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ON

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty - First Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS
Friday, 25 July, 1980

Time — 2:00 p.m.

CHAIRMAN — Mr. Arnold Brown (Rhineland)

MR. CLERK, Richard T. Willis: Could the committee come to order. We have a quorum, do we have a motion for a chairman?

MR. MORRIS McGREGOR: I move, Mr. Brown be chairman.

MR. CLERK: Is that agreed? (Agreed) Mr. Brown.

MR. CHAIRMAN: This meeting will come to order. We have two bills that we'll be looking at today, Bills 95 and 96. We have some presentations. Mr. George Forest, Manitoba Association for Rights and Liberties. On Bill 96, The Liberal Party in Manitoba; Bill 96, Paula Fletcher, Communist Party; Bill 96, the New Democratic Party, Mr. John Bucklaschuk and there's a possibility that Andrue Anstett will be making a presentation.

So could we proceed with Bill No. 95, Mr. George Forest. Is Mr. Forest present? I don't see Mr. Forest here.

Could we have Bill No. 96, the Liberal Party in Manitoba.

BILL NO. 96
THE ELECTIONS FINANCES ACT

MR. JOHN PETRYSHYN: Good afternoon, Mr. Chairman, my name is John Petryshyn, I'm the President of the Liberal Party in Manitoba and I'm appearing on behalf of the party to make the presentation at this time.

Briefly we filed a letter with yourself, as chairman of the committee and I'll allude to it and as you can determine, and we'll set out, we're referring basically to Bill 96, The Election Finances Act.

We have recommendations in three major areas which we are concerned about and wish to make to this committee and, in particular, at the outset, the whole procedure of having a very important Act, such as Bill 96, even contemplated at Speed-up, which I think doesn't allow for sufficient time for debate, doesn't allow for due consideration to go through with the procedure as quickly as possible, I think is certainly not in keeping with what should have been done to a bill as important as this. I think the committee should consider itself with the causes. We're dealing with something that'll be affecting everyone in Manitoba at the election and, not only at the election time but dealing with matters, as contributions, over a period of time and I think to present the bill in Speed-up certainly does not reflect well.

The major areas of our concern is as follows:

The Liberal Party, No. 1, objects strongly to the proposed composition of the Elections Commission, provided under subsection 2 of Section 3 of the bill. Since the essential purpose of the proposed commission is to regulate and control the financial affairs of political parties registered under this bill and operating in the political process in Manitoba, it is essential that all such registered parties be represented on the commission. The commission's task is to control and, if necessary, to prosecute and that's another important area. Section 60 refers to the fact that the Crown has no status under this bill. The commission alone will have the sole authority to bring in prosecutions and deal with all matters pertaining to this Act. So this is a very powerful commission which has, in a manner of speaking, the right of life and death over anybody under this section.

The commission's task is to control, as indicated, and if necessary, to prosecute the activities of all registered parties operating in the political process in Manitoba and not just in the Legislature. Any political party subject to the policing and prosecution powers of the commission should surely be entitled to a voice on such a commission. To do otherwise is analogous to taxation without representation. It is our position, therefore, that the requirements for representation of registered political parties on the commission should be consistent with the definition of a registered political party under Section 14 of The Election Finances Act and not with any definition of an official party under The Legislative Assembly Act.

As you can determine, gentlemen, that if we had a situation which would take place, as we have in some other provinces, where one party were to dominate, totally, the Legislature, and there were not to be four members from any other opposition party in the House, that commission would be totally made up, in fact, of the governing party and they would totally then have the ability to control, deal with the Act as they saw fit and, even as indicated at the outset, there is no recourse for the Crown. We think that this kind of composition is totally unacceptable in the political process. What you have, in fact, is that the registered political parties, under Section 14, that comply, but let's say have maybe even three members in the Legislature, would not be allowed to have a representative on the commission. And we think that totally must be altered. We strongly argue that that section cannot go in as is. We think that as long as you are a registered political party you should have representation on that commission. And if you don't meet the requirements of Section 14, then you don't get to sit on the commission.

Further, the Liberal Party in Manitoba wants to see a reasonable limit on election spending, in money and donations in kind, by parties and candidates seeking provincial office. Bill 96 removes the overall election expenditure ceiling previously under The Elections Act and once again gives a decided advantage to the wealthy parties and candidates. In this respect it is a step backward. There are limits proposed on the spending for media advertising but

there are a number of exclusions such as brochures and lawn signs — an obvious loophole.

Now that, I think, again is quite clear as what the Act is trying to do. It is showing a bit of an effort on one side to control advertising, and it gives the appearance that advertising is limited to 40 cents per constituent and so forth but the real crux, such as lawn signs, door-to-door mailings, or whatever else you want to do, has no limitation whatsoever. We have a Federal Expenses Act which puts a definite limit on what anybody can spend in the constituency, per person being elected in that constituency, per electorate. Now why this Act wants to limit advertising and not any other means of campaign contributions or campaigning expenditures, is beyond us in the Liberal Party. If you want to limit one thing, then limit everything or limit nothing, but don't make it appear that you are limiting it to 40 cents per electorate for advertising only. In the meantime you could be spending 100,000 on brochures and that's no limit whatsoever. I think what we have today, it's quite clear what we're trying to establish is that everyone has the opportunity of coming forward, placing their name before the electorate and if they're with an independent or a political party, let everybody have the opportunity of getting elected but let's not have a matter of overkill where you're going to be spending a fortune on elections, as some political parties are apt to do and you're limiting a thing called advertising. Why advertising I don't know. It seems that at least we should have a definite limit, per constituency, 40 cents for all types of campaign expenditures, or whatever you're going to establish, but establish a limit, it is the only logical thing to do.

Another concern which we have in the Liberal Party is point three, we object to the proposed prohibition in Section 32 against donations to political parties in Manitoba from non-residents and from federal political parties. This is an affront to the rights of citizens of this country, including many former residents of Manitoba, to contribute to the party or candidate of their choice. We also cannot support a provision which interferes with and undermines the existing organizational unity of national parties of Canada.

And again, it is self-evident, one of the major concerns we have now is if we're going to be limiting expenditures, Section 32 says that you can't have any type of contributions from outside of Manitoba. To start out with, it allows 100 per registered candidate. Now you gentlemen know, you aren't going to get far on 100.00. Why even allow 100.00? I don't know, it doesn't make sense to begin with. And if you're going to limit yourself to funds which are only in Manitoba, again, as was pointed out earlier, it's the wealthy parties that are going to get the benefit, or the wealthy candidates that go ahead and spend as much as they wish, under this Act, from their own resources. There is nothing, no reason whatsoever, why people from across Canada, from British Columbia or Newfoundland, or any other province in Canada, or the Territories, cannot send money in to candidates they wish to support. You were well aware that we're exporting people, a lot of these people want to come and send money to maybe their relatives, friends, who knows what they might want to do, they might change the government, who knows.

Maybe it's a plus but we're saying, just from a typical point of view, if you're going to send in moneys, there's no reason why you shouldn't be allowed to do that. If you don't qualify for a tax receipt in Manitoba, fine, but if you want to send in the money why should you be prohibited from doing that? And if a federal political party, wishes to assert itself and provide moneys or help in the organization of that provincial campaign, let it be enumerated, let us say how much the federal party contributed in moneys, or in kind, by workers or organizers, then let that be recorded so we know exactly what has been spent; but don't prohibit it. It doesn't allow for any advantage to the political process. We're balkanizing this country as is, and now we're really drawing up borders. You in Sault Ste. Marie can't send to my candidate in St. Johns 100, because I happen to know him and he's a good friend of mine, I'll send him 100.00. You can't do that. There's no rationale behind that. In fact, what we can do is help defray the cost of election expenses if people prefer to contribute from outside, it makes for a better opportunity.

So these are the three major areas which we are concerning ourselves with and we think that to make the electoral process we commend the government on bring in an Election Expenses Act, we think it's long overdue, to have a deduction for your contribution to political parties, we have that in other provinces, we have it in all of Canada. But don't limit it to these things that have been pointed out here where we are, in fact, I think, cutting our own throats with unlimited expenses; the makeup of the commission which is totally unacceptable, and in particular, Section 32 which deals with the matter of curtailing funds from outside of Manitoba.

So that, gentlemen, is my brief presentation. If there are any questions I'll be free to answer them if you should wish.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Doern.

MR. RUSSELL DOERN: Mr. Chairman, to Mr. Petryshyn, so I gather then that you do, in fact, support an extension of the present amounts, in other words, so many cents per candidate and so many cents per political party. You prefer a system whereby, say, that would be enlarged, as opposed to the present totals which some people have complained about, in comparison to having partial limits, in the sense of limits on certain types of advertising and unlimited on the rest.

So my question, just to summarize is, do you favour a system whereby you would allow a candidate so many cents per voter, and a political party so many cents per voter, as compared to what's proposed in the bill?

MR. PETRYSHYN: Exactly.

MR. DOERN: Mr. Chairman, I wondered if Mr. Petryshun had any thoughts on enforcement. There have been some problems in regard to enforcement. I think some of your candidates have had this problem. I just wondered if you had any observations

about that matter, in that I believe some of the government people have felt that one of the reasons they're opting for this type of an Act is that they cannot, in fact, enforce the present Act, and I just wondered whether you believe that an Act can be enforced once you set the limits?

MR. PETRYSHYN: Mr. Chairman, I think that's the purpose of the Act itself and we certainly would take a look at the present situation, where it appears that, for political reasons, the Attorney-General's office is not very keen on making prosecutions for anything that's not totally relevant to Election Expenses Act and I think that if this Act were to come into effect and that commission, in fact, was established as we envisage it being amended, but properly being enforced, we certainly would see no reason whatsover why the Act should not be enforced and if a candidate, or a party, does not comply with the Act as, finally it's going to be brought into effect, then certainly we think that prosecution should take place and it should be enforced to the full extent of the law. And the reason why, I guess, candidates from all parties have not really followed the Act, or have overspent or have not followed it because as it is set out the restrictions were not practical. The spending amounts now on a campaign, to be realistic, are nowhere near what the practical value is under the old Act. So we think under the new Act certainly that should be followed up with stringent rules and it should be followed.

MR. DOERN: Mr. Chairman, do you make a distinction between a lawn sign and a placard or poster, because some of these things are in fact identical and I suppose some could be different but do you distinguish, for instance, between posters, lawn signs, balcony signs and so on?

MR. PETRYSHYN: No, I think what we're looking at is all kinds of advertising or any kind of brochures or literature, whether its lawn signs and advertising in apartment blocks, of any sort. We really don't make any distinction between them. We think they all should be considered as an expense and if that expense is, in fact, incurred during an election, then it should certainly meet under The Expenses Act and what it cost for that to be prepared or donated, should report the expense. We don't distinguish, really.

MR. CHAIRMAN: Mr. Doern.

MR. DOERN: Mr. Chairman, although I agree with Mr. Petryshyn on his third point about donations coming from outside of Manitoba, I wondered whether he can envision a solution to what may be a problem. If a provincial party would have to reveal its sources of income, but if a provincial party, I suppose, received federal contributions from its federal senior party, then I suppose they would read on the surface a contribution, say, from the Liberal Party of Canada, and would you support, say, a disclosure of their sources? Namely, if the provincial party has to enumerate all the sources of its funds and one of those lines was 50,000 from the Liberal Party of Canada, would you then require a breakout of the basis of their contributions, either directly related to the 50,000 or related to all contributions from the federal party? Otherwise there may be a problem there in that some corporation may make an indirect contribution to Manitoba by just giving it to the federal party and then it comes through and it reads on paper as a Liberal Party of Canada. I'm saying, do you see a problem there or not?

MR. PETRYSHYN: Mr. Chairman, I think that there could be a problem in almost any type of method of funding. A corporation, for example, within the province can perhaps make a contribution and that money would be coming in from some other source and you would reveal it as being from that corporation. I think the Act would be clear that it's all moneys received directly or indirectly.

Now the federal parties, all of them have a federal Expenses Act so they have to declare where their moneys are coming from. I think in that respect you know where they receive their moneys from. So if, in fact, the New Democratic Party were to donate 50,000 to the New Democratic Party in Manitoba, then that certainly would be, I think, an allocation as to those moneys coming from that party and where they got their money from would be allocated federally because they also have to declare where they get their money from.

If, for example, a union were to donate directly to the party and say, these moneys are for Manitoba, then I think that kind of a distinction should be made. But if it's a simple funding of a provincial party, then I think sufficient notification would be that it is from a federal party and it should be duly notarized, duly recorded but it shouldn't be restricted, was what we're saying basically.

MR. DOERN: So you also favour then the full disclosure of trust funds?

MR. PETRYSHYN: Yes, Mr. Doern, we do.

MR. DOERN: And you're willing to forego whatever benefits there might have been to non-disclosure? I gather then in the '73 provincial election the Manitoba Liberal Party received on its report, that it submitted on the election, that 100 percent of its funds came from a trust fund. You're now willing to forego whatever benefit there might have been from anonymity?

MR. PETRYSHYN: Well, I think it's quite clear that we're dealing with an Act now that requires us to indicate how much moneys are being spent and to give a proper receipt under an election expense, whether it's coming from a trust fund or a corporation or another federal party. I think it's incumbent that disclosure should be made.

MR. DOERN: I wanted to ask a few questions on the proposed election commission which I think would be better handled by the Chief Electoral Officer but there is a proposal here that a commission be established and you already voiced objection to the possible representation of your party or other parties who are in a non-legal party status at the moment. I just ask you again, you've already made this point, but if the enforcement would, in terms of there has been a problem with enforcement

in terms of over-expenditure, etc., etc., you believe that if this was by a commission or as I intend to propose, by the Chief Electoral Officer with strength and powers including powers of prosecution, that that would eliminate enforcement problems at present. Is that your view?

MR. PETRYSHYN: Well, to answer you, first of all regarding enforcement, I think it's as anything else, if you have an Act and you don't enforce it, it only can be as properly implied if you do take the full extent of the law which is available to you.

Our consideration with the makeup of this commission, and also we gave thought to what you're suggesting, of having the Chief Electoral Officer alone deal with that. It certainly is another way out of this dilemma as we see it with Section 3 subsection (2). That certainly would be a possibility if that Chief Electoral Officer had a proper staff and had proper type of support where he or she could then look into the various allegations or enforcement of the Act; and to put it in the hands of someone who would be totally non-political, we certainly would have no objection to that kind of solution either.

But since we're saying we're dealing with this type of composition of a commission which has been put forward, our main concern is that it simply is governing registered political parties, and even those parties that aren't registered, as per their representation in the Legislature. So in fact you have the Legislature Act pursuant and applied to the political parties and I think, in that respect, I think it certainly should be changed to what we're suggesting is that it shouldn't be limited just to the number of people or elected representatives in the Legislature. But if you're going to be complying with the terms of this Act, then surely it should make sense that you should have someone on that commission, especially if you're liable to prosecution and subject to all the provisos which that Act envisages. And just because you don't have four, as we say, four elected representatives — you may have three or two or one — and yet you aren't able to have anybody on the commission.

The real scare which most people look at is, again, that possibility of one party totally dominating the Legislature and then having absolutely no opportunity of any other political party being there, and it becomes a total total political weapon, I think, at that time.

