

Fourth Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Social and Economic Development

Chairperson
Ms. Marilyn Brick
Constituency of St. Norbert

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT

Monday, June 5, 2006

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Ms. Marilyn Brick (St. Norbert)

VICE-CHAIRPERSON – Mr. Doug Martindale (Burrows)

ATTENDANCE – 11 QUORUM – 6

Members of the committee present:

Hon. Messrs. Ashton, Bjornson, Chomiak, Lemieux, Selinger

Ms. Brick, Messrs. Cullen, Martindale, Mmes. Mitchelson, Stefanson, Taillieu

Substitutions:

Mr. Penner for Mrs. Taillieu at 7:59 p.m.

Hon. Mr. Sale for Hon. Mr. Chomiak at 9:44 p.m.

APPEARING:

Hon. Jon Gerrard, MLA for River Heights

Mr. Jack Penner, MLA for Emerson

Ms. Valerie Perry, Legislative Counsel

WITNESSES:

Bill 11 – The Winter Heating Cost Control Act

Ms. Jennifer Lukovich, Private Citizen

Right Hon. Edward Schreyer, Private Citizen

Mr. Ed Lohrenz, President, Earth Energy Society of Canada

Bill 12 – The Highways and Transportation Amendment Act

Ms. Diane Rybak, Private Citizen

WRITTEN SUBMISSIONS:

Bill 11 – The Winter Heating Cost Control Act

Ms. Sara Anghel, Direct Energy

Bill 35 – The Public Schools Finance Board Amendment and The Public Schools Amendment Act

Ms. Hilda Froese, Chair, Garden Valley School Division

MATTERS UNDER CONSIDERATION:

Bill 11 – The Winter Heating Cost Control Act

Bill 12 – The Highways and Transportation Amendment Act

Bill 14 – The Water Rights Amendment Act

Bill 24 – The Consumer Protection Amendment Act (Government Cheque Cashing Fees)

Bill 27 – The Tobacco Damages and Health Care Costs Recovery Act

Bill 35 – The Public Schools Finance Board Amendment and The Public Schools Amendment Act

Bill 300 – The Association of Former Manitoba MLAs Act

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Madam Chairperson: Good evening. Will the Standing Committee on Social and Economic Development please come to order. This committee will be continuing consideration of the following bills: The Winter Heating Cost Control Act; The Highways and Transportation Amendment Act; The Water Rights Amendment Act; The Consumer Protection Amendment Act.

We have also added this evening: Bill 27, The Tobacco Damages and Health Care Costs Recovery Act; The Public Schools Finance Board Amendment and The Public Schools Amendment Act; and The Association of Former Manitoba MLAs Act.

We have a number of presenters registered to speak this evening, and I will not read the list unless it is the wish of committee members for me to read the list.

The only thing I would like to have members add is the name Jennifer Lukovich, private citizen, as the first individual on Bill 11, The Winter Heating Cost Control Act. So, once again, that is Jennifer Lukovich, private citizen.

I will note that almost all of these presenters were called once at this morning's meeting. The exception is presenter No. 5 for Bill 11, Ed Lohrenz, who registered this afternoon. Mr. Lohrenz provided us with a written submission this morning, but he is now able to be present in person. Is there leave of the committee to hear Mr. Lohrenz's presentation now, and not have his written submission included in Hansard, as was previously agreed? *[Agreed]*

Before we proceed with presentations, we do have a number of other items and points of information to consider. First of all, if there is anyone else in the audience who would like to make a presentation this evening, please register with staff at the entrance of the room. Also, for the information of all presenters, while written versions of presentations are not required, if you are going to accompany your presentation with written materials, we ask that you provide 20 copies. If you need help with photocopying, please speak with our staff.

As well, I would like to inform presenters that in accordance with our rules, a time limit of 10 minutes has been allotted for presentations with another five minutes allowed for questions from committee members.

Also, in accordance with our rules, if a presenter is not in attendance when their name is called, they will be dropped to the bottom of the list. If the presenter is not in attendance when their name is called the second time, they will be removed from the presenter's list.

Written submissions from the following individuals have been received and distributed to committee members: Sara Anghel of Direct Energy on Bill 1; and Hilda Froese of the Garden Valley School Division on Bill 35. Does the committee agree to have these documents appear in Hansard transcript of this meeting? *[Agreed]*

I will note that the committee decided at this morning's meeting to call out-of-town presenters first. I would like to inform all in attendance of the provisions in our rules regarding the hour of adjournment. Except by unanimous consent, a standing committee meeting to consider a bill in the evening must not sit past midnight to hear presentations unless fewer than 20 presenters are registered to speak to all bills being considered when the committee meets at 6 p.m.

As of six o'clock this evening, there were 10 persons registered to speak to these bills. Therefore,

according to our rules, this committee may sit past midnight to hear presentations. How late does the committee wish to sit tonight?

Mr. Doug Martindale (Burrows): Madam Chairperson, I think we should follow the usual procedure which would be to sit until we finish clause by clause of all bills.

Madam Chairperson: Is that agreed? *[Agreed]*

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in committee. The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter, I first have to say the person's name. This is the signal for the Hansard recorder to turn the mikes on and off.

Thank you very much for your patience. We will now proceed with public presentations.

I will now call out-of-town individuals who are registered to speak first. Kenneth Sigurdson, private citizen? This is for Bill 11, The Winter Heating Cost Control Act. Once again, for Kenneth Sigurdson, private citizen? Since Mr. Sigurdson's name was called previously, his name will now be dropped from the list.

On Bill 12, The Highways and Transportation Amendment Act, Diane Rybak, private citizen. Would you like to come up, please.

Floor Comment: They are presently just making a few extra copies because I did not bring 20. Could we just go on with another matter until those copies are made?

Madam Chairperson: Is there agreement from the committee that we will move on to the next presenter and then return back to Ms. Rybak? *[Agreed]*

Now on The Association of Former Manitoba MLAs Act, Harry Enns, private citizen. Once again, Harry Enns, private citizen? Okay, Mr. Enns's name will be dropped from the list.

We will now call in-town presenters until such time as the information has been photocopied for Ms. Rybak's presentation.

Bill 11—The Winter Heating Cost Control Act.

Madam Chairperson: Jennifer Lukovich, private citizen.

This is on Bill 11, The Winter Heating Cost Control Act. For the information of the committee, Ms. Lukovich's information has already been circulated to committee members. You can proceed.

Ms. Jennifer Lukovich (Private Citizen): Thank you for the opportunity to speak today. The following presentation expresses opposition to the provincial government's recent proposal to subsidize natural gas consumption with electricity profits in The Winter Heating Cost Control Act.

Manitoba's energy technology companies founded on renewable energy resources of hydro, solar and wind power and biomass have the potential to precipitate an initiative in sustainability.

*(18:10)

Madam Chairperson: Ms. Lukovich, I am wondering if you could just bring the mike up a little closer. Committee members are having trouble hearing you.

Ms. Lukovich: Okay. Thank you.

Four components are, however, key to ensuring Manitoba's energy companies and the province's leadership role in the local, national, and international effort to address climate change adaptation and mitigation measures: financial incentives implemented through legislation, provincial-federal co-operation, diversification, and education—measures that will promote Canada's productivity. The proposed act runs counter to each of these components.

Financial incentives have proven to be invaluable tools in places such as California and Denmark, both of whom have successfully implemented solar electric energy and wind power farms. In California, in particular, both investment and production credits offered in the 1980s helped to establish their renewable energy technology industry, so that, in 1994, 11 percent of all electricity in California came from renewable sources.

In the case of wind energy in Denmark, a combination of fiscal incentives, such as subsidies for private investment in wind farms, government investment in research and development and rapid technological development, the existence of a decentralized energy system, combined with a traditional centralized system, were shown to be the most effective means of encouraging renewable energy, technology acceptance and success.

Both case studies demonstrate that continuity of funding is also important for renewable technology investors, as is the combination of tax credits and regulatory reform. In particular, California's public utilities regulatory policy act encouraged diversification within the energy sector by requiring utilities to purchase power from independently owned renewable energy facilities. Tax credits were shown in California and Denmark to provide greater incentive for investors, provincial and federal tax subsidies as returns. Performance and quality standards need also to be included with tax incentives.

A change in mindset requires a change in political will as presented in the form of legislation. Initiatives such as conversion to catalytic converters, taxes on polluting technologies, rebates for fuel efficient vehicles, would all assist in notifying the public of a need to move away from an economy and a society based on fossil fuels toward a more sustainable livelihood based on environmental stewardship. The recent proposal by the Province to subsidize natural gas consumption through electricity profits is an example of a policy that is detrimental to an energy conserving mindset. The Province needs to resurrect the ban by the Public Utilities Board on hydro subsidy of natural gas use.

Perhaps central to the renewable energy technology initiative is education. From the elementary school classroom to high school curriculum, and eventually to university, through to the public, participation and engagement will ensure the ongoing commitment of Canadian citizens to renewable energy technologies.

In short, the provincial government would do better to offer a Manitoba equivalent to Ontario's standard offer program, whereby a fixed price is set for small renewable energy projects, incentives that will allow small local renewable energy producers to sell energy to the centralized grid. Legislation which requires investment in electricity from specific renewable energy resources, such as wind energy, rather than promoting continued reliance on non-renewable resources, would also assist in promoting a sustainable economy in Manitoba. Innovation and sustainability are key to this province's success.

Funds equivalent to the difference between fixed and actual natural gas rates proposed under the current bill, to be taken from Manitoba hydro-electricity profits, could instead be invested in creating a provincial equivalent to the now defunct

National Energuide Program, offering rebates and financial incentives to homeowners to encourage improvements in energy efficiency in older homes, promoting research for such energy efficient technologies, and through requirements that LED standards be met in all new developments. It is such a program that will encourage innovation, stimulate growth in universities in the agricultural and academic sectors, while promoting the mindset essential to meeting Kyoto targets and adopting the mindset now recognized by most international communities. Thank you.

Madam Chairperson: Thank you.

Hon. Dave Chomiak (Minister of Energy, Science and Technology): Thank you for the presentation.

You may not have been present this morning when I indicated that there are no subsidies from electricity profits to natural gas in the bill. To clarify it, we are amending the bill tonight to ensure that. There has been some mischief with respect to some people misinterpreting that provision. So, in order to ensure that it is not misinterpreted, we are going to amend the bill.

I should advise I thank you for your recommendations in the last paragraph on page 2, because that is precisely the intention of the bill, and it is to undertake those initiatives as you have indicated in the last paragraph of your presentation.

Ms. Lukovich: If there is to be a fixed rate then, what will be used to subsidize the fact that there will be a difference in the actual purchase and in the fixed amount?

Mr. Chomiak: No, I indicated that the last paragraph of your presentation we were concurring with. The bill does not provide a fixed rate.

Madam Chairperson: You will have to stay there for just one moment.

Hon. Jon Gerrard (River Heights): Thank you for your presentation. You talk about the Ontario standard offer of program. Does that require some subsidization or is that stand-alone in terms of being able to promote alternative energy approaches in Ontario and if we did it here in Manitoba and if it requires subsidization, should it be something that should be facilitated in this fashion through an act like this which would take funds from Hydro to do that?

Ms. Lukovich: From my understanding subsidization is required.

Madam Chairperson: You are going to have to speak up. I am sorry. We are just having a little trouble hearing you.

Ms. Lukovich: From my understanding, subsidization is required, although I would have to confirm that, but I think that would be a good initiative for Manitoba Hydro to pursue, to look at diversification within the energy sector and to encourage farmers and local communities to invest in renewable energy technologies within their communities and to encourage a decentralized approach. Thank you.

Madam Chairperson: Thank you very much for your presentation.

The committee calls Lori Hunter, Manitoba Society of Seniors. Once again, Lori Hunter, Manitoba Society of Seniors. Ms. Hunter's name will be dropped to the bottom of the list. I apologize. She was called already this morning, so she will be dropped from the list.

Elizabeth Fleming, private citizen. Elizabeth Fleming, private citizen. Ms. Fleming's name will be dropped from the list.

The Right Honourable Edward Schreyer, private citizen.

Madam Chairperson: Did you have something you wanted to circulate?

Right Hon. Edward Schreyer (Private Citizen): No. It is strictly a verbal presentation which I understand is 10 minutes followed by questions and answers if there be any.

Madam Chairperson: Please proceed.

Mr. Schreyer: I thank the committee for the opportunity to appear before it to make a presentation. I realize that it is a bit unusual for me to be doing so. Yet I feel that the subject matter is of such great importance that it simply cannot be over-emphasized. And so I would like to take a few minutes to offer some words both of commendation and—well, commendation really on what the government seems to be wanting to do here in this bill, but also words of criticism and disbelief with other features of Bill 11, namely that having to do with the proposed cross-subsidization, but I do not want to beat a dead horse. I understand the minister has made a declaratory statement sometime earlier today or last week and also in response to the lady that presented here just minutes ago.

* (18:20)

However, the essence of what I would like to bring to the attention of this committee is that Manitoba is in a position along with three or four other provinces in Canada to help Canada meet international obligations, be it under the so-called Kyoto Accord, or be it simply as a nation among nations of the world wrestling with a major problem, a very thorny major problem. By that I mean that Manitoba does have the God-given resource, renewable energy resource, namely hydro-electric. It also has, at least as well as most other jurisdictions, the wind energy resource. One would hope that governments of this province, successive governments of this province, will do everything reasonably possible to proceed to harness those two resources in some optimum combination, one to the other because the two do go together rather well. Wind energy by itself is very problematic as I am sure most of you know, but, taken together, they are something that ought to be promoted and put in place just as quickly as is prudently possible. It follows, therefore, that I personally say—and this is not, I do not believe, overstatement—I cannot even visualize, I cannot possibly conceptualize any scenario in which you would take the cash flow of a renewable energy utility and plough some of it into the subsidization of the consumption of a depleting, fast depleting non-renewable.

Under what circumstances could this be justified to help the poor and those on fixed income? Well, there are other ways to do it. If there were 101 ways to do it, the 101st would be to take renewable energy cash flow and plough it into non-renewable. We simply cannot go on any longer under an assumption of business as usual in the energy field. In other words, we have to proceed just again, as quickly as we prudently can without subsidy, one hopes in every respect, but just as quickly as we can to decarbonize. All the reams and volumes being written about energy challenges and energy policy challenges come down to a fundamental point, and that is we simply must in our time learn how to practically decarbonize our utility industry so that virtually no electrical energy anywhere in Canada will be forthcoming from fossil fuel, except, of course, to the extent where plants are already in place and not yet depreciated.

But to think of putting new construction, fossil fuel-based, electrical generation, is bordering on madness. I use that word deliberately because the times require emphasis and emphatic reaction to the

notion we can continue to do business as usual, carry on business as usual in the energy field. Anyone who has been following not just the energy scene, but also the environmental, the climate change news, realizes that there, too, we have all the signs that we possible could want or need to realize that we are on a new page. We no longer have a benefit, if it is a benefit, of the bliss of ignorance. Ignorance can be bliss. You do not know any better. You keep on doing certain things. You can hardly be faulted, except for ignorance.

But, when we have the knowledge that something is seriously and fundamentally awry, and we continue to plod ahead doing the inexcusable, then the next and ensuing generations shall have a right to curse the decision makers, be it an industry or government, for simply not acting when they should have. The whole problem is catching up with us. It is impossible to say with complete precision whether we are going to be running into crises before the end of this decade, but, if not, certainly by the end of the next. It is no good saying, well, we have had warnings in the past about running out of oil, and the world has warmed up before. You know, we hear these arguments.

I just want to leave you with the fact, and it is, I think, an important fact, that the Canadian Association of Professional Engineers who are in my opinion a very sober group, not given to rhetoric, not given to passing ringing political declarations, et cetera, nevertheless two weeks ago, three weeks ago now in Ottawa at their annual gathering, they passed a declaration, a declaratory statement. You can sum it up in one or two sentences, namely—and I am coming close to word-by-word quotation—that the time has passed for protracted further debate on climate change. There ought to be recognition that it is real. It is incipient already and that what is needed now is practical action, that they as a profession are ready to meet the challenge but they require some indication of direction and policy from those whom they have a reasonable right to expect would provide such policy.

This is where we are at, fellow Manitobans, and I am glad to see that in Bill 11 there is provision here for the government intends to set up a fund to try and moderate the impact. I have two comments about this. I regard it as rather an idealistic intention, but better that than the sort of cynicism of despair. But, obviously, I think you realize, those of you who are senior—well, all of you in the Legislature—that to have good intentions alone is not enough. It will be very

difficult, and yet I do not fault the effort because I feel obliged to say that I feel convinced that we are entering into turbulent times insofar as energy supply and therefore energy pricing, insofar as energy pricing is concerned.

If it is possible to somehow buffer the impact by whatever mechanism, then it is worth the effort, providing that in doing so you do not create havoc with whatever little bit of intermodal competition we have in the energy field, people who are such great advocates of competition as protecting the general public interest and the consumer. I confess I am not one of those who felt that competition was always effective. One need only look at the multiplicity of oil companies and yet witness the fact that it does not seem to make any difference in terms of price but I will not belabour that.

On the other hand, sometimes you can get effective competition but not directly in one field but rather intermodally such as between, for example, electricity and natural gas. That is intermodal competition, and if that bit of competition is also removed by cross-subsidization and other means of jiggery-pokery, then I think everybody stands to lose.

Madam Chairperson: I will have to ask you for your concluding remarks.

Mr. Schreyer: That is my concluding remark.

Madam Chairperson: Thank you very much. Are there questions for the presenter?

* (18:30)

Mrs. Bonnie Mitchelson (River East): Thanks very much for that presentation, Mr. Schreyer.

I was wondering whether you might just comment briefly on I guess a comment that was made by Manitoba Hydro officials in the cost-of-service presentation on Manitoba Hydro that was before the Public Utilities Board, where they are indicating and arguing that until the debt equity ratio gets a little better—I mean, we are at I think it is 81-19 at this point in time. They have indicated that until we get back to the 75-25 debt equity ratio, that monies, export revenues should not be taken from Manitoba Hydro.

Do you have any concern about the debt equity ratio at Manitoba Hydro? Maybe, just any comments on that?

Mr. Schreyer: Yes, I have a comment. My comment might both please and annoy you at the same time.

Please you, in the sense that I believe—well, I make an assumption as to what ideally you would like to see as a debt equity ratio. But, yes. I think that the debt equity ratio—we could all be more comfortable if the debt equity ratio were just a little more favourable than it is at the moment. One of the reasons I say that is because I believe that, if we are to harness the remaining credible hydro-electric sites in Manitoba, it is a challenge that, I think, we must feel ethically and, well, I will say ethically bound in an intergenerational sense, ethically bound to do, and that is going to provide a considerable strain and, therefore, always better to go into major expansion with a more positive rather than a chintzier debt equity ratio.

Having said that, I would hasten to add that, actually, Manitoba Hydro has never been at 75-25. In fact, I can remember the days when it was at 91-9. So it has been moving in the right direction, and it was moving fairly well in the right direction. There has been a hiccup or two as other obligations have been met. Now, I am not here to get into the detail of that, because you realize I am, sort of, outside the political maelstrom now. I do not want to jump back in except on issues of energy, for which I make no apology.

Mr. Gerrard: Thank you for your clear presentation. If Manitoba is going to contribute globally, clearly we need—

Madam Chairperson: Dr. Gerrard, could you bring your mike a little closer?

