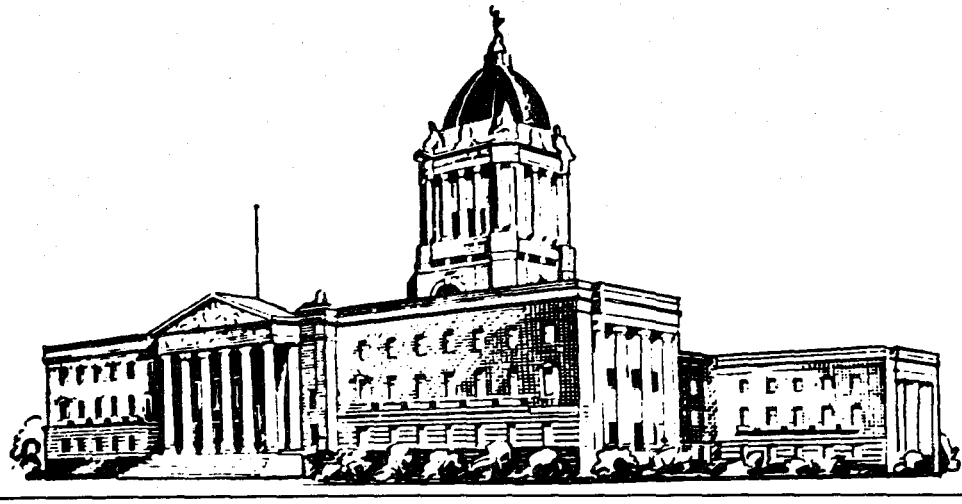
Legislative Assembly of Manitoba

HEARING OF THE STANDING COMMITTEE ON LAW AMENDMENTS

Chairman

Mr. J. R. (Bud) Boyce
Constituency of Winnipeg Centre



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IME: 8:05 p.m.

R. CHAIRMAN, Honourable J.R.(Bud) Boyce.

MR. CHAIRMAN: There was an indication this afternoon there was somebody wanting to make presentation on Bill 57 this evening. If there is, would they please come to the podium and identify emselves, and would you spell your name so we would have it on the record.

MR. RALPH MORRIS: Yes, my name is Ralph Morris. Mr. Chairman and committee members, I'd ke to thank you for arranging to hear us this evening.

MR. CHAIRMAN: Is there anyone else with you, Mr. Morris, or is there someone else wishing to ake representation?

MR. MORRIS: Yes, there is a Mr. Ken Lees with me, and he is here to assist me in answering any chnical questions which you may have.

MR. CHAIRMAN: Is it the will of the committee to proceed with hearing Mr. Morris and Mr. Lees? Agreed) Mr. Morris.

MR. MORRIS: Thank you. May I proceed, Sir?

MR. CHAIRMAN: Please.

MR. MORRIS: Thank you. We have pretty well taken care of paragraph one by the question and nswer routine. Mr. Grant Murray had been on standby for the last two to three evenings. nfortunately, he could not make it this evening so I'm representing him.

The Canadian Business Equipment Manufacturers Association appreciates the opportunity to ppear before this committee on the important subject of attachment of equipment and devices to e Manitoba Telephone System's network.

For those of you who may not be familiar with our association, CBEMA is a voluntary, non-profit ade association which has represented the interests of business equipment manufacturers in anada for over 40 years. Its membership presently consists of over 60 firms actively engaged in the anufacturing and marketing of a wide range of business equipment and office furniture. The ssociation is structured into seven semi-autonomous product groups which represent firms anufacturing similar products. Terminal attachment is of vital interest to the dictating machine and e computer groups in our association as well as, for example, photocopy and duplicating.

The dictating machine group consists of seven major Canadian suppliers of electronic products record voice messages and provide for the recovery and transcription of these messages. The oducts of these members range from common devices such as portable and office dictating units, complex business dictating systems which can be remotely controlled for giving dictation from all cations connected to telephone switchboard or external telephone networks.

Use of communications in conjunction with these products has in recent years opened up new pportunites, possibilities and methods of conducting business that would otherwise not be ossible. The growth of technology and the capabilities of these products has paralleled that of the ectronics technology in general and we foresee no decrease in the rate of expansion in the near ture.

The firms represented by the computer group, manufacture and market a wide range of mputers and computer-related equipment for business, industry and government. Together they ave provided over 80 percent of the computers used in Canada. Canadians are sophisticated users computers; Canada ranks second in the world in computers per capita. The users of computers in anada have a wide range of alternatives from which to choose the level of service and cost best ited to their own requirements.

More and more, these computer installations depend on the use of communication facilities to ing information to the computer for processing and to return the computer output to locations here it is required. There is a large and rapidly growing variety of equipment and software programs support the computer use of communication facilities. Data processing users must be free to lect from this wide variety of equipment in order to develop effective system solutions to their nique problems.

We are here because we believe that if Bill 57 is passed in its present form, not only suppliers such ourselves, but the users of communication services will suffer. "Users" include, of course, the nall businessman and professionals who use our products, but also government, universities, spitals, the large Manitoba-based companies and nationwide organizations which operate in anitoba. The reaction will not likely be immediate but will occur slowly as Manitobans realize their unterparts in other provinces have capabilities that they do not have.

We believe that legislation should ensure the integrity and safety of the telephone network.

We do not believe that legislation should provide the carrier with such broad and restrictive wers as are given in Bill 57.

CBEMA made a written submission to the Public Utilities and Natural Resources Committee on e subject of terminal attachment on February 23, 1977, prior to Bill 57 being introduced into the

Manitoba Legislature.

In addition, CBEMA has been an active participant in the development of the terminal attachmer program administered by the Federal Department of Communications. We participated in the firs phase of the program which went into effect for voice products on April 30, 1960, and now we ar serving on task forces which are studying the implementation plans for the second phase of thi program, which relates to data devices.

Interconnection of subscriber-provided devices to the telephone network is controlled to variou degrees in different countries of the world and in different provinces in Canada. In the United State the right of users to attach devices to the telephone network was established in 1968. Since that tim there has been an ever-increasing variety of equipment and devices available to the user. Canadia users, even today, are more restricted in devices permitted for attachment than their United State counterparts.

Trends have been developing in Canada, however, towards providing more freedom fo attachment, to the benefit of the users. The Federal Department of Communications has establishe a policy favouring the relaxation of rules under which computer users are given access to carrie transmission facilities. This policy resulted from many years of study: by the Telecommission, th Computer/Communications Task Force, the Computer/Communications Secretariat, and specia working groups. Input was received and studied from many interested associations, government and industries from across Canada.

In a broad sense, this policy is now being proposed as legislation in the new "Act respectin Telecommunications in Canada", or Bill C-43, currently before the House of Commons. This bi would give the CRTC the authority for "directing a telecommunication carrier to permit th interconnection of its facilities with other facilities or equipment on such terms and conditions as th Executive Committee may determine".

The Department of Communications Terminal Attachment Program which I mentioned is a example of the trend towards making it possible for communication users to attach their equipmen to the telephone network. The DOC policies and programs, of course, apply only to those carrier who are regulated by the Federal CRTC.

Much of the pressure for increased freedom in attachment to the telephone network is comin from users who see the increasing number of machines and devices available, and wish to be able t take advantage of this equipment for their own operations. In Canada, as in other countries, it i within the non-regulated portion of the environment that technology is exploding.

Considering the environment just described, we are concerned that Bill 57, both in its wordin and in its intent as expressed by the Manitoba Telephone System, is restrictive legislation which wi have a detrimental effect on the development of economic activity in Manitoba. MTS, as a practica matter, could not provide the wider and ever-increasing variety of products that are offered by th electronics and data processing industry and which require attachment to, and use of, the telephon network. Bill 57 applies equally in its wording to decorator telephones and to the attachment of th largest computers. It leaves the decisions as to what can be attached not to those who need th equipment, but solely to the MTS.

CBEMA believes that the sole objective of legislation for attachment should be to protect th integrity of the telephone network, and the safety of those involved with the network. This can b accomplished by ensuring that equipment to be connected meets published technical specification for attachment. The administration of the law should be as simple as possible, so as to ensure th least cost for manufacturers, users and the MTS. The legislation should make it easier for users t select equipment which is competitively priced and which meets their needs.

Bill 57, in our opinion, does not meet these objectives. Its intent appears to be to create a mor restrictive environment: its effect would be less choice and more expense for the users.

We are prepared, if any member should desire, to give a clause by clause analysis of our concern with this bill. These concerns were detailed in our attachment to our May 3rd letter to Mr. W. Jenkins Our association believes that the whole philosophy of the bill should be re-examined with ampl opportunity for the industry and user community, as well as the MTS, to make their views known

We, therefore, urge the Manitoba Government to consider withdrawal of the bill in its present for and to consider re-drafting of the bill with input from all interested and affected members of th Manitoba community.

I repeat, that if passed in its present form, equipment suppliers in Manitoba would be faced wit serious restrictions to the conduct of their business in Manitoba. Further, as a result, users an potential users of the MTS communication services would be prevented from being as efficient a their counterparts in other provinces and in the U.S.A., who are permitted more freedom of choice i their ability to attach equipment to the telephone networks.

Mr. Chairman, I know how busy and tired you people must be and I appreciate very much th opportunity for this presentation. We would be pleased to answer any questions you have.

MR. MORRIS: If there is a photocopy machine around, Sir, I would be delighted to see that copie

re made for you. Can that be arranged or . . . ?

MR. CHAIRMAN: Yes, that can be arranged. It sometimes helps with the recording. Are there any questions of Mr. Morris? Mr. Toupin.

MR. TOUPIN: Mr. Chairman, to you Mr. Morris. You have a list here of all companies that you epresent or are wanting to represent in your brief here this evening. I take it they do business in Saskatchewan and Alberta where we have two telephone companies that are endeavouring to do business about in the same field as we are in the Province of Manitoba, are they not?

MR. MORRIS: To answer the first part of your question, sir, all of the firms which are members of CBEMA do have representation either through dealership or direct factory outlets in all provinces across Canada, including of course Manitoba and Saskatchewan. I am not in a position to remark on what the Saskatchewan Telephone Company may be involved in at the moment.

MR. TOUPIN: Mr. Chairman, I am informed — again I only go by reports that I have received from my officials — that the conditions imposed in Alberta, as an example, are quite more stringent than is contemplated under Bill 57.

MR. MORRIS: On the which, sir?

MR. TOUPIN: Are quite more stringent than considered under Bill 57 here in Manitoba — s that your understanding of the companies that do business in Alberta?

MR. MORRIS: No, sir, I do not have details of the motions or actions which are taking place in Alberta. I am very familiar with the Federal Department of Communications for Ontario, Quebec and British Columbia. The requirements of Bill 57 are significantly more stringent than the Department of Communications Ontario, Quebec and B.C. requirements.

MR. CHAIRMAN: Did Mr. Lees want to comment on that question? Would you come forward, Mr. Lees. It's a joint presentation.

MR. LEES: Mr. Chairman and members, if I may. The Alberta legislation, as you suggest, is a very restrictive sounding legislation in its wording. The interpretation of that legislation and the environment we work with does not always follow the letter of the law, so to speak, and we are able to do business in Alberta quite successfully but we do face restrictions there. However, I understand, and you may have better knowledge on this than myself, that the Alberta Telephone is considering at this time adopting the Federal DOC terminal attachment program in Alberta modified to suit their particular needs.

MR. TOUPIN: Mr. Chairman, in the brief presented by CBEMA in February, I would like to find the paragraph that indicated that in principle CBEMA was in accord with Bill 57 as drafted at that time. Is here a change to that position?

MR. LEES: Excuse me . . .

MR. TOUPIN: I'm sorry. I've got the section of your brief. It is Page 7, subsection 4, and the quotation is: "CBEMA agrees in general with the MTS proposal." Again, I say at that time it was a draft proposal. "That legislation" — and here I am quoting — "That legislation be enacted that would allow the Public Utilities Board of Manitoba to approve specific practices for interconnection of customer owned terminal equipment to the public switch network." Has that position changed, Mr. Lees?

MR. LEES: No, sir, that has not changed. I should comment first of all that that submission was dated February 23 and Bill 57 was not introduced, I believe, until April 4th. We were commenting not on Bill 57 but on the presentation given by MTS in January I believe. In that presentation, MTS indicated their position that they believed the Public Utilities Board should be the arbitrator of disputes or disagreements and we fully believe in that principle. That's still our policy; we do not believe that Bill 57 adequately addresses that need.

MR. TOUPIN: Mr. Chairman, Mr. Lees and Mr. Morris, you are both aware that the bill makes reference to the agency being the Public Utilities Board in regards to the possible disputes.

MR. LEES: Yes, sir, Section 43-1 and 43-2 make reference to tariffs requiring approval of the Public Utilities Board. The problems that exist with that, there are a number of them. The way it is set up, MTS will write that tariff. The feelings of the Public Utilities Board will not be reflected in any way in the tariff that is written; it will be written by MTS and the Public Utilities Board will have the function of approving or disapproving of that tariff, so we feel that tariffs will still reflect, not what users want but what the MTS wants, and that the Public Utilities Board will be in the position to be there saying yes or no and not having really any input into the process of establishing tariffs.

Another very serious consideration we believe is one that I believe was addressed in debate in your House by Mr. Sherman concerning whether the Public Utilities Board really has under its Act the power to approve tariffs in all of these areas. We understand it is the present practice in Manitoba that the Public Utilities Board does not approve of tariffs in other than telephone related matters. . Data Transmission tariffs, for example, are not approved, as I understand it, by the Public Utilities Board. Now, Bill 57 addresses attachment of devices in many areas other than for providing telephone messages and we are concerned that the Public Utilities Board may not have the right or the powers to address tariffs that might be issued by the MTS.

MR. TOUPIN: Mr. Chairman, the legal advice that we get, Mr. Lees and Mr. Morris, is that the

Public Utilities Board has had, still has, the jurisdictional power to set tariffs. I would like to inforı both Mr. Lees and Mr. Morris that the Committee will be considering amendments; both the Standin Committee and this Committee and members of the House generally have appreciated th comments that you made in February and May of 1977 in regard to Bill 57. We wish to thank yoı

MR. LEES: Thank you.

MR. CHAIRMAN: Mr. Shafransky.

MR. SHAFRANSKY: I have one question. Mr. Lees, I had a nuer of letters and telephone calls froı a Mr. Flood. I wonder if you are the people who are representing the same group. Somebody sai CBEMA and I just didn't quite understand it. I've tried to get hold of Mr. Flood but he's not available

MR. LEES: Mr. Flood is a member of our organization on our office staff in Toronto anc unfortunately, ended up in the hospital last week and has been there for a week and a half; that's wh you were not able to reach him. Yes, we are in the same organization.

MR. SHAFRANSKY: I was just curious because I had a number of telephone calls and I indicate that as soon as I knew when the committee would be called to hear the presentations on thi particular bill, I would contact him. I did ask the Clerk's Office and they said they would phone him. was just curious whether that was the same group or not because somebody said CBEMA.

MR. LEES: We appreciate your co-operation. Thank you.

MR. CHAIRMAN: Thank you Mr. Morris and Mr. I Lees. was glad we could accommodate yoı There are amendments to Bill 57. Would the Minister pass out the amendments to Bill 57 and we wi consider it clause by clause?

MR. CHAIRMAN: Bill 57, An Act to amend the Manitoba Telephone Act. Clause 1—pass. There', an amendment to Clause 1. Mr. Shafransky.

MR. SHAFRANSKY: Is this Bill 57? Mr. Chairman, I move that the proposed subsection 43(3) o The Manitoba Telephone Act, as set out in section 1 of Bill 57, be amended by adding thereto, at th end thereof, the words "for the purpose of transmitting or receiving messages passing through th telecommunication equipment of the commission."

A further motion. . .

MR. CHAIRMAN: One moment please. Is the amendment acceptable? Mr. Sherman.

MR. SHERMAN: We haven't dealt with 43(1) yet.

MR. CHAIRMAN: This is the amended section which Mr. Shafransky read which has beeı circulated.

MR. SHERMAN: But you haven't called 43(1) yet, Mr. Chairman.

MR. CHAIRMAN: No, but we're going clause by clause. If I may, gentlemen please, th amendment which was read was not for 43(1), it / was for 43(3). 43(1), /? Mr. your pleasure to accep this Sherman.

MR. SHERMAN: Mr. Chairman, I want to put the situation. . .

MR. CHAIRMAN: May I have a little order please so I can hear Mr. Sherman.

