et son remplacement par ce qui suit:

(b) une ordonnance dans laquelle il exige que l'exercice des droits de visite soit assujéti à la

supervision d'une tierce personne s'il est d'avis qu'une personne ou que l'office a l'intention d'exercer une supervision adéquate et est capable d'exercer cette supervision.

Mr. Chairman: Committee has heard the amendment—pass, as amended; Section 2, as amended—

Mr. McCrae: I have another amendment to Section 2. I move

THAT subsection 14.1(2), as proposed in section 2 of Bill No. 11, be amended as follows:

(a) by striking out all that portion of the subsection that precedes clause (a) and substituting the following:

Order on failure to exercise access

14.1(2) Where the court, upon application, is satisfied that a person in whose favour an order has been made for access to a child at specific times or on specific days has wrongfully failed to exercise the right of access or to return the child as the order requires, the court may make one or both of the following orders, taking into account the best interests of the child:

(b) by striking out “and” in Clause (a) and substituting “or”;

(c) by striking out Clause (b) and substituting the following: (b) require supervision of the access where the court is satisfied that a person or agency is willing and able to provide proper supervision.

(French version)

Il est proposé que le paragraphe 14.1(2), figurant à l'article 2 du projet de loi 11, soit modifié:

(a) par la suppression du passage introductif et son remplacement par ce qui suit:

Défaut d'exercice du droit de visite

14.1(2) Le tribunal peut rendre l'une ou l'autre des ordonnances suivantes, ou les deux, en tenant compte de l'intérêt véritable de l'enfant, dans le cas où le tribunal, sur requête, est convaincu qu'une personne ayant un droit de visite d'un enfant à des moments précis ou à des dates précises, aux termes d'une ordonnance, a omis illégalement d'exercer ce droit ou de retourner l'enfant conformément aux termes de cette ordonnance:

(b) par la suppression, dans la version anglaise, de “and” et son remplacement par “or”;

(c) par la suppression de l'alinéa (b) et son remplacement par ce qui suit:

(b) une ordonnance dans laquelle il exige que l'exercice des droits de visite soit assujéti à la supervision d'une tierce personne s'il est d'avis qu'une personne ou que l'office a l'intention d'exercer une supervision adéquate et est capable d'exercer cette supervision.

Mr. Chairman, I move this amendment with respect to both the English and French texts.

Mr. Chairman: Thank you, Mr. McCrae. Section 14.1(2), as amended—pass; Section 3—pass; Preamble—pass.

Bill be reported—all those in favour, please raise their hands? I remind committee Members only voting. Clerk will take the count.

Clerk of Committees, Mrs. Janet Summers: Seven.

Mr. Chairman: Those opposed?

Madam Clerk: Two.

Mr. Chairman: Two. I declare the motion passed. Bill be reported.

Mr. McCrae: I would like to correct the record before we get totally off Bill 11. One thing the Honourable Member for Wolseley (Mr. Taylor) said that needs correcting for the record, and that had to do with the Maintenance Enforcement Program put into place by the previous Conservative Government.

Mr. Chairman: Thank you, Mr. McCrae.

**BILL NO. 12—THE STATUTE LAW
AMENDMENT ACT (1988)**

Mr. Chairman: Members of the committee just indicate for the Chair how we intend to deal with this somewhat larger Bill.

I am informed by the Clerk that he does wish for the Chair to call out the clauses or sections by number if we are dealing with them in a greater number. It would be my intention to pass this Bill page by page, but I will be referring to inclusive clauses that we are passing.

Mr. Gary Doer (Leader of the Second Opposition): Yes, Mr. Chairperson, we would approve the expeditious manner in which the Chair has suggested we review the Bill and pass it.

Mr. Chairman: Thank you, Mr. Doer.

Section 1—pass; Section 2—pass; Section 3—pass; Section 4—pass; Section 5—pass; Section 6—pass; Section 7—pass; Section 8—pass; Section 9—pass; Section 10—pass; Section 11—pass; Section 12—pass; Section 13—pass.

Section 14—Mr. Doer.

Mr. Doer: I have a question on 14. Has the Attorney-General (Mr. McCrae) reviewed the amendment that was placed by the Minister of Finance on the enabling Acts and the taxation Acts last Thursday in relationship to the statutory law amendments? Has he conducted that review to ensure that we are not proceeding with one amendment in the House and another amendment in this committee that runs in any way technically contrary to each other?

Hon. James McCrae (Attorney-General): Mr. Chairman, that review has been done, and I can tell the Honourable Member I know of his extreme interest in The Health and Post-Secondary Education Tax Levy

Act and I know others call it by some other name, but I understand that this is a correction of a drafting error.

Mr. Chairman: Thank you, Mr. McCrae.

Section 15—pass; Section 16—pass; Section 17—pass; Section 18—pass; Section 19—pass; Section 20—pass; Section 21—pass; Section 22—pass; Section 23—pass; Section 24—pass; Section 25—pass; Section 26—pass; Section 27—pass; Section 28—pass; Section 29—pass; Section 30—pass; Section 31—pass; Section 32—pass; Section 33—pass; Section 34—pass; Section 35—pass; Section 36—pass; Section 37—pass; Section 38—pass; Sections 39—pass; Section 40—pass; Section 41—pass; Section 42—pass; Preamble—pass; Title—pass. Bill be reported.

BILL NO. 38—THE MENTAL HEALTH AMENDMENT ACT

Mr. Chairman: Bill 38, The Mental Health Amendment Act. We will proceed in the same manner. On page 1, Section 1—pass; Section 2—pass; Section 3—pass; Section 4—pass; Section 5—pass; Section 6—pass; Section 7—pass.

Section 9—Mr. Taylor.

Mr. Harold Taylor (Wolseley): Excuse me, Mr. Chairman, I did not realize you were already into Bill 38. I have proposed amendments, and I believe the legal counsel has copies for the committee. While they are being distributed, Mr. Chairman, I will continue with comments to facilitate your time management here.

There was a presentation by a volunteer member from the Mental Health Association and, in particular, reference was made to Section 5 and the aspect of consent by the Public Trustee, and a few points relating to that. There was also though, I have to say, many other points brought forward which would related to, I would suggest, a much larger-scale review of the whole aspect of mental health in the province. The Mental Health Association is aware of the larger review which will be coming in a few months and that there will be a full public input to that process. I think in all fairness they, to some extent, jumped the gun.

If you will, however, look—and I am going to, with your indulgence, ask the legal counsel to also sit at the table so we might ask questions, Mr. Chairperson, there are some changes that were drafted this weekend by legal counsel staff that will answer the aspect that the consent by the Public Trustee, that authority is not too wide-ranging. It will also make these amendments consistent with the rest of the Act and, I think, any other Acts that do relate. So I would ask then if Mr. Carnegie will make reference to the changes proposed in application for authority to treat which is Section 24(5)—

* (2140)

Mr. Chairman: Mr. Taylor, may I just, first of all, indicate to you that the Chair will entertain these amendments

at the appropriate place in the Act. Certainly any Member and yourself are free to speak to the particular amendment at that time, as well as Legislative Counsel. I hear Mr. Doer wishing to make a comment.

Mr. Gary Doer (Leader of the Second Opposition): The presentation, I think, was an instructive one in terms of the committee hearings the other day, and I am sure that Mr. Taylor's amendments are positive initiatives in terms of The Mental Health Amendment Act. I am a little concerned that the Minister of Health (Mr. Orchard) is not here. Have these amendments been arrived at with the Minister of Health, hopefully. I am not trying to breach parliamentary procedure in terms of the absence issue, but I am very concerned about The Mental Health Act because, with all legislation but this one in particular, it is very important not just to have the proper principles but the ability to implement them in the proper way. I would at least like to know whether the Minister of Health (Mr. Orchard) agrees or does not agree, and the reasons for not agreeing to the amendments being proposed by the Member for Wolseley.

We have a fairly open mind on improving the rights of people in our mental health system. I am sure a lot of these points will be philosophically areas that we could probably support, but I would like to know from the Minister of Health, whose work I respect even though I do not always agree with him, but I would like to know his reasons if he is opposed to these, and I find ourselves in a bit of a vacuum tonight.

So I do not know what we would do, but I think it would be unfair to an Acting Minister on a very complicated Bill to try to guess what they would mean. I do not like passing anything in haste and I know that the Member for Wolseley has worked very hard on these amendments. I see they are very detailed. Perhaps there should be a way of having some consultations with the Minister of Health prior to the completion of this in second reading so we know where we are going and what it means, not just amendments presented at 9:45 p.m.

Hon. James McCrae (Attorney-General): Mr. Chairman, mental health reform is, I suggest, something that is going to be ongoing for some time, until we have what we think is the closest thing to perfect, and then we are going to turn around and make more changes again after that.

I share the concern put forward by the Honourable Leader of the New Democratic Party (Mr. Doer). I would have to ask the Honourable Member for Wolseley (Mr. Taylor) before I could agree to accept his amendments, which I have no question are intended very much to assist and to help, but I would have to know if the Department of Health has been consulted about these amendments with regard not only to whether they are the kind of amendments that are workable but also as to cost. The Department of Health has to know what costs are going to be with respect certainly to the review mechanism, whether more meetings are going to be required which are going to call for more cost.

I am certainly not at all attempting to be difficult with the Honourable Member for Wolseley, but I do have

to know if the department has been consulted and if the Honourable Member can give us an idea of what these amendments would be costing the taxpayers of Manitoba.

Mr. Taylor: Yes, I will answer. There are two points I want to bring up. The first one, in response to the query from the Attorney-General (Mr. McCrae), there was consultation with his department and with the Mental Health Association. There was not specific consultation with the health department, because what is being done here is tightening up the review process to ensure that it happens. That was the goal.

Right now, the section at the top of the second page leaves fairly significant loopholes and there is not an assurance that the review will take place or if it takes place in a timely fashion and/or the report be coming out in a timely fashion.

So really the goal of that change, for example, and you could talk to other sections in there, was not in a way construed as to increased workload and hence cost. It was to ensure that the intent of the Act can be followed through on and that there are not going to be any problems. There will be trip wires to say, this is what is to happen.

The concern that I have as well in the absence of the Health Minister (Mr. Orchard) and with one of his proposed Acts here is that do we have any assurance that the Minister will either join us later this evening, knowing that it is going to be a very late session, or is there going to be an opportunity to make change to the Bill in another fashion, i.e., another sitting of this committee tomorrow, for example, because I listened very intently to that presentation that was made by the Mental Health Association last Thursday evening. I went back over it a number of times and I consulted legal counsel a number of times, including on the weekend, with the conclusion we came to that, yes, they, while jumping the gun on some of the bigger, broader issues, and those should wait.

There are some very definite loopholes in the legislation and it can be improved and should be before it is put through in final form. Hence, my concern and my motivation. So I am looking to you, Mr. Chairperson, for some guidance of how we may deal with this fairly without it just being pushed aside because we happened to miss the very important presence of the Health Minister (Mr. Orchard) at this moment.

Mr. McCrae: If I may make a suggestion to the Honourable Member, I am not aware whether the Minister of Health (Mr. Orchard) will be here tonight. I did come here with instructions to replace on the committee, the Minister of Health (Mr. Orchard) with the Honourable Minister of Culture Heritage, and Recreation (Mrs. Mitchelson). I have no particular reason to think that the Minister of Health (Mr. Orchard) is going to show up here in the next little while as we deal with this.

Still as for another sitting of the committee, this is the second meeting of this committee. I think what we have brought forward in the amendments, the

Government is bringing forward, are amendments that were requested by the Public Trustee, so that the Public Trustee is able to do his work and represent those who need his assistance.

With all due respect to the Honourable Member, this Session is not going to be over in technical terms till it is over. There would be another opportunity to bring recommendations to the Minister of Health (Mr. Orchard), if not for this Session, then for next Session. Certainly, at this stage, my part of this is to put forward amendments requested by the Public Trustee. I really wonder about the suggestion though at this time of a further sitting of this committee.

Mr. Chairman: I am sorry there was too much noise going on. What was the last point that you were suggesting?

Mr. McCrae: Mr. Chairman, I am just saying, I am wondering, of course, no one is questioning the Honourable Member's wish to help out in this process and to help improve The Mental Health Act.

I wonder if the Honourable Member would be in a position to hold his amendments until the proper time in the Legislature. I suggest this is—well, we all know this is the second, somewhat lengthy sitting of this committee and the Minister of Health is not here.

Even if he were, his departmental officials are not here for him to consult so that everyone is working in the same direction. I think this is the kinds of amendments that we should as a minority Government or as any Legislature should be able to work together on.

I am just saying that it is unfortunate that perhaps that consultation was not done beforehand. Then, I suppose there is a reason for that too, and it is an understandable reason. I just say to the Honourable Member at this late date in the Session, I suggest there are a number of reasons to look again at The Mental Health Act and perhaps that would be better done at the next Session or at the tail end of this Session in a consensual kind of way.

