

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON
STATUTORY REGULATIONS AND ORDERS

Thursday, 14 August, 1986

TIME — 10:00 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. D. Scott (Inkster)

ATTENDANCE — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Evans, Harapiak (The Pas); Hon. Ms. Hemphill; Hon. Messrs. Harper, Penner
Messrs. Birt, Connery, Ducharme, Maloway and Scott

WITNESSES: Representations were made to the committee as follows:

Bill No. 24

Mr. Cordell Barker - Manitoba Teachers' Society

Bill No. 27

Dr. Fletcher Baragar - Manitoba Medical Association

Bill No. 48

Mr. Robert Adkins - Solicitor for The Manitoba Municipal Secretary-Treasurers' Association

Bill No. 52

Dr. J.B. Sutherland - Manitoba Medical Association

Mr. Ben Hanuschak - Progressive Party of Manitoba

Dr. Fletcher Baragar - Manitoba Medical Association

MATTERS UNDER DISCUSSION:

Bill No. 9 — An Act to amend The Public Schools Act; Loi modifiant la Loi sur les écoles publiques. (Hon. Mr. Storie)

Bill No. 23 — The Charter Compliance Statute Amendment Act, 1986; Loi de 1986 modifiant diverses dispositions législatives afin d'assurer le respect de la Charte. (Hon. Mr. Penner)

Bill No. 24 — An Act to amend The Teachers' Pensions Act; Loi modifiant la Loi sur la pension de retraite des enseignants. (Hon. Mr. Storie)

Bill No. 25 — An Act to amend The Law Society Act; Loi modifiant la Loi sur la Société du Barreau. (Hon. Mr. Penner)

Bill No. 26 — An Act to amend The Public Trustee Act; Loi modifiant la Loi sur le curateur public. (Hon. Mr. Penner)

Bill No. 27 — An Act to amend The Liquor Control Act; Loi modifiant la Loi sur la réglementation des alcools. (Hon. Mr. Penner)

Bill No. 30 — The Justice for Victims of Crime Act; Loi sur les droits des victimes d'actes criminels. (Hon. Mr. Penner)

Bill No. 34 — The Constitutional Questions Act; Loi sur les questions constitutionnelles. (Hon. Mr. Penner)

Bill No. 36 — The Real Property Act and Various Other Acts Amendment Act; Loi modifiant la Loi sur les biens réels et diverses autres lois. (Hon. Mr. Penner)

Bill No. 42 — An Act to amend The Insurance Act and The Queen's Bench Act; Loi modifiant la Loi sur les assurances et la Loi sur la Cour du Banc de la Reine. (Hon. Mr. Mackling)

Bill No. 44 — The Judgment Interest and Discount Act; Loi sur les taux d'intérêt et d'actualisation des sommes allouées par jugement. (Hon. Mr. Penner)

Bill No. 46 — An Act respecting The Institute of Certified Management Consultants of Manitoba; Loi sur l'Institut manitobain des conseillers en administration agréés. (Mr. Dolin)

Bill No. 47 — An Act to amend An Act to provide for the establishment and maintenance of a Boys' and Girls' Band in the Town of Dauphin; Loi modifiant la Loi intitulée "An Act to provide for the establishment and maintenance of a Boys' and Girls' Band in the Town of Dauphin." (Mr. Dolin)

Bill No. 48 — An Act to amend The Manitoba Municipal Secretary-Treasurers' Association Act; Loi modifiant la Loi intitulée "The Manitoba Municipal Secretary-Treasurers' Association Act." (Mr. Scott)

Bill No. 49 — An Act to incorporate The Portage District General Hospital Foundation; Loi constituant en corporation la Fondation de l'Hôpital général du district Portage. (Mr. Connery)

Bill No. 52 — The Manitoba Medical Association Fees Act; Loi sur les droits de l'Association médicale du Manitoba. (Hon. Mr. Desjardins)

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MR. CHAIRMAN: I call the committee to order, please.

The Standing Committee on Statutory Regulations and Orders will be proceeding with the following bills this morning: Bills No. 9, 23, 24, 25, 26, 27, 30, 34, 36, 42, 44, 46, 47, 48, 49 and 52.

Is there anyone in the audience beyond those people who have already registered to make presentations and wish to make a presentation on any of these bills? Would you please come forward and register with the Clerk?

The first person indicated in the order of the bills of persons wishing to make presentations before the

committee this morning is on Bill No. 24. Just so that we don't miss anybody, is there anyone in the audience on Bills 9 or 23 who would wish to make a presentation?

Seeing none, I would call on Mr. Cordell Barker to make his presentation on behalf of the Manitoba Teachers' Society on Bill No. 24.

BILL NO. 24 - THE TEACHERS' PENSIONS ACT

MR. CHAIRMAN: Mr. Barker.

MR. C. BARKER: Thank you, Mr. Scott.
I have submissions here. Should I distribute them?

MR. CHAIRMAN: Yes, if you would, please. The Clerk will distribute them to the members of the committee.

MR. C. BARKER: I could proceed, Mr. Scott.

MR. CHAIRMAN: Yes, Mr. Barker, go ahead, please.

MR. C. BARKER: Thank you for the opportunity to appear here this morning. I am accompanied by one of the Manitoba Teachers' Society staff officers, our resident expert in pensions, in case we have any technical questions.

The society is extremely pleased with the government's responsible and cooperative approach to pension reform and improvement. The actions taken by this bill will remove impediments that remain that prohibit teacher contributions and credits being transferred for pre-July 1973 service.

What this really means is that teachers who left Manitoba and are now teaching in another province, if they have service prior to 1973, had to come back to teaching in Manitoba in order to get credit for that pre-July 1973 service.

The other half of that is that teachers that came into Manitoba with service prior to July 1973 had to go back to their province where they came from in order to get the possible credit for that service. This eliminates that and is quite positive. I'd like to point out that it is done at the cost to the teachers involved and not to the government.

The brief is short. We think the measures in this bill are progressive and are in keeping with the emerging trends in pension reform.

On behalf of the society, thank you to the government, and I urge approval of this bill. If there are any questions, I'd be pleased to answer them.

MR. CHAIRMAN: Are there any questions for Mr. Barker from members of the committee? Seeing none, Mr. Barker, I would thank you for your presentation and attending this morning.

MR. C. BARKER: Thank you.

MR. CHAIRMAN: The next bill I have a person wishing to present is Bill No. 27. Is there anyone present on Bills 25 or 26 wishing to make a submission? Seeing none, Dr. Fletcher Baragar, from the Manitoba Medical Association, please.

BILL NO. 27 - THE LIQUOR CONTROL ACT

DR. F. BARAGAR: Mr. Chairman, honourable Mr. Penner, Mr. Mercier, committee members, it's a pleasure to present here on behalf of the Manitoba Medical Association.

The Manitoba Medical Association, as you're aware, is a professional association of physicians in Manitoba with approximately 1,600 members. We speak on behalf of the profession on virtually all matters except licensing and standards which fall under the jurisdiction of the College of Physicians and Surgeons of Manitoba.

I am representing the MMA today to express our concerns about the availability of low alcohol beverages to children in unsupervised manner. The bill which is before you will not deal sufficiently with the problem as we see it. Many beverages sold in regular stores contain just under 1 percent of alcohol and will continue therefore to be sold outside of the supervision of the Liquor Control Board.

We urge that Bill 27 be amended from its current wording of "1 percent alcohol by volume" to "0.5 percent alcohol by volume." This would result in many low alcohol drinks falling under The Liquor Control Act.

The Manitoba Medical Association's Child Health Committee has studied this matter for some months. The committee met with representatives of the Alcoholism Foundation of Manitoba, the Manitoba Association of Registered Nurses, sharing information and concerns.

The MMA's conclusion is that the law should be amended to 0.5 percent alcohol by volume. While you can appreciate it is unethical to conduct a thorough clinical study to determine just how much low alcohol drinks a child would need to consume before reaching a level of impairment, common sense dictates that any level of impairment is inappropriate.

Studies on adults have been used to calculate the effect of alcohol in children and once that study by the Addiction Research Foundation of Ontario suggested a little over one and a half bottles - not a disproportionate amount for the way children drink soft drinks - could result in impairment of a 20 kilogram child; in other words, in a child between five and ten years of age any level of impairment could increase the chances of a child suffering injury by falling from his bike, a skateboard, or on skates.

As I have said, it is not possible to list data which conclusively proved the immediate or long-term effects of low-alcohol drinks on children, but common sense would suggest that children and alcohol, particularly in an unsupervised situation, do not make a good mix. It becomes almost a philosophical question particularly when you start wondering about the rationale behind putting alcohol in these drinks.

I would note too that one of these beverages is manufactured and distributed by a company owned by a brewery. Is it possible that they're trying to cater to their future market at a younger age?

Earlier this week, the Canadian Medical Association at its general council here in Winnipeg, discussed this question and adopted the following resolution, and I quote:

"THAT provincial divisions of the Canadian Medical Association urge appropriate provincial

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authorities to amend current legislation to ensure that all alcoholic beverages containing above 0.5 percent alcohol by volume are covered by provincial Liquor Control Board regulations."

In conclusion, I might mention that both Prince Edward Island and most recently, Nova Scotia, already have legislation in place and the Canadian Medical Association resolution has received the support of the Canadian Pediatric Society as well.

