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Legislative Assembly of Manitoba

STANDING COMMITTEE

ON

LAW AMENDMENTS

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty - First Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS
Saturday, 26 July, 1980

Time — 2:00 p.m.

CHAIRMAN — Mr. Gary Filmon (River Heights)

BILL NO. 114
THE MANITOBA ENERGY AUTHORITY ACT

MR. CHAIRMAN: Committee come to order. We are on Law Amendments with the delegation on behalf of the Manitoba Association of Rights and Liberties, Mr. Mitchell speaking on Bill 114, The Manitoba Energy Authority Act.

Mr. Mitchell.

MR. GRANT MITCHELL: Thank you, Mr. Chairman, I believe when we adjourned for lunch I was going through these sections one by one and raising our concerns about each one. I'd reached Section 79 dealing with the powers of seizure of the inspectors, who are designated under the Act. It was our concern that the powers of seizure are very broad, far broader than are the powers that exist in the present law, either provincial or federal. I note that although there is a reference in Section 77, where the inspector must at least form the opinion that the documents are relevant when he's seizing them under Section 79, unless I've missed a part, I don't see any requirement that they have to be relevant to a prosecution or an investigation under the Act. Simply may seize and remove any property and so on, without limiting — well there is no limiting. He retains them and there is no recourse, apparently, to get the documents back if it could be shown that they were not relevant to any proceeding under the Act.

I've dealt to some degree with the matter of appeals. It's our feeling that because of the extreme powers that are being exercised under Part II of the bill, that the usual provision that questions of fact found by any Minister or tribunal are not appealable in a court, are not appropriate under this section and that questions of fact, as found by the board, on these matters of extreme powers, should be reviewable in court and that Section 81(1) should not be included in the part.

In addition Section 82 suggests that the board has full and exclusive jurisdiction to make its own investigations to find out whether anything has been done in violation of the statute. Our concern there is that the board in a sense is judge in its own cause, so that if any officer representative of the board or the Lieutenant-Governor-in-Council's has committed a violation of the Act, its the board itself who sits as the determinor of that issue and that, of course, is contrary to the principles of natural justice.

Dealing with matters of limitation period, under Section 84 and the appeal that is provided for, I note that where the board makes an application for a variation, the limitation period that it realizes, or for taking a prosecution, is two years under Section I believe it's in the final sections of the bill. In any event, under Section 84(1), "application must be made within one month after the making of the order sought", and it doesn't provide for time after becoming aware of the order sought, which is the provisions made when the board is making its application. Once it becomes aware of a violation it has two years from then; for an individual making a complaint, or bringing an appeal, he only has one month from the time of the order, so if he doesn't find out about the order until more than a month has passed, he's out of luck, he has no appeal, unless, in the discretion of the court, an extension is permitted. We feel that by a simple amendment of making it when the person becomes aware of the order then that would render it more fair.

Section 85 dealt with before. It is the penal section. It's our submission, first of all, that because the penalties are so severe that they actually are criminal in nature and are, therefore, beyond the jurisdiction of of the Legislature. But, in any event, they are more severe than those penalties that are imposed, even upon indictment, under the federal statute, that is The Energy Supplies Emergency Act 1979, and that the penalties, at most, ought to be those imposed under the federal statute and probably ought to be substantially less. Especially, given that these penalties are imposed for any violation of the Act, whether or not apparently the person intends to do what it is that its found that he's done. The only place where the word knowingly or wilfully, or any of those words is used, is under Section 85(2), as far as any other violation of the Act, there's no requirement that a person have the mens rae, is the legal term, but the legal intention to do what he's doing. So presumably there is strict liability imposed and these very severe penalties as well. Although it's called summary conviction, the usual provisions for summary conviction offence is a maximum of six months in jail and a maximum of 1,000 in fine are extended here.

In addition the sections dealing with aiding and abetting go far beyond the provisions of the federal statute. I would say that in every case where there is a comparative provision of the provincial and the federal statute, the provincial statute has extended the provisions of the federal statute to make it more punitive, more restrictive and more harsh than the federal statute.

Dealing with Section 91(1), again, I referred to this earlier, that's the provision where the prosecution could be taken at any time within two years from the date the offence came to the attention of the Minister; not the date on which it is committed, but when it comes to the attention of the Minister, it can be brought any time within two years. That again is an extension of the federal provision which provides for a one year limitation period. So presumably a person is in jeopardy forever, but at least for another two years after the Minister learns of the supposed offence. This, I would submit again, is oppressive and ought to fall in line; if you're going to have

criminal provisions, ought to be in line with other criminal proceedings.

Under Section 94, as I read the section. It says that in a prosecution under this Part where it appears that the defendent has committed an act, then the onus becomes upon the defendent, not only to prove that he was duly licensed or authorized but that the act or omission he did was lawful. This, of course, runs exactly contrary to the general principle that a person is presumed innocent and that the onus is upon the person who alleges a violation to prove that the offence has been committed. So a person loses his presumption of innocence and, as soon as it appears — and I don't know what those words are intended to mean — as soon as it appears that he has committed an act or an omission, contrary to the Act, the onus is upon him to prove his innocence. I don't see why there's an urgent need for this because once the person has been enjoined, or whatever, under the section, I don't see that there would be an urgent need in the prosecution to put an extra onus upon the defendent to justify his conduct. It runs contrary to all the principles of natural justice, of which I'm aware.

I would suggest that the onus in a prosecution, which will take place after the necessary action has been taken to remedy the situation, ought to be the same as the proceedings are in any other prosecution in this province.

Under Section 98 — and we're leaving Part II for the moment — dealing with the liability of directors, it says that a director is not liable for what amounts to anything. Under the federal legislation, Section 9(7) the director is not liable as long as he's acting, or the board is acting in good faith, and I don't see why that shouldn't also be included. I don't know why that change was made. If the legislation is supposedly tailored after the federal legislation, I don't see why the same requirements oughtn't to be made of the directors, especially when they have such sweeping powers. They ought to be responsible for their conduct.

There's a limitation period of one year placed in Section 98(4) for any action against the authority. We don't play by the same rules. If the authority has committed an act in violation of the statute, then the person complaining of it has only one year, where the authority has two years from the time that it becomes aware of the conduct. Here it's within one year from the occurrence of the loss or damage, so if you don't become aware of it until after a year, again you're out of luck.

Finally turning back to Section 45, we object to the suggestion that, while the authority is supposed to give notice under the usual provisions under the Act, that the mere fact that notice hasn't been given shall not be grounds of itself for setting aside an order. Although this is a common provision, we feel that there should be stronger motives to notify parties who are going to be affected, and if the parties haven't been notified, there should have to be a re-hearing.

With respect to the specific provisions of the bill, from our cursory look through the bill, those are the first complaints that we have to come to mind. It's our submission that there are sufficient problems, especially with Part II of the Act, that with so many provisions of it, that this part ought not to be passed at this time, and some serious review and chance to give very serious consideration to this legislation ought to be given. While the legislation deals with urgent situations, we don't feel the urgent situation arises at this moment, and it could just as easily be dealt with in a subsequent session of the Legislature; that for now, at least Part II of the Act ought to be tabled for further review and consideration because of the very extreme measures that it proposes.

Those are the comments I had. I'd be glad to answer any questions.

MR. CHAIRMAN: Thank you very much, Mr. Mitchell. Mr. Craik.

HON. DONALD W. CRAIK: Mr. Chairman, I also want to extend thanks to Mr. Mitchell for his brief. There are many good points contained in the brief that should be regarded in the final bill,.and I want to indicate for the value or purpose of the committee, that I think that the emergency part in particular should have a fairly wide endorsement on both sides of the House when they're brought in. We have other Acts on the books — I think you'll find The Workplace, Safety and Health Act has entry without warrant and all these sorts of things that you're concerned about, but that doesn't make a case for including it where it's not necessary. It may well be necessary in a case like this.

But there are obviously a lot of points in here that are thorny, from the point of view of the Human Rights' issue. One of the difficulties in dealing with it, is that we haven't had an energy crisis of a size at this point in time, where there's a general feeling for what's involved in that sort of thing, and we all hope, of course, that that will never occur. It may never occur.

But in summary, Mr. Chairman, I would recommend to the committee that we do in fact refer this emergency section to the allocation committee that will be set up under Part I, for a recommendation back at some future time after their operation. That is, the allocation committee in Part I, once it's operational, will be able to do their research more thoroughly and come back with a firm recommendation more specifically on powers here that may be a little more wide-ranging than any of us really want to see, without knowing absolutely that they are required.

So I would recommend to the committee, and we might save a little bit of the committee's time by suggesting that Part II of the Act be pulled for the time being and referred to the allocation committee that would be set up under Part I of the Act.

MR. CHAIRMAN: Thank you, Mr. Craik. Mr. Evans.

MR. LEONARD S. EVANS: Well, in speaking to the Minister's comments, I want to say as one member of the committee, I welcome that comment. As a matter of fact we were prepared to move the deletion of Part II from the Act, with the argument that the government should take a much closer look at it — all concerned should take a much closer look at it. So is the Minister saying, in effect, that as we go through the bill clause by clause, when we get to page 13, which is Part II, Emergency Powers, that he

would propose that Part II be not considered or be deleted in its entirety from the bill?

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Mr. Chairman, I will have the legislative counsel and the people that have been involved in assisting in drafting it, to make sure that there aren't any parts of Part II that are necessary for the rest of the Act. I don't think it is. I think it can be taken out completely, but by the time we get to clause-by-clause stage, we'll have that.

MR. CHAIRMAN: As I understand it, that would involve on page 28, clauses 23(1), Parts 1 and 2 as well, because they refer to the powers in Part II, for the effect of Part II, but that will come in the clause-by-clause analysis.

Mr. Evans.

MR. EVANS: Just further to the point made by the Chairman along these lines, I believe on page 11 in Section 42(1), powers of the board under The Evidence Act, there's reference to Part V of The Manitoba Evidence Act, which I think gives vast powers also to the board, and that may be another item which we might wish to look at, or have someone look at. I mean, to be consistent with your desire to have the entire Part II to be reviewed, intersessionally, or what have you.

MR. CHAIRMAN: Does it involve the delegation then? Okay, Mr. Evans.

MR. EVANS: Just one quick question of the delegate — I had a number, but in view of the Minister's announcement, I just have one question. I want to thank the delegate for his brief, I agree with his comments, I think most of us agree with his comments and appreciate his organization taking the time to appear before the committee to express such comments. Obviously you've done a fair amount of work comparing this legislation with the federal legislation, but I wonder if you have had the opportunity, and I know you've been rather rushed for time, but has the organization, or has Mr. Mitchell, has he had the opportunity to make any comparisons of this kind of legislation with legislation that exists in certain other provinces and, if so, has he any, very briefly, did he have an observations to make about that. Now, he may not have, but I wondered.

MR. MITCHELL: The question is a good one, it was one of the first ones that arose when we had our first chance to look at the bill this week. Unfortunately we haven't been able to find a bill in any other jurisdiction, which is of similar nature. We haven't really done a search and we're really looking to compare this statute with the federal statute and with the general principles of human rights. I'm sorry I haven't look at them and of course it would be relevant to know what other provinces are doing in the same area. Alberta is probably not as concerned as we are.

MR. EVANS: Just one further question then, Mr. Chairman, I know the Minister has announced that Part II will be reviewed etc., but it is the intention of your organization to do further research into this matter and . . .

MR. MITCHELL: We would welcome the opportunity to make some further research and find out what's happening in other provinces, I think, for sure it would be relevant in whatever legislation is going to be passed in Manitoba. We'd be glad to present a brief at some future time, when this legislation is before the House again.

MR. CHAIRMAN: Thank you, Mr. Mitchell.

MR. MITCHELL: Thank you for the opportunity.

MR. CHAIRMAN: Now as far as I'm aware that was the only other presentation on Bill 114 and so that concludes, if there are no others, that concludes the public representations on the bills before us. Are there any other presentations on Bill 114? Are any bills before us? If not —(Interjection)— the auctioneer to my left says, going once, going twice, sold. So we'll now proceed bill-by-bill, commencing with Bill 56. Do you wish to go through it page-by-page? (Agreed). Page 1, Mr. Corrin.

BILL NO. 56
AN ACT TO AMEND
THE CHILD WELFARE ACT

MR. BRIAN CORRIN: Mr. Chairman, I am looking for guidance, I was going to suggest that we pass Page 1 and stop at Section 3 on Page 2.

MR. CHAIRMAN: Thank you, Page 1 pass; subsection 3 on page 2 — Mr. Corrin.

MR. CORRIN: This, Mr. Chairman, was the clause that offended the Legal Aid Lawyers Association. They made the point that they felt that notice of a hearing on an application into apprehension of a child, should always be affected upon the parents. The amendment will allow the court to dispense with service of such a notice. Formerly the legislation, as we understand it, from Mr. Yard, who was here from Children's Aid Society, provided that there could be waiver of notice if the applying agency could prove to the court's satisfaction that they were unable, because of circumstances, to serve the affected parents.

Now, Mr. Chairman, as we understand it and read it, the applicant agency will simply be able to ask the court to waive the obligation to notify the parents, on any grounds whatsoever. I would indicate that this, in my submission, is simply too broad, this is, as the Legal Aid lawyer said, this is very unusual, there is no other legal process that can occur without notice to an affected party. And when you consider we're now talking about an application to take away somebody's child, I must say that that has to be one of the most dramatic withdrawal of rights that is humanly imaginable. Somebody could lose a child without notice being given to them about the court hearing.

So I think that, notwithstanding the zeal of the child care agencies, and of course they are purely motivated by what they perceive as the best interest

of children. But notwithstanding that I think that I personally wish to come down on the side of affected parents. I think that it's satisfactory now; the law now clearly says that the agency can obtain dispensation and obtain a waiver if they can prove to the court's satisfaction that they are unable to serve the parents, having made an effort. So it's just a question of them making a proper effort.

I also know, Mr. Chairman, and Mr. Yard confirmed this, that there are provisions in the Child Welfare Act that allow for extended interim orders so that the child care agency can retain the custody of the children pending a hearing and this can go on for some many months, I think, as a matter of fact, it can go on in perpetuity, whilst they make efforts to locate the parents, if it becomes a situation where there is extended delay and the court won't grant their application for dispensation of notice.

So, on that basis, Mr. Chairman, I would wish to see this particular clause, as was suggested by the Legal Aid Lawyers Association who said that 100 percent of the cases are virtually represented through Legal Aid in this regard so they have a lot of experience, I would like to see the clause deleted. We will be moving a deletion because the present provision is adequate. There's just no reason to go to this length in trying to secure the interest of the child care agency. And, by the way, Mr. Chairman, I want it on the record, well it already is on the record, that the child care agency's representative said there had been no consultation with respect to this provision anyway. So on that basis, Mr. Chairman, and we'll discuss that further when we deal with the next section because they opposed this section, which proves there was no consultation, on that basis there's absolutely no reason to consider that the government's moving into an area of need. If the government hasn't polled the opinion of the child care agencies, I would submit that they shouldn't even touch this sort of legislation. It's highly improper.

MR. CHAIRMAN: Mr. Minaker.

HON. GEORGE MINAKER: Mr. Chairman, just as a point of correction, I believe that Mr. Yard was representing his firm, not the Childrens Aid Society. I maybe have misunderstood on that but — (Interjection)— he said that he had represented the Childrens Aid Society on about 80 percent of their cases, but I don't know whether he indicated he was representing the Children's Aid Society.

MR. CORRIN: On a point of order. He did indicate that he represented the agency, Mr. Chairman, and to my recollection and notwithstanding that, I think it's a matter of common knowledge to everybody, and I'm sure the Attorney-General can confirm this, everybody in the legal fraternity know that that firm does all of the legal work for the Children's Aid Society of Winnipeg. So, you know, if he's talking in terms — I didn't hear 8 percent, but that would be the number of contested cases that the agency is involved in.

MR. CHAIRMAN: Mr. Corrin, may I just clarify, you are referring to Section 25(3)(a) and (b) and you propose that it be deleted. Is that what you recommend?

MR. CORRIN: I don't see (a) and (b). We're talking about 3 and we're dealing with 25(4.1) of the Act.

MR. CHAIRMAN: Okay, 25(4.1).

MR. CORRIN: Yes, we're moving deletion of Section 3. In other words, there will be no repeal of the present 25(4.1) which by all accounts is quite acceptable to the Legal Aid Lawyers Association.

