

LAW AMENDMENTS COMMITTEE
8:00 p.m., Friday, May 24, 1974

CHAIRMAN: MR. D. JAMES WALDING

MR. CHAIRMAN: Does the Committee or any members of the public wish me to read out the list of bills that are before the Committee? I'll run through them again.

Bill No. 5 - an Act to amend The Garnishment Act
Bill No. 6 - an Act to amend The Surrogate Courts Act
Bill No. 7 - an Act to amend The Civil Service Act
Bill No. 11 - an Act to amend The Insurance Act
Bill No. 13 - an Act to amend The Boxing and Wrestling Commission Act
Bill No. 14 - an Act to amend The Amusements Act
Bill No. 15 - an Act to amend The Queen's Bench Act
Bill No. 16 - an Act to amend The County Courts Act
Bill No. 17 - an Act to amend The Attorney-General's Act
Bill No. 18 - an Act to amend The Highways Department Act
Bill No. 20 - an Act to amend The Highway Traffic Act
Bill No. 23 - an Act to amend The Liquor Control Act
Bill No. 27 - The Lotteries Act
Bill No. 36 - an Act to amend The Public Schools Act
Bill No. 48 - an Act to amend The Liquor Control Act (2)
Bill No. 49 - The Child Welfare Act
Bill No. 55 - The Centennial Projects Tax Status Act
Bill No. 60 - The Social Services Administration Act
Bill No. 62 - an Act to amend The Financial Administration Act (2)
Bill No. 66 - an Act to amend The Limitation of Actions Act

Are there any members of the public wishing to make representation to the Committee? Would you come up to the microphone and give your name please and the bill you wish to speak on. It has been the practice of the Committee to hear representations from people from out of town first so if you are from out of the city would you so indicate please.

MR. HARVEY: Mr. Chairman, my name is Norm Harvey. I'd like to make a few comments about Bill 36.

MR. CHAIRMAN: Thank you.

MR. EMBERLEY: Mr. Chairman, my name is Kenneth Emberley. I'd like to make a few comments on Bill 49.

MR. CHAIRMAN: Would you spell your last name for the record please.

MR. EMBERLEY: E-M-B-E-R-L-E-Y. I'm from Winnipeg, St. James.

MR. CHAIRMAN: Thank you.

MR. TEILLET: Mr. Chairman, I'd like to make some comments on Bill 27 but I would respectfully ask that the Committee perhaps ask the Minister if he wishes to make comments before any representations are made.

MR. CHAIRMAN: What is your name please?

MR. TEILLET: Ed. Teillet.

MR. CHAIRMAN: T-E-I-L-L-E-T?

MR. TEILLET: T-E-I-L-L-E-T. Right.

MR. CHAIRMAN: Thank you. Does anyone else wish to address the Committee this evening? Hearing none, Mr. Harvey would you like to begin please.

MR. HARVEY: Thank you, Mr. Chairman. Members of the Legislature, just a very brief point about Bill 36, Mr. Chairman. In 1971 legislation was passed to provide that all school divisions in Metro Winnipeg elect their trustees for a three-year term. This year Bill 36 provides that Brandon School Division will elect its trustees for a three-year term.

Some other divisions in the province, school divisions, and districts have indicated that they would prefer to elect trustees for a three-year term rather than a two-year term. It was my understanding that the Minister of Education was going to bring in this amendment. He has now indicated to me that he is not so I am appealing to this group to bring in an amendment to make it possible for any school division wishing to elect trustees for a three-year term to make application to the

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(MR. HARVEY cont'd) Minister, to the Minister of Education so that he might if he so wished grant them the privilege, if it is that, to elect their trustees for a three-year term.

Mr. Chairman, I have a proposed amendment typed out here. I have about 50 copies, if you would like me to distribute it. I'm not a lawyer so it will need to be reworded by your legal adviser.

MR. CHAIRMAN: Yes, if you will give it to the Clerk please he'll see that it's distributed.

MR. HARVEY: I believe that this amendment could come after Section 10. Sections 9 and 10 of the bill provide for the trustees of Brandon to be elected for a three-year term. Section 11 could say, "if a written request is received by the Minister by a school division or district indicating that the school board is in favour of a three-year term of office the Minister may approve the request and Sections 9 and 10 of Bill 36 will apply mutatis mutandis."

That's all I have to say, Mr. Chairman. Thank you.

MR. CHAIRMAN: Okay Mr. Harvey. Are there any questions of Mr. Harvey? Mr. Jorgenson. Would you speak into the microphone please.

MR. JORGENSON: Mr. Harvey you did not indicate if you represented any particular organization or whether you are appearing on your own behalf.

MR. HARVEY: I'm an employee of the Manitoba Association of School Trustees.

MR. JORGENSON: You're aware that during the course of second reading of Bill 36 a question that I asked the Minister specifically, if the provisions of this particular section would apply to school districts other than Brandon. He replied that there had been no requests from the Association of School Trustees and that if they did apply he would be prepared to consider their request.

MR. HARVEY: I'm not aware of that, Mr. Chairman.

MR. JORGENSON: It's on the record.

MR. CHAIRMAN: If there are no further questions of Mr. Harvey, thank you for appearing. Mr. Graham.

MR. GRAHAM: Mr. Chairman, I would like to ask Mr. Harvey who is an employee of the Manitoba Association of School Trustees if other jurisdictions within the realm of the Association have indicated a desire for a three-year term of office.

MR. HARVEY: Mr. Chairman, there are 33 school divisions. All thirty-six school divisions were polled by telephone yesterday. Five of them indicated that they would prefer the three-year term. Thirteen indicated that they would prefer a two-year term and fifteen had not considered the matter at the board level. Even though, Mr. Chairman, it's a small number it still seems reasonable that if they do want to opt for the three-year term that it might be made available to them.

MR. GRAHAM: No further questions, Mr. Chairman.

MR. CHAIRMAN: If there are no further questions from the Committee, thank you, Mr. Harvey. Mr. Emberley please.

MR. EMBERLEY: Mr. Chairman, ladies and gentlemen, I'll just read a few excerpts from my brief.

As a layman myself, with no professional training, but a sincere interest in this matter I attended three meetings during the past wintertime with professional people in Fort Garry concerning juvenile delinquency and it was most astonishing to find that many of them had a similar concern to myself and many of them seemed to have serious problems in finding out information.

I would like to suggest that you people when you consider legislation concerning juvenile offenders and the appeal board that secrecy is one of the things that causes us the most heartache. I don't mean the secrecy that keeps small children's names and their parents' names out of the paper but the secrecy that prevents intelligent coordination, planning, prevention and treatment.

Our police chief I believe did a great service with his series on children's problems in the newspaper. I think it's the first time in 20 years I've heard it discussed openly.

Most children grow up successfully. It only seems to be a very small number and they start very young. Most school children before they're in Grade 2 if they're going to become juvenile delinquents it's already known to their teachers. Why can't we find out who they are and have coordinated lists, a coordinated list so that people know from time to time what's happening to these people.

One of the things that I do have concern about is adults engage in all kinds of sensible activities like motor car racing, jumping out of airplanes in parachutes,

(MR. EMBERLEY Cont'd) climbing mountains, racing across the snow at 75-80 miles an hour, hunting with guns, killing animals and people. If adults are allowed to do these sensible things why aren't children? We have a large percentage of children - what, 95, 96½ percent of children can go to the community club and take part in football and that's good enough for them. But there's a small number of children that seem to have more energy and they need something more daring and exciting. And in our civilized beautiful world whether you live in a high rise tenement house built by the government for the poor people or you live in suburbia with all its beautiful expanses of homes and high class shopping centres and high class parks and high class community clubs there's hardly anything that people can do, especially young people, that's a little adventurous, a little dangerous, a little exciting that's legal. They don't have the place or the facilities. I ask you to consider that.

I suggest very strongly that secrecy prevents research. I haven't ever heard hardly ever people talking about the research work that's done concerning juvenile delinquents. How many in the last ten years have been processed and treated with different techniques? What happened to them? There should be scholarships available for student policemen, student lawyers, student social workers and they should do some research with young people to find out what treatments are taking place. What are the main problems?

You probably can go out into any small community and talk to the people and they'll list off, oh well there's 29 working mothers and there's 20 other working mothers but their children don't get into trouble but there's 29 working mothers who do have children getting in trouble. And there's 29 families that are broken up with drunk and divorce, drunkenness and divorce and there's a few other families. And they are the only ones that are causing the trouble in the district.

But what are we doing to tackle the basic thing? Really and truly. Do we ever consider allowing the children to come to a meeting to tell us their problems?

I believe we make a major mistake and our Appeal Board I believe is one of the major causes of this in not teaching children responsibility. Rabbits and monkey parents are smart enough to teach their young that they're responsible for their own actions and survival as soon as they're reasonably well taught to behave as successful rabbits and monkeys behave. How come we're not as smart? We tell parents, oh so sorry, you're drunk. I guess you're not responsible. We tell children, oh you're just a kiddie of fifteen, you're not responsible. Wait until you're eighteen and instantly you'll become a grown-up with full responsibility and mature judgment. You won't have any experience for eighteen years but when you get to be eighteen you'll be responsible.

You want to hear how the system really works. I have a friend who is going to university who is responsible for passing his exams. The professor is only capable of delivering 25 percent of his lecture in English. Now the children at the university have got more brains than the professor that hires the professor because they know enough to hire a man that can talk English if he's going to teach the students.

If we're going to teach our children to be responsible I suggest that we consider constructive punishment. There is a need, a need for constructive punishment. When children do malicious, childish damage they should have a prolonged period of plain old-fashioned dirty hard work. Not punishment but constructive training. They should - because eleven or fourteen-year-old children in two years' time they're going to be responsible for driving a car and killing people or not killing people, and they should be starting to be trained in responsibility.

One of the most serious faults I believe in our whole system is no financial responsibility. I think I heard somebody talking about that in connection with another bill a few years ago. But I believe that children should be financially responsible as well as their parents. If a little child went along and smashed twelve windshields in twelve cars and thought it was funny, but if the little child had to pay \$50.00 a year for ten years to pay for the windshields and he had to go down every month and take the money into the police station, at the end of ten years he'd think quite seriously about what a childish thing it was.

I suggest strongly that in your consideration of an appeal board - what kind of people are on an appeal board? What does it do? How do you hear about what decisions it makes? How do the social workers hear about what decisions it makes? The secrecy of these things is to a layman on the outside astounding. Maybe you people are all informed and you know all about what's going on there although I've heard people complain that it's just as hard for people in the government to find out

(MR. EMBERLEY Cont'd) what's being done as it is for people outside the government. I believe that in any kind of appeal board there should be a percentage of real people on an appeal board. Now this may sound unkind but I guess once in a long time you hear unkind words in these wonderful halls. We need a proper cross-section of people, both university and non-university type people. We need both young and old. We need people who have been recently working and practicing in the field, not retired people or people who only have long periods of administrative responsibility. We need real live people that have been out there recently working with the children on an appeal board.

I know a number of social workers. I think they're some of the finest and most devout people in the country and I know some of the good work they're doing. But I know among a number of my friends there's a joke that they say to be a good social worker you've got to be a little bit soft hearted and a little bit soft headed. Now some of us are afraid some of those people have got onto the appeal board. Now I'm sure that there's all kinds of very nice people on the appeal board but I think that there should be some research allowed and conducted on the altering of decisions by the appeal board. They should have to account for the change in the decision and the success of the result. And it should be possible for you people to find this out and for us to find it out. It should be possible to say there were 27 decisions reversed and the court decisions were made more lenient and 44 that the decisions were made more harsh and the result was this positive result and this negative result. It should be possible to find those things out. But they don't ever seem to come out in the papers. Of course that's maybe the fault of the papers.

I beg of you gentlemen and ladies to consider a children's home. Juvenile delinquents are mostly people - given the benefit of the doubt. Some of us that walk around the streets grown up were juvenile delinquents once and survived. I know some of the wonderful work that's done in a children's home for the badly neglected, both the rich and the poor neglected. When we had the conference in Fort Garry a man came down from a place called - where's the other high class residential district? Aberdeen and Salter. He said, I never knew you had so many deprived, neglected children out in Fort Garry. Well there's only 40 or 50, there's only 40 or 50 out of a thousand that are even in a little bit of difficulty. But they do need special help because they're deprived, neglected people living in a prosperous area.

I beg of you when you think about building an institution - I'm always frightened of being lost in an institution myself. I don't think we need another million dollar institution with escape-proof doors and walls and unbreakable glass. I think we need a home, a home-like home like the Children's Home near the maternity pavilion. I beg of you, not a great institution operating on a new improved technique with a new plan, we just need an old house around where ordinary people live where some good old-fashioned social workers and some new ones can give love and training and love and firmness and love and discipline and love and real personal interest in the young people. That's all most of them need. And I beg of you to consider that.

One thing I ask before I close. A farm. Who ever heard of modern people wanting to be on a farm? Can you imagine anything so ridiculous? A farm with a small, clean river with a beach. Do you think a modern slum or a high rise tenement or sterile swinging modern suburb is a fit place to raise children, especially to treat sick children, lonely, nervous, angry, bitter, cynical children? They need a beautiful place where they can come in contact with the beautiful real tough hard world of nature, a sort of a poor man's Dynevor School. Yes, a place where they'd be decently treated and get a chance to work like the devil. I thank you very much for your courtesy and I hope that there may be just one idea in here that will be of some value to some of the people in your consideration.

MR. CHAIRMAN: Thank you. Mr. Sherman you had a question?

MR. SHERMAN: Yes, Mr. Chairman. I would just like to ask the witness two questions. One is for clarification. The witness has made repeated reference to the Appeal Board and I wonder - what you're actually talking about here is the Review Board I presume.

MR. EMBERLEY: Perhaps I did not use the correct term, Mr. Chairman.

MR. SHERMAN: It is known as the Review Board, is that correct?

MR. EMBERLEY: Yes, that's correct.

MR. SHERMAN: Well my second question, Mr. Chairman, is whether the witness has had a chance to familiarize himself with the details of Bill 49 and whether he feels that the new reduced area of responsibility given the Review Board will help to solve part of the problem that he refers to?

MR. EMBERLEY: I appreciate that very much, Mr. Chairman. One of the things I most bitterly regret is the fact that we have a big newspaper in this city but we don't have a great one. I just happened to read the other night in the paper that there had been sittings and meetings and great conferences down here yesterday. We don't have enough money in the paper, enough skill, enough training, enough facilities to tell people three days ahead of time when the five important meetings are taking place down here and I so deeply regret that I didn't have any opportunity - and I'd like to pretend I've been interested in politics. Out in St. James we've got a little two-bit newspaper but sometimes they tell us about things before they happen and after they happen. I'm a victim of this thing they call the news media so I just hardly ever really find out very much.