Mr. Gerrard: If Manitoba is going to contribute globally and across Canada, clearly, one of the fundamental needs is to have transmission lines that go from Manitoba to Ontario or, alternatively, west. Here we are trying to put in a fund which would help alternative forms of energy, but the fundamental limiting factor, in terms of being able to help other parts of Canada, is to have a transmission line.

Let me pose a question to you: Would it be smarter to put this money toward a transmission line or toward alternative energy sources?

Mr. Schreyer: Well, I would like to think both, really, because one is, in a sense, directly relevant and helpful to the other. It is, I suggest, I would submit to you that no one who professes to be a supporter of development of wind turbine energy can be a realistic supporter of it, unless he or she is also, therefore, a supporter of the notion of a large, interprovincial or national grid that is capable of

moving wind energy, which comes all of a sudden, and in great gusto, and then a few hours later you are becalmed. It is important to be able to move wind energy in large amounts interregionally, not locally.

So, yes. Canada desperately needs—in fact, may I, Madam Chair, four things. I think—

Madam Chairperson: I just have to ask for leave from the committee because you are at the end of your time. Is there leave from the committee?

Some Honourable Members: Leave.

Mr. Schreyer: Four things, in my opinion, would take Canada such a long way toward solving what seems to be such a major hurdle with respect to the Kyoto protocol targets, which I have to admit, the way matters stand now, there is virtually no practical prospect of meeting those targets, unless four things happen, but if they happen, then you do not need Kyoto. You see, I mean, it is sort of a reversible reaction.

Number one, development of hydro-electric potential wherever it is practically possible, which is to say, in Labrador, Québec, Manitoba, and, maybe, to a limited extent, British Columbia. In terms of the Northwest Territories, that is a future scenario.

Number two, we really ought to be decarbonizing, not just electrical utilities, but we are this close now to decarbonizing automotive transport. I do not mean big trucks and farm tractors and combines, but I mean cars, especially urban runabouts. If we could develop the plug-in hybrid, over a course of a year millions of barrels of oil would be obviated. That is important.

Thirdly, I believe that this government has been enthusiastically promoting earth energy, which is the new-fangled way of saying ground loop geothermal, and that can be very important. It really deserves a real patriotic push, geothermal energy. So far, we are getting kind of, you know, if I may be slightly critical, Manitoba Hydro said they were promoting it, but when I inquired, I found they were charging 8 percent interest on their loans. They subsequently changed it to 6.

I would suggest, if you really want to promote it, stop short of subsidy. Stopping short of subsidy means financing at cost, prime plus a quarter percent administration. In other words 4.75 percent instead of 8 or 6. That is promotion, stopping short of subsidy. If you really feel obliged, you can subsidize it. Then make your case the way we all do in a

democracy, and make your case to the electorate. If we did these things, I really think that we would make not only a significant, but a substantial inroad into meeting—in fact, we would meet our Kyoto targets. I would guarantee it.

Madam Chairperson: Mr. Penner has a question. Is there leave from the committee for Mr. Penner's question? *[Agreed]*

Mr. Jack Penner (Emerson): Thank you very much. First of all, I want to say, Mr. Schreyer, it is certainly a pleasure to see you here, and just to make comment on the fact that you are here shows that you have not lost all interest in public life, and also in the very real fact of the significant issues that face us. To see you address them is, I think, a valuable asset that we as committee members appreciate.

I want to ask you two very short, or pose two very short scenarios to you. We know that the transmission line is—and to build a proper grid to utilize our energies efficiently across this country and internationally, is imperative. I think we have to do that.

The second part is, I think there are abilities now to utilize some of the irritants that we have from an environmental sector, and I refer to methane gas and those kinds of things. There are processes available now to start utilizing these methods.

Can you give us, in a short sense, a way that you see where we could utilize a process that is used in North Dakota and Minnesota, and South Dakota on Buffalo Ridge where I believe there are some 419 windmills operating currently as we speak, and many of them are owner-operated through a co-operative kind of an arrangement of distribution of funds based on the per unit power utilization of those unit?

Can you see, somehow, that we would put in place that kind of a mechanism through and utilize Manitoba Hydro as the distribution system for those kinds of initiatives to give the producers—and this has to be land-based, as you know, so the farm community would be the main beneficiary. What we have seen so far is other large corporations coming in here, buying the rights to the land and then building the towers, and most of the profits go somewhere else, and we do not see them here. Buffalo Ridge utilizes them there and the powers are generated to the individual. Would you care to make a comment on that?

Mr. Schreyer: Well, I would, but you can easily appreciate that this gets to be a very complicated

matter. There are exciting developments taking place in the area you mentioned, but also I might add, maybe the leading area in the whole world, in terms of the pace with which they are harnessing wind, is in Denmark and north Germany. In fact, north Germany has installed capacity now in wind alone equal to about 20,000 to 30,000 megawatts, and that is a lot.

* (18:40)

Now, in the final analysis, though, all these operations are based on different investors putting in place the wind turbines and then selling to the utility of the region. One would like to think there could be alternatives. The problem, though, with wind turbine energy, as you can easily imagine, is that it is not, in and of itself, reliable. It has a capacity or dependability factor of, and it varies, but roughly between 22 and I am going to say 38 percent, although anybody who is up at 38 percent, I think, is flying a kite a bit. However, that is an aside.

So, okay, who is going to buy that kind of power when they know they are buying, say, average, 33 percent reliability? That is why you still need a responsible utility that will stand behind the contract and make good, if they have to, from other sources. That is the complication.

Madam Chairperson: Thank you very much for your presentation, Mr. Schreyer.

The committee calls Ed Lohrenz, President of Earth Energy Society of Canada. Mr. Lohrenz's material was distributed earlier this morning for the committee members. You can proceed, Mr. Lohrenz.

Mr. Ed Lohrenz (President, Earth Energy Society of Canada): I would like to thank this committee for the opportunity of speaking to you.

A couple of points that I would like to make, other than how Mr. Schreyer has so eloquently put it. One is, this is just anecdotal experience from being in the geothermal industry for the last 20-some-odd years, but any time there has been price increase in natural gas is when there is a lot of interest, both from the residential and from the commercial sector, in looking at alternatives. If we want to go to something alternative, one way of persuading, or the best motivator I have seen, is hitting somebody in the pocketbook. That is just a matter of fact.

In 1993, I read an article in both the *Calgary Herald* and in *The Globe and Mail*, saying that, by the year 2000, the price of heating your home with

natural gas was going to be similar to the cost of heating your home with electric heat. They are out by about a month. The day that happened is when they announced the large price increase, in early 2000; the phones started ringing a lot more than they had in the past. So that brings me to the point of where subsidizing the cost of natural gas with electric, with a renewable, really maintains the status quo. It hurts the province's economy, and it enriches the provinces that do have a lot of natural gas that they want to export.

On the other hand, I also want to applaud the Province and Manitoba Hydro very much for the Earth Power Program and Power Smart programs. From what I have seen across Canada, and probably in most of North America, this has done much more to promote the use of geothermal energy than anywhere else I have seen. Our company exports geothermal equipment to many different regions of the country and into the U.S., so I am fairly familiar with that. The Province must be applauded for promoting this.

Some of the things I have seen done in different regions of the country, and in the U.S. as well, is eliminating the provincial sales tax. That has been done in both Ontario and B.C. on products that use renewable energy, such as geothermal, wind energy, and things like that. That was changed in Manitoba. It actually increased the cost of geothermal systems a few years ago when the provincial sales tax was added to the installation cost of a system. It actually increased the cost of geothermal systems by probably three to four times as much as it did for natural gas. That is basically because the costs of geothermal systems are more expensive.

If we are going to be doing any subsidization or spending any money using renewable energy, like exports from Hydro, that money could be better spent on education for the people who are working in this industry, the engineers who are designing in this industry. That needs a lot of work. Just as an example of how much is needed to be done in educating people in the geothermal industry, my son is taking mechanical engineering, and he was told that heat pumps do not work in our climate, by his engineering professors. So there is a lot of work to be done on that part of it.

A lot of people have said things like—I think most people are familiar with green power, green electrons, wind energy and things like that. There is a concept called "green heat," which basically

addresses thermal energy, especially in a place like Canada, where we get very, very cold temperatures. If we get even 20 percent of the energy or the thermal energy for heating a building, this building or any other building, that will do much more to reduce energy costs than just green power. Also, things like carbon tax, and things like that could be implemented.

There are many, many different ways of doing that kind of thing; so there are many different ways of doing it that would be probably more appropriate than basically a cross-subsidization. I know you are talking about amendments to it, and I am glad to hear that. Thank you.

Madam Chairperson: Are there questions for the presenter?

Mr. Gerrard: I am just—since we have a new expert on geothermal here—interested in asking you how far do you think Manitoba can go in terms of geothermal. Should, for example, the Waverley West subdivision be completely geothermal? Is that feasible?

Mr. Lohrenz: My own feeling is, yes, it is absolutely feasible. That is, probably, at this point, one of the larger geothermal projects that is proposed in North America that I am aware of. But right now, in British Columbia, I know there are several housing developments that are, you know, 2,000, 3,000 homes that are going on right now and they are going geothermal. It is feasible.

We are looking at a project ourselves in Ontario where we are using—we are looking at a 2,000-home development, where we are using waste heat from an ice arena to reject into the ground that the houses around it can use. So, yes, it is very, very feasible.

Madam Chairperson: Seeing no other questions, we thank you very much for your presentation.

Before we move on, are there any other individuals in the audience who would like to make a presentation to Bill 11, The Winter Heating Cost Control Act?

Seeing no other individuals, that finishes the presenters' list on The Winter Heating Cost Control Act.

We are still waiting for the information to be photocopied on Ms. Rybak's presentation.

* * *

Madam Chairperson: We will now move to Bill 14, The Water Rights Amendment Act.

James A. Brennan, private citizen? Seeing that Mr. Brennan is not here, he was called previously, so his name will now be dropped from the list.

* * *

Madam Chairperson: Moving on to Bill 300, The Association of Former Manitoba MLAs Act.

Avis Gray, private citizen? Ms. Gray's name will be dropped from the list.

* (18:50)

Bill 12—The Highways and Transportation Amendment Act

Madam Chairperson: Ms. Rybak, we will have to get you to come up at this time.

Is there agreement from the committee for the presenter to circulate copies of pictures that would go with the presentation that are for committee members to keep? Is that agreed? I will ask one more time: Is there agreement from the committee members for copies of pictures to be circulated and kept by committee members? *[Agreed]*

Ms. Rybak, you can proceed with your presentation.

Ms. Diane Rybak (Private Citizen): I appreciate the opportunity to speak today. I am appearing today to express strong opposition to Bill 12. These proposed amendments to The Highways and Transportation Act are far too broad and loose. The proposed amendments will not justly serve any greater purpose, nor affect greater efficiency or effectiveness in the existing legislation, and may, in fact, result in providing sanction to employees of the highways and Government Services department who choose to make biased and prejudiced decisions and judgments without due consideration and conscience.

It is a recipe for abuse of power and authority, and will further provide employees of the department to pursue activities through the use of legislation to fulfil their own personal agendas in pursuit of personal gain.

In fact, some management and employees of this department are presently out of control. They have abused their power and authority through the insidious use of legislation, and have gone to great lengths to misrepresent and cover up their actions. These proposed amendments will make it more

tempting for employees to hide behind legislation for wrongdoings, and will make it near impossible for them to be held accountable for their actions. I strongly urge a recommendation that the proposed amendment be changed to "signage placed within the right-of-way."

I will outline two relatively recent experiences, experiences of discrimination, personal biases, and where staff have used legislation for self-serving purposes without conscience. We believe it has been a strong attempt to forfeit our rights to our property, and has been done with intent.

The highways and transportation legislation has not been uniformly, consistently, equitably, and fairly applied and enforced on any other property owner in the Whiteshell Provincial Park, with the exception of us and our property. We have been selected and singled out. It has been applied to us and our property, despite the fact that there are a minimum of approximately 150 other cottage lots along the PR 307 in the park, to which this would have critical implications, not to mention all other provincial parks in Manitoba.

It is prudent to note that highways themselves are violators of their own legislation. I am just going to take a few minutes to outline the sequence of events.

On October 3, 2003, all the rocks along the entire periphery of our property, the full 110 feet, were spray painted with a bright, neon pink spray paint with a circular pattern on each rock. The rock closest to our driveway was spray painted with the symbol "X".

We immediately contacted Conservation, regional highways, and the minister of highways to enquire if their department was responsible for spray painting the rocks, and we notified the RCMP. All parties denied responsibility, and highways said that even if their department wanted the rocks moved, they would simply move the rocks and leave a standard form letter advising that they had done so.

On Saturday, October 4, 2003, we drove down the entire PR 307 right from Rennie to Seven Sisters, and, although there are, again, approximately 150 cottages along the PR307, not one other property had been spray painted, despite the fact that, in some cases, cottagers had placed rocks within a foot and a half from the edge of the PR 307. We also observed that cottagers had placed other ornamental objects, signage, lighting, constructed fences, built structures,

cottages, and developed private parking areas directly adjacent to the roadway.

Throughout the entire weekend, we believed that we were a victim of a hate crime and fearful for our person and our property.

On Monday, October 5, 2003, we received a phone call from the supervisor of highways advising that he had spray-painted the rocks, and that he wanted them moved for snow-clearing purposes. We advised him that we did not have a problem with complying, but questioned why we had been singled and selected out. We asked why no other cottager along the PR 307 had been required to also move their encroachments.

On October 6, 2003, I forwarded a letter to the Deputy Minister of Transportation expressing our distress and questioning why we were the only people who were singled out, despite the fact that there exists hundreds of encroachments along the highway right-of-way and, in cases, closer or, in many cases, within the same distance as the rocks which were spray painted.

On October 9, we received a letter from Walter Burdz, the Director of Regional Operations from Steinbach, advising that a clear zone of approximately 12 feet from the highway driving surface is necessary for snow-clearing operations. In this letter he also states, "There are many other similar encroachments along PR 307 and neighbouring highways in the immediate area which are being scheduled for removal before the winter season commences."

It is now year 2006 and no other encroachments have been removed as of today. In fact, many other encroachments have been added to within 12 feet from the edge of the PR 307.

Mr. Vice-Chairperson in the Chair

On October 17, 2003, we received a letter from the deputy minister advising that there was a 125-foot control zone measured from the highway right-of-way to accommodate the wide variety of needs from adjacent landowners, while preserving the safety and operational integrity of the highway and its right-of-way. He also advised that permits were required for improvements, including structures, private signs, landscaping materials, and fencing, to be located in the control zone. Our entire property, as are the other 150 properties along the PR 307, is completely contained within that 125-foot control

zone, and they are all surveyed, leased lots from Conservation and Natural Resources.

On October 24, I attended at transportation services at 215 Garry, and the front-line staff's immediate response was: You do not have to make permit here. Because it is in the park, Conservation handles all the permits.

I showed them the letter from the deputy minister, and they called the senior access management analyst. His first response was that Conservation handles all of the permits because it is in a park. I then showed him the letter from the deputy minister, and his response was: I wish my men would let me know when they are going to do this.

He asked me who I deal with in Parks and proceeded to name off a number of names, and then told me that he worked with Conservation, so he knows them all very well.

On October 27, 2003, I forwarded a letter to the Deputy Minister of Transportation, advising that I had attended at the Highway Planning and Design branch, and that only 11 permits had been issued in the past 20 years, despite the fact that there is much development occurring throughout the park every year. I have reported numerous encroachments. Yet no one else has been required to move their encroachments to date. In fact, many more encroachments have been added or developed within the right-of-way and control zone. Highways themselves have not relocated their own encroachments, despite the fact that, in many cases, they are within two to three feet from the edge of the roadway. I also advised him that the department's initial response was that, because it is in a park, Conservation looks after all the permits.

I further advised that private parking areas are being constructed directly adjacent to the roadway without permit, that this is in violation of the act, and certainly vehicles parked in these adjacent areas compromise the operational integrity of the highway, create possible safety hazards and make snowplowing operations difficult.

In a letter dated October 31, from Richard Nicol, he advised us that permits are required, and he attached the 11-permit sketch plan showing the driveways and developments that were approved on or adjacent to this section of PR 307 from 1966 to the present. These permits were issued to Manitoba Hydro, Manitoba Telephone, Parks branch, one

cottage owner in the Jessica Lake area—it is actually the Jessica Lake Lodge—the Whiteshell Snowmobile Club, a Bible camp, and one business in Brereton Lake. Also attached were sections of the highway and transportation legislation.

So we left the issue in 2003 and we moved the rocks. We had complied. Then, in June 18, 2004, our back-tier neighbour, across the highway from us, came and cut our side of the right-of-way, including several small trees, approximately 10 feet, which made some boulders that were in our yard clearly visible for the subsequent June 29 inspection, that was going to be done by highways.

On August 3, a Transportation and Government Services employee trespassed on our property and illegally served us a letter from Walter Burdz, director of Regional Operations, Steinbach. In that letter, he states: A June 29, 2004, site inspection by our staff reveals that the boulders have created a potential risk and safety hazard for motorists, pedestrians, and our maintenance crews. As such, the boulders represent a liability situation that is unacceptable. Consequently—[interjection]

Mr. Vice-Chairperson: Excuse me, Ms. Rybak. I apologize for interrupting you, but you have approximately 40 seconds left for your presentation.

* (19:00)

Ms. Rybak: Okay, I apologize. Just to summate quickly, we were ordered to remove the boulders, and we had to hire people to go ahead and do that. These were boulders that were not a problem in 2003, but, now, all of a sudden, they were a problem. What I am here to say is that this has caused our family a terrible amount of distress. We feel that we have been discriminated against. I would just like to say that no other encroachments have been removed to date.

In summation, we strongly urge the committee to ensure that, with empowerment of employees, employees are held accountable for their behaviour and actions, that disciplinary action is taken seriously and immediately, and that any attempts at cover-ups for discriminatory behaviour or self-serving agendas and actions are dealt with immediately and harshly. Without consequences for wrong behaviour, there will not be a change in that kind of behaviour. It will simply be waiting until the next time.

Adversely, if the legislation is to apply to every cottage owner, then the department of highways is guilty of negligence in applying and enforcing their

own legislation. If the highways legislation is not enforced fairly, consistently, uniformly and equitably, then it is undoubtedly discrimination, harassment, and possibly criminal, if the legislation is insidiously used in pursuit of personal gain or to fulfil a personal agenda.

Mr. Vice-Chairperson: Thank you for your presentation. Questions?

Hon. Jon Gerrard (River Heights): Thank you for coming forward and providing such a carefully documented group of letters and information. I know that you have had a whole lot of trouble with the department of highways. Clearly, if this legislation were to be made more workable, it would need to include somewhere some clauses referencing the fact that the legislation needs to be applied equitably and uniformly, instead of in a haphazard manner.

Floor Comment: That is correct. I think that is very important—

Mr. Vice-Chairperson: Sorry, I need to recognize you every time. Ms. Rybak.

I need to just recognize you before you answer the question. Sorry, I was sleeping. Go ahead.