MR. MERCIER: If I might comment on that section, Mr. Chairman, because Mr. Yard, in his opinion, said this was a useful section in his experience. Mr. Chairman, I point out to the Member for Wellington that Mr. Yard indicated this section would be a very useful section, in his experience, a very broad experience, acting in these matters because of the large number of cases they apparently run into where there's absolutely no involvement by the parent with the child and those are the circumstances, as I understand it, that they would use this particular section. I just might say I appreciate his comments on Section 4 and he noted that it had been developed in response to more of a specific development in one area of the province in the way some cases were going. But on the basis of his comments, we would be prepared to delete Section 4. But I'm suggesting, also on the basis of his comments, that we leave in Section 3.

MR. CHAIRMAN: Mrs. Westbury.

MRS. JUNE WESTBURY: Yes, Mr. Chairperson, as it happens, two weeks ago I phoned Miss Shorts at the Childrens Aid Society and asked her opinions of this bill and she had not seen it and was not aware of the bill, so I know that they were not consulted on the bill, just to confirm that point and I sent her a copy at that stage. I wanted now, in referring to Section 3, to ask what effect this, if approved, would have on the present system of advertising in the newspapers? Is that the present system that has been referred to? You see advertisements to Joe Blow, a hearing will be held to decide the custody of your children at such and such, that is what is required now?

MR. CHAIRMAN: Who are you asking the question of?

MRS. WESTBURY: Anyone who can answer it.

MR. CHAIRMAN: Mr. Corrin.

MR. CORRIN: I'll attempt to. I think what happens is, under the current Section 25(4.1), an application is made to the court to waive the usual form of notice. Very often the courts are disinclined to make approval of that unless there's one final attempt and usually what they do is say, well, there's no way of knowing where the person is but we can presume that they may still be in the province of Manitoba, so publish a notice in the two Winnipeg newspapers and we'll presume that it will be brought to their attention and they give a 30-day notice deadline and that's a

final effort to try — that's the way it works now. So that at least the court can say, do that.

Under this legislation it's not necessary that there be any effort whatsoever and that's very bothersome. You could get into a situation where Children's Aid made an argument to the court, not having even made an effort. It seems reasonable that there should be an effort to notify a parent and to say, well, the court can exercise discretion and dispense without even an effort being made. It seems to me to be, and it seemed to the people who represent parents, to be a bit high-handed and overbearing. You couldn't start any other sort of court proceeding without notifying the person that something was going on and I don't think any of us would like to think tht our children could be apprehended without any effort on the part of the Child Care Agency to serve us with a notice. I mean, that's pretty tough stuff.

MRS. WESTBURY: Yes. Mr. Chairperson, I have to agree that I think a reasonable effort should be made to locate the parents and I think that advertisement in the newspaper is a reasonable effort as long as it wasn't delayed unreasonably, to an unwarranted extent, in the search for the parent, that the well-being of the child should, at that point, become foremost. So if, then, in order to have the courts use that discretion, we have to eliminate Section 3 of the bill. I will support any amendment so doing.

MR. CORRIN: It's the reverse. In order to have the court have that discretion we have to have that section in, it's my understanding.

MRS. WESTBURY: Oh, it's the opposite of what . . .

MR. CORRIN: Yes.

MRS. WESTBURY: Well, could somebody straighten that out? We're not hearing the consultations that are going on up there.

MR. CHAIRMAN: I'm not hearing the consultations either. Pardon?

MR. CORRIN: On just a point of order. Mr. Mercier made the point that what Mr. Yard was saying was that Section 3 should be in because that's useful to the process and that accomplishes what you, Mrs. Westbury, said you wanted to accomplish; that is, give the discretion to the judge. But that Section 4 was the one that he was saying should be repealed because it could frustrate the efforts of the child care agencies to accomplish their purpose. So, Mr. Mercier, would you . . .

MR. MERCIER: Well that's, in essence, what I said and what Mr. Yard said. There are a number of situations where a number of, for example, men have lived with a woman over a period of time and they don't know who the father is. I think he cited that as an example of the kind of situation where it would apply to dispense with service.

MR. CHAIRMAN: How shall we go? 25(2) then? All right, Section 3 pass. Okay, are we still on 25(3) or 25(4.l) which is Section 3 because we would at least minimally like to make an effort, so we'll move the deletion of Section 3.

A MEMBER: Just vote against it.

MR. CHAIRMAN: Okay, you can vote against it. All right. Section 3.

A COUNTED VOTE was taken the result being as follows:

Yeas, 11; Nays, 7.

MR. CHAIRMAN: The motion is carried. The section passes. Section 3 pass; Section 4. Mr. Mercier.

MR. MERCIER: Mr. Chairman, I propose that we delete that section.

A MEMBER: Just vote against it.

MR. MERCIER: Yes, pardon me. We can vote against it.

MR. CHAIRMAN: If you want it deleted you vote against it then. Section 4.

A COUNTED VOTE was taken and the motion was passed to delete Section 4.

MR. CHAIRMAN: Page 2 as amended pass.

MR. MERCIER: No. There's going to be some numbering changes.

MR. CHAIRMAN: Page 2 as amended pass. Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, in view of the deletion of Section 4 of the bill —(Interjection)— No. But in Section 7 there's a reference to 25(3) to (10). That (10) should now read (8).

MR. MERCIER: That's right.

MR. CHAIRMAN: 30(5) as amended pass; Page 3 as amended pass; Page 4 pass; Page 5 pass. Mr. Corrin.

MR. CORRIN: Yes. I wanted to deal with the issue that was raised by the Parent-Finders Group, Mr. Chairman. I guess from the outset I can say that with respect to Section 12 of the bill, that I was moved and I'm sure most, if not all members, were moved by both delegations. A gentleman whose name, unfortunately regretably has Now escaped me — (Interjection)— Mr. Pyper I thought made a cogent and excellent presentation, and one that was, I think, emotionally moving and appealing. But I felt the same way about the presentation made by Ms Mason. Obviously there is a lot of anxiety provoked by adoption, and reference was continually made to the triangle between the adopted child, the adoptive parent and the natural parent; there is obviously tremendous stress at all points in that particular triangle.

I personally felt that Ms Mason made a good point with respect to Section 12. Mr. Pyper, I think, made a good point with respect to 94(2), the amendment

to Section 94(2) of Section 12, and I thought Mr. Pyper made some very salient points with respect to 94(3).

My inclination, I suppose, is to feel that, dealing with Ms Mason's concern first, that adult adoptees should have the same rights as all other adults. We shouldn't segregate them or treat them in any way different from any other person in the community. She makes the point that every other person is entitled to know his or her surname. I guess most of us, if we grew up with our natural parents, almost take that as a matter for granted, but she made the point that for an adopted child that isn't a matter of course, and her concern was that the legislation did not provide that a county court clerk thus must disclose the adoption records to an adoptee.

I want to make the point, for those who haven't studied this provision, and I'm sure most haven't, we're only talking about adult adoptees, we're not talking about provision of information to minors. She made the point that currently, apparently since 1970 there's been a practice which is confirmed by this provision in the bill, to register adoptions by way of birth registration numbers, as opposed to surnames, and she makes the point that if we're going to do anything effective, to revise and redress the bill, that it would be important and necessary that there be a guarantee and assurance that an adult adoptee could obtain a certified copy of the adoption order, that would include and contain a disclosure of the original surname. She says, and I think again that it made sense, that this is necessary in many cases because natural parents have deceased — and that was a good point, I thought — she says, that 94(3) will be vitiated in the case of situations where both natural parents have died. She said that it would be impossible for those people to volunteer their participation in the divulging of information, so there is no other way that such a child can trace his or her roots. So you've got to have this sort of access to cure that sort of problem.

Also the thing about health records, she made the point that some people are concerned about congenital defects in the family tree, hereditary disease and so on, and they want to trace for that reason. Not so much that they want to know who they are and where they've come from, but rather they want to to know whether there's anything that should concern them in their families' medical records. Again, I guess we take that for granted. You know, most of us are fortunate; we can just simply ask our parents and grandparents about their medical histories and we can find out if there's that sort of congenital history in the family. But these people can't, and I suppose for some it must prey on them. I just have to presume that.

I spoke to the lady; she told me that 12,000 adoptees in Canada represented by their association, The Parent Finders of Canada, were registered in search of natural parents. That's a lot of people — 12,000 people trying to find out who they are. So it seems to me that we should do something.

I must say that I'm also moved by the other side of the coin, you know, that adoptive parents should have rights and that natural parents should not be —(Interjection)— well I think this is — Mr. Pyper summed it up. He said it would take the wisdom of Solomon to decide this sort of issue. And unfortunately, even collectively, we don't have the wisdom of proverbial Solomon. But I think we have to think long and hard about what we're doing because it's a very important issue.

I think that Mr. Yard tried to touch on this as well, He said that he thought protection should be afforded to natural parents. He was concerned that there might be some inhibition; there might be some obstacle to securing natural parents, or perhaps adoptive parents, if there are disclosure provisions provided in the legislation. I don't think you ever work into a perfect situation; I think the truth of the matter is that it's a hopelessly impossible situation. The interests are competing, but somewhere we have to find a solution that conciliates the competing interests of all three groups.

My own feeling is, as I said, with respect to Ms Mason's submission, that there should be an amendment that will allow adopted children the same rights when they're adults, as all other adults in society, which means they should be able to find out their surname. If they want to make the necessary searches, if they want to do that and take the initiative, I don't think it's enough to say that the adoptive parent will be injured by that. It seems to me that when somebody]s child becomes an adult, in all other respects they're entitled to do whatever they please, notwithstanding the prevailing opinions of that person's parents, so it only makes sense to me that they should also be able to do this. I suppose the argument is well, it may put strains on the familial relationship; it's going to burden the relationship — but the relationship is already burdened, because the child wants to know. So when we're weighing the interests of those two classes of adults, parents and children, I think we have to say that everybody should be treated the same as everyone else in society, and if we do that, I have to come down in favour of giving them their rights and letting them know.

So I'm going to move an amendment which I have prepared, and I'll read it:

> Amend Bill 56, Section 94(2), insert "shall" in place of "may" in the first line, and delete all the words after the word "require" in the fourth line and replace with the following:
>
> Any adoption order or decreee absolute, wherein the infant is referred to by the birth registration number must have appended thereto the correct legal name at birth of the adoptee.

That will get around the concern about the 1970 regulations that caused the registrations to be made by number.

MR. CHAIRMAN: Committee has heard the amendment. Mr. Minaker.

MR. MINAKER: Mr. Chairman, speaking against the amendment, if we support the principle in 94(3) as acceptable to the committee, then 94(2) as it is presently before the committee in the bill should be passed, because it is put in there to make sure that the confidentiality of the register that will be set up and exists today, is not broken by an unplanned disclosure; might be just a clerk that's copying the particular order that is requested. So the name is not lost, it is on file. All that is being substituted is that

name in case it inadvertently is disclosed without the permission of the natural parents or the permission of the adopted parents and if we believe in 94(3) we have to keep 94(2) as it is put before us.

MRS. WESTBURY: Thank you, Mr. Chairperson. Did the amendment include changing the word "may" in the first line to "shall".

MR. CHAIRMAN: Yes, "shall".

MRS. WESTBURY: It did. All right, then I will support the amendment, Mr. Chairperson. We're talking about adults here. We don't have to "big brother" everyone to death and I think that this is something that would not become known until the adopted child was an adult and I do think that this will be appended in such a way that the protection of everybody is there. I think it was a reasonable request. I will have something to say on the amendment that's coming in the next section as well.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Chairman, I know this is a very difficult matter but again the effect of the amendment is to negate the principle in 94(3) that "information should only be available in the two situations: (1) where the adult adoptee and the natural parents consent.

MR. CHAIRMAN: Could you go a little closer to the microphone, please?

MR. MERCIER: Mr. Chairman, I was saying that the effect of the amendment is to negate the two situations in 94(3), that the information would only be available where the adult adoptee and natural parents consent; and the other one, where the adopted parents and natural parents consent. Because otherwise you're issuing a certificate with the original surname of the child and you're having quite an effect on, I suggest, on 94(3). The gentleman was here today expressing a point of view that I think really, with respect to 94(3), that that should not be done; that it should go further, that all three parties to the triangle should consent to that information; or alternatively it should be resolved in a court.

I think we're going as far as we can to allow the information to become available and I can support it. When the child becomes an adult, I frankly don't know how you can, where the natural parents consent, I don't know how an adopted parent can say to an adult adoptee that I'm not going to let you have that information. The person's an adult and I think is entitled to make that decision on their own; but I am opposed to the amendment, Section 94(2), Mr. Chairman, because I think it negates the following amendment.

MR. CHAIRMAN: Mrs. Westbury.

MRS. WESTBURY: Yes, Mr. Chairperson. There are two matters here but the most important one is that both the adoptive parents and the natural parents might be dead by the time this information is required and the only way, possibly, that a 45-year old or a 50-year old adult adopted child, needing the information because her or his child has some disease that may be inherited and may have skipped a generation, the only way they can get that information is through having had it in the register for all of the 45 or 50 years intervening. That kind of protection has to exist somewhere, Mr. Chairperson, and I think that possibly the method which the parent-finders requested is perhaps at least the best way that has been shown to us here.

MR. CHAIRMAN: Mr. Corrin.

MR. CORRIN: Yes, I think the point Mrs. Westbury makes is well taken. It's one that was made by the delegation and I attempted to speak to that as well. I don't agree with Mr. Mercier's submission. I think we're talking about two different situations; 94(2) as we have amended it would simply provide — and I would indicate as I have amended it because it's no way my intent to bind my side, Mr. Chairman -- would simply provide access to an adoptee when that person became an adult, to his or her surname. In other words, if the surname was Smith they would be told that their surname was Smith, so somebody knows that his name was William Smith when he was born. that in no way discloses the identity of the natural parent but . . . —(Interjection)— But I'm told that what happens, the way parents-finders works, is they then go back, and I'm told that they do have access to the child care agency's records to some extent, and they are allowed by the agencies, if they have their surname they're allowed to trace and they can look to the year of their birth and check all the Smiths that were registered that year and then they are entitled to go to all the Smiths, even though they may be in Britain or in South Africa or South America, in order to try and seek out their identity. I don't understand why we would not allow a child to do that. If it's important to an adopted person — can we have some order, Mr. Chairman — this is one of the problems with Speed-up is that people don't like to concentrate on damned important legislation. They want the opposition to do all the repairs. We have to do what you should do in caucus.

MR. CHAIRMAN: Order.

MR. KOVNATS: Oh, knock it off, you're just as bad as anybody else.

MR. CHAIRMAN: Either stay with the topic or I'll call the question.

MR. CORRIN: If you could sit in your chair on a point of order I'd listen to you but I can't respect you when you're standing and screaming there at the top of your lungs and talking.

MR. CHAIRMAN: Order. Do you wish to continue, Mr. Corrin? —(Interjection)— Order, order. Mr. Corrin, would you like to continue?

MR. CORRIN: Yes. I just wanted to make the point, Mr. Chairman, in summation that there is no reason to treat adults as if they were inferior in any way just simply because they'd been adopted. If a person wants to take that sort of initiative; they're willing to

search and trace the records; if the child care agencies, as has been indicated, are willing to provide access to the information of their records for the year of that child's birth; then it seems incumbent on us to facilitate their searches. I don't know why we're saying — and it's really a very important issue — everybody's sitting on the other side with great smirks as if this is very humourous. We were told that there are some people in this room who have adopted children and it's to their credit, Mr. Chairman. But they should be concerned if one of their children, when they turn 18, wants to start that search and feels that they're motivated to do that, and the natural parent is not motivated to volunteer access under 94(3). I think that probably a lot of those members would agree, a lot of those people would agree, that their child should be able to do that on their own initiative; that's a basic freedom.

If the child wants to spend his time or her money conducting those sorts of enquiries and explorations, then why should we inhibit that? Why should we say no, you'll only get a birth registration number, a seven-digit number and you work from that. That's impossible. I don't have a birth registration number and no one around this table, that I know of, would want to have a birth registration number as a surname. It's not fair and I think Miss Mason made the point and it's a matter of psychological stress for those people who are in that situation. We may not think it's important but they do, there's 12,000 of them in this country looking for their parents and it's not a slight matter and I don't care if it's July 26th and we all want to go to the lake and home, it's bloody important and we're going to deal with it.

MR. CHAIRMAN: That's what we're trying to do. Mr. Ransom.

MR. RANSOM: Mr. Chairman, the Honourable Member for Wellington seems to be trying to indicate that members on this side, or perhaps other members of the committee, don't have an interest in the issue. The reality of the situation is, Mr. Chairman, that the members on this side happen to have caucused this issue and have discussed it in great detail, in Cabinet and in caucus, have taken a position and we have our spokesman, and I wonder if that's the same case for the opposition members or not.