MR. SHERMAN: Well, Mr. Chairman, perhaps I could ask a third question then. I would like to acquaint the witness if he's not acquainted with the fact that the bill limits the powers that the Review Board formerly had. And the witness has referred to a problem, an area of weakness that many of us on this Committee and many of us in this Legislature have already brought to the attention of the government and of the Government Ministers, that was that the Review Board could overturn decisions made by the family court having to do with juvenile offenders. The new bill takes that power away from the Review Board. It can now only advise, it can't overturn a decision of the family court. Therefore my final question to the witness, Mr. Chairman, is: would he not be satisfied that this new bill is going to go some distance to meeting the problem he's brought before us here?

MR. EMBERLEY: I would be very grateful if the new bill can come into force. I know it's so hard to arrive at new decisions and get absolutely the right, correct answer and I'm just terrified when I hear of a Committee of experts coming up instantly with the right answer. But when you gentlemen spend months and years discussing and arguing and come up with a decision I'm reasonably satisfied that it's usually an improved decision if you've argued constructively and intelligently back and forth. And I'm sure that's what the new bill will do. I'm grateful.

MR. CHAIRMAN: If there are no further questions, thank you Mr. Emberley. Mr. Teillet. Mr. Toupin would you use the microphone please.

MR. TOUPIN: Mr. Chairman, I had intended to ask leave of my colleagues on the Committee to make a clarification on Bill 27 if I may. (Agreed)

I'm wanting, Mr. Chairman, to attempt to clarify one of the provisions of Bill 27, mainly the powers given under Section 16(a) and (d) of the bill itself. The reason I ask leave of members here to clarify is that powers under that section is in regards to regulations that had to be struck and discussions pertaining to regulations had to be done jointly by those participating provinces, now being the four western provinces. I'd like to inform members of the Committee that discussions have taken place in regards to certain sections provided for under the regulations, namely percentage of commissions that can be made payable to sellers and agents involved. The recommendation to be made of the Committee of Ministers to be held shortly is that a commission of a maximum of 45 percent be made payable to agents, to agencies including the sellers' fee.

For the time being the recommendation equally of the Committee to the four Ministers involved is that the three-tier sponsorship will not be part of the regulations for the first year and that the restriction on expenses versus revenue will be left as is for the time being but a uniform reporting system will be called for to evaluate the revenue, that is the undivided earnings of the agencies involved in the selling of lottery tickets in regards to Wescan.

The sale of tickets themselves are to be had as in the past or as they are now, that is far as commission, as far as boundaries are concerned. The boundaries are equally recommended to be the same as they are now for the first year.

MR. CHAIRMAN: Would you like to proceed Mr. Teillet?

MR. TEILLET: Mr. Chairman, and gentlemen, in view of the Minister's statement right now I think that it would be redundant for us to go through and take up your valuable time to go through our presentation. Although I would like it into the record if possible and I am prepared to leave a copy of it with you and the members of the Committee and not take up the 20 minutes or so that it would take me to go through this presentation. Admittedly we would like the bill to die and have a very quiet funeral in a well-known funeral home in St. Boniface. Under the circumstances I think that we're very very happy with the co-operation that we received from the Minister and if we could have our presentation into the record without going through and wasting your time reading it all we'd be satisfied with that.

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MR. CHAIRMAN: Thank you. The presentation will go into the written record. Are there any questions from the Committee of Mr. Teillet?

MR. JORGENSEN: It's pretty difficult, Mr. Chairman, to ask questions unless we know what the statement is.

MR. CHAIRMAN: Apparently there are none. Thank you, Mr. Teillet. Mr. Sherman.

MR. SHERMAN: I would certainly have a question, Mr. Chairman, and that would be does this mean that the confrontation, if I may use that term, that seems in recent weeks and months to have developed between the Manitoba Lotteries Commission and the Honourable Minister of Tourism has now been successfully resolved.

MR. TEILLET: I would suggest that due to the co-operation of the Minister and the help that we've had from people like yourself we've achieved a great deal of what we want. Obviously we would rather not have the bill but it seems to be inevitable and since it is inevitable we've achieved the best possible returns for the people of Manitoba and for the agencies, thanks to the Minister and through your efforts, Bud, and the other people in the opposition parties that have helped us.

MR. SHERMAN: I'd be interested, Mr. Chairman, in having an opportunity to see what concessions have been made on both sides. The Minister has indicated some modifications; we haven't had a chance to familiarize ourselves with the concessions that may have been made on both sides in the debate or in the dispute and if any light can be shed on that subject I think the Committee would be interested.

MR. TEILLET: Would the Minister like to answer or do you want me to?

MR. TOUPIN: Mr. Chairman, could I ask a question of the member making a presentation? The honourable member is aware that whatever is to be had pertaining to Section 16 which I made reference to is subject to discussions with participating provinces and subject to approval by the Lieutenant-Governor-in-Council, is he not?

MR. TEILLET: Yes.

MR. CHAIRMAN: Mr. Asper.

MR. ASPER: Mr. Chairman, I'm having some difficulty recovering from the statement of the witness who - I'll start by asking who the witness is representing, what organization?

MR. TEILLET: There are several organizations, the major agencies within the lottery.

MR. CHAIRMAN: Would you speak into the microphone.

MR. ASPER: The major agencies that are commission salesmen for the lottery. Now it's no secret, Mr. Chairman, through you to the witness that these agencies have made representations both to the government and to the Progressive Conservative caucus and to the Liberal caucus and it's a matter of some astonishment to me and I would ask you to explain it to me how you come here tonight and tell us the war is over without explaining what adjustments and what concessions have been made. The reason I ask that, Mr. Chairman, is I think those of us who have taken the time to debate in the House are entitled to some explanation as to the withdrawal of the opposition by the major agencies.

MR. CHAIRMAN: Mr. Green on a point of order.

MR. GREEN: Mr. Chairman, on a point of order. Mr. Chairman, the time for a debate and for discussion of that kind is not at the present time. The gentleman has come here saying that he is filing a formal presentation, that he is now satisfied with the bill and the mechanics of how opposition is broken down if that in fact is the case is really not a subject matter of question at the Committee.

MR. ASPER: On the same point of order, Mr. Chairman.

MR. CHAIRMAN: Mr. Asper.

MR. ASPER: There have been no amendments whatever to the bill. The position of the agencies publicly has been to vigorously oppose the bill. Now as a result of that opposition, Mr. Chairman, considerable debate took place in the House. I'm saying those of us who debated this issue in the House are entitled to know why the beneficiary of that debate has changed its mind.

MR. GREEN: Well, Mr. Chairman, the honourable member is entitled to go to the gentleman and ask him.

MR. ASPER: That's what I'm doing, Mr. Chairman. That's what I'm doing, Mr. Chairman. The House Leader doesn't want the question answered.

MR. GREEN: That is absolutely ridiculous.

MR. CHAIRMAN: One at a time please.

MR. GREEN: Mr. Chairman, the honourable member came, has indicated that he is waiting for a statement from the Minister, then indicated that he is filing a

(MR. GREEN Cont'd) brief. If the honourable member wishes to ask him questions on the brief frankly I couldn't care whether they are answered or not. So don't tell me that I don't want them answered. I am indicating that that is not part of the procedure at Committee.

MR. CHAIRMAN: Mr. Asper.

MR. TEILLET: Mr. Green, I really wouldn't object to answering to that if you wish.

MR. GREEN: I don't give a damn if you do or you don't.

A MEMBER: Let him answer.

MR. CHAIRMAN: Mr. Sherman to the same point of order.

MR. SHERMAN: Mr. Chairman, on the same point of order . . .

MR. GREEN: . . . around the Legislature saying he opposes the bill.

MR. CHAIRMAN: Order please. Order please. Mr. Sherman to the point of order.

MR. SHERMAN: Yes, Mr. Chairman. The point surely is this: that the Law Amendments Committee is sitting; a witness has come before the Law Amendments Committee on a particular subject and bill before us; you have asked if there are any questions; the Leader of the Liberal Party is asking some questions. Now surely the House Leader can have no objection to a member of the Committee asking the witness some questions.

MR. CHAIRMAN: Mr. Jorgenson to the point of order.

MR. JORGENSON: Mr. Chairman, I believe the whole thing can be resolved if we ask the witness to read into the record his brief so that we know what the brief contains and then we can ask questions on it.

MR. CHAIRMAN: Is that the will of the Committee, to have the brief read into the minutes?

MR. JORGENSON: Well, Mr. Chairman, with all due respect the witness does have a brief and the Committee wants to hear that brief. I think the Committee is entitled to hear it. There's no way that we can ask questions on the contents of that brief unless we hear it.

MR. CHAIRMAN: Mr. Green on a point of order.

MR. GREEN: Mr. Chairman, on a point of order. It is plain to see that some people are dissatisfied that a war is over. They want the war to start again and, Mr. Chairman, I am frankly happier if it starts again and the war is brought out. That's what you want.

MR. JORGENSON: No, that's not . . .

MR. CHAIRMAN: Mr. Asper.

MR. ASPER: We want to know the terms of our . . .

MR. GREEN: Well he has just been told. The Minister made the statement. That's what the gentleman asked for. You want the thing to be reopened and rediscussed; that can be done and I have absolutely no objection whatever.

MR. ASPER: Thank you. Thank you. Thank you.

MR. TEILLET: I wonder if I may make just a brief comment.

MR. CHAIRMAN: Mr. Teillet.

MR. TEILLET: I really don't object to reading the brief if you wish and I will if it is the Committee's desire. It's not a capitulation - in my friend Mr. Asper's terms. We don't like the bill, we didn't want the bill. We did fight and we had a great deal of co-operation from the opposition and we appreciate the help that we did get including one member from the NDP Party who helped us a little bit on this.

A MEMBER: What's his name? Identify him.

MR. ASPER: Louis Armstrong.

MR. TEILLET: We finally realized that the agreement had been reached with other provinces, that the bill was inevitable and we worked to the best of our ability and I believe with a great deal of faith and trust on both sides with the government, with the Minister, to try to achieve the best possible deal we could get for Manitoba for the agencies here in Manitoba. I think we've arrived at that and the Minister has just explained that. If you want to take up 20 minutes of your time I'll be happy to read the brief for you. I would be happy to. Really the main point of the brief I can give you very very quickly, is we refute the bill of course because we'd rather not have it at all. But since it's here we have to live with it, we're going to and we'll do the best possible thing that we can.

A good percentage of the brief refutes the previous Minister's public statements and other government officials' public statements relative to Bill 27 and the reason for it. That's the essence of the brief.

I go back to you, Mr. Chairman. If you wish I will go ahead with it.

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MR. CHAIRMAN: Thank you. I believe Mr. Minaker had a question.

MR. MINAKER: Mr. Chairman, I am wondering if we follow the bills in chronological order when we get into debate on any amendments, that I wonder if we couldn't just receive copies of law amendments - members of the committee receive copies from the clerk on Monday say and it will give us a chance to read it.

MR. TEILLET: You have copies available right now Sir.

A MEMBER: Are there extra copies?

MR. TEILLET: I'm pretty sure there - who took them from me?

MR. CHAIRMAN: Would you pass this down to Mr. Minaker?

MR. TEILLET: I think we have sufficient copies for every - I hope we have, I was told we needed 12 and I have more than 12.

MR. PAULLEY: There's 30 members on the Committee.

MR. TEILLET: Oh is there really?

MR. PAULLEY: Of course.

MR. TEILLET: Oh I'm sorry then I don't have sufficient copies. Sorry about that Russ.

MR. CHAIRMAN: If there are no other questions then Mr. Teillet, Mr. Asper?

MR. ASPER: Do I take it from the witness' statement then that he opposes the bill period, the bill before us is not acceptable to he and the organizations he represents.

MR. TEILLET: Yes

MR. ASPER: What you're really saying to the Committee is that you think that rape is inevitable and you're going to enjoy it as best you can, is that what you're really saying?

MR. TEILLET: Yes.

MR. ASPER: All right, don't you think the Committee has some responsibility to prevent the rape?

MR. TEILLET: Well I would suggest that if the Committee could that would be great, but I don't think the Committee can.

MR. ASPER: You're suggesting that any representation before this Committee because the government has a majority on it would not be listened to.

MR. TEILLET: No, I'm not saying that, I think there has been a commitment made. Gentlemen, the whole thing really is we don't, we've tried and I think the Minister will agree with me on this, we've tried desperately not to make this a political issue, because it's so important to so many groups here in Manitoba.

MR. ASPER: That's right.

MR. TEILLET: And we've tried not to make it a partisan political issue and I don't want to begin it tonight. I don't want to start to have this happen here tonight. Definitely we would like the bill killed. Of course we would but I think the bill is inevitable, so if the bill is inevitable let's make the best possible job we can of making it work for us here in Manitoba and that's all we're asking.

MR. CHAIRMAN: Mr. Asper does that conclude your questions?

MR. ASPER: Yes

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Well Mr. Chairman, following on the simile as drawn by the Leader of the Liberal Party, it may not be a rape, but it's certainly an Immaculate Conception, because there are many members of this Committee and of this House that put in a great deal of time on this - to suggest that this is not a political issue is locking the apartment door after you know, after the rapist is in there, if you want to continue with the analogy. The fact is it has been a political issue, so I don't think we need to worry about whether we are going to make it a political issue or not.

I would like to move that the witness read his Brief. We've spent many hours, many afternoons in the Legislature - what's another twenty minutes?

MR. CHAIRMAN: Moved by Mr. Sherman that the Brief be read. Is that agreed? Would you read the Brief Mr. Teillet please.

MR. TEILLET: Well Mr. Chairman,

MR. PAULLEY: Have we copies Mr. Chairman?

MR. TEILLET: I'm afraid we don't have enough. I was informed there were 12 and I find that there are a lot more than that, so we are short. Sorry about that.

MR. CHAIRMAN: Would you continue Mr. Teillet please.

MR. TEILLET: Well the entire story that we want to present to you is that we'd like Bill 27 to die and have a very quiet funeral, preferably at a very well known funeral home in St. Boniface.

Secondly, a good percentage of the presentation that I'm going to make here will deal directly with the causes of the Bill, that is the purpose of the Bill, because after all nobody introduces a bill without a reason.

The Manitoba Golden Lotteries have been the most successful self-help program ever staged in Manitoba. Three hundred agencies representing thousands and thousands of Manitobans have been able to develop their project at no cost to the taxpayers. Over and above this they have provided funds to the government to help numerous groups, either in sports or culture to improve and grow, otherwise funds would have been required from the Consolidated Fund or out of our pockets as tax dollars. Multi agencies in the government have profited well through the Manitoba Golden Lotteries. It's become an industry, evidenced by a \$10 million plus turnover within the last couple of years, and what probably makes it even more attractive is that it brings in 70 percent of its money from outside the borders of Manitoba. There are not too many industries that can say that here.