Ms. Rybak: Yes, if the legislation is to apply, then it should apply to everyone. There have to be some criteria developed, I believe, in terms of what is going to be allowed in the right-of-way and what is not going to be allowed in the right-of-way. If we are allowing cars to park right along the side of the roadway for extended time frames on a road that twists and winds and turns, that, to me, is a safety hazard, yet to the highways department it is not. So these types of encroachments, whether they are permanent or temporary, do exist.

It has caused my family a great deal of concern over what has happened with the spray painting of the rocks and the subsequent removal of the boulders. It is not that we wanted them there. We are willing to comply. It is just that it was done in a very harsh manner, and it was not done consistently.

Mr. Jack Penner (Emerson): Thank you very much, Ms. Rybak, for your presentation.

You indicate that there appears to have been some discrimination in the way the rules and the laws of the Province were brought to bear on yourselves and your property, and that other residents in the Whiteshell have not needed to comply with the legislation as it was written, prior to

the amendments that are being brought forward by the minister now.

Can you name some of the other residences that would have had similar kinds of so-called obstructions close to the road as you would have and where action might have been taken but has not been?

Ms. Rybak: Encroachments exist, I can safely say, on almost all 150 properties that would be within that control zone and the right-of-way along the PR 307. The neighbour right next door to us had rocks just as close as we did, or just as close as our rocks were, but the spray painting started right at our property line, right at the peg, and ended right at the opposite peg.

Madam Chairperson in the Chair

The neighbour across the highway from us, who is good friends with Wally Burdz, the director—Wally Burdz has frequented his cottage—had placed rocks close to the edge of the right-of-way. They were piled three or four high, and a flower bed put in the rocks, and yet they were not required to comply.

The neighbour next to them had erected a sign, and that was placed in the right-of-way, and they were not required to comply.

If you look at the photos, I think the photos pretty much are just a very small sampling of what exists.

Mr. Penner: Again, Ms. Rybak, I just want to indicate to you that I am going to be bringing some amendments to the bill as it is currently drafted. Hopefully, the minister will accept those amendments, and that will bring some consistency to the application of the law and make it, I think, amenable to many of the people in the province, especially people like yourself living in the Whiteshell area.

Ms. Rybak: Thank you.

Madam Chairperson: Thank you very much for your presentation.

That concludes the list of presenters I have before me. Are there any other persons in attendance who wish to make a presentation? Seeing none, that concludes public presentations.

In what order does the committee wish to proceed with clause-by-clause consideration of the bills we have? What order do we want to consider the bills?

An Honourable Member: Numerical.

Madam Chairperson: Numerical as listed?

An Honourable Member: Yes.

Madam Chairperson: Okay. Is that agreed? *[Agreed]*

During the consideration of bills, the table of contents, the preambles, the enacting clauses, and the titles are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee for the longer bills, I will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

We will now proceed to clause-by-clause consideration of the bills.

Bill 11—The Winter Heating Cost Control Act

Madam Chairperson: We are on Bill 11.

Does the minister responsible for Bill 11 have an opening statement?

Hon. Dave Chomiak (Minister of Energy, Science and Technology): Yes, I do, Madam Chairperson, and I thank you for the opportunity. It gives me great pleasure to clarify the provisions of the bill that, in some cases, have been inappropriately portrayed. Certainly, the amendments will clarify the misinterpretation of the bill to ensure that the purpose of the bill is enforced. I do not have to talk about the high energy prices. It is evident that the market place and the fossil fuel markets, what impact they are having on, and fossil fuels are having on day-to-day existence.

When the Conservative government purchased only the pipes of Centra Gas and saddled Hydro with a significant debt with the purchase of Centra Gas, they did not buy any natural gas, Madam Chairperson. Centra Gas was entered into an arrangement whereby they paid the market price, and continue to pay the market price. When gas was \$2 a gigajoules, that was fine. It has now moved up at some points to the \$12 to \$14 range of a gigajoule. It is very timely that this is Environment Week, and Clean Energy Week coming up. I am pleased that the province of Manitoba has risen from ninth place on energy efficiency to first place in the country on the recent analysis of the Canadian Energy alliance.

As was indicated earlier in committee this morning, the low income households pay 10 to 15 percent of their incomes on home heating. If you combine that with the cost of renters and/or those individuals on low income, that is a significant amount of money in circumstances where you have no control. We have no control over the market of fossil fuels, Madam Chairperson. We need the time and we need the tools in order to assist Manitobans.

Amendments, which I am proposing today, will deal with some of the concerns of Manitobans, and will ensure that Bill 11, as I said on many occasions, is not used to reduce gas rates or cross-subsidize, as has been portrayed by some members of the Legislature.

* (19:10)

On October 12, the Public Utilities Board indicated that Centra should be more aggressive with respect to bringing about enhanced space heating retention and heating efficiency for environmental consumer cost and gas system viability for residential and low-income customers. The board stated that the board looks to Centra and others to propose initiatives to improve the current situation.

Now is the time, now that Manitoba Hydro has significant export revenues to invest, Madam Chairperson, in energy efficiency. When one looks at the programs offered by Manitoba Hydro and if you look at them specifically you will note, for example, that since Bill 11 has come to discussion, EnerGuide use has gone up by 10,000; Power Smart has gone up by 15,000; Residential Earth Power Loan has gone up in the last year by 10 times; Religious Buildings Initiative has gone up by five times. So in terms of education, the bill in terms of time and tools, has served its purpose of indicating to the public that you must and should do everything you can to reduce your exposure in terms of energy.

As you know, the bill is time limited, and it was time limited because clearly, Madam Chairperson, we cannot forestall the costs of the marketplace with respect to natural gas. But we did want to, and we continue to offer Manitobans the opportunity in this time period to deal as much as they can, to the extent that they can, with energy efficiency. Bill 11 helps Manitoba Hydro fulfil this. Their current legislative mandate is narrow and did not aggressively address energy efficiency to customers not using electric heat. It did not provide programs, for example, to help users of heating oil or wood or propane. Under their current model, it did not provide incentives to a

customer who has the option of using natural gas to heat their homes who wants to use a heat pump instead.

The bill will allow Hydro the flexibility to be as aggressive as possible in these areas as the presenters indicated this morning: from KAP who were supportive of the fund, to Mr. Schreyer who was supportive of the fund, to the individual from the inner city of Winnipeg who was supportive of the fund and, Madam Chairperson, particularly in light of this period of time when the previous programs from the federal government have been cancelled by the new government and we are awaiting new programming, one would hope, in the fall.

In this crucial period, in this hurricane season that is starting, in this demand side, Madam Chairperson, we would be in a very difficult situation if, for example, natural gas prices were to spike up to \$14 or \$15 a gigajoule as they did last pre-winter and saw Hamilton and Toronto homes have their residential gas rates go up by 30 percent. Our homes in Edmonton had their residential gas rates go up by 20 percent. Natural gas home heating is not an option. It is not something that you can make an option on with respect to your own payments. It is a necessity.

We have super programs in Manitoba: insulation incentives, furnace upgrades incentive, for example, that are being used by middle and upper income Manitobans, largely in urban centres. Because Hydro exports electricity, but imports gas, we continue to see Manitobans with lesser access to the tools that they need. Here are some examples: EnerGuide for houses, as I mentioned, 7,000 last year. Only 140 of those were in the North. Hydro's W.I.S.E. Program for seniors, 808 visits in '05-06; only 19 of these in rural Manitoba, none in the North.

Members opposite portray the bill as rural-urban. In fact, this bill will assist those outside of the city of Winnipeg. This is a good example of how the bill can push the program. It is a reverse, Madam Chairperson, to allow programming to exist and ironically the residential earth energy loan that was mentioned earlier tonight: 140 in rural Manitoba, only 18 in Winnipeg. This bill will enable Hydro to be more aggressive in encouraging heat pumps in the city of Winnipeg. And I should mention, since it is Environment Week, that each heat pump reduces GHGs by 10 tonnes per year, and each commercial unit will cut emissions by 50 tonnes per year.

The Power Smart Residential Loan program has been very successful. Since 2001 there have been 5,753 loans; only 139 in the North, and only 1,200 in rural Manitoba. So this bill is about access; this bill is about fairness, a fundamental point that has been lost by some of the discussion and criticism, I would suggest, by members opposite. This bill is about ensuring that Hydro is able to ensure all customers of access to their programs, and Hydro customers can cut their gas consumption by installing alternatives such as a heat pump.

Madam Chairperson, we heard earlier mention of the fact that there is a significant amount of disconnects from natural gas. Again, it was suggested by the PUB that these disconnects could be decreased if proper programming were put in place to assist those who are on incomes that make it difficult to deal with their heating costs.

In summary, Madam Chairperson, I just want to point out that the bill will clarify a number of points. Firstly, there is no cross-subsidization as suggested by members opposite, and wording will be included to include that. Secondly, the freeze that was initially suggested for last year will be removed from the bill. Thirdly, any freeze done next year will be on proclamation and will not likely be enacted unless there is a significant difficulty with respect to prices next year. Fourthly, contrary to what has been portrayed, the fund will be in the hands of Hydro, will be determined by Hydro, will be looked at by the PUB under the PUB jurisdiction and will be used as a tool by Manitobans to deal with the increasing difficulty of dealing with energy prices and, as Mr. Schreyer indicated, the move toward decarbonization in our society as a whole.

Clearly we cannot do everything, Madam Chairperson, but, surely, we in Manitoba who have 96 percent of our hydro-electricity generated by clean renewable ought to do what we can to help all of those in the province to move forward in terms of energy efficiency. Thank you.

Madam Chairperson: Thank you.

Does the critic for the official opposition have opening remarks?

Mrs. Bonnie Mitchelson (River East): Thank you very much, Madam Chair. If I could just ask a couple of questions of the minister, I am wondering if there is any staff from Manitoba Hydro who are here tonight.

Madam Chairperson: Did you want to have any opening remarks?

Mrs. Mitchelson: Yes, but I was just wondering if the minister could just clarify that for me before I start my opening remarks. Normally speaking, if there is a bill that significantly impacts a Crown corporation, the Crown corporation is part of drafting that legislation, and staff from that Crown corporation would be here as support for the minister.

I was just wondering if the minister could indicate whether there are those staff who were at least part of the drafting process.

Madam Chairperson: I need to get leave. Is there leave for the question at this point in opening remarks? *[Agreed]*

Mr. Chomiak: No, there is no staff from Manitoba Hydro here tonight.

Mrs. Mitchelson: Well, thank you very much, Madam Chair. I will just begin my opening comments by saying that is very passing strange to see that Hydro is not in any way involved in presenting this bill to the Legislature or to committee. That, I think, speaks volumes to the agenda, the political agenda that is before us when we see this bill.

You know, the minister indicated in his opening remarks that now is the time when we have unprecedented hydro export revenues. Well, I just want to go back a few years, maybe go back to 2002, when the government decided to take a dividend from Manitoba Hydro export revenues, and at the time what they said was: Now is the time. Revenues were at a record high level and therefore time-limited legislation was brought in by this government to raid Manitoba Hydro, to skim off the top export revenues, revenues that the utility had to borrow because they did not have them, and as a result, it cost Manitoba Hydro ratepayers at least double the amount of the dividend or the raid that was taken.

* (19:20)

Madam Chair, again, it is déjà vu. We see a two-year time-limited piece of legislation, obviously not a piece of legislation that Manitoba Hydro had much input into, or they would be here to support the minister in bringing this bill through the committee process. So I wonder under whose advice this bill is before the Legislature today. Was it something that Manitoba Hydro had asked for, or is it something

that the government dreamt up again? Just like they did back in 2002 when they took significant dividends, dividends that were followed by a drought, and we saw significant losses in our hydro-electricity Crown corporation, losses that had to be picked up by Manitoba Hydro ratepayers, and we saw hydro rates increase by 7.25 percent as a result. The drought was part of that, but the government's raid on Manitoba Hydro export revenues certainly was a factor.

Do you know, that was back in 2002, and then just two short years ago, in August of 2004, not even two years ago, the Public Utilities Board asked the provincial government to keep away from Manitoba Hydro profits until the Crown corporation's finances were in better shape. That was in August of 2004. The Public Utilities Board, then, an independent body that really should have had an opportunity to comment on Bill 11, but, nonetheless, that independent body indicated that the Manitoba government should keep its hands off of Hydro export profits until the debt equity ratio fell to 75-25.

That was two short years ago, and at that point in time—I know that this minister cannot be responsible for the comments of the former minister—but at that point in time, I will just quote back onto the record what the former minister responsible for Hydro said. He said, I quote: It is unlikely to the point of absurdity that we would do such a thing, take Hydro revenue in the face of the current situation. We know we had a huge problem last year. We know we have rate increases. It would be pretty imprudent of us in the short run to say, wow, we have a huge increase. Let us take it. That would be silly in terms of policy and obviously fly in the face of the intention of the regulator. That is the end of quote.

Now, what has changed in less than two short years, because we have had this bill in front of us for several months, no more than a year after these comments, talking about taking money from Hydro export profits as being absurd, as being silly, and would fly in the face of the intention of the regulator.

Madam Chair, I guess that we, you know, I would certainly like to ask the present minister what changed.

An Honourable Member: The minister.

Mrs. Mitchelson: Well, his colleagues, Madam Chair, say, well, the minister changed, but I have difficulty believing that this minister would go completely contrary to what his colleague had said

only one year earlier and bring in another piece of legislation that would skim Hydro export profits off the top and have Cabinet and the minister determine how much of those export profits would be used to be put into a fund for conservation purposes, for energy efficiency programming, especially when Hydro has implemented—and we have heard presenters talk about the good programs that are in place, the Power Smart programs that are of significant benefit to Manitobans. We have got those programs in place, and we have got them in place without legislation.

So now why, when Hydro did not come to government and ask for this legislation? Hydro is not even here tonight to support this minister and this piece of legislation. We have got the Public Utilities Board that has told this government to keep its hands off of export revenues until the debt equity ratio is somewhat better. We have the former minister who talks about this being a silly, absurd policy, and we now have legislation in front of us that is going to set up a fund that this government will be able to use as they see fit. Why would Cabinet have to make a decision on what percentage of export revenues can be skimmed off the top by this government?

You know, is it not good enough to take a look back at what this government has done to Manitoba Hydro in a couple of areas? We look at water rental fees, which have doubled under this government's watch; \$104 million alone in 2005 was a significant draw on Manitoba Hydro revenues. The debt guarantee fee has gone up. It was \$70 million in 2005.

Madam Chair, there are significant draws already on Manitoba Hydro revenues. Why, now, would this government be looking at a more significant draw than we are already experiencing? We have seen one of the presenters talk about the addition of the provincial sales tax to labour on all plumbing and heating. That has been a significant disincentive for individuals to convert and look at being energy-efficient.

Madam Chair, I think that this bill is something that was dreamt up in the backrooms. Maybe Eugene Kostyra had a hand in this one. We do not know, but he seems to have had a hand in everything that looks at this government trying to get its hands into the pockets of ratepayers or taxpayers.

This is legislation that is wrong, Madam Chair. This is legislation that cannot be amended. It is legislation that should be withdrawn, and we should

be open and honest with Manitoba Hydro ratepayers. I would hope that this government would see the sense to withdrawing this legislation.

Madam Chairperson: Thank you. Shall clause 1 pass?

Some Honourable Members: Pass

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of passing clause 1?

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to passing clause 1, say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Madam Chairperson: On division. Clause 1 is accordingly passed on division.

* * *

Madam Chairperson: Shall clause 2 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Madam Chairperson: Hearing no, voice vote again.

Voice Vote

Madam Chairperson: All those in favour of passing clause 2, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to passing clause 2, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, clause 2 is accordingly passed.

An Honourable Member: On division.

Madam Chairperson: On division.

* * *

* (19:30)

Madam Chairperson: Shall clause 3 pass?

Mr. Chomiak: I move

THAT Clause 3 of the Bill be struck out.

Motion presented.

Madam Chairperson: I have been advised that the amendment is out of order because, according to *Beauchesne's* 698(6): "An amendment to delete a clause is not in order, as the proper course is to vote against the clause standing part of the bill."

So I will return to, shall clause 3 pass?

Some Honourable Members: No.

Madam Chairperson: Clause 3 is accordingly defeated unanimously.

Shall clause 4 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: Could I have all those in favour of clause 4 passing, say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 4 passing, say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Yeas have it, so clause 4 is accordingly passed on division.

* * *

Madam Chairperson: Shall clause 5 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Voice Vote

Madam Chairperson: All those in favour of clause 5 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 5 passing, say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Madam Chairperson: On division. Clause 5 is accordingly passed on division.

* * *

Madam Chairperson: Shall clause 6 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 6 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 6 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Madam Chairperson: On division. Clause 6 is accordingly passed on division.

* * *

Madam Chairperson: Shall clause 7 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chomiak: I have three amendments to this clause, Madam Chairperson, and the amendments are

THAT Clause 7(1) of the Bill be amended by striking out "STABILIZATION AND AFFORDABLE ENERGY FUND" where it occurs in the centred heading before the Clause and in the Clause, and by substituting "AFFORDABLE ENERGY FUND", with any necessary grammatical changes.

Madam Chairperson: It has been moved by Minister Chomiak

THAT Clause 7(1) of the Bill be amended by striking out "STABILIZATION AND AFFORDABLE ENERGY FUND" where it occurs in the centred heading before the Clause and in the Clause, and by substituting—

An Honourable Member: Dispense.

Madam Chairperson: Thank you.

The motion is in order. The floor is open for questions.

Voice Vote

Madam Chairperson: Seeing no questions, all those in favour of the amendment, say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the amendment, say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the amendment passes.

Some Honourable Members: On division.

Madam Chairperson: On division.

* * *

Mr. Chomiak: I move

THAT Clause 7(2) of the Bill be replaced with the following:

Purpose of the fund

7(2) The purpose of the fund is to provide support for programs and services that

- (a) encourage energy efficiency and conservation;
- (b) encourage the use of alternative energy sources, including earth energy;
- (c) facilitate research and development of alternative energy sources and innovative energy technologies.

Energy efficiency and conservation programs and services

7(2.1) The programs and services for energy efficiency and conservation referred to in clause (2)(a) must be designed and delivered to ensure

- (a) that people living in rural or northern Manitoba, those with low incomes and seniors have access to those programs and services; and
- (b) That Manitoba Hydro's residential customers have access to comparable programs and services, regardless of the energy source they use to heat their homes.

Madam Chairperson: The amendment has been moved by Minister Chomiak, and he moves

THAT Clause 7(2) of the Bill be replaced with the following—

Some Honourable Members: Dispense.

Madam Chairperson: Dispense.

The motion is in order. The floor is open for questions.

Mrs. Mitchelson: Madam Chair, I wonder if the minister might indicate to me whether this was Manitoba Hydro's amendment or whether it was his amendment.

Mr. Chomiak: Insofar as we are elected by the Legislature in our capacity to be legislators and provide for legislation on behalf of the citizens on whose behalf we are elected, we bring forward legislation on behalf of both the citizens of Manitoba and on behalf of the various government entities that we represent.

Mrs. Mitchelson: What is different about this fund than any of the programs that are ongoing through Manitoba Hydro?

Mr. Chomiak: As I indicated in my opening remarks, there are some homes for whom Power Smart programs do not apply, those that are wood- and oil-heated, for example. Secondly, as I indicated from the statistics earlier, there is not an update on some projects. For example, in rural Manitoba, there is not as much uptake on Power Smart programs as there is in urban Manitoba. In reverse, there is more uptake on geothermal programs in rural Manitoba than in urban Manitoba. Part of the initiative is to try to encourage more extensive energy efficiencies. Secondly, there was always some concern with respect to the recent change in government insofar as the direction of the previous government was to be fairly aggressive on working with provincial governments on specific programs.