MR. DOERN: Did you have an opportunity to study the Ontario operation of an election commission or any other jurisdiction?

MR. CHAIRMAN: I would just like to say that Mr. Petryshyn does not have to answer that question because this leads us into another jurisdiction. Mr. Petryshyn.

MR. PETRYSHYN: Just briefly to say, we looked at a couple of the other Acts and considered them. That's all we really have had the opportunity to do. One of the things that we're saying at the outset is that because we're in Speed-up and the way that this bill is being presented, we really haven't had time to sit down and really give good thought to all the other Acts, and so forth. I've been phoning a few of my friends to find out what kind of Acts they have in B.C. or in Ontario and trying to get a hold of it but we're just in a rush situation now. That's one of our main concerns of why this bill is being presented at this stage.

But really to say we sat down and gave it deep thought, we really haven't. We've looked at it but that's about all.

MR. DOERN: Well, I think you're now raising a very major point and that is, do you feel that there are so many problems or complications or complexities in this Act, that it should not be proceeded with at the present time?

MR. PETRYSHYN: Definitely. I think that it's quite clear, as I said at the outset, and the release which we had presented earlier is that the sheer volume of legislation being presented now to the House and, in particular, this Act which we're really in favour of having some kind of an Act where you are able to contribute and obtain tax receipts on a provincial basis, but why present it now in such a rush time when you can't sit back and look at all the various problems with it. We've only limited ourselves to three areas. We've gone through the Act on a very quick basis but there are so many other concerns we have that presenting it at this time just presents, I think, more problems and I think more thought should go into it and I don't think it should be proceeded with at this time.

MR. DOERN: Your presentation is in regard to Bill 96. I assume that one reason you're not speaking on Bill 95 is that you are, in principle, in favour of it or, in principle, do not oppose 95.

MR. PETRYSHYN: That's correct. There was some matters arising out of it but I think one major area of concern has been withdrawn. I think we're all aware of what we're referring to at this time, and in general, in principle anyway, we are prepared to accept Bill 95 as is.

MR. DOERN: So you're saying in regard to 96 that in addition to the complexities I assume that you also have some straight opposition and some serious doubts and reservations, and on that count you would actually recommend the withdrawal of the bill.

MR. PETRYSHYN: That's right. I think as we said before, just the time of it at this stage, I think you need a good thought of what is being presented here and an opportunity to discuss it in the House, to look at it in committee stage and to have a whole election dealing with the matters pertaining to the upcoming election. We have new boundaries which would have been brought in, there's going to be a whole different approach, I think, at what will be forthcoming in the next election, within a year or a year and a half, and I think at this time to rush through with this bill, I think it's totally unacceptable to most of the political parties and to the Electorate, I think.

MR. DOERN: Mr. Chairman, I also want to ask Mr. Petryshyn whether he had any concerns about the fact that the Chief Electoral Officer is appointed by

the Executive Council and I ask him whether he would support the suggestion that the Chief Electoral Officer should be appointed by a committee of the Legislature, as opposed to the Executive Council.

MR. PETRYSHYN: I think the appointment in the past has always been of the same type of approach as this one has been done. I think that when we're considering with the Chief Electoral Officer, the more independent the person can be, or at least appear to be even, then so much the better. I certainly would have no objection and even heartily endorse the fact that in the future we should look at maybe, in the Legislature as you suggest, a committee or some other type of independent body being structured, such as we have an Independent Boundaries Commission being established and so forth, something to totally make it even appear to be. We have no objection with a person holding the office today or people in the past but I think just for the clarification and to make it appear totally non-political that maybe some other method could be achieved.

MR. CHAIRMAN: Before I recognize Mr. Doern, I would like to advise him that he is now getting outside of the realms of Bill 96 and we would like him to have his questions pertaining to Bill 96. Mr. Doern.

MR. DOERN: Well, Mr. Chairman, I have to tell you that the Chief Electoral Officer is in fact a very important person in regard to both of these Acts and is discussed in each Act.

My final question is, I wondered whether you had any thoughts or recommendations into the question of direct public funding. We're discussing what might be called indirect public funding here, a system whereby tax rebates are given. I assume that you support that. I wondered whether you had considered another alternative or another supplement which is direct government aid to political parties in the form of 25 or 50 percent of their expenditures at election time.

MR. PETRYSHSYN: Mr. Chairman, to answer that, I think that also, as I said, there's so many things that have come up in this Act which we haven't had a time to even make a presentation on. But to take the Federal Act, if a candidate gets 15 percent of the vote, then he or she gets a rebate of X numbers of dollars and we certainly don't see anything wrong why this should not also be implemented in this Act.

I think it would just be more beneficial to have that kind of a procedure. I know for a fact that in Saskatchewan that kind of legislation is in effect; that if you get a certain percentage of the vote, then you get a certain amount of the money rebated. So that's the kind of thing that we would favour, at least, rather than saying the funding of 25 or 30 percent of the expenses direct by provincial party or a federal party or a federal government, with that kind of a proviso, which is akin to the federal Act, we certainly would have no objection and it would make a great deal of sense, too, to put it in.

MR. DOERN: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Uskiw.

MR. SAMUEL USKIW: Mr. Petryshyn, I happen to concur with your recommendation that this kind of legislation should probably not be rushed through and it was my own suggestion to the Attorney-General that we refer the matter to this committee, but that this committee not report until the next session so that we would have an intersessional period that would give us an ample opportunity to review the intent of the bill and to make the necessary recommendations that would flow from such a review.

I want to ask you one other important question and that is, as a matter of principle, would you agree with me that this legislation should be — I'm talking about Bill 96 — that this legislation should be a concensus recommendation rather than a partisan recommendation from this committee?

MR. PETRYSHYN: By all means.

MR. USKIW: Okay, that's all.

MR. PETRYSHYN: You know, what we're looking at is simply a situation whereby this is so important to every political party, to every independent person that seeks political office, that it really should be, I think, a bipartisan study and an agreement of everybody as to saying, the idea is not to take a look who can win the next election; we're looking at the idea of forming this bill to make it as fair and as equitable and justifiable for anybody wishing to seek political office. I think that's what you're trying to do is establish, you have the principle here, what you want to do is give people financial incentive to contribute to political parties. So don't restrict it by other means because actually with what we're raising, in particular, is going to make it seem that what you're trying to establish is quite good on the outside but deep down, with all the problems that you're establishing and the commission makeup and the other elements that we've done, I think you're just going to create more of an enforcement problem in the future and you're going to turn this into a very political-type of issue. I think it should be non-political really.

MR. CHAIRMAN: Are there any further questions? Mr. Mercier.

HON. GERALD W.J. MERCIER: Mr. Petryshyn, do you believe in disclosure of identification of contributors to political parties?

MR. PETRYSHYN: I think that, taking the federal Act for example, where anybody contributing over 100, any corporation, individual, they're duly recorded and made public. I think that kind of disclosure should be available under this Act as well, any contribution over 100, even less, except for clerical problems and so forth. I think disclosure would certainly be appropriate.

MR. MERCIER: Mr. Petryshyn, how would you foresee your third suggestion whereby federal-political parties would be allowed to contribute to

Manitoba political campaigns? How would disclosure be accommodated under those circumstances?

MR. PETRYSHYN: I think the question was raised earlier, where you would have a contribution being made, say, from the federal Progressive Conservative Party to the provincial Conservative Party and that would be duly notarized and indicated that a contribution of X number of dollars was made.

Now federal-political parties have to indicate where they receive their funds from as well, so you have a federal disclosure, you know where they got their moneys from and if a federal party contributes to a provincial party, then you have an indication as to what was contributed and by whom and the Act is clear; it's direct or indirect funding. If they're trying to pull off some kind of, as indicated earlier by Mr. Doern, if it's an indirect contribution by a corporation or some other type of means to try and circumnavigate the Act, then obviously you would have a matter of enforcement. But I think that you would certainly have to disclose that, for example, the federal Conservative Party gave X number of dollars to the provincial party, and that would be sufficient, at least for that purpose, because they have to indicate where they got their money from. So you have two means of disclosing.

MR. MERCIER: Mr. Petryshyn, do you think Manitoba political campaigns should be run and paid for by Manitobans or should there be allowed a possibility of a significant contribution or influence from outside Manitoba?

MR. PETRYSHYN: Well, I think what we're looking at is having an election being run by Manitobans and people who reside in Manitoba. But what we're saying also is that, by bringing in Section 32 you're eliminating any contributions from outside the province. Certainly one could say that somebody from another province then will be able to control a political party within a province because you're getting money from some other source. I think that we have sufficient safeguards in our political process that we have disclosure as to where the money is coming from and I think that if somebody from outside the province wishes to contribute they can do so. It's not a question of, do Manitobans or do Ontarians, or Nova Scotians, run the political party in Manitoba. I think it's strictly a matter of having the opportunity to contribute to that political party but certainly no one but Manitobans and people in Manitoba run their political process.

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

MR. CHAIRMAN: Mr. Doern.

MR. DOERN: One other point, Mr. Chairman, Mr. Petryshyn talked about the need for a bipartisan approach on legislation of this kind, and I ask him whether he believes that Bill 96 is biased in favour of the government?

MR. PETRYSHYN: Well, it's a difficult question to say that biased, I can see difficulties arising and for example, Section 3(2) dealing with the composition, as I've said many times, there is a potential inherent danger here if we do have ourselves akin to some other province where one party dominates, then you really can have the government, in the future, dominating that commission, and we can see that, in the future, there may be some difficulty arising from this type of legislation. So what we're saying is that it should be a bipartisan approach in establishing this Act, and also that a bipartisan approach can be used in the future, should you ever have one political party totally dominating the Legislature. So I would not want to say directly, this is a government instrument out to completely destroy the political process but it creates enough problems in this bill, in this whole section, that it could be deemed to be something that, I think, the government itself maybe perceived as not having thought the thing through and making it into a very political type of bill that it is.

MR. CHAIRMAN: Are there any further questions? Thank you, Mr. Petryshyn.

MR. PETRYSHYN: Thank you, Mr. Chairman.

BILL NO. 95
THE ELECTIONS ACT

MR. CHAIRMAN: Mr. George Forest, Bill No. 95.

MR. GEORGE FOREST: Mr. Chairman, ladies and gentlemen.

MR. CHAIRMAN: Before you proceed, Mr. Forest, do you have copies of your presentation.

MR. FOREST: I'm sorry to say, Mr. Chairman, I haven't. I have been researching it somewhat and I've prepared a lot of text but I was able to get a copy of the bill only a matter of a week ago and I haven't had time to put all my notes in proper order. But I do believe that you are recording and perhaps you can get a transcript from that and if possible I can have a transcript copy sent to me.

I have the distinct impression that my coming before you today is just a waste of time. With all that has been said in the House and what is being said today since the introduction of the bill on July 7, I can very well imagine that the governing majority of the province of Manitoba is only ready to go through the required format and is unlikely to pay any attention to the feelings of minorities.

I wish I could feel here like a full-fledged Manitoban and make a contribution to your debates on the technical content of the bill in question but alas, like my father before me, like most Canadians of French origin in Manitoba, since even before 1890, I must first of all establish respect for the recognition of my own language in these the halls of legislation.

In spite of having English shoved down my throat I have no regrets for having been able to master Manitoba's two official languages. However, I regret not being able to share with you my contribution to Canada's developing culture, in this Legislature and with my fellow citizens of this province. It is ironical to have to point out, and even to the point of being ridiculous, how the government of Manitoba has placed itself in sympathy with the present government of Quebec. The subtle policy of the Rene

Levesque government to consider as Quebecois only those who speak French, seems to have its parallel in Manitoba, where to be on the pro-separatist stance in the guise of feeling alienated from Ottawa, and the east in general, we must follow a dangerous border-line position of maintaining an English only approach to identifying Manitobans or westerners.

MR. CHAIRMAN: Are you dealing with Bill 95?

MR. FOREST: Yes, this is just a preamble, Mr. Chairman.

MR. CHAIRMAN: Okay, proceed.

MR. FOREST: Gentlemen, I've often heard the expression, the spirit as well as the letter of the law, neither of these are being respected. The government of Manitoba, through its advisors from the Attorney-General's Department, is still fighting the case it lost in the Supreme Court of Canada on December 13, 1979. All the Attorney-General can say, in reply to a question as to what the government s doing or has done to implement Section 23 of The Manitoba Act of 1870, is the January 1980 announcement of translating law records of the past, and making some weak attempt at providing some ranslation of current bills in the Legislature.

Mr. Chairman, this is simply not enough. I'm about .o lose all patience with Mr. Mercier and the government of Manitoba. The government of this province is not being seen as respecting the decision of the Supreme Court of Canada. Last December 22, 1979, the Winnipeg Free Press wrote an editorial and one of its writers, Fred Cleverley, wrote an article entitled 'Planning for Bilingualism''. I would like to ead parts of these two articles, Mr. Chairman, to how just what progress has not been made since December of last year.

Applying language laws, says the editorial, there is ll the difference in the world between the reactions f the Quebec and Manitoba governments to the uling of the Supreme Court which reaffirm the inority language rights guaranteed by the onstitution.

In an effort to arouse resentment against the ederal system in the English-speaking minority uebec's Cultural Affairs Minister, Camille Laurin is usy putting the broadest and most outlandish terpretation possible on the ruling. He has claimed, r example, that the ruling will force municipal ouncil, in areas where no word of English has ever een spoken, to function bilingually.

In Manitoba, by contrast, the provincial overnment, with a minimum of rhetoric, is going out the business of finding out how to give the ling practical effect. As an article on this made by ed Cleverley points out, ''There is no agreement on hat changes must be made to government practice re to comply with the law. George Forest, whose gal challenge lead to the ruling may well be sappointed with the practical results of his mpaign, but the best guides for Manitoba are, doubtedly; first, common sense and second, the actice that has been followed in the two other anadian jurisdictions which have been officially lingual since Confederation''.

On that basis the changes here will not be as drastic as some had hoped and others had feared. There is no apparent need, for example, for a simultaneous translation of the proceedings of the Manitoba Legislature. The federal parliament got along without translation for the first 90 years of its existence and the Quebec National Assembly has never had it and, of course, at the time of The Manitoba Act of 1970, when it was passed, it was never thought of because it would have been technically impossible.

Similarly, Quebec has got along without translating Hansard, just simply publishing the speeches in the language in which they were delivered. The documents which will have to be translated are the daily minutes of the Legislature, called Votes and Proceedings. Copes of new legislation will no doubt have to be translated and the government will surely have to begin translating the laws which are on the books at the moment, beginning with those most likely to be used.

All courts will not be bilingual but they will undoubtedly have to have facilities to hold trials in French if the need arises. All civil servants will not have to be bilingual but someone ought to be able in branches of departments which deal with the public, to cope with French-speaking citizens.

All of this, of course, adds up to a good deal less than the bill of linguistic rights for Manitoba's French-speaking community. The real essentials for the survival of that community are not translation of government documents but government support and the economic education and cultural fronts. Action in these areas is not imposed by the Supreme Court. It should be imposed by the government upon itself as a basic recognition of the rights and needs of its own citizens.