MR. CHAIRMAN: Mr. Corrin.

MR. CORRIN: On that point of order, Mr. Chairman . . .

MR. CHAIRMAN: What's your point of order?

MR. CORRIN: On a point of order I wish to indicate that the spokesman is the Minister, not the Attorney-General, and he has not yet spoken.

MR. CHAIRMAN: He's spoken several times on this. Mr. Minaker.

MR. MINAKER: Mr. Chairman, I have spoken several times on this subject. The matters that the Attorney-General was discussing during the debate on this particular bill relate to the court operations in the handling of certain court procedures, and that is why the Attorney-General is involved in this debate as he can as a member of this committee.

I would like to point out to the Honourable Member for Wellington that the principle that is being put forward in this bill, is that if the natural parents do not want to be identified, then it is assumed that they do not want to be identified after death, and if they choose to change their mind while they're alive, they can do so and advise that they have no objections if contact is wanted to be made. I think that's the principle, similarly, of the adoptive parents, that if while they are alive they do not want to be in contact with the other parties or their children, their adopted child not to be in contact, that it is presumed that that is the case even after death. In case we change from that principle, then we have to change the principle put forward in 92(3), so that also in 92(3), that principle is put forward at the same point, that we just passed on Page 4. So that obviously we've agreed to that principle when we passed Page 4.

So, Mr. Chairman, I would suggest that there has been discussion on this, and as Mr. Ransom said, that this has been caucussed, this is the position of our caucus, and I wonder if the Member for Wellington is speaking the position of his caucus.

MR. CHAIRMAN: Question, Mr. Corrin?

MR. CORRIN: What if the person is already dead? I'm speaking for Mrs. Mason; she's an adopted child and she raised a concern. What if the person is already dead? She made that point. What if the parents are dead? What are you going to do to resolve that situation? That's a problem, and I think it's recognized by everyone as a problem. What does the bill do to redress that situation?

MR. CHAIRMAN: The Minister answered that.

MR. CORRIN: How can you get consent from somebody who's already died, from the date of this bill.

MR. MINAKER: Did the honourable member read Page 4, Item 92(3) and see what he passed?

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

A COUNTED VOTE was taken, the result being as follows:

Yeas, 2; Nays, 13.

MR. CHAIRMAN: The amendment is defeated.

MR. MINAKER: What were the numbers?

MR. CHAIRMAN: 13 to 2. Okay, so clause 94(2) pass; clause 94(3) — Mrs. Westbury.

MRS. WESTBURY: Mr. Chairperson, reference has been made to the moving presentation we had this morning from Mr. Pyper as an adoptive parent. I believe we can't interfere unduly with the rights of adult children — obviously those of us who have

adult children have found that out, whether we believed it originally or not — they soon educate us, and the same applies to adopted children. However, here we're requiring the consent of the natural parent, and I think a lot of adoptive parents are perhaps feeling threatened by this, I think without justification, because a good parent has the respect and love of the child that he or she has brought up anyway. But perhaps there should be some provision under (d), some natural parents are included.

I also wanted to say about (d) actually, that it may be possible for one natural parent to be located and not the other. One may be long gone; one may have been dead before the birth of the child. So I think it should say his natural parents where possible, or something like that.

But I'm just throwing this out. I'd like to hear the committee debate it, because I can still be persuaded on this one, whether it should read "an adult adoptee and where possible his natural and adoptive parents, where they have voluntarily" etc., as written. I'm not moving it. I would like to hear it discussed. If it has to be moved in order to be discussed I'm willing to do that. I would like to hear what other members think about that.

MR. CHAIRMAN: I think it should be moved, because I know it has been discussed in our caucus.

MRS. WESTBURY: I then move it. But I may not vote for it. —(Interjection) Pardon?

MR. CHAIRMAN: You're moving that clause 94(3)(d) be . . .

MRS. WESTBURY: This is for discussion purposes, because it's the only way I can get it discussed.

MR. CHAIRMAN: Be amended by . . .

MRS. WESTBURY: "An adult adoptee, and where possible his adoptive and natural parents, where they have voluntarily consented" as written. Now what I'm saying, Mr. Chairperson, is I think it has to be changed anyway, because as has been said so many times, the identity of one of the parents may not be known to anybody, including that parent, or that parent could have been dead since before the birth of the adult child. So I think, anyway, there has to be some qualification of the phrase "natural parents" — what I'm trying to get from the committee is a sense of how they feel about adding in also, an option for the adoptive parents.

MR. CHAIRMAN: Mr. Minaker.

MR. MINAKER: Mr. Chairman, I wonder if I could have clarification from Mrs. Westbury. The way I understand the amendment now would be, "an adult adoptee, and where possible his adoptive parents and natural parents?"

MRS. WESTBURY: Yes.

MR. MINAKER: You're bringing in the triangle again?

MRS. WESTBURY: Yes.

MR. MINAKER: Because I think the intent here was where the adult adoptee can communicate with his natural parents without the permission of his natural parents, and this amendment woud change that completely around.

MRS. WESTBURY: Without the permission of his adoptive parents you mean, I think.

MR. MINAKER: Right.

MRS. WESTBURY: Yes.

MR. MINAKER: But now you're tying in the adoptive parents . . .

MRS. WESTBURY: As requested by Mr. Pyper, and I'm also suggesting that both natural parents should not have to agree, since it may be absolutely impossible to identify or locate one of them, at least. So, Mr. Chairperson, I've said this, this is the third time now, but at least I think "natural parents" has to be qualified.

MR. CHAIRMAN: Any further discussion? If not, we'll call the question.

MRS. WESTBURY: Well, Mr. Chairperson, can't we hear whether the Attorney-General thinks that the expression "natural parents" must be qualified, because it says that both natural parents have to agree.

MR. CHAIRMAN: Mr. Minaker.

MR. MINAKER: Mr. Chairman, I won't answer for the Attorney-General, but as a member of the committee, it's up to him; it's his decision whether he wants to discuss it on an amendment or not. I think the committee knows what the feeling of the government is, and the caucus of the government, and it's put forward in Item (d) at the present time.

MRS. WESTBURY: Then does the Minister agree that where the mother of the child did not know who the father was or where he could be found, that that child will never be able to get that information because both natural parents are required to agree?

MR. MINAKER: Mr. Chairman, that is correct. I think what is being put forward here is a passive type of information directory. It's not an active directory, and for that reason we realize there are going to be problems such as this. It is a step which we think is in the right direction, and as some of these things come forward, and if they are in fact a major problem, or a repeating problem, then obviously amendments will be forthcoming in the future year.

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

A COUNTED VOTE was taken and the amendment was declared lost.

MR. CHAIRMAN: Clause 94(3)(a) pass; (b) pass; (c) pass; (d) pass; (e) pass; Clause 94(3) pass. Section 13 pass; Section 14 pass; Section

15 pass. Page 5 pass; Page 6 pass — Mr. Corrin.

MR. CORRIN: Yes, the top of Page 6 is the only concern I have on this particular page. The MARL delegate expressed a concern about 107(1), that it essentially eroded the test that we set up in 107(3). He said that if we're going to ask that the courts, in all cases, be guided by the best interests of the child rule, that we can't then turn around and make a presumption in favour of the unmarried mother as the guardian of the child.

I think, in short, what he was trying to say was, that once you had made that presumption in law and you'd affirmed her rights of guardianship, that what you were doing, is you were essentially putting her in the best position to win any contested custody battle, because she was given prima facie; she was given the guardianship of the child pending the hearing. My concern was that there had to be a guardian. It was just that simple, because there are times when somebody has to exercise guardianship rights. So I wasn't moved to be 100 percent supportive. I think in principle you make a fine point, so I embrace that quite wholeheartedly, but in technical detail, I think we're still a bit shaky.

My concern now is, if we pass this particular provision, we're not quite going far enough. I raised this, Mr. Chairman, originally in Private Members' Hour. I was pleased frankly to see the government decide to adopt it, and they fulfilled their commitment made to me by the Attorney-General. I guess I hadn't thought, of course, through the technical detail, and had no idea how it would come in, but I do think that the gentleman from the Rights and Liberties Association made a good point. I think legally he's on pretty strong ground. Again, I think that the Children's Aid representative made some good points about that, too, when I questioned him about guardianship rights.

I'm wondering whether it isn't possible for legislative counsel to make some provision in here for immediate application on an interim basis in order to assure that an aggrieved father could move to the court immediately to have the matter in dispute resolved on an interim basis. So that we wouldn't get into a situation, for instance — and this is what really bothered me — I asked some questions on this and it was clear this was open-ended — we can have a situation where a father actually has physical custody of a child; the mother is long gone, she's taken off, yet the law under 107(1) will presume that the unmarried woman, the mother, is the guardian. So in the interim, whilst we're waiting for the court to make a determination under 107(3) and decide on the custody, we have this poor fellow looking after his son or his daughter and not having any real guardianship rights. Now that could be cured very quickly and very simply if there was an interim relief provision in the section.

It seems to me that's the way we can resolve it. I'm not going to volunteer to play legislative counsel, I don't have that capacity, but it seems to me that that's the natural road to follow.

MR. CHAIRMAN: Mr. Minaker.

MR. MINAKER: Well, Mr. Chairman, I'm not a lawyer, but I do know that if we were to remove clause 107(1), that every time a child was born in a situation where it was common-law parents, there would be no legal guardian of that child and you'd have a court case to establish whether it was the father, if in fact the father came forward, wanting to have the guardianship rights of that child, so that it is assumed that at least the mother who has the child, is one of the parents. If the other parent is interested in wanting that guardianship, that he can come forward, prove that he is the other parent of the child and have the same rights as the mother has had for a short period of time. That is all that's intended in that section of the Act, it's my understanding, and I think Mr. Yard indicated that he was concerned because the Children's Aid Society encourage the unmarried mothers to retain their child where possible, and this assists them further that they would want to retain the child, and still I would think 107(3(b) very clearly says that, in all cases, in considering the guardianship that the judge will be guided by the best interests of the child, and it is underlined in 107(3)(b), so I think that the honourable member's concerns are unfounded.

MR. CORRIN: I don't think they're unfounded, because what the Honourable Minister just said really just ratifies what I was saying. I don't know where we differ. I told him that we would all agree that there has to be a designated guardian on birth, you know, there's no question on that. The problem is that there's a bit of a loophole insofar as it takes time for somebody to apply for custody of a child and, you know, everybody seems to be presuming that the mother retains the child and I don't think it's a safe presumption to make, that the mother will always retain the child. Sure she's presumed to be the guardian but it's quite possible that she will surrender.

I was just in court last week, as a matter of fact, and a fellow walked in, I remember quite well, a fellow walked in and he said that he'd had the custody of his child, born out of wedlock, for four years. Through his counsel they provided a release from the mother allowing the father to gain custody. He was asked, because the judge didn't want to let it go, he said the mother is not here today, I know you've got a release but tell me a bit about your history. And he inquired as to how long he'd had the custody. And he said, virtually from the day, it was a little girl, the infant left the hospital. The mother had turned it over and I think he and his mother had looked after the child in their home. All those years the unmarried mother was presumed, in law, to be the guardian of that child, but she didn't have custody. And you know there's a loophole there.

And what I'm saying is if we have a provision whereby a father, in those circumstances, can gain interim custody, that is he can obtain an order, of interim custody, whilst he has an application pending, because in order to finalize an application for custody there has to be notice served on the mother, you know, all these things have to happen. There can be examinations for discovery, preliminary court processes can take a year, can take a year and a half. So what I'm saying is there has to be some mechanism that assures the father that he's going to

be in a position to make binding decisions relative to the child. For instance, an operation. Otherwise you'd have to seek out the mother, whose abandoned the child, and she would have to sign a consent form as the official legal guardian. Now if she's run off and is not available, how do you do that? So it just seems to me that we should provide for some way that people can get that interim order of custody. We do it with married people all the time. You can challenge right away and get an interim order of custody on an ex parte basis even, if you can make your case. You don't even have to serve the other party for an interim order these days. And that was a government amendment in 1978.

MR. MERCIER: Mr. Chairman, I think if the Member for Wellington would look just a little further in the bill he'd note in 116(5) provision for an interim order and ex parte, if necessary. I really think, Mr. Chairman, what the Minister's bill represents are the practicalities of the situation. I don't know what the exact figures are but surely, where children are born out of wedlock, I would think, where they're not given up for adoption, that in the vast majority of cases they are kept by the mother; and I think really that's the basis for 107(1), to recognize the practicalities of the situation. But that doesn't stop the father, the day the baby is born, from making an application for custody, under 107(3), and the criteria for the application are clearly set out. I think the Member for Wellington agrees there has to be some sort of initial presumption of guardianship, but that can be contested immediately, in that situation where the father wishes to make application for custody he could do so on ex parte basis. And I'm sure the Member for Wellington would agree it's not a very difficult legal manoeuvre to apply for custody.

MR. CORRIN: Surely the Honourable Attorney-General jests, there is no provision here for an application for interim custody, and that's the whole point and he knows very well that those wrangles sometimes go on for years. And as for 116, just for clarification, Mr. Chairman, he referred me to 116, that doesn't deal with the same subject matter, that deals with visitation, rights of access for the purpose of visitation on an ex parte basis without notice. So I think he's just misread the section. Interim orders for visitation are very different from interim orders of interim custody. So apples and oranges is clearly the situation as far as that provision goes. But — (Interjection)— No, it says, under this section, notwithstanding subsections (3) and (4), and that deals with 116 as the section and we're talking about 107.

MR. CHAIRMAN: 116(3) and (4) refer to applications under this part.

MR. CORRIN: The point is, though, that it relates to access for the purpose of visitation.

MR. MERCIER: Access or custody.

MR. CORRIN: I can't agree with that, Mr. Chairman, I don't think there's any latitude of that sort allowed.

MR. CHAIRMAN: We're assured that it includes access and custody. Section 107(1) pass; Section 107(2) pass; Page 6 pass; Page 7 pass; Preamble-pass; Title Page pass; Bill be reported as amended pass.

BILL NO. 72
THE SECURITIES ACT, 1980

MR. CHAIRMAN: We now move to Bill No. 72, there are a number of proposed amendments but I would also ask the agreement of the committee. You have an entire page of, basically, editorial typographical changes, numbers 1 to 9 and shall be assume that those are agreed by committee to be made without bringing them forward so we don't have to follow them section-by-section. (Agreed) We will deal with the other page of amendments which are more substantive. (Agreed)

Bill 72, page-by-page. (Pages 1 to 30 were each read and passed.) Page 31 — Mr. Anderson.

MR. BOB ANDERSON: Mr. Chairman, I move

THAT Clause 34(1)(13) of Bill 72 be amended

(a) by striking out the words "a security" in the 1st line thereof and substituting therefor the word "securities"; and

(b) by striking out the word "is" in the 2nd line thereof and substituting therefor the word "are".

MR. CHAIRMAN: Page 31 as amended pass; — another amendment Page 32. Mr. Anderson.

MR. ANDERSON: Mr. Chairman, I move

THAT sub-sub-clause 34(1)(14)(iv)(A) of Bill 72 be amended by adding thereto, immediately after the word "incorporated" in the 3rd line thereof, the words "or continued".

MR. CHAIRMAN: Page 32 as amended pass; (Pages 33 to 51 were each read and passed.) Page 52 Mr. Anderson.

MR. ANDERSON: Mr. Chairman, I move

THAT subsection 62(7) of Bill 72 be amended by striking out the words "or distribution to the public" in the 1st line thereof.

MR. CHAIRMAN: Page 52 as amended pass; (Pages 53 to 56 were each read and passed.) Page 57 — Mr. Anderson.

MR. ANDERSON: Mr. Chairman, I move

THAT sub-sub-clause 71(1)(h)(iv)(A) of Bill 72 be amended by adding thereto, immediately after the word "incorporated" in the 3rd line thereof, the words "or continued".

MR. CHAIRMAN: Page 57 as amended pass; (Pages 58 to 103 were each read and passed.) Page 104 — Mr. Anderson.

MR. ANDERSON: Mr. Chairman, I move

THAT subsection 133(3) of Bill 72 be amended by striking out the word and figure "subsection (2)" in the 1st line thereof and substituting therefor the words "this section".

MR. CHAIRMAN: Page 104 as amended pass; — Mr. Anderson.

MR. ANDERSON: Mr. Chairman, I move
THAT subsection 133(5) of Bill 72 be amended by adding thereto, immediately after the word "delivering" in the 3rd line thereof, the word "of".