I will cite for the member opposite, which I think, to keep it nonpolitical, I will just cite for the member opposite a report on CTV national news of "Pensioners in a pinch after Energuide program killed." Toronto resident, et cetera, et cetera, has to worry these days, they applied for a program, their wife has Alzheimer's and the costs of the program, because of the cancellation of the Energuide program, is costing that family several thousands of dollars.

The point is, Madam Chairperson, we have a period of time with a time-limited bill and a federal government that is designing a new made-in-Canada approach. Do we lose an entire winter season? Do we take away programs that have already started? We are already backfilling some of these programs. As indicated earlier, technically one could argue about the application of some of those programs, so the concept is to expand, enhance the existing programs, ensure that as many Manitobans as possible have access to them, cover off in the interim

period some of the federal cutbacks until we are clear what federal programs apply and do not apply, and perhaps improve upon those programs.

* (19:40)

Going into this year's winter season, we have no idea right now. We will keep our fingers crossed. We do not anticipate there will be any need for a freeze next year, given the hedging. Although the March prices, when I last looked, at March '07, I think, were at like \$12 a gigajoule, and we have been used to half of that. Having said that, we want Manitobans to be conscious of what they are facing in the future, and, as Mr. Schreyer said, we have limited opportunity to do things, and we as the provincial government ought to consider all Manitobans with respect to ensuring that they have access to energy efficiency.

Mrs. Mitchelson: But the minister has not in any way answered why we need legislation. *[interjection]* Well, Madam Chair, there is no need for it. What legislation governs the EnerGuide program? What legislation is in place that governs the EnerGuide program?

Mr. Chomiak: There was an all-party agreement to legislation providing for energy efficiency and EnerGuide program grants that occurred in October of '05. All parties agreed to fund those programs. Those programs were cut. They were on contract with the provincial government. Hydro is now forced to carry the cost of subsidizing those programs when they were going 50-50 with the previous government. So the member asked the question; I provided the answer.

Mrs. Mitchelson: But just for clarification, could the minister indicate what piece of legislation it was? What was the bill number that put in place the EnerGuide program, because he indicated it was an all-party agreement on legislation. So what bill would that be?

Mr. Chomiak: I believe it was Bill 66 in the House of Commons that provided the funding, Madam Chairperson, for the EnerGuide program that was supported by all parties.

Mrs. Mitchelson: Madam Chair, the minister is just too funny, because I was not recalling any legislation in Manitoba that allowed us to go into a cost-shared program. So if there was legislation at the federal level that was agreed to about energy programming, what legislation, then, in Manitoba allowed us to

enter into this program, because I do not recall a piece of legislation that was brought in.

Maybe I missed something and maybe the minister could indicate to me under what bill in Manitoba we cost-shared and participated in the EnerGuide program.

Mr. Chomiak: Hydro operates under The Hydro Act and The Energy Act.

Mrs. Mitchelson: Well, then, can any of the new programming that is going to be done with this supposed fund not be done under that legislation already? Why do we need new legislation?

Mr. Chomiak: As I indicated in my opening remarks, that particular provision is not entirely clear, Madam Chairperson. We could amend The Hydro Act to provide specificity with respect to that, or we could introduce a separate bill which we have chosen to do.

Mrs. Mitchelson: But the minister has not convinced me in any way that legislation is needed. When he talked about certain programs that were not receiving significant uptake, would it not be incumbent upon a government to use common sense and say: Let us look at that program. Let us review it, and if there is not some uptake, is there something wrong with the program? Should we revise it? Should we change it a little bit?

Why do we need legislation? Would common sense not say that if programs are not working in certain parts of the province, that maybe we need to take a look at the parameters, the requests to enter into the program and consult, maybe, with Manitobans and see whether we could not develop a better program? Why do we need legislation?

Mr. Chomiak: As I indicated earlier, these are very unique circumstances with respect to the prices. The prices went up 300 percent on natural gas. Since the member and her party bought Centra Gas, the prices have gone up 300 percent.

Madam Chairperson, the PUB indicated in its ruling in October '05 that a case can be made, a business case, with respect to dealing with energy efficiency on the natural gas side, but advise Hydro to be aggressive with respect to programs of energy conservation, particularly looking after low-income and senior citizens.

So we responded in the way that I think a government using common sense ought to respond, and that is when there is a need in the public,

Madam Chairperson, government responds to try to deal with that need. Our way of dealing with that need was to put in place a time-limited program that is specified towards specific programs to help Manitobans, get them over the energy crunch. It is very clear that the knowledge of the situation last fall significantly impacted on existing Power Smart programs. It is very clear, as was indicated this afternoon, the member knows how crucial programs are with respect to low-income individuals, with respect to renters.

A need was indicated both by individuals in those groups and by individuals who had made representation tonight with respect to biomass or with respect to wind or with respect to geothermal, Madam Chairperson. We think it is incumbent upon the government of Manitoba to ensure that all Manitobans have the opportunity to diversify and prepare for the coming years.

We are very fortunate that we have managed our Hydro corporation in such a way that we have the lowest electrical rates in North America. Not only do we have the lowest electrical rates in North America, Madam Chairperson, but there has not been a rate increase this year. We have the ability to use some of the domestic electricity to sell in the export market and use some of those funds to help Manitobans keep their rates low and to conserve energy.

We send \$2.5 billion a year in fossil fuel payments outside of this province. Every dollar that we can keep in this province is a dollar in the pockets of Manitobans recirculating and, in addition, providing energy efficiency. What a contrast to what happened with the telephone corporation where rates went up 60 percent, where head offices and jobs moved out of the province, Madam Chairperson. What a direct contrast that we have to use our energy efficiency corporation for the public benefit of all, and not just for what happened in the late nineties to another Crown corporation that has seen its rates go up 60 percent and seen jobs leave the province, ownership control and efficiency leave the province.

Mrs. Mitchelson: What input did Manitoba Hydro have into this legislation? Were they asked for any advice and did they provide any to the minister?

Mr. Chomiak: We value the advice of Hydro. I only suggest, Madam Chairperson, that Hydro is the operator. Hydro knows the business. Hydro knows the field. Hydro makes the application towards the PUB. Hydro deals with the rates on a daily basis. The PUB sets the rates. With respect to this kind of

legislation, this legislation could not come forward without the knowledge and the support of the Hydro corporation.

* (19:50)

Mrs. Mitchelson: Well, that just takes me to what Hydro officials have said under oath in the cost of service hearings that were just presently before the Public Utilities Board. They are extremely concerned, as are individuals at Manitoba Hydro, about the debt equity ratio being in the range of 81 percent debt and 19 percent equity. Just by comparison to B.C. Hydro and Québec Hydro, B.C. has a debt equity ratio of, I guess it is 68-32, and Québec has 66-34 debt equity ratio. Those were comments made by officials from Manitoba Hydro for the Public Utilities Board. They indicated that we needed to move to get toward the target of 75-25. They indicated, under oath, in sworn testimony, that, given this circumstance, it could be argued that there should be no sharing of export revenues until target equity levels are obtained.

So these are comments that officials from Manitoba Hydro are making before the Public Utilities Board, and there then, in my estimation, would not be supportive of this legislation that would draw export revenues off the top of Manitoba Hydro at a time when this government is, once again, by legislation, demanding that Manitoba Hydro, through political interference, be manipulated into doing what government is asking them to do. We heard from presenters today. We heard from the person that made the presentation on behalf of KAP, and his comments where, and I think I could quote verbatim, he said if the agricultural industry had a debt equity ratio of 81 to 19, we would not exist, and yet it seems fine for this government to look at a Crown corporation who used to have a \$7 billion debt, and that is climbing now—it is up to around \$9 billion, I believe—and this government does not seem to have any care or concern for the ratepayers that are ultimately going to have to pay more in Hydro rates.

It is a comment and a question. I know that the minister is getting a little exercised, but I guess he, maybe, does not like to hear these comments put on the record.

We also heard from the Consumers' Association that talked about every dollar that is taken out of export revenue, that is another dollar that Manitobans have to pay to make up the necessary revenue requirement for Manitoba Hydro. We have

heard from officials at Hydro that, for the next many years, we are going to have to have a minimum—

Madam Chairperson: Can I just stop you for one moment? I am sorry, I am having a hard time following Mrs. Mitchelson, so if I could ask for order at the table, please. You may continue, Mrs. Mitchelson.

Mrs. Mitchelson: We are going to have to see yearly rate increases of 2.5 percent per year, just to deal with the debt equity ratio, and that is not looking at this government skimming money off the top of export revenues to put in a fund for their own political purposes, because it is clear that this is not a piece of legislation that was generated at Manitoba Hydro, was asked for by Manitoba Hydro. It is clearly public policy. There is absolutely no need for legislation. This is government policy and there is absolutely no need for legislation to implement the kinds of programs that the minister has talked about. He can talk around in circles, and he can say that is what this legislation does. We do not need legislation. We already have programs. If there is not enough uptake on the programs, then maybe we need to review who those programs are serving, and maybe they could be adapted to meet the needs of those that they are not meeting. Maybe, just maybe, if there are programs that are working extremely well and are not broad enough, they could be expanded, but we do not need legislation, and we have gone through an exercise where a lot of time and energy and effort and expenditure has gone into developing and trying to sell legislation that is not required.

This bill, and the setting up of this fund, is not required by government to do all of the good things that need to be done to help Manitobans develop energy efficient homes, to conserve energy and to support those who are the most needy within our society. This legislation is not needed. This fund is not needed, and we cannot support this government's political agenda.

Mr. Chomiak: Madam Chairperson, I do not know where the question was. I get the point; the member has opposed any kind of assistance from the start. When we introduced the bill, the member asked us to support companies with respect to this bill; so the member has flip-flopped on that. Suffice to say that the proposals, both from KAP and most of the presenters that appeared before this committee were in favour of the fund—

An Honourable Member: Give them all the information. You talk about debt equity—

Mr. Chomiak: They were in favour of the fund. With respect to debt equity, I am glad the member mentioned it, because it has gone down in the last several years.

An Honourable Member: But it is more than double than B.C. and Québec.

Mr. Chomiak: It is ironic that in Québec and B.C. they are going to have to take significant rate increases this year, both provinces take a significant dividend from the Crown corporation.

On the one hand, the members say keep rates low. Do not take dividends. Do not spend any money. Do not build any hydro.

That gets us back to the 1990s or the 1960s. Tory governments need no Hydro and/or Tory governments need sell Hydro. They did it with MTS. They will do it with Hydro. There is nothing. There is not a dam that members have built. There is not a mile, a kilometre of transmission line the members have built under Hydro—

Madam Chairperson: At this point I am going to stop, and I am going to ask for order.

The minister has the floor, so I am going to allow the minister to continue. He is on his time, and at this point, Minister Chomiak.

Mr. Chomiak: Thank you, Madam Chairperson. Under the circumstances of natural gas prices last fall hitting \$14 a gigajoules, going up four or five times the rate, two individuals with prices going as high as they were we think it is prudent—it would be irresponsible, in the words of some of the presenters, it would be irresponsible not to take initiatives to help Manitobans get to areas of energy efficiency to decrease the costs to all Manitobans, preserve our energy at home.

So it is quite clear that the members opposite do not agree with the initiatives of the bill. We think it aids the vast majority of Manitobans, and that is why we have been very cautious, and that is why we have clarified, despite the misunderstanding of the members opposite, clarified the intentions of the bill.

I am looking forward to the federal government's announcement of its climate and energy plans into the future so that we can continue to provide the kind of programming that we have in the past.

Madam Chairperson: Are there any other questions? No.

Committee Substitution

Madam Chairperson: Just before I continue, I just wanted to mention, for the information of members—I should have mentioned this before—that Mrs. Taillieu has been subbed off and Mr. Penner is now subbed on for the committee. I apologize I did not mention it earlier.

* * *

Madam Chairperson: Is the committee ready for the question?

Some Honourable Members: Question.

Madam Chairperson: Shall the amendment on the clause pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Voice Vote

Madam Chairperson: All those in favour of the amendment on the clause passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the amendment on clause 7 passing, say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Madam Chairperson: On division. The amendment is accordingly passed on division.

* * *

Madam Chairperson: Minister Chomiak.

Mr. Chomiak: *THAT Clause 7(3) of the Bill be amended by striking out "in the 2005-06 fiscal year and".*

* (20:00)

Madam Chairperson: It has been moved by Minister Chomiak,

THAT—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

The motion is in order. The floor is open for questions.

Is the committee ready for the question?

The question before the committee is as follows—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

Shall the amendment pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Voice Vote

Madam Chairperson: A voice vote. All those in favour of the amendment on clause 7 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the amendment on clause 7 passing, please say nay.

An Honourable Member: Nay.

Madam Chairperson: In my opinion, the Yeas have it. The amendment is accordingly passed—

An Honourable Member: On division.

Madam Chairperson: —on division.

* * *

Madam Chairperson: Clause 7 as amended—pass.

Shall clause 8 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Voice Vote

Madam Chairperson: All those in favour of clause 8 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 8 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: The Yeas have it, in my opinion.

An Honourable Member: On division.

Madam Chairperson: Clause 8 is accordingly passed on division.

* * *

Madam Chairperson: Shall clause 9 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Madam Chairperson: I am sorry. Shall clause 9 pass?

An Honourable Member: Pass.

An Honourable Member: No.

Madam Chairperson: No? Okay.

Voice Vote

Madam Chairperson: All those in favour of clause 9 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 9 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Yeas have it. Clause 9 is accordingly passed—

An Honourable Member: On division.

Madam Chairperson: On division.

* * *

Madam Chairperson: Shall clause 10 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Mr. Chomiak: I move

THAT Clause 10 of the Bill be replaced with the following:

Coming into force

10 This Act comes into force on a day to be fixed by proclamation.

Motion presented.

Madam Chairperson: The floor is open for questions.

Mr. Chomiak: Just with respect to the provision on proclamation, I can indicate to members opposite, and I will put this on record, that it is our intention that the section with respect to the fund be brought in place after consultations have taken place with Hydro, as pointed out in the act, et cetera, after continuing discussions that have continued for some time with Hydro take place after the act has been passed by the Legislature. But, with respect to the winter season next year, it is highly unlikely that that

section will be proclaimed, and would only be proclaimed in the event of a—as we are entering, for example, the hurricane season, only if something quite significant or, I would hesitate to say, traumatic were to happen with respect to the supply of fuel, et cetera. But it is not our present intention that that section will be proclaimed, which is why we have put in the proclamation amendment, and why we will divide it up into two parts.

Mrs. Mitchelson: Madam Chair, I wonder if I might ask the minister whether he is going to consult with the Public Utilities Board, or take the amount of the fund to the Public Utilities Board for their comments so that Manitobans might have the opportunity to make comment also.

Mr. Chomiak: Madam Chairperson, I understand the funds are under the jurisdiction of the Public Utilities Board, but, further to that point, the Public Utilities Board asked Hydro to aggressively pursue these matters in its ruling of October '05. This bill is in response to the ruling of the Public Utilities Board, "an independent third party body," to quote the words of the member opposite.

Mrs. Mitchelson: Madam Chair, so the minister is indicating to me, then, that, before Cabinet makes an approval on the amount of money that will be taken from Manitoba Hydro revenues to go into this fund, the whole public utilities process, an independent analysis and process will happen.

It just want him to be clear with me. Is the Public Utilities Board going to be consulted? Just like when Hydro goes to the Public Utilities Board for a rate increase, they go and the Public Utilities Board makes a ruling.

Is the Public Utilities Board going to be asked to make a ruling on the amount of money that will be established in the fund?

Mr. Chomiak: All matters with respect to rates are determined by the Public Utilities Board.

Mrs. Mitchelson: The minister did not answer my question.

All rates that are taken to the Public Utilities Board by Manitoba Hydro have the Manitoba Public Utilities Board rule. Will the Public Utilities Board be ruling? Is government committed to taking the issue to the Public Utilities Board before they sign anything around the Cabinet table that establishes this fund? Will they be going to the Public Utilities Board? Will they be indicating what their intentions

are, and will they ask for a ruling on that before it is implemented?

Mr. Chomiak: It is quite a circuitous argument the member makes, Madam Chairperson. The Public Utilities Board in October asked Manitoba Hydro to make special provision to deal with low-income, seniors, et cetera, with respect to the rate crunch that was coming last year. The response of the government was a bill that provided a short-term measure to provide both the tools and the opportunity for Manitobans to do that.

All matters with respect to rates go before the Public Utilities Board, Madam Chairperson.

Mrs. Mitchelson: Is the minister committing, then, to me that the next time Hydro goes before the Public Utilities Board, they will be taking the issue of the fund to the Public Utilities Board for approval before the fund is implemented? A straight question, I think, deserves a straight answer.

Mr. Chomiak: Madam Chairperson, the Public Utilities Board was the entity in the first place that suggested that Manitoba Hydro put in place aggressive programs in this regard.

Mrs. Mitchelson: And did the Public Utilities Board recommend that this had to be done by legislation?

Mr. Chomiak: The Public Utilities Board makes its rulings and we abide by the rulings of the Public Utilities Board. It is an independent third party that makes recommendations with respect to the applications and the rate structures of various entities, Madam Chairperson. I do not interfere in the legislation of the Public Utilities Board.

Mrs. Mitchelson: The minister can be as evasive as he wants and sort of try to skirt around the issue. He has not answered the question, and therefore I can assume that the Public Utilities Board did not. I did not see anything that indicated that they recommended legislation to do exactly what this legislation is doing.

Also, Madam Chair, the minister did indicate now that he had brought in an amendment that this act would not be proclaimed until he consulted with Manitoba Hydro. It would have been rather nice if he had consulted with Manitoba Hydro before he brought in the legislation, and he is having to now bring in amendments to the legislation to make it sound like he had the blessing of Manitoba Hydro and that they recommended that they had the ability

to have Hydro export revenue put it into this fund, and I do not believe that that is the case.

* (20:10)

So the minister evades and talks around in circles. The reality is, again, Madam Chair, that there is no need for this legislation, that Hydro can implement and this government can implement any kind of program it wishes and take full credit for those programs that it implements to help Manitobans conserve energy, develop energy-efficiency homes and businesses and to support those who need help and support because of low incomes. All of those things can be done, could be done yesterday, can be done today and could be done tomorrow and into the future without this legislation.

It is clearly a political attempt by this government again to get its hands on Manitoba Hydro revenues. As a result—and mark my words because we will find out, when this legislation passes, because it will, government has the ability, with their majority, to pass this legislation—we will find at the end of the day, that Manitoba Hydro ratepayers are the ones that are going to bear the brunt of this through increased hydro rates.

You know, Madam Chair, the minister talks about other utilities and the difference in debt equity ratios and what other utilities have done. The minister also talks about selling off Manitoba Hydro. We may not, in the future, have to worry about selling any utility or Manitoba Hydro as we may find that the banks will take over Manitoba Hydro, and the banks will own Manitoba Hydro because they are bankrupt.