MR. SHERMAN: I wish to put a situation to the Minister at this juncture for his comment on 43(1) Mr. Chairman. Under section 43(1), the use of equipment must be authorized by being included in th MTS's tariff as approved by the Public Utilities Board and that's good in one respect because it means the rates charged have to be approved by the Public Utilities Board. But the shortcoming, and I think I've suggested this to the Minister before, is that the MTS can prevent the use of some sorts o equipment simply by not putting it into their tariff and I feel that the clause and the bill are faulty ir that, at the present time they contain no procedure by which the Public Utilities Board could orde the Manitoba Telephone System to quote a tariff for the connection of any type of equipment. So, would start at that point and ask the Minister for his impression or his opinion of the validity of what I am alleging.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Well, Mr. Chairman, we're going back to discussions that we've had on seconc reading of the bill in regard to what is considered to be powers of the Public Utilities Board or not. I contended then and I contend now that they do have the power in regards to equipment that is considered to be harmful to the network and that still remains and that satisfies us.

MR. CHAIRMAN: May I just point out that the latter point was well taken. The clause under consideration, if there's an amendment to the clause which the member wants to propose or to speak against the clause or. . . Mr. Sherman.

MR. SHERMAN: Well, Mr. Chairman, telecommunication equipment doesn't just mean phone lines or attachment devices of the type referred to by the Minister. It also refers to cable equipment and data processers, computers. It's true that where you have a non-competitive situation, the Public Utilities Board is an agency of review. But where you have a competitive situation in the rate field, the Public Utilities Board has no power to review and the Manitoba Telephone System remains supreme in that area and they can simply include and exclude from their tariffs anything that they wish to do.

MR. TOUPIN: Well, Mr. Chairman, again I indicate that the Public Utilities Board is not limited to those items referred by the Manitoba Telephone System as in the tariff. They can review any item that

s considered to be serviced by the Manitoba Telephone System. I would refer the honourable nember, Mr. Chairman, to section 77 of the Public Utilities Board Act in regard to its power and it's iot limited to telephone lines. It's quite encompassing in regard to its jurisdictional powers. I would isk the honourable member to read that section, section 77,(a), (b), and (c).

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Well, Mr. Chairman, I think the Minister is missing a pretty fundamental point. It nay be true that the Public Utilities Board, through its own Act, has been issued jurisdiction in these ireas. Whether it exercises those jurisdictions in relation to this specific item is a totally different natter, and without guidance by this Legislature as to what they should be doing, then the Public Jtilities Board would not be acting as it has not been acting in the past. He may say that there is urisdiction, but they have not been exercising that jurisdiction. Mr. Chairman, I assume that I was speaking to the bill and I think if the Minister of Labour would like to speak to it, there is a microphone ivailable at the table, anytime he would like to.

MR. CHAIRMAN: May I ask that all remarks be directed to the Chair?

MR. AXWORTHY: Yes, Mr. Chairman. I assume that microphones are available to all members of he Committee to use when they raise their hand, and are so acknowledged.

The question that I'm raising is that under the wording of this particular section 43(1), as it's defined, it could conceivably even involve connections , let's say, to the television set. But without some presumption built in by this legislation as to guide the Public Utilities Board and to find for it the kind of jurisdiction and authority over this item that we would require, then we would keep ourselves n the same position as we are now, which is that the Public Utilities Board does not exercise urisdiction in those areas which it calls competitive rates. Therefore, the Manitoba Telephone System is free from any jurisdiction than it has been. So all the Minister is describing to this Committee is that there is a latent jurisdiction — that they have received no direction, guidance, nstruction from this Legislature or for that matter, from the government as to what the Manitoba Telephone System is required to do. I think we have to build that in . If we're giving the PUB the discretion that I think it's incumbent upon this Committee and Legislature to indicate the guidelines or that discretion, otherwise, we will simply not have any authority being exercised.

MR. CHAIRMAN: Clause 1—pass. Gentlemen, we have the motion to pass or amend, so if somebody has an amendment ready that they wish to move, you know. I'm at your will and pleasure. Mr. Sherman.

MR. SHERMAN: Mr. Chairman, not wishing to move away from the position that has already been expressed. At the very minimum I would want to move an amendment having to do with the reference o the telecommunication equipment of the commission on the grounds that 43(1) is unnecessarily restrictive, and it refers to the telecommunication equipment of the commission, not to the public switched network. So I would move that in section 43(1), that the term "telecommunication equipment" in the first line thereof be struck out and replaced by the term, "public switched network." —(Interjection)— Well, I'm in the process of writing it, I apologize, Mr. Chairman.

MR. CHAIRMAN: Mr. Sherman, if you wanted to write your amendment — Mr. Axworthy wanted o speak again also. Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I have another question that perhaps the Minister might be prepared to answer relating to this section. That is, does this section also apply to equipment that is supplied by MTS itself? Would it also be subject to any jurisdiction of the Public Utilities Board or are hey outside its jurisdiction?

MR. TOUPIN: Mr. Chairman, I would refer the honourable member to 43(1), the third line.

MR. AXWORTHY: Okay.

MR. TOUPIN: And not supplied by the commission. I think that's fairly clear.

MR. AXWORTHY: Well, Mr. Chairman, what happens in a case then where MTS itself is in the business of supplying all kinds of similar kinds of equipment. It means that they are not subject to the same regulation that the private supplier is, is that what we're being told?

MR. TOUPIN: Well, obviously that's what the section says, Mr. Chairman.

MR. AXWORTHY: Well, Mr. Chairman, so in effect what we are saying is that the private supplier is subject to the authority of the Public Utilities Board with its tariffs, and MTS can basically do what it wants without being subject to any kind of authority, regulation whatsoever, and I would really ask he Minister if that's the case, does he consider that to be a fair application of the law?

MR. TOUPIN: Mr. Chairman, the Manitoba Telephone System is aware of the equipment that it sells and connects to the system but is not aware of what is being supplied and attempted to be connected by other firms, and that's the reason for the section.

MR. AXWORTHY: Well, Mr. Chairman, certainly the Manitoba Telephone System would know what equipment it is prepared to sell, but would the import of this particular section then not be to give it a major competitive advantage over any private supplier because they're being subject to two different sets of rules. And if it is being subject to the tariff of the Public Utilities Board, why shouldn't

the Manitoba Telephone System also be subject to the same kinds of guidelines and rules so that the would not have any particular built-in natural advantage simply because they are the. . . In this cas they are really writing the rules to suit themselves and to give themselves the specific built- advantage.

MR. TOUPIN: Mr. Chairman, I take it that the Public Utilities Board will keep in mind adjudicating the selling prices and conditions that the Manitoba Telephone System has for itse

MR. AXWORTHY: Well then, Mr. Chairman, it comes back to my original point. That would be nic but the Manitoba Telephone System has not been appearing before the Public Utilities Board for ar kinds of rates relating to that kind of equipment. It only comes before it for telephone rates, and it ha not been appearing before it for other kinds of setting of rates.

MR. TOUPIN: Mr. Chairman, I would like to ask Mr. Backhouse to make a comment here.

MR. BACKHOUSE: I would just say that on many of Manitoba Telephone System's equipmer offerings of the type that I think we are dealing with, they are offered at rates approved by the Publi Utilities Board and I cite the case of the Telephone System telephone answering recorders, which i similar to the equipment that is being talked about.

MR. AXWORTHY: Mr. Chairman, it's an interesting coincidence that Mr. Backhouse raises th example of the telephone answering systems because I had in my files, and I think it was brought u in the House, that in fact as the Manitoba Telephone System has gone into that particular business i competition with private answering services, they are offering substantially lower rates, using the lists that they acquire to develop customers and so on. There is a great deal of uncertainty on the pa of the private answering services to the very major advantage that the MTS is beginning to employ t pursue one of its satellite activities and as far as one can determine that has never been reviewed b the Public Utilities Board, the whole question of its operation into the answering service busines And yet, they are obviously going to have the end effect of putting the private people out of busines as a result.

MR. TOUPIN: The advice, Mr. Chairman, that I am receiving is that the Public Utilities Board ha the jurisdictional power to investigate.

MR. AXWORTHY: Well, Mr. Chairman, I've read the Public Utilities Act as well and of course it's i the Act, but they've never exercised it.

A MEMBER: So what?

MR. AXWORTHY: Well okay, then what's the point of having it there if they've never exercised it Well in the last two or three, four or five years, we've been moving into a number of new areas relate to the whole telecommunication, electronic telecommunication field. It's a brand new field. Th Public Utilities Board has not been introducing itself into these areas, because no one has bee indicating that that's what they should be doing. The government has certainly made no effort to d it. Now we are passing laws giving Manitoba Telephone System very substantial new powers, an saying, well the Public Utilities Board if it wanted to could move into the area but no one is instructin them to do so, and like any regulatory commission, they work on the basis of presumption just a courts and everyone else does. So, I would assume, Mr. Chairman, that we should be setting forwar that we would like these things to come under the review of the Public Utilities Board.

MR. CHAIRMAN: Order please. I want to give as much leeway as possible. Nevertheless, we ar exceeding the proper debate on clause by clause consideration and if any member has a amendment to make, then that amendment should be moved.

The Member for Fort Garry moves that section 43(1) of clause 1 of the first line thereof, the word "telecommunication equipment" be struck out and replaced by the words, "public switche network." Mr. Sherman.

MR. SHERMAN: Mr. Chairman, if I could take one minute to speak to that proposed amendment. I derives from the fact that for many many years now, not only in Manitoba but throughout Nort America, that terminal devices have been connected to leased lines in certain other communicatio services of telephone companies without restriction. What section 43(1) says is: "connection to the telecommunication equipment of the commission," etc. — that means any telecommunicatio equipment . As I've suggested, for many years that practice has not been restricted in Manitoba o elsewhere. I can understand the Minister's interest and the Manitoba Telephone System's interest i making sure that connections of this kind referred to in this clause are controlled when the public switched network is involved but the clause doesn't say that. It says "to the telecommunicatio equipment," and as I've suggested that could include leased lines and other communication services. So that's the reason for the amendment asking that it involves the public switched network and no the telecommunication equipment of the commission generally.

MR. CHAIRMAN: Are there any other comments to the amendment?

MR. SHERMAN: I would assume the Minister might want to respond to that.

MR. TOUPIN: Well, Mr. Chairman, I don't see a reason why I should have to respond to a suggestion made by the Member for Fort Garry. The suggestion made by the government is contained within the section. We feel that we need to have telecommunication equipment in the bill.

The member is saying, we don't need that; he's substituting. Obviously I'm against it.

MR. SHERMAN: That's fine. The Minister may be obviously against it, but I think it's not unreasonable or unparliamentary to ask why he's against it. He has put a position here that for all I know may not even have taken into account the points that I raised in my amendments.

MR. TOUPIN: Mr. Chairman, again, I indicated on the principle of the bill on second reading, if the honourable member wants to go back to the —(Interjection)— when I talked about telecommunication matters that are not necessarily on the switched network. So the only way to cover these is by having a section that deals with telecommunication equipment, generally, not only the switched network. Now is that clear?

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

MR. SHERMAN: Well, all I'm asking . . . The Minister has made that declamatory statement on second reading and again now and he's never given me a reason for it. —(Interjection)— Why doesn't he have to? The Minister of Labour said he doesn't have to. I suggest to you, Mr. Chairman, that even the Minister of Labour in all our intensive labour legislation debates gives us reasons for what he's doing and why he's doing it. —(Interjection)—

MR. CHAIRMAN: Well, if all members will address their remarks to the Chair perhaps we can finish our legislation in the next couple of weeks. Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, the Minister just made what I find to be somewhat of a curious statement. He said that the original purpose for bringing this amendment in, as we were all told, was to prevent against people either using these connections, these sort of additional linkages on this switch system. Now he is saying we've got concerns about a whole other range of telecommunication equipment. Would he care to elaborate what these other concerns are, because that was not the reason why the bill was originally introduced. It seems to me, Mr. Chairman, that a lot of things are being tucked into this bill that were not there. So what we would like to know is — going back to the original objective as outlined by the Minister as to why we have the bill, which was to prohibit sort of the use of these illegal connections to the switch system — what are these other telecommunications areas that he's now talking about? Is he talking about cable? Because if it's cable then no one is illegally connecting up on there and isn't that a very different matter? Shouldn't we have a different set of legal prescriptions dealing with it? What other kind of equipment is he referring to?

MR. TOUPIN: Well, Mr. Chairman, again . . .

MR. CHAIRMAN: Excuse me if I may. The equipment that is being specifically referred to is telecommunication equipment and public switched networks in this amendment.

MR. AXWORTHY: Right.

MR. CHAIRMAN: The Committee has to vote on whether they're for the amendment or against the amendment.

MR. AXWORTHY: Well, Mr. Chairman, I would like to know. . .

MR. CHAIRMAN: Once we deal with the amendment and if the section is amended, then we can go back to the broader question relative to Section 1 —(Interjection)— but it's a specific . . .

MR. SHAFRANSKY: That's right.

MR. CHAIRMAN: Will you keep quite please, Mr. Shafransky?

MR. SHAFRANSKY: Yes.

MR. AXWORTHY: Mr. Chairman, I think that you've properly outlined what one of the lines of questioning is because the Minister has introduced, in a sense, a different definition. He is now saying that there is a whole other range of equipment. I'd like to know what they are so that we can make a proper judgment as to which way we should vote.

MR. TOUPIN: Mr. Chairman, I have not introduced a new concept. This has been in the bill. This is not a question of the amendment before us. If the honourable member wants to talk to the amendment of the Member for Fort Garry, that is new. What we're talking about in regard to telecommunication equipment, that's been in the bill. If the honourable member missed the speech that I made in the House on second reading, it's on Hansard, he can look at it. We talked about telecommunication equipment. If he wants any details in regard to techniques that can damage the system whether it be switch or under the telecommunication equipment system itself, I can ask Mr. Backhouse to explain, Mr. Chairman.

MR. CHAIRMAN: Gentlemen, please. It is not within the rules of the Committee to call technical advice on clause by clause consideration. The Minister answers for his bill. But the question once again, for or against the amendment, gentlemen. Mr. Sherman.

MR. SHERMAN: I have no objection to the question being called, but I simply ask you, Mr. Chairman, in the light of the position that the Minister is taking that he's not prepared to discuss these clauses, what is the point of a clause by clause examination in Law Amendments Committee?

MR. TOUPIN: I am prepared, that's hogwash.

MR. SHERMAN: You're not prepared.

MR. TOUPIN: I am.

MR. SHERMAN: You're not prepared to justify the clause for a question.

MR. TOUPIN: I don't want to justify yours, I'll justify mine. I'll vote against yours.

MR. CHAIRMAN: Gentlemen, please. I would suggest that there's a motion before the Committe to consider, and we can either consider it calmly or not. Mr. Shafransky.

MR. SHAFRANSKY: Yes, Mr. Chairman. I believe Mr. Sherman moved a motion in amendment t Bill 57 and that is the question before us and we have to dispose of it. If Mr. Axworthy has any othe matters that he wishes to discuss, then he can discuss it along his own line. But I think that we have a amendment and we should talk to the amendment and dispose of that amendment, whether we pas it or reject it.

A MEMBER: Question.

MR. CHAIRMAN: All those in favour of the amendment?

A MEMBER: What are we voting on?

MR. CHAIRMAN: The amendment as proposed by Mr. Sherman. All those in favour of th amendment — 9. All those opposed to the amendment — 12.

Section 43(1). Mr. Axworthy.

MR. AXWORTHY: I have an amendment to move.

THAT Section 43(1) be amended to delete the words on the third line thereof "and not supplied b the Commission" so as to make the section read as follows:

"Connection to the telecommunication equipment of the Commission of equipment, devices o contrivances capable of transmitting or receiving messages passing through the system of th Commission may be authorized under the general tariff of the Commission as approved by the Publi Utilities Board, and unless such equipment, device or contrivance is so authorized for a connection that no person shall connect it to the telecommunication equipment of the Commission."

I can give you the copy of that if I may, Mr. Chairman.

MR. CHAIRMAN: I would draw to your attention that it is with the co-operation of both sides of th House, that we're having two concomitant meetings going. In future if Mr. Sherman has a motion wish he would give it to a member of the Committee to move.

MR. SHAFRANSKY: This is now Mr. Axworthy's.

MR. AXWORTHY: Yes, but I'll move Sherman's.

MR. SHAFRANSKY: We want to dispose of that.