There have been a large number of mis-statements, questionable figures and facts used as a basis for changing the concept of the Manitoba Golden Lotteries to the WesCan Lottery. Of course, the big one and obviously the one that is difficult to fight is that the Manitoba Golden Lottery has been operating contrary to the provisions of the Criminal Code. Well, everyone will agree that nobody wants to break the Criminal Code. However, when a law is unenforceable as many of our laws are, they are inevitably going to be broken and WesCan is not going to change that situation.

It would seem that the obvious road to follow is fight WesCan, would be to work to change the Criminal Code so that it is enforceable. There's been much said about reciprocity with other provinces and efforts have been made to try to achieve reciprocity, yet if you are to read what has been said by the Minister and the previous minister, there has not been very much of a sales effort made in this area. However, the problem relating to salesmanship was due to lack of consultation with the people who knew the Lotteries business. If somebody had been able to have pointed out the complexities of salesmanship that are required in Lotteries, how people and why people buy tickets, the likelihood is that the other provinces would have looked at it a lot more favourably and would have looked far more favourably on a reciprocal arrangement. It's quite obvious to anyone in the Lotteries business that far more tickets would have been sold if each Province had conducted its own lottery. People would have been inclined to buy one ticket from each lottery. If Saskatchewan had run three lotteries and Alberta and B.C. had run each three lotteries, people here in Manitoba would have bought one of each but it's not going to happen when you go to all the same people and try to sell them 8 tickets for the same single lottery and it won't work that way.

WestCan's going to affect our sales in Western Canada. It's going to affect our sales in Eastern Canada and also here in Manitoba, because there is no question that they'll be raiding our borders again. The previous minister stated that if various provinces held independent lotteries, there'd be a raiding of borders and Manitoba would be a loser. Well it's pretty obvious that our borders have been raided for many years by the Olympic, the Irish, the Alberta, the Saskatchewan and Ontario Lotteries and anybody else going into the Lottery business, yet Manitoba has fared very well in the face of all this raiding. Not only are we successful, we are continuing to grow. To suggest that we're not in a position to compete is, you know - just utter nonsense.

The Irish Sweepstake is successful in Canada. It's evidenced by the fact that out of the last 14 draws that were held, the first draw out of the drum as you all probably know, you probably all buy tickets, was for 200,000 pounds. Out of the last 40 eight were won by Canadians and if you want to start playing around with averages and percentages, it gives you an indication of how well the Irish is doing here in Canada and that's theoretically illegal too. They not only get front page coverage on their draw, but also on the final results after the game - that means that four times a year they get front page coverage and television and radio right across the country before the race has been run and then they get it again after the race has been run and that's not bad for an illegal lottery.

The Olympic advertises nationally, they're supposed to be illegal here in Manitoba, but they advertise if you get Time or Reader's Digest or MacLeans magazine, it's all in there. Not only that but they run an hour and a half

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(MR. TEILLET Cont'd) television show nationally on their draw but theoretically that's illegal here too. If you check with the Manitoba Lotteries Commission today, you'll find that the sales for the current lottery are heading for the highest number of tickets that have ever been sold in a single lottery year in Manitoba. That's with all this raiding that we're facing. It's going to be well in excess of a million tickets. There are absolutely no marketing facts to back up the majority of statements made by the government as an excuse for Bill 27, quite the contrary, many of the facts that have been used, those in the House and through the media, have been misleading to say the least.

Percentage figures have been used with abandon relative to income for the lottery agencies. On every single book of tickets that's distributed by the Manitoba Lotteries it states that the seller of the book shall receive two free tickets or \$5.00 which represents 16 2/3 percent of the \$30 figure. This means that the agency involved has no choice, they don't get the \$5.00 and in 95-98 percent of the cases they never see that \$5.00 but in computing the figures in the previous minister's own statements regarding the figures, and he's made these public through the newspaper, is shown as an agency expense and the result is that the public is misled into thinking that the St. Boniface Mohawks, the Citizens Campaign, St. Paul's College, Seven Sisters Wildlife, to name but a few are all operating at this low efficiency ratio.

Well, there's no way that these figures can be substantiated under normal business accounting procedures. It makes the government look good if you want, if they want to make the agencies look bad. Speaking of making the agencies look bad, the previous minister went on to suggest that there was a question as to the use of the money by the agencies. Now this is really a sore point. Is he suggesting or did he suggest that St. Paul's High School or the Royal Canadian Legion or Seven Sisters Wildlife are misusing funds. After all, you've got to remember one thing that all agencies are subject to public audit by the Provincial Auditors, so if he's going to go around suggesting that any of the agencies are misusing funds then I suggest the government should get the Provincial Auditors in there to check them, because he said and in that same newspaper story, then he says he refuses to comment on the statement that the agencies are playing around with money after he raised the question, nobody else did - he raised it himself and I think that's dirty pool. It puts all the agencies under a cloud and I suggest that the current minister should certainly question this kind of a statement coming from government officials.

One of the other points relative to misinformation is the comparison with the other lotteries in terms of commissions paid to agencies. Now this was another point that came out. It's been compared with Quebec Loto and other agencies in North America. Well Manitoba is in a - it's got a unique proposition. All the moneys go directly for charitable purposes here in the province, through the agencies as well as the top end or the net profit of the, for the government which is also again distributed to cultural and sports groups, whereas Quebec Loto and the other Lotos in New York, New Hampshire and all the other ones, they pay a 5 or 10 percent commission directly into the individual who's selling the tickets. In other words, you become an agent and you're in business for yourself and you're making money. The money is going directly and there's hundreds of thousands of dollars being made right now in Quebec by individuals selling tickets for Quebec Loto whereas here in Manitoba we have this agency operation through the non-profit organizations and nobody contrary to anything you may have read in the newspapers is getting a rake-off on the thing.

It was suggested again by the media or through the media by the previous minister that some of the professionals and this is another sore point, he uses the term in somewhat of a derogatory sense, running agencies are making excessive sums of money. Well we'll challenge him to prove that and there's no question that he can. I don't know what he considers is a large sum of money and I don't know what he terms a professional. There are many professionals in a heck of a lot of fields. There's doctors and lawyers and they're proud of being professionals. There are many salesmen who are proud to be professionals, even some morticians and they worked hard to get there and it depends what you call a professional. Every single individual right now who's running an agency here in the Province of Manitoba is a Manitoban first and he didn't begin in the lotteries business. We didn't have it before then until the 1970's, that when he started in the business, that's the oldest of the individuals involved. Now if four years of working in the lottery business makes this guy a professional or any individual a professional

(MR. TEILLET Cont'd) in fund raising, well then I suggest that he should be proud of it.

There is no way that any of the group should be treated as fast buck artists from the west that come in here, skim the top off of a fund raising project, get 50 or 60 percent, leaving the charity with little else and we've had it happen here many, many times in Manitoba from guys, the Wells organization and whatever from down east, there is no way that any of these guys are making, and incidentally if anyone of you want to question me on how much money I made when I was running an agency, how much are these guys making, I'm sure you'd get a direct and truthful answer. But this is the insinuation that's been made and I really feel that this has been a kind of a back alley political approach and we object to it.

Then there was the suggestion with WesCan there'll be less need for professionals, so that more volunteers can operate. Well then, you know, they say the sales won't go down - well there's got to be some kind of a contradiction there because does anybody really expect that an agency who now has got a sales volume say in the area of \$2 million a year or a gross sales volume of \$2 million a year, that a volunteer is going to go in and run the operation and that he can do it with non paid staff or volunteers. It's nonsense. Or is the previous minister suggesting that the sales are going to go so low that they won't need anybody because the agencies are going to be out of business anyway. There's too many of these things that don't make sense. It brings up the question of commissions.

The previous minister again bandied about profit figures and it's another sore point, 39 percent for the Citizens Campaign. Well I happen to know that's nonsense. I have worked there; 37 percent for St. Paul's, 31 percent for the Mohawks. Well it makes it sound like there's a big expense load there eh? If the true figures were used, it comes out a great deal differently because you know it's like apples and oranges. You know figures can lie but a liar, you know and all that kind of stuff.

If he uses \$30 as a base and that's the value of a full book and relates it to agency profits, it would be reasonable but he only uses that in relation to profits and neglects the 16 2/3 percent that the agencies have to pay out in commission initially so out of the 45 percent it would be a great deal fairer if he had used the \$25 figure and then based it on that. However if \$30 has been established as a base, you've got to remember that the first \$5 or 16 2/3 percent never touches the agency. It goes to the seller.

The major agencies with paid personnel are operating at an administrative cost of approximately 13 percent and now we're talking about that \$30.00 which is realistic and a profit of approximately 16 percent which is better than 50 percent of their income. Fifty-five percent of the \$30.00 goes directly to the Commission and they also make a pretty healthy profit. If you want to get around to playing with figures everyone should use the same base and there aren't too many corporations around, Izzy, who wouldn't be happy with a net profit of 16 percent.

If anyone wanted to look at the operational costs, the benefits accrued to the community, they'd agree that the moneys are well invested. Incidentally one of the things too that - in that 13 percent there's a substantial number of Manitobans employed and there are no ripoffs as has been insinuated.

So I guess what we're doing is we're pleading for WesCan not to destroy the organization that's been structured in the Province of Manitoba, that the commissions remain at least the same and we continue to make our best efforts to change the Criminal Code. Admittedly we'll have lost a great number of sellers in other provinces by the time either the Criminal Code is changed or some form of reciprocation might be arrived at. But we don't think there is any doubt that the other provinces will be agreeing with us and - take this as notice for a year or two from now - the other provinces will agree with us within the next year or two that WesCan is not the solution to our future lottery problems. There is no way that this is the solution, however we're into it.

In these efforts we suggest to the government that they use the expertise and advice that is available to them here in Manitoba. We also hope they would continue - and here we've got to congratulate the current Minister because he has been excellent in this - the consultation that we've held with him and we think it's been in good faith by both parties and we hope that he will continue it and that the people he has with him will continue it through to the regulation stages for the WesCan and the proposed new Golden Lottery.

We feel that up to now we've managed to help prevent some pretty disastrous

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(MR. TEILLET cont'd) mistakes that could have been made and we're not blaming the Minister for this but we think he's been subject to some pretty awful advice. But the fact that he has listened to us and to the agencies has been a step in the right direction and we hope that this continues.

It would be easy to continue for a long time. There have been so many mis-representations through the media and in the House that should be counted but I don't believe that it serves any useful purpose to harp any more. We believe the bill is a result of bad advice, poor salesmanship relative to reciprocation and will cost the Manitoba people hundreds and hundreds of thousands of dollars. The bill is a mistake, anyone can make a mistake but two wrongs don't make a right. We'd like to see the bill die, continue the negotiations on the Criminal Code and/or reciprocation and this government would be doing Manitoba and the other provinces the best possible service. Thank you.

MR. CHAIRMAN: Thank you. You've heard the brief. Are there any questions? Hearing none, thank you, Mr. Teillet.

Is there anyone else wishing to make presentation to the Committee? Hearing none, can we go down from the top and deal with those bills that there are no amendments proposed to and get the non-controversial ones out of the way first.

Bill No. 5, The Garnishment Act.

MR. BOYCE: Page by page, Mr. Chairman.

MR. CHAIRMAN: Page 1 - pass; Page 2 - pass; Page 3 - pass; Page 4 - pass;

A MEMBER: Hold it, hold it, hold it.

MR. CHAIRMAN: One moment.

MR. PAWLEY: Mr. Chairman, on Page 2 of the bill legislative counsel would like to indicate a small technical change in wording and I think possibly with leave of the Committee that we could have that change in reference to Section 14(7). Fourteen, subsection 7 of The Garnishment Act. I would ask Mr. Balkaran to deal with the suggested change to that Section.

MR. BALKARAN: Mr. Chairman, with respect to 14(7) of that bill it was pointed out to us that the words "withdrawal of garnishment order" was technically incorrect and the word should be "discontinuation". And throughout that subsection with your permission I would like to change "withdrawal" to "discontinuation" and "withdrawning" to "discontinuing" and make that one change. If it meets with the approval of the Committee.

MR. CHAIRMAN: Agreed? (Agreed) Page 2 as amended - pass; Page 3 - pass; Page 4 - pass; Preamble - pass; Title - pass; Bill be reported.

Bill No. 6. Are there any amendments?

MR. PAWLEY: Mr. Chairman, before we deal with this bill . . .

MR. CHAIRMAN: Speak into the microphone please.

MR. PAWLEY: I don't know what's wrong.

MR. CHAIRMAN: Order please. Order please. If you have any conversations would you carry them on outside.

MR. GREEN: The divisions can regroup outside.

MR. PAWLEY: Mr. Chairman, I would like to defer dealing with Bill 6 this evening as I intend to bring a message into the House which is actually pursuant to my own thinking plus some comments that were made by the Honourable Member for Birtle-Russell dealing with salaries of surrogate court judges. So I'd like to defer dealing with that bill until I've had an opportunity to bring the necessary message to the House.

MR. CHAIRMAN: Defer Bill 6.

Bill No. 7. There are amendments to that I believe.

MR. PAULLEY: Yes, Mr. Chairman, if I may and of course . . .

MR. CHAIRMAN: The intention of the Committee was to deal with those bills with no proposed amendments to get them out of the way.

MR. PAULLEY: Sorry, Mr. Chairman, I was engaged and didn't hear that.

A MEMBER: He never heard what I was saying either.

MR. CHAIRMAN: Bill No. 11. Were there any proposed amendments to 11? Page by page, The Insurance Act. Page 1 - pass; Page 2 - pass; Page 3 - pass; Preamble - pass - order please. There is an amendment proposed.

MR. TOUPIN: Mr. Chairman, I beg to move on Bill 11, an Act to amend The Insurance Act, that the proposed Section 291 of The Insurance Act as set out in

(MR. TOUPIN cont'd) Section 5 of Bill 11 be amended by striking out the words "during the disability" in the fourth line thereof.

A MEMBER: Explain.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: No I won't explain.

MR. CHAIRMAN: Mr. Balkaran.

MR. TALLIN: Maybe the Superintendent could remember what this was about. Mr. Swain is there. Do you remember that? That was a request from the insurance companies I believe was it not? That it was confusing to them.

MR. SWAIN : No. I think the problem is that as it was written it said that the payment had to be paid during the disability. Well in many cases the payment wouldn't be made until after the disability had occurred. So it doesn't affect anything other than it allows the payments to continue after the disability period has finished.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Well, Mr. Chairman, just so that I can be further -- it is payments in lieu of disability but they can be made after the disability has occurred. In other words they don't have to occur while the person is disabled.