Mr. John Angus (St. Norbert): Is the Minister of Health (Mr. Orchard) in the building or around or available or likely to be able to show up tonight to talk about this at all? I ask through you, Mr. Chairman.

Mr. McCrae: Well, Mr. Chairman, we could find that out for the Honourable Member, but are the Minister's officials in a position at this time of the day to consult the Minister and to assist him in arriving at decisions about the amendments being brought forward by the Honourable Member, would be my concern.

Mr. Chairman: The Chair can only comment on this matter that it is, of course, open to any member of the committee to move amendments to any particular clause of any Bill at any time subject to the approval or disapproval of the same committee.

Mr. Angus: I am sorry, I just was not quite finished. It seems to me that we are spending an awful lot of

time arguing procedure. When the Government brought forward a Bill on this, it behooves them to have the resources here to at least talk and answer questions on behalf of the other members of the committee.

With respect, Mr. Chairman, if we spent as much time addressing the content of the Bill, we would have good legislation coming forward. It smacks of an error in procedure that should be addressed as opposed to, before we even get to the legislation as to whether it is good or bad.

* (2150)

I would propose if it is the will of the committee that we stand this down, deal with a couple of the other Acts that are on the table tonight and see if we can find the Minister of Health (Mr. Orchard). If he generally cannot answer these issues, if he can point out flaws that could allow us to wait, then perhaps we could discuss it at that time.

Mr. Doer: Well, I agree that the ability to have amendments forward will potentially help the Bill. I also know that a Minister running a department should have the opportunity to—I happen to believe they should have the opportunity to let us know what the implications are from their perspective, especially something dealing with mental health. It is very important.

It is true the Minister is away today, but we know that he would be on Government business or something similar and I respect that. It is just unfortunate in terms of the timing. We have tried to—and it has happened with all Parties—identify weaknesses in Bills in our debate stage, second reading stage, so the Minister can look at that and talk about it informally along the way. Then you can either agree to disagree, or agree to agree. In this case, I am sure that these have been well researched by the Member for Wolseley (Mr. Taylor). I am sure they are philosophically consistent with a better Mental Health Act. I just do not know what the other side is, and I think that is very important in this area.

I would agree with the Member for St. Norbert (Mr. Angus) that we deal with the—try to find if the Minister of Health (Mr. Orchard) is going to be here or not today. If he is not, I am prepared to come in—and I do not like coming in the morning, at a ridiculous time in the morning—knowing tomorrow could be a late day, because I know he comes in in the morning usually. So he can have a chance to look at it. I think we should know what his position is prior to us doing anything with the amendments. I also do not want the Member for Wolseley (Mr. Taylor) to lose all the work he has put into this amendment.

Then those of us on the committee who do not have a strong position either way can know why we are voting which way we are voting, which I would like to have in our hand when we are sticking our hand up in the air, and we try to do that on most occasions, Mr. Chairperson, as you would expect us to do. So I am not in a panic to get everything done tonight if it means not knowing what we are doing. And so if that means

getting the Minister of Health (Mr. Orchard) here, good. If it means early in the morning, it goes with the territory.

Mr. Chairman: Thank you, Mr. Doer.

Mr. Taylor: If I could respond, Mr. Chairperson, to the members to please realize that the initiative to make these amendments that I think are right in line with the thrust of the Act, that I think improve it somewhat and is in line with some of the concerns—hardly all, but some of the concerns of our own Mental Health Association—has taken a lot of time to try and see that Mental Health is improved in the Province, whereas a direct result of the presentation made here, in fact, I think it was the first or second delegation here on Thursday night. Now, until I heard that presentation, until I took that brief away and read it, I was not before that point convinced that there was a problem. So please bear in mind we have these committee hearings, we do listen to public delegations, we do take away a written documentation, statistics and things like that. That has an effect on the Members and I think it should be.

As a result, you see these amendments here, and I want to thank the legal staff for the work put in, in what would normally be their off time. I wonder at this time of year if they have any off time. But in any case, I think they have made a good effort here, and there has been consultation back and forth. If there is any chance, yes, the Attorney-General (Mr. McCrae) has suggested we could do it at a different stage in the House, if I am understanding him correctly, and maybe he can clarify that.

The other point though is, is brought up, if it is not going to be harmful in any way, if we can defer at least 38 to the bottom of the order for this evening, that might help. If there is any chance of the Minister of Health (Mr. Orchard) joining us, that would be appreciated.

Mr. McCrae: I have a suggestion that I will put to Honourable Members. But, before I do, I really must protest a little bit.—(Interjection)—I will do my protestation first. There seems to be a protestation that somehow the Minister of Health (Mr. Orchard) should be in this committee at this time.

I would like to point out to the Honourable Members that surely if amendments are coming forward that affect his department, he is entitled, I should suggest, to be consulted about them.

The other thing is though, the thrust of Bill No. 38 is strictly a thrust which comes to us and relates to the office of the Public Trustee. The amendments the Honourable Member brings forward relate to the Department of Health. That being said, I think it is entirely reasonable that the Minister of Health (Mr. Orchard) would be somewhere else tonight and that I would be here to put the Bill forward in order to assist the Public Trustee in getting some amendments that are needed.

That being said, may I suggest that the Honourable Member try to find the Minister of Health and between

now and the report stage of this Bill work out whatever needs to be worked out and we could take it at that time. That way we would not have to sit this committee another hearing. The Honourable Member could sit down with the Minister of Health (Mr. Orchard) and whatever officials of the Health Department are required and if something can be worked out, work something out and bring it to the House.

Would that suggestion be suitable to Honourable Members, Mr. Chairman?

Mr. Chairman: Honourable Members have heard the suggestion from the Government House Leader. Is that procedure acceptable?

Mr. Angus: Mr. Chairman, just so I am absolutely clear on this, is the Attorney-General (Mr. McCrae) suggesting that I or my colleagues run around looking for the Minister of Health (Mr. Orchard) and ask him if these amendments that we are proposing on the table are acceptable to him? Is that what he is suggesting to you, Mr. Chairman? The Attorney-General is suggesting that we run around looking for the Minister of Health to ask him if the amendments that we are proposing to his Bill are acceptable to him. Is that what you are suggesting?

Mr. McCrae: Just to be clear, the amendments come from the office of the Public Trustee, not the Department of Health. If there is consultation required, which I suggest there would be, with the Honourable Member's amendments, that should be done, not only with the Minister alone but with the department. That would be better done during working hours and I am making that as a helpful suggestion to Honourable Members, that they could conduct that consultation process with the Minister of Health.

I will lend my offices in trying to track him down any time, day or night, if that would help Honourable Members. But it seems to me, I do not think we can deal with that in this committee tonight and there is another opportunity when the House sits tomorrow at the report stage of this Bill.

Mr. Chairman: What is the will of the committee?

Mr. Angus: Mr. Chairman, I will bow to the wisdom of colleagues who have more experience in the procedure than I do. You are suggesting that we do not deal with this Bill in any way, shape, or form at this particular stage or we pass those things that we can, we include the amendments then at this particular stage?

Mr. McCrae: Mr. Chairman, I am suggesting that we pass the Bill. I assume the Bill without the amendments is not objectionable to Honourable Members and that they could pass this Bill at committee stage and have it go to the House tomorrow and when it reaches report stage, which would be the first stage that it reaches after the Bill is called, the Honourable Member, after having consulted with the Minister of Health, could, depending on the results of those consultations, move amendments to the Bill.

Mr. Angus: May I presume, Mr. Chairman, that we can conversely do it in exactly the opposite fashion,

including the amendments at this particular stage, and then put the onus upon the Government to remove them if they are offensive?

Mr. Chairman: Mr. Angus, I believe there is a procedure. Committee can pass what is before us if we are not prepared to deal with the amendments now, then those amendments cannot be put before this committee.

Mr. Doer: We know that if the Bill is passed, amending it at the next stage is more difficult than amending it at this stage. Secondly, we do not know what the Minister of Health's opinions on these amendments are going to be. I think we should know that. I would suggest we do try to find out, we not deal with this Bill at this point. We have lots of other work to do tonight. We hold it, we try to find out when the Minister of Health (Mr. Orchard) is available, we reschedule this committee perhaps for a half an hour, either early tomorrow morning or some other time and then we can deal with it in the fairest way possible, rather than the two options of amendments. That would be my recommendation.

Mr. Taylor: I would just like to point out, for the record, that on the first page of the proposed amendments there are matters that relate to both the Attorney-General and the Minister of Health. However, on the second page it all refers to the Attorney-General.

Mr. McCrae: Mr. Chairman, I do not mind standing this Bill down to the foot of the list. We have now requested staff from my office to see if they can find the Minister of Health and, if so, to bring him in if possible.

Mr. Chairman: Thank you, Mr. McCrae. Hansard will recall, although we passed several clauses of this Bill, they are withdrawn. The Bill is now stood for consideration by this committee at a later stage.

* (2200)

BILL NO. 40—THE CITY OF WINNIPEG AMENDMENT ACT (2)

Mr. Chairman: Bill 40, Sections 1 to 4, pass?. Mr. Angus.

Mr. John Angus (St. Norbert): Does the Minister want to introduce this Bill? If so, I would bow to him and then I would reserve, if I may, a second kick at the cat.

Hon. Gerald Ducharme (Minister of Urban Affairs): First of all, maybe I will introduce, because the first, the main controversy right now would seem to be, in any delegations we have had, the first part of the Bill, so I will make my comments on the first part of the Bill and then we can leave the rest as we go through it.

(The Acting Chairman, Mr. Parker Burrell, in the Chair.)

First of all, there have been questions by some delegations in the last couple of days in regard to why

we introduced the No. 23, and there also has been information that we had established and confusion on having a 23 and a 29 map. First of all, the reason for the 23 and 29 was that the confusion would not be there. The committee meeting knew we would be somewhere probably in the vicinity of November and December when we proceeded, that I felt it would be fair to the people and felt it to be fair to the legislation that these two be brought forward—or the other one be brought forward. They were warned back in early July that this would happen, so they have now gone around the city explaining the two maps.

The reason why we as Government introduced the 23 was, first, The City of Winnipeg Act Review Committee had recommended in the Act the 24 wards to create the six community committees of four wards each, but because the Government does not want to see drastic changes, and that was part of our condition to the community boundaries, it chose 23 wards, four per community except in St. James-Assiniboia where it has been reduced to three.

To make it clear for the record, if four wards would have been maintained in St. James-Assiniboia, one would have seen the drastic shrinkage in the size of City Centre-Fort Rouge and an enlargement of the St. James-Assiniboia boundaries beyond those of historical community groupings, due to the limited growth to the St. James-Assiniboia community.

We did not want to go into the scenario of 18 or 12 wards, strictly because we felt that there was a White Paper. Something had to be done now. There was a time element of looking and reviewing, not only the White Paper that was introduced by the previous Government, but also take into consideration the Cherniack Report and many reports and histories that have happened since 1971.

I just wanted to clarify for the record. There have been many comments, not only in the media but many comments by Members in both Parties, and what I will say tonight is probably not going to convince anybody to change their minds. The Government of Manitoba had introduced changes to the city wards at this time because these amendments would have to be dealt with as a result of the Boundaries Commission.

Just some brief remarks. I have already gone on record during the second reading, explaining some of our problems. The main thing, when we were looking at the wards and the numbers, was that let us try to stay away from interfering with what we know as the historical boundaries that we know today because community committees, everything seems to be by those particular boundaries.

Remember that when you have the population changes that we are going to have, that even if you move boundaries over two or three streets, those people are used to using the programs that might be in that particular community committee's Parks and Rec. They might be used to the Police Department districts. They might be used to—even garbage day cycles and things like that, that will happen as a drastic result. So to be fair, that is the particular reason why we—when we did suggest or when we sat down with the Boundaries, the

only thing I said to them at the time was, please avoid a drastic change in these boundaries. So just in that particular first part of Bill 40, I will submit to the other Members and let them make their comments.

The Acting Chairman (Mr. Burrell): I believe Mr. Angus had a deal with the Chairman, and I do not want to get in bad with him.

Mr. Angus: I had the floor first and I gave it to the Minister, Mr. Acting Chairman. My comments are going to address the entirety of the Act and then as we get to them there can be piecemeal discussion, if it is desired or required.

Mr. Acting Chairperson, while we support a more efficient, responsive and effective City Council, we find it inconsistent with good planning and good management to arbitrarily select one section to impose change upon without measuring the cause and effect of that change to other reporting relationships. To decide to reduce the size of council without indicating the rules and functions of various standing committees and the role and the power of the Mayor, the authority of the community committees, the participation of the resident advisory groups and so on is not consistent with good management, as far as we as a group are concerned.