MR. CHAIRMAN: Motion as presented, Mr. Axworthy.

MR. AXWORTHY: Well, Mr. Chairman, it goes back to the point I raised in questioning th Minister. I think that the way this clause reads, that it excludes the Manitoba Telephone System fron having to submit itself to the jurisdiction of the Public Utilities Board in this whole wide area o telecommunication activity that is defined as being competitive, everything from answering systems to conceivably. The way it's being been defined it could even include the hook-up to television sets, I suppose, if you wanted to stretch the jurisdiction of the word. And to have one set of operators, those on the private side being required to come before the Public Utilities Board and come under thei jurisdiction, and not to have the Manitoba Telephone System do so, obviously creates a majo disparity. It gives the Manitoba Telephone System the ability, if it so wants to exercise it, to gain unfai competitive advantage in any of these areas. And it would seem to me that as a public utility operating and engaging in these areas, it should be absolutely required that it come before the Public Utilities Board and be subject to its authority, and I find it unfathomable that it isn't' and why it excludes itself automatically from this Act. So the purpose of the amendment would be to include it just as everyone else would be included under the authorization of the Public Utilities Board and under its jurisdiction, and that's the point of the amendment.

QUESTION put on the amendment and lost.

MR. CHAIRMAN: Section 43(1)—pass; 43(2)—pass; 43(3), Mr. Axworthy. —(Interjection)—

MR. SHAFNSKY: He is not a member of the Committee and he could not vote in any case.

MR. AXWORTHY: Pardon me?

MR. SHAFRANSKY: The Law Amendment Committee.

MR. AXWORTHY: Yes.

MR. SHAFRANSKY: You're not a member of the Committee.

MR. AXWORTHY: Of course, I'm a member of it.

MR. SHAFRANSKY: Then you will put on there . . .

MR. CHAIRMAN: Perhaps the Deputy Clerk would do me a favour and see if Mr. Shafransky is on the Committee. Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I wouldn't want to have Mr. Shafransky worry about it. In fact, I think I was put on it last February, and I wouldn't want him to worry about it. Seeing he's so concerned about me, I would hope we would like to get the matter straight.

MR. CHAIRMAN: Order please. —(Interjection)— 43(3). Is it the will of the Committee to adopt 43(3)? Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I think I've asked for the floor.

MR. SHAFRANSKY: Mr. Chairman, I have a . . .

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, the question I have is that the definition of this Act, where it defines that equipment is adjacent to the telecommunication equipment, I believe it is talking about the whole notion of acoustic links which is, as far as I know, the first time this has been done in any North American jurisdiction, and I'd like to Minister to elaborate upon whether that in fact is the case.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Well, Mr. Chairman, I refer the honourable member to the present Act. It's contained within the present Act and it has been for quite some time.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: It's my impression, Mr. Chairman, subject to correction by the Minister, that in the present situation a judge can draw that conclusion in the absence of any other explanation; but the clause in front of us, Sir, says, "That shall be conclusively deemed," that means that the judge is being directed to draw that conclusion. It's not an optional conclusion, and in that respect it would seem to us that 43(3) goes too far.

As I think I suggested to the Minister during the debate, what it really means, that a store selling his equipment that is quite legal can be in violation of the law simply for keeping it near a telephone.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Mr. Chairman, again the legal interpretation of the difference between the existing Act and the section before us, as it is intended to be amended — and the honourable member has a copy of the amendment — should alleviate any of the problems pointed out by the Honourable Member for Fort Garry.

MR. CHAIRMAN: Mr. Shafransky.

MR. SHAFRANSKY: Mr. Chairman, I have a motion. I move that the proposed subsection 43(3) of the Manitoba Telephone Act as set out in Section 1 of Bill 57, be amended by adding thereto at the end thereof, the words "for the purpose of transmitting or receiving messages passing through the telecommunication equipment of the Commission."

MR. CHAIRMAN: Agreed? Pass. 43(3) as amended—pass. 43(4).

MR. SHAFRANSKY: Mr. Chairman, I move that the proposed subsection 43(4) of the Manitoba Telephone Act as set out in Section 1 of Bill 57, be amended:

(a) by striking out the words "or the Public Utilities Board" where they appear in the third line thereof and again in the fifth line thereof, and

(b) by adding thereto immediately after the word "equipment" in the fourth line thereof the words or service."

MR. CHAIRMAN: Is the amendment acceptable to the Committee? Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, on the . . .

MR. SHAFRANSKY: That is not permitted.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Are we getting another ruling from the sub-Chair on it.

MR. SHAFRANSKY: No, I'd like you to be your own man for a change.

MR. CHAIRMAN: Mr. Axworthy. —(Interjection)—

MR. AXWORTHY: Please don't ever do that, Mr. Shafransky. Mr. Chairman, I would want to raise with the Minister two items under this section which I think give8 enormous amount of discretion to the Commission without, again, any check or balance or control.

It says in the third line, "that in the opinion of the Commission," and we've now taken out the Public Utilities Board, "the connection will or might injuriously affect". Now, the import of that, Mr. Chairman, is simply that if someone in the Manitoba Telephone System, for whatever reason that they deem, decides that something may be affecting it, they have enormous powers to eliminate it. They don't have to appear before anybody. They don't have to justify it to anybody. There is no recourse for appeal. There is simply no way of dealing with that very significant power because there is just simply no forum in which anybody can make representation against that Act. So we're simply saying we're giving an enormous amount of discretionary power to the Telephone Commission in this area, and frankly I think, Mr. Chairman, that that would be really trespassing upon some very significant rules of law in this case.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Mr. Chairman, if the Honourable Member for Fort Rouge will refer to the amendment that is coming forward, 43(8), I believe that that will rectify the problem that he brings out.

MR. AXWORTHY: Mr. Chairman, before we pass one to the other, what's the import of that?

MR. TOUPIN: If I'm allowed, Mr. Chairman, the amendment that will be brought forward under 43(8) brings forward concerns expressed by individuals in regard to the MTS. It could, under this legislation, act in an arbitrary and unreasonable manner in disconnecting equipment under Section 43(4), and discontinuing service under Section 43(7). In order to alleviate these concerns a subsection (8) has been proposed which would provide for an appeal by the owner, of any equipment

that has been disconnected under subsection (4), or the subscriber whose service has been stoppe under subsection (7), to the Public Utilities Board for an order requiring MTS to reconnect th equipment or re-establish service.

MR. CHAIRMAN: Section 43(4) as amended—pass.

MR. SHAFRANSKY: Mr. Chairman, I move that the proposed Section 43 of the Manitob Telephone Act as set out in Section 1 of Bill 57, be amended by adding thereto at the end thereofth following subsection . . .

MR. CHAIRMAN: You're down to (8). We've jumped over a couple. —(Interjection)— Th suggestions of the member of the Committee make eminent good sense. —(Interjection)—

MR. SHAFRANSKY: Thank you, George. I'm glad that you know how to count. The only thing i that whoever drew up these amendments didn't number them as they are supposed to be properl amended.

MR. CHAIRMAN: When you are ready to proceed, 43(4) as amended—pass; (5)—pass; (6)—pas (7)—pass. Mr. Axworthy.

MR. AXWORTHY: I wish to raise a question in relation to 43(5) where it states in the first line tha "every person who sells, leases, distributes or otherwise provides any equipment, device c contrivance which is capable of transmitting or receiving", I would suggest, Mr. Chairman, tha probably is unconstitutional. I don't think this Legislature has the ability to legislate for everyone wh may be selling such equipment throughout this jurisdiction and others. I think that, if nothing else, should be amended to say "every person who sells, leases or distributes or otherwise provides in th Province of Manitoba."

MR. CHAIRMAN: Perhaps Legislative Counsel can comment to that question.

MR. TALLIN: Yes, there is a presumption that the law enacted by this Legislature will only apply a any time within the Province of Manitoba.

MR. AXWORTHY: In Manitoba, okay.

MR. TALLIN: It's almost an irrebuttable presumption, I might add.

MR. AXWORTHY: Mr. Chairman, if I may ask legal counsel a question in relation to that, that this i what I think we had previously called the snitch arrangement where the Commission has certai authority in relation to such persons. It may be that they would be operating outside the provinc itself. Now, how would that operate? Would it work unequally for those who actually have locations i the province and those who are just sending or transferring equipment into the province who hav their locations outside?

MR. TALLIN: I don't know that it acts any more unequally than other provisions of the law. Fo instance, the warranties under The Sales of Goods Act of Manitoba don't apply outside Manitoba

MR. AXWORTHY: I see. So in this sense there would be no jurisdiction over those supplier outside of it as there would be if they were located inside the province?.

MR. TALLIN: That's correct, yes.

MR. CHAIRMAN: 43(5)—pass; (6)—pass; (7)—pass? Mr. Sherman.

MR. SHERMAN: Mr. Chairman, I want to propose an amendment to 43(7) on the grounds tha under the present wording of the clause, an innocent party could be caught and have his or he telephone service cut off by the Telephone Company for having been involved in a situation abou which they knew nothing. I will propose an amendment that would include an insertion of a word i the clause. The reason for it is that if a person, for example, installs a piece of equipment withou authority, then anyone else, at any time, who has that particular piece of equipment in hi possession, Sir, is in contravention of 43(2) and can have his telephone service cut off for good. I could happen this way, that if a person violates 43(2), is caught, convicted and fined, then decides t get rid of that device and sells it to another person, and that person buys it and asks MTS to install i for him — and there is nothing wrong with the device, it's an authorized device — that second perso is in violation of the Act, and when the MTS finds that particular device in that house, the MTS ca take the action of cutting that person's telephone service off for good. It really permits th punishment of a person who has broken no law, Mr. Chairman. What he did, he bought a piece o second-hand equipment that had once been illegally used by a former owner. I find that that is a unjustifiable result of the clause as it is presently written. I think that possibly could be got round – although it might not be the complete answer— but I think it possibly could be got round by insertin in the second line of the section, the word "knowingly" after the word "person", where a "perso knowingly contravenes."

MR. CHAIRMAN: . . . move suchamendment?

MR. SHERMAN: Yes, I could have Mr. Jorgenson move that amendment.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Mrr. Chairman, I was wrestling with the proposed amendment by the Member fo Frrt Garry. The suggestion that we have, is that if there is a contravention of the Act, knowingly o otherwise, by anyone, and if the actions are taken under this Section as indicated, the individual o

the corporation in question has an immediate appeal to the lublic Utilities, so that can be rectified, you know, fairly quickly. What is being suggested by legal counsel is, instead of inserting "knowingly" in the second line as indicated by the Member for Fort Garry, after the word "person", that it be left to the provisions of appeal to the Public Utilities.

MR. CHAIRMAN: May I ask a question? Is the Minister referring to the proposed new clause 8 of Section 43?

MR. TOUPIN: Yes. I would wish, Mr. Chairman, that the Member for Fort Garry would take my comments in context with the proposed amendment coming up on the next Section.

MR SHERMAN: All right, that's acceptable Mr. Chairman.

MR. CHAIRMAN: All right, 43(7)—pass. Mr. Shafransky.

MR. SHAFRANSKY: Mr. Chairman, love that the proposed Section 43 of the Manitoba Telephone Act, as set out in Section 1 of Bill 57, be amended by adding thereto, at the end thereof, the following subsectionppeal disconnection, etc. 43(8) Where 54 (a) under subsection 4, the Commission has disconnected any equipment, device or contrivance; or (b) under subsection (7) the Commission has stopped providing telecommunication service to any person; the owner of the equipment, device or contrivance disconnected, or the subscriber whose service has been stopped, as the case may be, may apply to the Public Utilities Doard for, and the Public Uties Board may grant, an order requiring the Commission to reconnect the equipment, device or contrivance or to commence providing the telecommunication service that was stopped and the Public Utilities Board may make the order subject to terms and conditions binding either on the applicant or the Commission, or both.

MR. CHAIRMAN: Is the amendment acceptable? (Agreed)

MR. CHAIRMAN: 43—pass; Section 1—pass; 44(1)—pass; Section 2—pass; Section 3—pass; Section 4'pass; Preamble—pass; Title—pass. Bill be reported as amended.

Bill No. 82, The Statute Law Amendment Act (1977). There are no amendments to Bill 82. Page 1—pass. There is a typographical correction on Page 2. Mr. Jorgenson.

MR. JORGENSON: I would like to suggest that we deal with this particular bill clause by clause.

MR. CHAIRMAN: Clause by clause?

MR. JORGENSON: I would appreciate it if you would just wait for a moment until the Leader of the Opposition gets here.

MR. CHAIRMAN: Clause 1—pass; clause 2—pass; clause 3—pass. Mr. Lyon.

MR. LYON: We have the advantage of the Legislative Counsel's memorandum on this bill. Is there any significance other than the printed signature? This is just part of the mechanization, I take it, that's going on in all departments of government. Is there any other significance?

MR. CHAIRMAN: Legislative Counsel. **MR. TALLIN**: No. As far as I am aware it is just so they can have them all printed so that they don't have to be signed by hand. There are getting to be more and more changes of names going through. By the way, on this point, the 11(1) and 11(2) should be 11.1(1) and 11.1(2). If we could make that correction — t is a typographical error.

MR. CHAIRMAN: Agreed? (Agreed) As corrected, then—pass. Section 4—pass; Section 5. Mr. uyon.

MR. LYON: Could we have some indication, Mr. Chairman, as to why the board is being expanded beyond five?

MR. CHAIRMAN: Mr. Toupin. **MR. TOUPIN**: Mr. Chairman, the Honourable Leader of the Opposition is quite aware of the expansion that is taking place in the co-operative movement. It is intended mainly to have a larger board, first of all, to have a larger representation of the movement; secondly, to have more expertise on the board mainly to advise in regard to the guarantee of loans that are being made by means of the board.

MR. LYON: Is the idea that, as with some other administrative boards and some courts, that the board is empowered by the present statute to have quorums of say, three, sit on separate matters at the same time?

MR. TOUPIN: Mr. Chairman, it is not the case in this board, I believe. I haven'tgot the Act before me. The board is entitled to approve guarantee of loans up to a maximum I believe, of $100,000; anything beyond that has to go to the Minister and from there to be ratified by the Lieutenant-egovernor-inouncil. I am recommending an increase in the board to have an increase in expertise on the board. MR. CHAIRMAN: Agreed? (Agreed) Section 5—pass. (Sections 6 to 9 were read clause by clause and passed.) Mr. Jorgenson.

MR. JORGENSON: Section 8. I am just so curious about the numbering1,2,4,5, and 3 at the last. I wonder if there is . . .

MR. TALLIN: Section 2 adds subsections 29(4) and 29(5) to the Act. Those 29(4) and 29(5) are of the Queen's Bench Act, not of this bill.

MR. JORGENSON: Oh, I see.

MR. CHAIRMAN: I made the same error, Mr. Jorgenson. Clause 8, sub 1,3. So 8 is passed. Sectic 9—pass; Section 10—pass; Section 11—pass. Mr. Lyon.

MR. LYON: Mr. Chairman, Mr. Tallin has asterisked this as a new power. Is there anythin specially notorious about this, or is it again . . .

MR. TALLIN: No, as a matter of fact, this is to meet a problem that occurs under The Evidence Ac which says that documents issued by a court will be acceptable in other courts if they are under th seal of the court. This is to provide for those situations such as our Provincial Judges' Courts whe there is no seal, so that their orders will be acceptable under the signature of the person havin custody of the court documents. MR. CHAIRMAN: Section 11—pass; Section 12—pass; Sectio 13—pass; Section 14, sub (1)—pass; sub (2)—pass. Mr. Lyon.

MR. LYON: Mr. Chairman, does this extend extend the same penalty as is provided in part of th Fire Prevention Act at the present time.

MR. PAULLEY: There is no change in those provisions. We are merely tidying up the Fir Prevention Act because we no longer have reference to suburban municipalities.

MR. CHAIRMAN: (2)—pass; (3)—pass; 14—pass; 15(1)—pass; (2)—pass. 15—pass? MR. LYON: On 15, Mr. Chairman, that change, I presume, because there is no message with this bill, doe not involve any financial changes in the operation of the Pre—arranged Funeral Services Act. Th Public Utilities Board, according to my recollection, has been administering that Act for some tim

MR. TALLIN: They have been administering parts of it but there is no anticipated expenditur because the Public Utilities Board is already established under another Act.

MR. LYON: Right.

MR. CHAIRMAN: 15—pass; 16—pass; 17(1)—pass; 17(2)—pass; 17(3)—pass?

