

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Tuesday, March 6, 1990

TIME — 8 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Edward Helwer (Gimli)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Ducharme, Ernst, Penner
Mr. Carr, Mrs. Charles, Messrs. Gilleshamer,
Helwer, Kozak, Maloway, Taylor, Ms.
Wasylcicia-Leis

WITNESSES:

Mr. Greg Selinger, Private Citizen

MATTERS UNDER DISCUSSION:

Bill No. 61—The City of Winnipeg Amendment
Act
Bill No. 62—The City of Winnipeg Amendment
Act

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Mr. Chairman: Will the committee on Municipal Affairs come to order? Tonight we will be considering Bills No. 61 and 62, The City of Winnipeg Amendment Act.

I have a list of persons wishing to make presentations to Bill No. 61 and 62. Actually, there is only one presenter who wants to speak to both Bills. Mr. Greg Selinger, please come forward. Do you have a written presentation?

Mr. Greg Selinger (Private Citizen): No, I do not. My name is Greg Selinger. I am a—

Mr. Chairman: Okay, please proceed then.

Mr. Selinger: My name is Greg Selinger, City Councillor for Tache Ward. I am here not on behalf of any particular committee of the city. I am here as an individual councillor speaking to, first of all, Bill 61, and the issue I would like to raise is something that is not in the Bill at the moment. I have discussed this with the City Solicitor, the City Treasurer and the Commissioner of Finance. I sit on the Finance Committee at the city, and we have a problem right now, or a potential problem with the increasing interest rates.

We have a problem with—our interest rate has been explained to me as fixed under The Municipal Act at 15 percent, and we would like the flexibility to be able to raise those interest rates on unpaid taxes, so that we can remain, as they say, competitive with other sources of financial lines of credit that are made available to people.

The most appropriate place, I have been informed, that would suit this amendment would be 212(6) or right after 212(5) in The City of Winnipeg Act, and the lawyer I talked to, the solicitor at the city, gave me the following language that might be considered:

Notwithstanding Sections 772 to 777 of The Municipal Act, the city may by by-law prescribe the rate of penalties to be added to taxes remaining due and unpaid.

That expression, or some wording to that effect, would give us the flexibility to have a floating interest rate to keep pace with what is happening with Bank of Canada interest rates, et cetera. So any questions, maybe about that one?

* (2005)

Mr. Chairman: Do you have them written out?

Mr. Selinger: I just have it in my own handwriting here. I could provide it for you if you wish.

Mr. Chairman: Oh, that is fine. Just carry on then; it is all right.

Mr. Selinger: That was the major point that I wanted to make with respect to Bill 61. The only other item that I was going to ask you to consider was 75(21), page 19.

Hon. Gerald Ducharme (Minister of Urban Affairs): In Bill 61?

Mr. Selinger: Yes.

Mr. Ducharme: Page, again.

Mr. Selinger: Page 19, Item 75(21). Once again, it is an amendment that would just give us a little flexibility here. Under this item, you are allowing the City of Winnipeg to bring within its pension plans and benefits plans the following corporations, which are corporations that the city appoints members to. In fact, they have an arms-length relationship with the city in most cases, but the employees, in many respects, carry out city policies.

I was just hoping you could add another item there—other agencies established by the City of Winnipeg. In other words, we have another agency, for example, at the moment, called Tourism Winnipeg where we have employees who may in the future wish to be included within the benefits plans of the city. If you added a phrase, other agencies established by the City of Winnipeg, that would give flexibility to the city in the future in including, within its benefits plans, employees of other arms-length organizations such as Tourism

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Winnipeg. That is the second item that I wish to refer to in Bill 61. That is all I have to say about Bill 61.

Mr. Chairman: Okay, are there any questions for Mr. Selinger?

Ms. Judy Wasylycia-Leis (St. Johns): On the first suggestion for Bill 61 pertaining to interest rates and unpaid taxes, what are we talking about in terms of unpaid taxes? Can you give us a sense of numbers of people or entities?