MR. CHAIRMAN: Page 104 as amended pass; (Pages 105 to 116 were each read and passed.) Preamble pass; Title Page pass; Bill be reported as amended pass.

BILL NO. 103
THE WILDLIFE ACT

MR. CHAIRMAN: Page-by-page? (Agreed) Do we have any amendments to circulate first? Yes we do. Page 1 pass; Page 2 pass; Page 3 — Mr. Kovnats.

MR. ABE KOVNATS: Mr. Chairman, I move
THAT Section 4 of Bill 103 be amended by striking out the word "private" where it appears in the 2nd line thereof and substituting therefor, in each case, the word "other".

MR. CHAIRMAN: Page 3 as amended pass; Page 4 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT subsection 5(2) of Bill 103 be amended
(a) by striking out the words "private land" where they appear for the 1st time in the 2nd line thereof and substituting therefor the words "land other than Crown Land"; and
(b) by striking out the word "private" where it appears for the 2nd time in the 2nd line thereof and substituting therefor the word "other".

MR. KOVNATS: Mr. Chairman, I move
THAT Section 6 of Bill 103 be amended by striking out the word "private" in the 2nd line thereof.

MR. CHAIRMAN: Page 4 as amended pass; Page 5 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT Section 9 of Bill 103 be amended by striking out the words "Crown land, private land and" in the 1st and 2nd lines thereof.

MR. CHAIRMAN: Mr. Bostrom.

MR. HARVEY BOSTROM: Mr. Chairman, perhaps the Minister could indicate what's the rationale for these changes being recommended to the committee?

MR. RANSOM: Mr. Chairman, it's just that the private land was not considered to be all-encompassing for the lands, other than lands considered as Crown land. So it simply broadens the definition to include private land, but there may be others, municipal land, for instance, where it's necessary to establish a control area, a water fowl control area, for instance, there might be Crown land and private land and another category. This covers them all.

MR. CHAIRMAN: Page 5 as amended pass; Page 6 pass; Page 7 pass; Page 8 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT Section 32 of Bill 103 be struck out and the following section substituted therefor:
Retrieval of game.
32(1) No person who kills or injures a game bird, a small game animal or a big game animal shall fail to retrieve it or to make every reasonable effort to do so.
Edible portions of game.
32(2) Subject to subsection (3), no person who kills or injures a game bird, a small game animal or a big game animal, or is in possession of a game bird, a small game animal or a big game animal that has been killed or injured, shall abandon, waste or spoil, or allow to be abandoned, wasted or spoiled, any edible portion thereof.
Exceptions.
32(3) Subsection (2) does not apply to a gray timber wolf, polar bear or black bear.

MR. RANSOM: The purpose of these amendments, Mr. Chairman, is simply to spell out, more specifically, what was attempting to be covered in Section 32, as it was presented in the bill.

MR. JENKINS: Mr. Chairman, in view of the presentation that was made this morning dealing with wolves being struck out, has the Minister taken that into consideration in this amendment? I'm just not sure. It was the gentleman, Mr. Nickels, that appears here this morning.

MR. CHAIRMAN: Dr. Nickels, yes.

MR. JENKINS: He said, that this was now becoming an endangered species, wolf. And I just wondered if the Minister has given consideration to the recommendations that were made by the Environmental Council, Mr. Nickels.

MR. RANSOM: Yes, Mr. Chairman, actually I believe that Mr. Nickels concerns were, the sentiment behind them, was well founded but in fact they don't have a basis in the legislation, because if one turns to Page 32 and sees in Division 1 of Schedule A, you'll see that polar bears, black bears and gray timber wolves are listed as big game animals. But they obviously may be taken for purposes other than would normally be associated with big game. They could be taken for their hides, in which case people are not required to have to eat the meat.

MR. JENKINS: Oh, I see. Okay.

MR. CHAIRMAN: Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, through you to the Minister, I would just like to ask also, on the part where it says "edible portions" what might be edible to one person might not be edible to another. Is

there a part of this Act that shows what is edible, or is it up to the discretion of the person making the kill? I'm not a hunter but . . .

MR. RANSOM: Well, it's probably a good question, Mr. Chairman, I don't think that it is included in the definitions. It's not, but I suppose this is a case where the courts would have to decide what was normally considered to be edible portions of the animals being dealt with.

MR. KOVNATS: That's fair enough, I just wondered if there was something in the Act that specified.

MR. CHAIRMAN: Were you thinking of the Minister of Agriculture's delicacy at that time? Mr. Fox.

MR. PETER FOX: My question is in respect to the other point that the member from the Environmental Council brought up and that is in respect to designating small game, whether that has been included in any of the definitions, if the Minister could answer that?

MR. RANSOM: Division 4 of the small game animals is included in the Act, because we can foresee that at some time it may be necessary to designate some species of animal as small game and have licensing provisions to take it, etc. We don't consider that there are any species in that category at the moment. So this simply will enable us to do it at some future time, without having to make further amendment to the Act, because species can be added to the schedule by Order-in-Council.

MR. FOX: Okay. Thank you.

MR. CHAIRMAN: Page 8 as amended pass; Page 9 pass; Page 10 pass; Page 11 pass; Page 12 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT subsection 43(1) of Bill 103 be amended by striking out the word "hid" in the 1st line thereof and substituting therefor the word "hide".

MR. CHAIRMAN: Page 12 as amended pass; (Pages 13 to 23 were each read and passed). Page 24 — Mr. Jenkins.

MR. JENKINS: Yes, Mr. Chairman, again referring to the presentation by the Environmental Council, asking the Minister to consider an amendment, he was dealing with 83(1) and (2), and I think he made the suggestion that he thought the report under the annual report would not be comprehensive enough and that the report of specie life should be a shorter term than the five-year report which is enclosed in the legislation at this time. I just wonder if the Minister has given any consideration to that presentation that was made this morning.

MR. RANSOM: Mr. Chairman, we have given consideration to it because of course we put forward these provisions in this Act which are new. I don't believe that even in the previous Act we were required to have an annual report at all, so we are requiring an annual report. But, more importantly, we are requiring the five-year reporting, as outlined in the bill before us. We considered other periods of time as to their appropriateness and decided that five years is a long enough period of time in which to be able to detect changes in populations and the effectiveness of programs. A shorter period of time would make it more difficult to do that and it will be a substantial undertaking to assemble this report and to present it to the Legislature. We simply think that five years is a satisfactory period of time and I think it will follow that as the department is preparing for that five-year report, that some aspects of it are going to appear from year-to-year within the annual report.

MR. JENKINS: Well, that basically answers the question. I was just going to ask the Minister if he would — I'm not going to argue with him because I don't know enough about wildlife specie and how long a term you need to make a study of them -- but the Minister has said that he would give some consideration in the annual report to part of that and that answered the question. I have no further questions.

MR. CHAIRMAN: (Pages 24 to 33 were each read and passed). Preamble pass; Title Page pass; Bill be reported as amended pass.

BILL NO. 105 - THE STATUTE LAW AMENDMENT ACT (1980)

MR. CHAIRMAN: Bill No. 105. Page-by-page? (Agreed) Page 1 pass; Page 2 pass; Page 3 pass; Page 4 pass; Page 5 — Mr. Mercier.

MR. MERCIER: Page 5, Mr. Chairman, on behalf of the Minister of Labour, I would indicate we are going to vote against Section 12 and leave that matter in the hands of the Minister of Labour, as I understand, for further consideration.

MR. FOX: I didn't hear all of the words.

MR. MERCIER: We're going to vote against Section 12, delete Section 12.

MR. FOX: Delete it. That's fine, that was my point.

MR. CHAIRMAN: Mr. Brown. I'll call Section 12 separately then. Section-by-section. Section 11 pass; Section 12.

A COUNTED VOTE was taken, Section 12 defeated.

MR. CHAIRMAN: Section 13 pass; Page 5 as amended pass; Page 6 — Mr. Jenkins.

MR. JENKINS: Mr. Chairman, when I spoke on this bill prior to it going to Law Amendments — I wonder if I can just have a bit of the rationale of why we're not dealing with Section 6 of The Garnishment Act. My understanding is that this deals with where there are Family Court awards, other awards, dealing with that. —(Interjection)— And that's Section 15 dealing with the Garnishment Act. And we now are going to strike out, or the Act as it applies for garnishment orders, I think under the Family Maintenance Act, there are a couple of others that are in The Child

Maintenance Act, and I think something else. We're under that section of the Act, 30 percent of the person's salary is now exempt from garnishment. Under this proposed amendment, Section 9 of the Act would increase it from 70 percent to 90 percent and I think we're having a tough enough time enforcing court orders dealing with 70 percent being garnishable, I don't know how you're going to be able to collect 90 percent. As I said when I spoke of this bill on second reading, I have a constituent now that has gone to jail on numerous occasions for failing to pay, even at 70 percent and if you make it 90, he'll probably spend all his time there. I just wonder if the Attorney-General has given any thought to that?

MR. MERCIER: Mr. Chairman, as I understand it, this will allow them to apply either for an increase or a decrease in the exemptions under Section 9, "apply to court for an increase or decrease."

MR. CHAIRMAN: Mr. Fox.

MR. FOX: That's precisely the point. If it's an increase or a decrease it's very well to say that we want maintenance orders paid, but if you make it too difficult then you're not going to accomplish that purpose, and the exemption of No. 6 increases it to 90 percent, which leaves the person only 10 percent. So in those instances where it's been increased, that person will say, to heck with it I just won't bother, and so you won't be accomplishing what we really want to accomplish. So I agree with the Attorney-General that it increases or decreases it, but I think all you're doing is make it more difficult to get maintenance orders, if you make this amendment. So I wonder if he would reconsider his position on it.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Chairman, I think that is the motive behind it, that it was the thought within the department, that in many cases where it would be to increase the amount of the exemption, because in many cases if they are paying 70 percent, let's say, many people find it so difficult that they leave. The essence of it really is to provide some greater degree of latitude or some discretion, and the court has always, in my experience, taken that into consideration, that this thing works both ways. A person has to have some incentive to get along and to continue working. If you take too much away from him, there's just no incentive to doing it, and that was the basis of making this recommendation, that this be included in this Act.

MR. CHAIRMAN: Mr. Fox.

MR. FOX: Well, I can concur with that, but then let's not open the other end, because that is the concern that we have. But if you opened it up on the other side, judges may in their wisdom — it may be good wisdom and sometimes not — go the reverse route, and they you're going all the way to 90 percent.

MR. MERCIER: Mr. Chairman, there may be a very few number of cases where that is justified, but the only thing I can say is, the intention of our department of bringing this forward was to allow an increase in the exemptions, because the existing percentage was, in fact, destroying the incentive of a number of people to continue working and make payments.

MR. FOX: I wonder, Mr. Chairman, if the legislative counsel could eliminate the bottom end of that particular equation without too much difficulty.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: That's the hooker. I think you have to redraft a new section, saying that in those instances they could increase the exemption but not decrease the exemption, and that would mean we'd have to go back into the bill and provide a whole new section.

MR. CHAIRMAN: Mr. Fox.

MR. FOX: If I may ask, why don't we leave No. 6 in, which at least creates a floor of 70 percent?

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: I think what you're probably doing then, is not allowing the increase in the amount of exemptions, which will be the vast majority of the cases.

MR. FOX: I wonder if we could accomplish it, Mr. Chairman, by eliminating No. 6, and making in Section 9, the amount 70 percent, and not 90, then we may accomplish what we desire. I'm speaking from memory on these sections. Well, No. 6 is the one that makes it 70 percent, which is being eliminated.

MR. MERCIER: Mr. Chairman, I don't think we can do it right on the spot. I would suggest that we pass what we have here, and we ask legislative counsel to see if there's a possibility of drafting something for Monday.

MR. FOX: If I have the assurance of the Attorney-General that he wants to go in the direction that we're discussing, then I'd say, go ahead.

MR. MERCIER: No, you don't have that assurance.

MR. FOX: Well, what do I have?

MR. MERCIER: You have the assurance that we'll attempt to have the legislative counsel review this matter and attempt to come up with something for consideration by myself for introduction as an amendment.

MR. FOX: Very well, Mr. Chairman.

MR. CHAIRMAN: Mr. Jenkins.

MR. JENKINS: Well, maybe just to help the Minister when he's doing his thinking, if I have a garnishment order under The Family Maintenance Act, The Child Welfare Act — and I forget what the other Act is — there's a possibility that I can be forced to pay 90 percent of my wages. But if I have a garnishment

order against me, say, from Simpson Sears or Eatons, I can apply under subsection 6 and only pay 70 percent. It's kind of an ironic situation. There's quite an anomaly here. You know, as I pointed out, with a constituent I have now, he's been in jail five or six times for non-payment. If you're going to nail him for 90, there's no way the guy's going to work. You're going to wind up keeping him and the family — not you, I mean the people of Manitoba.

So I say that when the Minister is condering this, that he wants to consider that — I'm beginning to sound like the Member for Wolseley — you're making it easier for them to cheat on contractual obligations that they have, say, to a finance company or a retail store, than they are to their family. I mean, don't get me wrong, that I'm opposing the fact that where the financial charge is against, that they should get away from it. But there has to be some incentive for that person to work, and if there is a possibility the judge can vary that order to 90 percent of his wages, I can tell you that you may have trouble enforcing your maintenance orders now, but you're going to have one hell of a lot harder time if it's at 10 percent.

MR. MERCIER: Mr. Chairman, legislative counsel points out that under Section 9 "no order shall be made under subsection (4) which is the provision for variation in Section 9, which (a) has the effect of increasing the exemption allowed to more than 90 percent; or (b) reduces the wages of the employee to an amount less than the exemption which he is entitled to under Section 6 or 8, which is the 250 . . .

MR. JENKINS: Section 6 is wiped out now, Mr. Chairman — pardon the interruption — 6 is wiped out with the amendment, because notwithstanding what is in 6, Section 9 will apply. That is my reading of the present amendment as it applies to the Act.

MR. TALLIN: But subject to Section 9, and this Section 9 itself says you can't reduce it below this. I think one of the difficulties is, is that these are ongoing motions. You start with the 250.00 exemption. The person applies to the court for an increase. He gets it increased to 750.00, which may be half his monthly income. He then takes another job, or perhaps he's getting less income and the spouse says, I think I should still get half. So she goes in and says, his exemption should be reduced from 750.00 back down to 620.00, which is again half, and the judge may say yes. So that's why it says in Section 9, that he may increase or decrease the exemptions under the Act, because before there has been an increase. Now they have to go back and take that increase and cut it back part way down, but they will never be less than the exemptions granted under Sections 6 or 8. So 6 or 8 are the fundamental basic exemptions which you can't go below.

MR. CHAIRMAN: That's okay now as it is? Thank you. We're on Page 6, is it? Page 6 pass; Page 7 pass; Page 8, we have an amendment.

MR. MERCIER: Mr. Chairman, on Page 8 I've distributed a proposal to amend The Local Authorities Election Act which we discussed in the Legislature the other evening when we were discussing The Public Schools Act. I point out to members who weren't here yesterday that The Election Act was amended to include in the definition of Canadian citizens, British subjects. This amendment would be an amendment of Canadian citizenship under The Local Authorities Election Act, and would thereby be made applicable to all municipal and school board elections so that we would have a consistent voting qualifications in the province of Manitoba, in provincial and municipal and school board elections. Someone will have to move it

MR. CHAIRMAN: Mr. Kovnats. Do you have the amendment to read, sir?

MR. KOVNATS: Mr. Chairman, I move

THAT Bill 105 be amended by adding thereto immediately after Section 20 thereof the following section:

Clause 1(c) of Local Authorities Election Act repealed and substituted.

20.1(1) Clause 1(c) of The Local Authorities Election Act being Chapter 40 of the Statutes of Manitoba, 1970, (Chapter L180 of the Continuing Consolidation of the Statutes of Manitoba) (hereinafter in this section referred to as "the Act") is repealed and the following clause substituted therefore:

(c) "Canadian citizen" means a person who, under the Canadian Citizenship Act (Canada), is a Canadian citizen and includes a British subject;

Subsection 5(10) repealed.

40.1(2) Subsection 5(1) of the Act is repealed.

MR. CHAIRMAN: Shall the amendment pass? Mr. Jenkins.

MR. JENKINS: Could we just have subsection 5(1) of the Act read as it is now, what we're repealing, or can we have it briefly .