In the Fred Cleverley article, I won't read it all, there are two points that I feel might be mentioned. One has to do with comments made by the Chief Justice of the Court of Queen's Bench. I cannot understand for the likes of me, Mr. Chairman, how Chief Justice Archibald Dewar could be emitting opinions on how Section 23 of The Manitoba Act should be implemented in Manitoba, in view of the fact, that he has possibly ruled himself out on further judgments or anything that may come before him in the future.

The second point, and it's under the heading of Retaliation in the article by Fred Cleverley, ''Arguments over the implementation of bilingualism in Manitoba, if they occur, are likely to surface first in the Legislature. At the moment, no member of the Legislature is unable to understand English. If, however, a member who also speaks French decides to stand on his constitutional rights he may run into some trouble that has no basis in law. If the use of a second language inconveniences others they may retaliate in one or other of the languages, other than English or French, that are common in Manitoba. If the Speaker follows past practice and allows any language to be used, the net result may be temporary confusion''.

I mention that last point, Mr. Chairman, because I believe that is possibly one of the major stumbling blocks, perhaps not of the government itself but of individuals in Manitoba, members of the opposition as well, who feel that their electorate being neither of

the English or French-speaking cultural community, as such, have an equal right for the use, preservation and continuation of their language as on semi-official status.

That I am sure, Mr. Chairman, is a fallacy that will have to be put to sleep. It is a mistake to lead the people to believe that Canada is not a bilingual country or that to be bilingual Canada need only be English at one end and French on the other.

When I said a while ago, and I'm coming to the point of my only remarks on the bills before you at this moment, is that I do believe that the government owes it to itself to start with the coming elections and making certain that they are run on a bilingual basis.

On Page 242 of The Manitoba Law Journals, Volume 10, Professor Magnet reference to whom I made in a presentation earlier before you, had this to say: "Immigration from Ontario proceeded rapidly as expected after Manitoba joined the union. Franco-Manitobans quickly became a minority. English settlement, however, was territorially separated from French, the two cultures were concentrated in different districts. Territorial separation prevented assimilation and preserved the cultural duality of the province". The next paragraph:

"In this condition French flourished. Provincial legislation encouraged it. Provisions were made for bilingual municipal notices. Similar legislation stipulated for bilingual proclamations, electoral forms and voters notices. Mixed juries in criminal trials were an affirmed right; in some districts mixed juries were allowed on civil cases".

Though the government of Quebec tried to make political hay out of the December 13th decision, as were the remarks by Camille Laurin and other remarks by members of the Levesque government crying out "injustice", the Quebec government nevertheless — and I'll repeat that — nevertheless sat till 4:00 o'clock the next morning of December 14th, to render official the English version of all laws passed in the National Assembly since 1977.

At stake was the validity of all laws including that legislation which aimed at expropriation of the asbestos industry in Quebec. The Manitoba government, in contrast, to use the words of the editorial, with a minimum of rhetoric was going about the business of finding out, to give results practical effect. The editorial writers should have added, "doing it without enthusiasm, without any efforts that come from goodwill".

Gentlemen, last April 29th I wrote to the then Honourable Gerald Mercier in these terms: I'll have to translate the letter as I read it in French. "More than three months have gone by since we met in your office in the Legislative Palace. It is now four months since the unanimous decision of the Supreme Court has been rendered. On the 18th of January, in effect, during the audience which you had the courtesy of according me, I spoke amongst other things of the need to apply Article 23 of The Manitoba Act, without fanfare, even with debate in the Legislature. I come back to ask you today to take your own remarks seriously, to the effect that the spirit, as well as the letter of the law, would be respected. Let us take up the discussion".

"Under heading 'A' of the discussion paper which we had before us on January 18th, I said that: 'Since the use of English and French were mandatory in the Debates of the Legislature, how can you justify the absence of simultaneous translation when more than 50 percent of the members cannot understand what is being said in French?' You are not without knowing that Article 23 stipulates 'equality of the languages, English and French in the Legislature', just as Article 133 of the B.N.A. Act of 1867 stipulates equality of the two same languages in the parliament of Canada and the National Assembly of Quebec.

"Application to the letter of Section 133 in the Debates of the National Assembly of Quebec should be respected in the same way as it is now in the parliament at Ottawa. It's good and well for the members of the Legislature and the National Assembly to speak and understand both official languages. However, since the Legislature is not the exclusive domain of members of the Legislature and that the public is welcome to attend, why should the unilingual English person in Quebec or the unilingual French person in Manitoba be treated as a stranger? Or still, why should a citizen, just as well as a member of the Legislature, not use the language that he chooses, or hear in the language that he will, knowing that he will be understood and that he'll be able to understand?

"Also under heading "B" of my discussion paper, I brought to your attention the fact that it was necessary that all the Archives, procès verbaux which is the French word for minutes and the Journals of the House be translated. I repeat once again, Article 23 of The Manitoba Act did not say that it would have to be the official Archives, to be the official minutes or to be the official Journals. The Hansard, be it official or not, is a record, is a journal and is the procès verbaux or the minutes of the meeting.

Hansard in Ottawa is published in both official languages. I'm sure that Hansard in Manitoba would have, since 1950 when it came about, have been published in both languages if the error of 1890 had not been committed. In my humble opinion it is evident that Hansard is an archive. I've often heard, Mr. Chairman, members of the Legislature, and I think it's been put in print, they quote from the records by quoting something that was said several days past. It is evident that Hansard is also the minutes and also a Journal.

"May I recommend that you go beyond the Department of the Attorney-General for advice on the application of Article 23 of The Manitoba Act. To judge by the slowness of the putting in application of the said article, your legal counsellors are still on the defensive and they risk being perceived as being political councillors. Waiting for you to establish a definite program, in the form of a schedule in both domains, which I mentioned hereabove, simultaneous translation and French version of Hansard, I would beg of you to make it possible for me to receive, from the Bureau of Translation, that which was said in English, the English text of that which was said by Mr. Desjardins on the 26 February last. And the English text of all remarks made in French in the Legislature. I do not for the time being, ask to receive the French text of everything that's been said in English." We'll come back to that later on.

I beg you to believe, Mr. Chairman.

MR. CHAIRMAN: Order please. I have a great deal of difficulty relating your comments to Bill 95, which deals with The Elections Act. This is setting up polls, making up voters lists and so on. You really have not been addressing yourself to Bill 95, so far.

MR. FOREST: I'll mention, Mr. Chairman, with all this preamble — (Interjection)— Can I finish, Mr. Chairman?

MR: CHAIRMAN: Mr. Uskiw, on a point of order.

MR. USKIW: Mr. Chairman, I wish to indicate to the Chair that Mr. Forest had alluded to the fact that he wanted the next election run on the basis of a bilingual approach and what he is relating to us is to date the contradictions of the government's policy with respect to that question since some months ago, and as I understand his comments, he is suggesting that that should not continue into the future and into the next election. His pitch is that we have to prepare the next election process in duality, if you like, that's my understanding.

MR. FOREST: That is it, Mr. Chairman.

MR. CHAIRMAN: Thank you. If Mr. Forest, would like to have his comments in regard to The Elections Act and the problems that he foresees, and them not being bilingual, there's no problem. But when we're talking about Hansards and about all kinds of other things, these are not covered in this Act and we're straying off the topic. So if Mr. Forest would confine his comments to Bill 95, we'd be very pleased. Mr. Forest.

MR. FOREST: I was sure you'd be very pleased if I had very little to say. However, Mr. Chairman, since I am not able to, because of my own profession, my own work, to be able to spend more time and being present at all your meetings, I have to bunch things a little bit together. If I had been able to, and I doubt whether anyone in the province of Manitoba has been able to, have some input in that bill which I believe was No. 48, on amending the Legislative Act, what was it, in order to increase your salaries, on the very basis that the members of the Legislature are possibly in violation of the very existence of this Legislature, I would have called for a heist or a put away, or put back to perhaps the Greek calendar, as one would often say, increases in salary. I doubt whether many of you are aware that the same weight that was on the shoulders of the government of Quebec on the 13th of December is also to be borne by the Manitoba government and that is the big question. Are the laws since 1890 valid in Manitoba? Are the laws valid? And because changes have been made, is the very existence of the government of Manitoba either a question to be interpreted by the courts. Because of that, I'm not prepared to declare the government to be outlawed because we do have to have authority. Without being autocrats I'm sure that we can practise democracy.

I'm confident, Mr. Chairman, that the time to begin s at the time of an election that's coming up. I'm sure that the ballots have not yet been prepared, I'm sure that the voters lists will have to be made, these things could be done, and will then appear that bilingualism is official in Manitoba. It isn't enough, Mr. Chairman, and I would repeat it, to state that French is official if it's not to be respected as such; it isn't enough, Mr. Chairman, to just give lip service to the recognition for Manitoba, as well as for the welfare of the entire Canadian nation, for the Manitoba government to be dragging its feet in recognizing the full effect of Section 23 of the Manitoba Act.

I had prepared other notes, Mr. Chairman, but in deference and knowing that this is Friday and everybody would like to leave early tonight I will end there.

MR. CHAIRMAN: Thank you, Mr. Forest. Before we proceed with the questioning, I would appreciate very much if the persons who will be doing the questioning, would relate their questions to Bill 95. Mr. Doern.

MR. DOERN: Mr. Chairman, I'll relate my question's to Mr. Forest's presentation which was on Bill 95. I just want to ask him to clarify one thing because I could not quite understand his point. He seemed to say, several times, that the Manitoba government was fighting the decision of December 1979, ever since, or was now beginning to fight the Supreme Court decision of December 1979, and I just wondered if he could explain what he meant by that? Did he mean that they are reinstituting some sort of an appeal or launching some new legal or formal procedure, or is he talking about foot dragging in regard to implementation?

MR. FOREST: It is basically, Mr. Chairman, these last remarks of Mr. Doern and the fact that I do believe the government is purposely foot dragging. If it were a question of priority, I would suggest that the government could have, before now, produced the official French version of The City of Winnipeg Act, The County Court Act, The Court of Queen's Bench Act, and The Summary Convictions Act. Those are the four documents that were asked and accorded by the decision of the Court of Appeal of Manitoba, in order for my case of 1976 to be carried on with and terminated. I cannot understand for the life of me why those four particular bills should not, before now, have been considered priority. On the other hand, just sitting back and saying that spending 500,000, a good measure of which I'm sure must be paid by the federal government, and waiting till perhaps five years before doing something else is not enough. As I mentioned and repeated, and I will repeat many times again, there is no need for legislation in order to apply Section 23 of The Manitoba Act, it's there.

MR. DOERN: Mr. Chairman, I wanted to ask Mr. Forest if he could be more specific, or at least for purposes of illustration. We have these two bills before us and he's specifically talking on Bill 95 which has to do with the mechanics of elections and so on; what sort of things is he looking for? For example, is he looking for ballots that are printed in both languages? Can he give us some illustration of how a government, fired up with the idea of bilingualism and biculturalism in Manitoba would act? What would they do in regard to the mechanics

of the election? Bilingual poll clerks, bilingual ballots, what sort of things do you envision are needed?

MR. FOREST: Step by step, Mr. Chairman and Mr. Doern. I'm sure that those things which are possible could be done and that is in the field of the bilingual documents and I think a set example already there is the federal government's way of running elections. From then on, of course, wherever it is possible to prefer, not only a bilingual person, but I would encourage a trilingual and a quadrilingual and a quintilingual person sitting at the ballots, in order to be able to understand and better serve all the people of Manitoba. But this is something in progress. I think we can all be elated at knowing that more than 50 percent, as of last year, and I think perhaps this coming September we may be seeing close to 60 percent of the students in Manitoba are taking French. I deplore that point, as I mentioned before, that the government doesn't seem to recognize that there are hundreds of people that are able to advise the government about French and yet the advisory committee is not going to be taken from those very circles. I deplore the fact that the government is not taking leadership and Canada is going to be bilingual or else it will not exist. It's the only way. I don't know just whether I am talking in such language as you cannot understand but either we are going to form a Canadian nation as a bilingual nation towards creating a Canadian culture, as such, and it is still in the growing stages. If we don't do that we won't have a country, and it is these steps — I wouldn't be adamant in wanting to have everybody in the polls bilingual, but let's make sure that there is no squawks, let's make sure that people are available.

MR. CHAIRMAN: Mr. Doern.

MR. DOERN: So you were saying that the Supreme Court decision of last December, there is no evidence in this Bill that that decision took place.

MR. FOREST: I am sure the government didn't think it was necessary. Mr. Chairman, I don't think the government felt it was necessary. The government possibly is sitting on the posture this moment of saying, let's do the translation, let's put one bill or two in translation. I don't know just how much has been done. I am in limbo, I really don't know just where we stand insofar as the government is concerned, and nothing is evident that Manitoba wants to belong to the Canadian nation. Manitoba is still one of these holding a trump card in respect to saying, well, listen, we are not going to go bilingual, because if we do so we are going to have to say yes like Ottawa and Quebec.

I have often given a scenario of this sort, that if Manitoba were to really recognize the mistake that was done in 1890 and revert to what the fathers of Confederation wanted Canada to be, I am sure that Ontario would not be far behind. We are all aware that not more than a year ago a bill was passed in this House or it was unanimous until Mr. Davis vetoed it. There is goodwill, there has been talk about 25 letters that the government has received indicating that, no, French must not be official in Manitoba, but government should have more leadership than that. I could very well trade those 25 signatures or letters with the 25 or more letters that I have got, and they are possibly the same individuals. I am sure that there are thousands of people in Manitoba that would be prepared to go along with the policy on a gradual basis and let's get back into making Canada a country that everybody can enjoy to be living in.

I deplore once more, Mr. Chairman,- Mr. Doern, in reply to your question, the fact that I have to be continuously coming up here and appear to be an underdog or to be making excessive demands. It is the only thing I can do. I would like to have touched those other points of your bill and to discuss democratic application. I agree with those arguments that I have heard and read about that it should not be partisan. All that is happening is that the next government, if it should change, will then amend the law and make it its own plan of election. We are changing the rules of the game to please the people that are hoping to win. I don't think that is democracy in practice. I think we should expect from our legislators, not necessarily because they are lawyers or because they are erudites, but we should expect good reasoning, we should expect sage counsel from them, and I think it is lacking at times.

MR. CHAIRMAN: Mr. Doern.

MR. DOERN: Mr. Chairman, Mr. Forest earlier said that he regarded this legislation as paying lip-service to the needs or the rights of Franco-Manitobans. I wonder whether he was not even being generous in that. Is there any evidence of any kind that the rights or privileges of Franco-Manitobans are recognized in this legislation?

MR. FOREST: Oh, in this bill, no. Mr. Chairman, in this bill there is no evidence whatsoever of that aspect of official status of the French language being present and I think it is deplorable. I think it is deplorable.

MR. DOERN: A final question, Mr. Chairman. Mr. Forest described the fact that he only had a week's time to examine the legislation and he found it complex and so on. From his position would he recommend that the legislation not be proceeded with?

MR. FOREST: Frankly, if we are not going to make room for a recognition of the French language in this particular bill there is no need, in my opinion, for it being a change from what we have had in the past.