MR. SWAIN : That's right.

MR. GREEN: Okay.

MR. CHAIRMAN: Is that agreed? (Agreed) Preamble - pass; Title - pass; Bill be reported.

Bill No. 13. Are there any proposed amendments? The Boxing and Wrestling Commission Act. There are proposed amendments. We will defer Bill 13.

Bill No. 14, The Amusements Act. There are amendments proposed. Defer.

Bill No. 15, The Queen's Bench Act. There are amendments. Defer Bill 15.

MR. PAWLEY: Well it's a minor change.

MR. PAULLEY: Even my amendments on Bill 7 are very minor.

MR. CHAIRMAN: Can we proceed through these and come back to the others? It shouldn't take us long.

Bill No. 16, The County Courts Act. No amendments proposed to Bill 16. Page by page. Page 1 - pass; Page 2 - pass; Page 3 - pass; Preamble - pass; Title - pass; Bill be reported.

Bill No. 17, The Attorney-General's Act. Are there any proposed amendments? It's a one-page bill. Page 1 - pass; Preamble - pass; Title - pass; Bill be reported.

Bill No. 18, The Highways Department Act. There are no proposed amendments. Page 1 - pass; Page 2 - pass; Preamble - pass; Title - pass; Bill be reported.

Bill No. 20, The Highway Traffic Act. There are no proposed amendments? There is one. We'll defer Bill 20.

Bill No. 23, The Liquor Control Act. There is an amendment proposed. Mr. Pawley.

MR. PAWLEY: Mr. Chairman, I would ask that we defer consideration of Bill 23 as there will be another bill coming to the Legislature which will deal with the subject matter of Bill 23 as well as other matters.

MR. CHAIRMAN: Defer 23.

MR. PAWLEY: I believe that Mr. Jorgenson would concur. We've had discussions on this.

MR. JORGENSEN: Yes. Just hold it. We'll just hang on to it until we see what's on the other one.

MR. CHAIRMAN: Thank you.

Bill No. 27. I take it there will be amendments. No amendments to 27? If there is going to be debate perhaps we can defer that one and continue through.

MR. SHERMAN: Well I just want to ask if there aren't going to be any amendments how are the modifications announced by the Minister tonight going to be incorporated?

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Mr. Chairman, if I can deal with that. What I brought forward

(MR. TOUPIN cont'd) this evening is permissible under Sections 16(a) and (d) under Section 16(a) and (d) of the existing bill and it has to be done by discussions with participating provinces and it has to be cleared by Order-in-Council. So that's all I made reference to.

MR. CHAIRMAN: Shall we continue with Bill 27? Page by page. Page 1 - pass; Page 2 - pass; Page 3 - pass; Page 4 - pass; Page 5 - pass; Preamble - pass; Title - pass; Bill be reported.

MEMBERS: Nay.

MR. CHAIRMAN: On division? (Agreed)

Bill 36, The Public Schools Act. There are amendments. We'll defer that one.

Bill 48, The Liquor Control Act (2). There is an amendment. Defer Bill 48.

Bill No. 49. I believe there are amendments to it. Defer 49.

Bill No. 55. There are amendments to that one.

Bill No. 60. Social Services Administration Act. No indication of amendments for Bill 60. Page by page. Page 1 - pass; Page 2 - pass; Page 3 - pass; Page 4 - pass; Page 5 - pass; Page 6 - pass; Page 7 - pass; Page 8 - pass; Page 9 - pass; Page 10 - pass; Page 11 - pass; Page 12 - pass; Page 13 - pass; Preamble - pass; Title - pass; Bill be reported.

Bill No. 62, The Financial Administration Act (2). There are amendments. Defer.

Bill No. 66, The Limitation of Actions Act. No amendments indicated to Bill 66. Page 1 - pass; Page 2 - pass; Preamble - pass; Title - pass; Bill be reported.

We'll go back to the beginning, those bills with proposed amendments.

Bill No. 7, The Civil Service Act. Mr. Paulley.

MR. PAULLEY: Mr. Chairman, if I may. There are a number of amendments that it is intended to suggest to Bill No. 7. I just want to inform you, Mr. Chairman, and members of the Committee that we have a limited number of copies available of suggested amendments and further to that, Mr. Chairman, this afternoon in the House in order to accommodate the opposition groups I gave one copy to the Liberal caucus and two copies to the Conservative caucus of the proposed amendments so that they might have a reasonable opportunity of having the information before them. I appreciate and realize that possibly all of the members of the Committee will not have copies. There are a number of copies and I understand that the legislative counsel is now having xeroxed copies made so that every member may have a copy.

MR. CHAIRMAN: Are we ready to proceed with Bill 7? Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I want to if I may because I think this will facilitate the presentations and the dealing with the amendments to see if there can be an agreement on procedure. The government have certain amendments; we have amendments; I believe the Liberal Party have amendments as well. In many situations I believe it will be on the same clause. I am assuming that if the government introduces its amendment first that - at this point because we've been given notice of the amendment and we have some indication at this stage - the procedure that we should follow is after the introduction of the amendment we're in a position to introduce our amendment as a sub-amendment and deal with that on that basis. If the government accepts our sub-amendment and agrees on it then I guess there has to be a withdrawal of their amendment. Now I'm not sure that that will take place. But I think this procedure is a little bit different from the procedures in the past simply because at this point we have notice from the government of the amendments and I believe that there will be a series of counter amendments on our part.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: On this point, Mr. Chairman, I believe that it has been customary in consideration in the Committee to consider the amendments as proposed by the government. If they are not upheld then sub-amendments are considered. Now I appreciate the point that has been raised by the Leader of the Opposition and I don't give a continental really how it is done. If the sub-amendment proposed by a member of the Committee other than the sponsor of the so-called government amendment

(MR. PAULLEY Cont'd) if that particular sub-amendment is passed as long as it achieves the desire that we have, I don't give a damn who gets the credit for it. The only thing is that the deed is done for the benefit of all concerned.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, on the point of order. I think that what we have done is proceeded clause by clause and the Chairman will recognize anybody he wishes. Sometimes dialogue has taken place and a member proposing an amendment says that I am going to propose this and the sponsor of the bill or the government says well we were intending to do this and gradually it works its way out. But the Chairman will recognize such speakers and such amendments as come forward. I think that's what the Minister of Labour is saying. But what we do is proceed with the bill clause by clause. I think that the Minister has been good enough to give copies of what he intends to do to the opposition. That may affect them, may not affect them. But if we proceed clause by clause I'm sure it will work its way out which is the past procedure. Can we proceed to do that?

MR. CHAIRMAN: Proceed? Section 1(a) - pass; (b) - pass - Mr. Boyce.

MR. BOYCE: Mr. Chairman, on (b) there's a proposed amendment. I move that sub-clause (2) (1) (e) (v) to The Civil Service Act as set out in clause (1)(b) of the bill be struck out and the following clause substituted therefor: "sub-clause (v) - any person paid by fees or hired on special contract basis or as an independent contractor; and." I would so move, Mr. Chairman.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: If I may speak to the amendment, Mr. Chairman. During the debate in the House and also to some degree remarks made by the Government Employees' Association there was some consideration or thought that the way the original proposed amendment was introduced that there could be the possibility of circumventing the collective agreement entered into by having a considerable number of individuals brought in at special rates and wages that would circumvent the collective agreement. The purpose of the proposed amendment is to make it amply clear that there is no attempt to circumvent the collective agreement entered into between the government and its employees.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, one of the problems that we've had right from the beginning on this particular clause and with respect to the bill is the fact that there is a blurring of those who are on contract and those who are within the Civil Service and it's not always known necessarily who's on contract and who's within the Civil Service. People hold fairly important positions in government who are on contract and not contained within the Civil Service. Now I appreciate the fact that from the bargaining point of view as far as the MGEA is concerned that there is that aspect of it that has been mentioned by Mr. Ritchie in his presentation. But I also appreciate one other fact that I think has to be put on the table.

I think it's important that The Civil Service Act be followed and the government not be given the opportunity to be able to circumvent the Act and to hire on contract people who for all intents and purposes are within the Civil Service, have the same power as a civil servant and in turn are represented to the public as being responsible for the execution of government policy and for the contact that would normally flow within government. And for that reason I think, Mr. Chairman, what we should be interested in is in fact bringing everyone who is on contract within the Civil Service so that it would be known and understood and there would be no way in which the Act could be circumvented and the people who are appointed only for a political purpose as opposed to a public purpose could not be brought within the framework of government and appear to be representing government when in effect they are in fact representing the political party who happen to be the power of the day. And whether it's present government or another government. And I think that we have to be concerned not about just the present situation but about future situations as well.

So it would seem to me that if anything this particular section will have the effect of allowing a greater circumvention of The Civil Service Act and in the hands of those who would be unscrupulous an opportunity to basically dilute the Civil Service in the growth and the evolution that took place here. And I'm quite prepared, Mr. Chairman, if necessary, if this position is not respected by the government to start to cite examples where I think it can be shown that there are people who hold important positions within government who are on contract who for all intents and purposes should have been processed in the normal way and should be included and considered within the Civil Service and should not have been given the position of being hired outside of the normal framework in which people are selected.

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MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I think that the Honourable the Leader of the Opposition is not very conversant with the collective agreement between the government and its employees. Nor do I think that he has apprehended or considered the reasons behind the section and the amendment to the proposal because what we are dealing with here and I draw to my honourable friend's attention the word "on a special contract basis or an independent contractor". If it were not for a clause like this being contained within The Civil Service Act then anyone who - first of all may I say, Mr. Chairman, that every employee who is hired within the Civil Service is on a contract basis. That is the first premise, that there is a contract entered into between the individual and the employing authority as to terms and conditions of employment.

Now then there are other types of contracts which we refer to as special contracts or an independent contractor. When an employee is engaged on a contract after having gone through certain procedures to become employed he or she is entitled to all of the benefits contained either in The Civil Service Act or contained within the collective agreement.

Now if we accepted the proposition of the Leader of the Opposition, apart from the references to the possibility of the government of the day being able to manipulate and maneuver - that is a political consideration that I discount but I do want to point out, Mr. Chairman, that if the contention, the point raised by the Honourable the Leader of the Opposition that if we didn't have a clause like this within The Civil Service Act then everyone, be they signers of a special contract or an independent contract, would become immediately entitled to all of the benefits and privileges such as vacation with pay, such as the right of belonging to the superannuation insurance fund, group insurance and the like. Mr. Chairman, that is the purpose of this and the sole purpose of this, to differentiate, if I may use that expression, between the contract that is entered into by a person who's entering into the Civil Service in the normal way and a person who comes in to perform a duty under a special contract or as an independent contractor. That is the purpose of this and while I can appreciate quite fully, knowing my honourable friend and I say this very affectionately, I can appreciate the approach of my honourable friend, the Leader of the Opposition, I want to say to him this is the reason, not the reasons that he is suggesting.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Whenever the Honourable Minister of Labour is complimentary I always get concerned. I'd like to if I may refer to the presentation of the solicitor on behalf of the MGEA on Page 2 where he says something sort of diametrically opposite or opposed to what the Honourable Minister of Labour says.

MR. PAULLEY: But he wasn't knowledgeable either.

MR. SPIVAK: Well I wonder, Sir, I wonder if . . .

MR. PAULLEY: Okay I'll let that go.

MR. CHAIRMAN: Order please.

MR. SPIVAK: And he states that the potential effect of these few additional words could result in the total destruction of the Civil Service as we know it. Mr. Chairman, if it's necessary to go through the procedure of trying to cite examples of this I think we can do it. The problem of course is we get into the problems of names. But I am quite prepared to do that because I think we are talking about a bill that is significant and is important and in which philosophically there is a difference of opinion. But without getting into the particulars at this point, of names, just let's look at the Department of Northern Affairs. It's now acknowledged by the Minister that last year there were 40 contract employees.

MR. PAULLEY: Which Minister?

MR. SPIVAK: The Minister of Northern Affairs. That this year there is 40 or more contract employees more or less. Now, Mr. Chairman, as I understand what the Honourable Minister is saying that those 40 contract employees are not within the Civil Service and yet as I suggested before, Mr. Chairman, they represent themselves as being agents for the government. They represent themselves as in fact there to execute government policy yet the fact is that they represent about 14 percent of the department, they are not within the Civil Service and I think clearly this indicates the potential as indicated in the presentation of Mr. Ritchie that this could result in the total destruction of the Civil Service as we know it. And I think for that reason that the government should seriously reconsider its position with respect to this because they have defended their position as being one which is no different than previous governments. They have presented themselves as doing nothing different than any other government and yet by this amendment they are proposing in a sense to legalize or legitimize what some have suggested has occurred.

(MR. SPIVAK cont'd) I wonder seriously whether this is the intent.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Well, Mr. Chairman, I honestly believe that we are talking about two different things and I'm going to try and explain.

Whether the government does what the honourable member is saying that it may do or not can be a subject of debate and can be a subject of argument. I believe that the honourable member would agree that the government has the right to hire on contract and I don't think that the Manitoba Government Employees' Association would object. That has been its right for years and it does that and I assume within the terms of its existing collective agreement or it would have been objected to. The honourable member would agree that they have a right to hire somebody by fees. I mean his government and our government are going to look -- let's say I hire a lawyer from time to time because I have a special job that either the Attorney-General's Department does not have time to do or because it requires a particular expertise such as when the previous administration hired let's say Mr. Buchwald for the Consumer Protection Act. The honourable member will also agree that they have a right to hire an independent contractor and that that is not going to be precluded by anything that now exists between us or the MGEA.

Now the MGEA says if they hire by fees, if they hire by contract, if they hire in these methods they have a possibility of undermining the Civil Service. It's like the employee saying that the employer is hiring people by contracting out. He's impairing the bargaining unit by contracting out. Whether that occurs or not is an argument between the MGEA and the employer and that argument I suppose can continue. What this section intends to do as I understand it - and I'm looking at the original section and the amendment - is to merely say that when this is done, right or wrong, and I'll allow the honourable member to argue that it is wrong, that the independent contractor or the person on fees or the person on contract does not become entitled to Civil Service benefits and is not classified as a civil servant.