MR. MERCIER: I looked at this the other day. As it stands now under The Local Authorities Election Act, it defines citizenship as including a British subject who is resident in Manitoba as of January 1, 1971, and there was an inconsistency, as I recollect, between The Public Schools Act and The Local Authorities Election Act which applied only to municipal elections. But now with the amendments to The Public Schools Act, the definition in The Local Authorities Election Act applies to both municipal and school board elections.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, I believe there's a typographical error. It should be subsection 5(10) and not 5(1).

MR. MERCIER: Yes, that's right.

MR. CHAIRMAN: Right, thank you, Mr. Walding. So the amendment includes the repeal of subsection 5(10) of the Act.

MR. CHAIRMAN: Shall the amendment pass. (Agreed) Page 8 as amended pass; Page 9 pass; Page 10 pass; Page 11 pass; Page 12 pass; Do we have permission to renumber the sections following the removal of Section 12 in the bill. (Agreed) Preamble-pass; Title page pass; Bill be reported as amended pass.

BILL NO. 107
THE PUBLIC UTILITIES BOARD ACT AND THE MANITOBA TELEPHONE ACT

MR. CHAIRMAN: We have some amendments which I believe have been distributed. Page 1 pass; Page 2 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT the proposed sub-clause 2(1)(h)(vi) of The Public Utilities Board Act, as set out in Section 4 of Bill 107 be struck out.

HON. HARRY J. ENNS: Mr. Chairman, this accomplishes a combination of concerns that has been expressed about the inclusion of the programming services under The Public Utilities Board Act, or this legislation that we're dealing with . . .

MR. CHAIRMAN: Sorry, Mr. Enns, could you speak more closely into the microphone.

MR. ENNS: . . . which is not, as we are well aware, in the jurisdiction of the province and it simply accommodates that.

MR. CHAIRMAN: Shall the amendment pass. (Agreed) Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT the proposed subsection 82(4.1) of The Public Utilities Board Act, as set out in Section 6 of Bill 107, be struck out and the following subsection substituted therefor:
Contracts deemed authorized.
82(4.1) Every contract for the transmission of signals through coaxial cable or fibre optics comprising or forming part of a public utility for the purposes of providing programming services that was entered into prior to the coming into force of this subsection shall be deemed to have been authorized by The Public Utilities Board under Clause (1)(n).

MR. ENNS: Mr. Chairman, again, just by way of brief explanation, this merely acknowledges the existence of current contracts and puts them, with the passage of this bill, under the jurisdiction of the Public Utilities Board and any future changes of clauses and conditions that would effect those contracts would be done at the Public Utilities Board level.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, I read this Clause in the Act as being an exemption clause and I read the proposed amendment as being exactly the same thing. I wonder if the Minister can tell us what the change is.

MR. ENNS: Mr. Chairman, the Honourable Member for St. Vital is correct, initially it was felt advisable to put an exemption clause in there, that is to acknowledge the existence of the present contracts and not put them under the jurisdiction of the Public Utilities Board. However, upon consultation with the parties involved, it was agreed that their contracts ought to come fully under the jurisdiction of the Public Utilities Board. It just means that they don't have to start off from square one, they are existing contracts, they're operating and initially it was felt that, as is often the case in a grandfather-clause-type of situation, to exempt their contracts specifically from the PUB. We are not exempting the current contracts from PUB by the insertion of this amendment.

MR. WALDING: Mr. Chairman, I'm not entirely clear from the Minister's explanation. I read the Clause in the present Act to say that those contracts or services that are already in place will continue and they don't have to apply to the Public Utilities Board in order to do what they are now doing. I read the proposed amendment as saying that they are to continue what they are doing and that it's deemed to have been retroactively approved by the Public Utilities Board. I don't see any difference.

MR. ENNS: Mr. Chairman, perhaps Legislative Counsel could be of some assistance to us at this point.

MR. TALLIN: I believe that the procedure that's been adopted for quite some time by the Public Utilities Board and by the utilities that are under the Public Utilities Board are that when there is an authorized agreement the parties to the agreement can come back to the Public Utilities Board to ask for a change in that agreement on a unilateral application. Both parties will appear before the board on the hearing, but one party can apply for the change in the authorization of the agreement. And therefore, either of the parties to these agreements can now go before the Public Utilities Board to have the terms and conditions of the agreements altered or varied in some way. Perhaps you might ask Mr. Brazzell or Mr. Campbell if they agree with that.

MR. WALDING: May I ask Mr. Tallin whether that would have not been permitted under the printed Act.

MR. TALLIN: That's right. It would not have been except for Section 21 at the end which said that the rates would have been deemed. And you'll notice that later on Section 21 of the bill is to be struck out.

MR. WALDING: Okay, that's fine.

MR. CHAIRMAN: Shall the amendment pass. (Agreed) Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT the proposed Section 107 of The Public Utilities Board Act, as set out in Section 7 of Bill 107, be amended by adding thereto, immediately after the word "applies" in the

2nd last line thereof, the words and figures "but Part II does not apply".

MR. ENNS: Mr. Chairman, I'd ask Legislative Counsel to perhaps explain this item as well.

MR. TALLIN: Under Section 107 of The Public Utilities Board Act, the Lieutenant-Governor-in-Council is authorized to refer matters to the Public Utilities Board; the Legislature, it says that matters may also be referred to the Board by a resolution of the Legislature, or parties to an agreement. Certain types of agreements, as you see, can use the Public Utilities Board as an arbitrator for disputes under the agreement.

There was an extended court case on the reference that was made with the Lieutenant-Governor-in-Council with respect to the 1967 cable agreement and in that case, the courts held that Part II of the Act would not apply and it was suggested, so that people wouldn't have to look back at the case law always to find out whether or not Part II applied or not, and in the event that that case might also be distinguished on some grounds, that made it apply only to the particular type of circumstances that were involved, it was suggested that we make it clear that on those kind of references that are mentioned in 107, Part II of the Act would not apply. Part II of the Act is the part of the Act which really gives the Public Utilities Board the power to get into a public utility and to affect its operations and determine at what prices they are going to sell their services or commodities at, and that sort of thing. I don't think that, my own feeling is, that a reference under 107 shouldn't automatically give the board the power to go in and start fixing rates and that sort of thing.

MR. WALDING: Just one question, leading from that explanation. Part II, as I read it, has to do with the setting of the rates for inter-connect devices. Now by saying that the power of the board does not include Part II are you excluding those inter-connection regulatory powers?

MR. TALLIN: You are looking at Part II of the bill?

MR. WALDING: Yes.

MR. TALLIN: No, this refers to Part II of the Public Utilities Board Act because this is a section which is being put into Part III of the Public Utilities Board.

MR. WALDING: I understand.

MR. CHAIRMAN: Shall the amendment pass? (Agreed) Page 2 as amended pass; Page 3 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT the proposed Clause 21(d.1) of The Manitoba Telephone Act, as set out in Section 11 of Bill 107, be struck out, and the following clause substituted therefor:

(d.1) subject to any order of The Public Utilities Board made under subsection (2), shall design, engineer and fix standards for the use of the coaxial cable plant and fibre optics plant of the system by persons using them for the provisions of services.

MR. ENNS: Mr. Chairman, if I can just speak to this for a brief moment. This is a portion of the Act that probably causes Manitoba Telephone System and the present users, and hopefully other future users, some of the biggest difficulty and we have attempted to provide and to make sure that the intent of the bill, the intent of the direction that the development of telecommunication services in the province of Manitoba are to take place, can take place by ensuring maximum accessibility to the electronic highway. The concern of the representatives of the industry that are currently using part of that highway is that that highway be so designed, in technical terms that it does not act in a prejudicial or arbitrary or to the disadvantage of whatever technology abounds in this particular field at this time.

We believe that we have adequate protection built into, not just in the current Public Utilities Board Act, under which now a great deal of this vested authority is being transferred. Section 82 of the Public Utilities Board, although it is essentially in the rate area, which has created prohibitions for the setting of discriminatory rates by a public utility, it is a general section dealing with the restrictions on powers of owners of public utilities. And it states in Section 82(d) and (e) very clearly that for the utility to adopt, maintain or enforce any regulation, practise, or measurement, that is otherwise in violation of the law, or provide or maintain any service that would give unreasonable preference to any company or person, would preclude the public utility in this instance from so designing, or so bringing in system changes that could be considered discriminatory or preferential.

I must indicate to the honourable members of the committee and I appreciate that we are dealing at clause-by-clause stage but if the committee felt so inclined, it is a technical matter, I would certainly entertain just the briefest comment from some of the persons present, if you recall, declined to make any comment earlier on, if that happens to be the wish of the committee. I seek your guidance on that, Mr. Chairman.

MR. WALDING: Mr. Chairman, as I read the proposed amendment, it adds a reference to subsection (2) but all it seems to do other than that is to remove the words "the provision of service" where it appears before "by persons using the coaxial cable" and I can't relate the deletion of those words to the remarks that the Minister has just made.

MR. TALLIN: It was pointed out to me, as the draftsman of this, that nobody could understand what was meant by the standards of the system for the provision of service by persons using the coaxial cable. And I attempted in my humble, I'm not very humble often, way to make it clear that what was being intended was to fix the standards really for the use of the coaxial cable by users of the coaxial cable services. I'm afraid I'm not up enough on the technology of the systems. I don't know how to describe it perhaps any better. Coaxial cable will be laid, there will be users of that coaxial cable, such as

the cable companies. There may be other users eventually, in fact, there are at the present time other users. And this is to direct the commission to fix standards for the use of the coaxial cable by those users. What kind of hardware will they attach to it and that sort of thing? How will they attach it?

MR. CHAIRMAN: Mr. Steen.

MR. STEEN: I was just going to say, Mr. Chairman, that there appears to be some difficulty with members of this committee fully understanding this, and the Minister responsible for the bill did indicate that if committee so chose to ask representatives — and I would suggest only one representative — from the party that appeared before committee this morning — and at that time they said, no, they don't have a presentation to make, but they were here on a watching brief basis. I believe that we could gain some insight and some skill by listening to a representative of the private sector and therefore, Mr. Chairman, I would move that we permit one spokesman from the industry to shed some light on this subject.

MR. CHAIRMAN: Is this agreed? —(Interjection)

MR. STEEN: Pardon? Yes, I would grant the Telephones the equal right too, but what I'm trying to drive at, is I believe that we can learn something from the industry but I don't want to be their spokesman. I'm prepared to move that one person from that industry speak, and then if the Telephones have a representative here, or the Associate Deputy Minister on behalf of Telephones, I'm quite prepared to move that they be heard as well.

MR. CHAIRMAN: Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I would like to speak on the whole idea of bringing in delegations to speak at this committee at this point. I think it would be improper. I know, for the sake of clarification, and I understand the reasoning for it, but I think that briefs and presentations have been made to this committee, and last night we — I'm a stickler for rules, sir — last night we refused to allow a delegation to appear, when delegations had already been received, and I don't think at this point, that we can possibly allow them even for the sake of clarification.

MR. CHAIRMAN: Mr. Jenkins.

MR. JENKINS: Mr. Chairman, I would like clarification, but by the same token I do have to agree with Mr. Kovnats. We are starting a new precedent for this committee, that if we start hearing people in the middle of a bill, even though we may move that it is not a precedent, nevertheless, the public is out there and it's going to be reported that in the middle of a bill we stopped and heard explanatins from people who have a vested interest. Let's not kid ourselves. These people who were here this morning had an opportunity to make a brief, and one gentleman said, no, I'll wait until the bill is being discussed clause by clause and then maybe if it's agreed, I'll make some presentation.

I would say, no, Mr. Chairman. I am not in favour, at this time, opening this up for representation, be it from the private sector — because if we're going to do this fairly, we then have to hear people from MTS, and Mr. Holland isn't here.

A MEMBER: Sure he is.

MR. JENKINS: Is he here? Well, it's highly irregular. It's setting a precedent that I certainly would not want to see happening with future committee hearings.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, I don't want to see this committee waste any time in looking at the wording. It looks as if this just may be a drafting change, since it's a removal of the words "for the provision of service."

Mr. Tallin has told us that he's a little uncertain as to the correct wording to be used here, and it would seem that if the board is to set certain conditions and standards, it is for the provision of service of those persons. I don't understand why standards should be set for them if they are not to use it for the provision of services.

I wonder if the Minister can have a quick check with an expert in his department and tell us whether this is just a matter of drafting change.

MR. CHAIRMAN: Mr. Tallin has a comment to make.

MR. TALLIN: Mr. Chairman, because you mentioned the words that were struck out, I'll perhaps explain what the ambiguity that was complained of to me was.

They said, it looks like the standards for the provision of services by the cable companies, and they said the MTS shouldn't determine the standards of services that the cable companies provide. What they should do, if anything, is fix the standards for the use of the coaxial service cables by those people, not fixed standards for the services that they provide. MTS may decide that they should be providing 42 channels instead of 12, and that's not MTS's business. But the use of the coaxial cable plant, which the MTS owns and has paid for, they should have some control over the use of that plant and the standards for the use of that plant. Does that clarify it at all for you?

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, that sounds reasonable. If I can get a sort of undertaking from the Minister that that is the intent of it and that there is no other principle or policy that comes in because of this, then I think we can accept it and move on to the next one.

MR. CHAIRMAN: Mr. Enns.

MR. ENNS: Mr. Chairman, I don't want to take advantage of the committee by not underlining the importance of this thing. It is the design of the plant that is now being totally put in to — not by bill, by statute, but by exercising the options of an

agreement which is totally in MTS's hands — that is of continuing, and will be of continuing concern to all present users and future users. The question of whether or not, even though we have the Act as presently written, there's an opportunity for a user to appeal the decision of the design standards and specs that have been proposed for the plant, that that is after the fact, and the position of the presentations we had this morning in the form of Mr. Patterson from Johnson Controls and others, would want us to have to entertain, that the formulation of design and engineering standards for the coaxial cable and fibre optics plant, however, that prior to adoption or implementation of any standards of design and engineering, the commission shall submit such plan to the Public Utilities Board for review and approval.

Mr. Chairman, I'm prepared to indicate to the honourable members of the committee, if that's agreeable, that we hold over this section for consideration at report stage, for refinement of wordings and concern, if that's agreeable. I believe that you have some idea of my problems here.

MR. WALDING: I think that would be agreeable to us, Mr. Chairman, if we could move.

MR. CHAIRMAN: Okay, thank you. Agreed? Shall the amendment be ?

MR. ENNS: No, we hold that over, I think.

MR. CHAIRMAN: We'll just hold that one over then to report stage?

MR. ENNS: That's for report stage.

MR. CHAIRMAN: So without amendment on page 3, is it? We have to pass page 3 then, and we'll have to bring in the amendment at report stage. Isn't that what we're doing? —(Interjections)— Right. So we have to pass page 3 then? Page 3 pass; Page 4, Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT the proposed subsection 21(2) of The Manitoba Telephone Act, as set out in section . . . .

MR. CHAIRMAN: Order please. Mr. Tallin.

MR. TALLIN: If I might suggest, that if you're going to reserve this change to clause (d.1), the change to 21(2) should be deferred too, because the change in 21(2) is essentially necessitated because of the redrafting of (d.1).

MR. CHAIRMAN: Is that agreed? (Agreed) Page 4 pass; Page 5. Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT clauses (43(1)(a) and (b) of The Manitoba Telephone Act, as set out in section 15 of Bill 107 be struck out and the following clauses substituted therefor:

(a) ''terminal attachment'' means any equipment, device or contrivance capable of transmitting or receiving messages or signals through the telephone services offered by the commission through the system; and

(b) any terminal attachment shall be conclusively deemed to be connected to the system if it is attached or fixed or placed on, over, under or adjacent to, any telephone connected with the system in such a manner as to be able to be used for transmitting or receiving messages or signals through the telephone services offered by the commission through the system, or to be used for interrupting, intercepting or interfering with such messages or signals.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, as I read this amendment, it seems to insert the words ''telephone services'' in both of these, to replace ''telecommunication'' in (b) and put in ''telephone services'' in (a). I'd like to ask the Minister why it's necessary to make that distinction, that interconnection service is referring only to telephone services.

MR. CHAIRMAN: Mr. Enns.

MR. ENNS: Mr. Chairman, it was drawn to our attention that the previous wording was so broad that it related to a whole host of services that were not intended, television interconnects, radios perhaps, etc., this simply zeros and focuses in on telephone services and immediate allied equipment related to the telephonic system.

MR. WALDING: Mr. Chairman, I'd just like to ask the Minister whether this was discussed with the Telephone System before this proposed amendment was made, and if so, what is their reaction? Are they in favour of the word change?