MR. CHAIRMAN: Mr. Uskiw.

MR. USKIW: Would you say, sir, that both election bills should be a non-partisan approach?

MR. CHAIRMAN: Mr. Forest.

MR. FOREST: Oh, definitely, Mr. Chairman, definitely. I would suggest that when it comes to matters of democracy we are not setting up the rules and ways and means of a political party when we are running the Legislature. This is why, up until the Supreme Court decision, I could well expect the government's at hand, Mr. Schreyer's government

previous to Mr. Lyon's government, at fighting my case; but once the decision of the Supreme Court was given I would have expected the Legislature or the government primarily to take the bull by the horns, so to speak, and to really get down and apply the law as it was written and as the spirit of the law intended Manitoba to be. This, I think, is what is lacking. We are not getting off, and let's not say that economics are more important. I think people are more important and if the character of this nation, the character of this province were to be one where everybody felt really at home, where everybody felt that they were respectful of the law especially, I am sure that economics would improve as a second nature.

MR. USKIW: Given the fact that you have such strong feelings about the question of the dual system, language system, which I respect by the way and I think you have made a good case, given the fact that we are now in the sort of last few days of this Session, would you agree with the idea that these two bills not be reported back for third reading, but be held for intersessional study, so that we could further develop our thoughts, as well as your thoughts, with respect to the kind of report this committee should send back to the Legislature.

MR. FOREST: Mr. Chairman, Mr. Uskiw, as I can well imagine that next elections will not be until next fall, there will be another Session in the spring. I think perhaps there is still time for this work to be done, and on that basis if any respect can be given to the recognition of Manitoba's cultures, official cultures and the others too, because if we do not recognize bilingualism in Manitoba, I think it is a pipe dream to expect other cultures to survive, and if we are not prepared to do that immediately, I would say definitely put it on the back burner and bring it up next year.

MR. USKIW: Mr. Chairman, that is not quite what I have in mind. I believe that this kind of legislation can be dealt with adequately intersessionally between now and the next Session and to be reported to the Legislature at the next Session.

MR. FOREST: I am not fully aware of the mechanism, Mr. Chairman. I am not fully aware of the mechanisms of their committees and that, but if what you say is an indication that more input can be made to it and that more thoughts can be given to it, I am sure that I would go along with that and suggest that the question be delayed.

MR. CHAIRMAN: Any further questions? Thank you, Mr. Forest.

The Manitoba Association for Rights and Liberties, Bill 95. If they are not present, Paula Fletcher, Communist Party, Bill 96. Not present.

Bill 96, the New Democratic Party, Mr. John Bucklaschuk.

MR. JOHN BUCKLASCHUK: Mr. Chairman, ladies and gentlemen, I would like to address this body specifically to Bill 96, at the outset saying that it is a very complex bill and quite confusing from our viewpoint. It is a bill that requires considerable study which, unfortunately, we have not had the time to do and for that reason we haven't done very much at all with respect to Bill 95.

If the purpose of Bill 96 is to enact a bill which would make Manitobans feel that political parties operate under some fair rules, that there is some sort of equality involved, we feel that this bill fails to meet those criteria. It is complex, there are numerous contradictions within the bill, there are glaring omissions. We have to look at these section by section in the bill itself, and for that reason I think I will just go through the sections and comment on problems that we foresee.

The first section that we would question is the need for a Commission. I am not aware that we have had any great problems in Manitoba with the present system where the Chief Electoral Officer is responsible for the running of elections. With the imposition of the Commission there certainly will be some problems.

First of all, we question the composition of a Commission which excludes minority party views. Under Section 3, under the present circumstances only two major parties would be represented on that Commission, and under that circumstance, where there were opposing views, where there might be opposing view between parties represented on this Commission, the Chief Electoral Officer then becomes the tie-breaker and we feel that this puts the Chief Electoral Officer in a rather untenable position.

There is also a question as to the restriction of appointments to the Commission and to the restriction on the activities of members. It would seem to me that when the leader of a political party appoints his designates to the Commission that they are there to protect the interests of that political party, and yet the restrictions in Section 6, (1) and (2), certainly would tend to negate that purpose.

A further comment about the Commission. In Section 9 there is reference that as part of the duties of the Commission, it shall assist political parties in the preparation of returns and statements and so on. We feel that is not a function of the Commission, that the Commission should simply direct the political parties. There is a distinct difference between assisting and directing.

Throughout the report there are numerous requirements for recording names, lists of donors, expenditures, transfers, and I presume the purpose being to make this information available to the public. Now there is a real question as to making all this information available when there are no restrictions as to expenditures, or very few restrictions to expenditures. There is a real question of what value this information may be either to the Commission or to the general public. If this information is required merely to satisfy somebody's curiousity, then it certainly is going to involve a lot of work on behalf of the political parties, on behalf of the Commission, and will necessitate needless expenditures and further staff at all levels.

With respect to the section on registration of political parties, Section (c) requires a party that does not have four seats in the Assembly to provide the Commission with a list of 2,500 persons who have taken out a membership in that party. It would seem to us that this is an unnecessary invasion into

the affairs of a political party. Membership in a political party is purely a personal matter and as such information about one's membership does not have to be or should not have to be shared with either the Commission or the general public. I can think of no other situation where a person has to divulge his membership in a political party. So that section is completely unacceptable. I am aware that in other jurisdictions that require the registration of a political party, that there is a requirement of a minimum number of candidates seeking election. I believe under The Federal Elections Act it is 50 and in the province of Saskatchewan it is a minimum of 10. That would be by far a more acceptable criterion than a membership list of a political party.

MR. CHAIRMAN: Mr. Doern, on a point of order.

MR. DOERN: Mr. Chairman, I was just making some notes; I wonder if he could just repeat his last point again, about the Saskatchewan system as being preferable.

MR. BUCKLASCHUK: Yes, the comment I made was that under The Saskatchewan Election Act, there is a requirement that a party field a minimum of 10 candidates before it is considered to be a registered political party, or before it can apply for registration.

Section 14(2), one of the requirements for registration of a political party indicates that the party, accompany its application with a statement of its finances, dated not earlier than 90 days prior to the date of application. There is a question as to the need for the statement and if such a statement is to be required, then certainly it should be an audited financial statement. I don't think it takes very much guessing to see how one can very easily circumvent this requirement.

There is no mention made of trust funds as being part of the statements that the political parties have to present to the commission and I think that if such a statement is required, trust funds, or a declaration of trust funds be mandatory.

The requirement that cash on hand and deposits in financial institutions, that that information be provided, does not provide any meaningful information. The requirement that the statement be as of at least 90 days prior to application for registration creates the very distinct possibility of infusing massive funds into a party prior to that date without requirement for disclosure.

Again, the question arises, why this extreme concern about disclosure of a party's financial situation where there is virtually no limit, or very few rules as to how these moneys are to be spent?

There is the question about the period which the financial statement covers. We would suggest that if financial statements for political parties are a requirement for registration, then all political parties should report on a calendar year rather than a numerical or fiscal year, as is referred to on a number of occasions in the bill.

On the section dealing with contributions and donations, I want to first of all speak on Section 24, which I have to be very frank, I find very difficult to comprehend. If it says what I think it says, then it would prohibit all parties from soliciting members or supporters for donations. I think a literal interpretation would lead one to believe that.

Section 25 deals with moneys collected at a general meeting. There is a contradiction between Section 25 and Section 28 that follows. Section 25 indicates that during a general collection, that only those individual amounts over 25.00 need be recorded, whereas in Section 28, there is reference to all donations or contributions of over 10.00 being recorded. So there is an internal inconsistency on that one page.

Perhaps a solution to that might be the provision in The Federal Election Act where there is a maximum that may be collected at a general meeting, on a per capita basis, after which there has to be some disclosure of where the contributions came from.

Section 26(2) deals with the situation where a fund-raising event, such as a supper, and where part of the ticket or the fee, or whatever it may be, is allowed for tax credit purposes. Now, the suggestion in the Act is that this be one-quarter of the charge of the ticket or fee, whatever it may be. We would suggest that, again, we look at the Federal Act and only that portion of the ticket which excludes the actual cost of the meal, drinks, whatever the case may be, be allowed for a tax credit.

You can run into the situation, dealing with Section 26, where in fact the Treasury of the province of Manitoba can be underwriting the costs of a meal or drinks, whatever the case may be, and I don't think that was the intent of that particular section.

Section 27, and I suppose it is consistent with the spirit of this bill, would virtually permit unlimited spending by a candidate, because it states that a candidate may spend his own funds for a campaign and if he wishes receipts, then it would appear he would have to disclose his expenditures.

Certainly from experiences in jurisdictions that have no limits on expenditures and something similar to Section 27, we would find that that would be highly unacceptable.

Section 28(1), and this is that contradiction that I referred to before, for each contribution of 10.00 or more, there is a requirement for a receipt; but in Section 25 previous, there is no requirement until you reach the 25.00 mark. I simply cannot resolve those two sections as being compatible.

There is, in Section 28, I would think, a considerable bias against donations from members of a trade union. The section states that where there is a contribution made by a trade union is excess of 10 cents per month per member, then each member of that trade union would have to have a receipt issued to him or to her. That seems to be a very complicated, unnecessary procedure. If one is to follow through with that, then I think, in all fairness, one should also make that requirement of any organization or association. Each member should then be notified that a donation of 1.50 has been made to a particular party on his or her behalf, or to any corporation. I think shareholders should be similarly notified and policyholders, whatever the case may be. I think if it is fair for one, it certainly should be fair for the other.

There is another question — it is a very small thing, in Section 28 — but in 28(a) we talk about each contribution of 10.00 or more, and I am

assuming, because in a subsequent section it states that donations in kind are not to be included, or a part of that 10.00, but when we get to the trade unions, for some reason we talk about total contributions, and by definition of "contribution" on Page 2, we are dealing with donations in kind, and it seems to me that there are two different classifications here, those who give dollars, they are dealt with one way; those that give dollars and/or provide donations in kind, then there is a different treatment for those people, and that is certainly of some concern.

In Section 28 there are a couple of lines there which appear to be redundant. I don't know what the significance of that is. It deals with receipts and it states that where the political party or candidate is registered the receipt shall show the registration number of the political party or candidate. That seems to have already been dealt with in a section immediately prior to that, Section (c).

Section 31 deals with contributions from unincorporated groups and here I presume that we are dealing with groups which are more clearly defined in other Elections Acts. We are dealing with unincorporated associations or organizations. I would presume that in this case we are talking about companies, societies, syndicates, firms, partnerships, co-owners, although this isn't clearly spelled out in the bill.

Section 30 deals with trust funds, and there is a question as to whether trust funds are allowed or prohibited under this Act. Section 34 indicates that only those persons, candidates, official agents or chief financial agents and parties are allowed to accept contributions on behalf of a political party and suddenly we have the trust funds being mentioned in Section 30, 31, and 32.

In Section 28, there is a requirement that receipts be issued to those persons making contributions in excess of 10.00, yet in Section 30 there is mention made of records being kept of those contributors who make contributions of over 25.00. Now, it seems to me that what that is saying is that while receipts can be issued to a contributor for a donation of more than 10.00, that information doesn't have to be recorded. And here we have a situation where no records are being kept but receipts are being issued and I think there needs to be some clarification between Sections 28 and 30.

Back to the trust funds: In Section 31(2), there is a requirement that the names of persons or contributors be recorded, but that no receipts be issued. Now, this seems to be a circumvention of Section 28.

It is also interesting that Section 31(2) refers to persons, corporations or trade unions, but excludes unincorporated groups, societies, associations, firms, partnerships, and so on, so once again, if the bill is intended to provide disclosure I think it fails, as we can see from Section 31.

Section 31(3) states that the commission may require any trustee or trust fund to provide information or to file a return disclosing the sources and amounts making up that trust fund. We would suggest that the word "may" be replaced by the word "shall." Furthermore, there is a question as to whether the onus should be on the trustees of the trust fund to provide this information, or would it not be better for the information to be mandatorily provided by the chief financial agent of the party or of the candidate? Perhaps the easiest way out of this situation would be to prohibit all trust funds. I understand that it has been done in some provincial jurisdictions they have allowed interest from these trust funds to be used in political campaigns. That's perhaps a second best. Prohibition would probably be the easiest.

We've heard reference before today about accepting contributions from persons or individuals ordinarily resident outside of Manitoba. This I would submit is completely unenforceable. I simply can't comprehend how a commission would be able to prohibit, let's say, my brother living in Saskatchewan from donating 100 to me to donate to a political campaign. I don't think we'd want to get into a position where we would be shadowing every Manitoban to see where he or she was getting their donations from.

There's rather a curious double standard involved here. I am not aware that any provincial jurisdiction in Manitoba prevents me from donating to a campaign in its province. There is nothing to prohibit me from making a contribution to the Ontario party or to the Alberta party or to the Newfoundland party, but it would appear that there would be a prohibition of money coming into Manitoba. It's rather difficult to understand.

Yet while we have these restrictions on individuals, there appears to be virtually no restrictions on corporations. By reading Section 32(b) as long as a corporation carries on its business in the province then it is entitled to make a contribution to a political party. I would presume that means if a corporation sells even one widget in the province then it, by law, is entitled to make a contribution.

The Section (c) strikes at the very nature of the method in which the New Democratic Party operates and I suspect of some of the other political parties in Manitoba. We, as a political party, find it rather difficult at times to separate our activities from provincial or federal aspects and it seems to me this one strikes certainly at the heart of the New Democratic Party and I suspect one other party.

Section 32(d) is referred to in the definitions and I have no idea what had been intended there but if one looks at the definition of contribution, it refers to Section 32(1)(d) and no such subsection exists in the Act.

The transfers that are allowed for political purposes in Sections 33 and 32 are — well there's really nothing to them. The provincial party translating 1,400 to the federal party during a federal campaign is totally inconsequential and I think the reverse would also be true.

I'd like to leave that section and go on to the section on returns and statements. I've mentioned before that we feel that the statements provided to the commission should be on a calendar year rather than on a fiscal year. I think this would give a better means of comparing the political parties. If, in Section 36 where an audited statement is to be forwarded with the return from a candidate or chief financial officer of the candidate, then we would suggest that the name of the auditor be submitted with the name of the official agent to the returning officer at the time of nomination. And furthermore,

we would suggest that, as in the federal Act, that the fees to be paid to the auditor be paid out of the public treasury, rather than by the political parties.

Section 38 is rather a curious section. In subsection (a) it requires that persons or trade unions, having made aggregate contributions in excess of 250, be reported or that their contributions be disclosed; there is no such requirement being made of companies, corporations, associations, whatever.

Section (b) provides that the aggregate amount of donations between 25 and 250 be disclosed and I would submit that this a wonderful opportunity in which one can bury all sorts of contributions, without any need for public disclosure.

And Section (c) I suppose is the section which we could very easily lump all non-individual, non-trade union donations. Certainly if the intent of Section 38 is to provide the public of Manitoba with a disclosure as to who, in fact, finances political parties it falls far short of the mark and, in fact, that section reveals considerable bias.