Although there are some sections that can be dealt with effectively in isolation, the number of councillors cannot. While a reduction may seem popular and may eventually be supported as a positive step, what the population desires more is good positive response and a responsible Government. The size of council is only one small cog in the total effectiveness of City Council.

(Mr. Chairman in the Chair.)

Not only is there no indication by this Government of an overall master plan for the City of Winnipeg but they do not address unique needs of Inner City citizens. There is a general supposition that the problems in the Inner City are the same as in the suburbs and that a councillor can equally represent the same number of constituents. In fact, the problems in the core area are significant and involve considerable participation by councillors. While the suburbs have important problems that must be addressed, they are usually of a less immediate nature. This generally means that people can be more effectively served in the suburbs than in the core. We have a larger number of people. They can more effectively be served.

But let us address representation by population. When I first became interested in politics, there were five councillors representing the Fort Garry area in totality. Currently, just as an example, there are 79 school trustees representing the same number of people that city councillors represent. The recent Electoral Division Boundaries commissioned the cities to be represented by 31 MLAs with an average constituency of just over 19,000 people.

Councillors will be as participatory or as busy as they want to be and no amount of legislation will improve their interest in paying attention to their constituents, nor will a reduction of the number of members

automatically improve the efficiency. The voters will decide and, especially in the city, will reward good politicians and re-elect them and will defeat poor representation.

Finally, Mr. Chairman, on two points, City Council has gone on record as supporting the existing 29 members. While this may appear to be self-serving, it is for sure a slap in the face to ram it down their throats without any dialogue, especially when the former Government led them to believe there would be no changes. The Government Boundaries Review Commission has not reported. While this committee is to report on the names of wards and the boundaries, where the boundaries are to be located, it nonetheless behooves the Legislature to receive the report before making a decision on the size of council. While a different system of representation may effectively reduce the number of councillors, to deal with this one point in isolation is fundamentally wrong.

Mr. Chairman, I would like to suggest that it is our intention to introduce amendments to the powers of the Auditor. The Minister will remember that during the summer in Question Period, I specifically asked the Minister if he would strengthen the City Auditor's power and provide for value-for-money types of audits. The Minister responded that he would discuss this with the city, in a process that I respect by the way. In November, the Minister brought forward the proposed amendments to the Auditor's power. While these amendments are a step in the right direction, in my opinion, they do not go really far enough. I can only assume that the Minister discussed these changes with the official delegation, including my earlier asked questions regarding operational audits and, for reasons that are unknown to me, the Minister has decided not to extend the Auditor's powers.

* (2210)

The Liberal Caucus believes that strengthening the Auditor's powers is a good business decision and is prepared to introduce further amendments now that will strengthen the role of the Auditor. Generally, without limiting the power of the administration or the Board of Commissioners or any of the employees in the system to carry out their functions, we want the Auditor who works for and reports to council to assure council that money has been expended with due regard to economy and efficiency, that satisfactory procedures have been established to measure and report the effectiveness of programs where such procedures could appropriately and reasonably be implemented, and to report to council any irregularities that are inconsistent with the efforts of A and B above.

These extended investigative powers are comparable to the Provincial Auditor's and the federal Auditor's existing power. As a matter of information, the cities of Edmonton and Calgary report savings in excess of \$1 million annually by utilizing similar types of management audits. I believe these minutes are consistent with good management and will lead to an improved and more effective investment of taxpayers' dollars in the City of Winnipeg.

Finally, Mr. Chairperson, the business tax. Business tax proposals give the city the right to establish by by-

law the business tax rate to be charged. The Government has put a 15 percent ceiling on the amount that can be charged and while this is consistent with what The Municipal Act calls for, it nonetheless provides a substantial reduction for some of Winnipeg's largest corporations. This will effectively reduce the business tax charged to banks, insurance companies, trust companies, oil and gas companies, and save them in excess of hundreds of thousands of dollars. This money will have to be recouped from somewhere and it means the smaller organizations will pay more. It means that big business gets a break at the expense of the little guy and it concerns me when they bring this in.

There is a problem with the reassessment. That is a fairly well-known fact. It is in an awful state right now. The fact that the legislation is dealing with a report that went through council on July 10, 1985, that decision was based on a 1983 report, leads me to be concerned in 1989 when we start to implement tax reform, if you like, at the city level. I would like to know exactly what the dollar amount is that we are going to be forgiving the bigger businesses, and what is the total plan for the business tax in the city.

Also I would like to know all of the facts affecting the city's decision whether they are still relevant or not. However, having said that, I believe the city can and should be responsible for their own decisions and the existing legislation is outdated. This is an improvement. So we are prepared to support the autonomy of the city in terms of their business tax. We think that it is a step in the right direction, but again there was a lack of explanation as to the requirements. I felt fortunate that I was part of the city and knew it. I would like to say I had some concerns expressed to me in relation to the Auditor's proposal. I have circulated a letter which said in part what I have just read to the committee to all members of City Council asking them to make representation to me if they had any concerns about that. I only heard positive things back from councillors. I also have double verified with the legal department and the administration in the province as to whether or not the Auditor would be able, allowed to, or encouraged even, to comment on political decisions. It was not my intent to allow the Auditor to comment on the decisions that politicians make, only on the effectiveness of those programs being carried out and that proper procedures are put in place. I have been assured by the legal department that is what the proposed amendments will do. So with those remarks, Mr. Chairperson, I am prepared to pass the Bill.

Mr. Gary Doer (Leader of the Second Opposition): Briefly, on the Bill, I spoke at second reading. First of all, I would like to say to the Minister of Urban Affairs (Mr. Ducharme) we are pleased that some of the policy issues are consistent with the previous Government's dealing with a decision that you made on urban sprawl, I think was a correct one. I think the decisions, some of the priorities of the Inner City, proceeding with those priorities in the Inner City, I think have been valuable and we want to go in a positive way on record on those issues. I think the Winnipeg Education Centre, we were pleased that the Minister proceeded with and I want to take this opportunity to say that.

We have already stated our position on the size of City Council at the second reading stage. We cannot make a decision on the size of City Council without a discussion paper, a White Paper, or legislation itself in terms of the other part of the equation and the Minister knows that. I think we have discussed that in entirety. We would have actually welcomed that presentation from the Minister. We know he has quite a bit of knowledge in terms of urban politics, urban administration, in the City of Winnipeg, and the workings of City of Winnipeg, and I look forward to the day when he does present that paper.

I know that with two portfolios and a new Government he has been very busy. I am sure that he is working on something like that. I think, at that point, we can deal with his vision of the size of City Council. To do so beforehand is to put the proverbial cart before the somewhat dead horse in this case, and I think it would be a mistake. I think we have said that, and we do not have to repeat it.

One councillor per 22,000 people is a lot. Potentially up to one councillor per 30,000, I think, is starting to take away from grassroots participation in the democratic process and really at a cost of the wages and benefits of one commissioner, so I do not believe it is a cost-effective move in the city and I think it should be dealt with in terms of the relationship between the city and its elected representatives.

We believe that the largest issue raised at public hearings was, who is in charge here? Who do we hold accountable? Is it only the Mayor when things are going well? It seems the Mayor is right in front of that parade. When things are going bad, it is the old Board of Commissioners or it is the old Executive Policy Committee or even the Gang of 19. It is that group.

The citizens of the city, when one looks at the briefs presented at the Cherniak Committee, the overwhelming theme through those briefs is who is in charge. Who do we hold accountable? Where does the buck stop? I think those are the questions that have to be answered in terms of civic reform. It is not an easy answer to those multiple of questions from the citizens, but that is what we look forward to, and that question has to be answered before we can deal with the other equation and that is the size of the council.

We respect the Minister in terms of his experience in this area, but we agree to disagree on dealing with the size issue prior to that answer to that very important question. I would note that it has been our distant analysis that the public hearings taking place on the size of City Council dealing with the boundaries. When people look at the actual boundaries themselves and how they affect them, everybody believes in reducing the size of City Councils. It is like, you know, do you want a tax break? Of course, of course, we want a tax break. But when they look at their own neighbourhoods, etc., I believe that every one of the presentations wanted the 29 rather than 23. I think there was only one exception to that, if I am not mistaken. I look forward to the actual content of that report. So the citizens, when they look at their effect on their own communities, are saying, hold it, in terms of this proposal.

The business tax area is a tax that was requested by the city through the Executive Policy Committee a

few years ago. It is consistent with The Municipal Act. It is consistent with the idea that elected representatives at City Hall should decide those things, not Members of this Legislature. We should give them the enabling legislation with certain parameters that are consistent with other provinces and other jurisdictions within this province, but we should not dictate, as we have in this old, outdated, 1938 Act, how much a livery truck will get and how much an icetruck will pay, and how much—God knows what else is in that Bill. I have not looked at it for awhile. It does not make very interesting reading, but I cannot remember all the actual details of that. So we certainly will proceed on that.

In terms of the other proposals in the Bill dealing with the environment, I think they are very positive steps forward. We applaud the Minister for those proposals. His proposal on the Auditor has been proposed to be amended by the Member for St. Norbert (Mr. Angus). I notice the members of City Council were not here in representation to complain about that or raise concerns about it. I know when we passed The Environment Act in the summer of 1987, they were out here full force telling us that the exemption that the City of Winnipeg had should not be replaced. So I am to assume that this may be more bothersome to them, but it is not a populist issue that they will want to fight in this almost pre-election year in terms of the powers of the Auditor. I guess it is not something that they can raise in a major concern, because they are not out here tonight.

* (2220)

We will monitor both the amendment and the Auditor's powers very carefully. I do not believe in a system where auditors, accountants, decide how many parks you should have versus how many parking lots you should have. I believe it is the elected representatives who are accountable to the people who should decide those issues. I really worry into the grey area between the role of the elected representative and the role of value-for-money auditing that is being proposed.

We will monitor that. If we are erring going from one extreme of no real cost-effective auditing to another extreme, I think all of us are responsible for coming back to this committee and changing it. We want to have our publicly elected representatives make those subjective decisions and be accountable for them, not slide rules only deciding how much green space we will have and how much cement we will have in our city. I use that as the most elementary of examples, but one could carry on all evening.

That would be our general comments prior to going into specifics of the Bill.

Mr. Chairman: Thank you, Mr. Doer. Mr. Minister, or Mr. Taylor.

Mr. Harold Taylor (Wolseley): Thank you very much, Mr. Chairperson.

Mr. Chairman: I remind Honourable Members of the committee that there will be ample opportunity to make

specific views known of any committee Member as we deal with the particular clauses and or amendments or lack of amendments.

Mr. Taylor: This Act for me is one that I take a real interest in, in that I was involved in the review process and made a very lengthy formal presentation to the review committee in the spring of 1985, and later was requested back to make a number of informal presentations, most specifically on the rivers management situation. I was quite pleased to see the report that came out of the review committee but, more particularly, the responses to the review committee, as developed by the Department of Urban Affairs, and then the city's response thereafter.

I think though one of the concerns that should be out on the table, and I did mention in an earlier speech in the House, is the concern that we are dealing on a piecemeal and not comprehensive fashion on The City of Winnipeg Act review recommendations and the city's reply to them.

The issue of the sizing of council is one that cannot go untouched. We have a Civic Boundaries Review Commission wrapping up their work this month. I was before that committee twice and made a formal presentation at their last hearing. When Judge Hewak summed up his final statement when he closed public hearings, his comment was: "We did not really think we would get the response that we did," and the response that he got in regard to the sizing of council after all the noise that you would hear that we have got to get the size of council down to something more reasonable, save a very few dollars and pay a penalty later, the response was one for and dozens against the downsizing.

What he did say though, and is was pertinent is that the biggest thing, as the chair of that Boundaries Review Commission that he had to contend with was the concern by numerous delegations that it was a fait accompli that there would be a 23-seat council, that the 29-council sizing and accordingly boundaries and community boundaries was really, quite frankly, window dressing. The decision was made, the decision had been made in the Minister's office. I did not find that particularly healthy, but that was the concern of the public and was fed back to us at the summary statement.

I for one have never been a strong fan of downsizing. In fact in 1985, I said, if you want to downsize, go down to 20 if you want, throw in the Mayor, that is 21, that is an odd-numbered council, which is I think a preferable solution. Then assume that all council positions are full time, that they have proper offices, which they do not now, and that there is support staff there and it is independent support staff. There does not seem to be a will amongst the public to see that. There certainly is not a will amongst the councillors, and I do not know that there is in the provincial Government either. When these people become all full time, I think you exclude the participation of a very large part of the population that can make a very major positive contribution to the running of the City of Winnipeg.

The issue here tonight before us is are we going to proceed with this arbitrary number of 23 that was picked. We are not sure just where it came from, it is a new one for many of us. Possibly, it was some form of a compromise being attempted from those who suggested a very tiny council of 12 councillors to those who said, leave it as it is.