MR. ENNS: Legislative counsel certainly indicates that they were consulted in this particular matter and perhaps drew that to our attention. I'm not personally aware of it.

MR. WALDING: Does the Minister have any of his staff present who might be able to advise him on MTS reaction to this change?

MR. ENNS: Well, if the committee asks me, I could always call the Chairman of MTS forward and ask him to give us the . . .

MR. WALDING: Mr. Chairman, I don't like to see our rules abused or have us set a precedence that might cause the committee some problem in the future.

MR. ENNS: Mr. Chairman, it's perhaps in order to remind honourable members that this section is not being proclaimed at this time. This section is of a serious concern to all of us in terms of making sure that (a) the basic telephone service that is provided in Manitoba shall not materially change in terms of its current rate structure. There is, of course, an implication here of some possible regular loss to the system, should a substantial amount of interconnections, equipment that is currently now

being sold through and marketed through Manitoba Telephone Systems, is marketed by someone else.

For this reason we've made it very clear to second reading of the bill that this matter will be subject to exhaustive review. There was some suggestion that the newly structured Public Utilities Board may well look at Section 43 and the implications of Section 43, prior to taking any actions on Section 43.

Certainly we wish to be apprised of any financial implications that it may have on the system. On the other hand, we are equally hopeful and confident that with the expanded number of services that hopefully will start to come onto the system, and with the Manitoba Telephone System now being the sole common carrier and owner of the highway, that it will be able to offset and enjoy additional revenues, certainly to the extent that perhaps this section could be detrimental to them.

Now these are some of the things that I would expect a study will reveal to us — and I can indicate, as I've indicated to Manitoba Telephone System, and have indicated to the House, that Section 43 will not be proclaimed unless some of those answers are available to us for consideration.

MR. CHAIRMAN: Mrs. Westbury.

MRS. WESTBURY: Mr. Chairperson, excepting that the duly elected government chosen by the people of this province believes that the best government is least government, why do they have to know who has a recording device at the end of their telephone? I mean, who cares? Why put it in there, especially with no penalty?

MR. ENNS: Mr. Chairman, under a section of Bill 57, which was never proclaimed, that request, that requirement was there that is absent in this bill.

MRS. WESTBURY: Isn't that what 43 is referring to? It says anything that receives signals over any telephone.

MR. CHAIRMAN: Sorry Mrs. Westbury, what was the question again?

MRS. WESTBURY: Why do you care who has a recording device on the end of their telephone?

MR. ENNS: Pardon me, Mr. Chairman, I think the Honourable Member for Fort Rouge is misreading that section. What we are indicating — she's looking at 43?

MRS. WESTBURY: 43(1) to (6). Any terminal attachment, which means any equipment, device or contrivance capable of transmitting or receiving messages etc., connection not approved, must be approved by the PUB and unless the terminal attachment is so authorized, no person shall connect it to the system, tra la, tra la. Where a terminal attachment is not authorized etc., the commission may disconnect the terminal attachment, and where they have disconnected it and somebody reconnects it, the commission may stop providing telephone service to those premises. What do you care whether Joe Blow has a recording device on his phone?

MR. ENNS: No, we are not particularly caring about that, but we are caring about interconnections that are injurious to the system and for that reason we ask, in the last section of 43 that the party that is selling the systems, as a form of consumer protection, so advise that person whether or not the piece of equipment that is being sold or being marketed is authorized for connection or not. The other sections that the honourable member refers to are there to enable and to provide the public utility, the Manitoba Telephone Systems, with the necessary authority to, in fact, disconnect and remove from the system what it believes is injurious to the system. Now, under the appeal provisions provided for in this Act that decision is not left solely to the discretion of Manitoba Telephone Systems, the individual, or indeed the manufacturer of the product, can take that product to the Public Utilities Board and obtain a ruling, an adjudication as to the acceptablity of the equipment.

MRS. WESTBURY: Thank you.

MR. CHAIRMAN: Mr. Evans.

MR. EVANS: Just briefly through you to the Minister, what is happening now in this area, I appreciate the explanation, but is there some problem at the moment that the MTS is having requiring this particular clause or set of clauses?

MR. ENNS: Mr. Chairman, I believe the honourable members will recall when the chairman of Manitoba Telephone Systems last appeared before us at Public Utilities, the question of illegal extension phones, which is probably the principle attachment that is used, he was questioned about that and estimates were given at that time as to loss of revenue that implied for the system. But what this really does, it is not a problem for MTS, I would suspect that MTS might well express some reservations with respect to this clause. It's a fairly substantive policy change that is being considered here that will enable a broader range of interconnections of terminal attachments.

MR. EVANS: Oh, I see, what it's doing, Mr. Chairman, it's extending the ability of people, outside the MTS, it's providing greater flexibility than now exists.

MR. ENNS: In effect it will make legal what right now is illegal, I suppose, but there are revenue implications for that of which this Minister is mindful and MTS is concerned about. For that reason the entire Section 43 is not being proclaimed at this time, or would not be proclaimed until such time as exhaustive studies have been undertaken. I might say that there are currently precisely such studies under way in both the provinces of Alberta and Ontario. In Ontario the question is before the federal regulatory body, CRTC, because of the nature of the telephone company, Bell, being regulated by the federal authority in Ontario. In Alberta the Public Utilities Board of Alberta is currently undertaking a very substantial study on this and other related matters.

I should indicate to the honourable members that we have a further section, just while we're dealing

with this subject matter, that makes it very clear, however, there are two types of interconnections. All members will know that we're not talking about systems interconnections, such as CN-CP who have made requests to interconnect. We are talking in this instance only about terminal attachments, basically the extension telephone and/or related equipment that could be attached to it in that way.

MR. CHAIRMAN: Mr. Jenkins.

MR. JENKINS: I think the Minister has explained it now, I'll just throw him out an example and he can confirm whether I'm right or wrong. If I went to one of the places that was selling one of these doddy type telephones, maybe the old type, you know, something like that, I want something fancy, this telephone meets the requirements of the system and I now put it on; I'm actually stealing revenue from the Manitoba Telephone Systems because the use of that phone is not being paid for, if people are doing it now. What this would do would not prohibit me from doing that but would make it mandatory that I do pay for the service that is supplied for that telephone to the system, which I don't disagree with.

MR. ENNS: Mr. Chairman, the Honourable Member for Logan, is putting his finger on the point, but we have not, at the moment, the kind of mechanism in place, nor arrived at the kind of method of charging you the price for that phone and that's precisely what we will have to put our mind to but, in essence, the member is correct. You can do that, subject, of course, to the provision that the attachment is approved and not injurious to the system and to make that jurisdiction to appear to be fair and equitable. We are asking, not Manitoba Telephone Systems to necessarily make that adjudication, but the Public Utilities Board, at which time, Manitoba Telephone Systems can, and certainly will, express its concerns as to the technical nature of the attachment and its possible harm or pass its approval.

MR. JENKINS: I just have one further question to the Minister. Now this attachment is approved and — well I don't know there are various companies that are selling these things — they get approval from the PUB; I buy it, its approved, is there an onus now upon me, or upon the supplier, to notify Manitoba Telephone Systems that I have bought one of these.

MR. ENNS: No.

MR. JENKINS: Then how are you going to plug the loophole? Because I can buy one of these things that is approved by PUB, I can come home and I can attach it to my telephone system. And you're going to lose the revenue, which I think that you shouldn't lose.

MR. ENNS: That's precisely what we will be looking at; precisely the kind of answers that Mr. Holland will have to provide us with and considerations of that will have to be made.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, I think I now understand why the change in the wording is in here and I'm prepared to let this go and move on to the next amendment

MR. CHAIRMAN: Page 5 as amended pass; Page 6 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT the proposed Section 44.1 of The Manitoba Telephone Act, as set out in Section 18 of Bill 107, be amended by adding thereto, immediately after the word "telecommunication" where it appears in the 2nd line of subsection (1) thereof, and again in the 2nd line of subsection (2) thereof, in each case, the word "carrier".

MR. ENNS: Mr. Chairman, I've already indicated to honourable members that this amendment makes it clear that we are not talking about telecommunication systems interconnections, such as CN-CP.

MR. CHAIRMAN: Page 6 as amended pass; Is there one more amendment on Page 6? Or is that on Page 7 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT the proposed Section 48.1 of The Manitoba Telephone Act as set out in Section 19 of Bill 107 be amended by striking out the word "the" where it appears for the 2nd time in the 2nd last line thereof.

MR. CHAIRMAN: Shall the amendment pass? (Agreed) Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

THAT Bill 107 be amended by add thereto, immediately after Section 19 thereof, the following Section:

Section 52.1 added.

19.1 The Act is further amended by adding thereto, immediately after Section 52 thereof, the following section:

Limitation on Telecommunication carrier system.

52.1 Notwithstanding any Act of the Legislature, or any charter of any corporation, or any contract or franchise entered into or granted, no person shall provide a telecommunication carrier service in any municipality or in any locality in unorganized territory without the approval of the Lieutenant-Governor-in-Council unless, on the 1st day of July, 1980, that person was providing a telecommunication carrier service in that municipality or locality.

MR. CHAIRMAN: Shall the amendment pass? Sorry, Mr. Enns.

MR. ENNS: This simply reaffirms or affirms which is currently not in the Act, in the Manitoba Telephone Systems Act, the reaffirmation or the affirmation of the common carrier role, the telecommunications carrier role, that Manitoba Telephone System has. It was deemed advisable while we were making some amendments to the Act to establish that in the Act.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Chairman, I think it ought to be pointed out that this amendment that's proposed doesn't amend Bill 107, there is no reference to Section 52 in this bill. What the Minister is doing is amending a present Act where there is no reference to it in this bill. I don't think we have any objection to it but we don't like the procedure.

MR. ENNS: Do we have a problem with that Ray?

MR. TALLIN: I'm afraid I was speaking to the chairman when you started your statement and I didn't realize that it had to do with me, I thought you were talking to the Minister.

MR. WALDING: I was addressing the Minister, Mr. Chairman.

MR. ENNS: The Honourable Member for St. Vital is suggesting that this amendment doesn't amend this Act because there's no reference to Bill 107 in the Act and I must assume that is a typographical error.

MR. TALLIN: Bill 107 is being amended by adding a Section to the bill.

MR. WALDING: It doesn't amend anything that is in Bill 107. It amends the Act.

MR. TALLIN: Oh yes. That's a procedural matter that you're raising then and that's a problem that has been raised repeatedly in committee.

MR. WALDING: Mr. Chairman, its a matter that has come up before and its been a matter of some debate between the two sides and we did it when we were in government and I don't think it is a good practice because it doesn't give the House to opportunity to debate that particular section at second reading and I'm just pointing out that it's a practice that should not be encouraged.

MR. CHAIRMAN: Shall the amendment pass? (Agreed) There is a motion, but I would suggest Mr. Kovnats that we could just handle it by calling a vote on Section 21 and defeating Section 21 rather than move that it be deleted.

MR. WALDING: I'd like to ask the Minister why he is suggesting we vote against 21? Does he not want any transitional provisions?

MR. ENNS: Mr. Chairman, that is connected with the action that we've taken at the beginning of the bill, the amendment 82(4)(1) which places the current contracts under PUB jurisdiction and I'm advised by Counsel that that makes Section 21 redundant. Is that correct?

MR. WALDING: With tht reassurance, Mr. Chairman, I pass.

MR. CHAIRMAN: Okay. —(Interjection)— Just a second. All those in favour of Section 21?

A COUNTED VOTE was taken and the motion was declared defeated.

MR. CHAIRMAN: Section 22 pass; Section 23 pass. Your permission, please, to correct for the removal of Section 21 agreed; Page 7 as amended pass; Preamble pass; Title Page pass; Bill be reported as amended agreed.

BILL NO. 113
THE MANITOBA ENERGY COUNCIL ACT

MR. CHAIRMAN: Bill No. 113, The Manitoba Energy Council Act. Page 1 pass; Page 2 pass; Page 3 pass; Preamble pass; Title Page pass; Bill be reported pass.

BILL NO. 114
THE MANITOBA ENERGY AUTHORITY ACT

MR. CHAIRMAN: Bill No. 114, The Manitoba Energy Authority Act. We have some amendments being distributed. Page 1 pass; Page 2 — Mr. Kovnats.

MR. EVANS: Mr. Chairman, on Page 2. Are you on Page 2 now?

MR. CHAIRMAN: We're on Page 2.

MR. EVANS: Okay. I'd like to ask a question of the Minister with regard to the first section, Section 2, Establishment of Authority.

Now this is the basic reference to the board being a body corporate and in effect, this clause refers now to a new entity, a new Crown corporation, a new public corporation. While I understand, by looking at the entire bill, the function of the authority would be to deal with emergencies and other supply matters, I want to ask the Minister, assuming that we proceed with his suggestion of a couple of hours ago that the emergency powers at least be deleted at this time, what is the purpose of setting up another Crown corporation to carry out the specific powers and duties that are left? Because it seems to me by reading the specific powers and duties, these are of the nature of research, policy advice, etc., which can be done within a Department of Energy and would not necessarily, from my point of view, cause a separate Crown corporation to be established. So my question to the Minister is, why do we need another public Crown corporation unless there may be some other purposes that the Minister has in mind? But I wonder, why not just the Department of Energy doing these things that are left to be done here?

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Mr. Chairman, there is no agency that in the overall terms represents the provicial interest in all of the energy fields.

We have the Public Utilities Board, which does rate base settings for many of the utilities, and we have our own Crown corporation, namely Manitoba Hydro in the electrical field which does its planning, of course, for Manitoba needs. But in terms of the overall energy picture with the energy supply becoming increasingly important to the province, it was felt that it should be brought together under the one agency to address itself to supply and at some point in time we'll have to bring in the Emergency

Measures to dovetail with the federal government and they would fall under this particular authority.

Now, why a different government department . . .

MR. CHAIRMAN: I'm sorry, Mr. Craik, would you mind speaking more closely into the microphone? Some of the members of the committee can't hear you.

MR. CRAIK: It has powers that go beyond what the department would have, to have hearings and so on with the same sort of authority that the Public Utilities Board would have in having supply hearings and doing investigations and research and so on. It's broader powers than what would be available to a normal government department.

You'll note also that it has the powers to become involved in a corporation, to hold shares in a corporation, if necessary. It's there more or less for flexibility than was forethought of it taking an active role in any company. I mentioned an example in the House where it's not inconceivable to think that it may become involved in, say, a gas storage area for purposes of really providing supply in the case of emergency. Not that that is planned at the present time, but those are the sorts of things it would have the power to do really, to provide backup supply.

I suppose it could be the agency that might get involved in something like the Western Power Grid, depending on how the corporate structure of it came out, although that's certainly not a foregone conclusion at this time, but it is the agency that will address itself to these extra provincial matters regarding energy. It would be the agency that would appear as well for the province before the National Energy Board hearings.

MR. EVANS: I thank the Minister for that statement, but I'm asking these questions to try to cause us all to rethink an administrative structure here, because I've heard so often in the past, criticisms of setting up new Crown corporations, you see, and I'm coming around to that point of view, who needs an extra agency if you don't really need that agency? You know, why?

But in this section, and in looking at the balance of the bill, I can appreciate the need to do research and to be concerned about supply. I can appreciate the need, as the Minister explains, to go before the National Energy Board, but all of those things could be done by an Energy Department as such.

What I would consider perhaps more of a commercial operation than it refers to, the getting into the matter of commercial storage of natural gas and perhaps dealing in a commercial way — and that is an explanation — so is the Minister now telling us that there is a possibility therefore at some time that the Manitoba Energy Authority referred herein would be engaged as a commercial or quasi-commercial operation? In other words, it would be in some sort of a business supportive role perhaps, leaving aside the emergency part for the time being, just leaving that aside. Is this the reason we need a Crown corporation rather than a department, that you want to allow it to engage in commercial operations?

MR. CRAIK: It's not excluded from that area. It's not set up in any way for that but it, as I mentioned, is not excluded from doing that, from being involved in a venture that would ensure supply for Manitoba already in an energy commodity. It's really intended to provide the flexibility here. I would not expect this authority to own any real property or anything else, but if it was deemed at some point in time necessary or desirable for it to become involved in, say, typically an expanded gas storage area to ensure a better supply for Manitoba, then I think that would be a logical one for the authority to recommend that they would want to become involved in. But I'm being speculative in saying that.