Section 39(1) requires that a statement of the election expenditures at the constituency level be made within 90 days after the election and yet the section dealing with the provincial parties requires that the statement be made in conjunction with their submission of their annual statement. What this would mean is that if we had an election, let's say in March, then the provincial party would not have to reveal or would not have to make a statement until at least a year down the road. In other words, there is that one year's gap between expenditure and revelation of what expenditures were made.

Section 40(1) and (2) deal with the financial arrangements that a political party may be involved in. I think again that this is an unnecessary invasion into the business operations of a political party and it would be an ongoing thing because one would have to provide information on a continuous basis from year to year as to the financial status of that party insofar as its loans are concerned. I think if that is to have any meaning, for whatever reason, as to what a political party's financial situation is, it can very easily be fudged by transferring loans to constituency associations and my understanding is that they don't have to declare their financial situation on a yearly basis, and you can very easily subvert the intent of Section 40. It's too wide open.

Section 45(3) is the section I was wanting to refer to previously. Our interpretation would be that it would make trust funds illegal, because it states no person who is not recorded as the chief financial officer of a political party or a candidate, or as a deputy of the chief financial officer, shall receive or accept contributions for, or on behalf of, a political party.

The final comments I would like to make are on the section dealing with advertising. I think this section, while it is the only section of the Act that limits expenditures, easily lends itself to abuse. By reading that section one isn't informed whether or not the costs of preparation of any advertising material, whether it be newspaper advertising, television advertising or whatever, whether the costs of preparation are included in the costs of advertising. And these costs of preparation can be done long before any election; they can also be fairly substantial. And while we have a limit of 40 cents p name, at the central party level, and 25 cents at t constituency level or vice versa, whatever it may b those limits can be very easily circumvented if the is no clear definition of what we mean by advertisin costs. As was questioned before, does advertisin include pamphlets, ballpoint pens or whatev political parties used during campaigns. That sectio is wide open under this bill.

The other concern we have is that there is n comment or nothing said about unsolicite advertising. We're very well aware that durin previous federal and provincial campaigns there wer groups, special interest groups, who would advertis on TV; who would advertise in the newspapers; wh have gone so far as to publicly name thos candidates that they support or are opposed to, an I would presume if they do have some influence o the voters, that type of advertising is not covered b this bill. Nor is there any mention made abou advertising by a government department, a Crow Agency, or any group that is funded by th government of the province. Certainly I think tha that is one area that there should be some furthe thought given to. I'm aware that in the Saskatchewa Act it's very clearly spelled out as to wha government agencies, departments may or may no do during political campaigns.

In summing up my presentation on The Electio Finances Act, I think that I've tried to illustrate tha there are many areas that would require furthe study, that there are apparent contradictions withi the Act, and again, if it is the intent of the Act t show to Manitobans that political parties engaged i political battle fairly and on an equitable footing that from our viewpoint, that is not the case. Thank yo very much, Mr. Chairman.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Bucklaschuk, I'd like to ask whether you are appearing on behalf of the New Democratic Party or whether these are personal views that you have.

MR. BUCKLASCHUK: These will be on behalf of the New Democratic Party.

MR. WALDING: Do you have a copy of your remarks? I found that your references were very complex and a little bit confusing, I had some difficulty following all of them. Do you have a copy?

MR. BUCKLASCHUK: I can make these available.

MR. WALDING: I'd like to ask Mr. Bucklaschuk whether the New Democratic Party is of the opinion that a new Election Finances Act should be a matter of consensus between the parties, either between the parties themselves or of a legislative group or by some other means, or should it come in as a matter of government policy and be voted in on that basis?

MR. BUCKLASCHUK: Our feeling is that the bill should be brought in on a consensus basis.

MR. WALDING: I'd like to Mr. Bucklaschuk if the New Democratic Party has an opinion as to what the

enefits of being registered as a political party would e?

IR. BUCKLASCHUK: We have not given that any onsideration, Mr. Walding.

IR. WALDING: Can you advise us what the enefits of not being a registered political party ight be?

IR. BUCKLASCHUK: It would appear to me that ie purpose for registration would be to enable those ersons that make contributions to the political party o be able to receive a rebate on part of their olitical contributions.

IR. WALDING: Do you have an opinion as to the elative benefits of being a registered, as against a on-registered party?

IR. BUCKLASCHUK: Well, certainly financial enefits, yes. Without the provisions of rebates it ould make it very difficult for the New Democratic arty to operate, simply because of the source of the ajority of our donations are from individuals who se The Tax Act to fund the party.

IR. WALDING: Have you been able to assess the lisadvantages, such as various controls and various fficial forms and that sort of thing, that might tend o offset that?

IR. BUCKLASCHUK: No, I have not.

IR. WALDING: Is that a function that the matter as not been addressed by the party or is that a unction of the time involved in making this bill vailable to you?

IR. BUCKLASCHUK: The problem, as I indicated, s that this is such a fairly complex piece of egislation that unfortunately we just have not had he time to go into all aspects of the bill. I wanted to eal with some of the glaring problems that we can oresee with this bill, but we have not been able to et into all the ramifications.

IR. WALDING: Are you suggesting to us, then, that here might be other concerns that you might have if ou were given more time to study the bill?

IR. BUCKLASCHUK: That is correct.

IR. WALDING: Thank you, Mr. Chairman.

IR. CHAIRMAN: Mr. Mercier.

IR. MERCIER: Sir, on 48(1), would you not oncede that when it states that total expenses ncurred for advertising, that that would include the ost of preparation of advertising?

IR. BUCKLASCHUK: It may, but just glancing at it, 'm not so certain that it would.

IR. MERCIER: Sir, you said there was no provision in the Act that prohibited another group from advertising. Is that what you said?

MR. BUCKLASCHUK: That is correct.

MR. MERCIER: What do you think Secton 47 means?

MR. BUCKLASCHUK: That might very well be interpreted to prohibit that type of advertising but one can even get into dealing with addressing an advertisement to a particular philosophy, which may be associated with the particular party, and without spelling out the name of that party the message could still be quite clear.

MR. MERCIER: I have no further questions. I thank the gentleman for his comments. A number of the things which he has mentioned we intend to deal with concerning the detail sections of the bill, Mr. Chairman.

MR. CHAIRMAN: Mr. Uskiw.

MR. USKIW: I am sorry that I didn't hear all of the witness's presentation, Mr. Chairman, but I do want to ask two questions which I consider important. One is whether, in your opinion, sir, you believe that more time is needed before this bill is referred back for third reading?

MR. BUCKLASCHUK: The answer to that is, yes.

MR. USKIW: My second question is whether or not, in your view, and the party's view, that legislation dealing with elections ought to be non-partisan legislation, rather than endorsed by a majority in the Assembly?

MR. BUCKLASHCUK: The answer to that is it should be non-partisan.

MR. USKIW: Okay, that's fine.

MR. CHAIRMAN: Mr. Doern.

MR. DOERN: Mr. Chairman, there seems to be a requirement in this legislation for an awful lot of receipts, and I just wondered if Mr. Bucklaschuk had any idea of what it costs the party to issue one receipt. In fact, Mr. Chairman, I have heard examples, depending on the business, ranging anywhere from a few cents, although I haven't heard that, I have heard figures as high as 2.00 or 3.00 or 4.00. I just wondered whether you have any imputed value.

MR. BUCKLASCHUK: We haven't done any calculation of the cost of providing receipts, but there is no question that the costs are considerable.

While we are on this, I think one of the problems we have with the bill is that there are probably somewhere in the neighbourhood of about 200 people who can issue receipts. I am speaking about the chief financial officer for each candidate, the candidate, and/or his deputy. It would seem to me that when you have that many persons being in a position to issue receipts there is also a distinct possibility of problems with receipting taking place, or misuse of receipting.

MR. DOERN: So if you are issuing a receipt for 1.20, then when you consider labour and materials and stamps and so on, it might eat up a good portion of that contribution?

MR. BUCKLASCHUK: A good portion, or perhaps more than what the donation itself was worth.

MR. DOERN: Mr. Chairman, I wonder if Mr. Bucklaschuk could expand on his opposition to the making available, I guess, of lists and it sounded like he was saying that the membership lists, in effect, would have to be made public and I wondered in what sense he was objecting to that, whether it was confidentiality or privacy or whether it had an adverse effect on a person's job opportunities, or what.

MR. BUCKLASCHUK: I think all of those concerns are valid. I indicated before that if a person does become a member of a political party, that is purely a personal matter and it's not a matter for the commission to concern itself with or for the general public. There may be problems in disclosing this information in terms of job availability or items of that nature, yes.

MR. DOERN: Mr. Chairman, the intent of the bill would appear to be to help political parties but it may, in effect, have the opposite effect of hindering, and I ask Mr. Bucklaschuk whether he feels that there will be additional costs, or considerable additional costs to political parties as a result of the bill, in terms of filling out forms or making out receipts?

MR. BUCKLASCHUK: Naturally, with the requirements of receipting and recording and so on throughout this Act, there will naturally be further expenditures incurred by the political parties.

MR. DOERN: I would also ask Mr. Bucklaschuk, he singled out Sections 25 and 26 and so on, and he seemed to suggest that in this legislation there is unnecessary interference in the day-to-day operations of a political party. Is that how he sees the bill in general, or some of the specific sections?

MR. BUCKLASCHUK: I presume that in addressing some of those sections, what I was trying to point out was there were some glaring inconsistencies in terms of disclosing contributions to a political party. I don't think there is any problem as we, through the federal New Democratic Party, already do disclose the names of contributors and so on to our party, as do the other parties. It is the amount of recording and receipting and so on that is required throughout this bill that would just create considerable non-productive work.

MR. DOERN: Holding aside individuals who would make up a good portion of contributors and so on, and taking the attitude towards business and towards labour or trade unions, would you characterize this bill as pro-business and anti-union?

MR. BUCKLASCHUK: I would certainly characterize it as being anti-union.

MR. DOERN: Mr. Chairman, I wonder, again, if Mr. Bucklaschuk could explain a point that he made. He seemed to argue that it was unfair to ask trade unions to issue receipts in regard to political donations, and that he said that if this was a requirement, that all organizations that made contributions should have individual breakdowns or individual receipting. Is that what he was arguing?

MR. BUCKLASCHUK: That is correct. It seems to me that for all the various associations that do exist, there seems to be a particular bias against the trade union associations.

MR. DOERN: A final question, Mr. Chairman. In regard to donations to or from other provinces, you do not feel then that it would be an enforceable provision, so that if you wanted to make a donation to a friend or someone in the same political party; or some friend or supporter or relative, or whatever, from out of the province wanted to make a donation to someone in Manitoba, you feel that there would be little problem in doing so and a great deal of difficulty in discovering that type of a donation?

MR. BUCKLASCHUK: That is correct. We would feel that it is completely unenforceable.

MR. DOERN: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Sir, you made a comment that this is anti-union, and in particular reference, I think you made it to Section 28, requiring the issuance of a receipt. Is it not clear to you, sir, that the receipt, first of all, has to be issued by the financial officer of the party, not the trade union; isn't that correct?

MR. BUCKLASCHUK: That is correct.

MR. MERCIER: Would you not concede, sir, that what this does is guarantee to the employee a tax deduction, and how can that be an anti-union stance?

MR. BUCKLASCHUK: Well, the tax benefit of a tax receipt for 1.50 would be something in the neighbourhood of 1.25, or perhaps 1.00.

MR. MERCIER: It's in excess of that; that is the minimum. We are certainly prepared, if you want the minimum amount to be increased, we are certainly prepared to consider that. But that's the minimum, the absolutely minimum amount. The contributions will likely be in excess of that.

I am suggesting to you, when you guarantee to an employee a tax deduction, a tax benefit, how can that be an anti-union stance?

MR. BUCKLASCHUK: Again, I question the amount of the benefit to the individual member. I don't see that as being any great benefit to the individual member and I would still say that it would create considerable work for the political party.

MR. MERCIER: Are you then saying, sir, we should eliminate this provision that would require a tax deduction, a tax receipt to be given to an employee

f a union who makes a contribution, we should iminate that from the Act?

IR. BUCKLASCHUK: I do not feel that the limination of that particular clause would create any ardship for the individual contributor.

IR. MERCIER: Do you want it in or do you want it ut?

IR. BUCKLASCHUK: Out.

IR. MERCIER: You want it out?

IR. CHAIRMAN: Mr. Doern.

IR. DOERN: Mr. Chairman, I gather, then, that you eel, Mr. Bucklaschuk —(Interjection)— in spite of Mr. Enns here, I gather that you are concerned about he amount, and that you might favor a slightly igher amount but you certainly would not favor a ower amount? Mr. Mercier seems to be suggesting hat for a 10[donation there should be a receipt ssued, so I assume that we are talking about the mount as opposed to the principle.

IR. CHAIRMAN: Mr. Bucklaschuk.

IR. BUCKLASCHUK: From the thought that we ad given to this section we were concerned about he mechanics of having to issue individual receipts o the total membership of a particular union. It is a roblem. I am not even so sure that we as a party ould have access to the membership of that articular union, that is their own information.

MR. DOERN: So your preference would be that if a union submitted an amount of money on behalf of its members, you would give some sort of a bulk receipt as opposed to individual receipts.

MR. BUCKLASCHUK: I would submit that trade unions should be treated in the same way as any other associations.

MR. DOERN: But that the receipting might be done in bulk from the political party to the trade union and that the individual receipting might then be done by the union itself.

MR. BUCKLASCHUK: I am not even so sure that could be done. I have no idea.

MR. DOERN: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: So you are saying then, sir, because of the difficulties the party would have in issuing tax receipts to members of the union that you would rather see this clause out.

MR. CHAIRMAN: Mr. Bucklaschuk.

MR. BUCKLASCHUK: We would prefer to see trade unions treated as any other association.

MR. MERCIER: You have said that this Act has an anti-union bias. Can you suggest any other provisions of the Act that, in your opinion, are anti-union?

MR. BUCKLASCHUK: I believe I did refer to one or two other situations. I could probably check through the Act where — well, an example, in Section 38 it states that every chief financial officer of a political party or candidate shall file with the Commission at the time of filing a statement with the Commission, a return setting out the total amount of value of contributions received from each person or trade union. Now there is no reference being made there to a company, corporation, association or whatever.

MR. MERCIER: Sir, are you aware that under The Interpretation Act of the province of Manitoba that the word "person" includes corporations and they are thereby included within the word "person"?

MR. BUCKLASCHUK: That may be the case, but I believe there are sections in the Act where one would believe that the term "persons" refers to an individual human.

MR. MERCIER: Where there is references to individuals, and that clearly means an individual wherever that is made, but I suggest to you, sir, that the word "person" under the provisions of The Interpretation Act of the province of Manitoba includes corporations. Now if you are not aware of that, I can understand that.

MR. BUCKLASCHUK: I was not aware of that. That is a legal point.

MR. MERCIER: Can you tell me, sir, of any other provisions of this Act that you consider to be anti-union?

MR. BUCKLASCHUK: I would have to go back through my notes again. I believe I didn't make mention of two or three instances where my interpretation was that trade unions were treated differently than any other group.

MR. MERCIER: And what are those, sir?

MR. BUCKLASCHUK: Okay, may I just have a minute to go through my notes here?