I would also like to quote from the preamble of the Canadian Medical Association resolution which emphasizes that the significant factor is the uncontrolled distribution of an inexpensive beverage to potentially unprepared youth. I hope you will keep this in mind in your final amendments to Bill 27 and I would be happy to try to answer any of your questions.

I thank you.

MR. CHAIRMAN: Thank you very much, Dr. Baragar. Are there questions? Mr. Penner.

HON. R. PENNER: Thank you very much for an excellent presentation and I, of course, have been made aware of the MMA's position by letter dated August 8, 1986. You will recall I sent - and indeed the MMA has a copy of the AFM, the Alcohol Foundation of Manitoba - a brief on the same matter, and the AFM at last communication, suggests that some more empirical evidence is necessary and we should be monitoring.

Have you had a chance to look at the AFM brief and do you have a response to their urging that perhaps we ought to monitor for a little bit before cutting back even further in terms of the control level?

DR. F. BARAGAR: Yes, I have Your Honour. I can sympathize with their approach but this type of evidence, as you are aware, is rather hard to accumulate. It's not easy to do these type of studies in children and I would suggest in the view of any clear evidence, that reducing the alcohol content would adversely affect either the nature of the beverages, that it would be more appropriate to reduce it to a level where the risks are much less.

HON. R. PENNER: Secondly - and again if it's not within your knowledge, I would understand - do you in fact have any knowledge of what other liquids containing alcohol, put it that way, other than perhaps household cleaners and things of that kind, but which are available, let's say, for cooking on the shelves of the supermarkets, might be adversely affected by reducing from 1 percent by volume to .5 by volume.

DR. F. BARAGAR: Mr. Chairman, the bill, as I understand it, and you can correct me if I'm wrong, refers to beverages, and I think there are many other products sold in the grocery stores which, to my understanding, having been pointed out as having a much higher amount of alcohol, but they are not the kind of beverages, they're not labelled as beverages and they're not the kind of things that I would expect young children, who we're concerned with, to be taking and consuming. So I think that we are only really talking about beverages and I think that is a safeguard.

HON. R. PENNER: Presumably they could market Sarasoda by saying "not a beverage, for cooking only."

DR. F. BARAGAR: Yes, they could, but they'd have to advertise it differently.

HON. R. PENNER: That's true.

The only other question I have at the moment is - well, I have two questions. One is, and again it may be too early to deal with this, does the association, through any one or more of its members, have any evidence of children in fact drinking, let's say, Sarasoda, that's the only one I know of, to the point where there has been some suggestion of impairment.

DR. F. BARAGAR: This has not been clearly reported to the association. I think the Child Health Committee looked at this and the evidence really is not in. So we really don't know, that's absolutely correct. All we're doing is anticipating a potential problem.

The other question, if I may comment on one other, people are brought up, and some of our members felt that it should be zero percent, if it should be .5 percent, why not make it zero percent. Our answer is that, if by reducing it to .5 percent, we think we can significantly reduce the potential hazard and it may be that trace amounts are necessary from the standpoint of preparation, manufacturing processes, and we felt that to leave a small amount open would be appropriate.

HON. R. PENNER: Finally, do you have any comment on the - at least inference - from the AFM brief that, while there may be some element of risk from any beverage containing any amount of alcohol is substantially less, in terms of adverse affects, than those that are created by the use of toxic substance such as glues, solvents, gasoline, parental medications and so on, the suggestion being, I suppose, that we'd rather have them drink Sarasoda than vanilla extract. I don't know if, in fact, children are apt to substitute one for the other. But do you have any comment on that suggestion?

DR. F. BARAGAR: Mr. Chairman, and Honourable Penner, I certainly would not like you to think that the MMA is advocating those other sources as beverages; that certainly is not our intention. But I think that this would not be looked at by the children as an alternative. I think people drinking those others are drinking them with an intentional intention to run into problems.

HON. R. PENNER: Thank you very much for an excellent presentation, and thanks for your responses to the questions.

DR. F. BARAGAR: You're welcome.

MR. CHAIRMAN: Mr. Mercier.

MR. G. MERCIER: Thank you, Mr. Chairman.

I would also thank Dr. Baragar for appearing before the committee. I had requested the Attorney-General to contact the Manitoba Medical Association when I spoke to Second Reading of the bill, because of concern that was expressed by the Medical Association and, frankly, also a concern expressed to me by some parents, Mr. Chairman.

I note that the Canadian Medical Association has passed a resolution with respect to that matter. In

passing that resolution were you present during the discussions of that resolution, Dr. Baragar?

DR. F. BARAGAR: Yes I was.

MR. G. MERCIER: Was there any discussion with respect to specific instances of concern that existed in other provincial jurisdictions or specific examples?

DR. F. BARAGAR: Mr. Chairman, and Mr. Mercier, there was no clear-cut evidence presented at the annual meeting that this has, up to now, been a problem. The concern was that children being aware of the alcohol content, and because of the nature of children to perhaps experiment, that they might be more inclined now to abuse this than they would have been before the whole matter was brought up. This was an added reason we felt for perhaps reducing it. But I think there was no clear-cut evidence presented that this has been a problem at this time.

Again, children being rather effusive and being exceptionally changeable in their behaviour - having brought up five kids of my own - I'm not just sure that I would recognize when they were on a high or when they're on their usual - full of spirits, if you like.

MR. CHAIRMAN: Spirit or spirits?

DR. F. BARAGAR: Spirits.

MR. G. MERCIER: I note, Dr. Baragar, in the report by the Alcoholism Foundation, that although they appear to support the position taken by the Attorney-General, in the last paragraph they say, "In order to prevent inadvertent promotion of the consumption of these beverages by children, the position statement will not be distributed widely but will be issued in response to specific inquiries." They would appear to be concerned about advertising of this particular product.

Last night I happened to see an ad for this particular product which certainly is one which I believe would encourage a lot of children to consume this particular beverage; and again, it's been expressed to me as a matter of concern by a number of parents, over their children having this product available to them. Perhaps this very discussion itself may encourage children to experiment with the product.

The Alcoholism Foundation's rationale for their decision in Point 3, indicates no empirical evidence supports a correlation between the use of these beverages and early experimentation by children with higher alcoholic content beverages.

As a lay person, I would tend to disagree with that statement, and I ask you perhaps for your opinion in this area because it seems to me that when children experiment with alcoholic related beverages at a young age there is a very high tendency to indulge in excess at a later age. Is that a justifiable position or a matter of concern that the committee should be taking into consideration in this matter?

DR. F. BARAGAR: Mr. Chairman and Mr. Mercier, we all share a concern about early exposure, perhaps increasing the risk of future dependency on alcohol,

but I think at this stage, to the best of my knowledge - and I have to admit I'm not an expert in this field - the evidence is not convincing in that regard.

I think the readily accessible amounts of alcohol that are currently available in Sarasoda without any supervision are our concern, and I think the potential of the points that Mr. Mercier brought up are very real; but I think the evidence is not currently available.

MR. G. MERCIER: Dr. Baragar, you on behalf of the Medical Association are asking the committee to reduce the alcoholic content of beverages so this beverage would have to be sold in the Liquor Control Commission.

Does the Medical Association intend to carry out some studies or, as you say, attempt to develop some empirical evidence to support the position taken?

DR. F. BARAGAR: Mr. Chairman and Mr. Mercier, the Child Health Committee of the MMA will continue to monitor this. I think we've brought it to the attention of our profession and I think members of the profession will bring this to our attention. I'm not sure this is something that one would pick up for some time. It might take some considerable time before the evidence came in, and I have concerns in the interim.

I would feel again that we're not necessarily advocating the removal of this beverage. It may simply be that they'd have to modify the manufacturing procedure to reduce the alcohol content, and I know of no good evidence that reducing the alcohol content to .5 percent would change the nature of the beverage or perhaps its appeal to the public. I don't know of any evidence that would prevent it myself or to the organization suggesting that this .9 percent in Sarasoda, which is the one we're particularly talking about, is cast in stone and it is essential for the beverage to be acceptable to the public.

MR. G. MERCIER: Just one last question. Is there an age at which the Manitoba Medical Association would not be opposed to having people consume? Is it age 14, age 16, and I'm just raising that because perhaps there's a way in which the sale of such a beverage could be limited to people over age 14, or whatever.

DR. F. BARAGAR: Mr. Chairman and Mr. Mercier, I'm sure that both Mr. Mercier and Hon. Mr. Penner are much more aware of the legal problems in deciding to have several ages of consent, and I would think the advantage would be to leave this under the control of the Liquor Control Board and the age of maturity or of adulthood, which we accept in this province as 18, is probably a more appropriate age to leave it at rather than try to decide that at 14 they can take a little alcohol, at 15 they can take a little more. As a physician, I would have difficulty with this and I don't know how the legal people would make out on this.

MR. G. MERCIER: Thank you.

MR. CHAIRMAN: Are there any further questions for Dr. Baragar?

Dr. Baragar, if I could ask one question for clarification. In relation to the impact of alcohol on people who may potentially develop into alcoholics, are

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there any safe levels of exposures to people who are alcoholics? A person even over 18, who is presently covered under the act for other alcoholic beverages, with the exposure of this, could it lead towards them wanting to consume more alcohol to satisfy the urges of the disease?

DR. F. BARAGAR: Mr. Chairman, I have to apologize, I am not an expert on this particular field, but my understanding is that there are familial and genetic tendencies amongst some groups to develop alcohol dependency. This runs to some extent in families; it's partly biochemical; it's partly hereditary; it's partly environmental. It's a multi-factorial thing.