MR. EVANS: Mr. Chairman, I think the Minister is agreeing with me that, I guess, that many of the things that are referred to as specific powers and duties could be done by a Department of Energy. But if you did want the government to go beyond research and supply and negotiations in preparing briefs, but actually get into the business actively in a commercial way — it may not be competitive but it's still commercial — that now he is seeking further powers to do this and the way to do this in the most flexible way is to have another Crown corporation.

I'm not necessarily opposing this. I'm just trying to get the clarification because it seemed to me in reading the powers and duties, it ought to be done by the Minister's Department of Energy, hiring the right kind of people, etc. But if it is at some time expected that it will own property or perhaps, as you'll see in the other sections, invest in subsidiaries, etc., well, I can see that as an argument. Just as long as we recognize, here we are setting up another Crown corporation.

MR. CHAIRMAN: Mr. Hanuschak.

MR. HANUSCHAK: Yes, Mr. Chairman, I wanted to ask the Minister whether there would not be duplication of effort as between the Manitoba Energy Authority, the Department of Economic Development, Manitoba Hydro and perhaps even the Public Utilities Board to some extent, particularly with respect to the research function, the conduct of surveys, research programs, etc., within that area, because I would suspect that at the present time the Department of Economic Development probably does a fair amount of work in this area and of the type that may be anticipated by the draftsmen of the bill. As related to hydro, Manitoba Hydro's research department probably also does some of this type of work; the Public Utilities Board may, in more broader terms, in more general terms as related to a number of forms of energy. So, would there not be duplication of effort by the creation of this additional agency or body?

MR. CRAIK: The type of work that the authority would do would be the type of work that the Department of Energy and Mines is involved in rather than the others mentioned by the Member for Burrows. It would be research work really on supply, which is not done in areas of the government, other than in the case of Manitoba Hydro — of course it is done by the Manitoba Hydro Utility, but the PUB doesn't get involved to any large degree in supply

analysis and so on. But most of the kinds of things that it would get involved in in its research work would be the type of undertakings that the present Department of Energy get's involved in, in making briefs and presentations to the National Energy Board, in consultation with the industry's determination of supply, and eventually, you know, advice to the Minister on matters pertaining to supply. A lot of that would be carried out by the authority as part of its work rather than in the Department of Energy and Mines and, as a matter of fact, at the start you'd have basically the same staff in the authority doing its work.

MR. CHAIRMAN: Mr. Hanuschak.

MR. HANUSCHAK: So, can we assume then, Mr. Chairman, that when the authority comes on track, that the estimates would reflect some reduction in the Department of Mines in terms of staff and expenditures for this type of work, to the extent that the authority will be doing work of a type that's presently done by the Department of Mines.

MR. CRAIK: I would hope that would be the case, Mr. Chairman, that when you added up the two sides of it, it didn't show too substantial an increase.

MR. CHAIRMAN: Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT section 5 of Bill 144 be amended
(a) by striking out clause (f) thereof; and
(b) by renumbering clauses (g) and (h) thereof as clauses (f) and (g) respectively.

MR. CHAIRMAN: That's on Page 3. Page 2 pass; Page 3 as amended pass — I'm sorry. Mr. Evans.

MR. EVANS: There are some other sections on Page 3. Section 9(1), with the approval of the Minister the authority may cause to be incorporated under the Corporations Act, a corporation as a subsidiary to it for the purpose of carrying on any business or performing any duty of the authority under this Act, and I am wondering if the Minister could, I know he said there's no intention at the moment, but could be give us some examples of some possibilities of investment in a subsidiary.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: I suppose that we could look at any number of areas where there was deemed to be some danger of supply, say in oil supply in northern Manitoba, the authority might, in conjunction with the industry if they weren't satisfied that there was an adequate supply provision, become involved in ensuring that there was adequate supply by a corporation that may in fact have contingency supplies available. Now that again is an example only, it's not an intention.

MR. EVANS: I know, it's hypothetical.

MR. CRAIK: I suppose it's not impossible that some different involvement might evolve out of, let's say a western power grid study, where you've got a three-province entity involved, or you may have a three-province involvement in the ownership of it. Again its speculative, because I don't know what will come out at the end of the examination towards the end of this year, but with that being the case, if it turned out it was three-province thing rather than a six-utility thing, because there are a number of utilities in Alberta, one in Saskatchewan and one in Manitoba, then this would probably be the agency which would become involved in something like that.

MR. EVANS: So, as I understand it, again I appreciate these are hypothetical examples but we have to deal in hypotheses. If there were an oil shortage in northern Manitoba, and for some reason or other the private sector couldn't deliver the oil, then the government could, under this legislation, set up a northern Manitoba oil supply corporation to provide such fuel oil, or whatever, or gasoline, or whatever. So that is as I understand it would be.

And what about near Virden, where there's a natural underground storage area, I understand? I've forgotten the technical name of the area, but there is an underground natural storage zone, porous rock, in which I believe natural gas can be pumped in and stored for emergency purposes, or for offsetting of peak requirements etc. Has the government in mind the possibility of getting into that, in terms of a subsidiary here, let's say the Manitoba natural gas storage company limited, or something of that nature over the ground?

MR. CRAIK: Mr. Chairman, to the best of my knowledge that is still being actively pursued by one of the larger utilities here who are still doing exploration work themselves, and hopefully it would be able to bring about sufficient storage to act as a contingency measure for supply purposes in Manitoba. But that could be the sort of thing where they . . .

MR. EVANS: That's fine. I think the Minister has given me some explanations of the — the fact is, that what we are now doing is broadening the power of a Crown corporation, not only to have a Crown corporation known as the Manitoba Energy Authority, but to have that Crown Corporation have the specific power to expand itself and acquire other subsidiaries and invest. I hate to think what I would be referred to if I was bringing in this, you know, creeping Socialism or whatever. I'm not casting any reflection, but let's recognize that we are extending the public sector here, and if that's what the government wants, I'm not objecting.

MR. CHAIRMAN: Page 3 as amended pass; Page 4 pass; Page 5 pass; Page 6 pass — Mr. Hanuschak.

MR. HANUSCHAK: Looking at Section 26(1), it seems to anticipate the likelihood of a director of the authority having a financial interest in an energy generating operation. The reason why I raise that point is because, well, the Public Utilities Board, for example, there's a specific prohibition against any member of the board having financial interest in the gas, and so forth, but there is no prohibition here. Now there's a sort of a procedure of what the board is to do in the event that a conflict of interests

should arise. What my question to the Minister would be, would it not be preferable to have a board made up of individuals who do not have a financial interest in an oil company, or electrical, or whatever?

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: The authority directors would be generally people who were not in industry itself. This is put in to ensure that any potential conflict would be given due attention, and would be avoided by, first of all really not appointing someone who was in danger of getting into a conflict of interest position. It isn't the board where you would generally have people who are active in the utilities on that board. In contrast to that, the Energy Council is the area where the government's intention would be to try and engage those kind of people on the Energy Council side, either in an advisory role or on the Energy Council, because it's conservation-oriented and doesn't get involved into the supply protection that this board does. Those three clauses, 26(1), (2) and (3) all deal really with the prohibitions that are recommended by the people drafting the bill.

MR. HANUSCHAK: Then, Mr. Chairman, why not make these sections carbon copy, as it were, of the comparable sections of the Public Utilities Board Act, you know, just simply state that no director shall have a financial interest in that?

MR. CRAIK: I suspect that it's just two different bills.

MR. HANUSCHAK: But the Minister is assuring us that the intent is the same?

MR. CRAIK: The intent is the same. I can tell him that the intent is to have people who are directly involved in responsible industry jobs on this board.

MR. CHAIRMAN: Mr. Evans.

MR. EVANS: Mr. Chairman, I still have a comment on 26(1), Mr. Chairman. In the discussion that's taken place, to me this would seem to underline that there is a possibility of the corporation, or its subsidiaries, becoming involved in commercial operations, when you start talking about conflicts of interest, you know, and that possibility. I'm not objecting to it; I'm just observing that that underlines the quasi-commercial nature of the corporation.

MR. CHAIRMAN: Page 6 pass; Page 7 pass; Page 8 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move;
THAT subsection 28(4) of Bill 114 be amended by striking out the word "and " in the 1st line of clause (b) thereof and substituting therefor the word "or".

MR. CHAIRMAN: So it becomes the "sale or purchase" rather than the "sale and purchase."

MR. EVANS: What's the significance of that?

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: So that the Energy Authority can do negotiations for either.

MR. CHAIRMAN: So they don't have to do both in their negotiations.

MR. EVANS: So that's 28(4), eh?

MR. CHAIRMAN: Shall the amendment pass? (Agreed) Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move;
THAT section 29 of Bill 114 be amended
(a) by striking out the word "director', in the 1st line thereof and substituting therefor the word "direct;" and
(b) by striking out the word "apply" in the 2nd line thereof and substituting therefor the word "applies."

MR. CHAIRMAN: Mr. Evans.

MR. EVANS: Well on this section, in effect, is it the government's intent therefore to make pension benefits available to employees of the authority. Does that imply then that the employees of the authority are not civil servants? And you may say, well, that should be easily understood, because if you're a member of a Crown corporation, or you're on the staff, you shouldn't be a civil servant, but we've got some hybrid Crown corporations, in which some of the staff members of some of these Crown Corporations are indeed under the Civil Service Act. So what are we saying here? We're saying that these people are not under the Civil Service Act, they're not civil servants, but they will obtain civil service pension benefits? Is that what this clause means?

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Perhaps I should ask Mr. Silver?

MR. CHAIRMAN: Mr. Silver.

MR.ISAAC SILVER: Well, it just says that if there would be any employees who are not civil servants, then that's the purpose of this section, to provide for any employees who will not be civil servants and therefore will not have the benefits of the Civil Service Superannuation Plan automatically and arrangements can be made for them under this section.

MR. CHAIRMAN: Page 8 as amended pass.

MR. HANUSCHAK: Mr. Chairman, under Section 28(3) at the top of the page, it makes reference to each member of the committee shall receive, not unless he's an employee of the authority or of government, "shall receive such remuneration for services as may be fixed by the Lieutenant-Governor-in-Council". As I've indicated to the Minister in second reading, my feeling is that wording this section in this fashion suggests that the Lieutenant-Governor-in-Council shall have the power to set a whole range of pay rates for different committee members.

I'm sorry, I suppose there may be justification for that insofar as committee members are concerned

because their workloads may differ. One committee member may only do one or two days a week or a month and another might be employed full time. If I may, Mr. Chairman, without breaking the rules, but I want to remind the Minister that I would urge him to take a second look at the corresponding section dealing with Remuneration for Directors, because it's phrased the same way, "that each director shall be paid remuneration as set by the Lieutenant-Governor-in-Council" which seems to suggest that the Lieutenant-Governor-in-Council may have the freedom to negotiate the rate of pay for each director, but I don't think that that's the Minister's intent. I think as far as directors are concerned, whatever the rate of pay will be agreed by Cabinet, that that will be it for all, the same as directors of other utilities, Crown corporations, boards and commissions. Am I not correct?

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Mr. Chairman, you'll find in a lot of the boards that the Chairman and the committee members get a differential rate and this would make provision for that to happen; the Chairman could be paid a per diem that's higher than the committee members because you expect him to carry a little heavier responsibility. I think that's all that that's intended to do, to provide that kind of flexibility.

MR. HANUSCHAK: If I may just ask the Minister about the board members, with the exception of the Chairman and Vice Chairman perhaps, is it the Minister's intention to pay the same rate of pay for all board members or does he envisage a need to vary the rates of pay, with those two exceptions?

MR. CRAIK: Mr. Chairman, no, the intent would be that if it's similar to other boards just the Chairman would receive a differential and the rest would all be the same. I can't think of any board offhand, that I'm aware of in government, where there is any differential other than that.

MR. CHAIRMAN: Okay, Mr. Kovnats.

MR. KOVNATS: I have another amendment on Page 8. Mr. Chairman, I move

> THAT Section 30 of Bill 114 be amended by striking out the word "of" where it appears for the second time in the second line thereof and substituting therefor the word "or".

MR. CHAIRMAN: It's a typographical error. Page 8 as amended pass; Page 9 pass; Page 10. Mr. Evans.

MR. EVANS: Yes, Page 10. I'll ask this question under Section 34 which is the first section dealing with financial matters of the corporation.

A financial report will be submitted by the Authority and there's provisions here for audits, etc. The report will show revenues and expenditures. Is it the intention of the government, in a sense, to provide grants as revenues for the corporation or does it foresee the corporation obtaining revenues in some other way? And we'll be looking at this in terms of profit and losses, in terms of deficits and surpluses.

MR. CRAIK: Its primary source will be appropriation by one of the government departments, the Department of Energy and Mines I presume, and that will be its main supply. It would be in a position, though, to receive fee for service in its work that it did and, as a result, would necessarily make provision for it to show a revenue and an expenditure side in its report. But it's primary source is intended to be by government appropriation.

MR. CHAIRMAN: Page 10 pass; Page 11. Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move

> THAT Bill 114 be amended
> (a) by renumbering subsection 39(1) thereof as Section 39;
> (b) by renumbering subsection 39(2) thereof as Section 40; and
> (c) by striking out Section 40 thereof.

MR. CHAIRMAN: We are deleting Section 40, right. Page 11 as amended pass. Mr. Evans.

MR. EVANS: On Page 11, this is at the bottom, we begin Hearings and Investigations. I can appreciate that holding public hearings is rather innocuous to obtain information, etc., but the last section on the page 42(1), Powers of board under the Evidence Act, I'm wondering if that is necessary at this point, in line with what apparently has been occurring here. With the various amendments we are deleting references to the so-called emergency powers and these other so-called totalitarian clauses, but what about 42(1)? Would it not be in order to have this deleted because it does refer, it says: "For the purpose of carrying out its duties and functions under this Act, the board has the like protection and powers and is subject to the like requirements as are conferred on or required of commissioners appointed under Part V of The Manitoba Evidence Act", and I understand that that does carry a lot of punch. I'm wondering whether the Minister is aware of what we're doing here under Part V. Maybe someone could tell us what's in Part V of The Manitoba Evidence Act because you may wish to delete this as well, I'm just saying, in keeping with the deletion of the other clauses?

MR. CRAIK: Mr. Chairman, I think that it's necessary to have this in. This is the same as The Public Utilities Board Act and in order for it to adequately carry out its studies, I think it should have the same kinds of powers that the Public Utilities Board has and that this is essentially the same as the PUB.

MR. EVANS: We're trying to be co-operative. I just wondered, because this was raised by my colleague, and the Minister's explanation sounds reasonable but I'm just wondering whether maybe the Attorney-General was familiar with it or not, but whether it is . . .

MR. CHAIRMAN: May we ask Legislative Counsel?

MR. EVANS: Yes.

MR. CHAIRMAN: Mr. Silver.

MR. EVANS: Let me just give Mr. Silver a chance and I'll restate my concern; whether we're conferring certain powers and authorities on the board by passing this section and giving them the same powers as are conferred on commissioners under Part V of The Manitoba Evidence Act. Are we going too far? Are we giving them more power at this point in time than we need to? That's simply my concern.

MR. SILVER: Mr. Chairman, my recollection is that the only powers conferred by Part V of The Manitoba Evidence Act are: the power to summon witnesses and documents; and to compel witnesses to answer questions. In other words, for the purpose of gathering information.

I believe, as far as I can recall, that's the extent of the powers conferred under Part V of The Manitoba Evidence Act. It's only as far as is necessary to be able to get information in cases where, perhaps, people are reluctant to give it if the information is necessary for the purposes of this Act.

MR. EVANS: Thank you, Mr. Chairman and Mr. Silver. I have this section before me of this particular Act, and there's reference to the powers of commissioners, and indeed there are powers to summon witnesses as legal counsel has advised us, but there's other references to warrants being issued for non-appearance, committal for refusing to testify, the police to assist commissioners, reference to deputies and the powers of the deputies to take evidence, issue subpoenas, enforce the attendance of witnesses, compel them to give evidence, enter upon and view property and otherwise conduct the inquiry, searches free for the purpose of an inquiry, a commissioner may, without fee or charge, search or cause to be searched all instruments, documents, records relating to persons or matters within the scope of the inquiry in any public office existing under any Act of the Legislature.

What I'm saying, Mr. Chairman, is that it seems to me that this section 42(1) was probably put in in the original instance to supplement the Part II, Emergency Powers, and if you are not looking at that, at this time, it would seem to me that the staff can obtain all kinds of information without having to have the powers of commissioners under Part V of The Manitoba Evidence Act. It seems to me it's heavy-handed and it's reminiscent of the thrust in philosophy embodied in Part II, Emergency Powers of the Act.