As the debt continues to increase and as this government puts increased pressure on Manitoba Hydro to conform to their whim and to their wish to get their hands on absolutely every penny that they can get their hands on because they have an insatiable spending appetite, spending addiction, we are going to see the debt continue to rise at Manitoba Hydro. That will be to the detriment of the ratepayers in the province of Manitoba.

I just wanted to put those comments on the record because I believe it is important that they be recorded. We had concerns the last time the government raided Manitoba Hydro revenues, and we saw this government be chastised somewhat by the Public Utilities Board. The Public Utilities Board has told this government to keep its hands off

Manitoba Hydro export revenues until the debt equity ratio improves.

The former minister indicated that it would be silly to go against—it would be absurd actually—to go against that direction from the Public Utilities Board. We see now, a government that again, once again, is looking to dip into Manitoba Hydro revenues for whatever political motivation, but we will find, into the future, that it will be the ratepayers of the province of Manitoba that are going to pick up the tab for the mismanagement of our Crown corporation like we have never seen in the history of this province.

So I just wanted to put those few comments on the record before this bill is forced through. I do not know whether any of my colleagues have any questions or not, but I will leave my comments there.

Mr. Chomiak: In the intense scrutiny the member has made of the bill, she overlooked the fact that the bill itself says the minister must consult with Manitoba Hydro. The bill actually says that, Madam Chairperson.

Most of the comments of the member, I have to say, strike me as phoney, phoney comments. The fact is that rates are going to go up—*[interjection]* Of course rates are going to go up on all sectors of energy, but they are going to go up at a significantly less rate than we have seen, for example, in the marketplace as the Manitoba telephone system rates have gone up. So of course the member can make those statements and come back later on, on the record and say, see, I told you so.

The fact is the debt equity ratio has gone down in the last several years. The fact is that Hydro would be foolish not to be building extra dams where members opposite never even envisioned building a dam. I have the report for members opposite outlining the plan. The plan was for gas-fired turbine, gas fired, gasification. That was where members opposite wanted to take Manitoba Hydro before they sold it or while they sold it. So, Madam Chairperson, the member can say all that she wants. We have the experience of Manitoba Telephone System; the greatest robbery in the history of the province of Manitoba. The greatest robbery in this history of Manitoba.

Talk about getting legislation through a majority? I need not even discuss that. I sat in that Legislature when it was bullied through the Legislature.

So I will take my counsel from Manitoba and from the customers and consumers of Manitoba Hydro, Madam Chairperson, rather than from members opposite who have one intention, and one intention alone, will do anything they can to downgrade the Crown corporation. Why do they want to do that? Because they want to line it up to be sold. That is why they purchased Centra Gas and increased the debt equity ratio by half a million dollars—\$500 million—and bought—value. Very interesting.

In any event, Madam Chairperson, I think what we are doing is prudent, both for energy efficiency, prudent for the ratepayers, prudent for the taxpayers. In this era of a need for renewable energy I think that expanding our capacity for renewable energy, expanding our export capacity and conserving energy is the way to go.

Mr. Cullen: I am just wondering if the minister had considered changing the title of this particular piece of legislation given the substantive changes that he has brought forward and also with certainly the authority that he has provided under this legislation to the minister himself. So the question is quite straightforward: Is he going to provide an amendment to change the title of this particular bill?

Mr. Chomiak: I will follow whatever advice is given to me by the legislative drafts counsel in this regard.

Mr. Penner: I think we have just witnessed a successful attempt made by a minister of the Crown to indicate clearly to Manitobans that they are now going to see Manitoba Hydro, one of the Crown corporations, be totally at the mercy of the minister, and how profits of export sales are going to be designated is going to be directed by the minister. In clause 7(3) now, after this bill will pass, will say, after consulting with the minister responsible for Manitoba Hydro, Manitoba Hydro must pay—

Madam Chairperson: I have to stop you for a moment, Mr. Penner. Before you can return to clause 7(3), we need leave from the committee for you to—*[interjection]* Because we have already passed it. *[interjection]* So that means we have concluded consideration of clause 7. So, if you would like to speak to clause 7, then I need to get leave from the committee for you to speak to clause 7. Unless you want to speak to clause 10, which is the clause we are on.

Mr. Penner: Well, Madam Chairperson, I have been around this table for many years, and when the conclusion of a bill arises, I think committee members have the right to make comment on the clauses already passed in this bill.

Madam Chairperson: At this moment, we are not at the conclusion—

Mr. Penner: —and how that will reflect on the final outcome of the bill and how that will affect Manitobans.

Madam Chairperson: Mr. Penner, I just wanted to remind you we are on clause 10. We are not at the conclusion of the bill yet. We are still on the amendment to clause 10.

Mr. Penner: Let us deal with clause 10. I will go back to it. Sorry about that.

Madam Chairperson: Thank you.

Is the committee ready for the question?

An Honourable Member: Question.

Madam Chairperson: The question before the committee is as follows:

THAT Clause 10 of the Bill—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

THAT Clause 10 of the Bill be replaced with the following:

Coming into force

10 This Act comes into force on a day to be fixed by proclamation.

Shall the amendment pass?

Some Honourable Members: Pass.

An Honourable Member: No.

* (20:20)

Voice Vote

Madam Chairperson: Would all those in favour of the amendment to clause 10 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the amendment on clause 10 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Yeas have it. The amendment is accordingly passed—

An Honourable Member: On division.

Madam Chairperson: On division.

* * *

Madam Chairperson: Shall clause 10 as amended pass?

Some Honourable Members: Pass.

Madam Chairperson: Clause 10 as amended is accordingly passed.

An Honourable Member: On division.

Madam Chairperson: Just a moment then, I have to go back—[interjection] Clause 10 as amended is accordingly passed on division.

Shall the preamble pass?

Mr. Penner: I am not quite sure, Madam Chairperson, whether I have to speak to the preamble now. When will you allow me to make comment on the bill as a whole?

Madam Chairperson: When I ask the last question, shall the bill be reported.

So I will return, then, seeing that you do not have a question at this point. Shall the preamble pass?

An Honourable Member: On division.

Madam Chairperson: On division? Shall the preamble pass on division? [interjection] The preamble is accordingly passed on division.

Shall the enacting clause pass?

An Honourable Member: On division.

Madam Chairperson: The enacting clause is accordingly passed on division.

Shall the title pass?

An Honourable Member: On division.

Madam Chairperson: The title is accordingly passed on division.

Shall the bill as amended be reported?

Mr. Penner: As I started out saying before, we have now just witnessed the passage in committee of Bill 11, The Winter Heating Cost Control Act, which now gives the minister virtually total control, total control of all revenues generated by export of power

to other countries or provinces. In clause 7(3) that has just been passed, it says very clearly: "Payments into the fund: 7(3) After consulting with the Minister responsible for Manitoba Hydro, Manitoba Hydro must pay into the fund a percentage of the gross revenue generated by the sale of electricity to customers outside Manitoba"—and then we amended this clause. It said originally in the year 2005-06 and in 2006-2007. Now 2005-2006 has been deleted, but in the 2006-2007 fiscal year, it clearly says that if the minister chooses, he can direct Manitoba Hydro to designate any percentage amount that he chooses and can direct Manitoba Hydro to pay that money into a fund, and that money can then be used by the government to do exactly whatever they choose to do.

He has indicated in this bill there are certain things that can be done. However, there is no finality to what can be done or what the minister can, in fact, do with this money, and I think that is what this whole bill was designed to do. The people of Manitoba should know that this government is clearly intent on utilizing all the export profits that Manitoba Hydro can make and that the minister has the authority to designate that and put it into a fund and utilize it for almost anything that he chooses to do. That is the effect of this bill.

Mr. Chomiak: The bill does not even read that way. The bill does not even read that way. In fact, legal, political and other interpretation is that the fund is subject to consultation with Hydro for specific programs as outlined in the amended section. The member talks like it is the car dealers' fund in MTS. No, no, no, it is not that, Madam Chairperson. *[interjection]*

Madam Chairperson: If I could have order, please, so that the minister could please finish his comments.

Mr. Chomiak: It is very narrowly defined that a percentage is set after consultation with Hydro. It is only a percentage of Hydro's export revenue one year, and it is on specific programs dealing with energy efficiency.

So, Madam Chairperson, first, the member said it was cross-subsidization. We said, no, it is not, but we amended the bill to ensure that it was not. The member said it was a slush fund. So we amended the provisions specifically to deal with the member's political criticisms. Now the members say, oh, it is debt equity ratio, or, oh, Hydro did not ask you for a law.

Let us face it, Madam Chairperson, anything that has to do with Hydro, the members oppose. Anything that has to do with building Hydro, the members oppose. Anything that has to do with energy efficiency, the members oppose. Anything that has to do with assisting in building transmission, the members oppose. It is clear from their record, it is clear from their actions—

Madam Chairperson: Mr. Penner still has the floor.

Mr. Penner: One short comment. I would strongly suggest—

Madam Chairperson: If you could speak into your mike, please, Mr. Penner. I am sorry, we cannot hear you.

Mr. Penner: Thank you very much, Madam Chair. I would strongly suggest that the minister read his own new act now, because clearly that act gives the authority under clause 7(3) to the minister to direct Hydro to pay into a special fund any amount that the minister chooses to direct Hydro to do.

An Honourable Member: It does not say that.

Mr. Penner: It clearly says that. It clearly says that and if the minister has—if that is not the minister's intent, then I would suggest to the minister that we scrap this bill before we pass it. If that is not—because I will read to him again: "After consulting with the Minister responsible for Manitoba Hydro, Manitoba Hydro must pay into the fund a percentage of the gross revenue generated by the sale of electricity to customers outside Manitoba in the . . . 2006-07 fiscal year," as amended.

The minister should not deny that that is not—if the minister chooses to direct Hydro to pay 90 percent of their export revenues into a special fund, he can now do that. He has the authority to do that, and it is clearly a mechanism set up to draw as much money as the Treasury Board needs to balance their budget in this coming year. That is what this bill is all about.

Mr. Chomiak: Thank you, Madam Chairperson. You know, the member—unfortunately, the member chooses to discard the words in front of "Manitoba Hydro." It says: "After consulting with the Minister." It is specific legal wording that indicates that the consultation must take place from Manitoba Hydro. It is not like selling MTS and putting the money into a slush fund that allows you to try to win the next election. This is specific consultation that must take place with Hydro and on specific programs. It is not

like selling the Crown corporation to your friends and then using that money to try to get elected. That is not what it is. I know that mindset. I fought against it for many, many years. I would never like to get in a position where I was doing what happened with MTS. That is why it has been worded in the way that it is worded to be confined to consultations with Hydro and to specific programs.

Mrs. Mitchelson: Thank you, Madam Chair.

Madam Chairperson: Order. Wait a minute. Wait until you have the floor.

Mrs. Mitchelson: Just one short question for the minister. Can the minister indicate to me whether any of the ongoing operations of the Department of Energy, Science and Technology, including the greening office—whatever, I cannot remember the exact name of the office—will there be an expectation that Manitoba Hydro's export revenues will be used in any way to fund anything that is presently done by his department today? The reason I ask that is because when we are talking about energy efficiency, we know that the minister's department has a role to play in energy efficiency.

Some Honourable Members: Oh, oh.

Madam Chairperson: If I could have order, please. I am sorry, I am having trouble hearing the member who is speaking.

Mrs. Mitchelson: I am just wanting to be assured that what is regular, ongoing government operations is not going to be backfilled by Hydro export revenues, so that the government can make it look like they are managing their budget. Are they going to be managing that budget on the backs of Manitoba Hydro right there? I want some assurances that that will not be happening.

Mr. Chomiak: I can assure the member we will not be managing our budget on the back of Manitoba Hydro taxpayers.

Mrs. Mitchelson: The minister did not answer my question. Will any of his departmental operations that presently exist or any new initiatives that they will undertake in the Department of Energy, Science and Technology be funded out of this fund?

* (20:30)

Mr. Chomiak: We have just gone through the Estimates of the Department of Energy, Science and Technology firstly, Madam Chairperson, for this particular fiscal year. Due to the outrageous

statements of members opposite about slush funds, we put in place strict guidelines on the use of funds just to ensure that the members could not continue to make those outlandish statements and confine it to specific categories. And now the member persists in accusatory comments with respect to the particular funding. It is very clear how the process works, where the programs have to go.

Mrs. Mitchelson: It is not clear. Somehow I have difficulty taking the minister's absolute word, and he has not answered my question. All I need is a simple yes or no, some assurances to Manitoba Hydro ratepayers, to Manitoba taxpayers. Is, in fact, anything, just very simple, yes or no, anything that is presently funded out of general revenues and government operations that deal with energy or energy efficiency in the minister's department, is any of that going to be funded out of the fund?

Mr. Chomiak: I cannot speak to that. Madam Chairperson, there is no fund in existence at this point. I have not consulted with Manitoba Hydro. The fund has not been established.

Mrs. Mitchelson: Well, again, Madam Chair, the minister has just made my case. Manitoba Hydro has not been consulted. There is no fund. We do not know what the guidelines are. I wonder why Manitobans, and those of us sitting around the table, should not be suspicious. This is a government creation, pure and simple. It is a slush fund.

The minister cannot give me any guarantee that the direction that will come from his office will be that we will not offload general government programs onto the fund. He cannot give me that guarantee today, and that just leads me to believe exactly what I have thought right from the beginning, that this is politically motivated and that there is a hidden agenda behind this legislation because this government cannot manage its financial affairs.

Mr. Chomiak: This reminds of the question when are you going to stop beating your dog? Madam Chairperson, the fund is not a slush fund. It is not politically generated. It will not be unrolled to do general programs. You know, as we go along, the member's statements get more outrageous. I can guarantee that we will not sell Manitoba Hydro and use the money to try to be re-elected, as was happened under MTS. We will not increase the rates by 60 percent. Rates will all go before the PUB.

We have now statutory responsibility to consult Manitoba Hydro, statutory responsibility when this bill is set.

An Honourable Member: Well, I should hope so.

Madam Chairperson: If I could just have order.

Mr. Chomiak: Madam Chairperson, with respect to the establishment of the fund, we have put it statutorily into the books because members opposite were making spurious allegations with respect to this particular legislation; so we tightened it up. Now that we have tightened it up and said the fund will not be created, we have to consult Manitoba Hydro, the members say it is a political slush fund. So it just shows how, when government tries to respond to inaccurate statements of the opposition and tries to craft legislation to deal with those issues, it does not matter to the naysayers, members opposite. Every single initiative undertaken by Manitoba Hydro, indeed, almost any initiative undertaken by government, is spun into the negative, and we will see what the end result of that is.

I do look forward to talking to individuals who will have the opportunity to take advantage of programs, Madam Chairperson, that were talked about this afternoon and tonight in order to ensure that they can continue living and having a decent way of life in the province of Manitoba.

Madam Chairperson: Shall the bill as amended be reported.

Some Honourable Members: Agreed.

An Honourable Member: No.

Voice Vote

Madam Chairperson: All those in favour of the bill as amended being reported, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the bill as amended being reported, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Madam Chairperson: On division.

Bill as amended be reported, on division.

Bill 12—The Highways and Transportation Amendment Act

Madam Chairperson: We will now move on to Bill 12.

Does the minister responsible for Bill 12 have an opening statement?

Hon. Ron Lemieux (Minister of Transportation and Government Services): Yes, Madam Chairperson. Just a couple of brief statements, if I might.

First of all, thank you very much for allowing me to make a couple of quick comments on Bill 12, The Highways and Transportation Amendment Act. I am pleased to make these opening comments.

As my colleagues are aware, there are two primary issues around this bill: improvements to the current process for removal of unauthorized structures for provincial highways; and, updates to antiquated penalty provisions that we currently have. With regard to removal of unauthorized structures, the proposed amendments will allow the department to deal more effectively with signs and structures that have been placed illegally on highway rights-of-way. The act currently prohibits the placing of any sign, structure or any other material on the highway without the consent of the minister, however, many people ignore this requirement.

Our highway rights-of-way are littered with signs and other items that create problems for motorists' visibility, highway maintenance in general, traffic safety of on-road and off-road vehicles. The current process to remove these unauthorized items is administratively burdensome, and prevents the department from acting immediately where there is a risk to public safety.

We have started, and the department has embarked on the process to clean up a lot of the provincial right-of-ways as of last year, to date. We have looked at a number of provincial trunk highways in the province, and we will continue to look at other areas that need to be addressed. These areas and these efforts have been positively received by the community. We receive many letters of support and praise from municipal CAOs and members of the public in addressing this concern.

The second issue, as I mentioned, addressed under this bill involves updating the penalty provisions of the act. This is necessary as current fine amounts are completely lacking in any deterrent

value to any person who commits the violations. The penalty provisions have not been revised since the mid-sixties. Most offences have a minimum fine of \$5 and a maximum of \$50. In this day and age, most people would deem that to be, certainly, not a deterrent. The fines work against the department's effort to clean up the highway rights-of-way. To address this problem, the department is proposing a maximum fined offence under the act to be increased to \$2,000. It is anticipated that the significant fine will assist in getting greater co-operation with the rules respecting placing of signs and structures in right-of-ways.

The amendments addressed under this bill will ensure that the department can respond quickly and effectively to the placement of illegal signs and structures on highways for the protection of all users. So we look forward to the passage and movement of this bill back to the Legislature. Thank you.

Madam Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mr. Jack Penner (Emerson): Madam Chairperson, again I would like to put on the record that this bill is clearly an indication by the minister that he and the department see a need to so-call clean up the rights-of-way of the highways department. Quite frankly, we are not opposed to the cleaning up of highway rights-of-way, however, I want to indicate to the minister that many communities in rural Manitoba depend on signage to identify towns and/or villages. Indeed, municipalities highlight the boundaries of their municipalities by signage on highways and roadways.

* (20:40)

As an indication to the general travelling public, especially tourists, of where and what is available. Secondly, driving out to Minneapolis a week and a half ago to the International Legislators Forum, I noted that many of the signs along highways, and I paid specific attention to them, advertised specific businesses that one would expect that would attract the tourism industry, such as town parks or city parks or businesses, accommodations and those kind of things—

Madam Chairperson: Mr. Penner, can I just ask you to move your mike a little closer to yourself?

Mr. Penner: I am very sorry, Madam Chairperson. Normally, my voice carries well enough that I do not

need a mike at all. There are two of us in this Legislature that do not need mikes very often.

But, again, there is, from time to time, proliferation of materials that do accumulate in one form or another along our roadways and other ways that we would support the department's involvement in some clean-up. So we look forward to the minister presenting this bill. I will say to the minister that we do have some amendments that we want to propose basically to accommodate some of the items and issues that I just commented on.

Madam Chairperson: We thank the member.

Clause 1—pass.

Shall clause 2 pass?

Mr. Penner: Madam Chairperson, I would like to propose an amendment to clause 2(1) of the bill:

THAT Clause 2(1) of the Bill be amended by adding ", other than a condition requiring the payment of a fee" at the end.

Motion presented.

Madam Chairperson: The motion is in order. The floor is open for questions.

Before that happens, Mr. Penner, if I could just ask you once again, I know you moved your mike back when you moved your papers, and if you could just move it closer.

Mr. Penner: Thank you very much, Madam Chairperson. We believe that this section is quite clear as to what the minister intends to do with this bill, and where it reads: Subsection 8(3) is amended by replacing the part after clause (f) with "on a departmental road, except with the minister's permission or in accordance with this Act or the regulations. The minister may impose on permission he or she gives any conditions that he or she considers appropriate," we are just adding, ", other than a condition requiring the payment of a fee."