I don't think, to the best of my knowledge, that the evidence is convincing or conclusive that earlier exposure would necessarily predispose these people to future increased problems, if that's your question.

MR. CHAIRMAN: Okay, thank you. Any further questions? Thank you very much, Dr. Baragar.

The next bill for which we have a person who has given indication of wishing to make a presentation before the committee is Bill No. 48. I would ask if there are any people in the audience between Bills 27 and 48 who have arrived since I last called who may wish to make a presentation?

Seeing none, could I call Mr. Robert Adkins, please, on Bill No. 48.

BILL NO. 48 - THE MANITOBA MUNICIPAL SECRETARY-TREASURERS' ASSOCIATION ACT

MR. CHAIRMAN: Mr. Adkins.

MR. R. ADKINS: Mr. Chairman and members of the committee, I act as the solicitor for the Manitoba Municipal Secretary-Treasurers' Association, or the Municipal Administrators Association as it wishes to be known.

The bill that's before you indicates two basic amendments. One is to the name to more properly reflect the members of this association. They are no longer just secretary-treasurers, but there are far more people involved now in that particular administration of local government and their membership has increased to include more people, so that's the reason for the change in the name.

The course and the designation is important and I wanted to take this opportunity to speak briefly on that. They have established this four-year course; it's a correspondence course. It's been established with the Department of Municipal Affairs, the University of Manitoba and their own association. It's for the purposes of improving their ability to serve the municipalities for whom they work.

If you are aware of the situation in the Province of Manitoba, you have numerous municipalities that have very limited staff in terms of administration. They have very little in the way of assets to hire people; they are very small municipalities. In fact, many of these positions are only part-time positions.

Notwithstanding that, it has been my experience, in acting for several municipalities and being involved in

this association, that the members of this association and the secretary-treasurers and other people involved in local government administration in this province have taken their positions very seriously. They take part in these courses, they take part in additional courses, and they are now asking for a recognition of this in their legislation.

The association obviously supports this very strongly. We think it's a reasonable request to be made and that it would properly reflect the effort that these people put into their positions.

If there are any questions, I'll try and answer them.

MR. CHAIRMAN: Any questions for Mr. Adkins? Seeing none, Mr. Adkins, I thank you very much for your time this morning.

MR. R. ADKINS: Thank you.

MR. CHAIRMAN: The next bill will have a presenter on behalf of the Portage District General Hospital, Bill No. 49.

Mr. Connery.

MR. E. CONNERY: I have been informed that Gary Matan will not be attending this morning.

MR. CHAIRMAN: He will not be, okay, thank you very much. Are there any other persons present wishing to make a presentation on Bill No. 49?

Seeing none, we shall proceed to Bill 52.

BILL NO. 52 - THE MANITOBA MEDICAL ASSOCIATION FEES ACT

MR. CHAIRMAN: I have three people wishing to make a presentation: one Dr. J.B. Sutherland, a Mr. Ben Hanuschak; and Dr. Fletcher Baragar. Are there any other persons attending today's committee wishing to make a presentation?

Dr. Sutherland, please.

DR. J. SUTHERLAND: Mr. Chairman, ladies and gentlemen, thank you for the opportunity of allowing the Manitoba Medical Association to make a presentation regarding this act.

In December, 1984, the Government of Manitoba and the Manitoba Medical Association jointly endorsed a statement of intent . . .

HON. R. PENNER: I just want you to be aware that the Minister of Health is on his way here. He was detained at the dentist but he is on his way here. He doesn't want anyone to think he is in any way less than respectful to the submissions, either yours or the ones to follow. I assure you that any comments that are made will be passed on to him when he comes.

DR. J. SUTHERLAND: Thank you very much.

In December of 1984, the Government of Manitoba and the Manitoba Medical Association jointly endorsed a statement of intent committing both parties to a cooperative, working relationship in the search for solutions to problems in the delivery of health care.

The significance and value of this accord in Manitobans may be measured against the recent experience in Ontario where intense acrimony and disruption of medical services have prevailed.

Manitoba's cooperative approach, nonetheless, had an immediate and sizable financial impact on the MMA; for example, the association's sponsorship of two physicians on the province's Health Services Review Committee and the establishment of special MMA committees on fee and income disparities, medical manpower, utilization of medical services and high technology. Indeed, the MMA has met its initial commitments in 1985 when it presented interim committee reports to the Minister of Health.

In addition to paying honoraria, and the rates have been frozen since 1982, the association has had to obtain the specialized staff support and computer equipment to enable its committees to do their work effectively. This infrastructure also serves to generate statistical data and its analysis in respect to the negotiation of fees and other forms of remuneration for physicians.

MMA negotiations directly benefit all fee-for-service physicians in the province, members and non-members alike. Similarly, this work, as well as MMA bargaining on behalf of government-employed doctors, greatly influences other salary schedules and income levels. Equally important, the MMA functions as the collective voice of Manitoba physicians. A strong medical voice is in society's best interests.

Collectively, physicians can accomplish what individual doctors cannot. For example, the association operates a Physicians at Risk program which benefits the entire profession and the public generally. Doctors who suffer from chemical dependency, emotional and other serious problems receive valuable assistance from their peers through this program which the MMA initiated in 1978. We believe that all physicians have a responsibility to support financially important work such as this.

In requesting legislation for the compulsory payment of MMA fees by all fully licensed physicians, we note that similar legislation exists in New Brunswick, Nova Scotia and Newfoundland. The same principle applies in Quebec where physicians pay dues to either the general practitioner or specialist federation. The concept is under serious consideration by the B.C. Medical Association and we understand that just recently, the Saskatchewan Medical Association and the Government of Saskatchewan reached an agreement whereby compulsory payment of SMA dues will be instituted.

All licensed physicians in Manitoba were afforded an equal opportunity to cast a secret ballot on the question of compulsory payment of MMA dues. The process and results were supervised by an independent accounting firm. The majority of those voting agreed with the recommendation and we submit that this is the democratic will of the medical profession in Manitoba.

Thank you, Mr. Chairman.

MR. G. MERCIER: Dr. Sutherland, how many doctors were eligible to vote?

DR. J. SUTHERLAND: Eligible physicians were 2,258.

MR. G. MERCIER: How many voted?

DR. J. SUTHERLAND: 1,308.

MR. G. MERCIER: How many supported the proposal?

DR. J. SUTHERLAND: 699.

MR. G. MERCIER: 699 of 2,258 doctors supported this proposal. Doctor, what is the, as I understand it and I hope you perhaps can help me, doctors would pay a fee to the College of Physicians and Surgeons to be licensed, would they not?

DR. J. SUTHERLAND: That is correct.

MR. G. MERCIER: And how much would that fee be?

DR. J. SUTHERLAND: That is changing year by year. I think it's of the order of \$300 a year now.

MR. G. MERCIER: And that fee is paid to be licensed to practice medicine in the Province of Manitoba?

DR. J. SUTHERLAND: That is correct.

MR. G. MERCIER: There is, Dr. Sutherland, a paragraph 8(1) in the bill that states where there's no agreement between the government and the association, that the Cabinet can suspend this bill. Would you not regard that as - if this bill is correct, and the right thing to do and pass, and I'm not agreeing with that at the present moment - but if it is the right thing to do, wouldn't you consider such a clause to be blackmail by the government, because if it's the right thing to do that all doctors should be required to pay fees to the Manitoba Medical Association, then it shouldn't matter whether or not there is an existing agreement with the government as to whether doctors should pay fees. You may not wish to agree with my wording, but do you see that paragraph as a necessary part of this bill?

DR. J. SUTHERLAND: Mr. Chairman, this is a clause that the government requested to have inserted. We discussed it with them. We recognize some of the pitfalls associated with that.

I think what it does mean is that before the MMA would undertake any action which would terminate the agreement, we will consider our options just that much more carefully. But it would not prevent us from taking action if we felt it was necessary.

MR. G. MERCIER: Doctor, why should the Manitoba Medical Association require a bill by the Legislature to force all doctors to pay a fee to your association? We have something in this country that's called freedom of association, which also means freedom of non-association. With all due respect to you, please Doctor, don't take my remarks the wrong way because I have the greatest respect for the medical profession and all individual members of it. But we're faced with this bill with some important principles to deal with and we're being asked, as members of the Legislature, to force every doctor to pay a fee to an association, whether

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they wish to or not, whether they support the activities of the association or not. There are probably a number of doctors who simply wish to be licensed to practice medicine, and practice medicine, and want to have nothing to do with the Manitoba Medical Association. Why should we, as individual legislators, be asked to pass a bill that compels them to pay this fee?

DR. J. SUTHERLAND: Mr. Chairman, there are several reasons for this. I think one of the overriding reasons is that the Manitoba Medical Association carries out negotiations with the government to establish the fee schedule for all physicians. So all fee-for-service physicians benefit from the negotiations carried out by the Manitoba Medical Association. These negotiations are not inexpensive. If we are to prepare reasoned and rational presentations to government to present and defend our case, we need good support staff, we need time for physicians to become involved in the development of the arguments and to present them. It is an expensive operation. I'm sure you know better than I do the cost of operating a function of this sort.