MR. LYON: On 17(3), this is, I take it, the usual exemption that is provided for court officers an other officials to protect them carrying out their lawful functions under the Act.

MR. TALLIN: I'm afraid I don't remember the exact wording of the section but the usual wording i that as long as they are acting *bona fides* and not negligently they are free of liability.

MR. LYON: Within their statutory authority.

MR. CHAIRMAN: (Sections 17 to 23(1) of Bill No. 82 were read and passed). 23(2)—pass? M Lyon. MR. LYON: Could I just ask Mr. Tallin, Mr. Chairman, are these privileges above and beyon those that are accorded to other clubs under the regular provisions of the Liquor Control Act, or ar they the same? **MR. TALLIN**: No, they are special provisions. You are talking about 111(14), I tak it?

MR. LYON: Right. MR. TALLIN: There are special provisions which apply to municipally-owned golf clubs and now will apply to municipally-owned curling clubs.

MR. LYON: So it's really an extension of the golf provisions to the curling.

MR. TALLIN: Yes, for the municipally-owned ones. **MR. LYON**: Where there are no paid-u members as such.

MR. TALLIN: Yes.

MR. CHAIRMAN: 23—pass? Mr. McGill on 23.

MR. McGILL: Mr. Chairman, does this amendment then eliminate that necessity of having to sig in people who are visitors or members at a golf club? There has normally been a . . .

MR. TALLIN: No, not for the municipally-owned ones. They never did have to sign in for the go clubs. This will extend the same type of privilege to the municipally-owned curling club — curlin facility, really they are.

MR. CHAIRMAN: 23—pass; 24(1)—pass; 24(2)—pass; 24—pass; 25(1)—pass? Mr. Lyon. MR LYON: On 25(1), it merely permits the court to make the appointment without resort to th Lieutenant-Governor-in-Iouncil.

MR. TALLIN: Yes. MR. CHAIRMAN: (Sections 25(2) to 28 of Bill No. 82 were read and passed 29(1). Mr. Lyon.

MR. LYON: Mr. Chairman, we are getting a new Advisory Committee on tree protection. I take that there is no authorization under the Plant Pests and Diseases Act to pay the members of th Advisory Committee.

MR. TALLIN: This was part of the message which was brought in with this bill.

MR. LYON: They are going to be paid? MR. TALLIN: Yes. The authority is not in this Act but i the Interpretation Act where it says when you have the power to appoint a person you have the powe to affix his remuneration.

MR. CHAIRMAN: 29(2)—pass?

MR. LYON: We are now going to license arborists. Arborists, I take it, are what? The equivalent c tree surgeons?

MR. TALLIN: In the absence of the Minister for Agriculture, perhaps I might be allowed to ente into debate on this question.

At the present time, the Act allows for the licensing of tree pruners but only tree pruners, nc people who treat trees in other ways. The problem is that there are now many people who go out an

don't prune trees but treat them by injections or by transplants and that sort of thing. The idea is to enlarge the scope of the licensing provisions to include these people as well as the tree pruners who were previously licensed.

MR. CHAIRMAN: 29(2)—pass; 29(3)—pass; 29—pass; 30(1)—pass. 30(2). Mr. Lyon.

MR. LYON: This represents some change in policy. Could we have some explanation of what's happening here?

MR. TALLIN: Under the Act, there are provisions for two types of agreements. There is a provincial agreement into which the Attorney-General enters for the policing of small municipalities by the RCMP. At the present time, that agreement applies to municipalities of populations under ,500. That agreement now is going to be raised to cover municipalities where the population is under 5,000 persons. Municipalities with more than 5,000 persons have the power to enter into an agreement on their own with the RCMP for policing. So this really effects the RCMP policing in small municipalities who will now come in under the provincial agreement, rather than having to have their own agreement with the RCMP.

There is some saving to municipalities because under the provincial agreement I think they pay or the first two at one rate and for the next three at the next rate whereas / under the specific agreement with the RCMP I think they pay the same rate for the first five.

MR. CHAIRMAN: (Sections 30(1) to 34 of Bill No. 82 were read and passed.) Section 35.

MR. GREEN: Mr. Chairman, 35 is apparently included in error and should be taken out completely; is that correct?

MR. TALLIN: Yes.

MR. GREEN: There was an error in transcribing, transposing drafting instructions to a particular bill.

MR. TALLIN: Yes.

MR. GREEN: It was supposed to be to another bill and the other bill isn't going in either.

MR. TALLIN: Yes, well it was complementary.

MR. GREEN: In any event, I would move the deletion of 35.

MR. CHAIRMAN: Is it agreed? (Agreed) This will mean renumbering of the bill. I am authorized to renumber the sections. 36(1)—pass; 36(2)—pass?

MR. LYON: Could I ask Mr. Chairman, does this mean that we're ridding ourselves of the age-old designation of the Chief Sheriff or the foremost Sheriff as the High Sheriff? We used to have a High Sheriff of Manitoba. Is he now just going to become the Chief Sheriff of Manitoba? After all, you know the Sheriff of Nottingham was the High Sheriff.

MR. TALLIN: There was no statutory provision for the High Sheriff. It was just a traditional title.

MR. LYON: So we're substituting the common law of terminology. We're substituting the statutory terminology for the High Sheriff.

MR. TALLIN: We're substituting the 20th century terminology.

MR. LYON: How do you spell jail? —(Interjection)—

MR. TALLIN: By the way, that is the only spelling for jail.

MR. CHAIRMAN: (Sections 36(3) to 42 of Bill No. 82 were read and passed). Section 43. Mr. Lyon.

MR. LYON: Just out of curiousity, Mr. Chairman, prior to this amendment in Section 43, what was the procedure that had to be followed by the Registrar in order to make such minor changes?

MR. TALLIN: He had no authority. He recommended to the applicant that they apply under the Change of Name Act.

MR. LYON: Re-apply?

MR. TALLIN: That's right.

MR. CHAIRMAN: 43—pass; 44—pass; 45(1)—pass.

MR. LYON: Well, we have the Minister here, Mr. Chairman. He could, no doubt, give us a full explanation of . . .

MR. CHAIRMAN: 45—pass.

MR. LYON: I've been waiting for this all night.

MR. PAULLEY: Mr. Chairman, the purpose of this is that it wasn't clear, really, under the Workers Compensation Act, whether we could establish a medical review panel and the reports of that panel submitted to the Workers Compensation Board. The basic principle is involved here that we have had considerable number of complaints directed toward the Minister and to the Board that appeals on the basis of the medical condition of an individual, the Board was not competent under present legislation to adequately deal with those complaints, and that there was no body that was competent, really, to hear from the complainant's physician or the complainant, as to the medical situation of the injured worker.

The basic principle of this is to make it clear that we can establish a medical review board corised f physicians recommended by the Manitoba Medical Association, the medical adviser of the injured worker, so that there can be a review by this board of the disposition of the medical assessment in respect of the injured worker. There is no such provision at the present time and the purpose of these

amendments, Mr. Chairman, is to make it adequately clear that on the basis of physical condition injured worker has the right of an appeal from the present — may I say — arbitrary decision of t medical panel under The Workers Compensation Act.

MR. CHAIRMAN: (The remainder of Bill 82 was read and passed.) Bill be reported.

MR. LYON: Mr. Chairman, just one brief comment. I notice that Mr. Tallin still follows the excelle practice of giving the members of the committee a memorandum re the statute law amendment bil It facilitates tremendously the consideration by the committee of these bills, and I just want to tha him, again, for giving the committee this kind of assistance. I'm happy to see it's still carried o

MR. CHAIRMAN: Bill 62, An Act to amend The City of Winnipeg Act. Clause by clause. What your pleasure?

MR. LYON: There are a number of amendments, Mr. Chairman. I think clause by claus unfortunately, is . . .

MR. CHAIRMAN: Clause 1. Mr. Minaker.

MR. MINAKER: Mr. Chairman, I wonder if the member who is introducing the amendments mig indicate how this last amendment handed to us, varies from the one that we received the other day. there any difference?

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Yes, I want to clarify this. It is exactly the same with the exception that this afterno legal counsel, Mr. Tallin, made some word changes on the second motion 15(1). Apparently wasn't satisfied with the wording so I think he added or deleted some words, I am not sure which. added some words but they are not substantive, they were necessary for the wording itself, otherwi it is the same as I distributed in the House.

MR. CHAIRMAN: Clause 1—pass; Clause 2. Mr. Johannson.

MR. JOHANNSON: Mr. Chairman, I have an amendment. I move that clause 1 (p.2) of the Act set out in Section 2 of Bill 62 be amended by adding immediately after the word "responsibility" at t end thereof the words "but shall not apply to a community committee."

MR. CHAIRMAN: Pass? (Sections 2, 3 and 4 were read and passed) Section 5. Mr. Johnsto

MR. F. JOHNSTON: Mr. Chairman, this amendment as the explanatory notes that were kinc given to us by the Minister explains certainly this section makes it very clear that the Mayor will not able to be the chairman of the Executive Policy Committee. Mr. Chairman, I fail to see that if we gi the Council the right to vote for their own, and set up their own committees, and we give the Coun the right to decide who the chairman of that committee is, if the Council so decides to vote the May as the chairman of the Executive Policy Committee, I don't see any reason why this Legislatu should take the opinion that the City councillors cannot have a person that they want as the chairm of their Executive Policy Committee. The Mayor has been in that position; this says he can't be in th position; yet the councillors have the right to choose the chairman and if they want to choose t Mayor, that should be their privilege.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Well, Mr. Chairman, I recognize what the member is saying but if you look at the b itself, the Mayor is *ex officio* on every committee and, of course, including EPC. He has the t breaking vote on EPC as well. We didn't feel it was proper that the Mayor, who is elected at larg should then have to be in a competition with other councillors to be elected as chairman of t Executive Policy Committee because, under the present Act, the Mayor is automatically chairman is not a matter of choice of the council members at all. He is established today as the chairman EPC. By making it an elective office, then the Mayor would have to be in a position where he wou have to be standing in election against other councillors who might be nominated and frankly we f that as the Mayor is elected at large by the City at large, that he shouldn't be having to put himself the position where he may or may not be chosen as the chairman of EPC. In other words, he should have to run for the position but he is on it *ex officio* , has a vote and has a tie-casting vote as we

MR. F. JOHNSTON: That position is not consistent with the fact that the Mayor has to run again other councillors who want to run for Mayor. Mr. Chairman, the fact is that if the council should ha the right to make their own decisions, as a matter of fact, many of the procedures that are laid dov here are basically procedures that should be in the position of the council to make those decisio and not the Legislature, and especially this one. These particular positions within The Winnipeg A were brought in because it was a brand new Act for a brand new city. The City has been in operatio the elected members of that City should have the right to elect who they like as chairman committees. I would move, Mr. Chairman, that Section 5 be deleted.

MR. CHAIRMAN: The motion before the committee is that Section 5 be deleted. Mr. Axworthy a Mr. Green.

MR. AXWORTHY: Well, Mr. Chairman, I think along with Mr. Johnston that this particul amendment really is inconsistent with other provisions of the Act and I think if it is allowed to through as stands, it will create an enormous amount of trouble and confusion on City Council. Wh is really happening under this Act and the amendments that it is imposing is that the Executive Poli

Committee is being created as a very powerful committee. It is the co-ordinating central committee of council; it will have very significant powers under this Act and the chairman of it — as chairmen of most committees, many committees in this case, because of the nature of City government — will have a very powerful position. What would happen if you have a Mayor who is elected from a council seat and at large with one set of powers and a chairman of the Executive Policy Committee with another. You have two very strong, competing individuals who both will be muscling for certain advantage and I think it would probably result in stalemate. I don't think you can have a form of government that has two heads to it, in effect, and that is what you would find happening. You would be creating two people and they have no relationship one to the other. In fact, they could be political opponents as far as that is concerned. So there you have the Mayor who has his own base of power and the chairman of the Executive Policy Committee who comes from committee with another base of power; you've got two strong individuals who are going to simply end up fighting. I can tell you, Mr. Chairman, I can cite you examples from a number of other city government systems where things like that have emerged and it has simply ended up in the city government being totally frustrated and stalemated.

MR. GREEN: Mr. Chairman, if Mr. Axworthy has those concerns which are a problem — there can be personality problems develop in any council — and I can say that no matter what Act you have, you will have some problems but that this amendment is designed to make those problems as minimum as possible. If the member can recognize that there would be a problem, if a there wasso-called other head of council, what would be the compounded problem if the Mayor was elected by all of the people of Winnipeg, ran against this person, and was defeated as the chairman of the Executive Policy Committee. There are only two ways of dealing with this question; either name the Mayor the chairman of the Executive Policy Committee —(Interjection) — well, that's the way it was in the old Act — and do not give the discretion which wouldn't satisfy Mr. Johnston — or make it quite clear that the committee heads are council aldermen and that the Mayor is an overall authority. Because if you have the Mayor running for this position and losing, you will have an intolerable situation on council. That would compound the situation to no end. That would make the City Council practically unworkable.

Now to talk about practical experience, I was a member of the Municipal Council and it was recognized throughout and was in the City of Winnipeg that the Mayor was not a chairman of any of the committees. The chairman of the City Finance Committee was, at all times, the chairman of the Executive Policy Committee of the City and there was never the kind of problem that you are describing as between the Mayor of the City and the elected chairman of the Finance Committee which was effectively the Policy Committee. There was never a problem between the chairman of Metro, even after he was elected by the council, and the chairman of Finance of Metro which was the chief committee of Metro. So, we saw it two ways. We saw one situation of making the Mayor the chairman of the Executive Policy Committee — and that was considered — and we saw the other system because it could work equally well of making the Mayor *ex officio* on all committees with the casting vote on Executive Policy Committee but do not start the council off with a fight between the Mayor and another councillor as to who is going to be the chairman of the Executive Policy Committee. So that man will be chosen from the council.

MR. CHAIRMAN: Mr. Doern.

MR. DOERN: Just in response to Mr. Johnston and Mr. Axworthy. There are powers that are being given to the Mayor which I think strengthen his position. The tie-breaking vote, the veto . . .

A MEMBER: It's not a veto.

MR. DOERN: . . . well, a delaying veto or whatever you want to call it. I still think that's an additional power that was not there before. Under the present Act, up until this point in time, the position of the Deputy Mayor was a very powerful position and the Deputy Mayor, in effect, was the leader of the majority party on council. My impression was that the Deputy Mayor either co-operated or tended to co-operate with the Mayor. Powerful personalities, I think, are simply part of the political process and there are powerful personalities on council; there are powerful personalities around this table. You know, we can't legislate against that. I don't think that that is something that is undesirable and I don't think that it means that the government will grind to a halt. I just think it is in the nature of things and it is in the nature of politics.

MR. AXWORTHY: Well, Mr. Chairman, the point I raised had nothing to do with personalities. That was not the issue I raised. I am saying that . . .

A MEMBER: You said powerful personalities.

MR. AXWORTHY: Oh, no. I said that two people with powerful political positions, which is very different. That we are creating positions where there is very strong executive authority in each one of them. It has nothing to do with personalities, whether they are weak, strong, meek or mild, the fact of the matter is that the creation of two competing sources of authority will end up in that kind of stalemate. I would suggest, Mr. Chairman, that in this day and age when the responsibilities of city government have been enhanced and that the kinds of activities that they have to engage in are so

much more important, that you need very strong executive direction. If there has been any one failir which is not answered in these amendments , the most predominant failing identified by the Tarask Commission and by most observers, in the City of Winnipeg over the past years since the Unicity B was passed, was the lack of any strong policy executive direction on City Council, that there were tc many cooks making the stew. There was too much fragmentation in authority; too many peop making decisions; there was no consistency; there was no ability to create a direct line of policy: was simply a series of *ad hoc* reactions to events. I don't think you can have a modern city governmer working in that kind of context. That was the very clear evidence presented by the Tarask Commission, that was point number one. I would suggest that these amendments do nothing t rectify it; in fact, they probably only heighten and exaggerate that problem by creating, nc personality clashes — nonetheless, those will always take place, I agree — but creating in effect tw centres of executive authority and if the Executive Policy Committee and the Mayor are at odds, the it is not going to work. Any Mayor who is a good politician worth his salt will always be in conflict wit them. That is the basic fallacy, I think, in the way the Act is constructed.

MR. CHAIRMAN: Mr. Minaker.

MR. MINAKER: Mr. Chairman, just to make it proper, I will move that motion.