It is interesting to note that in the Provincial Boundaries Commission Report, just tabled recently in the House by the Premier (Mr. Filmon), we see the city's representation jumping from 29 to 31, and here we are contemplating 23. I think the councillors are the political representatives that have to be most closely attuned with the neighbourhood issues. One does not know that sort of information and have that sort of feel for the needs, the characteristics of the community and what should be done in a pro-active sense by travelling to cover too large a territory.

I will not be supporting the amendments to downsize the council. I feel that what we should be looking at now, if we are not prepared to deal with things in a comprehensive fashion in looking at amendments and many needed amendments to The City of Winnipeg Act, then only do what has to be done until you are prepared to put forward comprehensive legislation.

We have some concerns about the auditing. We had hoped there would be material available for amendments to areas of concern such as the pension plans. Unfortunately, that is not quite ready from the council. Unless we hear something else on it, because council did pass this a little while back and the hope was, as of last Thursday night, that there would be an attempt to at least see if there would be draft legislation improving the pension context ready for us at committee tonight. I gather that has not worked out. I am prepared to get into the moving of the motions, if there are not any other speakers.

Mr. Chairman: Thank you. Mr. Minister, or do we go clause by clause?

Mr. Ducharme: I will just make some short comments on some of the comments that have been made by the critics, and I appreciate their comments.

They mentioned the process of the Cherniack Report. I must say that, in reading the White Paper that was produced by the previous Government, I do not have too many problems with a lot of things that are in that White Paper, so I want it known, however, as I have tried to stress during the comments that the time frame to go over the Cherniack Report again thoroughly and with discussions with the city.

There were comments made about that the boundaries or the numbers were met without any consultation. I do not know what the Boundaries people have been doing for the last couple of months, but they have certainly given everybody in Winnipeg the opportunity to talk on both numbers as they go around. There was mention made that we bring in legislation maybe dealing like Edmonton and Calgary, which I have done with the numbers. If you notice Calgary's population per councillor right now is about 45,000 and Edmonton is 47,000.

In the business tax, it was mentioned that some of the larger companies will benefit as a result. I think the Member is probably using—that would be so if you use the same level of assessment which would be changed in the tax. If you are using the same level assessment you mentioned, you would probably be ready to use Great-West Life, well of course they would save money. However, all businesses will be reassessed and that was part of that, just to answer that one.

There was a mention of the Auditor, the Member for St. Norbert (Mr. Angus), with his own figure of speech said, previously on another Bill, a slap-in-the-face legislation. I am not going to get involved with the Honourable Member for St. Norbert. We are going to agree to disagree. I am glad though that the Honourable Member, that we did not pass this last Thursday. I noticed that the Member for St. Norbert is backing off on his original, which I had a lot of concerns about, and that was his original legislation, which he now changed to say that satisfactory procedures have been established by the city to measure and report to council on the achievement of the objective set out in the clause.

My same argument that I will have though is that it goes to show you that by introducing this type of legislation as has been done, and he did mention no councillors came forward—I did have some negative councillors come forward, but I think that we do not want to come forward on this particular part of the Act. Instead of taking up any more time in regard to this, let us go through clause by clause.

Mr. Chairman: Thank you, Mr. Minister.

* (2230)

Mr. Bob Rose (St. Vital): I notice the Minister has alluded to the fact that there were some complaints about people not being advised and having some input in the boundaries. I heard quite a bit of that in my area. It may be some time till they are reviewed again but I wonder if it would be—I think that 90 percent at least of the problem would be solved if they would notify the community committees.

I think that was where the main concern was, that the community committees had no input. I think that if they are there and serving a purpose, they should be advised probably directly, rather than having to scour the newspapers for such an announcement. I think that would help them out in the future. Thank you, Mr. Chairman.

Mr. Chairman: Thank you, Mr. Rose.

Mr. Ducharme: Mr. Chairman, just to answer that, there was almost a full-page ad in the paper.

Mr. Rose: I realize that.

Mr. Ducharme: We went on his side of the river and advertised a lot of details.

Mr. Chairman: Thank you, Mr. Minister. Bill No. 40, Section 1 through 4, do we have any amendments?

Mr. Angus: Mr. Chairperson, I am not exactly sure how to do it but I cannot support—

Mr. Doer: On Bill 40, I believe we had better go clause by clause for the first page.

Mr. Chairman: Thank you, Mr. Doer, for that advice. Bill 40, Section 1—pass.

Section 2—can we ask the staff (sic) to take a vote? All those in favour of Section 2, please raise their hands?

Clerk of Committees, Mrs. Janet Summers: Three.

Mr. Chairman: All those opposed.

Madam Clerk: Six.

Mr. Chairman: I declare this section lost.

Mr. Ducharme: Then if that is the case, you might as well withdraw 3 and 9 and 5 -(Interjection)- no, 4 you have to leave.

Mr. Chairman: Mr. Minister, I wonder if we could then just proceed. I would ask you to alert us to those clauses that need to be deleted as a result of this vote.

Section 3—repealed; Section 4—Mr. Angus.

Mr. Angus: Can I get an explanation as to why the Minister is saying we have to have this?

Mr. Ducharme: Now you have to give them flexibility of changing the wards and the population. The 10 percent has to be left that way. Right now, it stipulates right in the Act under the existing legislation the number of wards particularly. In order, for instance, for St. Boniface or St. Vital to go from four to five, well then now that we have got 29 established, you have to allow them that flexibility. That is what—

Mr. Chairman: Thank you, Mr. Minister.

Mr. Doer: Okay. Just so that we are clear, the proposed amendment that is coming up dealing with the auditors is 5. It will come after 20, which is part of 4. Right?

Mr. Chairman: Subsection 21 of Section 4—pass; Subsection 21(1) of Section 4—pass.

Subsection 20(1.2).

Mr. Ducharme: Because now if they have five in a community committee like St. Boniface-St. Vital, their quorum now reads—there is nothing in the Act that determines a quorum there now, so we are saying that they can now establish that.

Mr. Chairman: Thank you, Mr. Minister.

Mr. Taylor: I need a clarification on this, Mr. Chairperson. The community committees now normally have a quorum. Whether that quorum if being recognized in the Act, it is there in practice. City Centre-Fort Rouge, it is four out of six. I do not know what

it is for St. Boniface-St. Vital. That was a community committee of four, as I recall, and I thought it was three out of four. But the thing here is that it looks like the efforts here would be by Orders-in-Council, as opposed to on the city's own initiative, and I have concern with that. I am not sure that this should stay, quite frankly, because what this is doing is changing what is. What we are saying here is we are in support of a change in that direction.

Mr. Angus: That is right. That is absolutely right. What is the effect, Mr. Chairperson, of 20(1), the communities established? That is the one where he is suggesting—

Mr. Ducharme: I have no problems taking that one out. The prime reason for it really was when we basically went down to three. I do not know what the Boundaries Commission is going to do with their numbers. All I am saying is that, whatever they do with their numbers, the quorum would have to be established. If the Members are convinced around this table that those numbers will not get below four in any community committee, then of course it will not be necessary but, if it gets down to three somewhere—I am not suggesting that will happen now—there is no way of regulating the quorum. So, if you want to pull it out, I have no hang-up.

Mr. Chairman: The Chair requests some guidance. Are we now talking about Sections 20(1.1) and 20(1.2), of deleting them, or just 20(1.2)?

Mr. Angus: If we could just go back and I could get a clear explanation of the communities established: "The city shall be divided into six communities. Each community shall be named and consist of the wards designated by the Lieutenant Governor." You made a suggestion that it was going to be five wards within the St. Boniface Community Committee.

Mr. Ducharme: No, I am not suggesting that.

Mr. Angus: Did you say that could happen?

Mr. Ducharme: The Boundaries Commission will now have the right and they will come back designating that.

Mr. Angus: With respect, Mr. Minister, that is a significant change in sort of the functioning of City Hall, piecemeal of the approach that we are concerned about. He is asking us to allow carte blanche decision making in relation to changes that we are not familiar with yet. The Boundaries Commission has not reported, so we do not know what the effect may or may not be.

Mr. Ducharme: But under the legislation that was passed in '87, it said you could not have a variance of more than 10 percent between any ward in the City of Winnipeg. So you cannot turn around and give City Centre-Fort Rouge six wards, as designated in the Act now, when they might only have five because of that population difference. That is what can happen with the boundaries that have been established under the Act in '87. They are going to take the boundaries

throughout the City of Winnipeg and the maximum you can have difference or deviation in any ward totally across the city is 10 percent. Remember, the difference is not between the wards in the community committees, the difference being all the wards throughout the City of Winnipeg.

Mr. Taylor: This changing of community committee boundaries, this changing of numbers of wards within community committee, quite frankly, prejudices the Civic Boundaries Review Commission. I, for one, cannot entertain that and I am not supportive of that 20(1) or 20(1.1) or 20(1.2). What I would ask is I would like to go back, if we could, to Subsection 20(1) on the opening page where it talks about Subsection 20(1) in the existing Act is repealed. I would like to have that on the table. If we could, I would like to see a photocopy of that. The Minister is saying we have to put this through. I would like to see that subsection right now, if we could, if there are copies of the Act around here, to know just what that is all about.

Mr. Ducharme: Under the Act now, it does not allow you that flexibility that we want the boundaries to have. If he reads the Act now, he will see that in the Act it establishes the community committees, City Centre-Fort Rouge having six, St. James-Assiniboia having four, Lord Selkirk-West Kildonan having five, East Kildonan-Transcona having five, St. Boniface-St. Vital having four, Assiniboine Park-Fort Garry having five. If you are going to stay with the Act, and you have told the Boundaries Commission, that was established in '87 not allowing more than 10 percent flexibility in the wards, you have to allow them flexibility in the different community committees. I think maybe to be fair the previous Government that established the '87, maybe we will let him explain.

Some Honourable Members: Oh, oh!

* (2240)

Mr. Chairman: You have never had a better invitation.

Mr. Angus: Mr. Chairperson, perhaps I could just comment and then the Minister, and the former Minister as well. It seems to me, Mr. Minister, through you, Mr. Chairperson, that we are doing the Report of the Boundaries Commission in an ad hoc fashion, that we are going to be ending up changing the numbers, for instance, of wards within the City Centre-Fort Rouge Community Committee. So with that on the record I will hear what they have to say, I am prepared to listen.

Mr. Doer: Yes, I believe the Minister did a great job of explaining what we did before.

An Honourable Member: That is right.

Mr. Doer: As I understood it, the issues of community committees were in a state of flux through the Boundaries Commission and we could not last year go further than a) establishing the independent Boundary Commission and b) establishing the size of City Council, which we did. It was supported by all three Parties, I

might add. Yes, all three Parties in the summer of '87. The Boundaries Commission then having been struck, which is the first one I believe in North America, was sent off with their task of establishing the 29 without definitive regulations on the exact community committees which were more pursuant to the Taraska Report, as I recall it, that were brought in by I think Mr. Mercier years ago, if I recall correctly in terms of ministerial—I cannot remember which Minister it was. But this allows the Boundaries Commission to do its work and also then to be flexible enough to have the Lieutenant-Governor-in-Council reflect the work of the Boundaries Commission.

The intent is not inconsistent with the Boundaries Commission for the Legislature which is a pro forma exercise. The Legislature technically has the ability to negate the Boundaries Commission that is brought forward to the independent Boundary Commission under The Act, but historically it never has. It uses a pro forma recommendation. It is the intent here that the Lieutenant-Governor-in-Council would approve what the Boundaries Commission comes forward with in a pro forma way, otherwise it will not be independent anymore.

Mr. Angus: Mr. Chairperson, is it practical or reasonable to have the Boundaries Commission make the report and have the Minister bring in the legislation in the spring to make those changes? I do not know.

Mr. Chairmain: Mr. Angus, what is reasonable and practical is for us to either approve of these amendments or these sections, or to disapprove of them.

Mr. Angus: With respect, I do not want to put - (Interjection)—

Mr. Ducharme: To the Member for St. Norbert (Mr. Angus), the whole thing is that now he has seen the legislation of how they have now restricted it. For instance, if you go and take St. Vital-St. Boniface, right now they have four members representing 110,000 people, where in St. James you now have four members representing 80,000 people, and in another community committee close by them are representing maybe less. So what you might have to do is take a member of your 29, that now we have decided, and move them into the St. Boniface-St. Vital area. You might have to move that from the Kildonan area, so this allows them to have that flexibility.

It works the opposite way to what you are saying. This gives them that flexibility so they can do whatever they want under that commission to come back with their 29 councillors now with those particular wards.

Mr. Angus: I appreciate that and I suspect that the difficulty in explaining our position to the Minister is that until we recognize the cause and effect and hear the representations of those people, we are not sure how it is going to fit into the operations of the city.