Mr. Selinger: I cannot. What I can tell you, though, is that the city has a fund set up to cover unpaid taxes in the order of \$47 million. That fund is there in case those taxes are not paid. By giving us the ability to have a flexible interest rate, we could encourage a higher rate of paying of taxes and therefore keep our liabilities down in that fund.

Ms. Wasylycia-Leis: Just to get clarification, so what you are saying with the current application, at least as settled under The Municipal Act in terms of interest rates permissible, that there really is no incentive for individuals or entities to actually pay their taxes and that there needs to be some clarification and amendment to ensure the power within the City of Winnipeg to actually pursue those taxes.

Mr. Selinger: Yes, currently when I discussed it with the City Commissioner of Finance, the City Treasurer, and the Law Department, they felt they could not raise interest rates on unpaid taxes above the level of 15 percent as prescribed in The Municipal Act. Even though The City of Winnipeg Act does not specify that, the feeling of the city is that The Municipal Act has precedence over The City of Winnipeg Act.

The amendment I have proposed would clarify that matter and would give the city, in a sense, clear sailing to set its own interest rates to respond to the market conditions that we are presently experiencing where interest rates are going up and could become at one point financially feasible not to pay city's taxes in order to cover your other obligations which may have a higher interest rate. We would not want that situation to occur because it would threaten the ability of the city to raise revenues to provide the services that it does.

* (2010)

Ms. Wasylycia-Leis: We do not know exactly, or you are not able to ascertain precisely what amount we were talking about in terms of unpaid taxes. The city does have a fund of \$47 million I believe you said, to actually cover this matter, so presumably if there was an effective mechanism to get at these unpaid taxes it would be quite a major, major saving for the City of Winnipeg.

Mr. Selinger: It could allow us to ensure that people that have financial obligations pay them first to the city because our interest rate would be competitive and maybe even slightly higher, and that would reduce our exposure on unpaid taxes and allow us to keep our

mill rates down. As you know, the struggle to keep the mill rate down at the city this year is a very difficult and challenging one.

Ms. Wasylycia-Leis: I would add to that and question the presenter on those lines. We are into difficult decisions as we hear about from the City of Winnipeg, and what you are saying is this could be an important alternative to cutbacks in some areas that are really important to the residents of the City of Winnipeg.

Mr. Selinger: An alternative to either cutbacks or raising of the mill rate. Both of those are unpalatable alternatives to many, many people. I think that there is a general feeling among most councillors and most people in administration that it is a desirable objective to get people to pay their taxes as expeditiously as possible.

Ms. Wasylycia-Leis: You have discussed this with officials at the City of Winnipeg, and it is their opinion that an amendment to this Bill would be necessary or at least significant in terms of actually having the power to deal with this area.

Mr. Selinger: They feel their hands are presently tied by The Municipal Act, and this amendment would free them to set a floating interest rate which would allow the city to remain competitive with all other lenders in the city.

Mr. Chairman: Mr. Ernst, you had a question? I wonder if you could move your mike a little closer there please, Mr. Ernst.

Hon. Jim Ernst (Minister of Industry, Trade and Tourism): I could ask, Mr. Selinger, is this your position or is it the position of the City of Winnipeg?

Mr. Selinger: It is not an official position of the City of Winnipeg. I am not here on their behalf. We have not passed a specific resolution on this at City Council. This Bill came to committee hearings very quickly and so what I did was I consulted with the Commissioner of the Committee of Finance, the City Treasurer and the Solicitor's Department, and it was the feeling of those officials that this would be well received if we could move on this tonight, in terms of the city. I could not find a councillor who had any problem with this when I talked to them informally.

Mr. Ernst: The committee then did not sanction your appearance or—

Mr. Selinger: No, they did not. Our next meeting is next Tuesday; we did not have a chance to get together before this hearing tonight.