I presume I would have the same problem that I had previously with my interpretation of the word "person," Section 48(1) advertising done by any person or trade union.

MR. MERCIER: I suggest to you to there, sir, that the same interpretation applies, that includes corporation.

MR. BUCKLASCHUK: I would agree then.

My question then, does the word "person" refer to, besides corporations, companies, societies, associations and so on?

MR. MERCIER: It covers them all, sir.

MR. BUCKLASCHUK: That was my question.

MR. MERCIER: You have no other sections then?

MR. BUCKLASCHUK: Just a very quick glance, I wasn't able to spot everything.

MR. MERCIER: Pardon me?

MR. BUCKLASCHUK: At a very quick glance I was not able to spot any other areas that I would . . .

MR. MERCIER: Then, sir, I suggest to you, sir, that the only end to union bias is that of the NDP Party, who, because you are saying that you are not prepared to go to the trouble of giving a tax benefit or a tax deduction to members of the unions.

MR. BUCKLASCHUK: That may very well be your interpretation, it is certainly not ours.

MR. CHAIRMAN: Any further questions? Thank you, Mr. Bucklaschuk.

Mr. Andrue Anstett on Bill 95 and 96.

MR. ANDRUE ANSTETT: Mr. Chairman, honourable members, it gives me great pleasure to be back in this room and having the privilege of being able to speak to you rather than sitting quietly at the other end of the table. I would like to thank you for holding public hearings on this bill, not just so I could have that opportunity, but hopefully so that the hearings you hold and the briefs you hear will be of some benefit to you in amending these bills and hopefully improving them.

I have comments on both Bills 95 and 96. I would like to start with Bill 95, and congratulate the government for a piece of progressive legislation. I think the government's heart is in the right place and it has attempted to sort a lot of the perennial problems that electoral officers and the public have had with this the old Election Act in the province of Manitoba. However, I would like to, because I have some familiarity with the old Act and with legislation in other jurisdictions, and because I have spent more than a dozen years researching, studying, or administering election acts in various provinces, I would like to spend some time going through this Act with you, because I do see some problems. Some of them are major, some of them are minor.

First of all, on page 2 of Bill 95, Section 1(m). Manitoba was a leader in providing for hospital patients to be able to vote in elections. Very few other jurisdictions, even today, provide for that. One minor expansion can improve the system we presently have, that is to allow out-patients who are in the emergency ward of a hospital, who have been taken there over the supper hour, they were involved in an automobile accident on the way to the poll; they could be sitting in that emergency ward or office, or whatever we want to call it, usually in the same area near the entrance lobby as the poll box is situated after it is finished canvassing bed to bed and not be allowed to vote. They may well have been on their way to the polls. In past elections we have had several people after polling day complain that they sat with the DRO and the Poll Clerk while they waited for X-rays or waited for a doctor to see them, who were unable to vote. I personally cannot see any problems with expanding this provision to include these people, if the definition is drawn tightly, and I am sure legislative counsel is capable of that, and that minor expansion will go some way towards enfranchising a small number of people. It is not a significant number, but I think the principle from which we operate when we draft legislation of this type is to expand the franchise and make sure that the exercise of the franchise is available whenever possible. The kind of administrative disenfranchisement that takes place because of the way an Act is written is the kind of thing I would hope we all want to avoid.

I would point out to you that Section (p) which provides for the presription of forms by the Chief Electoral Officer is an excellent section, but I would ask members to take note of the fact that this allows the Chief Electoral Officer for the first time to design the ballot. Members have always guarded that quite jealously, as the one form that they would not allow the Chief Electoral Officer to design, and in most statutes it is exempted. I commend the government the CEO the flexibility to do, to make the ballot more uniform with other jurisdictions. I think that is the direction we should be going, and when it is bound in statute it is not a question of the government or the Legislature being unwilling to change these things, it is just that is certainly not a priority. In fact when I was involved in these things I was often told that Election Acts are like leaky roofs, when there is an election on you can't fix them, and when there is no election on the sun is shining and the rain isn't coming in, so it takes some iniative to amend an Act. Therefore, I would caution both sides of the House to amend this Act carefully and be satisfied with the product, because I am not sure you are going to see it again for a while. It is not the sort of legislation that governments give priority to. (Interjection)— I missed that comment, Mr. Mercier.

MR. MERCIER: Just an aside to Mr. Doern.

MR. ANSTETT: It looked like it was coming this way. On page 5, the appointment of the Chief Electoral Officer. The provisions for the appointment of the CEO and his continuance in office in Section 5 and 6 are basically the same as they were in the previous Act. Most jurisdictons in Canada differ in the fashion in which they appoint the Chief Electoral Officer, but all changes in legislation in the last 20 years in this area have provided, where they may have taken a progressive step in this appointment provision, have provided that the appointment should be somewhat similar to the way we appoint our Ombudsman in the province of Manitoba. Alberta and Ottawa presently have statutory provisions for special appointment arrangements with a consultative process that involves a committee with members from all sides of the House.

I am not suggesting however that if you appointed someone under similar provisions to the Ombudsman, that would not be a permanent appointment. I think it should be a permanent appointment because of the nature of the office. Whereas you appoint the Ombudsman, I think, for seven years with one seven-year renewal. I am not sure that is required.

I think that in other provinces where they provide for legislative consultation on the appointment, they have seldom, to my knowledge, had — in fact I know of no example of where the appointment has caused

any kind of partisan friction between the members of the committee. I know the appointment of Jean-Marc Hamel in Ottawa in 1966 was done through an ad hoc committee because the formal process had not been established, but the government perceived that as being the kind of procedure that they wanted to follow, and they did that. I know in Alberta in the summer of 1977, that was done with all party representation, and despite the fact that the government party in that province at that particular time had an overwhelming majority, the decision of the committee was completely unanimous.

So I think when legislators get together to work on these kinds of problems they can come to those kinds of reasonable solutions, so I don't see it as being an issue that would involved partisanship. In fact, if anything, it would remove any possible suspicion that there is any partisan involvement at all. That is why on Section 5(2) I would suggest that it be provided that the salary of the Chief Electoral Officer be placed under the Legislative Assembly appropriation. I know that Mr. Mercier, the Attorney-General, in his opening remarks on second reading suggested that the Chief Electoral Officer was being removed from Executive Council and placed under the Legislative Assembly. However, that is to some extent an administrative change which is not reflected anywhere in the Act and I think it certainly wouldn't hurt to place it there so that it can't be changed back by a different government, a government of the same persuasion, or a government of a different persuasion. I think there may be people in office in this province, I hope they are not here now and I don't think they are, but there may be some who wish to interfere in the operation of the chief electoral office 20 years down the road. Put the guarantee in there now and you won't be faced with that problem later on.

Under Section 9(2), the Honourable the Attorney-General's comments on this provided that the Deputy Chief Electoral Officer would have authority to act for the CEO in the event of his illness or incapacity under other Statutes, other than The Elections Act. Perhaps legislative counsel could advise as to whether or not that is what's provided here, but as I read it, it does not apply in particular circumstances here to, for example, The Electoral Divisions Boundaries Act. I think perhaps the addition of the phrase "or any other Act" may be required.

Under the powers of the Chief Electoral Officer, we have dramatically expanded and stated the specific powers the CEO has during an election. I think the manner in which they are laid out is excellent. I think the expansion of the power in 10(3) of the CEO to remove any election officer is excellent. I know that in the review, upon which many of these charges are based, the request was made only for the power to remove a returning officer, but oftentimes, if you are in a poll situation where there has been a problem, you may not be there in attendance with the returning officer, so the CEO certainly may find, hopefully it won't happen too often, that he will require the authority to remove.

There is one power missing, though, for the Chief Electoral Officer, and although it may be contentious, I would suggest to you that it has merit. When you run an election, when your Chief Electoral Officer runs an election, in effect what you are saying to him, because nobody wants to be perceived as interfering in any way with the job that is being done, you are saying for 35 days you are God. You make the decisions, you call the shots. Nobody is going to second-guess you, nobody is going to tell you how to do the job. In fact, even under the replacement provisions for election officers, it is a written report to go to the Lieutenant-Governor-in-Council after the fact. There is no consultation. For 35 days he is God and I can't see it working any other way. You need a final authority.

You will have situations in an election, then, that are not covered by the powers you have given the CEO. One member mentioned in the House, I think it was Mr. Doern, the fact of a power failure in the Carlton East by-election in Ontario in 1974, I think. I can give you a much closer example. In 1977 at the Health Sciences Centre, because of arrangements that were made for the taking of the vote, with a hospital poll, at 8:00 p.m. in the evening, two sets of poll officials had nowhere near finished canvassing the floors on which they were working. Now, we can fault the officials for not doing the job fast enough, or we can fault the returning officer for not setting up enough polls, but the fact of the matter was that at 8:00 o'clock in the evening, there were two floors in the Re-Hab Centre, and I think one floor in another part of the complex, that had not been touched. The prohibition that we have, the very specific prohibition we have, prevents the returning officer from extending polling hours. We didn't have that prohibition in 1977 and the Chief Electoral Office directed the poll officials to continue polling the vote in those polls. It wasn't challenged by any of the parties because they knew it was the right thing; it made common sense. Since the Act didn't specifically prohibit it, it was done. This Act would prohibit that.

I would suggest to you that you may wish to consider that emergency power and, with notice to candidates and parties affected, it certainly is not the kind of power that any CEO is going to abuse. If you believe your CEO is the kind of person who would abuse that, you wouldn't have appointed him in the first place.

With regard to Section 11(1), I would suggest to you that 11(1)(d) and (e), which prohibit certain persons from serving as enumerators or poll officials, or returning officers for that matter, are somewhat punitive. I would suggest that (d), which provides that if I am convicted, as an individual was in Turtle Mountain with respect to the 1966 election, I think, in 1968, more by circumstance than by any intent, that this Act would prohibit that man — at the time he was certainly not in his early twenties — but had he been in his early twenties he would have been prohibited for the balance of his life, a life in which — he obviously took the job as a returning officer initially because he had an interest in politics. He wouldn't do it if he didn't. Anyone who knows anything about being a returning officer certainly wouldn't do it if they knew what was involved unless they had an interest.

So what we are doing is we are saying that an individual who, by the circumstances of the situation, has made a mistake, perhaps through no intent, but is still convicted, and we must convict if that

situation exists — I don't fault the Crown Attorney or the judicial process in the Turtle Mountain 1968 case, but that individual is still prohibited from serving. I realize similar provisions existed before; I think there is some merit in considering putting a limitation. Now, we have, I think, a five-year limitation later on in the Act with regard to candidates and others found guilty of an offence we will allow a candidate to run again after five years if he is guilty of some gross misdemeanor under the Act, but we will not allow a person to serve as an enumerator if they are convicted of adding people to the list improperly, even though they may have done it with the best of intent. So I have some hestitation about that.

I will come back to that whole question later when I suggest to you that allowing a candidate to run again for gross misdemeanors under this Act, after serving a five-year way station in the halls of sanity before he gets back here, is somewhat different than what you say in here. In Bill 96, if he does that, he can't ever run again. So I would suggest that we should be looking for uniformity in these provisions, not because we hope to apply them, but because if we do, we want them to be applied uniformly and with some universality to the whole population.

I don't agree with the position held by some, although I do respect it, that those who have a position of trust in the electoral process, should suffer more severely than those who do not. I believe in the electoral system, all of us have a position of trust as participants, and the obligations that are placed upon us when we accept an office is no greater than the obligations placed upon the elector to fulfill his role.

I would suggest to you that Section 17, which provides for the appointment of Returning Officers, has been a section on which I have made suggestions to several governments in this province and in other provinces over the last half-dozen years, and in none of the cases where I recommended it has it been accepted, so I am not holding out great hope that it will be here.

However, it has been accepted in Nova Scotia, in Ottawa, in Prince Edward Island, and that is, that when a Returning Officer is appointed, he holds office until he dies or resigns, or is dismissed for cause. The reason I suggest that to you, is that there is a tremendous amount of work that goes into training and developing good Returning Officers. As most of you can imagine, any of you who have ever been in the position of recommending to the Lieutenant-Governor-in-Council the appointment of a particular individual for returning officer, generally the people who are appointed are not people with any special expertise in elections. In fact, I know of very few examples where that was the case. In fact, in many cases, it was almost like making, what's the phrase, a silk purse out of a sow's ear. There were some people who just had no conception whatsoever of what was involved in running elections. They might serve one term and quit on their own, but if they decided, they thought they could do it and wanted to do it, there is a tremendous amount of training that goes into it. A Chief Electoral Officer also finds that when returning officers are dismissed, or new appointments are made, governments don't get around to making them until the last possible moment, so they are often appointed in the week or within the month prior to the election. So the Chief Electoral Officer is faced with all new people who have no training and no knowledge of the Act they are going to administer.

If anything, these amendments, which make the administration of the Act more sophisticated, I submit better but more sophisticated, more complicated and are going to require more time input and more training and better guidelines, longer seminars by the Chief Electoral Office, if anything, that makes the case for making those appointments permanent.

Now, looking at it strictly from a partisan point of view on behalf of the government, you are in power now, you can appoint them, and they will be permanent, and I would submit to you, I suggest that if the opposition came into power, they wouldn't change that because they would recognize it as being inherently good.

I would also submit to you that the Chief Electoral Officer, if he found any of your appointees incompetent, would recommend that they be removed, or suspend them for cause. So I don't think you really have anything to fear in that regard and I don't think the opposition has anything to fear.

With regard to the problem of appointing Returning Officers, even if you don't buy my suggestion that in 17(1) you remove the phrase "his appointment is sooner rescinded," I would suggest to you that in Section 17(2), there would be great merit in providing that the government is compelled to make a replacement within a set period of time; otherwise, we are going to be faced with the perennial problem of, it's cold coffee until the election is called, and suddenly we are looking for Returning Officers, and then the CEO has no opportunity whatsoever.

So, for example, with redistribution, either about to, or in effect now, I'm not sure technically what the legal status of that is, a requirement, when this Act is proclaimed, if that is the route that is taken, that those Returning Officers be appointed within a set period of time, that any replacements also be within that period of time, 90 days, six months, certainly no longer than six months — I think the federal provision provides for 90 days — would go a long way towards giving the CEO some assurance that he is going to have those people available and that he can do that job and do the training; otherwise, he is going to be just as hamstrung as he has in the past in terms of his personnel. He is going to have a better Act, but he is not going to have the people to administer it.

I would suggest a minor amendment in Section 24(2), so that the Returning Officer, as well as the DRO, can appoint a constable. Constables are often used just as traffic controllers in multiple polling places, not so much to preserve order as to make sure that people know which poll they are supposed to go to, so often the constable serves as someone with a master list for the 10 or so polls that are in that school gymnasium, and directs people to the poll number, because often they don't know and they will stumble from one to the other. The Returning Officer knows well in advance if he is going to require a constable for that purpose; he should be empowered to appoint him, then the constable

doesn't owe his allegiance to any one of the sets of poll officials in the poll, but to the R.O. himself.