You are suggesting the dramatic changes, it seems to me, to have an extra councillor in the St. Boniface

Community Committee area, for instance, but we do not know yet.

Mr. Ducharme: The only reason I have used that as an example is because the map that came out showing 29 has shown five; that is public now. So what I am saying is the previous legislation, the way it was written, said not more than a 10 percent spread in any ward throughout the city.

So, of course, there are going to be changes within the boundaries of the community committees. I hope not too much. However, there will be more changes. You will see more of a change would be between the wards and this allows them to come back changing the size of the community committees and also changing the boundaries. I do not think it restricts them. Right now, if you told them to come back, you have really restricted them to go out in the committees and restrict them to the legislation that is in place now that stresses the numbers. You are now allowing them to come back with a very open mind and saying here is what we are suggesting under the legislation you have given us.

Mr. Chairman: Section 4, Clause 20—Mr. Rose.

Mr. Rose: Do they have any mandate at all to change the boundaries of the community committees?

Mr. Ducharme: Yes, they can change the boundaries of the community committees. If you look at the particular maps that they brought out, there was not too much of a change. They have tried to stay to the very historic boundaries that we know today but there will be the odd change in the community committees. If they can avoid them—but, however, under the legislation, it says not more than a 10 percent variation between the wards.

Mr. Rose: I asked that question because it is quite possible that—you know, there is no question that St. Boniface-St. Vital will have to go up and therefore it means that at least one other will go down and it would be rather impractical to have three on such a spread. I would hope there would be flexibility to change the boundary.

Mr. Ducharme: To the Member, I think that by the 29 map, they have come forward. Showing the 29, there is not a community committee less than four.

Mr. Doer: I think the only way to deal with this problem now is to have the ability of the Lieutenant-Governor-in-Council to follow through on the report from the Winnipeg Wards Boundary Commission. I would suggest the first time any Lieutenant-Governor-in-Council gerrymanders that report on the community committees, that will be the last time Executive Council will do it because we will have to bring in legislation clearly to preclude that.

There are other examples where the Lieutenant-Governor-in-Council is just a flexible way to deal with something out of Session. The by-law, for example, the differential mill rate, there was not one comma changed in it from the City Council's recommendation

but it allowed the province to approve it, at the same time protecting the education tax. Clearly, the Boundary Commission in the province has never been changed since it was brought in by Mr. Campbell and I am sure the Executive Council will not touch this and I think, therefore, we can support this proposal. I think we already have supported it. We already have voted on it.

Mr. Chairman: Thank you, Mr. Doer.

I call section 21(2)—pass.

Section 5, page 2—Mr. Angus.

Mr. Angus: I have amendments on Section 5. They have been circulated. I would so move them in English and French.

Mr. Chairman: Thank you. Would you read the English amendment, please?

Mr. Angus: A motion:

THAT Bill 40 be amended by adding the following after section 5:

Subsection 68(1) amended

5.1 Subsection 68(1) is amended by striking out “accounts of expenditure of city moneys” and substituting “the accounts of the City and the expenditure of money”.

Section 69 amended

5.2 Section 69 is amended

- (a) by striking out “and” at the end of clause (c); and
- (b) by adding the following after clause 69(d):

(e.1) money has been expended with due regard for economy and efficiency; and

(e.2) satisfactory procedures have been established by the city to measure and report to council on the achievement of the objective set out in clause (e.1).

Section 70 amended

5.3 Section 70 is amended

- (a) by striking out “and” at the end of clause (c); and
- (b) by adding the following after clause 70(c):

(c.1) setting out cases where money was not expended in accordance with clause 69(e.1);

(c.2) setting out cases where satisfactory procedures were not established in accordance with clause 69(e.2), whether or not the procedures were recommended by the auditor; and

(French version)

Il est proposé que le projet de loi 40 soit modifié par l'adjonction, après l'article 5, de ce qui suit:

Mod. du par. 68(1)

5.1 Le paragraphe 68(1) est modifié par la suppression des mots “les comptes de dépenses des fonds de la

ville” et leur remplacement par “les comptes de la Ville ainsi que les dépenses de fonds”.

Mod. de l'article 69

5.2 L'article 69 est modifié par:

- a) la suppression, dans la version anglaise seulement de “and” à la fin de l'alinéa c); b) l'adjonction, après l'alinéa c), de ce qui suit:

e.1) des sommes d'argents ont été dépensées avec économie et efficacité;

e.2) des mesures satisfaisantes ont été établies par la Ville afin de mesurer le respect des objectifs établis à l'alinéa e.1) et d'en faire rapport au conseil.

Mod. de l'art.70

5.3 L'article 70 est modifié par:

- a) la suppression, dans la version anglaise seulement, de “and” à la fin de l'alinéa c);
- b) l'adjonction, après l'alinéa c), de ce qui suit:

c.1) aux cas qu'il détermine où les sommes n'ont pas été dépensées conformément à l'alinéa 69 e.1);

c.2) aux cas qu'il détermine où des procédures adéquates n'ont pas été établies conformément à l'alinéa 69 e.2), que ces procédures aient été ou non recommandées par le vérificateur;

Mr. Chairman: The committee has heard the proposed amendment. Any debate? Mr. Minister.

Mr. Ducharme: Just to go on record just to emphasize, as the Member for St. Norbert (Mr. Angus) must realize, before introducing this type of legislation, normally, I know myself as Government will not proceed in this type and impose major changes to The City of Winnipeg Act without first consulting with them.

* (2250)

I have basically nothing principally against the particular legislation. I will even commend the Member for St. Norbert for drafting it. However, I do have the problem in principle because he must realize even from Thursday to Monday he has made one change that has made this Bill now permissive legislation. He has asked the report to come back on the achievement of the objective set out in this and principally I have very many concerns in regard to that. So by adding (e.1), he said that satisfactory procedures have been established by the city to measure and report to council on the achievement of objectives set out in the clause.

Mr. Angus: That was always there.

Mr. Ducharme: No, I think that particular one was not in the previous one that the Member showed us earlier.

Mr. Doer: I think the change was dealing with the specific reference to value for money as I can recall it.

It is rather ironic—I think I have been lectured before by the former deputy mayor on the arbitrary legislation.

Perhaps we should all practise what we preach on this point.

Mr. Ducharme: I missed that “perhaps” there.

Mr. Chairman: Order, order. Mr. Doer has the floor, unless somebody is raising a point of order.

Mr. Doer: I think it is a good amendment to the Bill. One of the greatest criticisms of the Cherniack Report, which I accept, was the lack of consultation between the two levels of Government and that is why we had a White Paper. We sent it to City Council and let them look through it.

I think when amendments come forward now with a minority Government, similar to the proposals of the Minister, there should be some consultation. I am assuming through the process of a press conference and the lack of any councillors and mayors here that there is not a populous reason for the mayor to oppose this. Therefore, it must be good legislation, but we will monitor the other side of that. We will support the amendment. I think it is better than the one circulated on Thursday and I thank the Member for that. It is a good amendment. I think it can help the taxpayers of this community, but we will want to make sure that it does not go from one extreme to the other extreme. I think we will support the amendment with that on the record.

Mr. Ducharme: Just one last comment that I agree. I know the other Opposition had a problem with conflict legislation and in negotiations with them, they agreed. I, as Minister, told them that I would make sure that I consulted not only with them but we consult with the city when bringing that in with the amendments.

Just to add to the record, Mr. Angus had mentioned—I think this was brought forward to me by one of my friends—he said that I apologize—this is the Member quoting on Tuesday, July 26, 1988. “I have 12 years of Governments not talking to the City of Winnipeg. So if my frustrations are coming forward, it is because I feel very strongly about this point and I apologize to you.”

Mr. Chairman: The question before the committee is shall the amendment—Mr. Angus.

Mr. Angus: Mr. Chairperson, we will let it pass with a final remark that yes, I did have 12 years of Governments not talking—

Mr. Chairman: The Chair does not dispute that, Mr. Angus.

Mr. Angus: That is fair ball. The Minister had ample opportunity to bring forward amendments. He only brought forward a portion of them. I think that it behooved him to give an explanation as to why he did not bring forward enough amendments to satisfy the questions I had asked in the House. Pass.

Mr. Chairman: Committee members, the question before the committee is shall the amendment pass?

Amendment—pass; Section 5, as amended—pass; Section 6—pass; page 3—pass; page 4—pass; page 5—pass; page 6—pass.

Page 7—Mr. Ducharme.

Mr. Ducharme: I have a motion.

THAT the English version of the new subsection of 170(3), as proposed in Section 7 of Bill 40, be amended by striking out “Subject to” and substituting “Notwithstanding”.

(French version)

IL EST PROPOSÉ QUE la version anglaise de la nouvelle version du paragraphe 170(3), telle qu'elle est proposée à l'article 7 du projet de loi 40, soit modifiée par la suppression des mots “Subject to” et leur remplacement par “Notwithstanding”.

I move that it be both in French and English.

Mr. Chairman: Committee has heard the amendment—

That is on Section 170(3)—pass; page 7, as amended—pass; page 8—pass.

The Minister will call the attention of the Chair if there are further amendments.

Page 9—Mr. Ducharme.

Mr. Ducharme: THAT subsection 173(2), as proposed in section 7 of Bill 40, be amended by adding “, within a time that is prescribed by by-law,” after “the person shall”. These are the ones that are put forward by the city that we said that we would have ready.

(French version)

IL EST PROPOSÉ QUE le nouveau paragraphe 173(2), tel qu'il est proposé à l'article 7 du projet de loi 40, soit modifié par l'adjonction de “dans le délai prescrit par règlement” à la suite des mots “elle paie”.

Mr. Chairman: Amendment before the committee—pass.

Mr. Ducharme: Another motion dealing with the same section.

THAT the new subsection 173(3), as proposed in section 7 of Bill 40, be amended by adding “, within the time prescribed by by-law,” after “the licence fee”.

(French version)

IL EST PROPOSÉ QUE le nouveau paragraphe 173(3), tel qu'il est proposé à l'article 7 du projet de loi 40, soit modifié par l'adjonction de “dans le délai prescrit par règlement” à la suite des mots “ce droit”.

Mr. Chairman: The committee has heard the amendment—pass.

* (2300)

Mr. Ducharme: The next one is that the new subsection 173(4), as proposed in section 7 of Bill 40, be amended by adding the following to the end of the subsection:

(French version)

IL EST PROPOSÉ QUE le nouveau paragraphe 173(4), tel qu'il est proposé à l'article 7 du projet de loi 40, soit modifié par l'adjonction, à la fin du paragraphe, de ce qui suit:

Mr. Chairman: Committee has heard the recommended amendment—pass.

Mr. Ducharme: And that reads, within 20 days of the giving or mailing of written notice of the rental value fixed by the assessor.

(French version)

, dans les 20 jours qui suivent la transmission ou la mise à la poste de l'avis écrit relatif à la valeur locative fixée par l'évaluateur.

Mr. Chairman: Page 9, as amended—pass; page 10—pass; page 11—pass; page 12—pass; page 13—pass.

Page 14—Mr. Ducharme.

Mr. Ducharme: I move

THAT the new subsection 222(1) as prescribed in section 8 of Bill 40 be deleted and the following substituted: and that reads

Business tax is debt due to city

222(1) After completion of the business assessment roll, the tax collector shall prepare a business tax roll, which shall contain the amount of taxes chargeable, at the rate prescribed by a by-law passed under subsection 170(2), on each assessment, and the amount chargeable is a debt due to the city by the party whose premises are assessed.

(French version)

IL PROPOSÉ QUE le nouveau paragraphe 222(1), tel qu'il est proposé à l'article 8 du projet de loi 40, soit abrogé et remplacé par ce qui suit:

Taxe d'affaires due à la Ville

222(1) Après que l'évaluation de la taxe d'affaire a été complété, le percepteur d'impôt prépare un rôle de la taxe d'affaires, qui doit contenir le montant de taxe imposable, au taux prescrit par arrêté pris en application du paragraphe 170(2), pour chaque évaluation. Le montant imposable constitue une dette due à la Ville par la partie dont les lieux sont évalués.

I move this in both French and English.

Mr. Chairman: Page 14, as amended—pass; page 15—pass; page 16—pass; Preamble—pass; Title—pass. Bill be reported.

I recommend to the committee members we take a seven-minute break.

An Honourable Member: Absolutely.

(RECESS)

* (2310)

BILL NO. 47—THE LIQUOR CONTROL AMENDMENT ACT (2)

Mr. Chairman: Shall we call the committee to order? Second call for committee. We require a quorum. Could we have order, please. I draw the attention of committee members that we will be dealing with Bill No. 47. I understand some amendments are going to be presented. We will proceed through this Bill clause by clause.

Bill No. 47, Section 1—pass; Section 2—pass.