There are also other reasons. The Manitoba Medical Association is trying to represent all physicians in this province in a very responsible way. You have just heard a presentation that has been made on the effects of alcohol in beverages, or the content of alcohol in beverages. We have made presentations on seatbelt legislation. We have made presentations on motorcycle helmets. We want to continue to do this sort of thing. It is not, again, an inexpensive operation but we think that this is part of the responsibility of all physicians in this province to do that, and we need the support of all physicians and we ask for it in this way.

MR. G. MERCIER: Dr. Sutherland, it would seem to me then, not only doctors, but other professional people in whatever profession they're in, have an obligation and a responsibility in the public interest to present their views on matters like Dr. Baragar spoke to this morning.

Let me ask you a further question, and again, I don't mean to offend you, but from what you say, why doesn't the Manitoba Medical Association apply to be certified as a union?

DR. J. SUTHERLAND: Because we are not employees.

MR. CHAIRMAN: Before you start Dr. Sutherland, I'd like to caution Mr. Mercier in that the basis of the people to make presentation before the Committee, the questions are for clarification items and not for the purpose of argument. I would ask you to be very cognizant of that in your asking of questions so that we do not attempt to engage a member of the public who comes forward to make a presentation in the committee in a legislative debate if I may say so.

Dr. Sutherland.

DR. J. SUTHERLAND: Mr. Chairman, Mr. Mercier, I guess the simple answer to that that I understand is that we are not employees. We continue to be independent practitioners, self-employed in many cases. We would not be a union in that sense. We have a negotiating mandate, but there are many other

components which I would see to being a union that simply the MMA and physicians would not meet.

MR. G. MERCIER: Thank you very much.

MR. CHAIRMAN: Mr. Penner, do you have a question?

HON. R. PENNER: I had a question, Mr. Chairperson, but you may rule it out of order if it sounds like a debate.

MR. CHAIRMAN: I would ask you to be careful with your phrasing of the question then.

Mr. Penner.

HON. R. PENNER: I'll be most careful with my phrasing of the question.

You were asked by Mr. Mercier with respect to freedom of association and the relationship between the check-off or its equivalent in this bill and freedom of association. Do you see any distinction, in principle, between this form of check-off or compulsory payment of dues by doctors to the Medical Association and the one introduced by the Conservatives for cattle producers some years ago?

Is that out of order?

MR. CHAIRMAN: I'm going to rule that question out of order. I don't think we can expect the representative of the Medical Association to be familiar with what the cattle producers were requesting of the . . .

HON. R. PENNER: I was just raising the question of principle, but then I should know better than to raise a question of principle in committee.

MR. CHAIRMAN: Well, at this stage in committee certainly, Mr. Penner, it's out of order.

Mr. Mercier, you had another question.

MR. G. MERCIER: Another request for clarification, would the Medical Association support an amendment to the bill which allowed for opting out by individual practitioners?

MR. CHAIRMAN: Dr. Sutherland.

DR. J. SUTHERLAND: Mr. Chairman, we would have great difficulty supporting such a clause. We think it would neutralize the impact of the bill and would be of questionable value.

MR. CHAIRMAN: Are there any other questions for Dr. Sutherland from members of the committee?

Seeing none, Dr. Sutherland, I thank you for your presentation and your attendance today.

The next person who has indicated a desire to speak before the committee is Mr. Ben Hanuschak, on behalf of the Progressive Party of Manitoba.

Mr. Hanuschak, welcome back.

MR. B. HANUSCHAK: Mr. Chairman, members of the committee, I listened to the presentation from the Manitoba Medical Association with great interest. It certainly answered a number of questions in my mind,

clarified a number of points. No. 1, it is now quite apparent to me that it was the intention of both the government and the Manitoba Medical Association to take a cooperative approach to the matter of dealing with the question of fee schedules and other matters in which government and the MMA share joint interest. It was also made known that the MMA needs money to run its own operations, and that's quite understandable. Research, etc., that costs money.

It's also recognized by the MMA that it feels that collectively it can present a stronger voice than doctors could individually. By the same token, the MMA also says that it's not a union. They're not employees. So, they do attempt to make a distinction between themselves and a union.

Mr. Chairman, firstly, I find the method of introduction of this bill offensive, and I would suspect that there are many other people in Manitoba who find it equally offensive. The bill was introduced for Second Reading yesterday, debate closed the same day and referred to committee, committee meeting this morning. I had received a telephone call yesterday, advising me of this morning's meeting.

I would suspect, Mr. Chairman, that of the 950 doctors who did not vote on this matter, of the 609 doctors who did not vote in support of what we see before us in the form of this bill, for a total of 1,559 doctors, it may well be that many of them would have wanted to appear before this committee and present their views, and not only doctors but other citizens of the Province of Manitoba, because there are some principles involved in this bill which affect each and every citizen of this province, be he doctor or not.

Mr. Chairman, I suggest to you that this bill is a step to dictatorship. If the MMA is having a problem in retaining the support of the practitioners of medicine by virtue of having them enroll and become participating members in the association, that's the MMA's problem. Let the MMA cope with it the best way it can. That is not a matter to be attempted to be resolved by legislation and, in particular, by legislation as offensive as this bill before us.

Therefore, Mr. Chairman, I was quite surprised to see this bill that even - and I find this difficult to accept - if there were some rationale for a bill of this type, but I was surprised to find that this bill is introduced as a government bill. It is not a Private Member's Bill, where the Legislature could call off the whips and the members could vote according to the dictates of their conscience. You might have Conservatives, some voting one way, some the other, and the same may be true of the government side. But this is a government bill, Mr. Chairman, the one and only group of people in the Province of Manitoba who, if this bill passes, will have legislation of this type making it mandatory under penalty of law to pay a membership fee toward a particular organization and have no choice in it and with a threat of imprisonment. In other words, if you don't pay, you go to jail which the bill says.

Because I want to remind you, Mr. Chairman, that there is a Summary Convictions Act which says: "Where an act of Legislature provides that a fine may be imposed on a person convicted of an offence but does not provide that imprisonment may be imposed in default of payment of the fine, a court or justice convicting a person of the offence may order that, in

default of payment of the fine, the person convicted shall be imprisoned for a period of not more than six months." Section 5(1), Mr. Chairman. Any medical practitioner who fails to pay the fee required to be paid will automatically be subject to a fine of \$1,000.00.

Now I suppose the Attorney-General may be able to argue that the context within which the word "fine" is used in Bill No. 52 is not the context within which the word "fine" is used in The Summary Convictions Act. That may well be, but that point certainly is not clarified, Mr. Chairman, and which certainly ought to be clarified before any further action on the bill is taken.

It surprises me, Mr. Chairman, that this government chooses to proceed with a bill of this type which infringes upon human rights and freedoms with the full knowledge that it is being challenged on another piece of legislation which also encroached upon the individual rights and freedoms; namely The Elections Finances Act and the government knows that one of these days, it and I are going to see each other in court, in the Supreme Court of Canada.

We went to the Court of Queen's Bench, we lost. We lost on a split decision in the Court of Appeal. The Supreme Court of Canada gave us leave to appeal, and there's the same principle involved, Mr. Chairman, exactly the same principle involved where I, a non-supporter of the New Democratic Party through my tax dollars, have to contribute toward the election of a New Democratic Party candidate running against me, and all the other New Democratic Party candidates who were elected in the province, and all the New Democratic Party candidates and others who had received more than 10 percent of the vote. The principle is exactly the same; an invasion, an encroachment upon one's rights and freedoms.

Mr. Chairman, I suggest to you that this bill establishes a very dangerous precedent. If the MMA can have the force of law to compel a doctor to pay an annual membership fee, then what would there be to stop, to prevent Mr. Hudson from coming to the Minister of Labour and say, I want a piece of legislation like this too, and it's already drafted, all you have to do is delete the words, "Manitoba Medical Association," in Bill No. 52, and substitute therefor the words, "Manitoba Federation of Labour."

I'm sure that Mr. Hudson could make as equally a convincing case of whatever it is the Manitoba Federation Labour does on behalf of labour, that all labour may benefit from it, members and non-members. He may say that he wants similar legislation.

What would the Minister of Education say to the president of the Manitoba Teachers' Society, who claims that it acts on behalf and for the benefit of all teachers? If the president of the Teachers' Society were to say that the Manitoba Teachers' Society wants a bill exactly identical to The Manitoba Medical Association Fees Act; we want the right to collect fees from every teacher and we will tell the teachers that by paying the fee, you are not necessarily a member; you won't pay the CTF fee in the same manner as the doctors will not be required to pay the Canadian Medical Association fee, and we want the same right to collect the fees as the Manitoba Medical Association will be given under this law. Mr. Chairman, I suggest to you that the government will not be able to make fish of one and fowl of the other.

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Then, the worst section, and this even surprises me that the Manitoba Medical Association has not caught this. Section 8, which echoes the cadent sound of jackboots; it echoes the cadent sound of jackboots. Mr. Chairman, section 8(1) says that upon being satisfied - I assume the government, yes the Lieutenant-Governor-in-Council - that no agreement under The Health Services Insurance Act is in force and no negotiations for entering such an agreement are underway, and it's not clear who is not making the attempt to continue with the negotiations, the government or the MMA. It could be either. But in that case, if there are no negotiations and no agreement in effect, Cabinet may by order suspend the operation of sections 2 to 4 and, while so suspended, those sections are inoperative and of no effect.