In other words, we are saying we agree that the minister should have the right of condition; however, we do not believe that there should be another medium whereby government or the department is able to raise a significant amount of money in the collection of fees for whatever permission the minister is granting under this bill.

Mr. Lemieux: Well, I have been advised by staff that an amendment is not necessary to actually achieve this. The language that the member puts

forward is not necessary. So, regretfully, the amendment is not one that I would support because, as I have mentioned, based on the advice that I have received from staff, it is not necessary.

Mr. Penner: I find that an interesting comment because if it is not necessary, then one would assume that it would not hurt either to have that be included to ensure that the minister would not want to use this as a collection of key vehicles.

Mr. Lemieux: The intent of this particular provision is exactly what the member is raising, and the intent is that the minister not charge a fee. In fact, it would reflect upon other provisions of similar nature in a negative way.

So what we are saying is with the advice that I have received is that the way it is worded, the intent is that the minister not charge an extra fee, so the protection is there. So, in other words, we are agreeing in a way, because the MLA for Emerson is saying we do not want the minister in this particular section to be able to add on another fee. What I have been advised is the minister cannot. So, in essence, we are agreeing that that particular clause states that.

Mr. Penner: Well, we would ask that this amendment be put on the record and the bill be amended in respect of the amendment that we have just placed before the committee.

Mr. Lemieux: Well, regrettably, we cannot accept the amendment. If the member wants to put it forward, we cannot accept it at this time because it would certainly alter the language, and the protection that the member is looking for is there already.

Madam Chairperson: Is the committee ready for the question?

An Honourable Member: Question.

Madam Chairperson: The question before the committee is as follows:

It has been moved by Mr. Penner

THAT Clause 2(1) of the Bill be amended by adding ", other than—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

THAT Clause 2(1) of the Bill be amended by adding ", other than a condition requiring the payment of a fee" at the end.

Thank you. Shall the amendment pass?

An Honourable Member: No.

Voice Vote

Madam Chairperson: All those in favour of the amendment passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the amendment passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: The amendment is accordingly defeated.

* * *

Mr. Penner: I would then like to propose that this section 2(1) be amended, in Clause 2(1) of the bill:

be amended by striking out everything after "clause (f)" and substituting "with the following:

on a departmental road, except with the minister's permission or in accordance with this Act or the regulations. The minister may impose on permission he or she gives any conditions that he or she considers appropriate.

Then under **Exemptions 8(3.1)** Subsection (3) is deemed—

* (20:50)

Madam Chairperson: I just have to stop you for a moment, Mr. Penner. You have to read it word for word as you have written it. Proceed.

Mr. Penner:

Exemptions

8(3.1) Subsection (3) is deemed not to apply to the following:

(a) a cairn or other memorial that is placed to commemorate a motorist or pedestrian, as long as it is not placed on or over the roadway or shoulder of the departmental road;

(b) a temporary sign that advertises a local event, including but not limited to a festival, garage sale, auction sale or open-house, as long as the sign

(i) is not placed on or over the roadway, and

(ii) does not unreasonably impair the visibility of motorists and pedestrians using the departmental road;

Then under:

(c) a sign or barrier placed by a municipality or a utility for the purpose of alerting motorists and pedestrians to work being done by the municipality or utility that might affect users of the departmental road;

(d) windrows of hay, hay bales or other products of agricultural operations, as long as they are not placed on or over the roadway or shoulder of the departmental road.

Madam Chairperson: It has been moved by Mr. Penner

THAT—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

The motion is in order. The floor is open for questions.

Mr. Penner: Again, as I said in my opening remarks, there were a number of areas of this bill that we think need some remedy. This is one of the areas where we see where the department and the minister would want to give permission to a cairn, for instance, that has been erected in part of the roadway system. Normally, they are erected in ditches and/or off the side of the road, little crosses that commemorate the death of family members and/or others. Small cairns of that nature would be allowed to be placed, and would be left in place and not be removed by the department. We see many of them along highways in this province and many other provinces. We would propose that those kinds of commemorative insignias be left in place to commemorate those events by family members.

A temporary sign that would advertise a local event, be it a baseball game or a hockey game or any kind of those community events, be it fairs or other local community events, should be allowed to be put on the side of roadways, that, when the travelling public comes by, they know where this is taking place; they know what is taking place, and they might want to enjoy those kinds of events.

Similarly, when garage sales or auction sales are held in rural communities especially, very often a significant distance from a main route, an auction sale sign is placed on the side of the road advertising auction sales and those kinds of events. We would suspect that the minister and his department would certainly want to allow those kinds of events be

advertised, as long as the sign is not placed over a roadway and/or does not unreasonably impair the visibility of motorists or pedestrians using the departmental road.

So we think these are only common sense kinds of initiatives that should be allowed and should be encouraged, by the way, by the department and/or the minister, because this is what rural Manitoba is all about. If we cannot even show or indicate to people where these events occur or when they occur by that kind of signage, or the kind of commemoration of a tragedy that is currently the case, then I would hope that the minister would give some honest consideration about this and have the ability to ask his department to at least give some allowance that these kinds of events be allowed to be put, and that we commemorate, as we allow little cairns to be put up, to commemorate the death of a person or to indicate to people that, if they do not obey the road laws and those kinds of things, these kinds of things happen. It serves two purposes. Not only to, as in memory of those people that have lost their lives there, but it does serve as a warning to those that travel our highways, that these kinds of things do happen, and that we should sympathize with those that have lost loved ones in that manner.

Therefore, we ask that this amendment be given serious consideration by the minister.

Mr. Lemieux: Well, Madam Chairperson, a lot of these issues right now are currently dealt with by the department by policy. They, certainly, have wanted the flexibility to be able to deal with issues like bales, hay bales on the side of roads and on approaches. When communities have a hundredth anniversary—just recently, there have been a number of communities celebrating those hundredth anniversaries. The communities, in consultation with the department, have agreed upon the conditions where a sign should be placed, and so on, and everything has worked out fine.

With regard to a number of the amendments the member is making, these are something that, again, the department officials have to have some flexibility, with regard to this legislation. In looking at a number of areas that have been raised, a number of sections that have been raised, and the changes that the member proposes in amendments that he is making, is not something that we can support because, even though we would agree with the member, there are families who wish to put crosses on roadsides where their loved ones or family

members or people that were good friends and people who they are trying to recognize died as a result of fatality or other reason on the roadside. We see a number of those. The department has been very, very accommodating and flexible, with regard to a lot of those particular memorials—something that does not have to be put into legislation, quite frankly. It is something that we have respected, people wanting to do that.

The department, on the other hand, also, needs the flexibility to be able to agree upon the terms and conditions of crosses and cairns on the roadside because a cross or a cairn, to one, may not mean the same to another. As has been pointed out by staff to me is that they need the flexibility to be able to work with the people who want to put up, for example, a memorial, as was mentioned before. The department, certainly, deals with this on an ongoing basis right now. There has been no—I am looking for the correct word, but "concerns" is the word that I was going to use. But there have not been any individuals or people coming to me and, certainly, asking for these particular amendments. That does not necessarily have to be the criteria. I can just state that we do have the flexibility built in now. We cannot accept these amendments.

Mr. Penner: I am really disappointed to hear this because I would suspect that the minister, being elected in rural Manitoba, would see the need to address situations such as community events, that he would want to support fairs, the advertising of fairs and festivals and auction sales and open houses, and have signs be allowed on roadways to advertise these kinds of things. Above all, I am disappointed that the minister would not take the initiative to say, yes, we will have compassion, and we will allow these memorials to be put up as a sign of having a heart and recognizing the pain that is caused by these deaths, and use that as an insignia to the travelling public that we should use care and caution.

* (21:00)

I am extremely disappointed that the minister will not agree to this kind of an amendment, because I think this just betters the bill, because we agree that it should not be impaired visibility. We agree that it should not clutter the roadways because most of what I am suggesting here would be removed after every event. Whether it is a fair or a festival of any kind, an auction sale, or those kinds of things, they would be there for a little while and then gone, but

they would be what I would call true promotion of rural development.

This is, in my view, unfortunate that the minister and his government do not see this as a positive.

Mr. Lemieux: Well, I have to say to the member that our government and our members from rural Manitoba, as well as our MLAs from the city also, are concerned about the health and well-being and safety on our roads. What the member is saying by saying "Subsection (3) is deemed not to apply to the following," it means it is a carte blanche; it is a blank cheque. You are saying, without looking at the conditions, that all of those subsections or clauses after 8(3.1), (a), (b), (c) and (d), you are stating that the department will not be—no, that people do not have to consult the department. They can just go ahead and do these things. They can take them down after.

Now we agree. There is no dispute about communities putting up signs and fairs and so on, but the reason why the department has to have the consultation take place is because we do have people within the department who are responsible for safety, and safety is one of the pillars of our particular vision on transportation and on our roads, to increase the safety on our roads. This essentially is giving a carte blanche to a lot of organizations in rural communities to go ahead and to put a lot of what is named here. We are not going to amend this particular legislation based on the suggestions, regrettably.

I appreciate the time spent looking at this, but we are not going to just give a blank cheque for people to be able to put up signs and so on without having consultation with the department to ensure that there are conditions related to that, because otherwise you are just allowing them to do it, and then what happens once it is up? We all know that it is more difficult, but once you agree on conditions, then you are able to proceed. That is what the legislation does now. So safety is a real concern for us on our roadways, and this allows us to have that mechanism to ensure our roads will remain safe.

Madam Chairperson: Is the committee ready for the question?

An Honourable Member: Question.

Madam Chairperson: The question before the committee is as follows. It has been moved by Mr. Penner

THAT Clause—

An Honourable Member: Dispense.

Madam Chairperson: Thank you. Dispense.

THAT Clause 2(1) of the Bill be amended by striking out everything after "clause (f)" and substituting "with the following:

on a departmental road, except with the minister's permission or in accordance with this Act or the regulations. The minister may impose on permission he or she gives any conditions that he or she considers appropriate.

Exemptions

8(3.1) *Subsection (3) is deemed not to apply to the following:*

(a) *a cairn or other memorial that is placed to commemorate a motorist or pedestrian, as long as it is not placed on or over the roadway or shoulder of the departmental road;*

(b) *a temporary sign that advertises a local event, including but not limited to a festival, garage sale, auction sale or open-house, as long as the sign*

(i) is not placed on or over the roadway, and

(ii) does not unreasonably impair the visibility of motorists and pedestrians using the departmental road;

(c) *a sign or barrier placed by a municipality or a utility for the purpose of alerting motorists and pedestrians to work being done by the municipality or utility that might affect users of the departmental road;*

(d) *windrows of hay, hay bales or other products of agricultural operations, as long as they are not placed on or over the roadway or shoulder of the departmental road.*

Shall the amendment pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of the amendment passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the amendment passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the amendment is accordingly defeated.

Madam Chairperson: Clause 2—pass; clause 3—pass.

Shall clause 4 pass? Mr. Penner? We are on clause 4.

Mr. Penner: Sorry, we have clause 3 here.

An Honourable Member: Passed already.

Madam Chairperson: I need leave from the committee to revert back to clause 3.

Some Honourable Members: Leave.

Madam Chairperson: Leave has been granted. So I am going to revert back. Shall clause 3 pass?

Mr. Penner: Thank you very much. I would propose

THAT the proposed Clause 8.1(3)(b), as set out in Clause 3 of the Bill, be amended by striking out "is sent" and substituting "is received by the person".

Madam Chairperson: It has been moved by—

An Honourable Member: Dispense.

Madam Chairperson: Okay. Dispense. The motion is in order. The floor is open for questions.

Mr. Penner: On many occasions, I have had people tell me that they have been told that they have been sent a request, or a letter, or a document that they have never received. We are saying that, in order for the bill to be applied, and this clause especially to be applied properly, there should be a reasonable attempt made to ensure that the person of note must have received the notification, and the department must make sure that they received it before action is taken on property that is theirs and is deemed by the department not to be acceptable.

Mr. Lemieux: I thank the critic for Transportation for the amendment, but I have been advised if you take a look at section 8.1(4), it states how a order is to be sent, and in that section, it says: "An order under the clause (3)(b) must be sent to the owner or person in control at his or her last address known to the minister, using a mail or delivery service that provides an acknowledgment of receipt."

There is a provision in this to ensure that the person is receiving, well, to the best of our ability, to ensure that the person receives notice, but this gives me an opportunity to say, too, that the department—

this is more one of the last resorts—the department works with individuals. If we use, for example, the sign that may be located on Crown land or in a right of way that needs to be moved, the department just does not send out a letter, a registered mail or a letter of some kind stating that you have to move it by a certain date. I guess it is 15. But the department first contacts the individual and works with them and tries to locate them and works with them to verbally tell them that this is located in an inappropriate spot and tries to move it. The letter is one of the last resorts that takes place.

* (21:10)

So, in section 8.1(4), it states the mechanism that is used to ensure that the person receives notification, but this is after a number of verbal conversations that have taken place to remove it. Thank you.

Mr. Penner: The minister is clearly indicating that mail delivery is the only way that there will be an attempt made to contact these people, because that is the only mechanism that we see here in the bill that would be required to be used by the department. We are saying that the minister should make every attempt to ensure that the person has received the notification.

Mr. Vice-Chairperson, in the Chair

The reason I am saying this is because of personal experience. We had our local post office closed, and anybody who has gone through the change of address these days and moved their postal situation to another community will know how long and how difficult it is, how long it takes and how difficult it is for Canada mail to be notified of all aspects or all the people whom you are going to be dealing with, whether it is the department of highways, the Department of Health, or all the other contacts you have; you have to give all of them notice of your change of address. Now, that does not always happen, or it cannot always happen, because, after three years of changing our address, I still get phone calls from individuals or personal contacts saying, you know, where do you guys stay? And I think I am a fairly public person. People pretty much know where I live.

But they have to make or use a different criteria than the mail in order to make the contact. All we are saying in this amendment is that the person must receive notification, must have received notification; notification is received by the person. All that your legislation says is that all the department is required

to do is send it. That is what your legislation said. As long as it is sent, that is fine.

Fifteen days after it is sent you can take action, and we are saying that is not good enough. The person must have been notified in a manner that he or she knows that the notice has gone out, and that that person has notice in hand before action can be taken. I think that is only fair and reasonable to give that kind of a notification, that the department assures that notification would be given. I would suspect that the minister would be nothing short of supportive for that kind of an amendment.

Mr. Lemieux: Well, just a quick overview, and I certainly beg the indulgence of this committee. I know it is getting later in the evening, and I know there are a number of different bills we have to look at, but let me just go through the quick for the member opposite what happens.

There is an initial contact by phone. Often that happens, and that usually resolves it. If that does not resolve it, then a person is advised by phone that there is a problem. Secondly, what the department tries to seek is co-operation from the individual or company that is in contravention, and then, after that particular point, a hand-delivered letter takes place to the company or to an individual, if necessary, where there is no co-operation.

But the fact of the matter is that a lot before the steps take place, before the hand-delivered letter, the people understand that they have to set up a sign, and it is located, for example, in the wrong location, and they move it. Regrettably, sometimes, what they do is they move it to the other side of the road, and that is what this legislation is trying to tackle, is that the people, quite frankly—you are trying to put the signage and the use of Crown land on the right-of-way that is a level playing field for everyone wanting to use it. There are many companies, many individuals who work with the department to ensure that the signs are safe and so on. But there are individuals that, when you reach the stage of actually bringing a letter to them, regrettably, on some occasions, people have just moved the sign in the past to the opposite side of the road. Then the process once again starts all over. So these are the kinds of things that we have found it necessary to bring amendments forward like this to try to address the situation. It has been many, many years that this has been happening, and we are trying to address it currently. So, regrettably, I understand what the member is trying to say, but our experience, as I

have been advised, is that the process with regard to phone call discussion of the problem, co-operation to resolve it, if not, a hand-delivered letter, is the process that is working and currently is working. Maybe the member could give me an example after the committee of where it is not. Thank you.

* (21:20)

Mr. Penner: I will read his own clause into the record. The minister's own clause says, "If the person does not comply with the direction, an authorized employee may order him or her to remove the thing before a specified date, which must be at least 15 days after the order is sent." We are saying simply, after the order is received by the individual. You are saying that the order need only be sent, and no requirement for contact in this bill whatsoever. We are saying that is not adequate. The order must have been received by the person. What the minister has just told me, that is exactly what he intended the act to do. All we are saying is, change a few words and you have got what the minister wants it to do.

Mr. Lemieux: We have had a discussion with regard to this particular one and we appreciate the effort that the MLA from Emerson has put into it, but through the discussion and having a look at his suggestion or amendment, regrettably we cannot accept that. I have to say that I mentioned the different steps that are taken to consult and talk to someone, and if somebody is trying to avoid the department, I mean, you have had personal contact by phone, you have had consultation take place and then the person is what? Trying to avoid now the department so they need a letter. But, there is a provision that we do that. We ensure that to the best of our ability, the person is going to receive it.

Madam Chairperson in the Chair

Now having said that, there really is a balance here in trying to provide a person with some kind of warning and some kind of heads-up, to use another term, that there is going to be some action taken, but that has happened already verbally with the individual. Obviously, the person does not want to comply and it gets to this particular stage. So it is not like the conversation has not taken place. We send out a letter and then all of a sudden we send the trucks out to remove the sign. It is the opposite. There is a lot of discussion that has happened before any of this, before sign removal, for example, takes place.

So I thank the member for the amendment but this is one we cannot accept just based on the discussion I have had with staff but also the steps in the provisions that take place already to try to address a hazard or something that needs to be removed, for example. Thank you.

Mr. Penner: Well, I am disappointed that the minister would not want to enshrine in legislation that which he says—

Madam Chairperson: Okay, Mr. Penner, I am sorry, you have to get a little closer again to your mike.

Mr. Penner: I am sorry, Madam Chairperson. I am disappointed that the minister would not want to enshrine in legislation which he has verbally now saying is already happening. All we are saying in our amendment is that the person be guaranteed that he receive the notification. He says there is personal contact now and then there are letters sent. We are saying we want a guarantee in legislation that this person has, in fact, received the notification. The minister said that is already being done. Why would you not then enshrine it in legislation? Why would you draft your legislation vaguely when you are already doing exactly what we are asking you to do? Why would you not enshrine that in legislation?

Mr. Lemieux: Before I answer the question, I would certainly want to point out to the Member for Emerson (Mr. Penner) that what he is trying to do in essence, through this amendment, is give someone who is in contravention a multitude of opportunities. They have passed up the phone call, they are told that they are in contravention. Then there has been consultation that takes place on a face-to-face basis, and then the last resort is a letter sent out to an individual or a company that is saying they are in contravention. So what you are doing is giving them one, two, three and how many more strikes after that is what I am trying to point out to the member.

I thank the member for his suggestion but by sending a letter to the individual, this is absolutely the last resort that takes place. Phone call, face-to-face consultation has taken place, and then the letter goes out as a last resort stating that 15 days after the letter has been sent out and the person has had this pointed out to them already. So I thank the member for the time he spent on the amendment but regrettably we cannot accept this amendment to put into legislation.

Mr. Penner: Well, again, I am disappointed that the minister is not accepting the amendment because it would clarify in legislation what he now says is already happening.