Another suggestion, which I hope you will consider, but which I understand may cause some concern, is with regard to the date of the election, Section 25(1)(b). I have not done the kind of complete analysis required of this new bill to tell you whether or not you have made enough changes, in terms of overall concept, to change the suggestion that the election day should be a Tuesday. I can tell you that I do not believe that the administrative framework on which this Act is based has been changed in such a way that you should not use possibly a Monday, but I would suggest most strongly, a Tuesday.

The reasons for that are fairly straightforward. Election day really doesn't matter, and I'm not suggesting that one day is better than another for holding an election; the election day is probably irrelevant. The Honourable Minister, when he introduced this bill, suggested that the provisions contained herin, for example, would provide three Saturdays for advance polling. I can tell you, you won't get three Saturdays unless you make election day a Tuesday; it's not administratively possible. Unless you have your withdrawal period ending at 1:00 p.m. on a Wednesday, you won't have ballots printed for Saturday. If you do it on a Wednesday there's no way you'll get ballots out on that Saturday. You're going to limit yourself to two Saturdays for polling day. One of the commendable steps of creating that three-week electoral period was the expansion of the advance provisions and creating more time to organize these special polling provisions, unless you build the framework.

Now if, on detailed analysis you find that Monday may work better for this purpose, I won't argue with you because some of the other things have been changed in such a fashion that it might possibly be Monday. That's an administrative question, but look at it and examine the question of whether or not you want to be able to fix in some of these provisions. The advantages that accrue to the administration of the elecltion and therefore to the people of Manitoba, because this Act is adminsitered for the most part, by people totally inexperienced with statutes, is that schedules and everything else can be prepared on a certain calendar with certain assumptions about how it fits together.

Now I'm more concerned that nomination day, that the date for the issue of the writ fall on certain periods of the week, preferably early in the week, because if they do then the period during which certain other procedures have to be done doesn't fall on the weekend.

So I believe there is merit, and I would humbly submit that the Attorney-General and this committee should examine the question, strictly from an administrative point of view. I don't think there's any real concern about which day the election day is on. In fact, if anything, you can expand the election period by five days and provide that all those other days that are important shall be fixed days, and free-up the schedule so that the election day can be any day after that following Tuesday. You know, if you have some concern about when the election day will be, that, in terms of drafting would probably be a nightmare; I wince at the thought of calculating something like that. But the provision of a fixed day has real advantages in terms of polling opportunities at advance polls, and in terms of other provisions. Instructions can be written up for the return of mail-in ballots, referring to a fixed day, and a lot of other things can be done that way.

I won't dwell on that any more, Mr. Chairman. I would suggest that in Sections 27 and 28 which relate to that same proclamation to which I've been referring, there is a double requirement here. I think it is unnecessary and it's extra work. Basically, the information which is contained in the publication of the proclamation is identical to the information which the Chief Electoral Officer is being asked to publish, in the same newspapers, to a large degree. I commend the government for removing the necessity of posting these proclamations as a target for children and the weather, and I think placing them in the news media is a much better idea.

I would suggest, however, that the CEO is duplicating the efforts of the Returning Officer under Section 28(1), and that you can either require the Returning Officer to see to this publication, or, if you plan on giving the CEO the staff he needs to administer this statute properly, provide that the CEO will do it. He'll know where all the newspapers are; he can use the advertising audit office and the Queen's Printer to co-ordinate one massive throw out into the province for this proclamation advertisement. But I do not believe you need both of them, in fact, I think it's a waste of money. There are other provisions that you could improve on with the money you'll save — it will be several thousand dollars in the kind of advertising campaign — well more than several thousand, many thousands of dollars that you'll save by changing that provision.

On Page 15 of the Act, Section 30(2), a minor suggestion with regard to the provision of a residence address, particularly in rural areas. In 1977, the list of electors was prepared on a basis which, instead of providing the old postal address, which was used on both federal and provincial lists for many years, the municipal voters' list style of preparation was adopted, in which, where possible, the legal description was provided. The day when all canvassing was done through the post office has changed, either because candidates want to meet people personally or because the post office is charging too much money for bulk mail. I'm not sure what the factor has been, but members, and I'm sure you're more aware of this than I am, particularly in rural areas, like to go out and meet people. Most rural members know where most of their people live, but when there's a new name on the list they haven't got the foggiest. They've got to either find him in the telephone directory, or they can find him on the voters' list. If you think the removal of the postal address on the list would in some way be inconvenient to candidates or to political party organizations, there is certainly no reason why you can't have both. It's not as if the legal description or the river lot number is a long piece of information; it certainly is something that is short and can easily be placed on the list.

With regard to the enumeration process, I have a minor concern about the intent of Section 30(8) which provides for a mechanism similar to federal call-back card, or notice of inability to obtain information, which is used in Ontario. When I read

the sub-heading I hesitated, it said, call-in cards, and then when I read the section I became concerned. The way this section is applied in other jurisdictions is such that the enumerator goes back out to the dwelling unit which was missed after receiving the phone call and obtains the information. That certainly is not clear in this section. I certainly am not happy with the idea of totally eliminating phoned-in information, which is provided for under revision later on, but I do believe that until the enumeration process is complete the primary onus should be on the state to get the voter's name on the list, and then later on in the process when the state has exhausted its efforts that onus should shift. That is not clear in Section 30(8). I don't know what your intent was, and I certainly would hope that it was that the onus would remain on the enumerator to make that contact.

If that is your suggestion and your intent, then certainly these are call-back cards and not call-in cards. The intent here is to have the enumerator come back and place that person's name on the list.

Under Section 31, which provides for persons who should be disqualified from voting, I have just one comment on (a), and that is that I'm not sure whether the judiciary of this province feel in any way bothered by the fact that they're placed in the same category as mental retardates and prisoners undergoing punishment for a conviction. I know that in several other jurisdictions, all judges are permitted to vote, in some all judges are prohibited. So it becomes a policy question.

I personally see no reason, although I make no recommendation to this committee, I see no reason why judges should not be allowed to vote. Their participation in the political process, as partisans, or in any way as campaigners for a candidate or working for a political party, is prohibited by the conditions of their appointment. But in the secrecy of the ballot box, I certainly have no hesitation in suggesting to you that there's nothing wrong with allowing them to vote. For that matter, I forgot to mention it, I see nothing wrong with the Chief Electoral Officer voting either, because he too would do so in the privacy of the polling compartment and the ballot booth. I see no reason why he should not be allowed to vote. I concede the point that both Mr. Charland Prudhomme and Mr. Jack Reeves, two previous Chief Electoral Officers of this province, religiously avoided voting in provincial elections. Certainly a precedent has been established and perhaps the present incumbent may follow it without direction from the Act, but I'm not sure it's something you want to require of him.

With regard to the provision that persons in mental hospitals or institutions should be prohibited from voting, I do have some concern. Not with the fact that some of these people may be incapable of exercising their franchise, but with the fact that there may be more people in the institution that one readily believes, who are there voluntarily and who would be allowed out of the institution if they were allowed to have their name on the list to vote on polling day.

So I'm concerned about the nature of the definition and how it relates to persons who are actually committed by an order. The federal definition and the definition in some of the other provinces, although not all, the problem we have with this Act, in this particular section is common to several other jurisdictions. But provision of an amendment which would provide that only persons who have had control of the management of their property and their liberty controlled by the state by judicial order, would allow persons who are there voluntarily to vote. I know that in the mental institutions in this province there are many people who, on a federal election day, either sign a proxy, or go out and vote, and their names are on the list because they've not been committed, they are there voluntarily. Those people vote in federal elections. I don't know what the rule is in municipal, but they certainly vote in federal. I see no reason not to enfranchise them.

I commend the government for removing the franchise from those who are not in mental institutions but have been deprived of their liberty of movement or management of their property by being placed in the custody of a relative or some other custodial guardian. The provision in the previous Act allowed those people to vote and created some embarrassing situations for poll officials, and for the public who couldn't figure out why this person, who obviously did not seem to know what was going on and did not even know how to hold a pencil in his or her hand, was being guided in the polling booth by a relative or friend. That's certainly an improvement. I suggest that we've only gone halfway and that there is another step for those we've disenfranchised by this step, there's probably more who can be enfranchised by expanding the provision.

I have some concern about Section 33(1), and that relates to the fact that it is very unlikely that a provincial by-election, where a list of this sort would most often be used, will be held within one year, in other words, since it's so unlikely, the section is probably totally useless. I know that it has not been used at any time in the last, well for sure in the 15 years, in the province of Manitoba, and I suspect it wasn't used for quite a while before then.

However, it can be made useable. You have shortened the period from two years to one year for the use of an old list, but you specify that it is only going to be a provincial list. The city of Winnipeg saved in excess of 100,000 in the spring of 1974, federal, and there were was a provincial that fall, and in the fall of 1977. In both cases the city of Winnipeg, under the Local Authorities Election Act, in other words, their last two municipal general elections, they saved a substantial amount of money, well in excess of 100,000 by being able to use a list from another jurisdiction. Since you are providing some uniformity vis-a-vis the Federal Act and the Municipal Act with regard to age, citizenship now for the first time, and residence, in terms of the Local Authorities Election Act, the comparability of those lists will certainly allow that kind of exchange. If you're going to allow it, as the Legislature has for people at the municipal level, certainly I see no reason why the province shouldn't avail itself of that opportunity to save a few dollars.

I've heard no arguments, and I can't perceive of any that would suggest that that is not a worthwhile suggestion. However, with regard to subsection (2) of the same section, I would suggest to you that where the provincial list is used, or the list from another

jurisdiction is used, the certified list that is used should include those sworn in on polling day. There's no provision for that at the present time. I've a similar comment later on when we talk about the certified list supplied by the Returning Officer to the DRO in a regular poll, that that list, too, should include those persons who are sworn in at advance polls, so that they, then, have the authority to swear in others on polling day.

I would suggest to you, that although the provision of a six-month residence requirement is commendable, in Section 32, and enlarges the franchise to those are recent migrants to the province, that the imposition of that same six-month's clause in the rules of residence, Section 35, Page 18 of the bill, is restrictive. I am not sure that was intentionally so.

Rule 2, for example, is more restrictive than Rule 2 in 1977. The new rules of residence, which were adopted in 1977 by this Legislature, corrected some of the anomolies and interpretive problems which existed in the old rules. Rule 2 now says that if you leave the province for a definite purpose during a definite period of less than six months, you don't lose your right to vote in a June election. I choose the month of June, not just by accident, that's when we normally had elections in any year. Since 1959, only two elections haven't been held in May or June. In fact, it goes back earlier, I guess to 1940.

I would suggest to you that when the government of the province of Manitoba sponsors students to go to veterinary school in Guelph or Saskatoon, they go for eight months. They have every intention of returning; they are bound by contract to return, and you have just disenfranchised them if there is an election called a month after they return from veterinary college. You have provided they can go to school in the province and move around and vote, but residents of Manitoba who, for educational or occupational reasons, or those many residents of Manitoba who fall into the senior citizen category, who leave Manitoba for perhaps seven or eight months of the year — I understand that Manitobans form a large part of the Canadian community on the Rio Grand in January and February — those people are effectively disenfranchised by Rule Number 2.

So I think that we want to have a look at moving that six-month provision from Section 32 to Section 35. I am not sure it should have been moved. I think it creates problems and anomolies with regard to the people of this province, people who are life-long residents, who suddenly would no longer be able to vote because of a temporary absence for six months and a day, or longer.

The same thing applies to Rules 3 and 4, and the provision of the six-month's clause in those two rules can create similar situations, in reverse in the one case.

I have some concern about Rule Number 7, because Rule Number 7 provides that persons who are in temporary quarters for educational or occupational purposes have to meet certain time limits, whereas in Section 35(2), we don't make such a requirement. We say you can make that move, provided the reasons are not for any purpose relating to the election.

The previous Rule 7 did not contain that limitation. If you really believe there should be a limitation, because I realize there are an awful lot of educational courses which don't fit the description of full-time academic studies — there has been a proliferation of short-term courses — you may want to change the six months to four months, because the standard academic course year at post-secondary institutions is — a course term, not course year — is four months, with the academic year being eight months. So a person who has only got to do one-half of the year for credit purposes would be disqualified from voting under this temporary provision, where he is now undertaking his studies. This would much more likely apply to a fall election. I realize we haven't had problems with these provisions for many years, until 1977, when we did have an October election.

Similarly, if you wish to insert the clause in Rule 7, which provides that the Returning Officer be satisfied that the change in residence was bona fide and not for any purpose relating to the election, then certainly you can, without any hesitation, eliminate the time period for those who move to a temporary residence for occupational reasons. I don't see any problem with eliminating the time period there, for the same reason. In fact, as I suggest, there may well be a contradiction between Rule 7 and Section 35(2).

I would comment to the committee the method of reproducing the list which was used in 1977, which allowed parties to have unofficial copies of the enumerator's typed script prior to the printing of the official list. Section 36(2) does not make it clear that those typed scripts will be available again. I think the committee should examine whether or not they want to make them available. There is the possibility that in requiring their availability, that you will be hamstringing the CEO in the design of the forms, so that is something, I think, that should be evaluated in consultation with the Chief Electoral Officer. You have given him the authority to prescribe those forms, so I notice that you have avoided setting requirements about how the form shall be designed, and I think that is commendable.

In Section 37(1), however, you have provided that the CEO shall have, open for inspection and public access thereto, the lists. Now, if you don't make provision under Section 36 for the parties, or the candidates, to get those copies, sometimes there is a substantial waiting period and, in my experience, parties want them yesterday, they are not willing to wait even 24 hours more, and I can understand that. Not all Returning Officers, in fact, to my knowledge, very few provincial Returning Officers rent photocopiers, and we have had a situation where the kinds of funds required to provide photocopiers to Returning Officers would have been prohibitive in the past. Either we are going to allow Returning Officers to rent photocopiers for the duration of the election, or we are going to require the parties to come in with scribes and copy the lists, because that is what that section says. I am sure no Returning Officer is going to allow his public inspection copy to be removed from his office by a political party and taken somewhere else for photocopying, especially when the Act requires him to keep that one copy, which, in accordance with Section 36(2), since there only are three copies, and he has given one to the printer and the enumerator has posted the other, he

would have no list if he gave his list away to be copied.

So there is an anomoly with that particular section, 37(1), that I think should be corrected, so that you are not depriving the parties of something to which they have become accustomed. Once again, I don't think this is intentional; I think this is something that has happened in the process.

I have some concern about the purported expansion of the arrangements for revision of the list. I am pleased with the adoption of the continuous revision concept. To my knowledge, Manitoba will be the first province in Canada to create a list that is open almost to polling day, which is commendable. However, at the same time, although we have opened the list to those who want to get on, we have restricted the way in which they can apply to get on the list. In effect, we may have not increased the number of people who will be placed on the voters' list at revision.

Basically, I would submit that the restriction to persons who appear, although it was in the Act before, was interpreted by most Returning Officers to include phone calls. The first questions is, why did that happen and why was it allowed? I would submit that most political parties who, after enumeration is complete, find a large number of people in a particular area left off the list, become quite irate, and so do the citizens, and the Returning Officer, faced with that situation, is often told where to place his voters' list if he suggests that that person must, by law, attend at revision at a certain time and at a certain place. People, when faced with that kind of situation, will avoid revision and go on polling day and just be sworn in, and that's not really what the political parties and the candidates want. They want a reliable list, well prepared in advance, so they know where those voters are, so they can reach them. Let's face it, we accept the fact that although the primary purpose for preparing the list is to provide electors with documented information as to their eligibility to vote, their name is one that list, they get a memorandum for voter, the list is posted or otherwise advertised. But it has come to be, and I suggest it came to be this way many years ago, that it is almost as important that the political parties have those lists for their purposes.