Now as to whether it will be done or won't be done is not being enacted with this section. The honourable member surely agrees that the government can hire somebody for fees. If it does it all the time and dismisses its own staff then that will become a confrontation between the government and the MGEA as happens with a private employer when they try to impair the bargaining unit by sort of laying everybody off and hiring a management employees agency and of course that has been done. If that occurs then the honourable member - or if he thinks it's occurring he can pursue that debate. But I don't think that he would want to argue that where it is done and done properly and if he concedes that it can be properly done, that those people should be - if you look at the original Act it defines Civil Service as meaning - and it lists and then it says officers of elections, sergeant-at-arms, temporary employees, persons employed to conduct, persons who are patients and then it says any person wholly paid by fees and now what is being added, "any person paid by fees or hired on a specialist contract basis or as an independent contractor." Those things are now all done. Surely the honourable member agrees that they are now all done and were done before and that if they are done that that person should not be classified as a civil servant. Now I'm looking over at legislative counsel to make sure that I'm not making a mistake but I believe that that is what the section does.

Now if the honourable member has a case and I'm not going to take it away from him, I'll argue it when the time comes, that the government is using contracts and independent positions and hiring by fees to undermine the bargaining unit, that's a different argument and I don't think it can be made on this particular amendment because the amendment merely precludes those people as being civil servants.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: I have no more comment, Mr. Chairman. I made my point; I hope it's acceptable to the Committee. There was never any intent and as my colleague the Minister of Mines has indicated if there is a question of a debate to ensue as to the hiring of special contractors on a special contract basis or an independent contractor I suggest that is apart from the intent contained within this. We really want to protect the collective agreement that has been entered into and not circumvent it and to make sure that the people who come in on a special contract basis or independent contract basis do not have all the rights and privileges that have been negotiated between the Manitoba Government Employees' Association and the government.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Well I'm not as concerned about the obligations they have to the people of the province and obligations that they have as civil servants inasmuch

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(MR. SPIVAK cont'd) as there is a representation in some cases that they are something that they are not. I think that the Honourable Minister of Mines and Resources made a Freudian slip when he said "hired on a specialist contract" because -- (Interjection) -- No, you said specialist.

MR. GREEN: Well then it was a slip.

MR. SPIVAK: But I want to be able to continue because I think we clearly have the distinction that has to be drawn between a specialist contract which would be any person who is paid a fee for the particular expertise that he has and that of one who is hired on a special contract where the person doesn't have to have any particular expertise and to be particularly a specialist for the position that he is being hired. And I have a feeling that in saying that we have a very clear distinction of what we are talking about. Because, Mr. Chairman, if I was to go to the Department of Industry and Commerce and look at the roster I would find that there is a Director of Promotion who to my surprise is now on contract, not hired within the Civil Service, not an established position. He is functioning as a director within the department and he is considered a Director of Promotion yet I wonder what he's really promoting. And I'm concerned and the public is I think concerned as to the way in which public money is spent and it's true that we have other vehicles and other opportunities to be able to debate that and discuss that and questions can be asked, I recognize that. But I'm not here prepared to allow this Act to be - and I think that this is the position of our party and I think others who will speak at different sections on this - prepared to allow this Act to be altered and changed to allow any greater opportunity for the politicizing of the Civil Service to take place.

If the Honourable Minister says that in effect all this is really stating is what really is in fact the case then I say leave the present Act as it is and not change it. Because if you're saying that all this does is state what is a fact then let it be that. I think that the fear that the MGEA have is that this will give a greater opportunity and I think the fear that we have is that not only does it give a greater opportunity for the circumventing of the Civil Service or the MGEA Agreement, what this really means is it gives a greater opportunity for many many people unqualified whose allegiance to the party is really the only criteria to be placed on the public payroll.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Well, Mr. Chairman, I understand my honourable friend's arguments and his position. I can't do any more than to indicate that I do not think that this section gives a greater opportunity for the doing of the things that he suggests. The government has the power to hire by contract; it has always had, it continues to have. What it is now making abundantly clear and I think this was done in deference to the Association and not against them, is to indicate that where that happens these people will not have Civil Service benefits. And if they don't have it now all that is being done is making it abundantly clear that they will not have them and surely that is something that the MGEA would - you know if you hired these people on contract and they were entitled to all the Civil Service benefits which I'm not saying they would be without the section but the section makes it abundantly clear that they are not. And that is in deference to the bargaining unit and not against them. So I'm not precluding the argument as it's made but I just think that on this amendment the honourable member, whether he will agree with it or not and I tried to confirm this with legislative counsel, supports the bargaining unit rather than undermines the bargaining unit. What can undermine the bargaining unit is if the government went out and hired on contract everybody who should be civil servants and if that is the argument that is a different argument and is an argument which I expect I'll hear from on many occasions from the honourable member. I propose that we deal with the amendment now which doesn't do that.

MR. CHAIRMAN: Is the amendment agreed to? Agreed? On division or do you wish a vote?

MR. PAULLEY: I'd like to know, Mr. Chairman, what the division is.

MR. GREEN: Okay let's vote, let's vote.

MR. PAULLEY: I'd like to know where the third party in the House stands.

MR. GREEN: Let's count the votes.

MR. CHAIRMAN: Mr. Asper on a point of order.

MR. ASPER: Before the call for the question I had been trying to ask the Minister a question through you.

MR. PAULLEY: Which Minister?

MR. CHAIRMAN: I'm sorry I did not see you.

MR. ASPER: Mr. Chairman, I wonder if Mr. Green the House Leader would answer a question. Can I assume that he would not accept any amendment or the Minister of Labour rather would not accept any amendment that would limit in percentage of employee terms or in percentage of salary budget terms the amount of the number in dollars or the number in bodies of people who are working in a given department who are not civil servants but are rather contract full time people.

MR. PAULLEY: Mr. Chairman, if that question is directed to me . . .

MR. CHAIRMAN: Mr. Green. Mr. Paulley.

MR. PAULLEY: . . . may I say to my honourable friend the Leader of the Liberal Party it is not up to me as the Minister of Labour or the House Leader to prevent any member of the Committee from proposing an amendment. If the Leader of the Liberal Party is desirous of proposing an amendment - and I might say incidentally were such an amendment to be proposed I would have to vote against it because I don't think it's feasible or possible - but I would indicate to my honourable friend the Leader of the Liberal Party that neither my colleague the Minister of Mines or I have any authority to prevent the introduction of any amendment.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: I urge the honourable member to take into consideration that that is not the subject of what is now being said.

MR. ASPER: I understand that. I understand that.

MR. GREEN: . . . that that is a different subject. It is normally a subject which is protected by the employees vis-a-vis the government. In other words they could take a position that we are undermining the unit. If somebody thought that that should be done then it would have to come not as an amendment to this section because it is I believe unrelated. It would have to come as an amendment to the Act saying that the government shall not hire more than a percentage number of contract employees, more than a percentage number of fee employees. But the amendment that is being proposed I really believe aids the bargaining unit, it does not hurt the bargaining unit, and that's why I think the Minister of Labour wants a shown division. Because if that is the position of the opposition, that they are going to oppose this then let us have it known. Let's have the division.

MR. CHAIRMAN: Mr. Asper.

MR. ASPER: Mr. Chairman, through you I think I agree with the legal interpretation of what the section is doing as enunciated by Mr. Green but I do feel that we should articulate and I think we have articulated that the concern of the opposition is that theoretically and possibly 100 percent of the employees of a department could be contract employees and not subject to the Civil Service Act.

MR. GREEN: But not by this amendment.

MR. ASPER: No, not by this amendment. I quite agree with the Minister.

QUESTION put on the amendment, MOTION carried.

A MEMBER: The Liberals are against it.

MR. CHAIRMAN: The amendment is carried.

1(b) as amended - pass; 1(c) - pass; Section 1 - pass.

MR. BOYCE: Mr. Chairman, I have another amendment to Section 1.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: I beg to move that Bill No. 7 be amended by adding thereto immediately after Section 1 thereof the following section. This is after Section 1, that Section 3(1) be added: 1.1 - The Act is further amended by adding thereto immediately after Section 3 thereof the following section: "Employment on special contract. 3.1 The Lieutenant-Governor-in-Council or an employing authority may employ a person on a special contract basis or as an independent contractor subject to such terms and conditions as may be described in the Order-in-Council or in the special contract entered into by the person and the government."

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: I think, Mr. Chairman, the purpose of this is to make it amply clear that the Lieutenant-Governor-in-Council can do what we've already just approved by a majority vote of the Committee, that is to enter into special contractual agreements, special contracts and independent contractors so that it clearly states in the Act that that is permissible.

MR. CHAIRMAN: Agreed?

A MEMBER: On division? Same division?

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: My only point, Mr. Chairman, is taking the Minister at his word. It enforces or reinforces the kind of flexibility given the Lieutenant-Governor-in-Council in the section we amended earlier and therefore we would be as

(MR. SHERMAN cont'd) opposed to this as we were to the last amendment.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Mr. Chairman, I'd like to ask a question of the legislative counsel. There's a phrase there "or an employing authority". It's already defined in the Act, is that correct?

MR. BALKARAN: Yes it is.

MR. MCGILL: I see. Thank you.

MR. CHAIRMAN: Mr. Asper.

MR. ASPER: I'd like to ask the legislative counsel a question. Unless I misread the Act the amendment that we've just voted on, the amendments that we've got in front of us now do nothing more than the government has already got the power to do and already does in fact.

MR. PAULLEY: Assume to have had the power, Mr. Asper. It was never clearly delineated in the Act.

MR. ASPER: But, Mr. Chairman, through the legislative counsel and thus to the Minister. Has this not been the practice in any event for some decades?

MR. BALKARAN: Yes.

MR. ASPER: Well okay.

MR. PAULLEY: It has been the practice but it hasn't been on . . .

MR. ASPER: This is the wrong place to . . .

MR. CHAIRMAN: A question has been asked of Mr. Balkaran.

MR. BALKARAN: All I can say, Mr. Chairman, is that during the course of preparing these amendments it was pointed out to us that the Act was deficient in that while this practice has gone on for several decades as you quite correctly point out there was no clearcut authority in the Act to do it and therefore that should be remedied at this point.

MR. ASPER: I agree.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, before we're asked to pass this I wonder if the Minister is in a position to indicate to the Committee how many contract employees the government has as of today or as of this month.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: No, Mr. Chairman. I'm sorry but if my honourable friend the Leader of the Opposition would care at the proper time to introduce an Order for Return I would be prepared to accept it and forward the information in accordance with the proper rules of procedure of the House.

MR. SPIVAK: Well, Mr. Chairman, I wonder . . .

MR. PAULLEY: I'm sure that my honourable friend the Leader of the Opposition wouldn't expect me or anyone else to have such information at fingertips during a meeting of the Law Amendments Committee.

MR. SPIVAK: Mr. Chairman, I can't think of a more appropriate time for that information to be made available to the members of this Committee of the Legislature because in effect, Mr. Chairman, if I understand the legislative counsel correctly, the reason for this particular section is to confirm the practice of the past and what may not have been the power of government to do before. And there's a question. So therefore, Mr. Chairman, I think it's very germane before this Committee be asked to in fact approve something that may have been followed in the past but may not have been legal to at least know at this point what contracts or what number of contracts are out and to be able to judge the proportion with respect to those who are in the Civil Service in the regular way. And I recognize that the Honourable Minister of Labour would not have it at his fingertips but I also recognize that with a little bit of labour on his part he can bring it to this Committee. It would seem to me that it's pretty appropriate for this Committee to have that information before they're asked to approve it. And we then go back and we can to the basic argument that exists between ourselves and the government. But even so if there isn't any question, and this obviously puts it a question, the fact that the appointments may not have been within the power of government, then I suggest that this Committee have the information now as to how many have been hired on contract and are on contract so that we can have enough information to make the kind of judgment that has to be made.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I want to assure my honourable friend, the Leader of the Opposition, that the Minister of Labour is used to labour 28 hours per day. But he doesn't have at his fingertips the information sought by him. If what he is asking is how many contracts as of this date are valid then I mentioned the

(MR. PAULLEY cont'd) process of Order for Return. I would give him my undertaking that I would attempt to obtain that information even without an Order for Return passed by the House. If the objective of my honourable friend, the Leader of the Opposition - and I am inclined to think that this is the approach of that Honourable Member for River Heights - is to upset or attempt to upset all of the contracts that have been entered into by this government and past governments because of the lack of clarity in the Civil Service Act I would suggest that that is a different kettle of fish.

What we are trying to do by this amendment, as the legislative counsel so properly points out, is to - for the future within the contents of the Act to recognize that notwithstanding the fact that contracts were entered into - in the future we will not. Now I'm sure that my honourable friend when he happened to have been a Minister of the Crown, the Minister of Industry and Commerce, entered into contracts within the practice of the Civil Service Act. And if the objective of my honourable friend is to upset all of those contracts that were entered into as a matter of practice then I suggest he had some responsibility as a member of the Crown during his tenure of office. It has been drawn to my attention today and I take that in the context of recently, it has been drawn to my attention of this deficiency within the Civil Service Act and having had that drawn to my attention I am trying to overcome the deficiency under which previous governments operated as well as the government of this day up until this bill being proposed for the consideration of this Law Amendments Committee.

MR. CHAIRMAN: Mr. Craik.

MR. CRAIK: Mr. Chairman, just a point of clarification here, a contract employee does not include temporary employees.

MR. PAULLEY: No.

MR. CRAIK: A temporary employee is a temporary position and the person becomes a duly qualified civil servant for that period of time.

MR. PAULLEY: There's provision in other sections of the Act.

MR. CRAIK: Does an executive assistant fall in as a contract employee?

MR. PAULLEY: No, because he's not under the Civil Service Act as such.

MR. CRAIK: And he's not contract either then, he's neither one - he's a special.

MR. PAULLEY: At the pleasure of the Minister.

MR. CRAIK: Now the question then is the one, the point has been made here that these contract employees have been used as a matter of course for several decades but it must be a matter of numbers. The case of having a contract employee hasn't traditionally been a common thing. It may have existed but compared to the present day where we have say the Northern Affairs Department that has more contract employees than possibly than regular employees, or a very large percentage - a significant percentage of their staff is contract employees, then it is a different situation than has existed historically, so the point I want to make. Mr. Chairman is that the numbers although it may have always been the power of any government to hire a person on contract, the practice has not been as predominant as it is now and the number of contract employees has in the past been far less significant than it is at the present time.

MR. CHAIRMAN: Mr. Asper.

MR. ASPER: I want to just make clear the position that the Liberal Party takes. We do not see in the amendment any power that has not been exercised for a long term and is currently being long term. Mr. Chairman, I do want it understood that the Liberal Party does join in deplored the, what we see as the over-use of this kind of power by government and thereby the turning of the Civil Service Commission and the Civil Service itself into a shell. Now Mr. Chairman, I just don't believe that this is not the place, yes Mr. Chairman, I just don't feel this is the place to make that case. In fact we will in no way retreat from our position and I don't want our voting in favour of the amendment to be in any way construed by government to be a withdrawal from our position of being opposed to the government's use of the Civil Service Contract system as opposed to the Civil Service Commission of hiring.