MR. CHAIRMAN: All those in favour of the motion to delete Section 5. (Yeas 8; Nays 10) Th motion is defeated. Section 5—pass. Section 6. Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I read this to say that the deputy mayor can only represent th Mayor or shall act in place of the Mayor in all matters relating to regular, special, emergenc meetings of Council. Now that means that the Mayor is *ex officio* on all committees and the deput mayor cannot represent him on those committees when he is away, the deputy mayor now can't vote

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: That's right. The deputy mayor acts on those matters which the Mayor is required b law to do, the signing of documents, the signing of certain declarations or the bonds, but the deput mayor does not act in the absence of the Mayor as if he was the Mayor on committees. He doesn't g to committees, unless he is a member of the committee.

MR. CHAIRMAN: Mr. Minaker.

MR. MINAKER: Mr. Chairman, with leave of the committee, I would suggest that if we refer t 29(7), Page 14 of the Act, would could happen — and I know from experience having been on th Executive Policy Committee — that if the Mayor was away, say for a three-week or four-week holiday and there was a tie vote on the Executive Committee, if there were seven members and you had si members and they were stuck on a situation, that because the deputy mayor does not have a vote you could be caught in a tie for four weeks, that nothing would be done. I am just wondering whethe this is the way that we want to operate our city council or not.

MR. MILLER: Mr. Chairman, yes, if there is a tie vote, as on any other standing committee, then th motion is sily not passed. This is the way it usually works.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Is the Minister saying that the business has to be held up?

MR. MILLER: No, no; it's negative. The motion is defeated. It doesn't pass. MR. F. JOHNSTON Well, if the mayor has the privilege with the new amendments of breaking the tieing vote, that's th privilege that you've given him on this committee.

MR. MILLER: Only the mayor.

MR. F. JOHNSTON: But the Deputy Mayor won't have the same privilege?

MR. CHAIRMAN: Gentlemen, if you allow the Minister to answer the questions that are being asked of the Minister through the Chair. Mr. Axworthy.

MR. AXWORTHY: I'm sorry, Mr. Chairman. **MR. CHAIRMAN**: 6—pass; 7. Mr. Johannson.

MR. JOHANNSON: Mr. Chairman, I move that section 15 of the Act as set out in section 7 of Bill 6; be repealed and the following section be substituted therefor:: Section 15 added 7. The Act is amended by adding thereto immediately after section 14 thereof the following section: Mayor ex officio on committees 15(1) The mayor shall be an ex officio member of each committee of the council, excepting the board of commissioners and excepting the community committees other than the community committee for the community for which he may be the elected councillor for a ward in that community, but he shall not be the chairman of any committee, including the executive policy committee. 15(2) Where a person is elected as both the mayor and a councillor, the provisions o subsection (1) which apply to the mayor, apply *mutatis mutandis* to that person.

MR. CHAIRMAN: Mr. Steen.

MR. STEEN: Yes, I have a question, Mr. Chairman, to the Minister. I can certainly understand why he wouldn't want to have the mayor as a member of community committees. Does he not believe that there is a purpose, Sir, by having the mayor or an elected person as part of the board o commissioners, having some liaison between the political arm of council and the board of

commissioners? MR. MILLER: Mr. Chairman, we gave this considerable thought. The feeling was that the board of commissioners are really administrators. They have a board. They meet. They discuss various things. If the elected people at any time want to have the top administration — all of them or just the Chief Commissioner — before them for the asking of questions, they of course can do that at any time because they are the employees of the elected people. So it isn't a matter of sitting in at all their regular meetings to discuss administrative problems, but that they can always call on them when they want to and it shouldn't be a matter of form or requirement that there must be members of council sitting on the board of commissioners, which basically is an administrative board made up of administrators. MR. STEEN: Just one comment to the Minister, Mr. Chairman, is that I was always of the opinion that there was a purpose being served by having an elected person on the board of commissioners. Occasionally the board of commissioners, who are senior civil servants of the City, would be proposing an idea to executive council, for example, or executive policy committee and by having someone there who actually runs for public office, occasionally they added something to the decision-making and put a feeling of the elected person into some of those decisions that were being made. I thought that in the past that it was a purpose well-served.

MR. MILLER: Mr. Chairman, the board of commissioners reports through EPC and therefore it isn't just one elected person that will be hearing the board of commissioners, or adding political input. It will be the EPC who will be seized of the matter, whether it's a recommendation, or whatever it is, and then the political people, at that point, at EPC, will then consider whether the commission's proposals make sense or don't make sense, or whether it lacks the kind of political input that's required.

MR. STEEN: Mr. Chairman, my final comment on this subject is that I just thought that it saved time. In very few incidents that the board of commissioners would be proposing some form of legislation to the executive policy committee, that input from an elected person would be of some advantage. The times that it would occur would be very few. But I think that in those few times, that there would be time saved. That's my only reason for offering that suggestion.

MR. CHAIRMAN: Amendment—pass; 7 as amended—pass; 8—pass. Section 9—pass. Mr. Johannson. MR. JOHANNSON: Mr. Chairman, I have an amendment. I move that Bill 62 be amended by adding thereto immediately after section 9 thereof the following section:9.1 The Act is amended by adding immediately after section 17, the following section: Suspension of resolution 17.1(1) Subject to subsection (2),

(a) where a resolution is adopted or passed by a vote of the council, without a notice in writing given at a previous regular meeting of the council; or

(b) where the rules of the council are suspended for the purpose of giving second and third readings to a by-law at any one meeting; or

(c) where, in the opinion of the mayor, there is an error or omission in any by-law or resolution adopted by the council authorizing the expenditure of money; the mayor may at any time within 48 hours after the above mentioned resolution or by-law is passed or adopted by the council suspend the implementation of the resolution or by-law by giving the clerk notice thereof in writing and the resolution or by-law shall have no force or effect unless the council exercises the power mentioned in subsection (2). Suspension overruled 17.1(2) Where the mayor exercises the power mentioned in subsection (1), a majority of the members of the council present at any subsequent meeting of the council, may remove or overrule that suspension.

MR. CHAIRMAN: To the amendment—pass. Mr. Axworthy.

MR. AXWORTHY: Well, Mr. Chairman, I think that the origin of this particular resolution occurred when Mayor Juba appeared one evening to give us his opinion on the council, and the question was put to him whether, in fact, there should be some additional powers given to the mayor, which I think is the position taken by our group on second reading that, again going back to the basic thesis, the problem with city government is that there has been no clear direction. At that time the mayor simply indicated that what he was interested in was simply recovering some of the powers that he had under the old City of Winnipeg Act.

I still don't think that gives the full import to this particular question of giving the mayor some ability than to have powers to exercise as an executive of the government. Aside from, as he now is, an *ex officio* member of committees, he really has nothing else to do. —(Interjection)— I think I'll get to that, if I may be allowed. MR. CHAIRMAN: Order.

MR. AXWORTHY: Are you in a hurry? Are you? That's too bad. It really is too bad.

MR. CHAIRMAN: Order please.

MR. JOHANNSON: On a point of order, Mr. Chairman. There is a rule of relevance and the member should get to the amendment as quickly as possible.

MR. CHAIRMAN: There are many rules, such as speaking when another member is speaking also. If the member will continue, I will determine whether he is in or out of order. Mr. Axworthy.

MR. AXWORTHY: Thank you, Mr. Chairman. Well, Mr. Chairman, I think that the point we should be examining in this amendment concerning the ability of the mayor to reserve rules, first is, should it

be simply overridden by a majority vote in council; or if the mayor has some reason, are we simpl asking him, in this case, to hold up for a certain period of time and then it goes back and get repeated. Or should that indicate that the mayor has the power to indicate his preferences and that more substantial number of members of council will be required to overcome it — 60 percent or two thirds rule? So that in fact it does become a power that has some utility to it, as opposed to simply delaying action. But, again, if we are trying to build in to this Act — I would like to see it built in; know other members don't — the ability of city government to work well and to work with some form of executive direction, then I think you have to give the mayor some powers of this kind, which thi does not do.

Therefore, I think that we should take a longer, slower look, as other committees, Mr. Chairman. o this Legislature are prepared to do with important pieces of legislation and not ram them throug within half an hour.

I would remind members of the committee that we have spent, you know, many hours on the family law bills because members of that committee on all sides have been prepared to deal with tha with a degree of discussion and rationality, and not simply try to ram it through in one evening's sitting. I think the City of Winnipeg Act has the same kind of importance and we should not be prepared to ram it through . . .

MR. CHAIRMAN: Order, order. Order please. Order please. Order please. We have to proceed according to rules. What is before us is an amendment. If the member wants to amend the amendment, he should so move. I'm willing, in the Chair, to sit here as long as the committee wishes to sit. But nevertheless, to keep things proceeding properly, the procedures of the Legislature have been established over many years and they are of utility to us all.

So if the member has a further amendment to this amendment, then it would serve the committee well if he would so move. But nevertheless to become involved in taking shots at each other, I don't think serves anyone very well. So we have the amendment. Mr. Steen, to the amendment.

MR. STEEN: Yes, very briefly. I think it's a good amendment and I can site you an example where such an amendment could be used. In the last municipal elections in the City of Regina the mayor came back with a brand new council with the exception of one member who was retained from the old council, and you could get a lot of greenhorns in there who could use the expertise of some senior members. Yet it avoids having a dictator in, by saying that at a second council meeting they can override the mayor. So I think it's a good amendment.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I would request a point of clarity, if I can. The amendment that was read becomes 9(1) and I'm looking at the original bill that repeals Section 16.1 of the Act. — (Interjection)— That stays in? Well, I'm just referring to the old Act. That's the section regarding the mayor running for council, if I'm not mistaken.

MR. MILLER: What has been repealed is the requirement that a councillor must resign in order to run for mayor.

MR. F. JOHNSTON: That's not the amendment, though.

MR. MILLER: No, no. Number 9 refers to Section 16.1 of the Act. 16.1 of the Act is the one that requires a councillor to resign in order to run for mayor. So that has been repealed and that's as is.

What was introduced by Mr. Johannson is the new section, or a new subsection.

MR. CHAIRMAN: Section 9 as amended? Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I'd like to speak to Section 9, which allows councillors to run for . . . —(Interjection)—

MR. GREEN: Well, Mr. Chairman, I believe we are on the amendment. Have we passed the amendment? Well, aren't we still only on the amendment of 9.1?

MR. CHAIRMAN: We are on Section 9 subsection 9.1 which becomes a new section to the bill. Mr. Minaker.

MR. MINAKER: Well, I was just going to ask for a clarification, if I could, Mr. Chairman. We're talking about the amendment before us. If that is approved then you still have to call Section 9. I would like to know when we have an opportunity to speak on the original Section 9.

MR. CHAIRMAN: All those in favour of the amendment — 15. All those opposed to the amendment — 7. Now, Section 9. Mr. Johnston.

MR. F. JOHNSTON: Sorry for causing the confusion, Mr. Chairman.

Mr. Chairman, this is the section that allows councillors to run for council and mayor at the same time, and I don't intend to dwell on it for a long time.

MR. MILLER: Mr. Chairman, on a point of order. This section that's repealed — and that's what I think we're talking about. The section that's repealed stated that a councillor must resign in order to run for mayor. Is that the section that you're dealing with?

MR. F. JOHNSTON: That's right; the section that's repealed.

MR. MILLER: That's the section you want to repeal.

MR. F. JOHNSTON: Yes.

MR. MILLER: All right, okay. As long as we're on the same . . .

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Well, Mr. Chairman, we certainly feel that it's not a good practice to have the councillors be able to run for mayor and council at the same time. It's a case of you have your cake and eat it too. If you want to be a councillor, you be one. If you feel that you can run for the mayor of the City, you have to be prepared to take on that job. It has always the practice.

As a matter of fact, we can't compare it to the Legislature. I know a man can be on council and run for the Legislature, but it is not a comparable situation.

So, Mr. Chairman, I believe the section that is being repealed should not be repealed. It should stay in the Act, which would create a situation where a councillor cannot run for mayor and councillor at the same time.

MR. CHAIRMAN: All those in favour of the amendment . . .

MR. F. JOHNSTON: I can't make the motion.

MR. CHAIRMAN: Just a minute. You know, if you're wondering why I like to be tidy, a bit, it makes it difficult for the recorders to keep track of people if they just venture back and forth, and so on. Mr. Minaker.

MR. MINAKER: Mr. Chairman, I'll move the motion that we delete the original section 9 of the Act.

The reason, I would like to just very briefly suggest to the committee, is, as my colleague from Crescentwood said and I agreed 100 percent with him, that if I was running for council again I'd throw my name in for mayor under this situation. You're going to get all the advertising you want and I would think we're going to make a mockery of the role of running for mayor. You're going to end up with possibly 20 or 30, or 40 names on the mayor's ballot, for the very reason that you're going to get city-wide coverage to some degree if you're running for the mayor, and it will assist anybody that decides to run for council in a ward. I think you're going to be faced with that situation and I don't believe that possibly the government has taken a very close look at that situation that might occur.

As a result it could, you know, affect the overall outcome of not just the mayor's position but even the individual selection of councillors within the various wards. So, for this reason, I am opposed to that particular section of the Act.

MR. CHAIRMAN: You wouldn't need a specific motion then. All you would have to do is vote against it, which would accomplish the same thing. Mr. Doern.

MR. DOERN: Mr. Chairman, I wanted to comment on what Mr. Minaker just said, and that is that I suppose there are circumstances under which somebody can get free publicity and not venture forth. I would give you a counter-example. Namely, that I suppose members of the Conservative Party could have thrown their names in the hat in the leadership fight and that would presumably enhance their reputation, get them good publicity, and show the people in their riding that they are made of bigger stuff. But I don't see a stampede of people running for mayor sily because there is an opportunity for them. I think these estimates are greatly exaggerated. Undoubtedly, some people will run for mayor and council but, you know, as I say, you can run for leader of your party and yet, when there are leadership contests there are very few people who seem to contest. It doesn't help a person to get killed in a race. If a person runs and runs poorly, that may be very adverse to their political career so I think people will consider the advantage of running and the dangers of running at the same time.

MR. CHAIRMAN: All those in favour of the amendment? I'm sorry. Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, there is also another thing here. There's no question that if a group of councillors decide to run for mayor and council at the same time, hold their vote in their own particular area, it could be worked against a person who is legitimately wanting to run for the mayor of the city if the councillors don't like him because of the way he cuts his hair or blows his nose or something, it could create a gang-up situation and it is bound to happen sometime or another.

MR. CHAIRMAN: All those in favour of the amendment, please indicate. (Thirteen) All those opposed to the amendment? (Seven) 9 as amended—pass; Section 10, Mr. Johannson.

MR. JOHANNSON: Mr. Chairman, I move that the proposed clause 20**1) (b) of the Act as set out in section 10 of Bill 62 be amended by striking out the figure "3" and substituting therefor, the figure "4."**

MR. AXWORTHY: Mr. Chairman, could I move a sub-amendment to that or would you want to vote upon that particular item first? I'd like to add a further amendment to that clause, Mr. Chairman. I thought I would wait and if you wanted to dispose of this one first, and then add another to it.

MR. CHAIRMAN: What is the will of the Committee? Mr. Johnston.

MR. F. JOHNSTON: We'd be agreeable to that. We have another amendment on a clause further down. We could take them in order. If you want to vote on this, fine.

MR. CHAIRMAN: The amendment as moved—pass. Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I would like to move that Section 20(1) Establishment of communities, be amended to delete from subsection (a) the words "City Centre—Fort Rouge," substitute the word, "Centennial" and to further delete the words, "6 wards" and to substitute the words "4 wards" so the subsection will read "Centennial - 4 wards" and section 20(1) Establishment

of communities be amended to add, subsection (g), containing the words, "Fort Rouge Crescentwood" with "3 wards" so added, and that section 20(1)(f) be amended by replacing "5" with "4."

MR. CHAIRMAN: Mr. Axworthy moves that section 20(1), Establishment of community committees, be amended to delete from subsection (a) the words "City Centre-Fort Rouge" and to substitute the word "Centennial" and to further delete the words "6 wards" and substitute the words "4 wards" so that subsection will . read — (a) Centennial, 4 wards, and a new clause (g), Fort Rouge–Crescentwood, 3 wards, and that subsection 20(1)(f) be amended by replacing "5" with "4". Mr Axworthy.