If you accept that fact, that those lists are very important to the political parties and that they are only a secondary purpose because the voters are more important than the candidates or the parties, then making sure that those lists are complete at the revision process, so that you don't have a large number of swear-ins, is important, I would suggest then that Section 40(3) — there may be some reason not to allow a person to telephone in to get on the list, particularly when we have some concerns about their eligibility — however, Section 40(3) makes much more stringent the requirements than they were before on electors who have been inadvertently omitted from the list, often by the enumerator, not intentionally, but because of the way the enumeration process works.

I would suggest that asking a person to document his marriage or parental status with regard to a young adult, or document the illness, out-of-province travel, or whatever, of the spouse or other relative, is going a bit far, and I think that you will either create antagonism in the administration of that provision or it will be ignored. I would suggest to you that since most revising officers, in fact, virtually all revising officers are lay people, not experienced in the administration of statutes of this type, that when faced with an irate citizen, they will tend to make an exception rather than enforce the Act. The CEO, the Attorney-General of the province, is not breathing down their neck when they are in a back room in the returning office meeting with voters who have been left off the list. You either make it an enforceable section that will work, or forget it, because those people will not administer it the way you have drafted it.

I would suggest to you that Section 48(1), (2), and (3), which provide for the Chief Electoral Officer to approve additions to the list is commendable and removes from the obligation of the Returning Officer a complicated court process, which although it never appeared complicated to those who were involved in the direct administration of the Act, the returning officers were always afraid, "Oh, my God, you mean I've got to get a judge's order." If something happened after the revision process was complete, many Returning Officers would avoid telling the election administration about situations which would require a judge's order because they were afraid they were going to be hauled on the carpet in front of a judge, and if you read the highly legalistic wording of that section in the old Act, you would probably be afraid too.

Section 51, I mentioned earlier, should provide that the certified list includes those sworn in at the advance poll, otherwise it is not a complete list, and if it does not include those persons, those persons will be deprived of their legal right to swear in other electors at the regular poll.

I would suggest to you that in Section 52, you have probably again unintentionally created an anomoly which is unnecessary. You have made the qualifications for a candidate different than the qualifications for a voter. The same thing existed in the old Act, only it wasn't quite as glaring. In the old Act, the only requirement that was different was that the age of a candidate had to be 18 as of nomination day as opposed as of polling day. In this Act you corrected that problem in 52(a), but in 52(c) you have provided that he must be a resident for a year rather than six months, and you have provided that he must be a resident for a year preceding the date on which the writ is issued, whereas the other residence limitations are all geared to the day on which polling takes place. Those are minor problems, but I would point out that in 1973 a candidate was prohibited from running because he assumed that the qualifications for candidature were identical to those for electors. There is no reason to not make them identical in my opinion.

Section 53(1) provides for the nomination paper and all the attendant responsibilities on candidates to get their names on the ballot and in the ring. I would suggest, and only a suggestion, that you consider something which hasn't been tried anywhere else. Forget all of the rigamorole, as I would call it, of obtaining 25, 50 or 100 signatures; we have abolished the concept of a deposit many years ago, so we obviously feel the deposit is not a deterrent to frivolous candidates. The requirement,

when it was increased from 25 to 50 signatures, was thought to be a deterrent to frivilous candidates. I would submit we haven't had a great number of those, and those who we have had, had no more trouble getting 50 signatures than they had getting 25, and I would also suggest they will have no more trouble getting 100 than they had getting 50. They will just spend one extra evening at it.

I would suggest you consider — I haven't thought through all the ramifications of it — a nomination declaration. I, John Jones, hereby declare that I will be a candidate in the electoral division of Norquay, name, signed by the official agent accepting his appointment, which could be contained in the same document, and eliminate all the nonsense of the Returning Officer spending, used to be several hours, checking 50 signatures. Now it is going to four or five hours checking 100 signatures. Eliminate that, eliminate the obligation on the party — and let's face it, it is several party workers who are out for a couple of evenings gathering those signatures, to no purpose. The day when the legitimacy of a candidate was decided by his support in the community is long gone. The candidate today, for the most part, is legitimized by the registered party which endorses him, and beyond that we have fewer than a dozen other candidates. In fact, many of the candidates who ran as independents, what many people choose to call nuisance candidates, got fewer than the 50 votes they were required to have in nomination, so even the nomination concept doesn't work.

I suggest that is a concept worth looking at. It removes a nuisance from the parties and from the candidates. I am not sure that it does much for the election administration, but it is certainly a simplification that, from my perspective, simplifications in the Act always lead to ease of administration in the Act, as long as when they are implemented they are done with the caution that is required when things are simplified. An Election Act is complicated because we have some very essential institutions to protect.

I would suggest to you that Section 53(2) contains no requirement for the candidate to state his occupation, and yet the requirement that Returning Officer print the ballots in Section 73(7) requires that he put the candidate's occupation on the ballot. I don't know which way it was your intention to go on this matter, but I would suggest that you clarify that question. Either you don't want the candidate's occupation or you do want it.

Personally I would suggest there is no merit in having it; it is not information that is valuable to electors in making their decisions. In fact, if anything it is a source of conflict and complaint as to the kinds of designations various people can use. I can think, and so can many of you, half a dozen different descriptions of the primary occupation in which most of us find ourselves engaged in, and some of those can be considered desolutory, and some can be considered very gracious and high-faluting. So people tend to choose those for their impact on the ballot. I don't think that we as citizens have any desire to choose our legislators on the basis of their occupation, but rather on the basis of their experience and their credibility and what they have to offer. So personally I would suggest that occupation be eliminated, since you eliminated it everywhere but Section 73(7). I think that was also your intent, I would recommend you carry that through.

Section 58(1), where after the nominations are complete we provide for the issuance of a proclamation in the grant of poll, has a provision similar to that contained in Sections 27 and 28, the duplicate advertising provision. I would suggest to you that Sections (c) and (e) can be combined to provided for one set of notices. In fact, I would suggest to you that the Chief Electoral Officer when creating the forms will probably specify that this is a form to meet the requirements of 58.1(c) and (e) when he drafts the form, because there is virtually no difference between them, except for the inclusion of residences and occupantions in (c). And if I read your intent correct, Mr. Minister, your elimination of occupation everywhere else in the Act probably means you don't want it there anyway.

Under Section 61, I would suggest that you need a new subsection to provide for the moving of the poll in a chronic care facility. For example, the municipal hospitals. Under this provision, as I read it, the municipal hospitals could be designated one of two ways — your hospital definition isn't as tight as it could be, but it is certainly workable, so I make no comment on it — so that you do allow persons who are not undergoing intensive treatment, persons in chronic care facilities to be considered as hospital patients. However, if the Returning Officer chooses to designate that residential facility, such as the municipal hospitals, as a regular poll, which Returning Officers in the last ten or so years have been doing, you need a provision which allows that poll to go bed to bed, or room to room, whatever is necessary, you need mobility within the polling place for those chronic care facilities.

With regard to the provision of advance polls, I do not understand the government's intention in providing for five days of advance polling, when earlier in the bill you allowed for continuous revision. Advance polling in the formal sense of the word — I notice it has been changed from 1 p.m. to 10 p.m. to the standard regular hours to 8 to 8, which certainly will reduce the confusion of the hours that polls are open — but I don't understand why the government would wish to have five full days of advanced polling, a very expensive proposition, as it is done on a limited basis, especially in rural areas where additional advance polls are required, when where is another option available to you, which although it wasn't proven three years ago when you first considered some of these questions from the review, has now been proven through two federal elections, and that is the principle of a continuous advance poll.

I myself had reservations about it when the Feds first borrowed it from New Zealand in 1976. However they have proven it, there have been no problems, except the minor administrative problems, and it has lent itself very well to the expansion of the franchise to those who would be travelling or out of their constituency or out of the province or whatever on polling day. The expansion to five advance polls doesn't go near as far as a continuance advance could go, and it probably costs three or four times as much.

So Section 65(3), if anything, is a waste of money, when you have such an easy alternative which will allow you to save dollars. Continous advances run from the Returning Officer's office, you can borrow it, virtually complete from the federal statute. They use the sealed double-envelope system; there's no obligation on the parties to supply scrutineers all the time at the advance poll unless they want to, and the system has worked. The parties have commended it. I have heard complaints from none of the principle federal parties about the operation of that system, and it has saved tremendous dollars and yet expanded the franchise to those who are unable to vote on polling day.

I commend that to the government, and suggest that I don't understand why you haven't considered it, other than perhaps not knowing how sucessful it had been at the federal level. If you have any doubts, I suggest you consult the federal people on this provision, and I suggest with some certainly that they will commend it to you.

Section 65(5) provides that an advance poll shall be conducted in the same manner as is provided in this Act for the conduct of a regular poll. That is the way it used to be, too, so you haven't changed anything. However, in the past, that section was never obeyed, and the reason it was not obeyed was because the poll book, if it was kept in the normal manner, would be locked in the ballot box at the completion of balloting in the advance poll, and would be unavailable to the Returning Officer for preparation of his certified list of electors.

Ontario adopted in 1971 a system whereby the advance poll book contains everything a regular polling book does, except it doesn't contain the list of the electors, that is on a separate multi-carbon form, a copy of which can then be supplied to the Returning Officer, and to the candidates if they don't have scrutineers in the advance poll, and sometimes they don't, and the Returning Officer can then prepare his certified list of electors.

What in effect has been happening, is DROs and poll clerks in advance polls have been preparing both the poll book and this other list. They have got enough to do in the poll, particularly in a busy advance poll, without having to do more paper work. As soon as you burden these officials, they are not going to do the job properly. We have heard complaints already during the controverts about sloppy clerical work. I would submit that most of these people do excellent jobs, but they have a tremendous amount of work to do, particularly during the peak polling hours near the close of the poll. By eliminating this one requirement, and putting in the bill the actual practice, which is to prepare a separate list for the use of the Returning Officer, so that he can mark off on a certified list those who have voted, you will have made a very useful amendment.

During the period in which I was involved in the administration of elections, I had occasion to discuss the intent of Section 66(1) with chief electoral officers in other jurisidictions, and there are very few jurisdictions that have a provision similar to 66(1). However, the Chief Electoral Officer of Canada I know would certainly appreciate having that provision extended to federal elections — not that he gets it free; he would certainly be happy to pay rent, as the province will now do under th provision, rather than paying other fees, will pay tl standard rent tariff for the use of schools and oth provincial buildings. The Chief Electoral Officer wou like to use the same polling places that the provinc uses, so that when the average citizen goes out t vote he is in the same polling division, voting at th same polling place as he did in the federal electic and as he did in the municipal election. That kind c uniformity electoral officials at the municipal, feder and provincial level have been striving for — b providing in 66(1) that he can use those sam buildings, but that he pay rent, we are going som small way towards adopting uniform pollin boundaries and uniform polling subdivisions to avoi confusion for voters who always voted at AB(School, and will tell you they voted there in ever election, provincial, municipal and federal, for 4(years, and now you have suddenly changed thing on them. That is generally not the case; they ma have short memories, but certainly we can go som small distance that way.

When a polling place is changed under Sectior 67(1), I would suggest to you that where time permits the change should be published, because it does no just apply to candidates and parties, and the notification is to candidates, where it is possible tc do any advertising within the polling division or area. if a multiple polling place is burned to the ground or whatever, then there should be some publicity attached to this change, under 67(1).

I would also suggest to you, although I'm totally inexperienced in this matter, that in most candidates' offices, I'm told by people who have been candidates, there are people manning the phones who may not necessarily understand the impact of a message from the Returning Officer, and I would suggest that the requirement to notify be directed to the candidate or his official agent and that the notification be by a registered letter, or telegraph or telephone, so that you specify that. I think somewhere else in this bill, or in 96, I can't tell you where, it's specifically required that notice be in that fashion, either by registered letter, telephone, or telegraph, to the candidate or the official agent.

Section 68(1) contains another one of these very minor problems, which in practice has long been eliminated, in provincial elections, but which I would suggest, can by minor amendment, be clarified. Section 68(1) provides that a poll can contain more than one compartment. Well, most chief electoral officers across the country and most returning officers who've observed their polls operating, only allow one compartment, for the simple reason that control of ballot flow is the most important control they have against fraud. If you have more than one compartment, which we haven't had for many years provincially, as far back as either of the two previous CEOs can remember, so that goes back to some time, I think, before the Second World War, or near that time, we've only allowed one poll. The proliferation of polls, which then means the issuing of more than one ballot at a time, gives me some concern, and I hope you some concern about ballot security. Since we have gone to the elimination of the counterfoil, which I commend, there's all the more reason to be cautious about some of these

her things, just in case someone decides to abuse is change.

Section 73(7), I just mentioned the abolition of the ounterfoil. I think it is a commendable step for ose of you who've hesitation about it. I would point ut that in the last 15 or so years in Manitoba, at ny time where the counterfoil has become an issue, a recount or controvert petition, or on polling day a poll, it has become an issue because of a isunderstanding about its use. The counterfoil has ever been successfully used for its original purpose, never in an election in the last 15 years, and for l I know, never in the history of the province, been uccessfully used for its original, intended purpose, hich was to detect fraud, mainly because the eople who designed it were very well intentioned nd understood the sophistication of the system. But e average lay person in the poll, on polling day, oes not understand how that counterfoil really acts control fraud.

I would suggest to you that under Section 77(1), ou may wish to give consideration to allow the ppointment of scrutineers to be under the signature the official agent. I see no reason why all these rms have to be signed by the candidate personally; e official agent is his agent. Now, although it oesn't say so in the Act, maybe legislative counsel an advise that where it requires the candidate's gnature, the official agent's signature will suffice. hat's not how I interpret that section, but if that's e interpretation, we might as well say it, because e people who are going to be interpreting this Act, nce again, are people who will not have the gislative counsel available at their side.

Section 79(1), a minor but important notation. In e last line, it requires that the box shall be kept cked and sealed, whereas the provision for the allot box provides that it shall have a seal or a lock nd key. Well either you're going to give them a seal nd a lock and key, or you want it locked or sealed, ot both. I would suggest that you want it one or the her, if you're using the metal non-reuseable seals. ut if both are required and you don't change it now, e CEO is bound by your statute, as I said, probably r 10 years before you'll get around to looking at is Act again. I don't say that critically; I say it as ne of the facts of the legislative life.

Now I come to a very important policy question, hich I suspect was probably debated at some ngth by the government before bringing in this bill. certainly would recommend very strongly the overnment re-examine its stance on Section 85, ith respect to vouching. First of all, because I elieve that if you expand the franchise, or if you ant to expand the franchise, as the Attorney-eneral said in his opening remarks on the bill, that obably the single most restrictive feature of this . .

R. CHAIRMAN: Order please. The time being 30, committee will rise and be back here at 8:00.