MR. PAULLEY: We accept that Izzy.

MR. CHAIRMAN: Order please. Order please. I was having a little difficulty in hearing the honourable member. Could you keep the tone and conversation down a little please. Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I would say I recognize that the honourable

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(MR. SPIVAK cont'd) minister does not have this at his fingertips but I wonder if he really would be in a position to give an undertaking that if he can't produce it right now, that he would be in a position to produce this when we are on the Third Reading of the bill itself. Can he be in a position to undertake to give us that information? Surely as members of the Legislature we're entitled to get that.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I don't think that it would be reasonable or fair to ask me to give that precise information on Third Reading of the Bill. I'm hopeful, I'm hopeful that possibly the discussions this evening will make it possible for the bill to be reported to the House, in which event there is the possibility that the bill would be up for third reading say sometime next week and I don't think that it would be reasonable or fair for me simply to give an indication of the number of contracts today because in light of the debate that has taken place I think that it would be an onus of responsibility on me in view of the comments of the previous Minister of Education in a former administration, and also a previous Minister of Industry and Commerce in a previous administration, to see how many contracts that they have entered into so that we would have a proper comparison. I think it would be odious for me simply to say, well today we have 25 contracts that have been entered into when without proper research I would find that the previous Conservative government had 55, so I think that in all fairness, in order to have the record straight, that I could not undertake to have for Third Reading precisely the documentation requested by the Leader of the Opposition.

MR. CHAIRMAN: Mr. Dillen.

MR. DILLEN: There's been much discussion tonight on the question of contract employees and I wanted to make my contribution on this thing, on this question because seeing that the position of the Conservative Party on the recent vote raises some interesting questions. The problem arose some 4 or 5 years ago where a Native Group that I was a member of approached various departments of government saying why aren't you employing more Native people and at the time they asked the question they brought forward the Civil Service bulletins and they would look on the qualifications required for the job in the areas where they lived and in light of the qualifications they would say it is just impossible for us to be able to compete with anybody from anywhere else in Canada who had the qualifications and yet we have the living experience of the problem that this position is attempting to correct, and they said who is better to resolve the problem that we are experiencing than we ourselves. But under the present system it's just absolutely useless for us to apply. They said we don't meet the educational requirements right to the letter. We have education - we can't meet any of the other qualifications right to the letter but we have qualifications. There has to be some consideration given to any person who has the living experience and it's on that basis and on the language as well, the use of the Native language and that wasn't a requirement on the application. So, always a university level - several years of experience and so on, so then it became necessary to find some way of bringing people into the Civil Service so that they could get the necessary experience to attempt to correct the problems that exist for Native people and this is what has happened. But I'm really amazed that the Conservative Party takes the position and it would appear to me that it's okay for somebody who lives in River Heights who can meet the qualifications and gain a position on the Civil Service, within the Civil Service on contract or otherwise, but it is not all right for the people of northern Manitoba to have that same advantage, particularly the Native people. I think that's simply ludicrous.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Well I think Mr. Dillen brings one interesting point and I'll just make this point. I think it would be interesting to note how many Native people are on contract and the proportion they represent on contract to the number of people who are on contract. Mr. Dillen should be interested in that for his own purposes. And how many Native people are within the Civil Service and the proportion that they are within the Civil Service and then I think we would have some interesting facts and figures to talk about.

But, Mr. Chairman, the Minister of Northern Affairs within I think almost 24 hours was able to produce those who were on contract when his estimates came up. And do you know why?

A MEMBER: Very efficient Minister.

MR. SPIVAK: No, not an effecient Minister. Because every Minister in his preparation of his estimates in every department has that information at his fingertips. Who are we kidding? It's all there. All that's required is the ability for someone to put it together. That can be done and that can be done within less than 24 hours. So the question is not - it's "poppycock", to use an expression on the part of the Minister of Labour to suggest that the work is difficult. It can be done if the government wants to do it. I don't think that it's unreasonable at this point for that kind of undertaking to be given so that the information could be furnished in the House. On that basis we at least then know in an aggregate figure what we're really talking about. I must say that I was amazed and quite astounded at the proportion with respect to the Department of Northern Affairs but that wasn't known until the Minister indicated to the House directly without any equivocation and furnished the information. That's I think the proper way, and it wasn't done through any Order for Return, it was done at the request.

Now in this particular situation because you are asking for something that was not before us when the bill was first presented and this is obviously something that has come up in the in between period I don't think it's unreasonable to ask for that information and ask the government to undertake to give it to us.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, I presume that the Minister of Labour has already indicated that he would try to have the kind of information that the honourable member is seeking and I think that that doesn't seem to be too difficult, and if the Minister can do it he's indicated that he will see what he can do in that regard.

I think that the Minister of Northern Affairs is coming under some unfair attack here relative to his hiring of contract employees. One of the considerations -- first of all let me say this before I get to the Minister himself. The Interpretation Act states that no enactment is presumed to change the law which I suppose to laymen and even to lawyers sounds ridiculous. If it doesn't change the law why is it being enacted? Why don't you just leave things as they are. The real reason for that is that although an enactment is not presumed to change the law it is sometimes difficult to know what the law is. Therefore the enactment of this section doesn't presume that you couldn't do it before but it makes it, as I heard the former Attorney-General Mr. Lyon once say, it makes it abundance doubly sure that we are enacting a section which we feel is correct but rather than have an argument about it we are making abundance doubly sure. This section does not presume to change the law as I think the Member for Wolseley has pointed out, it's confirming what is in fact occurring. My own tendency is to think that I can do everything that the law does not prevent and therefore if this is not prevented it can happen and that's probably the basis upon which things have happened in the past and I prefer that. I prefer that I am free to do anything that is not specifically prohibited. However different lawyers look at it differently and they say they want - for instance the civil lawyers, Mr. Marion is here - certainly it is characteristic of the Gaullic tradition of law that everything has to be stated rather than the English which says that if it's not stated you can do it, which I much prefer. If the honourable member says that that is the Liberal position then I'll have to suffer with the word "Liberal" at that point for a little while.

The fact is that sometimes although staff is requested it is not felt that it is good to build up establishment within the Civil Service. If it can be thought of that perhaps this staff will be needed temporarily rather than built in classifications so that it's there and next year it comes up again etc. and that it becomes a part of the establishment with the -- Mr. Spivak will well know that one of the traditions of budgeting is what you've got you keep and you go from there and many of the bureaucracies think that way. Much of the contract employment that is referred to by the Member for River Heights I'm sure the Minister of Northern Affairs would be much happier to have in the establishment. But there was dramatic moves in that department and it was felt that it would be best to do it on contract basis rather than create new establishment until it was deemed to be absolutely necessary. That's part of my recollection. The Minister himself is here and I don't know whether he is going to agree that that is what occurred but that is part of my recollection.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I cannot let go unchallenged the remarks of the Leader of the Opposition. He made reference to the term "poppycock"; I think

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(MR. PAULLEY cont'd) now he is getting indoctrinated into a proper use of the word and he really uttered a bunch of poppycock tonight. He made reference to the debate that took place during the consideration of the estimates of the Department of Northern Affairs and he said that in effect that when the Minister of Northern Affairs was asked to produce the numbers who were under contract he did it almost immediately in a very short period of time. I think my honourable friend the Leader of the Opposition is so ignorant of the whole operation of government if he presumed for one moment that I as Minister of Labour and the Minister responsible for the Civil Service would have at my fingertips all of the contracts of every department in government. He inferred that and said that it was poppycock that I wouldn't have it or couldn't get it as quickly as one single department. In my responsibility, Mr. Chairman, as the Minister responsible for the Civil Service I have under my general ambit of responsibility every single department in the Government of Manitoba and I suggest to the Honourable the Leader of the Opposition that before uttering such nonsensical statements as to my deficiencies that he should take that into consideration.

MR. CHAIRMAN: Mr. Asper.

MR. ASPER: Mr. Chairman, I want to say that the statement by the House Leader that his interpretation of the law is one is free to do that which he wants to do unless the law prohibits him is a very sound statement of democratic principle and one with which the Liberal Party and I'm sure the Conservative Party, certainly the Conservative Party would have to endorse.

The issue is not the section before us - and I'm appealing to the Committee - to pass this section, this is not the issue. There is an issue that is not before the Committee. That issue is that no one surely will deny government the authority to engage people on contract because the specialization of the world requires it. I, if I were a member of government would not want to be fettered by having to go through the kind of channels that government would have to go through in order to simply hire somebody to do a special job and I have tremendous sympathy — (Interjection) -- Yes, like I have been engaged by both the NDP Government and the Conservative Government, not the Liberal Government I might say.

MR. PAULLEY: Yes you were too young then Izzy.

MR. ASPER: Mr. Chairman, what is true is not that the power should be there but a question of whether the power is being abused or is being used wisely. That is the subject of the Leader of the Conservative Party's concern.

Mr. Chairman, I would ask the Minister of Labour to make a gesture in this case and get that information because, Mr. Chairman, it is important to the consideration.

MR. PAULLEY: I said I would. I said I would.

MR. ASPER: Well, Mr. Chairman, the Minister is nodding vigorously that he will get that information and my concern and I'm sure the Conservative Party's concern is will we get that information in time to know whether we have a problem that would require further amendment to this Act. In other words, Mr. Chairman, will we get it before we have to vote on third reading?

MR. PAULLEY: No.

MR. ASPER: Well, Mr. Chairman, the Minister of Labour is saying no.

MR. PAULLEY: I don't think it's possible and I'm trying to be reasonable.

MR. ASPER: Mr. Chairman, I say through you to the Minister we all know Mr. Chairman, we all know and the Minister knows that inside of not 24 hours, four hours, every Minister of the Crown could advise within a 20 percent range and we'll accept that, an estimate of those who are on contract. Mr. Chairman, there are those who whisper things that I don't think are remotely correct as to the percentage. But because that suspicion abounds let the Minister of Labour resolve it by making a disclosure. Is it 300, is it 3,000, is it within the 1,200 to 1,500? Just give us a number so that we know what we're dealing with.

MR. PAULLEY: Mr. Chairman, I will give an undertaking to give an estimate providing I am not - the estimate that I give will not be coming back to haunt me as to the possibility . . .

MR. CHAIRMAN: Mr. Asper.

MR. ASPER: Well, Mr. Chairman, if the estimate is not like the estimate given by the House Leader when he said there were ten bills when it was approximately twenty bills we would accept an undertaking of that nature.

MR. PAULLEY: Okay. Okay.

MR. CHAIRMAN: Mr. Jorgenson.

MR. JORGENSEN: Mr. Chairman, I feel at this stage that I simply must come

(MR. JORGENSEN cont'd) to the defence of the Minister of Labour because three or four months ago I asked for the names of the people on his ministerial staff and it's taken him four months and he hasn't replied to that question yet. I'm sure it isn't possible for him to come up with all the contract employees in the departments of government.

A MEMBER: Thank you Warner.

MR. PAULLEY: But I did give the reply.

A MEMBER: Such a defence.

MR. JORGENSEN: It's the best I can do.

MR. PAULLEY: You're depressing me.

MR. GREEN: I will not hire you as my defence lawyer.

MR. CHAIRMAN: Order please. Is the amendment agreed to? On division? The same division? Agreed to on the same division.

MR. BOYCE: The Liberals are supporting us on this.

MR. CHAIRMAN: Order please. Mr. Spivak.

MR. SPIVAK: Have we passed that, Mr. Speaker?

MR. CHAIRMAN: I understand it is passed on division. Section 1 as amended - pass; Section 2(a) -- Mr. Spivak.

MR. SPIVAK: . . . amendment to Section 2, Mr. Chairman.

MR. PAULLEY: We have an amendment to that section.

MR. SPIVAK: But I have an amendment, Mr. Chairman.

Mr. Chairman, I move that Section 4 of the Act be repealed and the following section substituted therefor:

MR. CHAIRMAN: Section 2(a).

MR. SPIVAK: Yes, Mr. Chairman.

MR. BOYCE: Have we got copies of the amendment?

MR. SPIVAK: Yes, Mr. Chairman. I'm dealing with Section 2 and I move that the Section 2 be amended by having Section 4 of the Act repealed -- I'm sorry, Mr. Chairman, I made a mistake and am mistaken in the way I am presenting this.

I move, Mr. Chairman, that Section 2 be amended by deleting, by repealing

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MR. BOYCE: By deleting or repealing?

MR. SPIVAK: No, I'm sorry. By repealing the . . .

MR. PAULLEY: Maybe it's too late for you.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: I move that Section 2 be amended by having the following: that after the words "Section 4 of the Act as amended" the following section be substituted. And it would begin 4(1). I'm sorry about my wording, Mr. Chairman, . . .

MR. PAULLEY: We're used to it.

MR. SPIVAK: It's a bit confusing but I think it's understood now. By following section substituted therefor. Mr. Chairman, this is a fairly lengthy one and I will read it and then present it to you if I may.

MR. CHAIRMAN: Go ahead.

MR. SPIVAK: 4(1) There shall be a Commission called the Civil Service Commission consisting of a chairman, a vice chairman and not less than one or more than five other members all of whom shall be Canadian citizens.

Section 4(2) When an appointment is to be made the Assembly shall by resolution appoint a Special Committee of Seven Members of the Assembly to consider persons suitable and available to be appointed as members of the Commission and the Special Committee by resolution shall make recommendations in respect thereto to the President of the Executive Council.

Section 4(3) A recommendation of the Special Committee to the President of the Executive Council shall only go forward on a resolution of the Special Committee carried by a vote of two-thirds of the members voting thereon.

Section 4(4) The Lieutenant-Governor-in-Council shall on recommendation of the Special Committee of the Assembly appoint members of the Commission.

Section 4(5) The Special Committee appointed for the purpose of the Section may meet during the session of the Legislature or during recess after prorogation.

Section 4(6) Each member of the Commission is an officer of the Legislature and is not eligible to be nominated for, elected as or sit as a member of the Assembly.

Section 4(7) The Lieutenant-Governor-in-Council on the recommendation of the Special Committee may provide that any one or more members of the Commission shall be required to devote to the business of the Commission only such part of his or their time as is prescribed in the order.

(MR. SPIVAK cont'd)

Section 4(8) In case of a vacancy in the office of chairman or if he is absent or unable to act anything required or authorized to be done by the chairman may be done by the vice chairman.

Section 4(9) The Commission may meet for the conduct of its business or for any proceedings before the Commission at such time or place in Manitoba as they consider is necessary or desirable.

Section 4(10) At any meeting of the Commission for the conduct of its business and for any proceedings before the Commission at least three members shall be present one of whom shall be either the chairman or the vice chairman.