Mr. Ernst: The question that the delegation raises, Mr. Chairman, has been a perennial problem with the City of Winnipeg over the past number of years.

I guess my concern is that while the use of the interest rate can be, to quote the delegation, competitive, it also can be used a punitive measure. In an attempt to

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get at one group of people, because you cannot be selective, it is all or nobody, there could be some low-income homeowners, for instance, who were struggling along deferring their taxes perhaps a year depending on their individual circumstances and so on, who might find it difficult and in fact very punitive to have substantial interest rates levied against them for unpaid taxes. This sort of an attempt to get at the one large, perhaps corporate, taxpayer who is not paying his taxes perhaps on time, may result in penalties of a significant nature on small homeowners.

Would in your view then some limit, not necessarily an open limit, but an upper limit, shall we say—if this change were to be considered, would an upper limit then be acceptable in your view?

Mr. Selinger: It probably would be acceptable, but I am not sure it is necessary. I think you will find that the city is very sensitive to the views you put forward in terms of small homeowners. It would make every effort not to put them at jeopardy.

I also think that under our present policy the final hammer, if you will, that the city has is to take the property into tax arrears after three years. In most cases people pay up before that eventuality occurs. This is simply just an attempt to get them to pay up a little more promptly. It really is aimed at those big players who tend to use their tax obligations to the city; they tend to resist paying those in order to meet other obligations first. There is a list compiled to that effect. I have not seen it yet, though.

Mr. Chairman: Thank you, are there any further—oh, Mr. Ernst, I am sorry.

* (2015)

Mr. Ernst: Mr. Selinger, you indicated that while you want to get at the large people who are, the large, corporate, shall we say, taxpayers who perhaps use the system if you will for their financial benefit, as opposed to the small homeowner, the problem is you cannot discriminate. When you apply an interest rate, it applies to everybody regardless.

My concern would be that in some pressure circumstances where you are facing a large increase in taxes and so on an attempt—when you look at the list and say, okay, 75 percent of the tax revenue that is unpaid belongs to businesspeople who should be paying it in time—there is a great opportunity, shall we say, to levy a large interest rate against that. In fact, it may be small amounts, but it is a great number of small homeowners who are faced with the same punitive interest rate and who find it difficult as it is to carry on from one taxation year to the next, and all of a sudden find themselves slapped with 20 or 25 or 30 percent penalty.

I have some concern for that, and I think maybe that we ought to, if we are going to consider any amendments at all, look at an upper limit. I am asking you if an upper limit would be acceptable.

Mr. Selinger: As I said, I would not object to an upper limit because I take your point. It has some validity. I

think that you do not want to squash the little person while you are going after maybe the ones with the more major obligations. The trouble with a limit is that it has to stay relevant to the current market conditions. Let us face it, the current limits on say, for example, credit cards and some of the other kinds of borrowing are over 21 percent, so I would not be opposed to some sort of limit as long as it gave us a chance not to wind up behind the eight ball and have the lowest interest rate with respect to the rest of the marketplace.

Mr. Ernst: Thank you, Mr. Chairman, and thank you, Mr. Selinger.

Mr. Chairman: Are there any further questions? Mr. Carr.

Mr. James Carr (Fort Rouge): What is the interest rate that is now charged?

Mr. Selinger: I am not certain, but we are limited to 15 percent. I believe it is less than that.

Mr. Carr: How is the interest rate determined and by whom?

Mr. Selinger: The city does it through its Finance Department.

Mr. Carr: Is that subject to approval by council?

Mr. Selinger: I have not experienced a resolution like that, but I -(interjection)- by by-law? There is your answer from a former experienced councillor.

Mr. Chairman: Mr. Minister, you had a question?