MR. AXWORTHY: Mr. Chairman, during the representations that this Committee heard and which we are supposed to reflect upon, and there was a number of representations made that the way in which the community committees had been redivided was both unworkable, and in many cases unacceptable. First, the reason was that, again one of the problems that had been identified by the Taraska Commission and by others was that there was an increasing split in division between the Unicity areas and the other city areas, and that there was an imbalance of power and that this has resulted in the lack of the city paying full attention to problems both in its inner city and its older neighbourhoods, and they felt that by simply concentrating all the Unicity wards into one community committee that it would isolate them from the rest and that they would continually be outvoted and tend to be isolated from it. Therefore, one of the resolutions of that particular problem would be to provide for a different division of the community committees so that the older neighbourhoods would not be lumped out, one or the other, and that there would be a broader base of support and representations for those areas.

A second argument, which I think is more specific is that if you look at the way in which the community committees have been divided, the Fort Rouge area as it presently is and which contains a good part of my own provincial constituency, to align it say, with the kinds of things that are happening north of the river — on the other side of the tracks in the downtown area and so on — the communion of interest and the ability to have community committees relate themselves to common problems would be highly separated and there would not be much degree of common interest in the same kinds of problems. To use one example, as it was represented to us by one of the councillors from the Fort Rouge area, Councillor Kaufman, indicated that a major concern in the Fort Rouge area is the problem of transportation from down the town area through to the suburbs. That up to this point in time there has been some success by having an alliance between areas like Fort Rouge and Crescentwood and so on, to try and politically forestall that kind of introduction of policy, and that therefore, there was a high degree of communion of interest between those older areas such as Fort Rouge, Riverview, Crescentwood, parts of River Heights in terms of those interests than there would be say between the Fort Rouge area and parts of the Centennial area.

Therefore, I think the third problem, Mr. Chairman, would relate just simply to the accessibility and the degree of communication that would be required to maintain any logical cohesion in that community committee.

So, for those reasons, Mr. Chairman, I apologize that I would have liked to have had a map to see how it could have been redrawn otherwise, but I would ask members to seriously consider this item — that maybe we want to reserve it and come back and think further about it. But, I don't think that the present division of communities are really the best division that would result in the best kind of community representation, and I think that therefore, we should take seriously the representations made to us by this Committee. I would add to that discussions that I have held in the area with large numbers of people from the Resident Advisory Groups and Community Interest Groups, who feel quite strongly that this would seriously impair their ability to maintain a particular policy stance and program stance that they are trying to develop in terms of protecting and conserving their own neighbourhoods.

MR. CHAIRMAN: Mr. Steen.

MR. STEEN: Mr. Chairman, I've spoken to the Minister on this very subject where I believe that the Fort Rouge area has more in common with the Crescentwood—River Heights area than it does with the centre core section of the city and I'm quite prepared to support the amendment on that basis alone.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Mr. Chairman, the Review Committee looked at this whole question. It was their recommendation in fact, that there should be six communities and that Fort Rouge should be tied in, or part of Fort Rouge should be tied in with City Centre, because there is a similarity of problems and interests there. They will end up with the largest number of members — there would be six wards — so that they would be in the largest single group representing a community. They have more aldermen than anybody else, and by combining them I think you do address the problem of getting people to look beyond their particular neighbourhoods and be seized of the larger problem, whether it be north of the river or south of the river. To simply attach it to Assiniboine Park-Fort Garry would

make that an enormously large community and a growing one, whereas, putting that part of Fort Rouge in the City Centre, although it's growing it's a fairly static community in relationship to some of the suburban ones. So, it felt that we should stick with the six community wards, the community committees that was proposed by the Taraska Commission, and we feel that this is an adequate way to assure that whether you live on one side of the river or the other you do concern yourself with the problems on both sides.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, even on the basis of the Minister's argument it doesn't make much sense, because the transference of Fort Rouge into Centennial takes it out of the administrative district already set up by the City of Winnipeg, which is district 6. So in effect, you would have a political group, the political representatives from Fort Rouge, operating in a Centennial Community Committee, but the delivery of services and so on would be on the other side of the river in a totally separate administrative district, which doesn't make much sense. In other words, there would be no harmony or symmetry between the political organization and the administrative organization, they'd be out of whack under the proposed arrangements in this bill. I think that that in itself, would dictate a change in the boundaries of these community committees.

I would also suggest, Mr. Chairman, that we were not suggesting that we amalgamate in with Fort Garry-Assiniboia, we are talking about, in effect, creating another community committee on that side, which at least would be within the district area, the administrative districts, so it would have some ability to supervise. But, what you are going to end up with now, is a group of politicians with nothing to supervise, because they are going to be in a political jurisdiction which has no supervision over the administrative side of it.

MR. CHAIRMAN: Mr. Wilson.

MR. WILSON: Well, I can see the problems that the Member for Fort Rouge is looking at, but if you're to stick with the six particular districts then I would say that by all means, Fort Rouge is basically, as the Minister said, "static" and certainly the problems are exactly similar. And I would suggest, that if you're going to go for the seven, you might as well go for eight and nine, because I can see Transcona and East Kildonan have no relevance to one another. So, if you're going to go with the six, I can certainly see that particular area, we've just tied them in together with the DASH service. We have designs, I believe there is designs in the works for what they call the Southern Freeway, which was a bridge over another street. I can envision ten years down the road at least two more bridges. Maybe we'll get into a situation where we build a lot of these street level bridges connecting the particular areas, so with more bridges being built at street level, and similar problems, and the fact that as they tear down the houses in the centre core for office buildings and that, the apartment blocks go up on the other side of the river. So, I can see that people that want to live downtown are going to find a similar type of living in Fort Rouge, Memorial, Wolseley — there is a common denominator there. So, if you're going to stick with the six districts, I think it should stay where it is.

MR. CHAIRMAN: Mr. Doern.

MR. DOERN: Well, in regard to the problem raised by Mr. Axworthy, obviously if there's a discrepancy or an overlapping between the political and administrative districts, I think the solution is very simple, mainly the administrative districts can be redrawn to coincide with the political boundaries. I don't see any problem there. I assume that that will be a factor in the design of the administrative wards. They will have to take into account the new political boundaries.

MR. CHAIRMAN: A question on Mr. Axworthy's amendment. All those in favour of the amendment? (Eight) All those opposed to the amendment? (Thirteen) Section 10—pass; Section 11. Mr. Minaker.

MR. MINAKER: Mr. Chairman, I have the motion that the proposed clause 20(1), sub-amendment of the Act as set out in section 10 of Bill 62 be amended by striking out the figure "5" and substituting therefor, the figure "6." I think rather than my explanation of the motion, I'll let Mr. Johnston.

MR. F. JOHNSTON: Well, Mr. Chairman, there are two reasons for this. The first one being that at one end of this particular, the community committee, you have one of the largest growths of the city in the Charleswood area. The Fort Garry area has just about the same growth and has doubled in the past while and is continuing to double. Just one example that I can give you, as of today the number of households according to the Winnipeg Post Office in the Fort Garry area alone is 11,405 — Fort Garry constituency as a matter of fact. The other one is that the area, and Charleswood is growing and it has a very large area, and I might say that Mr. Axworthy's argument wanting to have more representation in this area could come in too, we should be looking at six councillors in that particular area.

The other reason is, we have increased the council to 29 which puts it in a very bad voting position. I think that if you have any ties on council, in fact, I don't know how you can have if all the councillors were there, you could be in a bad position by not having an even number of councillors. So, we would suggest on that basis, because it is a very large area and a very growing area — and I know the

argument can be made that other areas are growing but I can also produce figures on other areas – assure you that these two areas of the city are the fastest growing, and I think the figure of 30 wou be a much better size.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Mr. Chairman, sure we can play with figures , and the figures we have indicate th with five representatives this particular community committee would have, not the lowest, b amongst the lowest number of electors per elected representative. Now, it's true it may grow in t next three years, but of course, Acts can be changed over a time and the growth can be taken in account. There's growth taking place in North Kildonan at a very fast rate and has taken place in t Maples area and North Winnipeg. I think it's just as fast as Fort Garry if not faster and I don't dou that in time, I can see the day in the future — it may be ten years from now — when the Charleswoo area will be perhaps triple the size it is now because the land is there. And, eventually Fort Garry to because there is large acreage there which is not ready for immediate development, but someday wi be developed. But at that time, certainly the whole matter can be looked at, the council may b increased or may be simply reshuffled if we wanted to keep the numbers constant, but that' something for the future. At this time, if we start changing these numbers around, then I think ever area can claim that it is being under represented or that it should have more representation than th next area.

MR. CHAIRMAN: Section 10. It is moved by Mr. Minaker that a proposed clause 20(1) of the Act a set out in Section 10 of Bill 62 be amended by striking out the figure "5" and substituting therefor th figure "6".

MR. CHAIRMAN: All those in favour of the amendment please indicate. Yeas, 9. All those oppose to the amendment? Nays, 12. The motion is defeated.

Section 10. 20(1)—pass; 20(2)—pass; Section 10—pass; Section 11—pass; Section 12—pass. M Johnston.

MR. F. JOHNSTON: Mr. Chairman, my comments will be on Section 12, but they will relate pret well right through till 20. This particular section is something that the Legislature is doing again, and see no reason why the City of Winnipeg councillors, with all the committees that they have, th Executive Policy Committee and others, cannot sit down and make their own decisions regardin how their community committees will operate.

One of the bad points of this legislation is that it has done nothing to let the local areas have an more control over their own affairs. And here we have the government again, after creating the city still not letting the city decide what is best to be done and what should be done in their ow community committees. Mr. Chairman, I would wonder why the government wants to have this typ of legislation in this particular Act.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Well, Mr. Chairman, the fact i s, what is occurring here is reflecting what in fact th city has already done. When they unified the police forces, the fire departments, the public works an operations, they became unified and the supervision was done by the Central Administration and th Council as a whole. All that is occurring here is that we are recognizing what has occurre d, allowin on the other hand for certain programs to be operated by the local communities where they so desire and they're spelled out in Section 13.

With regard to the supervision, the fact is that word has been a contentious word for some time. I has been interpreted by some to mean actual supervision of a crew on the street by a councillor. I never was intended for that, and it doesn't operate that way at the present time. So that clarifies the Act.

The Community Committee councillors meeting in their Community Committees are elsewhere in the Act instructed to hear delegations, listen to the residents and bring to Council those things that they deem necessary and advisable, so that they have every opportunity to bring any complaints about the services, the level of services or the way services are provided; if they're dissatisfied with them, they bring them to a Standing Committee, or to a designated committee or to the Council Chamber, the council floor itself. So they have every opportunity to do that.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: The Minister uses the words, "that this is what has been done by the city," and I see no reason why the city can't continue to do it if they so desire. Everybody that came before the Law Amendments from the community areas were pleading with us to let them have more control over their own affairs. And Mr. Chairman, I believe that in these sections the city is not being allowed to control their own destiny.

MR. MILLER: Mr. Chairman, I don't agree with that interpretation. I think the city, in this Act. is given far more power than it ever had before and far more flexibility than it ever had before.

MR. CHAIRMAN: Mr. Wilson.

MR. WILSON: Well, I just want clarification. Does this mean that the councillors — can we say experienced — that several councillors had a very good working relationship with the district heads,

whether it was the District One man or what-have-you — would this change — because what I thought I interpreted the Minister to say was that, for instance if I walk down and didn't like the way the particular — as a councillor — the garbage crews were handling a particular street and the maltreatment of the receptacles or whatever, or the attitudes, I would be able to go to the foreman direct rather than go to the Community Committee and then to a Standing Committee. Are you suggesting then that now councillors will not have any direct input with the administration, that they would have to go to a committee, or is it going to be just the way it was before?

MR. MILLER: The kind of example that Mr. Wilson points out is a very real one and I can't see any councillor not doing his job. If a complaint is lodged and he feels something is wrong, he phones the district engineer or whatever it is, and he makes known his views. But he doesn't have authority to go up to a work crew who is working on the streets and say, "Stop work." He can do it through the district engineer if he wants to, but he can't interfere with the work that is being done right then and there by some employee of the city, or maybe a contractor who is working for the city.

MR. WILSON: What influence does he have with the district engineer?

MR. MILLER: Well, my experience is, that if you are an elected person you have influence with the district engineer, that's the reality of it.

MR. WILSON: I see. So there's no change.

MR. CHAIRMAN: Mr. Johnston. Section 13.

MR. F. JOHNSTON: Well, if the Committee is agreeable, and I think probably they are, I would say we would go to Section 40.

MR. CHAIRMAN: That's Sections 12 through 40—pass. Mr. Johannson.

MR. JOHANNSON: Section 20. Okay. Mr. Chairman — we're on Page 5. I move that Section 20 of Bill 62 be struck out and the following section substituted therefor:

20(27)(1.1) of the Act is amended by striking out the words, "in respect of services the delivery of which is supervised during that year by the community committees an d, subject to Clause (c) of Section 36", in the third and fourth lines thereof and substituting therefor the words and figures "and also the budgets in respect of which the community committees participate during that year pursuant to Part XXII for libraries, parks and recreation, recreation commission, the St. Boniface Museum Boardor community centres and".

MR. CHAIRMAN: Motion as amended—pass.

MR. F. JOHNSTON: : Are these all technical amendments?

MR. CHAIRMAN: I'm advised that these amendments between this particular section and Section 40 are technical amendments. Mr. Johnston.

MR. F. JOHNSTON: Because Mr. Johannson was so efficient and quickly reminded us of them, I checked through them again. I have a question on one of them and I'm quite willing to wait till he moves it.

MR. CHAIRMAN: The motion as read—pass. 24, 25, 26.

MR. JOHANNSON: I move that subsection 29(3) of the Act does set out in Section 26 of Bill 62 be amended by striking out the words "and the election of the chairman of each of the standing committees," in the second and third lines thereof.

MR. CHAIRMAN: I'm advised that this one is a technical amendment. 26 as amended—pass.

MR. JOHANNSON: Mr. Chairman, I move that subsection 29(7) of the Act as set out in Section 26 of Bill 62 be repealed and the following subsections be substituted therefor: Tie Vote - Mayor present. 29(7) Where a tie vote occurs in the Executive Policy Committee, the Mayor shall have a casting or deciding vote in addition to his vote as a member of the committee. Tie Vote - Mayor absent. 29(7.1) Where a tie vote occurs in the Executive Policy Committee8 on any matter or thingnd the Mayor is absent from the meeting, the matter or thing shall not pass or be adopted.

MR. CHAIRMAN: The motion as read—pass. Section 27. Mr. Johannson.

MR. JOHANNSON: Mr. Chairman, I move that Section 37 of the Act as set out in Section 27 of Bill 62 be amended by striking out the figures "36(1)" in the second line thereof, and substituting therefor the figures "35".

MR. CHAIRMAN: That's a technical amendment—pass. 28—pass; 29—pass; 30—pass; 31—pass; 32, Mr. Johannson.

MR. JOHANNSON: It's after 32, 32.1.

MR. CHAIRMAN: So if you pass the 32.1 then we can go back and pass 32.

MR. JOHANNSON: Okay. Mr. Chairman, I move then that Bill 62 be amended by adding immediately after Section 32 thereof the following section C. 50(1) (g) am. 32.1 Clause 50(1) (g) of the Act is amended by striking out the words "and assistant heads" in the second line thereof.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, that to me is not quite as technical as it looks. If I'm not mistaken, when I'm taking a look at 50(1) (g), it's the section where the Executive Policy Committee appoints or gives approval to the assistant department heads.

Now we have a situation where the Board of Commissioners are the chief administrative body in

the city, the Executive Policy Committee appoints the heads of departments, bt the administrati body, the Executive Policy Committee, can appoint the assistant department heads. And in m estimation this puts the Board of Commissioners in a position where, if they want to make it tough fc somebody or a department head who isn't getting along with them, all they have to do is appoint th assistant in there that they think that they want to work with and you will create a very bad situation think the position of assistant department heads — we have always had in cities, in Winnipeg — th Council has appointed Deputy Fire Chiefs, Deputy Police Chiefs — it has always been the position c the elected member when we get to the assistant heads, the assistant head is going to be the perso very likely who moves up into the leader, becomes the head of the department, and I don't think tha position should be taken away from the Executive Policy Committee. That's the way I read that.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Mr. Chairman, it's simply deleted so that it's no longer required in the Act itself. Bu Council may determine if it wishes to operate in a certain way, and can still delegate that authority i they so desire, the authority to make a recommendation.