I'm surprised because the Manitoba Medical Association, by its own admission, says it needs all the money that it could get to finance its operations, which are becoming very sophisticated and expensive. Now the government is saying, well if you guys don't bargain, you're not going to collect the fees from these 2,000 doctors out in the province, because if an agreement terminates and negotiations come to an end, then we will not enforce Bill No. 52, and you guys will not be able to collect the fees that you hope to collect; the \$800 or \$900 or whatever it is per doctor.

Then, what makes this even worse, Mr. Chairman, if you look at 8(3), how can the suspension of the effectiveness of sections 2 to 4 be reinstated, with the resumption of collective bargaining? No, Mr. Chairman, no not with the resumption of negotiations, but when the Lieutenant-Governor-in-Council will be satisfied that an agreement under Section 99 of The Health Services Act is again in force.

In other words, the scenario, Mr. Chairman, is this. Negotiations break down, perhaps even because of the action or inaction of the government. The government comes forth with a pittance, the doctors say no; the government refuses to budge, no further negotiations take place. The government says to the doctors, okay we're not going to enforce sections 2 to 4 of the act. You will not have the benefit of the penalty threat that you can impose upon the doctors, and so forth, and this the inoperativeness of the sections continues until an agreement is reached - until an agreement is reached now - and you know and I know that is quite a club to hold over the doctors' heads. Because what will the agreement be? The agreement will be the one proposed by the government, because the government will have the upper hand, the government can hold out until it bankrupts the Manitoba Medical Association, which did indicate that it needs the bucks. It bankrupts it; it cannot continue with an effective negotiation process and then the doctors give in to the fee schedule proposed by the government.

Lastly, Mr. Chairman, it is our firm belief that this bill is in violation of the Charter of Rights and Freedoms, and in particular, of the individuals' right to freedom of association. There is no freedom of association; the type of freedom of association that the government talks about is a type of freedom of association that is talked about in totalitarian states. They also talk about freedom of association and we know what freedom of association means there, and here it's going to mean exactly the same thing.

The government is saying, yes you're free to associate with whomever you wish to form any number of professional associations that you want, but no matter what organization you form, you pay under threat of penalty every year you pay a membership fee to the Manitoba Medical Association. That's the freedom of association that this government is talking about. That is the freedom of association that this government is proposing to the people of Manitoba. This is the first step, the second step perhaps. The first step was The Elections Finances Act; now this is step No. 2. With this type of legislation being allowed, the government will simply be encouraged to take another and another and another step toward the further erosion of the rights and freedoms of the people of Manitoba.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Hanuschak.

Are there any questions for Mr. Hanuschak from members of the committee?

Seeing none, thank you, Mr. Hanuschak, for your presentation.

The next person we have on our list and last person that I have on the list for any bills is Dr. Fletcher Baragar.

Dr. Baragar.

DR. F. BARAGER: Mr. Chairman and committee members, as a duly elected representative of the largest district for the Manitoba Medical Association, the Health Sciences Centre, I felt that it would be useful to express my views.

I share with the previous speaker the concern one has about a dictatorial state, but I would suggest that this bill is designed to allow the Manitoba Medical Association adequate financial resources to take an active and useful role in conjunction with government to improve what I feel is the best health care delivery system we have across Canada. We cannot do this without support of all our members. We are a senior healing profession. As members we have a joint responsibility, not only to look after our own needs, but much more important to look after with government elected representatives, the health of our community.

We must all look very critically at our present health care delivery system. There are imperfections and we need to really adjust and look at it. We need the resources and we need the support of every member. We need to be able to tell them what we are trying to do and what you are trying to do. We need to work together with you and be able to put people, well-qualified, well-trained with good backup, in a position to help you.

I do not feel this is compulsion. The numbers that voted - it was in any democratic process - they have the option to differ. At our annual meeting there was very little protest against this and I feel that the majority of the medical profession supports this and we will make all our efforts, if this is approved, to continue to educate our members about what we are trying to do and what you are trying to do and to help build a better health delivery system for the province and the citizens of Manitoba.

I'll be happy to answer any other questions.

MR. CHAIRMAN: Are there any questions for Dr. Baragar?

Seeing none, Dr. Baragar, I thank you for your presentation.

That completes the public presentations that we were made aware of so far this morning. I would now wish to return to the bills in the order in which they stand on the sheet of paper distributed to all members.

Basically, they are in numerical order and if we could commence on Bill No. 9, can we follow this process on going bill-by-bill on the short ones and on the more detailed ones where there are questions raised, we'll go clause-by-clause, or page-by-page, is that satisfactory to members of the Committee? Fine. Let us proceed.

Bill No. 9, An Act to amend The Public Schools Act.
Mr. Birt.

BILL NO. 9 - THE PUBLIC SCHOOLS ACT

MR. C. BIRT: Mr. Chairman, the Minister, when introducing the bill, made reference that there were certain administrative changes dealing with the collective agreement and the filing of it with the department; and it said:

"At this time the government provides block grants rather than categorical grants to cover the cost of a teacher's salary. The information is no longer required with respect to the individual contracts. We will believe it'll be some administrative streamlining possible within the department as a result of removing the requirement."

Now I'm wondering why the Minister was making reference to the block grants, categorical grants in relation to the streamlining because, as I understand the amendment, you don't have to file additional pieces of paper with the department. It's the collective agreements that are now the master agreements rather than each individual contract.

In reading it over, I was wondering why the reference to the block grants and categorical stuff.

HON. J. STORIE: Mr. Chairperson, yes, the explanation was, in previous times when I guess this practice was established that grants were related to teachers specifically, I suppose that precipitated the filing of individual agreements and the system has changed substantially since that time and hence, the repealing of that section means that the department will no longer be responsible for collecting the 12,000, or whatever, individual agreements.

MR. C. BIRT: One other reference was made in the comments, the method by which the support to special revenue schools is being modified. There have been some ongoing difficulties with providing special school revenues. We are trying to streamline the procedures and make it more flexible and the only area that I could see that really dealing with, is that new section where the changes of granting funds have been sort of updated or generalized. Is that the area that this particular comment was relating to?

HON. J. STORIE: For a variety of reasons the funding to the special revenue school districts comes largely from other sources and, over the last number of years, there have been changes, sometimes dramatic both in

terms of increases and decreases, and this simply gives us the flexibility to provide additional grants or reduce our grants proportional to the input of revenues from other sources.

MR. C. BIRT: But it's in the rewriting of the process of granting these particular grants, there is a new section or two sections go in, I believe that streamline the grant-making process; but that's where this particular comment would fit in.

HON. J. STORIE: Yes.

MR. C. BIRT: Okay. Thank you.
Mr. Chairman, we can pass.

MR. CHAIRMAN: Okay, pass the bill. No. Mrs. Carstairs.

MRS. S. CARSTAIRS: Could the Minister give me some indication as to what was the major reason for the removal of a municipal board from all of the provisions? In other words, the loan guarantees, the debentures, up to this point they've all had to go through the municipal board. Now that has all been eliminated from the legislation.

HON. J. STORIE: Well prior to 1969, individual school boards were required to arrange for their own debentures. Since 1969, the province has been 100 percent responsible for capital construction and the process of approval goes from the school division board, public schools' finance board, provincial cabinet, as we review the five-year capital projections and the Department of Education.

So that process is already fairly thorough, including the local elected body, the capital funding comes 100 percent from the province and therefore the necessity of presenting it to the municipal board really no longer exists.

MRS. S. CARSTAIRS: Is there anything in the legislation, and to be honest I couldn't find it but I had concern about it, with regard to the budgets of the school boards no longer having to go through municipal authorities?

HON. J. STORIE: There are no changes in terms of the process by which the school divisions develop their budget. There are no changes in this act.

MR. CHAIRMAN: Any other questions?

Okay, page by page: Page 1—pass; Page 2—pass; Page 3—pass; and Page 4—pass.

Preamble—pass.

Title—pass.

Bill be reported.

BILL NO. 23 - THE CHARTER COMPLIANCE STATUTE AMENDMENT ACT

MR. CHAIRMAN: The next bill is Bill No. 23, The Charter Compliance Statute Amendment Act, 1986. Presumably we'd go on this one page-by-page.

Pages 1-17 were each read and passed.
On the balance of the bill, are there no questions on a 45-page bill?

Balance of the bill—pass; Preamble—pass; Title—pass; Bill be Reported.

BILL NO. 24 - THE TEACHERS' PENSIONS ACT

MR. CHAIRMAN: Bill No. 24 - An Act to amend The Teachers' Pensions Act. Are there any comments on this bill, or shall we pass the whole bill? Pass the whole bill - there no comments from members of the committee. Okay.

Bill — pass; Preamble — pass; Title — pass; Bill be Reported.

BILL NO. 25 - THE LAW SOCIETY ACT

MR. CHAIRMAN: Bill No. 25, An Act to amend The Law Society Act.

Mr. Penner.

HON. R. PENNER: As we go through this, there are a number of amendments that are the result of some further work between ourselves and the Law Society, and I would ask that copies of the proposed amendments be circulated so that all members may have them before them. As we come to the appropriate point, Mr. Chairperson, I'll make the proposals.

MR. CHAIRMAN: We shall proceed page-by-page, then.

HON. R. PENNER: I just have one further comment. At the request of the Member for St. Norbert, I have tabled - or at least have given him - a copy of the Memorandum of Understanding between the government and the Law Society of Manitoba which has already been the subject of discussion in the House on second reading debate.

MR. CHAIRMAN: Page 1—pass.
age 2 - the Honourable Attorney-General.