Section 3. We are now on Section 3 on page 1 of the Bill. Section 2, part 1. Yes, the Chair has the amendments. These all relate to Section 2. Any discussion on the amendments?

Mr. Harold Taylor (Wolseley): These amendments are proposed to Bill 47 to add in a certain degree of equity in the one part and greater degree of public participation in the other. The aspects are to provide for a different type of advertising for liquor licence hearings, the idea being that when the hearings are about to be held, they advertise, would contain information as to the type of licence being applied for, the business and corporate names of the applicant, the address of the premises that is proposed for licensing, and the hours of operation proposed for that operation. The intent is that the general public and the business public affected or potentially affected by a business change would have full information as to what might be going into those premises and would have an opportunity to therefore decide whether they wish to come out to a hearing and what it would be that they would be addressing.

The other, as it is today, is the information is not on the table in the public ads, and as a result we have a lot of licensing operations going in place with a lot of people having no chance to participate and finding out about it after the fact.

The other aspect is that today an applicant, if not successful in an application for a liquor licence of any sort, can appeal to the Liquor Commission to reconsider or has the right of final appeal to the Court of Queen's Bench. The same rights do not exist under the Act today for objectors of any nature, whether they be local residents, whether they be adjacent businesses or whatsoever. If the applicant is successful, there is no route of appeal at any level and this seems to me basically unjust. What these amendments would do would serve to treat both applicants and objectors in exactly the same fashion.

Mr. Chairman: Thank you, Mr. Taylor. Further discussion on the proposed amendments?

Hon. James McCrae (Attorney-General): This amendment, dealing with advertising, which takes us to the middle of the page here, we would have no difficulty with that proposed amendment. Then, when

we get into the matter of appeals I do have a problem—I do not have a problem with objectors having the ability to appeal to the full commission, but when we get beyond that, Mr. Chairman, and into the Queen's Bench, I do have more of a difficulty with respect to certain aspects of appeals that may be made to the Queen's Bench, and if the Honourable Member could tell me what types of applications for appeal to the Court of Queen's Bench he has in mind, certainly on the part of objectors who come forward, I would be in a better position to assess my position.

Mr. Taylor: I would think an objector should have the ability, the right, to appeal on any matter that they saw fit up to the level of the Court of Queen's Bench, whether that be related to the appropriateness of the licence, a problem with the applicant directly, a problem with the application in some physical detail, a problem of process that has been conducted by the Liquor Commission. I think the same rights should be offered in principle to the objector as to the applicant and anything short of that is to me not natural justice.

I do not see that there would be any problem with this because I quite frankly cannot see numerous cases developing that are going to end up at the Court of Queen's Bench. It is not exactly a cheap process and I think there is also the judges of the Court of Queen's Bench who have the ability, if they see fit in a judgment after hearing a case, to say that the person bringing the case in the court was trifling. They were malicious and can take punitive action as is necessary so that that is not a problem, and that exists today in the Court of Queen's Bench. I think we have an issue of principle here, through you, Mr. Chairman, to the Minister, and I think it really should stand that whichever way one is treated, so should the other.

Mr. Paul Edwards (St. James): I just want to echo some comments of the Member for Wolseley (Mr. Taylor). I think that the Attorney-General's concern stems from what he perceives to be a potential for abuse of this appeal right by residents, and I would suggest that in fact if the appeal right is there for the applicant, it should be there for the objector. There are two parties to this process where there is an objector. Where there is not an objector, the licensing board has the responsibility to make sure that certain criteria are met, but where an objector or more objectors step in, then I think it is up to the licensing board and the Liquor Control Commission to not totally give up their proactive role but step back and recognize the evidence that is brought before them.

I would suggest that if, in fact, the objector took the appeal to the Court of Queen's Bench and it was spurious and it was without merit, they would be reprimanded by the Court, as is done on a fairly regular basis with respect to solicitor and client costs or even punitive damages. In this case, there indeed may be the spectre of punitive damages where, if the only reason an objector is going to the Court of Queen's Bench is to stop the applicant from opening the bar and there is no merit to the objection, then I cannot see a court having much mercy and I am sure they would seriously consider punitive damages.

I do not think that spectre is out there, that fear that the Attorney General has, and I note that presently, out of approximately 100 applications a year for licenses, only eight are objected to anyway on an average basis and approximately out of that 100, somewhere in the neighborhood of five are rejected. So we do not have, to date, the fears that the Attorney-General (Mr. McCrae) raises.

If that occurs, I would suggest that it is unlikely; but, in the event that it does, certainly at that time, I think, the situation could be reassessed.

* (2320)

Mr. Parker Burrell (Swan River): I do not understand exactly the process, being new. I bow to Mr. Edwards, he is a lawyer and probably knows more about this, or the Attorney-General. Who actually does the objecting? As far as I can see, if you have only eight objectors out of 100 people, what is the process now? Does the applicant not have to apply to a licensing board?

Mr. Edwards: I am sure the Attorney-General may want to address this too. I will be happy to lend what knowledge I have and that is that when someone applies for a liquor licence, they have to go through the advertising process. There is a hearing and it is in front of the Licensing Board and at the time, the objectors come forward.

The statistic of approximately eight is that out of 100 applications for licences in any given year, approximately eight have objectors. They may have lots of objectors but only eight have some objectors. The situation was that the applicant, if they lost at that stage, could then appeal to the full commission. If they lose at that stage they can then appeal to the Court of Queen's Bench. Whereas the objector was stopped at the first stage and did not have the right of appeal either to the commission or to the court. It is the intent of this amendment to make the rights equal.

Mr. Burrell: The thing is if the man is applying for the licence, he must meet all the requirements before he is approved. What requirements does the objector have to meet? Actually, it should be balanced so that the fellow who is making the application has an appeal against the Government Board. I can see the sense in that. The fellow who applies for the licence must meet all the criteria in order to obtain the licence at the first stage or not?

Mr. Edwards: I will just make this brief.

In fact, it is my understanding that the staff at the Liquor Control Commission will try and dissuade you from applying to the Licensing Board if you obviously do not have a good case, you do not have the criteria. But you always have a right to apply for a liquor licence. You may be turned down, but you always have a right. Even if you do apply, in fact, it is not just sort of—and I think we have experts here from the board who can verify this—it is not you have X, Y, and Z and therefore you get a licence. It is what kind of neighbourhood are you in, what kind of establishment are you going to run, what has your personal history been in terms of your possible involvement with the law, your possible involvement with breaches of The Liquor Control Act. All of those things which the board is called upon to

use discretion and come up with what is called a fit and proper applicant for a licence. So there is a fair amount of discretion, which it is our position if the applicant has the right to appeal that, then I think the objector is the person who probably lives in the community should also have their right of appeal. I am sure the Attorney-General will—

Mr. Burrell: Do they treat the applicant fairly as they do the objector? Is the objector looked at for his qualifications and his character and the general way he conducts himself in the community as well, or is the onus put on the fellow who is applying for the liquor licence?

Mr. Chairman: Mr. Burrell, Mr. Edwards, I am appreciating this dialogue that is going on. Mr. Edwards is not as yet the Attorney-General or to be in charge of the Liquor Control Commission. I would, with great respect, suggest that perhaps that line of questioning may be interesting and entertaining to the committee—

Mr. Edwards: I think it is an interesting point. It is.

Mr. Burrell: The thing is, anybody can object and so on. As you know, by being in the Official Opposition, it is a lot easier to object than it is to bring forward progressive legislations.

Mr. Chairman: The Chair has lost all control. I invite committee members to carry on.

Mr. Burrell: I can see your point but I was just wondering about that because I know of some real cases where there are some objectors I would like to string up.

Mr. Edwards: I think that is absolutely right. There are spurious objectors and there may well be in the future—I am sure there will be—who are on some kind of bent perhaps without much merit.

The licensing board and the commission are fully able to detect those and to strike out those. I would suggest if that person uses this to go to the Court of Queen's Bench, they will last under 5 minutes and be punished with cost. The Court of Queen's Bench, unlike the Liquor Control Commission, can punish you for causing the extra cost of causing the court action.

Mr. McCrae: Mr. Chairman, the Manitoba Liquor Licensing Board makes its decision about who should be licensed based on a number of criteria set out in Section 64(1) of The Manitoba Liquor Control Act.

All of the issues that have to be resolved by the board are, if I may use the expression, black and white. It either is or is not. They either do meet the requirement or they do not, the applicant. Except for Section 64.1(d), which says that the commission has determined that the person is a fit and proper person to keep and operate the kind of premises in respect of which the licence is sought.

Every other criteria is based on a completely—how should I put it—the requirements are clear. They either

do or do not meet them, except for item (d) as I have referred to. So if that were the matter taken before the Court of Queen's Bench, it would be a matter of the court substituting its judgment for that of the Liquor Licensing Board. Then, the full Manitoba Liquor Control Board and the Honourable Member for St. James (Mr. Edwards) is a lawyer, and he knows that kind of substitution ought not to happen. Those are judgments that are made based perhaps on evidence based on findings of credibility and that type of thing.

I do not know that a higher court is in a position to substitute its judgment on issues like that. So that on all of those issues, you could easily say, yes, we would agree to allow that to go before the Court of Queen's Bench. It becomes rather academic exercise because you either qualify under clause a, b, c, e and so on, f, or you do not except for Clause d, which becomes that kind of value, a human kind of judgment that I wonder if the Honourable Members really would like to see one person's judgment substituted for, that of first the board or the full commission at the second stage.

Mr. Burrell: Mr. Chairman, my only other comment is that I happen to know in our area, if you want to go dry or you want to go wet, as we called it, you had to have a vote at the municipal level first. Therefore, I would assume it is the will of the people in that particular area to have a drinking establishment one way or the other.

Like this is where I say we have really run into some really horrendous objections from the people who led the anti-drinking crusade. Like, you know, I have been a little bit personally involved with some of the people and like I say, I really was not worried that the system was balanced in the favour of the fellow who was applying for the licence. I could really see where the fellow who was applying for the licence should a) have an appeal against a Government border agency. I could not say the same for the objector. So, I am going to leave it like that. I just wanted to put that on the record.

Mr. Taylor: Mr. Chairperson, the Member for Swan River (Mr. Burrell) brings up an interesting point. The old issue of the wet or dry municipality. The issue here is one more of the local impact, not whether the overall municipality will have liquor premises in general. If you are in a very small town, and you only had two blocks of commercial district, then maybe it would not make much difference one way or the other where in the two blocks.

When you have larger centres where there are various levels of commercial development and there are varying degrees of impact on commercial operations, and varying degrees of impacts on adjacent residents often only separated by a back lane at the very most with about a 24-foot width if you are lucky. Then the bearing of the locational aspects really become rather more critical.

The other thing is I would like to make comment of the Minister's aspect about the right of appeal. We have very much an inequity, Mr. Chairman, in the Act as it now stands. I do not think we should have a partial

inequity. After this I hope we will have equal rights and due process. It is normal in any licensing body that there be levels of appeal, that the levels of appeal be available to both sides. This is to me a very unusual circumstance and I think it is time that it was corrected.

Mr. Gary Doer (Leader of the Second Opposition): I am trying to follow the debate. I think we can support certainly up to the appeal of the Queen's Bench by objectors. I understand the argument of equity, I also understand the argument made by the Attorney-General (Mr. McCrae) in terms of one body substituting the judgment to another body.

We would support Mr. Taylor's amendment in terms of getting equity to a higher level in terms of the point he raises. We want to monitor it after that, but we will support that part of the amendment and I think that is consistent also with what the Attorney-General (Mr. McCrae) is saying, and let us get on with it.

Some Honourable Members: Oh, oh!

Mr. John Angus (St. Norbert): Mr. Chairperson, I have been asked a legitimate question by the Member of the New Democratic Party. If we got amendments of this nature at this late hour, we would simply say refer this to the administration for an explanation and take it over at the next meeting so we could deal with it intelligently.

Some Honourable Members: Oh, oh!

Mr. Chairman: Order, order.

Mr. McCrae: Mr. Chairman, I can see and sympathize with the idea of allowing an objector to appeal from the Liquor Licensing Board to the full board, but when it comes to judging people as being fit and proper characters, I draw the line at that point in taking it as far as to the Queen's Bench.

In summary, we would for our part agree with the amendment as far as it goes with respect to advertising and then when we get into appealing to the Queen's Bench that is where we are not able to support the Honourable Member. I would move that the second page of the Honourable Member's motion, I believe it begins at Subsection 65(2).1 added, if I am not mistaken, that part of the Honourable Member's motion be deleted.

Mr. Chairman: Honourable Members have heard the motion on the part of the Attorney-General (Mr. McCrae). Pardon me, Mr. Edwards.

* (2330)

Mr. Edwards: I would like to make one brief comment in response to that and also to the Member for Concordia (Mr. Doer).