What you are deleting is the requirement that it must be done that way. Council can still ask eithe EPC or the Board of Commissioners to handle these things, if they so want to, and of course in th final analysis the appointment has to go before council and be ratified.

MR. F. JOHNSTON: Mr. Chairman, I accept the Minister's explanation, but I have the concern tha I mentioned.

MR. CHAIRMAN: The amendment as read—pass. Section 32 as amended—pass. Section 33– pass; Section 34, Mr. Johannson.

MR. JOHANNSON: Section 34? Okay. Mr. Chairman, I move that subsection 52(1) of the Act as set out in Section 34 of Bill 62 be amended by adding immediately after the figures "49" in the first line thereof, the words and figures "and subsection 54(3)."

MR. CHAIRMAN: The motion as read—pass; 35—pass; 36, Mr. Johannson.

MR. JOHANNSON: I move, Mr. Chairman, that Clause 56.1 (1)(b) of the Act as set out in Sectior 36 of Bill 62 be amended by adding immediately at the beginning thereof the words and figures "subject to subsection 54(3)".

MR. CHAIRMAN: The motion as read—pass. 37—pass; 38—pass. On Section 39 I would suggest we pause for a moment and accept the motion moved by Mr. Johannson as being that which was circulated. It's rather a lengthy amendment.

MR. JOHANNSONmoved: That Bill 62 be amended by adding immediately after Section 39 thereof the following section 39.1(1) The Act is amended by adding thereto immediately at the beginning of Part III thereof the following section 78.1 In this Part "Historic St. Boniface" means that part of the St. Vital - St. Boniface Community described as Tache Ward in Order in Council 656/71 (2) Section 80 of the Act is amended by adding after Subsection 80(4) the following Subsection: 80(5) In the event the Community Committee office in Historic St. Boniface is moved out of Historic St. Boniface or is disestablished the Council shall continue an office located in Historic St. Boniface, staffed by employees fluent in French and English (a) to handle inquiries made in either the French or the English language respecting assessments, by-laws, licenses, regulations and other services; (b) to accept the payment on account of business taxes, license fees, property taxes, water and waste billings, and similar payments due to the City; (c) to translate into French public notices that under this section are required to be issued bilingually in the St. Boniface-St. Vital Community; (d) to translate into English any correspondence that is received in French; (e) to conduct any other business that the City Clerk and the City Treasurer may assign to them; and (f) to provide other services which the Council considers advisable. **MR. CHAIRMAN**: Mr. Johnston.

MR. F. JOHNSTON: Well, Mr. Chairman, we've all read it and we agree with the motion. I would only say it's a clear admission as to what the delegates have said before this Committee, is that the City of Winnipeg still recognizes communities such as St. Boniface, St. James and Transcona and the move to much more bigness is not going to be a step that is going to be all that beneficial to the people of the City of Winnipeg.

MR. CHAIRMAN: Section 39 as amended—pass. Section 40, Mr. Johnston.

MR. F. JOHNSTON: Well, Mr. Chairman, we won't waste much time on this because we've already been voted down. This is the section that says that a councillor can run for both Mayor and council and we disagree with that. We would like — well, I can't move it — we would vote against it.

MR. CHAIRMAN: There is an amendment to this section. Could we deal with the amendment? Mr. Johannson.

MR. JOHANNSON: I move that Section 40 of Bill 62 is amended by adding immediately at the end of Clause (b) thereof the word "and", and by adding immediately after Clause (b) thereof the following clause:

(c) by striking out the word "election" in the third line thereof and substituting therefor the words

and elected".

MR. CHAIRMAN: Just on the amendment, not on the Section, but on the amendment as read—pass.

Now, the amended motion. All those in favour of Section 40 as amended, please indicate— 12. All those opposed, please indicate — 8.

Section 40 as amended—pass.

MR. CHAIRMAN: Section 40 as amended—pass; Section 41—pass. Section 42. Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, this is the Section where the Minister of Finance is going to be in control of the financial affairs of the City of Winnipeg. It goes through to 51 and I would say, Mr. Chairman, that in debate in the House, we made our position fairly clear as to our feelings of the province having this type of power over the City of Winnipeg. I think it leaves very great opening for the Minister of Finance to barter with the City — and I don't say that in any manner that reflects against the Minister of Finance, after all, we could have a different Minister there — and I would say to you at this particular time that I believe the Municipal Board, although I am fully aware that the City would prefer an elected person and they have made that statement, but the Municipal Board is a *quasi judicial* body that is appointed to look over the financial structures of most of Manitoba. They do have the facility to use the Department of Finance, the Minister of Finance said this when he closed debate, that they were coming to him on many occasions for advice, etc. on finance and I would expect them to use the expertise of the department. The Municipal Board is a board that is *quasi judicial* and I don't believe that we should change it at the present time.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Well, Mr. Chairman, the member is right, this was debated in the House. The City has requested this, not once but a number of times, the feeling that they would rather have an elected person who is responsible and who has to respond and stand up and explain why he is doing what he is doing rather than a municipal board of appointed people who don't really have to be responsible to anyone. They have indicated their desire to be rid of the Municipal Board. It is true, they did request that they be totally free of all restraints. We are not prepared to go that far but we are prepared to accommodate them and simply refer to the Minister of Finance.

But I can tell the member that it is not my intention and I hope not the intention of any Minister of Finance to simply sit and look at everything the City brings forward. I am sure a formula can be figured out with the Department of Finance and within that formula there will be no trouble at all. It is only when they start coming to a point where the debt of the City and the capital indebtedness of the City may affect their borrowing and their interest rates that the matter would be really scrutinized and examined very closely and discussed with the City.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I just have one comment to make on what the Minister said, that the Municipal Board is responsible to nobody. The men who are appointed to the Municipal Board I am sure take their responsibility to the people of Manitoba as it is given to them by this province and I would like to say in that respect, that I don't even regard them . . . I know that they are appointed by government and people say that they are political appointments but we have had good comments about the Municipal Board on many occasions.

The Municipal Board has served a very good purpose in the Province of Manitoba and there is no reason why they still shouldn't have the ability in the City of Winnipeg — not to make any decisions as to what the money is for — all they would be required to do, as the Minister knows, is just make sure that the City is not borrowing beyond their means. In other words, they have nothing to say other than, "We agree that you have the money to do this," and that's all there is to it. Now, I don't see anything wrong with the Municipal Board having that particular authority. We may change some of the authority; we may go higher on the money or something of that nature but I see nothing wrong with the Municipal Board.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, just a word. I want the honourable member to know that it is very difficult for the Municipal Board. First of all, the City would prefer an elected person to the Municipal Board — we are all aware of that— and generally, the member is anxious to try to accommodate the municipal councillors if it is possible. Secondly, the Municipal Board is put in a very difficult position and the chairman of the Municipal Board, on one occasion, as a result of having this job and trying to do it conscientiously, actually had to start considering every capital program and deciding which one should proceed and which one should not proceed and the Act required him to do that at that time. I don't know if it is now changed.

But what is the function of the Minister in this case is just exactly what the member indicated — merely to see whether the borrowing rate is such that the City will have the capacity to pay. Certainly, that kind of decision is going to be made by actuaries, accountants and other people in the Department of Finance, and then the Minister will have to answer to the public of the Province of Manitoba as to why he refused — because that's the only time he's going to act, he's not going to

increase the borrowing debt — as to why he refused the debt and he will have to give the figures up which he refused it. So, knowing that that is the sole function, I really ask the honourable member not talk about hearings before the Municipal Board, which they had, and people thinking that th have a last crack as to whether the bridge is going to go in a particular place that the City h approved and they think that the Municipal Board can disapprove, that what we are talking about is financial figure based on borrowing power for which the Minister will have to give full account, ir way which is much more meaningful and much more powerful than is now required of the Municip Board. So, I really think that in this case — and I am not one who says that we should always do wh the municipal councillors want — but n this case, there is a choice between the Municipal Board ar the Minister of Finance. It seems on that thing, with so little to choose between, that we should be ab to accommodate the municipal councillors.

MR. CHAIRMAN: Section 42—pass. Mr. Minaker.

MR. MINAKER: Well, are we going to vote on it?

MR. F. JOHNSTON: Well, I think we could vote.

MR. MINAKER: Call the vote on 42 and we'll discuss it later.

MR. CHAIRMAN: All those in favour of Section 42, please indicate — 15. All those opposed to th motion, please indicate — 6.

Section 42—pass; 43—pass; 44—pass; 45—pass. Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I would suggest, unless there are amendments to be read . .

MR. CHAIRMAN: The next amendment is Section 71.

MR. F. JOHNSTON: Well, we could go through to Section 60.

MR. CHAIRMAN: Section by section up to Section 60—pass. Section 60.

MR. F. JOHNSTON: Pardon me, Mr. Chairman, if you don't mind, Mr. Minaker . . .

MR. CHAIRMAN: Mr. Minaker.

MR. MINAKER: Mr. Chairman, if we could revise that back to Section 57.

Mr. Chairman, I would like to move a motion that Section 57 of Bill 62 be amended adding after th word "community" at the end of the first line, the words "or a portion thereof."

MR. CHAIRMAN: Well, let me just ask the mover of the motion without ruling on whether it is i order or not. The sentence says "means a plan for the whole area of a community or all that part of municipality." Mr. Miller.

MR. MILLER: Mr. Chairman, I get the intent of it. Actually it is covered in this sense, that there ca be action area plans which are contained within a municipality, within a community. This can be a action area plan or a plan of subdivision and these are parts of or components within an entir community area. This really calls for an overall plan in the broad sense for that total community, the the action area plans, of course, can take place within specific neighbourhoods and specific district within that particular community. So the action area plan really meets that requirement.

MR. JOHNSTON: The Act does state that there shall be a community plan and the gentlemen wh came before this committee — and quite frankly I agree with them — made the statements regardin why would you want to have a community area plan where the community area is already developed And a portion thereof doesn't mean an action area plan, it means just what it says, just a portion o those areas that are already developed. The concept of now forcing the city to draw up communit plans for communities the size that we have had put before us is a workload that is absolutely no necessary. It is a waste of money to begin with. The old plans that they had in Winnipeg aren't ever followed to any great extent and I think you are putting the City into a lot of work. Now, those are the comments that came before us from the City planners. I know there is an action area setup but why would you even need an action area plan in some of the areas of Winnipeg. So I think in communit plans, why can't they do a portion of it? Why can't they do a block if they want to?

MR. MILLER: Mr. Chairman, they can do a block. If there is a built-up area as has been suggested and of course there are in many of the community plans existing, it is the existing plan — the existing homes or whatever is there, is already existing and, of course, if the community is all built up ther that's the end of it. We're talking about a community plan for the entire community within which the action area plans can then take place. They are not inhibited, whether it is a Neighbourhood Improvement Area, whether it be one block as has been suggested, those are action area plans bu there should be — and at the review committee, this was stressed time and again — there should be an overall overview of the community plan even though much of it may consist of an existing and already satisfactory plan.

MR. F. JOHNSTON: I am going from memory but I think I am correct in that the action area plan must conform with the community area plan and the community area plan must conform with the overall development plan.

MR. MILLER: Well that exists today too.

MR. F. JOHNSTON: Well, how can you have an action area plan if you don't have a community area plan? How are you going to conform to the community area plan if you don't have it?

MR. MILLER: Well, Mr. Chairman, amongst the amendments there is an amendment which says

that until a community plan is adopted this will not inhibit the development or the creation of action area plans. It is only after a community plan is adopted, like the Greater Winnipeg Development Plan, that they have to conform and they have to conform today too.

MR. CHAIRMAN: I am advised that it is motion 17, Mr. Johnston, on the amendments, motion 17 on the last page. satisfactory without me putting the amendment in? (Agreed) Section 57—pass. Section 60. Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, this has been debated and this gives the Minister the power to control the Greater Winnipeg plan, the community plan has to conform with it and the action area plan has to conform with the community plan, which puts the Minister in a position of complete control over the planning of the City of Winnipeg and I can't see any other way of reading it. You know, even if there can be some sort of discussion or works with the City of Winnipeg, but to be able to force the City to put in a plan, if they haven't done it and if they don't . . . Well, let me put it this way. I think it reads that if the Minister requests the City to put in a plan and they don't do it, he can do it and they may have pretty good reasons why not to do it. This is a tremendous power over the City's planning. I think the City is probably more capable, more capable of taking care of their plans than anybody in this province. I don't think we have got anybody in this province working for the province that would know anything about city planning as compared to the City of Winnipeg planning people and I don't think the Minister should take this control over the City.

MR. MILLER: Mr. Chairman, you know, every city and every study ever made of any city, has accentuated and underlined the fact that planning must take place. This is done in order to ensure that the city will do the planning. I frankly don't believe that the Minister will ever have to do it; because of this requirement the City will do it. But if you don't have some means of making sure the final analysis is done, then they may never get around to it. If they don't I think Winnipeg will suffer for it. It's not a suggestion at all and at no time has it been suggested that the Minister will have some provincial staff do it. I think what the amendment says is that the Minister may act as if he was council and therefore get the City staff to prepare the community plan or the district plan in this case. A district plan, for example, is now being developed now with the assistance of the Federal Government. It is a tri-part operation which they are sharing in and I am sure that it will be brought to successful conclusion. The same will occur with the community plan but cities today should have these plans so that people know how the City is going to develop, so the business knows where it should plan on moving and what kind of things might occur in a general sense in certain parts of the City. I think it makes for not only better planning, it makes for a more certain action on the part of the people who are looking for residential accommodation or development and for business development to have an idea of where things may be permitted and where they may not be permitted.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I can understand the Minister's remarks regarding Federal and Provincial governments and City planning at the present time but we have a position where the provincial governments— and this one included — are becoming the very large landowners around the City and there is no question that if you feel that you want that land put into production, the Minister has the right to put it there whether it is going to cost the City a fortune or not. The conflict is here. The Minister of Urban Affairs would be pressured continually from the Manitoba Housing and I would suggest that he probably should be if the Minister has land that he wants put into production. On that basis, I don't think that the government should have that particular authority over the City. It's not a good law.

MR. CHAIRMAN: All those in favour of Section 60, please indicate. (Yeas 13, Nays 7.) Section 60—pass.

The next amendment is to Section 71. Are there any questions between Section 60 and Section 71? Sections 60 to 71—pass. Section 71. Mr. Johannson.

MR. JOHANNSON: I move that subsection 579(2) of the Act as set out in Section 71 of Bill 62 be amended by adding immediately after the word "municipality" in the third line thereof, the words "the Minister."

MR. F. JOHNSTON: Mr. Chairman, it comes very close to what we were just discussing. The power to order the City Council to prepare community plans. That's quite a bit of control. So, Mr. Chairman, we would vote . . .

MR. CHAIRMAN: Section as amended — passed on division.

Mr. Johannson, the next amendment.

MR. JOHANNSON: I move that Section 581 of the Act as set out in Section 71 of Bill 62 be amended by adding immediately after the word "be" in the second line thereof, the word "amended."

MR. CHAIRMAN: That's a technical amendment.

Section 1 as amended—passed on division. Section 72. Mr. Johannson.

MR. JOHANNSON: I move that Section 584 of the Act as set out in Section 72 of Bill 62 be amended

(a) by adding immediately at the beginning of clause 1(a) thereof the following words "Subject t subsection 579.1 (2.1)", and

(b) by adding immediately at the beginning of subsection (2) thereof the words "Subject t subsection 597.1(2.1)".

MR. CHAIRMAN: I am advised that this is technical and it is in conjunction with the ne amendment we referred to earlier. The section as amended—pass. Section 73. The next amendmer is in Section 82. Are there any points in the Sections between 72 and 82? Section 72 to 82—pas Section 82. Mr. Johannson.

MR. JOHANNSON: I move that Section 597.1 of the Act as set out in Bill 62 be amended

(a) by adding immediately at the beginning of subsection (1) thereof the words "Subject t subsection 597.1(2.1);

(b) by adding immediately at the beginning of subsection (2) thereof the words "Subject t subsection 597.1(2.1)", and

(c) by adding thereto immediately after subsection (2) thereof the following subsection: Wher Community Plan Not Established. 597.1(2.1) Where no community plan is established pursuant t this Part, the action area plan or any alteration, amendment or replacement thereof shall conform t the Greater Winnipeg Development Plan.

MR. CHAIRMAN: Section 82 as amended—pass; Sections 82 to 92—pass; Section 93. M Johnston.