HON. R. PENNER: Mr. Chairperson, I would move that on Page 2, Section 4, the motion is

THAT proposed new subsection 30.2(2) of The Law Society Act, as set out in section 4 of Bill 25, be amended by adding thereto, immediately after the word "earnings" in the last line thereof, the words "less accrued service or other charges pertaining to the operation of the account."

I explain that it was brought to our attention by The Law Society that it should be clear that lawyers having to pay any charge to the bank should not be liable for the amount of that charge for the operation of the account.

MR. CHAIRMAN: Is there any comment on the proposed motion by Mr. Penner?

Amendment—pass.

HON. R. PENNER: On the same page.

MR. CHAIRMAN: Is it not the next page?

HON. R. PENNER: Yes, it is on the next page.

MR. CHAIRMAN: Page 2, as amended—pass.
Page 3 - Mr. Penner.

HON. R. PENNER: Yes, there are a number of amendments. I'll read the motions and then add some words of explanation.

MOTION:

THAT proposed new section 55 of The Law Society Act, as set out in section 8 of Bill 25, be amended by adding thereto, immediately after the word "grant" in the 1st line of clause (b) thereof, the word "devise".

I think that's self-explanatory. We should deal with this motion by motion, I think, Mr. Chairperson.

MR. CHAIRMAN: Okay. Are there any questions or comments on the proposed amendment?

Amendment—pass.

HON. R. PENNER:

MOTION:

THAT proposed new subsection 56(1) of The Law Society Act, as set out in section 8 of Bill 25, be struck out and the following subsection be substituted therefor:

Specific grants.

56(1) The foundation shall pay from its funds, in each fiscal year,

(a) to The Legal Aid Services Society of Manitoba, 50 percent of the total trust account interest received by the foundation under section 30.2 in that fiscal year, or the amount of \$1,007,629, whichever is greater; and

(b) to the society, for educational purposes, 18.75 percent of the total trust account interest received by the foundation under section 30.2 in that fiscal year, or the amount of \$335,383, whichever is greater;

and if the funds of the foundation, after paying the expenses of administering its affairs, are insufficient to make those payments, the payments shall be made in pro rata amounts.

The only significant change there, Mr. Chairperson, is to make it clear that we're talking about the fiscal year.

MR. CHAIRMAN: Agreed. Any further questions? Just on a point of order, if I could, although I don't know if a Chair raises a point of order, but it's just come to my attention on a procedural problem we may be running into with this on the amendments, if it is necessary on the amendments, while we are passing the amendments to also pass the French language version of those amendments as well.

So I'll call for the English version first and then the French version. If you want to read the French version, you may read it. If not, unless there are any objections, if someone does not want to or wish to, they do not have to read the total French version.

HON. R. PENNER: On that point of procedure, if agreeable to Mr. Mercier and others, perhaps what we can do is proceed through the English and then, having done that, at the end do the French as a whole. As long as we are seen in committee to have enacted in French, we can do it as a whole.

MR. CHAIRMAN: It wouldn't be easier to do it on each clause when we go along?

HON. R. PENNER: Let me say the council assures me that would be appropriate.

MOTION:

THAT proposed new subsection 56.2 of The Law Society Act, as set out in section 8 of Bill 25, be amended by striking out the word "year" in the 2nd line thereof and substituting therefor the words "fiscal year". (Agreed)

MR. G. MERCIER: Mr. Chairman, before we proceed to the next amendment, I have a comment and a question with respect to that part of section 57 which is on page 3.

Mr. Chairman, we have expressed the concern that the board of the Law Foundation is too much dominated by the appointments by the Attorney-General and also have a concern with respect to a subsequent section 63 whereby the Attorney-General appoints the chairperson of the board. Rather than making an amendment, which I am certainly prepared to do if there is agreement by the Attorney-General, I wonder if he would indicate whether he would be prepared to change the numbers in 57(a) and (b) so that something like at least only three or four would be appointed by the Attorney-General and four or five would be appointed by the Law Society.

I think that would serve, Mr. Chairman, to make the board much more independent as a law foundation should be. In fact, in raising this matter, I wonder if the Attorney-General could indicate how the boards are composed in other provinces, the Law Foundation board, because as I understand it, we're the last province in Canada to bring in a law foundation and it's certainly a good idea. I suspect in other jurisdictions the boards are not dominated by appointments by the Attorney-General.

HON. R. PENNER: In response to the question, I haven't got all of the material in front of me. I do have in fact the way in which boards are constituted across the country.

I can say, as I said in the House yesterday, Mr. Mercier was not present, that there is one other board of a foundation, namely in Nova Scotia, where in fact the Attorney-General appoints not the same number, but a majority of the foundation. In other jurisdictions, there's great variation but the Law Society, in most other instances, not in all, appoints the majority of the members of the foundation.

I explained in the House that it was my thought that in the foundation of this kind, given the objects which it has, we have to make sure that there is representation from the nonprofessional public and that the Law Society proposes to nominate members of the Law Society. The Manitoba Bar will nominate a member of

the Manitoba Bar and the Dean of the Law School or his nominee is going to be a lawyer. So we know that for sure we start out with five lawyers.

I wanted to make sure that there was the possibility of at least two or three lay persons representing the community or at least that part of the community that is interested in the whole question of legal services, innovative legal aid kinds of things, law reform, to be represented.

So I would want to keep it this way for the time being. I'm prepared to look at it after we try it for a year, not by any means stubborn on the issue. I think we ought to give it a try this way.

I can say to the Member for St. Norbert, and this might help him, that I do propose to consult with the Law Society on the person to be designated as chairperson and in fact have already had a private discussion with the Chairperson of the Law Society indicating along the lines that I was thinking so that if there was any concern or objection, it could be voiced to me because I certainly would not want to appoint a chairperson who would not be acceptable to the other members of the board. So I'll try to deal with that concern in that way, i.e., informally, this year and we can look at how it works by next year.

MR. G. MERCIER: Mr. Chairman, just a further question, I don't wish to prolong it, but the Attorney-General is indicating he would like to have two or three lay persons serving on the board. I appreciate that and there should be. But he could do that if the numbers were changed to three or four.

I just find it difficult to accept the fact that we really can - I support the idea of a law foundation. I think it should be independent. I don't think the Attorney-General should be appointing one-half of the board and then appointing the chairperson. If the Attorney-General is obviously not prepared to accept that, I won't propose an amendment.

HON. R. PENNER: Yes, just an additional comment. As Mr. Mercier knows, the Attorney-General appoints the majority of the members of the Legal Aid Society Board and in fact has something of a say on the nominees from the Law Society who are members of the board, because they must submit a list of seven from whom the Attorney-General selects three, so that in effect, the Attorney-General is fairly decisive in appointing the board of the Legal Aid Services Society of Manitoba. As he knows, he's had the same experience as I have, from its inception, that board has been fully independent and has been critical of the government where it has seen fit to be critical of the government. I hope that this works in the same way. Let's give it a try.

MR. G. MERCIER: Mr. Chairman, the Attorney-General's comments, beg a further comment, the Legal Aid Services Board is a different board. It is spending public monies, totally. There's a difference, I think, in the way this law foundation is being funded. Certainly the Attorney-General, through his appointments, does not control the Law Society.

MR. CHAIRMAN: Page 3 as amended presently—pass.

HON. R. PENNER: Mr. Chairman, I move:
THAT proposed new section 57 of The Law Society Act, as set out in section 8 of Bill 25, be amended by striking out clause (d) thereof and substituting therefor the following clause:
(d) one of whom shall be the Dean of the Faculty of Law at the University of Manitoba or a member of the faculty appointed by the Dean.
That wasn't clear in the wording that . . .

MR. CHAIRMAN: Pass.

HON. R. PENNER: Mr. Chairman.

MR. CHAIRMAN: Page 4, is there another?

HON. R. PENNER: Yes. I move:
THAT proposed new section 59 of The Law Society Act, as set out in section 8 of Bill 25, be struck out and the following section be substituted therefor:
59(1) Subject to subsection (2), each director shall be appointed to hold office for a term of 3 years and may be reappointed for one additional term of 3 years.

Terms of first directors.

59(2) Of the directors appointed first, those whom the Attorney-General in consultation with the society may select shall each be appointed to hold office for a term of 2 years.

Appointment of successors.

59(3) A director whose term of office has expired continues to hold office until a successor is appointed.

The substantive part of this amendment is that in working out the rotating terms, then it's not left to the Attorney-General to make that decision unilaterally, but the two-year appointment shall be done in consultation with the Law Society.

MR. CHAIRMAN: Any questions? Pass. 60 would be on this, as well, Mr. Penner.

HON. R. PENNER: Yes, there is a specific motion with respect to the French version. We might as well do that.

I move

THAT the French version of proposed new section 60 of The Law Society Act, as set out in section 8 of Bill 25, be amended by striking out the words "si ce dernier lui permet de s'absenter" in the last line of clause (a) thereof and substituting therefor the words "si ce dernier, par résolution, lui permet de s'absenter".

I think the inclusion there is by resolution, par résolution.

MR. CHAIRMAN: Any comments? Pass.

HON. R. PENNER: I move

THAT proposed new Section 60 of The Law Society Act, as set out in section 8 of Bill 25,

be further amended by striking out the word "solicitor" in the 2nd line of clause (b) thereof and substituting therefor the words "barrister and solicitor."

MR. CHAIRMAN: Pass.
Page 4, as amended—pass.