It is precisely the fit and proper aspect of the decision which is the discretionary aspect which generally objectors and residents object about. Fit and proper is in and of itself an ambiguous term which includes

ability to respect the integrity of a neighbourhood and ability to live in harmony with the residents. It is those objectors that we are seeking to protect.

If the spectre of abuse of that to the Court of Queen's Bench is such a serious concern, I quite frankly fail to see it. I know that the Court of Queen's Bench is fully capable of punishing those who bring spurious claims to its doors. I also know that they show a high level of deference to the boards and commissions in this province whose expertise they respect. I do not see this being a problem. I do see it as being an important protection for the residents in particular in light of the fact that the applicant has that right in the statute. I think if the applicant has it, the objector should have it. I think that is fair. I simply cannot see this spectre that has been raised and I think it is a shame if equal rights are not recognized.

Ms. Maureen Hemphill (Logan): Mr. Chairperson, I just want to put a question on the record and I am not sure if this is the appropriate clause but I am going to get it in sometime tonight, so I might as well get it in here.

In terms of licensing and being given a licence, I am wondering what the basis would be to have a licence withdrawn and I have a particular question about what I believe to be a rampant problem on Main Street, and that is the overselling of liquor in the Main Street hotels. When this subject has been raised with the Liquor Commission, as it has on a number of occasions by the residents and by the Main Street revitalization community, the answer from the Liquor Commission is that they monitor and there is no overselling of liquor on Main Street. That is absolute nonsense.

All you have to do is, as many of us do, drive through Main Street, because we live in the North End and we are coming and going from work, to know that the overselling of liquor is absolutely rampant on Main Street. I think it is one of the things in dealing with the problems that we have to address. Why is this allowed, and why the sort of excuses that it is not happening, and why is there not a crackdown so that the abuse—and there are many on Main Street, but one of them is the overselling of liquor on Main Street.

Mr. McCrae: Mr. Chairman, I do not think anybody is saying that overselling is not happening or that sales to minors are not happening. I am advised that those are the two most serious problems faced by the Manitoba Liquor Control Commission. The Liquor Licensing Board acts on complaints or reports of abuse of the rules when those complaints and reports are made known to the board, and it will continue to do so. As these problems become known to them, they do act on them. Similarly, with the matter of stomach bitters, we could see that a problem was developing and, with the assistance of the commission, we were able to make changes. So no one is saying those problems do not exist, and the board actively pursues any complaint that is brought forward.

Ms. Hemphill: Mr. Chairperson, it is my understanding that complaints were made and that the answer that

came back was that they had checked and that there was not overselling of liquor. I will verify that so I can be sure. If complaints were not made, I will suggest to community residents or community organizations that the complaints are made and that we then see what action the Liquor Commission will take on this very serious issue.

Mr. McCrae: If the Honourable Member is able to supply me with details of specific instances, I assure her I will quickly bring the matter to the attention of the board.

Ms. Hemphill: I will suggest that they do it.

Mr. Chairman: The committee has before it an amendment moved by Mr. Taylor from Wolseley to Bill 47 and Section 2. I will deal with it by calling for the approval of the amendment to Section 2, Clauses 2(1) to 2(3), which is essentially the first pages of the amendment. Those in favour, please say ye? I declare that passed.

I call the second portion of Mr. Taylor's amendment to be found on page 2, Clause 2(4), amending Subsection 65(2.1) and 65(4). It is very difficult to read, but I think Honourable Members and staff will work this out later. All those in favour? Nay? Who says, do we have a vote? I declare the nays have it.—(Interjection)—Recorded vote? Okay, I will ask the staff to count the votes. All those in favour of the second page of amendments of Mr. Taylor's.

Clerk of Committees, Mrs. Janet Summers: Four.

Mr. Chairman: Those opposed?

Madam Clerk: Five.

Mr. Chairman: I declare those amendments lost.

Section 3—pass; Section 4—pass.

Section 5—Mr. Doer.

Mr. Doer: Can the Attorney-General (Mr. McCrae) explain—we asked him whether he had conducted any impact studies on this issue on second reading. Has there been any concluded?

Mr. McCrae: Excuse me, Mr. Chairman. Is this the issue that the Honourable Member spoke about at second reading?

Mr. Doer: It is the issue that we both spoke about at second reading.

Mr. McCrae: The move to have removed the word "domestic," is that it?

Mr. Doer: Section 81(1) and section—is that only dealing—can the Attorney-General please explain that?

Mr. McCrae: My information from the commission is that even if no incremental business is generated, the maximum transfer of Canadian beer to imported is

estimated at 400,000 out of a total of 18 million cases of 12 bottles, of 12. At a maximum, this could mean four—

Mr. Doer: You are trying to confuse are you, using those big numbers?

Mr. McCrae: You asked me.

Mr. Doer: I know that, but could you tell me what the Bill does, instead of bottles of beer? I know we are counting bottles of beer on the wall at this time of the night. I want to know what you are doing.

Mr. McCrae: All right. The Honourable Member no doubt would want to know what would prevent beer vendors from selling imported beer immediately upon amending the Act.

Mr. Doer: Yes.

Mr. McCrae: Okay. The response to the Honourable Member is that the commission will not permit the off sale of imported beer through hotel beer vendors until all elements of warehousing, distribution, pick up of empty containers, and pricing have been finalized.

Section 18 of the Act gives the commission the power to control the sale of liquor. Neither this Act nor any other Act or law compels the commission to sell or deliver liquor to any person.

The Honourable Member is no doubt interested in the environmental effect on Manitoba of imported beer containers which carry no refundable deposits. The commission is presently looking into the feasibility of hotel beer vendors selling imported beer off sale. If this were to take place, the commission would ensure that imported beer containers, cans and bottles carry refundable deposits identical to those of Canadian beer containers. Therefore, no significant environmental effect in Manitoba is anticipated.

The Honourable Member would likely want to know what would be the effect on Manitoba brewers if imported beer is permitted to be sold through hotel beer vendors. The answer to that one is that imported beer presently amounts to less than 1 percent of all beer sold in the province. Fifty liquor stores and 175 independent liquor vendors already distribute imported beer across Manitoba, so that should imported beer be permitted for sale through hotel beer vendors, the effect would be insignificant. Even if imported beer tripled, it would still only have a 2 percent negative effect on Manitoba brewers.

Total beer sales in the province are 20 million cases of 12 bottles per year. The imported beer share of total sales amounts to 200,000 twelve-bottle cases. If imported beer triples to 600,000 cases, the maximum effect would be 400,000 cases or 2 percent. So we are saying that the effect is negligible to insignificant and this would have the effect to some extent of assisting rural beer vendors and hoteliers who are, as the Honourable Member would recognize, going through some difficult times, and not that this is a significant help but it is a small help.

Mr. Doer: Could the Minister tell me the market share of American beer relative to domestic beer in the Province of Saskatchewan and in the Province of Alberta? This is a similar distribution system contemplated in Alberta that the Minister is proposing—30 percent, I believe.

* (2340)

Mr. McCrae: My information from the president of the Manitoba Liquor Control Commission is that no American beer is sold in Saskatchewan and that while American beer is not sold at vendors and hotels in Alberta, 12 percent of the Alberta consumption is American.

An Honourable Member: American or imported?

Mr. McCrae: Imported beer.

Mr. Doer: The majority of which is American.

I asked this question in the Legislature about a month ago and the four Ministers took the question under advisement. We are still getting a bit of information here. I asked the Minister of Industry, Trade and Tourism (Mr. Ernst) whether this would mean potentially some domestic brewing jobs in the Manitoba economy. I have not yet received the answer to that question. I raised it again at second reading. We are getting some information tonight. I asked the question of the Minister of Environment (Mr. Connery). I did not get any answer from the Minister of Environment.

I, quite frankly, believe we should defeat this portion of the Bill tonight and know what we are doing. I do not think there is any panic to pass this this evening or any panic to change this in the Bill before we know what the potential is going to be.

We have free trade going on and I know that will affect—the breweries are excluded from the Free Trade Agreement specifically but they are also included by way of the back door with the GATT Trade Agreement which is applicable to the Canada-USA Free Trade Agreement.

There are lots of very marginal breweries. Two out of three breweries in Manitoba are marginal; I think everybody would agree. I think the Liquor Commission has done a terrific job with those local breweries and has done a terrific job with the distribution system in Manitoba in general. It is one of the best commissions in the country.

We can agree to disagree on certain innovations, I would think, and I think we would want to look at the other side of this issue in terms of the jobs. I am sure the commission would not propose it if it was not sure that jobs would be okay, but I would like to have a report from the Minister of Industry, Trade and Tourism (Mr. Ernst) on those jobs as we asked for in the House six weeks ago. We have not yet received it and I, therefore, will suggest we vote against this.

Mr. Edwards: I will defer to the Attorney-General, if I may.

Mr. McCrae: The president of the Manitoba Liquor Control Commission has been engaged in discussions regarding the GATT which has something to do with the reasoning for bringing forward this particular amendment. The final decisions and considerations have not been completed and I understand the Honourable Member's concern. I do have a wish. The Honourable Member should not be surprised that I do have a wish to do what I can to assist those parts of the tourist and hotel industry in the City of Winnipeg but also very much outside the City of Winnipeg.

I think that we could see our way clear to allow this to stand over until perhaps the next portion of the Session that we are in or perhaps at another time. I do not see any need for us to get into a vote tonight. I would be satisfied at this stage to withdraw this part of it for now, but I would ask the Honourable Member to keep his mind open, too, when it comes to those parts of our province which are having one heck of a time getting by in the face of the drought and circumstances which more and more tend to send the population into the large centre of the Province of Manitoba and to keep an open mind on behalf of especially those hoteliers and tourist operators outside the City of Winnipeg.

Mr. Doer: I thank the Attorney-General (Mr. McCrae) for that offer. We do have an open mind. If he can convince me that selling Lone Star beer in the Brandon Hotel will get more tourists in Brandon, I have a wide open mind on that. I know that the proprietors want it. We do have a legitimately open mind but it has to be—

Mr. McCrae: Keep it open.

Mr. Doer: Yes, legitimately an open mind.

Mr. Edwards: I just have a few comments. I have been listening closely to this debate, as I did in the House, and I look forward to the same details of statistics that the Member for Concordia (Mr. Doer) does from the Attorney-General (Mr. McCrae). I might add, if there are statistics, and I have no doubt that there are many supporters of this in rural Manitoba, some statistics or speculations as to what increased sales might be in rural Manitoba, it might also be helpful. I wonder if the Hotel Association has those figures? I think obviously we are all deeply concerned for the protection of businesses in rural Manitoba, in particular in light of the very tough times they have had in the agricultural economy.

Mr. McCrae: While we are at it, the clause that follows should come out as well because it provides for the ability for an imported beer distribution system, so that could come out as well at this time. I serve notice on Honourable Members that it may be, in order to live up to the spirit of the GATT, which is something the Honourable Members asked us to do when they so vociferously opposed the free trade deal and now, when we bring forward something like this which would enable the board, we hear these things. But at this point in time, we are able to withdraw this for the purpose of getting the other very important parts of our Bill passed.

Mr. Doer: I thank the Member for that. I would encourage the Member as to the GATT negotiations, I notice there was another claim from a province to the federal negotiators over the weekend, with the Premier of Ontario making certain claims. I do not know whether those were legal claims or just protecting the Niagara Peninsula constituency that they hold.

It is rather unclear to me in terms of beer distribution with the European beers and the American beers with the liquor stores distributing them now, how that effects the beer vendor operation. If we could perhaps have negotiations to produce some kind of specific legal interpretation he could table, that would be awful helpful.

Mr. McCrae: You can be sure, Mr. Chairman, that the commission will be keeping me fully informed as we go along. The reasons for moving in certain directions will be made known to Honourable Members.

Mr. Chairman: Thank you, Mr. Minister.

I will call Section 5—pass? I do not believe so. Withdraw. Thank you. Section 5 is repealed from the Bill. Section 6—withdraw.

Section 7—Mr. McCrae.

Mr. McCrae: Could I make a motion that the Bill be re numbered accordingly, so that these withdrawals will be reflected properly in the final numbering?

Mr. Chairman: Yes, the Chair would recommend that motion be placed at the end of the Bill, but I do require the motion in writing. All motions to the Chair have to be in writing. A simple motion to that effect can be effected. Can we proceed then with the calling of the clauses?

Section 7—pass; Section 8—pass; Section 9—pass.

Section 10—Mr. Edwards.

Mr. Edwards: I have a proposed amendment to Section 10. I believe Mr. Chairman has a copy of that.