Section 4(11) A decision of the majority of the members present at any meeting of the Commission is the decision of the Commission.

Section 4(12) A commissioner shall hold office during good behaviour and the Lieutenant-Governor-in-Council may remove him only on an address of the Assembly carried by a vote of two-thirds of the members voting thereon but the Lieutenant-Governor-in-Council may suspend him from office for cause.

Section 4(13) Where a commissioner is suspended unless the suspension is sooner rescinded the Minister having administration of this Act shall (a) before the end of the current session of the Legislature if it is in session at the time of the suspension or (b) before the close of the next session of the Legislature if it is not in session at the time of the suspension bring the matter before the Assembly by way of a resolution for its consideration and action thereon.

Section 4(14) A member of the commission other than a member who is an employee in the Civil Service may be paid such remuneration and out-of-pocket expenses incurred by him and a member of the Commission who is an employee in the Civil Service may be paid such out-of-pocket expenses incurred by him in the performance of his duties as a member of the Commission as may be approved by the Lieutenant-Governor-in-Council on the recommendation of the Special Committee.

Section 4(15) Notwithstanding subsection (4) no person shall serve as a commissioner after he has attained the age of 65 years unless the Lieutenant-Governor-in-Council otherwise approves.

MR. CHAIRMAN: Do you have copies?

MR. PAULLEY: Can I have a copy of that too?

MR. SPIVAK: I'm sorry, Mr. Chairman, that's . . .

MR. PAULLEY: You weren't quite as courteous as I was.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, without getting involved in the details at this point, the principle involved is simply that the appointment would be through the Legislature and in effect would follow the procedures of The Ombudsman Act with respect to the manner in which the Ombudsman is appointed and the responsibilities held by the commissioners, that is responsible to the Legislature, appointed in essentially the same manner as the Ombudsman, being officers of the Legislature and thus removing from any possibility whether in the present situation with the present government and future governments of the Civil Service being subject to what would be considered the possibility of political control or political abuse.

MR. CHAIRMAN: Mr. Paulley.

. . . continued next page

MR. PAULLEY: Mr. Chairman, I, with regret to some degree being a very compassionate individual indicate to the Honourable the Leader of the Opposition that the amendments that he proposed are not acceptable to us or to me as the Minister responsible. I did this afternoon indicate to members of the House in opposition certain amendments that we would be making to the Act. I note that the suggestion that the Honourable the Leader of the Opposition is making refers the similar procedure to that which we established for the selection of an ombudsman and I appreciate that the Leader of the Opposition compliments us in government for the establishment of an ombudsman and also the process through which that individual would be appointed.

Having said that, I note too that in this lengthy amendment as proposed by the Leader of the Opposition that he has gone far beyond Bill No. 7 in that it's restating a number of provisions presently contained within the Civil Service Act. I think that it's a position that we would find ourselves in, Mr. Chairman, if I have the support of my colleagues in government would be to reject the opposition and place before the Committee the alternatives now as a sub-amendment. I believe that that would be the proper procedure, Mr. Chairman, for the Member for Winnipeg Centre to bring in by way of sub-amendment the proposition that I distributed this afternoon. Now I don't know whether the Clerk would agree with me on that contention but I did understand at the beginning of this evening's meeting the Leader of the Liberal Party raised a question somewhat similar for guidance and I'm just wondering whether or not, Mr. Chairman, that you would consider that this would be the proper procedure. I notice now that the House Leader has come in and I would beseech his expert opinion. I'm suggesting if I may, Mr. Chairman, to Mr. Green that having received the amendment of Mr. - what's his name - Spivak, that having received his amendment we could now either defeat this and introduce a new amendment or the alternative would be by way of a sub-amendment or an amendment to the amendment proposed by Mr. Spivak, the suggested amendments contained in the paper that I distributed this afternoon. It's a matter of procedure.

MR. GREEN: Mr. Chairman, I believe that either procedure should be adopted. It may be very difficult to deal in sub-amendments and therefore if the Minister of Labour has something that sort of replaces what is being suggested then the proper procedure would be I think to blow down the amendment and proceed with a new amendment.

MR. PAULLEY: That's fine with me. So I recommend, Mr. Chairman, that we will not accept the amendment of the Leader of the Opposition.

MR. GREEN: I think the Leader of the Opposition wanted to explain, close his amendment.

MR. SPIVAK: Well I'd like to make one other comment, Mr. Chairman.

MR. CHAIRMAN: Is this in explanation. I have Mr. Asper down as the next motion to speak.

MR. SPIVAK: Well I'm sorry.

MR. CHAIRMAN: Mr. Asper.

MR. ASPER: Well, Mr. Chairman, I agree with the House Leader on the procedure to be followed because the Conservative Party has their resolution amending the Act, the Honourable Minister of Labour has a resolution he proposes to bring in and the Liberal Party has its own resolution to propose and if we go by sub-amendment we'll all be too confused. I suggest that we deal with each one at the same time.

Mr. Chairman, the amendment by the Conservative leader is not the solution that we thought should be brought forward, however we will support it in the hope that we will be able to persuade enough members of the committee to support it. It is a form of insulation if the NDP majority on the committee opposes the amendment as the Labour Minister indicates that they will, perhaps ours may be accepted, but I think the Opposition members from both parties seek here to find some way to insulate the Civil Service and protect it from political control to give it some further degree of independence. And the Opposition Leader has presented one way of doing it, whether we think it's the best way or not isn't relevant at this moment, however it is a way of doing it. And I would urge honourable member from government side of the Committee to weigh very carefully why the members of the Opposition are unanimous in one view, not necessarily in technique but in the view that because we have got an expansion of the Civil Service and because we've got a very much more powerful Civil Service and because we are proposing to make the Civil Service far more accessible to the political process, that concurrent with that, it is essential, absolutely vital, that the Civil Service be protected and the insulation take place in some form as the Leader of the Opposition has suggested or in the form we're going to suggest. But if you can't do that, if government members can't accept that then

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(MR. ASPER cont'd) it becomes very difficult for the members of the Opposition to follow the concurrent principle of opening up the process to the Civil Service. What I'm saying, Mr. Chairman, is that we want, the Opposition I think all agree, certainly the Liberal Party does, that civil servants should not be deprived of normal civil rights - the right to stand for public office. But, Mr. Chairman, if we can't concurrently build in the insulation and protection against being leaned on by government then it puts under a very severe cloud for us the opening up of the process and, Mr. Chairman, we would urge government to consider seriously some amendment which will guarantee that the Civil Service Commission is totally removed from the political process.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: This is the second recommendation given to the Legislature this session, and in this case the Legislative Committee, dealing with the appointment of a commission by the Legislature and having the commission responsible to the Legislature. We have already made the recommendation with respect to the Human Rights Commission and now this one.

When the Ombudsman Act was enacted and when the process of selection was decided we were I think in this province breaking new ground. I think that we can say that the appointment worked successfully and I think we can say that insofar as the Ombudsman's responsibilities are concerned and the manner in which he's handled it, his position, that there hasn't been an aura of political controversy around it at all.

Now, I don't want to recite, I don't think it's necessary to recite what took place with the Selection Committee when they had to determine and agree on a person in that case as the Ombudsman but there was the process of agreement that comes and a concurrence after negotiation among the parties involved. And I think and I would highly recommend that this be considered. Now this is consistent with what the MGEA has suggested and I believe it would in many respects meet the need, the necessity, of government now putting itself in a position of not appearing to be involved in a way contrary to the tradition with respect to areas of concern, one of which is the Civil Service, the other which I mentioned is the field of human rights. And I really would commend the government to entertain this amendment. I know it's not what the Honourable Minister proposed in his amendment but really this is a different principle than the Honourable Minister has proposed and I would believe that it is in the interest, you know, of the non partisanship of the Civil Service and the Civil Service Commission that this kind of proposal be adopted.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, when the committee of seven were set up to consider the Ombudsman, I happen to have been a member of that committee, and it was a committee that had a majority of government members which I think is understandable and acceptable. That unless there's some other methodology of the selection of members of the Civil Service to go right outside of the ambit of governmental or legislative control that in the final analysis it is the government of the day that makes the selection. It's also true and this is one of the objections that I have to the length of the amendment proposed by the Leader of the Opposition, that once having been appointed, and this is the same with the Ombudsman, it can only be done by a two-thirds majority of the members of the Assembly. There is that safeguard there.

What we propose or would propose, and it's not too far out of line with the remarks that were made by Mr. Walter Ritchie on behalf of the Manitoba Government Employees, they agree with the contention that we should expand the membership of the Commission, indeed the Leader of the Opposition, Mr. Chairman, has a resolution accordingly on a Private Members' Resolution before the House. We had suggested or would suggest in our amendments that there be a commission of not less than three nor more than seven, that that commission could break down into panels to be heard, to hear appeals or other business of the commission by two panels of three simultaneously in other parts of the province and any decision of those members should be deemed to be a decision of the commission. Now by and large, this is the proposition that we are making. There are provisions contained within the present Civil Service Act that provide for many of the suggestions being made at this time by the Leader of the Opposition.

So we suggest, we suggest and I've suggested that, Mr. Chairman, basically that we have the safeguards of the independence of the commission. We are suggesting indication of an expansion of the membership of the commission and of course at one stage there we made reference so that there would be a provision for a woman

(MR. PAULLEY Cont'd) member and of course this is discriminatory under the Human Rights Act and maybe we're a terror in doing that. All I want to indicate basically this was our proposition without it being cluttered up as the recommendation contained in the amendment proposed by the Leader of the Opposition. For that reason I made my suggestion of not accepting it.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: No, I waive it, Mr. Chairman.

MR. CHAIRMAN: Mr. Patrick.

MR. PATRICK: Mr. Chairman, I'll speak right after the vote.

QUESTION put on the resolution.

MR. CLERK: I've got two Liberal members of the committee now.

MR. CHAIRMAN: Order please. The amendment is defeated. Mr. Boyce.

MR. JORGENSON: Can I raise a point of order here.

MR. CHAIRMAN: Mr. Jorgenson.

MR. JORGENSON: Mr. Asper has indicated that he has an amendment to propose and I foresee some difficulty in him proposing that amendment if we're going to deal with the amendment now being proposed by the -- (Interjection) -- No, I'd like to explain my point of order, because I think it's a significant one and it will materially affect the procedures later on and I'd like to raise it now so that we don't get into the difficulty that I foresee. If the Member for Winnipeg South is posing an amendment now then the amendments that the Liberal Party are about to propose will have to be related to the amendments, that they can only be then proposed as sub-amendments to the amendments that are being proposed by the Member for Winnipeg South. If we have made a decision on those amendments that are going to be proposed by the Member for Winnipeg South then it cannot be-- the Liberal Party cannot move amendments to a decision that has already been taken. The only way that that can happen is if their amendments are related to and can be entertained as sub-amendments to the amendments that are being proposed by the Member for Winnipeg South. Now I'm sure that's very clear. -- (Interjections) -- One of the ways that that can be overcome if the Liberal Party are allowed to move their amendments and we can deal with them first then they will at least have an opportunity to introduce their amendments as they are.

MR. CHAIRMAN: Mr. Boyce to the point of order.

MR. BOYCE: Mr. Chairman, I would concur with the member but I would have just one slight correction. I don't know if he's tossing it as an invitation for me to run in Winnipeg South with a couple of other member . . .

MR. JORGENSON: Winnipeg Centre.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Well I was just going to suggest this. Apparently my honourable friend from Morris is presuming that our amendment would carry which would preclude. But that's okay, we won't pursue that point.

MR. CHAIRMAN: Mr. Patrick.

MR. PATRICK: I thank the Honourable Member for Morris for making it possible, on a point of order, making it possible to move the amendments. I would like to deal with the whole section 4, Mr. Chairman, the amendment would be 4(1) - (a) by striking out the word "three" where it occurs in the second line and substituting therefor the word "seven".

(b) by striking out all the words following "council" in the second line and substituting therefor by selecting one commissioner from a list of not more than five names provided by each of the following organizations:

- a) Manitoba Federation of Labour
- b) Manitoba Farmers Union
- c) Manitoba Chambers of Commerce
- d) Manitoba Government Employees Association

and adding to those nominees a representative designated by the Chief Justice of the Manitoba Court of Queen's Bench; a representative designated by the Board of Governors of the University of Manitoba; a representative who shall serve as Chairman of the Commission, designated by the Executive Council.

I will deal with the other sections as well, Mr. Chairman.

Section 4(2) would be deleted and renumbered, the present Section 4(2).

Section 4(3). Vacancy - In case of incapacity to perform his duties due to death, sickness, or any other cause, a Commissioner shall be appointed by following the original procedure. The organization whose designate is incapacitated shall provide a list of persons to the Lieutenant Governor in Council from which the new Commissioner will be selected.

Section 4(4). Strike out the words "during good behaviour" and replace "for a two-year term".

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(MR. PATRICK cont'd) That deals with the whole Section 4. And the reason, Mr. Speaker, we've heard the representation from MGEA, they've asked and requested that they would like to see as independent a commission as possible and they felt that there should be some kind of insulation as far as the commission's concerned. I had an opportunity to talk to some of the civil service people and they had a strong feeling that there should be as much as possible and I hope that the government and all the members here, the committee would give consideration to this recommendation.

MR. CHAIRMAN: The amendment is moved by Mr. Patrick. Mr. Green.

MR. GREEN: Well, Mr. Chairman, on this particular amendment I do want to speak because it's not a mechanic, it is really a principle that is being involved here and I warn the honourable member that he embarks on a very dangerous course when he sets up some voluntary organizations as being the status organizations for the purpose of doing this type of thing. You know, you can choose good ones or ones that you think will commend themselves to you because you have named them - The Manitoba Federation of Labour; did you name the Farmers Union? -- (Interjection) -- Why not the Farm Bureau or why not the Christian Labour Association or why not--I really think that the honourable member does the legislative process an injustice when he starts setting up community organizations which he may think are the more powerful and more respected as having the status beyond other community organizations. Now I know that that has been done to a limited extent; in those cases where it is ingrained in my opinion it is a mistake; it is better to seek recommendations from various people but I think that in the last analysis it should be the elected representatives of the people who make the selection. And I rather think that the honourable member if he thought this through for a long time would have to come to the conclusion that you do not make them more independent by having their status affirmed by some voluntary organization no matter how broadly representative it is. The most broadly representative and disinterested organization, and I use that word in the term of non prejudice, not uninterested, is the elected representatives of the people. Now the Leader of the Opposition referred to the Legislature and the Legislative Committee. I might not agree with that but at least that doesn't undermine the democratic structure. These groups are valuable, they're important but they remain voluntary institutions of the citizens within the community who should not be characterized as having more status than other ones that may grow up and become more powerful and therefore you have to change the legislation to sort of give them the status that you are talking about. I would strongly urge the honourable member to think this through and I think that if he did, even the Manitoba Government Employees Association when it was posed to them said we have never considered such a thing and we would like them to be certainly as independent as possible but you do not guarantee independence when you put it into the hands of whether it be the church organizations, whether it be the legion, whether it be the Federation of Labour, whether it be the Farmers Union, whether it be the Chamber of Commerce, you do not get a better situation.