I say to the minister that clearly this is an indication of having a poorly drafted bill that will now be in law after we ask the question. I am not going to sit and argue all night because the minister knows full well that this is poorly drafted and it needs clarification or that the minister is, in fact, willing to ensure that the person has received notification. He is saying, well, that happens regardless. Well, then, put it in the act.

Madam Chairperson: Is the committee ready for the question?

Some Honourable Members: Question.

Madam Chairperson: Shall the amendment pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Voice Vote

Madam Chairperson: All those in favour of the amendment passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the amendment passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: The amendment is accordingly defeated.

* * *

Mr. Penner: Madam Chairperson, I have another amendment in clause 3:

THAT Clause 8.1(5), as set out in Clause 3 of the Bill, be amended by striking out "from a departmental road anything" and substituting "anything on or above the roadway or shoulder of a departmental road".

Madam Chairperson: It has been moved by Mr. Penner

THAT Clause 8.1(5)–

An Honourable Member: Dispense.

Madam Chairperson: Dispense. The motion is in order. The floor is open for questions.

Mr. Penner: I think, Madam Chairperson, this amendment is fairly clear and indicates fairly clearly what the intent is here. That is, again, to clarify explicitly what we are talking about when we are clearing roadways of obstructions. This I think spells it out rather clearly.

Mr. Lemieux: This amendment is really trying to limit the amount of space that the department is responsible for, for example, on the roadway or the shoulder. For example, there could be bales in a ditch that the department could be held responsible should someone go into the ditch and hit this object. As I have been advised, that is the dilemma with this particular amendment.

If you have huge round bales sitting in a ditch, for example, should a vehicle go into the ditch and hit those bales, it is still an area that the department is responsible for. The department is responsible for this much, and the amendment is saying that it wants the department responsible for only this much.

But we are still liable. The department is still liable for the amount that we own or are responsible for.

Mr. Penner: As I said, Madam Chairperson, we can ask the question now because I think the intent is very clear, and that is dealing with the visibility of roadways and the safety of roadways. We believe that what is being attempted here is much more than what meets the eye. That has become very evident in the deliberations here today. I think we know now what the minister's intent is, and, quite frankly–

Madam Chairperson: Mr. Penner, you are just absolutely drifting away. I am sorry.

Mr. Penner: I said, Madam Chairperson, that I think it is very clear now what the minister's intentions are. We have heard that now, and there is no point in trying to help him draft a bill that will be more acceptable to the general public.

I always thought it was government's intent to serve the general public, but it has become very clear that that is not the case now. Thank you.

* (21:30)

Madam Chairperson: Is the committee ready for the question?

Some Honourable Members: Question.

Madam Chairperson: Shall the amendment pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of the amendment passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the amendment passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: The amendment is accordingly defeated.

* * *

Madam Chairperson: Clause 3—pass; clause 4—pass; clause 5—pass; clause 6—pass; clause 7—pass.

Shall clause 8 pass?

Mr. Penner: I move

THAT Clause 8 of the Bill be amended by adding the following after the proposed section 34:

Use of money from fees and fines

34.01 Money received by the government as a result of a fee or fine imposed under this Act must be used only for the purposes of maintaining departmental roads and other highways within the province.

Madam Chairperson: It has been moved by Mr. Penner

THAT Clause 8—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

I have been advised that the amendment is out of order because it would seek to impose a charge on the public Treasury.

I will cite our Rules 65 and 655 of Marleau and Montpetit's *House of Commons Procedure and Practice* as follows: Rule "65: Any vote, resolution, address or Bill introduced in the House for the appropriation of any part of the public revenue, or of any tax or impost to any purpose whatsoever, or to impose any new or additional charge upon the public revenue or upon the people, or to release or compound any sum of money due to the Crown, or to grant any property of the Crown, or to authorize any loan or any charge upon the credit of Her Majesty in right of the Province, shall be recommended to the House by the message from the Lieutenant Governor before it is considered by the House."

In addition, Marleau and Montpetit, page 655, "An amendment must not offend the financial initiative of the Crown. An amendment is therefore inadmissible if it imposes a charge on the Public Treasury, or if it extends the objects or purposes or relaxes the conditions and qualifications as expressed in the Royal Recommendation."

Therefore, this amendment cannot be considered by the committee.

Mr. Penner: It is clearly the intent, we thought, the huge amounts of additional fines that are being imposed here from \$50 to \$2,000 fines in virtually every section of this, clearly, is an indication to us that the minister is intent on raising quite a significant amount more money for the central Treasury. We thought that, because the minister, his department and the Premier (Mr. Doer) have, from time to time, said that all the monies collected from either highways fees and/or gasoline taxes, fuel taxes, those kinds of things, would be spent on highways, we thought that this should be an attempt to find out whether the minister was serious about making sure that those monies would be allocated to highways. That is why we proposed this clause. It has become very evident that the minister has no interest in ensuring that all the money go back into highway spending.

Madam Chairperson: Is the committee ready for the question?

An Honourable Member: Question.

Madam Chairperson: Clause 8—pass; clause 9—pass; enacting clause—pass; title—pass. Bill be reported.

Bill 14, The Water Rights Amendment Act—*[interjection]*

There has been a request to change so that Bill 24 will come up next. Is that agreed? *[Agreed]*

Bill 24—The Consumer Protection Amendment Act (Government Cheque Cashing Fees)

Madam Chairperson: Does the minister responsible for Bill 24, The Consumer Protection Amendment Act, have an opening statement?

Hon. Greg Selinger (Minister of Finance): Briefly, this will control the costs of government cheques being cashed, and I will have amendments. It simply extends those controls to municipalities, school boards and other tiers of government where they might be issuing cheques.

Madam Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mrs. Bonnie Mitchelson (River East): We heard from presenters today this is a good step in the right direction, and we are supportive of moving forward.

Madam Chairperson: We thank the member.

Clause 1—pass.

Shall clause 2 pass?

Mr. Selinger: We have an amendment for clause 2. We will quickly circulate them.

An Honourable Member: What are you taking away with the amendments?

Mr. Selinger: Well, this allows us to put a surcharge on Hydro if they cash any cheques.

An Honourable Member: Is that on the record?

Madam Chairperson: It is obviously getting a little later in the evening.

Minister Selinger, do you have any remarks?

Mr. Selinger: Yes. I move

THAT the definition "government cheque" in the proposed section 165, as set out in Clause 2 of the Bill, be amended by striking out "or" at the end of clause (b), adding "or" at the end of clause (c), and adding the following after clause (c):

(d) a local government body.

Madam Chairperson: It has been moved by Minister Selinger

THAT Clause 8 of the Bill be—

Some Honourable Members: Dispense.

Madam Chairperson: Dispense.

The motion is in order. The floor is open for questions.

Mr. Selinger: This simply allows it to apply to other levels of government to control the cost of their cheques being cashed.

Madam Chairperson: Is the committee ready for the question?

An Honourable Member: Question.

Madam Chairperson: Amendment—pass.

Shall clause 2 as amended pass?

Some Honourable Members: Pass.

Madam Chairperson: Clause 2 as amended is—*[interjection]*

An Honourable Member: Another amendment.

Madam Chairperson: Oh, I am sorry. We shall return to clause 2.

Mr. Selinger: *THAT Clause 2 of the Bill be amended in the proposed section 165 by adding the following definition:*

"local government body" means

- (a) a municipality;
- (b) a local government district;
- (c) a community or incorporated community under *The Northern Affairs Act*; or
- (d) a school division or school district established under *The Public Schools Act*;

designated as a local government body in the regulations. ("organisme d'administration locale")

Madam Chairperson: It has been moved by Minister Selinger

THAT—

Some Honourable Members: Dispense.

Madam Chairperson: Dispense.

The motion is in order. The floor is open for questions.

Seeing no questions, amendment—pass.

* (21:40)

Mr. Selinger: I move

THAT Clause 2 of the Bill be amended by adding the following after the proposed clause 168(1)(b):

(b.1) designating any of the following as a local government body for the purpose of this Part:

- (i) a municipality,
- (ii) a local government district,
- (iii) a community or incorporated community under *The Northern Affairs Act*, or
- (iv) a school division or school district established under *The Public Schools Act*;

Madam Chairperson: It has been moved by Minister Selinger

THAT Clause 2—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

The motion is in order. The floor is open for questions.

Amendment—pass.

Mr. Selinger: Yes. I move

THAT the proposed subsection 169(11), as set out in Clause 2 of the Bill, be replaced with the following:

Application of Public Utilities Board Act

169(11) Part I of *The Public Utilities Board Act* applies, with necessary changes, to the making of an order under this section as if the powers and duties of the board under this section were assigned to the board under that Part, except for the following provisions:

- (a) section 33 (power of board on complaints);
- (b) section 34 (power to appoint counsel) as it relates to the fees and expenses of the person appointed;
- (c) section 51(2) (time for service of order),
- (d) section 52 (enforcement of order);
- (e) section 56 (order as to costs) as it relates to the costs of an intervener;
- (f) section 57 (fees).

Madam Chairperson: It has been moved by Minister Selinger

THAT—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

The motion is in order. The floor is open for questions.

Mr. Selinger: A simple explanation is that we are removing the ability of the PUB to apply additional costs. We will collect the costs for this just in through their existing budgets, so we are not going to make it any more onerous than necessary. So this just restricts the power of the board to lay costs on the interveners or the cheque-cashing organizations such as business, so it protects them from onerous costs.

Madam Chairperson: Is the committee ready for the question?

Some Honourable Members: Question.

Madam Chairperson: The question before the committee is as follows:

THAT Clause 2 of the Bill be amended by adding the—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

Amendment—pass; clause 2 as amended—pass; clause 3—pass; clause 4—pass; enacting clause—pass; title—pass. Bill as amended be reported.

Committee Substitution

Madam Chairperson: For information of committee members we have had a substitution. Minister Sale is substituting now for Minister Chomiak.

Bill 14—The Water Rights Amendment Act

Madam Chairperson: We would now like to return to Bill 14, The Water Rights Amendment Act.

Does the minister responsible for Bill 14 have an opening statement?

Hon. Steve Ashton (Minister of Water Stewardship): Very briefly, the bill provides important tools in terms of enforcement which certainly was reflected by presenters at the committee. I also undertook to look at one of the concerns that was expressed in this particular case by the Dairy Farmers, and I do want to indicate that the clear indication here is that the provision will only provide authority to enter lands to inspect for compliance purposes. This does not extend the scope of landowners' obligations to obtain drainage licences or permits. It is only related to drainage licensing and permitting, which, in this case, does not include any kind of work that is internal to the farm operation itself. That is something that I had done to undertake to look at. The concern is certainly a valid concern, but it is taken care of by the bill.

With that, basically, I would recommend the bill to the committee.

Madam Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mr. Cliff Cullen (Turtle Mountain): I just have a few comments I would like to put on the record tonight. I will certainly keep it brief. It is, certainly, good to have an opportunity to speak to a real water bill as opposed to the watered down legislation we were talking about earlier in Bill 11.

Clearly, Bill 14 here appears to be another heavy hand of government coming forward. This particular bill will give the Province the ability to implement another degree of fines to Manitobans. Given this government's tax-and-spend nature, and their spending habits, it appears that they are seeking another method to increase their revenue. This looks like strictly another tax grab method.

I think it is important to ask the question why we are headed in the way we are in terms of Bill 14. We had a number of presentations this morning, and I think they really brought the message forward. I took it from the presentations this morning that the process we have in place is not working. I view this as just another reactionary bill that the government has brought forward.

I think we have to go back and address the process itself, and see if we can fix the process, expedite the process. My view is hiring more water police and going out and ticketing Manitobans with fines is not the proper way to go. I think a number of presenters brought that issue forward this morning. I do believe there is a wiser way for us to invest our moneys here in Manitoba than hiring water police, if you will.

A number of the presenters that came forward this morning gave us some very good insight as to what we should be doing in Manitoba. I think one of the avenues that came forward a number of times was for us to have a look at how other provinces are doing business. I think that is important that we do take a step back and have a look at that as well.

One of the presenters made the case that we, certainly, should not lose sight of common sense when we are dealing with water issues. As we heard, there are a number of personal stories out there, and many water issues throughout Manitoba. If we have a degree of common sense brought to the table, I think we can resolve a lot of those issues.

Another very important issue that was brought forward was the idea to provide incentives for people to co-operate with different government agencies in terms of their water management strategies. I think it comes back to the carrot versus the stick approach.

Manitobans are saying that they like the carrot better than they like the stick. I look at some of the federal regulations that are coming forward and some of the programs there that have been brought forward, and I think there are some real good incentives there to get people onside. So that is something we should be having a look at as well.

I want to talk a little bit about one issue that the minister did raise, and, in fact, one of the presenters this morning, a Mr. Lacoste, brought the issue forward. It speaks to the authority that the minister has under the current legislation. His interpretation this morning, Mr. Lacoste's legal counsel and some of the interpretations that we have, it seems to be fairly clear that under the existing Water Rights Act, under sections 23(1), 23(2) that the minister and his department have the authority to fine individuals who are in contravention or fail to comply with any provisions of the act.

So it is our understanding that the authority is there. It is really up to the minister and his department to act within the scope of the rights that are already established under the existing Water Rights Act. So I think we should, certainly, have a significant look at that before we move into another level of fining Manitobans.

* (21:50)

I know the minister talked about the appeal process. I think that the appeal process under the existing legislation was referred to in Section 24(1) where a person may appeal an order by the minister. I can see the minister's reluctance to go ahead. He may be afraid that, if he does issue an order and then the person, the individual does appeal it, he may not want to go forward just based on repercussions down the road. But, quite clearly, Section 24(2) indicates that an appeal does not act as a stay. So, in fact, if the minister does deem that someone is contravening the act, he and his department can go ahead and make the necessary corrections that may be in contravention of the existing act.

Certainly, if the minister deems he is doing the right thing, and staff are, he should probably take those steps. There is a process in there that, if the appellant does, in fact, turn out to be right, the minister and the department then would have to compensate the appellant for any damages, I guess you would say, or loss or damages that resulted.

So there is, certainly, a process there. If the minister wants to make an example of somebody in

the province, or a number of individuals in the province, we maintain that the existing Water Rights Act has that authority in it for him and his department to make an example.

I think what he is trying to do through Bill 14 is really to bring in another level of fines, and, potentially, make an example of other individuals. That is really the heavy-handed mechanism that he is looking for, but our view is that that legislation is already in place to deal with that.

I think, just to wrap up, that pretty well explains our position to this particular bill. We know that we, as well as the government, believe in clean water. We believe in clean water for all Manitobans, at the end of the day. We, obviously, may have differences on how we get there at the end of the day, but, needless to say, I think all members here and around the table and everyone across Manitoba believes in clean water. We certainly want to get there at the end of the day as well.

So, in closing, I just would think that this really is another heavy-handed piece of legislation. It looks like a tax grab from the pockets of Manitobans. I would hope that the minister will take a sober, second thought and look at the sensible thing and withdraw Bill 14 altogether. Thank you very much for your comments.

Madam Chairperson: We thank the member.

Shall clauses 1 through 3 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Madam Chairperson: I will now do them one at a time then. Shall clause 1 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Madam Chairperson: I will do this once again. Shall clause 1 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 1 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 1 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: Clause 1 is accordingly passed.

Madam Chairperson: Shall clause 2 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 2 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 2 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: Clause 2 is accordingly passed.

Formal Vote

Mr. Goertzen: Recorded vote, please.

Madam Chairperson: Recorded vote.

I just want to remind committee members of those individuals who are here serving as committee members: Honourable Minister Ashton, Honourable Minister Bjornson, Honourable Minister Sale, Mr. Cullen, Honourable Mr. Lemieux, Mr. Martindale, Mrs. Mitchelson, Honourable Mr. Selinger, Mrs. Stefanson and Mr. Penner.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 4.

Madam Chairperson: Clause 2 is accordingly passed.

Madam Chairperson: Shall clause 3 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Madam Chairperson: Do this one more time. Shall clause 3 pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 3 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 3 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: Clause 3 is accordingly passed.

* * *

Madam Chairperson: Shall clause 4 pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 4 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 4 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, clause 4 is accordingly passed.

* * *

Madam Chairperson: Shall clause 5 pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 5 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 5 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, clause 5 is accordingly passed.

* * *

Madam Chairperson: Shall clause 6 pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 6 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 6 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, clause 6 is accordingly passed.

* * *

Madam Chairperson: Shall clause 7 pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 7 passing, please yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 7 passing, please say nay.

Some Honourable Members: Nay.

Formal Vote

An Honourable Member: A recorded vote.

Madam Chairperson: A recorded vote.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 4.

Madam Chairperson: Clause 7 is accordingly passed.

* * *

Madam Chairperson: Shall clause 8 pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 8 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 8 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, clause 8 is accordingly passed.

* * *

Madam Chairperson: Shall clause 9 pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 9 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 9 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the yeas have it. Clause 9 is accordingly passed.

* * *

Madam Chairperson: Shall clause 10 pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 10 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 10 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, clause 10 is accordingly passed.

* * *

Madam Chairperson: All those in favour of clause 11 passing?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 11 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 11 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, clause 11 is passed.

* * *

Madam Chairperson: All those in favour of clause 12 passing?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of clause 12 passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to clause 12 passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the clause 12 is passed.

* * *

Madam Chairperson: Shall the enacting clause pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of the enacting clause passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the enacting clause passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Yeas have it. The enacting clause is accordingly passed.

* * *

Madam Chairperson: Shall the title pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of the title passing, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the title passing, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Yeas have it. The title is accordingly passed.

* * *

Madam Chairperson: Shall the bill be reported?

Some Honourable Members: Yes.

An Honourable Member: No.

Voice Vote

Madam Chairperson: All those in favour of the bill being reported, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the bill being reported, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Yeas have it.

* * *

Madam Chairperson: Bill be reported.

* (22:00)

Bill 27—The Tobacco Damages and Health Care Costs Recovery Act

Madam Chairperson: We will now move on to Bill 27, The Tobacco Damages and Health Care Costs Recovery Act.

Does the minister responsible for Bill 27 have an opening statement?

Hon. Tim Sale (Minister of Health): Very briefly, this is a really interesting bill because it is an example of interprovincial co-operation, led primarily by B.C., with Saskatchewan, Manitoba, New Brunswick, Nova Scotia, other provinces working with B.C.

The Supreme Court has adjudicated that their legislation is constitutional. Therefore, we could proceed to serve notice on the tobacco companies, using this template that was developed collaboratively. So that is really—I think everybody knows what the bill is about, and everybody is probably tired.

Madam Chairperson: Does the critic from the official opposition have an opening statement?

Mr. Cliff Cullen (Turtle Mountain): Madam Chair, certainly, as the official opposition, we agree in principle with this proposed legislation. Clearly, this legislation is a mirror image of the legislation in British Columbia, which seems to have stood up to the test. Clearly, this will be a tool used to get the tobacco companies to the table, and maybe, ultimately in terms of a lawsuit as well.

Again, this certainly looks to be a revenue source for the Province of Manitoba. We know with the spending habits the Province has, they are looking to recoup any opportunities they can to put a little bit of money in the public coffers. So this is obviously another bill aimed at that. Luckily, they have had British Columbia to break some trail for the Province of Manitoba.