My motion is entitled, Production of Photo Identification. It adds a subclause, being Clause 121(3.1). What it does is allows a licensee to demand MLCC-approved photo cards, proof of age, where the licensee reasonably believes that a patron is under the age of 18 years. It comes in response to increased duties upon licensees with respect to serving underage drinkers brought upon by this Act and also by the common law and, I would say, also by public pressure. It is not something that licensees object to. They are happy to play their role, it is my experience, in curbing underage drinking and of course underage abuse of alcohol. They recognize their increased responsibilities and duties. I believe that this subsection does allow them an added tool, if you will, in the combat against underage drinking.

We all know that in Manitoba we do not have photocard drivers' licences as they do in some provinces or any other photocard ID which lists your age. For that reason, I would not say necessarily widespread,

but we certainly know that there is abuse of the written identification which is the standard identification of age in Manitoba. That is the driver's licence. It is very easy, I would suggest, to simply use that and other forms of written identification and be in a bar under the age of 18.

* (2350)

This is, as I say, an added tool in the hand of the licensee that where they reasonably believe that someone is under the age of 18 they have that added protection of a photocard identification. The Manitoba Liquor Control Commission presently produces photocard identification at cost for \$2 a card. I would suggest that anyone who can afford to go to a bar and drink can also afford the \$2.00.

Mr. Chairman: The committee has heard the proposed amendment. All those in favour—would you please read it in?

Mr. Edwards: I, therefore, move in English and French

THAT Section 10 of Bill 47 be amended by adding the following after proposed subsection 121(3):

Production of photo identification

121(3.1) Notwithstanding anything to the contrary in subsection (3), a licensee may require a person who appears to be under the age of 18 years to provide proof that he or she is of the full age of 18 years in the form of a photocard approved by the commission and, for purposes of this section, the production of such identification is conclusive of the fact that that person is of the full age of 18 years, if the photo and information on the card are consistent and correspond with the physical appearance of the person producing it.

(French version)

Il est proposé que l'article 10 du projet de loi 47 soit modifié par l'adjonction, après le nouveau paragraphe 121(3), de ce qui suit:

Production d'une carte d'identité

121(3.1) Malgré toute disposition contraire contenue au paragraphe (3), le titulaire de licence peut exiger d'une personne qui semble ne pas avoir atteint l'âge de 18 ans qu'elle produise une carte d'identité approuvée par la Société afin de prouver qu'elle a 18 ans révolus. Pour l'application du présent article, la production de cette carte d'identité consitue une preuve concluante que la personne a 18 ans révolus si la photographie et les renseignements figurant sur la carte sont compatibles et correspondent à l'aspect physique de la personne qui présente la carte.

Mr. Chairman: The committee has heard the proposed amendment, Section 10 as amended—pass.

Mr. McCrae: I have a motion to move, and the Honourable Member for St. Norbert (Mr. Angus) expressed some surprise a little earlier about my bringing this in at this point. I must say that I can plead guilty to this. On the other hand, I think the Honourable

Member for St. Norbert might speak to the gentlemen sitting to his left when it comes to the same practice in committees. So, the pot ought not to call the kettle you know what.

Mr. Chairman: Order.

Mr. McCrae: Mr. Chairman, if I could explain the intent of the amendment I am going to propose.

Mr. Chairman: Please proceed, Mr. Minister.

Mr. McCrae: Thank you, Mr. Chairman. Not so long after I became Minister responsible for the Manitoba Liquor Control Commission, it came to my attention that on the Manitoba Liquor Control Board it would be useful to have certain members who do not sit on the board as a general rule but, when it comes to hearing appeals from the Manitoba Liquor Licensing Board, that two, shall we say, elder statespersons in the industry could be added to the board for the purposes of appeals only.

Now, in the Act, one is not to be a member of the Manitoba Liquor Control Board if they are actively engaged in the business of selling liquor. So, what we would like to do is, for the purposes only of appeals, to have two extra people on the board. We would like by this amendment to waive the requirement that they not be actively engaged in the business.

So my motion would be as follows:

THAT the following be added after section 10 of Bill 47

Subsection 124(1.1) added

10.1 The following is added after subsection 124(1).

Exception

124(1.1) Notwithstanding subsection (1), a member of the commission may be so interested or engaged if he or she is appointed by the Lieutenant-Governor-in-Council only for the purposes of hearing appeals as provided for in subsections 21(1) and 25(6).

(French version)

Il est proposé que la disposition suivante soit ajoutée après l'article 10 du projet de loi 47:

Adjonction de paragraphe 124(1.1)

10.1 La disposition suivante est ajoutée après le paragraphe 124(1).

Exception

124(1.1) Par dérogation au paragraphe (1), un membre de la Société peut avoir ou exercer son intérêt s'il est nommé par le lieutenant-gouverneur en conseil uniquement aux fins d'audition d'appels prévus aux paragraphes 21(1) et 25(6).

So what we are asking is for the committee to allow this amendment so that we can appoint two other people to the board for the purpose only of hearing appeals.

Mr. Chairman: Mr. Taylor. Pardon me, Mr. Angus. I am sorry, no offence, Mr. Taylor.

Mr. Angus: Mr. Chairperson, through you to the Minister. I recognize that there are pressing orders of state that will allow the Minister to bring forward legislation at the last minute that the committee will have to respond to, and I recognize that there is a process whereby the Official Opposition can ask questions to try and ferret out information to try to get ministerial action on Bills. I am just wondering what the pressing nature of this particular amendment at this particular time is. That is the first thing.

Secondly, are these positions, do people get paid for sitting on these Appeal Commissions? -(Interjection)- There is a per diem, is there? I would like a little bit more of an explanation I guess as to the urgency of this. It seems to me that it could have a venting process as to the logic of having them in there. I do not personally on the surface have any difficulty, although as long as they are not sort of political appointments and the foxes amongst the chickens, of course. I am just taken back, I guess, why at midnight, three days before Christmas, or four days before Christmas, it is such a pressing matter that it has to be done.

Mr. Chairman: I will recognize Mr. Doer, followed by Mr. Edwards, and then allow the Minister to respond.

Mr. Doer: Yes, I had a similar concern. The Minister mentioned shortly after taking his responsibilities as Minister responsible for the Liquor Commission, so I would put that in from May 7 on, maybe in June and July, and I see an amendment coming before us, handwritten. Unless you have not paid your typing bills, I assumed that you did it late tonight. I do assume you—it is not even on a typewriter, so I am a little concerned about it.

These are major principles. I know we err away on the side of caution in many parts of The Liquor Act for good and sufficient reason in terms of the public interest. I do not for a minute think there is any problem with the intent of this amendment, but I am certainly concerned about it and how it fits with the other provisions in the Act that are, as I say, on the extreme cautionary nature in terms of the rights of liquor companies to own beer parlours and the rights of people in the industry to be involved in other parts of the industry.

It is a very, very carefully crafted act in the sense of protecting the public interest. I am a little worried about the nature by—it does not give us any opportunity to study this at all in our responsibilities. It looks to me like an amendment that was not drafted long ago, but drafted tonight. Why do we not just look at it in the second section when the Minister is coming back with the domestic area and other areas, rather than rushing it tonight without us having an opportunity to study it? Let us have an opportunity to discuss it with our caucuses, because I think these kinds of things should be discussed with caucuses. We should not just wing it.

Mr. Edwards: I would be interested, too, and perhaps some of my colleagues have just mentioned it in passing. The Attorney-General (Mr. McCrae) as I recall mentioned

that he had some specific—not names of people but I think he mentioned people with experience in the field or some other such experience. I would be interested to know what he means. Perhaps he could define that for us. I share the concerns of both of the previous speakers that it does seem awfully rushed and unless there is a dire need which I would invite the Attorney-General to make clear to us.

Mr. McCrae: Mr. Chairman, I can give Honourable Members a brief explanation, but in view of the things that the Honourable Leader of the New Democratic Party (Mr. Doer) has said really makes it difficult for him to pull himself off the limb onto which he has put himself.

Mr. Chairman: Order.

* (2400)

Mr. McCrae: If the need arises, simply out of volume of work, there are more and more licensees in our province. There are more and more fields, and there are more and more meetings.

The reason it is coming forward in this form tonight is that it was only recently that we discovered the requirement for an amendment to the Act. We were in the process of attempting to do this and when we, to put on those, what do you call them, ex officio type members on the board for the purposes of appeals and then discovered in the act that that could not be done without an amendment because people who are interested or engaged in business regarding liquor should not be on the board in any capacity, so we needed this Bill to do it.

Now, the fact is that somebody asked if they are political appointments, they are or would be Order-in-Council appointments although the individuals that we were considering were not political appointments in the sense of political as the Honourable Leader of the New Democratic Party (Mr. Doer) knows that term. There is absolutely nothing sinister.

But if Honourable Members are not satisfied, I would, I cannot proceed obviously if they are not going to support this at this time. Perhaps, given more notice at a later date, they might be more inclined to support, but it would be an assist to the Manitoba Liquor Control Commission in the sense just of having enough people available for all these meetings that are now required.

Mr. Doer: I have no problem with the Member adding additional members to the commission on a different basis than the regular commission members for purposes of appeals.

It is the second component in terms of the notwithstanding provisions that I would certainly like to look at, in terms of the tie-in with the industry, which is a different issue. That is what I am concerned about at the last minute. I do not know whether I should be concerned or not.

Mr. McCrae: Well, I can understand the Honourable Member's concern. I just want to assure him that the

people that we would look to, to assist us in this way would be people who are well-known in the industry and widely respected in the industry and of course would absent themselves from any meeting which had anything to do with something that could give rise to a conflict.

Mr. Chairman: Is the Minister withdrawing the motion?

Mr. McCrae: Mr. Chairman, I think that we have all the signs here that this should come forward at a later date. I do ask Honourable Members—

Mr. Chairman: Let it be recorded that the recommended amendment by the Attorney-General (Mr. McCrae) is being withdrawn. Section 10 stands approved as amended, Section 11—pass; Preamble—pass, Title—pass.

Pardon me, I will ask the Attorney-General (Mr. McCrae) to move further amendment with respect to renumbering of the Bills.

Mr. McCrae: Mr. Chairman, I move that Legislative Council be permitted to renumber the Bill to reflect the withdrawal of Sections 5 and 6 of the Bill. Mr. Chairman, I move this motion with respect to both the English and French texts.

Mr. Chairman: Thank you, Mr. Minister. Preamble—pass; Title—pass. Bill be reported.

This concludes the business of the committee.

BILL NO. 40—THE CITY OF WINNIPEG AMENDMENT ACT (2)

Hon. Gerald Ducharme (Minister of Urban Affairs): I hate to go back to Bill 40, but just to tie up the numbers on that one that we did not do, could I also move as directed that the Legislative Counsel be authorized to renumber Bill 40 to take into account amendments and withdrawals made at committee stage.

Mr. Chairman: Members of committee have heard the amendment? Agreed? Pass.

BILL NO. 38—THE MENTAL HEALTH AMENDMENT ACT

Mr. Chairman: We are returning to The Mental Health Amendment Act, Bill No. 38. I remind committee members that we were actually proceeding quite nicely on this Act until we arrived at Section 5.

What is the will of the committee?

* (0005)

Mr. John Angus (St. Norbert): It would seem to me that the concerns about this particular Bill and the lateness of the hour if the committee was of a mind to reschedule this until tomorrow morning in the neighborhood of eleven o'clock, the Minister would be available, his staff would be available, and it would be

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an opportunity for the parties to interact first thing in the morning if they wanted to. It is probably too much of a common-sense idea to have any consideration by the committee, but if you would use your persuasive powers as a Chairman to make them see the light—

Mr. Chairman: Thank you, Mr. Angus. Could I hear further recommendations from Mr. Doer?

Mr. Gary Doer (Leader of the Second Opposition): I would suggest that we try to reconvene at 11:30 tomorrow morning, that we all be in the building before that time. I think all of us are in the building and then we can hear from—we will be here at 8:30 a.m. but anytime from 11 on, that would get the Minister ready and we could deal with this not in a—

Mr. Chairman: Do we have some advice from the Government House Leader?

Hon. James McCrae (Attorney-General): Mr. Chairman, if the Honourable Members would like to

have the committee sit tomorrow morning at 11, that is okay with me. I do not know about other members of our committee, but if Honourable Members would allow us to make changes, if that is necessary . . .

Mr. Chairman: Gentlemen of the committee, I must indicate to you that committee sittings ought to be announced in the House in some formal way, but I suppose everything is possible, by leave.

Mr. Angus: Mr. Chairperson, if it is permissible, by leave, we would be more than willing to cooperate to see the facilitation of this Bill, you know, by leave. So I will be guided by the wisdom of the Attorney-General (Mr. McCrae).

Mr. Chairman: By leave, let us sit at eleven o'clock tomorrow. All in favour? (Agreed)

Committee will reconvene at eleven o'clock tomorrow morning. Committee rise.

COMMITTEE ROSE AT: 12:10 p.m.