MR. CHAIRMAN: Mr. Patrick, could you give me a copy of your amendment please. Mr. Paulley.

MR. PAULLEY: Mr. Chairman, my colleague the Minister of Mines has pretty well covered the area dealing with the section of the amendment dealing with the selection or the panel from which the members of the commission would be selected. I could add a number of names, I don't hesitate to suggest that maybe a panel should be forwarded from the Committee on the Status of Women in Manitoba because during the debate in the House all of us, I think, all three parties were concerned about having somebody from the female sex as a member of the commission and there was a hullabaloo about that.

Now then one of the objectives that the MGEA suggested and incidentally I wonder whether the Honourable Member for Assiniboia has really seriously considered representatives of the Manitoba Government Employees Association on a commission that will be hearing appeals from the employees of any collective agreement that is entered into by the government under a collective agreement. Under the collective agreement and under the Civil Service Act there are provisions for appeals also provisions for a representative of the second group or a prime group to the collective agreement, namely the Manitoba Government Employees Association going before the commission on the basis of an appeal. Well here we would have if we adopted the suggestion of the Member for Assiniboia a member of the appealing association actually sitting to give judgment as to the merits of the appeal. So I ask my honourable friend to consider that.

But there's another section, Mr. Chairman, in the amendment as suggested by

(MR. PAULLEY Cont'd)the Member for Assiniboia that striking out the clause for good behaviour that is the term of office of the commissioner and the suggestion of the Honourable Member for Assiniboia is to replace this with a period of two years, for a two year term. Now if we're going to really, if we're really going to politicalize the Civil Service Commission I think this is the area where we should accept the proposition of the Member for Assiniboia, so that every two years we would have a whole new Civil Service Commission; that the member would not be a commissioner as it is at the present time during good behaviour which is a provision in the present Act. The Member for Assiniboia suggests that that should be replaced by a two-year term. Now holy heavens, if we really want to politicalize the Civil Service Commission, I think we should accept the proposition of the Member for Assiniboia so that every now and again without reference really, basically, to the provisions that we have a security of tender at the present time contained within the Act, Mr. Chairman. I don't think this can be acceptable to any of us.

MR. CHAIRMAN: Mr. Asper.

MR. ASPER: Well, Mr. Chairman, responding to the criticisms of the amendment by the Minister of Labour, he raises the concern that a member of the employee unit, the MGEA, would have a seat on the, or would have a nominee on the commission - his opposition to that surprises me. That member would be one out of seven and it is traditional as his background and his experience and members of this committee will attest to in appeal against wrongful dismissal by a worker . . .

MR. PAULLEY: The right of representation.

MR. ASPER: . . . normally on such an arbitration board as the commission becomes at that point one of the members is a nominee of the worker's association. So it's a tradition that I find very unusual for the Minister to be opposing. The organizations referred to do not make the appointment. Perhaps the House Leader did not understand the amendment. They do not make the appointment, the Executive Council would make the appointment but the appointment would be made from a list of five submitted by organizations which have a credibility within the community, which have a non partisan posture within the community- the Manitoba Federation of Labour, the Farmers Union, the Chamber of Commerce, the Manitoba Government Employees Association, the Chief Justice of the Court, the official University of Manitoba and the chairman being appointed by the Executive Council. I can find some sympathy with the comment by the House Leader that he would prefer to see this not removed from the elected representatives who have ultimate responsibility and we said that, Mr. Chairman. The Liberal Party supported the Conservative amendment which would have simply improved the quality of the legislative appointment by making it a stronger representative decision by all parties. But that was turned down by this committee and by the government members of the committee.

Now, Mr. Chairman, the House Leader I think drew one of his normal green herrings across the debate. He said that these organizations, these organizations - the Manitoba Federation of Labour or the Chamber of Commerce who after all in composite are the microcosm of Manitoba in representative terms might no longer be representatives in the future. And that's quite true, that could happen and so the legislation would be changed as has happened in organizations, in non profit clubs, community clubs, that sort of thing all the time. But at this moment, at the time of passing the legislation, they are clearly amongst the most representative within the province and we would accept amendment, we're not stuck on this group. If the Honourable Minister of Labour wanted to suggest that the Committee on the Status of Women should have a list of nominees, we find that quite acceptable. What we see here is an insulated Civil Service Commission because there are going to be amendments to the Act either in Bill 7 or those approved by this committee which are going to put the civil servant in a position where he can be leaned on, he can be cajoled, he can be intimidated, he can be fired for political activity or refusal to take part in political activity. And we want the group to whom he appeals for justice to be a totally objective group. Mr. Chairman, if we can't succeed in persuading the government members that this is the technique then we will have to - and we will later - seek another amendment to remove appeals from the Civil Service Commission. Because either you guarantee objectivity, insulation of the Commission, or you don't open the process or alternatively you find another appeal route. And we would say to government if they cannot accept one of those three principles, then this bill is doomed as far as the Liberal Party's concerned. We said so in the House, we came to this committee in the hope that we could persuade government to do something to allay the fears of not only the MGEA and the Conservative Party and the Liberal Party, but a lot of

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(MR. ASPER cont'd) people in Manitoba who are very upset at what may happen here - the power that's been granted. And those are basic feelings.

Now finally on the Minister of Labour's last comment about the amendment related to good behaviour. Good behaviour as anyone in government will know has been abused and can readily be abused. What is good behaviour? Good behaviour is at the whim, is at the discretion of government. And government can declare and has in many cases - and one will only remember the famous Coyne affair of the Bank of Canada - good behaviour can be declared to be anything and there is no Senate in Manitoba, there is no appeal when the government declares that in its judgment good behaviour has expired. And so we say fix the term.

Now, Mr. Chairman, I think the term of two years may be too short. If that's the concern of the Minister of Labour we'll accept an amendment - five years, seven years, ten years, as the Tax Appeal Board, as the Unemployment Insurance Commission, as all major objective appellant jurisdictions and appeal hearing bodies have. But we must have something in one of those areas, objectivity, appeal to an outside body or you defeat the good intent of the legislation and make it suspect of a bizarre motive.

Mr. Chairman, to the Minister of Labour through you, all we said about good behaviour was that should the two-year term expire or a vacancy be created, later in the amendment we provide that the vacancy would be filled not again by government but from a list of nominees submitted by the organization of the person who has either retired or whose incapacity prevents him from carrying on. So that at all times the Commission would be appointed in effect with the approval of a very representative group of non-partisan organizations in Manitoba. Something like that, Mr. Chairman, anything.

MR. CHAIRMAN: Mr. Marion.

MR. MARION: Well, Mr. Chairman, I think that my first comment would be that with respect to the amendment that we suggest, the (a) part, we're talking of specifying seven members on the Commission. It would seem that there is unanimity in that aspect inasmuch as even the government proposes anywhere from no less than three and no more than seven and the other amendment that was proposed by the Conservative Party also had the magic number of seven. It would seem that there is no objection there.

I think that the proposal that we bring before you is certainly not perfect and it is brought to you with the honest intent of insulating, as my Leader has mentioned a number of times, political interference within the Civil Service. Surely if there was one point that was stressed in the presentation by the MGEA not that long ago it was the fact that they were very very fearful of the politicalization that could be brought about if the proposal that was brought forth by the government in Bill 7 was in effect enacted as amendments to The Civil Service Act.

Mr. Chairman, I think that the Liberal Party has felt that it needed to be insulated, the Commission needed to be insulated. It has offered an alternative. One that it will readily accept can be changed prior to acceptance. I think that the cross section that we tried to give with respect to the four groups is valid. There is no doubt that changes can be made at later times if the prestige of any of these groups wanes and there are others that are more prestigious and I don't think that that really would break any kind of insular qualities that we're trying to build into the Act. I think that those that are specific nominees certainly should be credible from the point of being objective when you talk of the nominees that are being made by the Chief Justice of the Queen's Court Bench, the University of Manitoba. Surely these are people who would be objective in themselves and I would think that the chairman who is being selected by Executive Council would be one that could well fulfill the role.

I would add my two cents worth with respect to the government employee association being permitted to submit a list of five names from which the Cabinet could select. I think that if it were an employee of the government he would be well read in all of the problems that are inherent in a Civil Service position and would be able to help and guide and after all he would be one of seven members. Surely that should not be to the detriment but rather to the better functioning I would think of the Civil Service Commission itself.

With respect to the terms, it has already been stated that if the term is felt too short or if the fact that you remove the entire Civil Service Commission at one fell swoop after two years is a dangerous thing then perhaps the term can be lengthened to three or four years if that is the feeling of this Committee and it could also be that perhaps there should be initially a one year longer term for half

(MR. MARION cont'd) of the group or four of the group and a shorter term for the other three so that there would be a half change as it were every time that new selections were made. These are things surely that can be studied by the Committee and really switched about to the Committee's mutual satisfaction.

I think I would like to refer to the length of term on the Municipal Board, the appointments on the Municipal Board and the securities commission. These are not terribly terribly long terms and I don't see why there should be objection to two years. However I think, Mr. Chairman, that these are amendments being suggested on which we would like debate. It's sad that there was not debate on the first amendment that was proposed, it was merely refuted outright. I would hope that there would be a little bit more discussion on this so that there can be an insulated - I repeat I guess and by repeating perhaps we can make it sink - there would be a neutrality to the Civil Service Commission that would be valuable in this aspect because there has been a great deal of criticism and the government is not without knowing that there has been a great deal of criticism on the present amendments suggested in Bill 7.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Mr. Chairman, with reference to the first suggestion that the membership of the Commission be expanded, I don't think the amendment which is proposed here will do quite what you have in mind. The amendment which I will subsequently make I hope will do what you want but it's just a change in words.

With reference to the rest of the proposed amendment - and I can only assume that the Leader of the Liberal Party when he speaks speaks as the Leader of the Liberal Party - he once again has succeeded by argumentum absurdum to render the whole proposal ludicrous because he has said that we should add to this list. Well of course I for one would like not to offend about seventeen different groups that come to mind. So if we amend it to everybody's satisfaction we include all groups which leaves us in the position that we are at the moment with none of these groups. Everybody at the moment has the right to make a recommendation to the Minister that so and so be appointed, one person, five people or twenty people.

The next nuance, the Leader of the Liberal Party once again said five years, ten years, well you know if you'd carry that through to its conclusion we could amend it to 55 years which once again leaves us exactly where we are. I suggest to my colleagues on the Committee that we vote this amendment down because while there is agreement I think to increasing the membership to seven, the rest of it has been rendered ludicrous by the arguments of the Leader of the Liberal Party himself.

MR. PAULLEY: Question.

MR. CHAIRMAN: Are you ready for the question? Mr. Jorgenson.

MR. JORGENSON: Mr. Chairman, I want to make one brief comment. I'd like to carry the argument of the Leader of the Liberal Party to its logical conclusion. His proposal is that it be extended to include representative groups. Well it's going to be extremely difficult unless you get representation from every group in the country and that I would think would include the Morris Lions Club and Masonic Lodge and everything. But I can't think of a group of people who represent everybody in this province more than the members of the Legislature.

A MEMBER: Hear, hear.

MR. JORGENSON: We are the representative group.

MR. BOYCE: For good or bad.

MR. JORGENSON: Now let's carry that one step further. There is a government in power and they are entrusted with the responsibility of governing so they should be given the responsibility then. I like the position of an opposition member who can sit on the opposite side and watch the government and criticize them when I think they've done wrong. So that's the position I would like it to remain in. If the government is going to be responsible for appointing them I want the opportunity to voice my opinions on the appointees that they make. As long as I have that right I feel that responsible government is being carried on in this province. So therefore we in the Conservative Party simply cannot vote for this amendment.

MR. PAULLEY: Question.

MR. CHAIRMAN: Are you ready for the question?

QUESTION put on the amendment, MOTION lost.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that clause 2(a) of Bill 7 be struck out and the following clause substituted therefor - and if you follow the bill you will see that there is a renumbering that isn't on this sheet that I gave you but

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(MR. BOYCE cont'd) I'll proceed. That clause (a) be amended by striking out the words "three members" in the second line of subsection (1) thereof and substituting therefor the words and figures "not less than three or more than seven". I so move, Mr. Chairman.

MR. CHAIRMAN: You've heard the amendment. Is there any debate? The amendment as read agreed? (Agreed)

MR. BOYCE: I would further move, Mr. Chairman, that clause 2(b) of Bill 7 be amended by adding thereto immediately after proposed new subsection 4(6) - so perhaps if you consider 4(6) which is in the bill then I could proceed with the amendment after 4(6) has been dealt with.

MR. CHAIRMAN: We have 2(a) - pass; 2(b) - pass. 4(6) -- Mr. Boyce. One moment please. We have 4(6) passed?

MR. BOYCE: Yes, 4(6) is passed.

MR. CHAIRMAN: 4(7)

MR. BOYCE: Well before 4(7), Mr. Chairman. That clause 2(b) of Bill 7 be amended by adding thereto immediately after proposed new subsection 4(6) of the Act the following subsection. "Quorum 4(7) Three members of the Commission constitute a quorum thereof for the transaction of any business by the Commission. Three members may sit as Commission."

"Subsection 4(8) - Any three members of the Commission may sit simultaneously" - there's a misprint on this distributed amendment - "or at different times and at different places as the Commission to consider and determine any matter within the jurisdiction of the Commission and any decision of those members shall be deemed to be a decision of the Commission."

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Are you suggesting that present 4(7) of the Act is deleted?

MR. BOYCE: No it will be renumbered as I finish this, Mr. Chairman. There's another amendment which would require 4(7) to be renumbered 4(9). So these are new subsections 4(7) and 4(8) and then if we look at 4(7) as it is printed in the bill, through you Mr. Chairman, to the Leader of the Opposition, it would become renumbered as subsection 4(9).

MR. CHAIRMAN: The amendment as moved agreed? (Agreed)

MR. BOYCE: Mr. Chairman, I would move that subsection 4(7) as set forth in the bill be renumbered subsection 4(9).

MR. CHAIRMAN: Agreed? (Agreed)

MR. GREEN: Mr. Chairman, I think at this stage having dealt with the Commission in block that we've put in a good night's work.

MR. PAULLEY: You make the motion.

MR. GREEN: Committee rise.

MR. CHAIRMAN: Committee rise.