Mr. Ernst: Yes, I just want to go back to the other concern you had in 75(21) dealing with that particular Bill. As you know, it is established by a by-law enacted and they request which ones they want to add on there. I know you want to add on the Tourism Winnipeg, but I am sure that we could discuss with the city and maybe look at maybe changing that to read any that they establish by by-law. However, I do not think that we would want to do that without consultation with the city administration and go back to them maybe with some type of discussions. That way we do not have anybody named in there and established by by-law.

Mr. Selinger: Yes, I was not suggesting we name any other agency. I was just saying, give us a clause that says, any other agencies established by the city, because I think you are right. We do need that consultation.

Mr. Ernst: Yes, and we could establish by by-law and not name anybody and then the city name the by-law.

Mr. Selinger: That would be fine.

Mr. Chairman: Are there any further questions?

Ms. Wasylcya-Leis: Just to seek clarification on that last point, I gather while you are not recommending a

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very specific amendment you are recommending an amendment to Bill 61.

Mr. Selinger: Yes, I am recommending in that clause you give us the flexibility to include employees of other agencies established by the city in general terms. Then which specific agencies might be included in that would be subject to consultation, negotiation and potential collective agreements, et cetera, but it just gives us the flexibility not to leave people out in the future without having to come back here and get another change in the legislation.

Ms. Wasylycia-Leis: Yes, I am wondering if I could ask Mr. Selinger in terms of the wording, since we are still talking in generalities, if a wording along the lines of, any other board or commission, corporation or other body incorporated or unincorporated established by council, is along the lines of the kind of wording you are talking about.

Mr. Selinger: Yes, it is.

Mr. Chairman: Okay. Are there any further questions? If not, I want to thank you very much Mr. Selinger for your presentation.

Mr. Selinger: Okay, just a brief comment on Bill 62 if I might. Okay?

Mr. Chairman: Sure, Mr. Selinger.

* (2020)

Mr. Selinger: I understand what the intent of this Bill is. I just wanted to reiterate again that we are on the horns of a dilemma here. We have planned Winnipeg with an urban limit line within it, which constrains development within the city, and yet we are seeing subdivisions occurring in outlying municipalities. With this Bill taking away the city having any power to control these municipalities, we are going to need some provincial policy and mechanism to control subdivisions occurring outside the city.

I think it is quite important that we get the leadership through the Minister of Urban Affairs (Mr. Ducharme) and his regional committee on that because otherwise we set up a contradiction where we constrain development in the city and have it actually leapfrog over the suburbs into the municipalities, and we all know what a nightmare that could turn out to be in the future. Thank you very much.

Mr. Chairman: Okay, thank you, Mr. Selinger. Since all public presentations have been heard regarding Bills 61 and 62, we can now proceed with clause-by-clause consideration of the Bills.

**BILL NO. 61—
THE CITY OF WINNIPEG
AMENDMENT ACT (2)**

Mr. Chairman: Is it the will of the committee to proceed with Bill No. 61 first? Agreed. Now we have to get to clause by clause.

Clause 1, City of Winnipeg Act amended—pass; Clause 2, Section 1 amended—Mr. Maloway.

Mr. Jim Maloway (Elmwood): Mr. Chairman, I have an amendment that is being copied and delivered in here. I am just not certain what section it has to do with.

Mr. Chairman: Is it with Bill 61?

Mr. Maloway: I believe it is 61, yes. I am just waiting for it. I gave it to the drafters, and they are just making photocopies of it, and they should have it back here. You can proceed with the Bill if you wish, as long as you are prepared to come back to that section if you could.

Mr. Chairman: Do you know what section it is, Mr. Maloway?

Mr. Maloway: They should have it momentarily.

Hon. Gerald Ducharme (Minister of Urban Affairs): It is a whole new section dealing with The City of Winnipeg Act.

Mr. Maloway: No, no, it is just—

Mr. Ducharme: Are you not talking about the one—

Mr. Maloway: —that you and I discussed, yes. They are getting it out of the garbage can right now. It was written up as Bill 62, but it is going into 61, and we are on 61—

Mr. Ducharme: Maybe what we could do—

Mr. Chairman: Just a minute. Let us get things in order here. Mr. Maloway.