MR. CRAIK: Mr. Chairman, the only thing I can say is that I think the board needs this same section in a similar way that the Public Utilities Board requires it to carry out its work. This body, after all, its responsibility is to protect energy supply in the province and there's no use setting something up that doesn't have the tools and mechanisms there for it to do the job. In a way, it's probably more appropriate for The Evidence Act to be in the authority than it would be, say, in the Public Utilities Board, if you were setting it up from Square One again, where all they're doing is setting rates. Here what you're doing is trying to protect supply.

MR. CHAIRMAN: Mr. Silver. Mr. Evans.

MR. EVANS: I'm not trying to be obstructionist but I'm just wondering whether the Minister could reconsider 42(1) and take another look at it and maybe by Monday — he may come to the same conclusion or he may come to a different conclusion, I don't know, but perhaps he'd like to take that under advisement.

I'm just trying to imagine, you see, Mr. Chairman, I mean if the government wanted to continue with this emergency power type of legislation, I can certainly see this but I don't see this power being required in the normal course of the other operations of the Authority, obtaining information to deal with extra-provincial markets and the like. I can't envisage a situation where the government would require more or less police powers, in effect, or authority of a court to require persons to come before the Energy Authority to give information.

MR. CHAIRMAN: Would the committee consider having the member and the Minister get together with Legislative Counsel over the weekend and pass the section now and consider bringing forth an amendment for report stage?

MR. EVANS: That's just what we want to do is meet tomorrow.

MR. CHAIRMAN: You can meet first think Monday morning if you like, with Legislative Counsel.

MR. CRAIK: Mr. Chairman, I wanted to maybe give an example to Mr. Evans again, the type of thing. If they are doing a survey, not a survey but a full in-depth investigation, of the capacity of the various oil companies to provide for standby contingency depot storage throughout Manitoba, with a view to ensuring that in mid-January there's a pattern that is going to ensure that in the event of an external shortage, that there's going to be adequate fuel to be able to distribute.

When they go to the various companies to ask for that information, it has to be more than just a letter of inquiry. It has to be, I shouldn't say it has to be, very conceivably could be a hearing, and this applies to hearings that where you have a hearing to investigate that, when on a critical matter like that they're asked for the information, that it must be provided in the interests of the contingency plans that the authority might want to see developed. So there has to be a power like that there for them to get that information.

MR. CHAIRMAN: At this point would the committee like to rise and return at 8:00? Mr. Jenkins.

MR. JENKINS: Mr. Chairman, I would like to make a suggestion that we try and complete the bill, this is the only bill we have before us and let's try and complete the bill and not come back this evening.

MR. CHAIRMAN: Mr. Evans.

MR. EVANS: Mr. Chairman, while the Minister has given, I think, reasonable explanations and, as I said, I was just wondering why we needed such power, but this could be — this is a conceivable situation. The only comment I would have in this respect is that if there is an oil shortage, and that really is the only type of energy shortage I can envisage at the present time, certainly not electricity, natural gas which we're exporting, because we've got it coming out of our ears, and coal, we're blessed with lots of coal. It's really petroleum products that we're talking about, oil and petroleum products, that's the real problem. So its conceivable, but what concerns me is if there was such a crisis, it would seem to me that the federal government would be in there, because we do live in one national market, with free trade across the boundaries. I would think at that point, if there was a real critical petroleum situation, there would be some sort of a federal agency involved, simply because for one thing we don't have enough oil in Manitoba for supply our needs anyway. We're not opposing this I'm just — we had these questions.

MR. CHAIRMAN: Page 11 as amended; I'm sorry, Mr. Jenkins.

MR. JENKINS: Did we pass Page 12, Mr. Chairman.

MR. CHAIRMAN: No, Page 11 as amended pass; Page 12 — Mr. Jenkins.

MR. JENKINS: I've a question on 42(2), which is that this section of the Manitoba Evidence Act does not apply to the board. I realize that 88 is a notice of appointment of commissioners, but what reporting mechanism are we going to have of notice of appointment if a person gets off the board. Section 88 as it reads at present that notice of appointment of any commissioners — and I realize in this case it would be the authority — appointed under this part for the purpose and scope of the inquiry, they are appointed to make and the time and place of their holding their first meeting shall be published in the Manitoba Gazette and in the newspaper or circulated in the district to which the inquiry may be held. Just what reporting mechanism is there in this Act, if there is a change, if the authority member (b) retires, or resigns or dies and he's replaced? What onus is there on the government to notify the public that they are replacing him with (c) or (d)?

MR. CRAIK: Well, Mr. Chairman, there would be a public Order-in-Council passed showing the rescinding of, or resignation or whatever it is, of one and the assignment of another.

MR. JENKINS: Yes, well, Orders-in-Council, we all know, are filed in the office here but what notification would there be to the general public that this person now is a member of the authority? I just throw this out to the Minister that surely the public is entitled to know that authority member (b) has resigned, or retired, or he's died or he's left the province and he's been replaced, because I imagine that when this authority is set up, that surely the Minister envisages that the general public is going to know then, especially through the press and the Gazette. But no, because this takes away from the Gazette by the deletion of 88. I just throw that out as a suggestion, because I think that the public is entitled to know who is on this authority, and I just throw that out to the Minister, perhaps he can think about that over the weekend. I've no further questions.

MR. CHAIRMAN: Page 12 — Mr. Evans.

MR. EVANS: I'd like to ask a question on Section 44(1), what is the meaning of this section? Rules of evidence are not binding upon the board or any committee. I wonder if we could get an explanation of that.

MR. SILVER: This means the rules of court evidence. Those rules of evidence that are binding in court are not binding upon the board or any committee of the board. If they were, I don't know how they could be administered, I don't know who in the board would know what the rules are. They're rather complicated. One of the most difficult things in law that a lawyer has to learn, so from a legal point of view, and I think it's not unusual to have this provision in circumstances of this kind. In other words, the board would have its own rules of procedure and they would not include the formal rules of evidence that are binding in a court, in a regular court. They might, but they don't have to.

MR. EVANS: Again, Mr. Chairman, I was wondering why that one would not be deleted, because it seems to me its more in keeping with what was intended under Part II but maybe not, but it does blend in with the Part II thrust. I'm wondering, are we taking away certain rights from witnesses that have to appear before the board, because they can be subpoenad to come to the board, are we taking certain rights away from them? As a layman I'm asking. We're not taking rights away from them? I mean, are they allowed legal counsel if they are subpoenad to appear before this court, that I think is the question.

It should be answered, because after all they're taking evidence, Mr. Chairman, under the Manitoba Evidence Act. And the Evidence Act specifically sets out certain powers that the board of commissioners have, you know, like 93 of Part V, where on the appearance of a witness before the commissioners, either in obedience to a summons or on being brought before them by virtue of a warrant, the witnesses refuses to be examined upon oath concerning the premises,,or refuses to take such an oath, or having such an oath, refuses to answer the question concerning the premises then put to him, without lawful excuse, for the refusal, the commissioners may by warrant, signed by the commissioners, or any of them, commit the person so refusing to a common jail, there to remain and be imprisoned for a term not exceeding one month, unless in the meantime he consents to be examined and to answer concerning the premises. You know, this is tremendous power that this authority will have, and I want to know if these people are going to be given the right to have legal counsel, upon examination before this authority.

MR. CRAIK: The same procedures, Mr. Chairman, as the Public Utilities Board, and that's the closest

parallel, and legal counsels are frequently in attendance there, so I presume it applies across the board, that nobody — it's the same procedure, they can have legal counsel.

MR. CHAIRMAN: Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move;
THAT Section 45 of Bill 114 be amended by striking out the words "but no act or decision" in the 2nd line thereof and all the words in the 3rd, 4th and 5th line thereof.

MR. CHAIRMAN: Pass as amended? (Agreed) Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move;
THAT Bill 114 be further amended by striking Section 47 thereof.

MR. CHAIRMAN: Shall I just call the vote on Section 47, we defeat it?

A COUNTED VOTE was taken and Section 47(1), (2) and (3) was defeated.

MR. CHAIRMAN: Page 12 as amended pass; Mr. Kovnats.

MR. KOVNATS: On Page 13, Mr. Chairman, I move:
THAT Bill 114 be further amended by striking out Part II thereof.

MR. CHAIRMAN: We'll call the vote on Part II and if you . . . Mrs. Westbury.

MRS. WESTBURY: I'd like to speak on this. Having said that I had no objection to it, the reason was that the person I referred this bill to was somebody knowledgeable in the area of energy, not a Human Rights person and not a lawyer, so I was quite shocked when I heard all of the accusations coming back, as I guess the Minister was too, in view of his subsequent action. So I will vote for the amendment, but I just wanted to say that I have listened to the objections and I was pretty surprised.

MR. CHAIRMAN: Call the vote on the entire Part II. All those in favour of Part II. Opposed to Part II. Part II is defeated. Withdrawn.
Part III, we're on to Page 26, Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move:
THAT Bill 114 be further amended by renumbering Part III thereof as Part II.

MR. CHAIRMAN: Pass. Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move:
THAT Sections 98, 99, 100 and 101 of Bill 114, be renumbered as sections 47, 48, 49 and 50 respectively.

MR. CHAIRMAN: Pass. Mr. Kovnats.

MR. KOVNATS: On Page 27, Mr. Chairman.

MR. CHAIRMAN: Okay, Page 26 as amended — Mr. Evans.

MR. EVANS: Mr. Chairman, I wonder why Sections 98(1), (2), (3) and (4), why do we need this? It's again because it may be involved in commercial operations, because the director is not liable or answerable for any debt, liability or obligation of the authority?

MR. CRAIK: It is the usual case of people that are appointed directors of these, they are held free of libel in the role of the director —(Interjection)— . . .

MR. EVANS: Is 98(4) then, just jumping now, is that standard to any action or proceeding against the authority for loss or damage of any kind described in subsection (3) shall be commenced within one year next after the appearance of the loss, or damage or not thereof.

MR. CRAIK: I can't tell you whether the one year is standard or not. Maybe Mr. Silver can give some indication?

MR. CHAIRMAN: Mr. Silver.

MR. SILVER: Well, I can only say that this kind of a provision, whether it's one year or two years, is not unusual in the statutes.

MR. CHAIRMAN: Page 26 as amended pass; Page 27 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move:
THAT Bill 114 be further amended by striking our Section 102 thereof. Or you can vote against it.

MR. CHAIRMAN: We're just striking out Section 102. I'll call the vote on section 102 then.

A COUNTED VOTE was taken and Section 102 was defeated.

MR. CHAIRMAN: The section is defeated and therefore it is deleted. Page 27 as amended — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move:
THAT Section 103 of Bill 114 be amended
(a) by striking out the words "Section 23.1 of The Gas Storage and Allocation Act and" in the 1st line thereof;
(b) by striking out the word and figure " Section 105" in the 2nd line thereof and substituting therefor the word and figure "Section 53"; and
(c) by renumbering the section as Section 51.

MR. CHAIRMAN: Amendment pass. Mr. Craik.

MR. CRAIK: What that does it leaves The Gas Storage Act under the Public Utilities Board with Part II not in. Then it is more appropriate to leave it where it now is.

MR. CHAIRMAN: Shall the amendment pass? (Agreed) Page 27 as amended pass; Page 28 — Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move:

THAT Section 104 of Bill 114 be amended
(a) by striking out the words "Section 23.1 of The Gas Storage and Allocation Act and" in the 1st line thereof;
(b) by striking out the word and figures "Section 105" in the second line thereof and substituting therefor the words and figures, "Section 53", and
(c) by renumbering the section as Section 52.

MR. CHAIRMAN: The same explanation. Shall the amendment pass pass. Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT Bill 114 be further amended by striking out subsection 105(1) thereof.

Or you can vote against it.

MR. CHAIRMAN: We'll call the question on Section 105(1).

A COUNTED VOTE was taken and the amendment was defeated.

MR. CHAIRMAN: The section is deleted. Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT subsection 105(2) and (3) of Bill 114 be renumbered as subsection 53(1) and (2).
(Interjection)— 105(2).

MR. CHAIRMAN: So you're renumbering 105(2) and (3) to become 53(1) and (2) because we deleted the first part. Yes. Mr. Jenkins.

MR. JENKINS: We have already deleted now 105, so I think what we're dealing with is 106.

MR. CHAIRMAN: No, we've just deleted 105(1).

MR. KOVNATS: This is 105(2), Bill.

MR. JENKINS: I have the amendment here that the motion is that sections 106, 107, 108 and 109 be renumbered 54, 55, 56 and 57.

MR. CHAIRMAN: That comes next.

MR. JENKINS: Oh, I see, I'm sorry.

MR. CHAIRMAN: Shall the amendment pass pass. Page 28. Mr. Evans.

MR. EVANS: Yes, I'm looking here at this section in the middle, more or less, Effect of Part II of Manitoba Energy Authority Act, subsections 23.1 and . . .

MR. CHAIRMAN: We defeated those.

MR. EVANS: Oh.

MR. CHAIRMAN: You see, that's all part of 105(1) which we deleted.

MR. EVANS: I see. So what is deleted then is everything right down to where it reads subsection (5)? I see.

MR. CHAIRMAN: Yes, that's correct. All that part has been deleted.

MR. EVANS: I couldn't read it properly. So we're down to subsection 105(2).

MR. CHAIRMAN: We're on Page 28. We have renumbered sections 105(2) and 105(3) so I'll call the vote on the Page 28 as amended pass. Mr. Evans.

MR. EVANS: Okay. On 16.1, is that part of 105(3), Approval of Authority required?

MR. CHAIRMAN: Yes, it is.

MR. EVANS: That's part of 105, but that stands does it, 105(3)?

MR. CHAIRMAN: Yes. That stands, yes. It's been renumbered to 53(2).

MR. EVANS: What is the explanation then of 16.1? As it says here: "16.1 Notwithstanding any other provision of the Act, the corporation shall not exercise any of its powers under clause 16(g) or (h) without written approval of The Manitoba Energy Authority".

MR. CRAIK: What that means, Mr. Chairman, is that on these export agreements that the approval of the Energy Authority would be required. The Energy Authority essentially becomes the province's agency that does the approval work for the government and it would submit to Cabinet the agreements; would not necessarily submit them, but would approve of agreements that were submitted for power export/ import arrangements.

MR. EVANS: What is the reference to "the corporation"?

MR. CRAIK: I think that 16.1 is out of The Hydro Act.

MR. EVANS: So that's reference to the Manitoba Hydro, is it?

MR. CRAIK: Yes.

MR. EVANS: I see. It seemed a little confusing.

MR. CRAIK: I think I'm right there, am I not, Mr. Silver? That 16.1 refers to 16.1 in The Hydro Act.

MR. SILVER: Yes, it's from the Manitoba Hydro Act.

MR. EVANS: And therefore the word "the corporation" means Manitoba Hydro.

MR. CRAIK: Right.

MR. CHAIRMAN: Page 28 as amended pass; Page 29. Mr. Kovnats.

MR. KOVNATS: Mr. Chairman, I move
THAT Sections 106, 107, 108 and 109 be renumbered as Sections 54, 55, 56, 57 respectively.

MR. CHAIRMAN: Shall the amendment pass? Page 29 as amended. Mr. Evans.

MR. EVANS: It's a very simple question. 107, the Crown is bound by this Act, I guess it's a standard thing. That means all other departments must comply with this legislation. Is that what it means? My question is, what does 107 . . .

MR. SILVER: I'll stop trying to act as a lawyer.

MR. EVANS: My question, Mr. Chairman, is simply, what is the meaning of 107? I'm sure there's a straighforward explanation.

MR. SILVER: Anything that anybody can be required to do under the Act, even without Part II, the Crown can also be required to do. For example, to appear at a hearing to give information, that sort of thing.

MR. EVANS: Yes. It is not as necessary, I would submit, inasmuch as most of Part II has been deleted thus far.

MR. SILVER: That's true.

MR. EVANS: Yes. The other question is with regard to 109 and again it's a rhetorical type of question. It's a question and almost like a suggestion. Would it not be better for 109, for the Act to come into force on the day it receive proclamation rather than Royal Assent, given the fact that there have been so many changes made? I know if I were in government I would prefer to have proclamation to Royal Assent because there may be the odd section you still don't want to pass, or have it put into effect, and it gives you that much more flexibility. But that's your problem, not mine.

MR. CRAIK: It's an interesting point, Mr. Chairman, so we'll take it under consideration.

MR. EVANS: Sure.

MR. CHAIRMAN: Shall the amendments pass? Page 29 as amended pass; Preamble pass; Title Page pass; Bill be reported as amended pass.

Committee rise.