HON. R. PENNER: I'll come back to these amendments in their French version when we go through the rest of the bill.

MR. CHAIRMAN: Page 5 - Mr. Mercier.

MR. G. MERCIER: Further to my earlier comment, Mr. Chairman, with respect to section 63, why does the Attorney-General simply leave it to the board, of whom he appoints one-and-a-half, to appoint its own chairperson? Why does he need this extra power of appointing the chairperson?

HON. R. PENNER: I wanted to leave open the possibility of someone being appointed as chairperson of the Foundation who may, in fact, not be a lawyer. I think that's one of the reasons for doing it.

I wanted to make sure that the person who is the chairperson of the Foundation is seen as representing, in effect, all of the public through the role of its government in naming that chairperson. I did indicate, and I have no hesitation of putting it on the record again, that certainly in terms of the appointment of the first chairperson, I will do so in consultation with the Law Society.

MR. CHAIRMAN: Page 5—pass; Page 6—pass.

HON. R. PENNER: I move
THAT the French version of the amendments discussed and passed be adopted in its entirety.

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

BILL 26 - THE PUBLIC TRUSTEE ACT

MR. CHAIRMAN: The next act before us is An Act to amend the Public Trustee Act. Is there any discussion on the bill?

Mrs. Carstairs.

MRS. S. CARSTAIRS: Thank you, Mr. Chairman. I just have a question for clarification. In the section with regard to delegating the authority of the Public Trustee to a doctor or to a nurse to be responsible for that individual's medical care, I can understand the rationale because obviously there's nobody in the Public Trustee's Office that has that kind of expertise, but I want some assurance that can be pulled back at any time that the Public Trustee feels medical care is not suitable to that individual.

HON. R. PENNER: Yes, that's a good point and, indeed, the Public Trustee, who is only delegating his or her authority, has the right to revoke that delegation at any time and it's in full control of the individual.

MR. G. MERCIER: Just a question for information. Does this bill have anything to do with the implications of the Jehovah's Witness case during the past year involving medical treatment?

HON. R. PENNER: No. Certainly it wasn't intended to deal with that case. The bill was drafted before that case arose.

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

Bill be reported.

HON. R. PENNER: With respect to Bill 27, I wonder if we can just take a minute. I just received a communication that I want to give a copy of to Mr. Mercier. It deals with the issue that was raised about the alcohol content of beverages and if you'll just bear with us for a moment, Mr. Chairman. I would have no objection, going down to Bill 46, Mr. Dolin's bill . . .

MR. CHAIRMAN: While you discuss this with Mr. Mercier?

HON. R. PENNER: Yes.

MR. CHAIRMAN: Agree to do that, to withdraw Bill 27 for a few minutes and we'll return to that shortly. (Agreed)

We'll move to Bill No. 46.

BILL NO. 46 - THE INSTITUTE OF CERTIFIED MANAGEMENT CONSULTANTS OF MANITOBA

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

Bill be reported.

HON. R. PENNER: The Minister of Health is requesting, and I wonder if it would be satisfactory to the Opposition that we consider Bill 52. As I told you, he has just come from the dentist and there's no reason why he has to sit through this boring stuff that the Attorney-General is bringing forward.

MR. CHAIRMAN: All important legislation, Mr. Minister.

MR. G. MERCIER: Mr. Chairman, if we're suggesting we deal with Bill 52, may I suggest this to the committee; first of all, I'm surprised to find the bill before this committee today. It was not on the list to be considered, and I'm not being critical of the Government House Leader, but the bill was introduced yesterday and spoken to and passed on division. It seems to me that we should defer consideration of the bill until the next meeting of this committee or another committee to which it might be referred by unanimous consent just in order to allow sufficient time for any further public representations that may be made, because obviously from what we see in the media it is a concern to some people involved.

I appreciate the representations that were made this morning but certainly, if we were to deal with it in

committee today, it would certainly give the impression that we were dealing with this bill with too much haste, Mr. Chairman.

HON. L. DESJARDINS: Mr. Chairman, I think that's a fair comment. As I was coming in, I was very surprised that I was coming in today. So then, could we leave it then to the House Leader if this committee is finished with its work to know by consent it might be referred to another committee then?

HON. R. PENNER: Or the continuation of this committee.

HON. L. DESJARDINS: But if they're finished.

MR. CHAIRMAN: Agreed? (Agreed)

Okay, let's return to Bill 27. Have you had your chat? Bill 27, we have an amendment prepared for Bill 27. Can we pass Page 1?

HON. R. PENNER: Just wait till I get my copy of the bill.

MR. CHAIRMAN: Page 1—pass; Page 2 - is there an amendment on Page 2 or Page . . . Okay - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, the Attorney-General and I have consulted with respect to this bill and agreed upon the proposed amendment which would amend the alcoholic content from the proposed 1 percent to 0.5 percent. The effect of all of the amendments would be to bring it into force on a date fixed by proclamation, which I think is only fair and reasonable to the manufacturers and distributors and suppliers of the product to pass, who in fact I'm surprised again with respect to this matter are not present, and may indeed not be aware. But this would give the Attorney-General and the Liquor Control Commission the opportunity to speak with the manufacturer and, through them, the distributors and suppliers who, if the amendment were passed reducing it to 0.5 percent overnight, would be perhaps caught with a great deal of stock, etc. So it would allow for some discussion to take place and give the government the opportunity to bring it into force upon proclamation.

Certainly, I am persuaded more by the arguments of Dr. Baragar on behalf of the Manitoba Medical Association. The Canadian Medical Association has expressed the same concern. We have a letter today just distributed from the Canadian Addictions Foundation. I heard in the past few days the Consumers' Association have expressed a similar concern. So I think, in this particular area to be a little more cautious would be the appropriate way of dealing with this.

I would therefore move, seconded by the Attorney-General, Mr. Chairman:

THAT Section 3 of Bill 27 be amended by striking out the figures "1.0 percent" in the sixth line thereof and substituting therefor the figures "0.5 percent."

The proposed amendment does have the French version.

MR. CHAIRMAN: Mr. Dolin.

MR. M. DOLIN: I'd like to ask either the Attorney-General or the mover of the amendment, does this affect any other products aside from the target product? I'm concerned about other products that are considered non-alcoholic that are presently being sold in supermarkets and grocery stores that may be between the 0.5 and the 1.0. Has that been looked into?

MR. G. MERCIER: I think the next amendment which brings it in, of course, upon proclamation gives the Attorney-General and the Commission the opportunity to fully investigate that report bringing the amendment into effect.

HON. R. PENNER: Just first of all, directly to that question, I have discussed that matter with representatives of the Liquor Control Commission who are here today. They've pointed out, of course, what the act makes clear, and that is we're only talking about beverages, those things that are marketable as beverages. There are other substances, some of them toxic, but some of them potentially drinkable but not marketed as beverages which would not, we feel, be affected.

Secondly, as Mr. Mercier pointed out, this amendment is being introduced but, unlike the rest of the bill, will not come into force on Royal Assent but only on proclamation, which will give us a chance to do a double-check on that to make sure that we're not inadvertently bringing into liquor control cooking wines, for example. I know you've used that example, which either indicates what you drink or what you do, I'm not sure.

But I should just finally add that in addition to the representations made and the one received this morning from the Canadian Addictions Foundation, there was a representation from the chairperson of the Board of Directors of Kia Zan Incorporated. So I feel that with all of the representations made from very responsible organizations and even the AFM, while they said they think we should continue to monitor the situation, they're certainly concerned. I think that we should pass this amendment and then, before proclaiming, we'll give a chance for the people who market Sarasoda to make further representations and we can come back on that.

MR. CHAIRMAN: On the amendment—pass; Page 2, as amended—pass; Page 3—pass; Page 4—pass; Page 5 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, I would move, seconded by the Attorney-General:

THAT Section 13 of Bill 27 be struck out and the following section be substituted therefor:

Commencement of Act.

13(1) This Act, except Section 3, comes into force on the day it receives royal assent.

Proclamations.

13(2) Section 3 comes into force on the day fixed by proclamation.

MR. CHAIRMAN: Any discussion? Pass the amendment as read.

Could I have a copy of the amendment as well, please, Mr. Penner?

HON. R. PENNER: Yes, I'll give you it in a moment, Mr. Chairperson.

I would move - I don't know if the order matters much - seconded by Mr. Mercier

THAT the French version of the amendments just passed in English be adopted.

MR. CHAIRMAN: Pass? Okay, Page 5, as amended—pass; Preamble—pass; Title—pass.

Bill be reported.

Bill No. 30, The Justice for Victims of Crime Act. We've had our debate, okay, very well. Any other comments? No.

BILL 30 - THE JUSTICE FOR VICTIMS OF CRIME ACT

MR. CHAIRMAN: Bill No. 30, The Justice for Victims of Crime Act. We've had our debate, okay, very well. Any other comments? No.

Preamble—pass; Title—pass.

Bill be reported.

BILL 34 - THE CONSTITUTIONAL QUESTIONS ACT

MR. CHAIRMAN: Bill No. 34, The Constitutional Questions Act - Mr. Mercier.

MR. G. MERCIER: I suggest we pass the whole bill unless the Attorney-General has some amendments.

HON. R. PENNER: Yes, there's an amendment that I'd like to propose to Section 7(3) on Page 4, and it's being circulated in both languages.