The one thing though that we do see here is probably just an oversight on the government's behalf. There is no provision in this particular bill when the revenue does start rolling in, either through the lawsuit avenue or in case the tobacco companies do come to the table. So, I think it might just be an oversight. I am not sure any other provinces have actually implemented this type of a piece to their particular legislation.

So we, as opposition, would like to add a further amendment to this particular piece of legislation that we think could be used in the best interests of the people in Manitoba.

Madam Chairperson: We thank the member.

Clause 1—pass; clause 2—pass; clause 3—pass; clause 4—pass; clause 5—pass; clause 6 to 7—pass.

Shall clause 8 pass?

Mr. Cullen: Madam Chair, I have an amendment I would like to put forward. I propose:

THAT the following be added after Clause 8 of the Bill:

Money recovered must be used for health care

8.1 Any amount recovered by Her Majesty in right of Manitoba in an action against a manufacturer for a tobacco-related wrong, including any amount received in settlement of such an action, may be used only for the following purposes:

(a) to provide health care services for Manitobans;

(b) to fund educational programs to prevent people from using tobacco products;

(c) to fund educational or treatment programs to help people stop using tobacco products.

Madam Chairperson: It has been moved by Mr. Cullen

THAT—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

I have been advised that the amendment is out of order because it would seek to impose a charge on the public treasury. I will cite our Rules 65, and 655 of Marleau and Montpetit's *House of Commons Procedure and Practices*. Since I have read them previously, I will not read them now, unless there is a request to do so. Therefore, this amendment cannot be considered by the committee.

Mr. Cullen: Well, it certainly is regrettable that this, which we think is a very good amendment, cannot be accepted. We will, certainly, hope that the government will take this amendment under advisement. I think it would be something that most Manitobans would look forward to, that any revenue generated from this particular legislation would not fall under general revenue and would, in fact, be used for some of the parameters that have been put forward in this proposed amendment. So I would certainly encourage the government to take this amendment under advisement, if they would. Thank you very much.

Mr. Sale: Madam Chair, I certainly take the member's intent very seriously and sincerely. This is indeed—and he probably knows this—this is indeed what some of the American states did with their revenues. They invested it in prevention and education and health promotion. Massachusetts, for example, is one case in point, and others did similar things. So I think his intention is very appropriate, and I am sure that, when the tobacco companies come to the table, which I hope will be when they get the message that it is going to be cheaper for them to settle than to go through a protracted court process and potential ordering of far higher damages than they might be able to settle for, that this will, in fact, be probably the disposition, no matter what the government of the day is. So, I thank him for his amendment, and I am sure that his intention is very appropriate.

Madam Chairperson: Clause 8—pass; clauses 9 through 12—pass; table of contents—pass; enacting clause—pass; title—pass.

Shall the bill be reported?

An Honourable Member: May I make a—just very briefly—

Mr. Sale: Madam Chair, I think that, certainly the support of the opposition is tremendously important here. I think that, when we do consider this legislation for third reading, we need to consider whether we want to send the strong signal that this is unanimously passed because, when we are trying to corral the companies and get them into court, we need to make sure they understand that there is no out here. There is nobody on their side. So I hope the members will consent to make this a unanimous bill, and I hope the Liberals will support that intention.

I thank the members for their co-operation.

Madam Chairperson: Bill be reported.

Bill 35—The Public Schools Finance Board Amendment and The Public Schools Amendment Act

Madam Chairperson: We now call Bill 35, The Public Schools Finance Board Amendment and The Public Schools Amendment Act.

Does the minister responsible for Bill 35 have an opening statement?

Hon. Peter Bjornson (Minister of Education, Citizenship and Youth): Yes, I do, Madam Chair. I would like to start by recognizing our current Public Schools Finance Board members, as well as past board members who have worked diligently to support and deliver our schools capital program over the past 40 years. Our communities have benefited from their service over the years, and they have worked very hard, not only to build schools across the province, but serve to foster student success and building communities as well.

The Public Schools Finance Board was formed in 1967, and has served us well for almost 40 years. However, the way our Schools Capital Program was administered had not been amended in any significant way for some time; so it has become increasingly clear that the processes governing the construction of schools is in desperate need of modernization. It is for this reason that the PSFB had undertaken a review of the schools capital program in 2004, making internal procedures and practices more efficient and responsive to school division capital needs, as well as to make their policies more relevant to today's design and construction realities.

Many stakeholders, clearly, agree that good capital planning means thinking long-term, and, for this reason, we have moved to a multi-year capital funding plan for schools' capital. This is part of the next step in addressing our schools' capital needs for the long-term, multi-year planning, creating an environment in which capital needs can be addressed through a process that was increasingly progressive and responsive. So the new legislation embodies our government's commitment to supporting schools' capital, and will serve to modernize and strengthen the schools' capital support program.

Bill 35 will enhance our schools' capital program in five major ways. First of all, restructuring the board to consist of three deputy ministers, with the deputy minister of Education, Citizenship and Youth as the chair, while maintaining the current responsibilities of PSFB.

Second, adding a new provision requiring the board to carry out an operating review every five years to ensure the policies and practices remain current and effective.

Third, adding to the legislation a requirement for the board to take into account a number of different criteria for the construction when administering the capital program.

* (22:10)

Fourth, increasing accountability regarding the school division's ability to acquire property under The Public Schools Act or the PSFB act, and the school division will be required to receive board approval for land acquisitions.

Five, add a provision requiring the board to submit an annual funding plan to the minister for approval and maintain a multi-year planning and project frame.

As part of the renewal, it is very exciting that the new board format will promote and support co-operation and co-ordination across government departments to administer the school's capital program and promote priorities such as access, sustainable design and construction, and energy efficiency.

In recent years, it has become quite clear that accountability and transparency needed to be strengthened within the legislation. The previous legislation did not require school divisions to report land purchases. New legislation will require school

divisions to receive board approval for all land acquisitions.

In addition, school divisions will now be required to maintain the multi-year capital planning framework, and school divisions that are planning for future capital needs are ensured that they will be planning for future capital needs in a multi-year planning framework.

In closing, I would like to say that I am quite excited with the changes to this legislation, and pleased with the response that I have received from stakeholders regarding the contents. The process has served us well for 40 years, but it was clear that it was in great need of renewal to ensure that our capital plan is both effective and responsive to the needs of Manitobans.

Once again, I would like to put into the record and recognize the good work that the present board, Chair Glenn Nicholls, Vice-Chair Mary Annes, Howard Mathieson, George Druwé and Doug Kozlowski. I would like to thank them for their work and their service that has been provided to communities across the province. Their legacy will certainly live on in the schools and learning environments that they have helped build.

Madam Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mrs. Heather Stefanson (Tuxedo): I think what the minister neglected to mention in his opening statement is that this is, in effect, a clean-up bill from the fiasco that was allowed to take place under this government's watch in the Seven Oaks School Division, which allowed the Seven Oaks School Division to invest in the spec real estate market with taxpayer dollars, and is something that is completely inappropriate. We are glad now that, through this legislation, that will not be able to happen. I think it is unfortunate that it had to happen in the first place, and that the government is here doing damage control.

Certainly, we do have some concerns with what has taken place and has been allowed to take place in the past. I think one of the clauses in this bill talks about transparency and accountability within our system. I think that, if the minister wanted to be truly transparent and accountable, he would admit that this is nothing more than damage control to clean up a very serious situation that took place in the Seven Oaks School Division. All the ties that the Public

Schools Finance Board was allowed to have with the Seven Oaks School Division, former trustees, chairman of the board, Public Schools Finance Board, et cetera, will not go into all that. I know the minister and I have had debates on this before, and he knows that we had very deep concerns. I am glad that he has finally realized that this is inappropriate, this type of action, and that we need to move forward from here.

Other changes in this legislation with respect to the Public Schools Finance Board have to do with the change in the board, in the make-up of the board. Certainly, we understand and always are looking for more transparency and accountability within a system. But we question, and we will look at this closely to see if this new make-up will add more transparency and accountability to the system. Certainly, the Minister of Education will still have the final say on capital projects under this bill. So we do have concerns about politicizing capital programs with Education, Madam Chairperson.

With respect to the capital support program, I think it actually does make the minister more accountable, which is a good thing as well, because this bill essentially allows the deputy minister and two other deputy ministers, who will be the make-up of the board, to make the decisions as to where capital projects will be. It will be very transparent as to if there are a number of projects going into some of their own constituencies and to NDP ridings, which we have, certainly, seen has taken place in the past. We have, certainly, seen that in some school divisions there has been some favouritism with respect to the capital support program. Certainly, we welcome a change that will, hopefully, bring more accountability and transparency to this system.

So, Madam Chairperson, I think it is getting late this evening, and we are prepared to move on at this point.

Madam Chairperson: We thank the member.

Clauses 1 and 2—pass; clauses 3 and 4—pass; clauses 5 and 6—pass; clause 7—pass; clause 8—pass; clauses 9 through 14—pass; clause 15—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 300—The Association of
Former Manitoba MLAs Act**

Madam Chairperson: The last bill we have to consider tonight is Bill 300, The Association of Former Manitoba MLAs Act.

I am going to ask for your attention for a couple of short minutes so we can finish Bill 300. I thank you so much for all your patience this evening.

On Bill 300 we will first hear a report on the bill from Legislative Counsel Val Perry, law officer of the Legislative Assembly will give us a report.

Ms. Valerie Perry (Legislative Counsel): As required by sub rule 158(1) of the Rules of the House, I now report that I have examined Bill 300, The Association of Former Manitoba MLAs Act, and have not noted any exceptional powers sought or any other provision of the bill requiring special consideration.

Madam Chairperson: Thank you. We thank staff from Legislative Counsel for that report.

Does the member sponsoring the bill have an opening statement?

Mr. Doug Martindale (Burrows): Madam Chairperson, I have a short opening statement. I would like to thank the Government House Leader (Mr. Mackintosh) for asking me to introduce Bill 300, The Association of Former Manitoba MLAs Act. Private members' bills are rare, and so I appreciate this privilege.

Madam Chairperson: Excuse me. Sorry, just for one moment I am going to ask for order, and just to allow the member to make his statements.

Mr. Martindale: It is also rare to introduce legislation for an organization that someday you can belong to. Perhaps, after two or three more majority governments—I would like to congratulate the executive of the Association of Former MLAs for researching legislation, and other Canadian jurisdictions for writing the constitution, and for lobbying me to get the bill introduced, and lobbying me, and lobbying me. I commend them for their activities, which I will not go into because we all receive their newsletter so we know what they are doing.

In conclusion, I would like to congratulate the Association of Former MLAs on obtaining legislation to formally establish their association as a non-profit organization by an act of the Manitoba Legislature. Finally, I want to thank two staff from the Legislative Counsel for working with me over several years to write, revise, and amend this bill before it finally was introduced for first reading, and for meeting on several occasions with the Legislative Review Committee of the Government caucus. Thank you for your patience.

Madam Chairperson: We thank the member.

Does any other member wish to make an opening statement with regard to Bill 300?

* (22:20)

Mr. Kelvin Goertzen (Steinbach): Madam Chairperson, it is a pleasure to put some brief comments on the record regarding Bill 300, a bill that I seconded in the Legislature when it was introduced, not because I have any great desire to quickly become a member of the former MLAs' club. In fact, it is sort of the old saying, going not gently into that dark night. I might not go gently into this particular club, but I do think it has great value and I commend the member for bringing it forward.

Certainly, I think all of us as legislators after we leave this distinguished House and this honoured career will look for opportunities to apply the knowledge that we have received here, and this is certainly one avenue. There will be others, I am sure, for all of us in future times, but this is one avenue we can all get together in a non-partisan form and go forward to talk about the good virtues of elected office in the Legislature, whether you are a Progressive Conservative or something else.

Madam Chairperson: I understand the association is non-partisan.

Clauses 1 through 4—pass; clause 5—pass; clauses 6 through 8—pass; clauses 9 and 10—pass; clause 11 through 13—pass; clause 14—pass; table of contents—pass; preamble—pass; enacting clause—pass; title—pass. Bill be reported.

I understand there is a motion for the refund of fees with regard to this bill.

Mr. Martindale: I move

THAT this committee recommends that the fees paid with respect to Bill 300, The Association of Former Manitoba MLAs Act, be refunded less the cost of printing.

Madam Chairperson: It has been moved by Mr. Martindale

THAT this committee recommend—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

The motion is in order.

Are there any questions? Is the committee ready for the question?

An Honourable Member: Question.

Madam Chairperson: Shall the motion be adopted? [Agreed]

The time being 10:23, what is the will of the committee?

Some Honourable Members: Committee rise.

Madam Chairperson: I would like to thank the committee very much for all their hard work this evening. Committee rise.

COMMITTEE ROSE AT: 10:23 p.m.

WRITTEN PRESENTATIONS PRESENTED BUT NOT READ

Re: Bill 11

If passed as introduced into the Manitoba Legislature, Bill 11 (*The Winter Heating Control Act*) would: a) freeze default supply primary gas rates at current levels for the entire 2005/6 heating season; b) limit default supply rate increases during the 2006/7 heating season; and c) provide Manitoba Hydro with the authority to use electricity profits to control gas costs. The Bill expressly references the direction set by the Manitoba Public Utilities Board ("PUB") in its recent decision 135/05, to partially protect residential supply customers of Centra Gas from current price increases by deferring recovery of a portion of escalating gas supply costs.

Unlike the PUB decision, however, the Bill as drafted would:

- Freeze gas rates for all customers, including commercial and industrial customers.
- Potentially defer cost recovery for a much longer period of time.
- Not allow even a partial increase in the 2005/6 heating season.

In addition, Bill 11 would establish a Stabilization and Affordable Energy Fund (the "Fund") based on a percentage of Manitoba Hydro's gross revenue from electricity exports over the next two years. The Fund would be used to encourage energy conservation, gas system viability and natural gas alternatives, as well as to help Manitoba Hydro control consumer costs for electricity and natural gas.

The provisions of Bill 11 need to be implemented carefully to avoid harming energy consumers. Masking the true cost of gas supply

would ultimately lead to more consumption and higher gas bills than would occur if consumers were aware of actual gas costs. Temporarily reduced rates would also discourage energy efficiency investment and gas consumption reduction, thus requiring greater levels of expenditure from the Fund to obtain the energy efficiency objectives of the Bill. In order to avoid these problems and to ensure non-discriminatory treatment of gas consumers, the provisions of Bill 11 should be implemented in a manner that will:

1. Allow primary gas rates to continue to reflect the true cost of gas so that consumers can make informed and efficient usage and investment decisions.
2. Minimize the size of the cost deferral by applying it to the most vulnerable consumers, as was recommended by the PUB, and by limiting the recovery period.
3. Maintain equity among Manitoba's gas supply customers, regardless of their choice of gas supplier.

Allow primary gas rates to continue to reflect the true cost of gas so that consumers can make informed and efficient usage and investment decisions.

Failure to provide gas consumers with accurate and timely price signals will result in inefficient usage and uneconomic investment decisions. Misinformed consumers will ultimately pay more for their heating and other gas uses than they could have had they been provided with cost reflective price signals and thus been encouraged to take steps to reduce their consumption.

Artificially low natural gas prices will discourage conservation and ultimately render the Bill's proposed energy efficiency and conservation funding less effective, resulting in higher expenditure than would be needed if price signals remained cost reflective. Masking the true cost of energy may also cause inefficient fuel switching when consumers are making significant capital decisions, like buying a new furnace.

The PUB can readily prevent these detrimental consumer impacts by maintaining its jurisdiction and continuing to approve quarterly primary gas rates using established rate setting mechanisms. The PUB should require Manitoba Hydro to include the rates so approved on consumer bills, along with a rate rider equal to the portion of the actual gas cost to be

deferred. The rate rider would be set such that the net rates paid by consumers are equal to the rates mandated by the proposed legislation. Through this mechanism consumers would continue to receive timely information regarding the current cost of gas and the costs that are being deferred, and will thus be able to exercise consumption and investment decisions in an informed and appropriate manner.

Minimize the size of the cost deferral by applying it to the most vulnerable consumers, as was recommended by the PUB, and by limiting the recovery period.

Given past experience and current market conditions, the accumulation of deferred gas costs under the Bill as drafted could easily reach \$100 million, especially if natural gas prices continue to rise. Even at half that amount, recovery would require significant increase in rates later on. In the absence of a sustained gas cost reversal, the recovery of deferred costs may not be possible without a series of double-digit rate increases. To minimize the amount of deferred costs: a) The rate freeze should apply only to residential and small commercial customers; and b) the recovery of the deferred costs from the one heating season should be completed prior to starting the next heating season, or at least over a period no longer than 12 months.

Maintain equity among Manitoba's gas supply customers, regardless of their choice of gas supplier.

Direct Energy does not support cross-subsidization and strongly recommends that Manitoba Hydro be prohibited from using electricity funds to subsidize Centra's natural gas prices. The Act should not be used to shift energy costs from one energy consumer to another. Cross-subsidization of gas supply charges with electricity revenues will distort both retail electricity and gas prices, resulting in inefficient use of both fuel sources. As mentioned above, artificial or subsidized prices will induce inappropriate fuel switching and suboptimal investment decisions that may not be in the longer-term interests of consumers. Discriminatory subsidies would also be unfair to gas consumers who are served by another distributor like Swan Valley Gas or use other fuel (propane) like customers of Stitco in Thompson and Snow Lake.

However, if the government decides to allow subsidies, the subsidies should be made available to all gas consumers, regardless of their choice of supplier. To do otherwise would unfairly

disadvantage those gas consumers who took active measures to secure their gas prices by signing fixed price retail contracts. Excluding these proactive consumers from eligibility for any subsidies would unfairly and inappropriately disadvantage them. Such a policy would also fundamentally undermine the viability and availability of the very supply options that allow consumers to secure their gas prices. Such a policy could lead to the constraint or withdrawal from the market of fixed price supply options precisely at a time when such options would provide consumers with the greatest value by providing supply cost certainty.

Sara Anghel

Direct Energy

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Re: Bill 35

Garden Valley School Division hereby indicates its support for changes to The Public Schools Finance Board as defined in proposed legislation, Bill 35. In giving its support, Garden Valley School Division would like to raise the following for your consideration:

1. Whereas the Government of Manitoba has an initiative to bring 10,000 new immigrants per year to Manitoba; and whereas many children are among these immigrants; and whereas additional school facilities and infrastructure are required to provide

services to these children, we recommend that under subsection 2(2) in addition to the Deputy Minister of Education, the Lieutenant Governor in Council appoints the Minister of Labour and Immigration to The Public Schools Finance Board.

2. The procedures to obtain capital funding under the old PSFB structure were extremely cumbersome and bureaucratic. The obtaining of architectural and engineering services for capital construction projects was duplicated by school divisions and the Public Schools Finance Board. We recommend that under subsection 5.1 of the proposed legislation The Public Schools Finance Board develop policies to streamline procedures and reduce duplication of services. That is, The Public Schools Finance Board work cooperatively with school divisions to hire a single company of architects and engineers for a respective capital project.

While our recommendations apply more to regulations required by the legislation, we do wish to place on record our support for Bill 35.

Thank you for the opportunity to share our views of this proposed legislation.

Sincerely,

Hilda Froese, Chair
Garden Valley School Division

The Legislative Assembly of Manitoba Debates and Proceedings
are also available on the Internet at the following address:

<http://www.gov.mb.ca/legislature/hansard/index.html>