MR. F. JOHNSTON: Mr. Chairman, I don't know whether this is exactly the right place or whethe we go to the area of planning regarding the Municipal Board but I think what I am about to say woul cover quite a bit of the following and that is the Minister instead of the Municipal Board having contro over zoning changes and subdivisions, etc. This would come in similar to that type of decision bein taken from the Municipal Board. Am I correct?

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: No, this deals with those zoning variations where at the present time it goes from th community committees to the environment committee and then it has to come to the Minister . .

MR. CHAIRMAN: Order please. I'm sorry, I wonder if the Minister could start over again, I couldn hear you.

MR. MILLER: Mr. Chairman, this really bypasses the Minister. It is these zoning matters which th Minister is now yielding control over and will not be dealing with at all. They will be approved by designated committee and simply go to Council. They will not have to come to the Minister as they d now.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, it still doesn't take into account the problems raised by thos who appeared before us from the City. They said that you're duplicating the process of a publi hearing, doing the same thing twice: the same people, the same plans, the same submissions, a being repeated a second time. It would seem to me that if the objective was to try to shorten th development phase and try to reduce the cost thereby, at the same time providing adequat protection to duplicate the procedure all over again, doesn't seem to make much sense in thi context. I am wondering why not one hearing, either at one level or the other, and then simply us committee as a basis for appeal but not to have to repeat the full procedure all over again.

MR. MILLER: Well, Mr. Chairman, since we are removing the appeal to the Minister which is pretty powerful appeal, anyone who objected, automatically the objection had to come to th Minister; he had to wait two weeks before he could deal with it and then either reject, approve, or refe to the Municipal Board. Since we are removing that appeal mechanism, there has to be a secon appeal and the second appeal, however, is to another committee of Council. If there are no objectors of course, there will be no appearances in which case it will sail through just as it does at the presen time.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, this particular Section, I believe it was in the City' recommendation that was read to us that the second meeting would be time-consuming and we di have a discussion on that in that the second meeting would have to be held. I know the Minister i saying that the percentage of meetings that are held, that most of them are approved and there is n problem, that is the largest percentage. But I think that if I was making a presentation to a communit committee and even if they approved it, I would go and make the same presentation to the othe committee because the same people don't sit on that committee and they are not the people that ar associated with the area that the presentation is being made for. So, you know, just taking the ste away from the Minister, eliminating that, I don't think that that's the greatest time-consuming thing i the world because the Minister can pass them on to the Municipal Board or look at them themselves. don't even know why it had come there to begin with but to have all of these second meetings on th zoning or after it has been through the community committee where it has been heard by the peopl in that area, and you are forcing the person to go downtown again because they won't be heard i

ront of the same same body of men.

MR. MILLER: Mr. Chairman, Mr. Johnston is quite right. The fact is that even today, it goes from he community committee to the Environment Committee and Environment Committee can take whatever action it wants and simply reject what the Community Committee has approved. They can o it and nobody even knows about it until after the meeting. The requirement now is that these are ifferent people who may have a larger perspective or another reason for examining it, and only if here are people objecting to it, then certainly they will have an opportunity to be heard the second me in place of the Minister or the Municipal Board. Those who are proposing it will have an pportunity to indicate why they were successful at the community committee and why it is a good dea because today it could be rejected by the Environment Committee without any hearing whatsoever and there is no recourse except to the Minister or the Municipal Board. Since we are liminating that, we have to give recourse through some other mechanism and that's the mechanism f another committee of Council.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Well, Mr. Chairman, I think the point still is, what is the objective in this case? Is to save time or not? If you are simply trying to provide an appeal procedure, then it would be more ppropriate to simply say that the community committee has done the groundwork and all the ubmissions and hearings have been held and the nature of the appeal procedure should be one of eviewing the decision made by community committee, by the committee of Council, but not to epeat the procedure all over again where they would have transcript, records, and so on. If it is imply that, an appeal board, then you wouldn't have to repeat the same procedure. It should be done ust simply on the grounds of what is already introduced into the record and the decision that was eing made and therefore wouldn't result in the kind of thing that does happen at City Council now here it does go through three or four steps and a whole different set of political manipulations take lace, influencing. The unfortunate part about it is that you have committees now where there aren't ven members of the community committee from which the decision arose making the decision. So if ou did limit it to those details and decisions that were taken at the community committee level and hat was the record with which the Council committee had to deal with, then that would be the arameters within which they would have to make a decision. You couldn't become extraneous from hat. It would seem to me that that would be a proper review or appeal process to follow.

MR. MILLER: Well, Mr. Chairman, I think we have to strike a balance between very efficient, a oldly efficient system, and one where people do have an opportunity to make known their views a econd time. There should be an appeal mechanism. Since the Minister and the Municipal Board are hort-circuited out of this, then we feel that it is essential that there should be another body at the Council level, made up of different people again, who have a different perspective , who may look at it ifferently, an opportunity to look at it and to hear witnesses if they want to or anyone who appears efore them, so they can evaluate and make a decision whereas today they can also shoot down omething that comes out of the community committee without any hearing whatsoever. And, rankly, if they are going to eliminate the Minister and the Municipal Board, then I think the public is ntitled to have some avenue, some second avenue, to be heard on matters which may affect them ery seriously.

MR. CHAIRMAN: Would you like this passed on division or would you like to propose an mendment?

MR. F. JOHNSTON: On division.

MR. CHAIRMAN: Section 93 passed on division. —(Interjection)— Well, it's passed on division hich is the same thing as if we counted it, that's all.

The next section to which there are amendments is Section 130. Are there any questions between ections 93 and 130? (Pass) Mr. Axworthy.

MR. AXWORTHY: Well, Mr. Chairman, I wanted to simply to move the appeal of Section 129 elated to Environmental Impact.

MR. CHAIRMAN: On 121, Mr. Johnston?

MR. AXWORTHY: Well, if he wants to proceed, I will wait until after.

MR. CHAIRMAN: On Sections 93 to 120—pass. Section 121. Mr. Johnston.

MR. F. JOHNSTON: Well, Mr. Chairman, this amendment removes the Municipal Board regarding pprovals of subdivision or plans of subdivision and, quite frankly, I thought Mr. Braid, when he was efore this committee, made extreme common sense. You know, he gave the example of the lunicipal Board that is a body that has no axe to grind with anybody and they will go out and they will ook at things and they'll have hearings; they'll talk with neighbours and they'll get very good pinions on what is going on within the neighbourhood. This is similar to what they have had in Metro oronto for a long time where you come before the board and these type of things. We used to have hat we call the mediation board, I believe, in Metro that would take the same trouble to go out and ook at things and, for the life of me, I don't know why we are eliminating that particular group of eople from the public so that they can have hearings. Now, this isn't finance, this is the type of

planning that's been done. But here we have a group of people who are going to arbitrate, and I thir that we're making a great mistake by taking them away.

MR. CHAIRMAN: Section 121, is it passed on division? Mr. Johnston.

MR. F. JOHNSTON: Can I ask the Minister why we're taking this body that has really been benefit to us away from the people.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Mr. Chairman, the answer really is that, again, the municipal board are a no elected body. The Member for Sturgeon Creek makes a case that they will go out, they will talk to th neighbours, and they will look at the area. I suggest to you that the councillor from his ward will c the same. I suggest to you that the councillors from that community committee will do the same ar they can, and will, if they feel very strongly on it, make representation to the committee that is dealir with it.

You know, it goes back to why there is a second hearing after the community committee meets c it and makes a decision. So that there's the input of the elected people who, in the final analysis, a the responsible people. If they feel that something should occur, in their wisdom, they make th decision after the opportunities to appeal have taken place. But I don't think it's right for a municip board to overrule the knowledge and the desires of the elected people who, in the final analysis, hav to account to their electorate for their actions, and for the good of the city.

MR. F. JOHNSTON: Mr. Chairman, the Minister mentions that the community councillor can g out and look at it, and he can look at it all he likes because after the community council has made decision it goes downtown to another completely different body of people to make the decision. would rather see that it not go downtown. I would rather see it go from the community committee t the municipal board, where you have a body of people who are not politically involved in this thin That would make more common sense than running around with committees downtown, wit councillors who have nothing to do with the area.

So you would have a body of people that would be taking far more interest in it from that point c view.

MR. MILLER: Well, Mr. Chairman, I guess that's where we disagree. The member feels that th municipal board would somehow give it closer attention or would show greater concern. I believ that elected people are the ones who really have to make that decision. They'll make it with fu knowledge that what they do they have to answer for. It's city-wide because it's not in every case tha it's just a corner lot. The councillors representing that area will, of course, and can, of course, appea at any committee and make representation.

So that I think that the responsibility lies where it should — with the elected people and not wit some appointed board who may have totally different views and totally different opinions.

MR. F. JOHNSTON: Councillors, Mr. Chairman, say, "Well, if I get this in my area, you'll get this i your area." When you're you should have a quasi-judicial dealing with a city this large' body that ha some decision-making. On division, Mr. Chairman.

MR. MILLER: But this is an important point and there is strong feelings and cases are well taken o both sides of the argument. If you pass it, it's on division.

MR. CHAIRMAN: Sections 122 to 128—pass. Section 129. Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I'd like to move the deletion of Section 129.

Mr. Chairman, my reason for doing it is, to my mind, unexplainable. As you go through the Ac you find that the province has taken upon itself to enforce, compel, require the city to undertak different planning laws and instruments — community plans, action area plans, development plans The city has no discretion and has no option. It must do it, and if it doesn't do it the Minister forces it t do it.

I think it's very clear now that probably a much more effective planning instrument than any c those is an environmental impact requirement. If you really want to get good planning, that' probably about the best tool you have, as opposed to all the paper plans, all the coloured slides tha the planner is left to play with. That's an educational game because it has nothing to do with makin real assessments as to what the impact effect of different proposed planning initiatives will be.

So in the one area where you had an effective tool under the old Act, which was beginning to fin or work its way out, the province caves into the city and decides they're going to water it down. The get tough on the relatively meaningless things, and they water down something that might have had real impact upon planning in the city. I just think that that particular kind of inconsistency, c contradiction, doesn't make much sense. It would at least make more sense to leave the present la under Section 653 intact, as the courts are beginning to interpret them, so that it could be a prope planning tool and be used more effectively by the city once they get around to using it.

But to simply water it down means it will become almost a non-use instrument and you will los one of the capacities you have to provide for a good planning tool. That, Mr. Chairman, does not nc fit with what the province has been trying to do in the rest of the Act, which was to reserve for itself th requirement to compel the city, in planning matters, to do the job it's supposed to do.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Mr. Chairman, I believe the key words are "as the courts determine", and that was ıe of the problems. One of the judgments written — I think it was by Justice O'Sullivan, because it is most iossible to define everything in the Environmental Act or the procedures in the past — the dge, in his ruling, had some pretty harsh words to say.

Frankly, I do not agree that the courts should determine what is of environmental concern or what ıe impact of a certain action will be.

Insofar as the member mentioned the province taking onto itself powers with regard to action area ans, he is wrong in that regard. It's only with regard to the development plan and the community an. In all other plans, the city has been given more power than ever before.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, I do want to say something on this point because there has been ɔme misunderstanding as to what is occurring with regard to environmental impact assessments.

Nothing in our legislation indicates that the city elected representatives would not carry on an ıvironmental impact assessment. What we are saying is that that assessment will not be interpreted y somebody else. Although the wording of the last legislation . . . I can tell the honourable member ıat we sat down and as we discussed it, we said that we did not want this to be done by anybody else ıd we risked suggesting that it was a requirement in the hope that nobody would interpret it as a ɨquirement which would be judged by anybody else but the councillors. But whenever you put ɔmething into legislation, you open the door for somebody else to say that although the city fathers ıdged this to be an environmental impact assessment, the Legislature intended that we should look ı see whether it was really an environmental impact assessment. That's exactly what we got in the ɔurts and therefore we do not want that to occur and we are taking it away.

We are not suggesting that there be no environmental impact assessment but when the city has ıat requirement, which we believe they will have, we are not going to let it be interpreted by ɔmebody else.

Mr. Chairman, the honourable member has said that on all those matters which are incidental we ave reserved power and control, but on the one important feature we have caved in. Now, what is the ɔrollary of that, Mr. Chairman? The honourable member is saying that on the thing that is iortant we ave permitted the city council to govern its own affairs, which he has been pursuing for many many ɔeeches in this Legislature. So what he is now saying is that on the thing that is important we are ermitting the city to govern its affairs and, on things which are unimportant, we have reserved rovincial power.

Well, if that's the case, then there is no concern of provincial power that has been reserved ecause on the incidental things it doesn't matter and, on the iortant things, we have given the city its ower. So if the honourable member is now saying — which apparently he is — that the things which e previously was concerned, that provincial powers being retained are unimportant, then he ıouldn't be concerned. And if he is saying that on the things which are important we have given ome rule, well it seems to me that's what he has been suggesting all along.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Well, Mr. Chairman, I don't think Mr. Green is dealing with the issue as it was ıised. Let's review what I said, rather than what he suggests I said.

I said that the province, in this Act, has taken a number of the planning requirements and provided degree of compulsion on them. The city must do it. This gives the province great capacity for ıischief, interference, and intervention into city affairs. I said that in these areas which have a great apacity for mischief and interference but which may not have much influence on planning, that the rovince is enforcing itself in order to get its own way. But in the development of a new planning tool - which I think the Member from St. Johns when he was introducing the bill said was one of the more ınovative areas — that the province at one time took some pride in . . . They no longer do, of course, nd considering how they run their own environmental impact assessment it is no wonder that they on't want anyone else to run one properly, either.

But the fact of the matter is that in this area this could be, and should be, one of the most effective vailable tools available to the city and to the citizens of the city. It is the one way that the citizens ould be able to hold council accountable for many of its projects, because it is the only way it finds ut what the impact is.

If, in fact, the Ministers are worried that somehow the courts will get involved, that should be one f the requirements of it because it is one way of determining where the city is, itself, living up to the ct. That's all the courts do. I know the Minister of Mines and Resources has no use for the courts, nd places no credibility in them. Some of us do; some of us feel . . . And, in fact, I suppose other ıembers of his own party do. They are prepared to allow them a certain amount of discretion in other cts, particularly the ones we are debating now, but we know his opinion. Be that as it may, it is nfortunate his own particular and peculiar bias is allowed to interfere with the development of a roper planning law in this city.

The importance of the environmental impact statement is to give people that opportunity to knov If they do want to challenge it on the basis that it hasn't been fulfilled correctly, there is no problem i the courts if the city lives up to the proper procedures. There is no problem whatsoever. - (Interjection)— It is not nonsense. Of course, it's not nonsense. —(Interjection)— Oh, really.

MR. CHAIRMAN: Order please, order please, order please, order please. Would you direct you remarks through the Chair? Mr. Axworthy.

MR. AXWORTHY: Thank you, Mr. Chairman. So we're simply saying that the reason for deleting is that the province did the right thing previously when it introduced the Act. They probably shoul have taken the next step, which is to strengthen the Act. Instead, what they have done is weaken it. think that the only people that will lose on that are those people that are concerned about prope planning in this city.

MR. CHAIRMAN: The motion before the committee is that Section 129 be struck. Mr. Jorgensor

MR. JORGENSON: The same effect can be gained by simply voting against the particular clause So there is no need for a motion.

MR. CHAIRMAN: The point of order is well taken, by Mr. Jorgenson.

All those in favour of Section 129 so indicate please — 17. Those opposed — 2.

Section 129—pass. Section 130. Mr. Johannson.

MR. JOHANNSON: I move that the proposed Subsection . . . —(Interjection)—

MR. CHAIRMAN: Gentlemen, if I may please. These two circulated amendments are both t Section 130. May I accept them as circulated? (Agieed)

Section 130 as amended—pass. —(Interjection)— Section 130 passed on division.

This ends the government's amendments. Are there any other questions on the rest of the clause of the bill?

Section 130 to 140—pass. Mr. Axworthy.

MR. AXWORTHY: Well, Mr. Chairman, 130 I think is the section dealing with the question of th province exempting itself from the life of the city. Am I not mistaken?

MR. CHAIRMAN: And it was passed by the committee on division.

MR. AXWORTHY: Well I guess we knew what the result would be all evening, but I would simpl register utmost opposition to that measure.

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

Before the committee rises, there is something I would draw to the members' attention. We ar rather late. It's a letter from the Manitoba Motor League which was received too late by th committee. It was received after supper. It's in reference to Bill No. 8. So if it's the will of th committee I will ask the Clerk of the House to respond to the letter and so indicate. (Agreed)

Committee rise and report.