Mr. Chairperson, I move:

THAT Subsection 7(3) of Bill 34 be amended by striking out all the first 7 lines thereof and substituting therefore the following words:

Where in a cause, matter or other proceeding the validity of a regulation is challenged other than on a question of constitutional validity or applicability, the regulation shall not be held to be invalid until. — pass.

MR. CHAIRMAN: Pass.

HON. R. PENNER: Bill as a whole, as amended.

MR. CHAIRMAN: Bill as a whole, okay—pass—as amended.

HON. R. PENNER: Right.

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

BILL 36 - THE REAL PROPERTY ACT AND VARIOUS OTHER ACTS AMENDMENT ACT

MR. CHAIRMAN: Shall we proceed page-by-page or do we have some amendments? There are some amendments coming forward on this.

Is it the wish of the committee to proceed page-by-page, or should we go straight to the amendments?

Mr. Mercier.

MR. G. MERCIER: Just for the record, Mr. Chairman, I'd just like to ask a question. Then as far as I'm concerned, the Attorney-General could pass the amendments and then the bill as a whole.

But for the record, I received a copy of the letter from the Association of Manitoba Land Surveyors that was sent to him. As I understand it, their recommendations have been considered and the Attorney-General doesn't see it necessary to make any amendments that have been requested.

HON. R. PENNER: I've received a submission from the Association of Manitoba Land Surveyors and Mr. Colquhoun who is here, has given me a brief and I'll give a copy to Mr. Mercier with respect to the brief.

But I'm satisfied on looking at Mr. Colquhoun's response that we dealt with the concerns in the best way we can. The association in making its submission were apparently not aware of a section which replaces Section 82(2) of the act and we're satisfied that this, once it's brought to their attention, should satisfy most of their concerns.

MR. CHAIRMAN: Should we go straight to the amendment? Mr. Penner.

HON. R. PENNER: This appears on Page 10. Thank you very much.

I move, with respect to subsection 45(5):
THAT proposed new subsection 45(5) to The Real Property Act as set out in section 24 of Bill 36 be amended by adding thereto immediately after the word "to" in the 9th line thereof the words "zoning, subdivision or". That's the first motion.

MR. CHAIRMAN: So it would read:
caveats relating to zoning, subdivision or development agreements.

HON. R. PENNER: That's right. If it's related to zoning, subdivision or development agreements. That just clarifies the intent of that section.

MR. CHAIRMAN: Motion—pass. Page 10, as amended.

HON. R. PENNER: Well, we'll pass the bill as amended. We could then move over to Page 33. Yes.

I move:
THAT proposed new section 131.1 to The Real Property Act as set out in section 83 of Bill 36 be amended by adding thereto immediately after the word "to" in the 13th line thereof the words "zoning, subdivision or". It's the same as the previous amendment.

MR. CHAIRMAN: Pass.

HON. R. PENNER: Pass. I move the French version of those amendments.

MR. CHAIRMAN: Okay. Pass.

HON. R. PENNER: Bill as amended.

MR. CHAIRMAN: Bill as amended—pass; Preamble—pass; Title—pass.

Bill be reported—pass, as amended, of course, and in both languages, of course.

MR. CHAIRMAN: Bill 44, The Judgment Interest and Discount Act - Mr. Penner.

HON. R. PENNER: I've been asked by Mr. Mackling to . . .

MR. CHAIRMAN: Oh, I'm sorry, Bill 42.

HON. R. PENNER: As you know, I'm the Acting Minister of Corporate and Consumer Affairs and we're prepared to proceed with Bill 42.

BILL 42 - THE INSURANCE ACT AND THE QUEEN'S BENCH ACT

MR. CHAIRMAN: Okay. Bill 42, An Act to amend The Insurance Act and the Queen's Bench Act.
Mr. Ducharme.

MR. G. DURCHARME: Yes, just one question, as confirmed in the House yesterday, the participation will be on a premium basis for this particular program and the amount of volume an insurance company writes. Will the Acting Minister confirm whether MPIC will be on a participation basis with all their premiums other than a non-compulsory automobile?

HON. R. PENNER: Yes, I can confirm that this certainly does include and will cover MPIC with respect to its general insurance business.

MR. G. DURCHARME: Does that also include their extension automobile which is part of their premium right now, where other companies can compete if they so wish?

HON. R. PENNER: I'll have to get the answer to that for the member before Third Reading. I'm not sure, I know it was agreed nationally that government insurance schemes would not be included from the point of view of the operation of the scheme, but where the right general liability insurance can compete in that market, they would be.

But with respect to the extension coverage, I'll have to get the answer for the Member for Riel, and we'll undertake to do so.

MR. CHAIRMAN: Okay, can we go ahead with the bill?

HON. R. PENNER: The bill as a whole, yes.

MR. CHAIRMAN: Okay, the bill as a whole—pass; Preamble—pass; Title—pass.
Bill be Reported.

BILL NO. 44 - THE JUDGMENT INTEREST AND DISCOUNT ACT

MR. CHAIRMAN: Bill NO. 44, The Judgment Interest and Discount Act.

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Mr. Penner.

HON. R. PENNER: If there's an indication that you would like to deal with the bill as a whole, I'd like to propose an amendment, a technical amendment, but perhaps we can hear from . . .

MR. G. MERCIER: We can deal with the bill as a whole. It's a good bill.

HON. R. PENNER: Thanks. It's been drawn to my attention by Legislative Counsel that there's a technical difficulty with one phrase in section 4 which appears on Page 5, the last words of which, when it deals with the awarding of interest in certain cases, talks about in respect to, "which the judgment is awarded and, as the case may be, the date the judgment is delivered or the money was paid into court."

It was pointed out to me that in fact when a judge delivers judgment as of that date they simply don't know and are not entitled to know that money was being paid into court, so that the inclusion of that phrase really is technically inoperative.

So after consultation with Legislative Counsel involved with the bill, I'm going to move that Section 4 of Bill 44 be amended by striking out the words, "as the case may be, the date the judgment is delivered or the money was paid into court," in the last three lines and substituting therefor the words, "the date the judgment is delivered." Pass that amendment.

MR. CHAIRMAN: In the reading of that, if I could, is it worded "and the date of judgment is delivered"? Is that how it will now read? Is the word, "and" necessary? I believe it is, okay.

HON. R. PENNER: Yes.

MR. CHAIRMAN: So we are striking the comma - oh you've got it written, very good.
English version—pass; French version—pass.

HON. R. PENNER: The bill as a whole.

MR. CHAIRMAN: Are there any other comments on the bill?
Bill as a whole—pass; Preamble—pass; Title—pass.
Bill be Reported.

BILL 47 - AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND MAINTENANCE OF A BOYS' AND GIRLS' BAND IN THE TOWN OF DAUPHIN

MR. CHAIRMAN: Bill No. 47, An Act to Amend An Act to provide for the establishment and maintenance of a Boys' and Girls' Band in the Town of Dauphin.
Preamble—pass; Title—pass.
Bill be Reported.

MR. CHAIRMAN: The next two bills being Private Members' Bills, we have had a report passed out to all members on the report of the law officer and for consideration.

BILL 48 - THE MANITOBA MUNICIPAL SECRETARY-TREASURERS' ASSOCIATION ACT

Bill 48, An Act to amend The Manitoba Municipal Secretary-Treasurers' Association Act—pass;
Preamble—pass; Title—pass.
Bill be Reported.

BILL 49 - THE PORTAGE DISTRICT GENERAL HOSPITAL FOUNDATION

MR. CHAIRMAN: Bill No. 49, An Act to incorporate The Portage District General Hospital Foundation—pass; Preamble—pass.

Mr. Connery.

MR. E. CONNERY: Mr. Chairman, I'd like to move, seconded by the Member for St. Norbert,
THAT the fees paid with respect to the following bill be refunded less the cost of the printing.

MR. CHAIRMAN: Of Bill 49 you're referring to?

MR. E. CONNERY: Yes, Bill 49, An Act to incorporate The Portage District General Hospital.

HON. R. PENNER: I'm not so sure that that's in order, is it?

MR. CHAIRMAN: I believe it is.

HON. R. PENNER: A motion dealt with in committee by a non-government member dealing with a revenue question?

MR. CHAIRMAN: I'll read the rule for you.

MR. E. CONNERY: Okay, well, then I'll just withdraw it and let somebody from the government move it and second it.

MR. CHAIRMAN: Okay. "Where the petitioner is an institution, organization or association with charitable, religious or benevolent purposes and is not carrying on or intending to carry on business for gain, the deposit may, subject to Rules 2 and 3, be remitted to the petitioner."

(2) of 105 reads as follows: "No remittance of any deposit or fees paid in connection with the private bills shall be made (a) except upon the recommendation of the committee to which the bill has been referred; or (b) if the Assembly, by resolution, orders that no remittance be made to the petitioner."

(3) "The remittance of any deposit or fees paid in accordance with this rule shall not exceed the amount of the deposit or fees less the actual cost of printing the bill."

I believe what is in order is a recommendation of this committee and it does not have to be passed as a resolution here. That resolution would have to be passed in the Assembly itself. So, Mr. Connery, I am accepting your motion as a recommendation from this committee.

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MR. E. CONNERY: Yes.

That completes the business before this committee today.

MR. CHAIRMAN: Pass? (Agreed) To finish with the bill, Title—pass.

Committee rise.

Bill be Reported.

COMMITTEE ROSE AT: 12:10 p.m.