Mr. Maloway: If we took a minute or two break, I am sure it would be here.

Mr. Chairman: Mr. Minister, did you have something to add to that? It is for Section 4, so we will continue up to Section 4. Is that okay?

Section 2, Section 1 amended—pass; Clause 3, Sections 42 to 73 rep. and sub.—pass?

Mr. Ducharme: Page 3—I have a change, so do not go right through to 47. We are going to go page by page, and I have a motion.

Mr. Chairman: We can go page by page? Section 42—pass; Section 43—pass; Section 43(2)—pass; Section 44(1)—the Honourable Minister.

* (2025)

Mr. Ducharme: I have an amendment on that one, Section 44(1). Does everyone have a copy of that? I will read it in both French and English.

Moved by the Honourable Mr. Ducharme

That subsection 44(1), as proposed in section 3 of the Bill, be struck out and the following substituted:

Council may employ and set terms

44(1) The city may employ such officers and employees as it considers necessary in the exercise of its powers and duties, and council shall by resolution, by-law, collective agreement or other agreement fix the remuneration and other benefits for employees, their hours of work and other conditions of employment, and the manner of their appointment, promotion, suspension and dismissal.

(French version)

Il est proposé que le paragraphe 44(1), figurant à l'article 3 du projet de loi, soit remplacé par ce qui suit:

Conditions d'emploi

44(1) La Ville peut engager les dirigeants et les employés qu'elle juge nécessaires pour l'accomplissement de ses fonctions. Le conseil municipal peut, par résolution, par arrêté ou aux termes d'une convention collective ou d'une autre entente, fixer la rémunération et les autres avantages sociaux des employés, ainsi que les conditions d'emploi, notamment les heures de travail, le mode de nomination, les promotions, les suspensions et les congédiements.

The reason for that is it expands the wording to ensure that council has the power to employ staff. The wording in Bill only empowers council to set the terms of employment, and that is the reason for it.

Mr. Chairman: Shall the amendment pass—pass; Clause 44(1) as amended—pass; Clause 44(2)—pass; Section 45—pass; Section 46(1)—pass; Section 46(2)—pass; Section 47(1)—pass; Clause 47(2)—pass; Clause 47(3)—pass; Clause 48—pass; Clause 49—pass; Clause 50(1)—pass; Clause 50(2)—pass; Clause 50(3)—pass.

Clause 51(1)—Mr. Ducharme.

Mr. Ducharme: I move, in both French and English,

That clause 51(1)(c), as proposed in section 3 of the Bill, be amended by striking out "charge" and substituting "charged".

(French version)

Il est proposé que l'alinéa 51(1)c), figurant à l'article 3 du projet de loi, soit amendé, dans la version anglaise seulement, par remplacement du terme "charge" par "charged".

The reason for that is typographical error.

Mr. Chairman: Shall the amendment pass—pass; Clause as amended—pass; 51(2)—pass; Clause 51(3)—pass; Clause 52—pass; Clauses 53 to 56—pass; Clauses 57 to 58(5)—pass.

Clauses 58(6) to 58(11)—Mr. Carr.

Mr. James Carr (Fort Rouge): Mr. Chairperson, I am sure the Minister can explain it easily, but the wording

in 58(6) says: "The auditor shall have access at all reasonable times to documents and records relating to the accounts of a department."

What is meant by "reasonable"? Does it imply exclusions, and does it imply that there are cases where the auditor would not have access to documents? If so, which occasions might that be?

* (2030)

Mr. Chairman: The Honourable Minister, or who would like to answer that question? Mr. Minister.

Mr. Ducharme: I guess reasonable times could be a judgment call.

Mr. Carr: If we allow the word "reasonable," then there is perhaps more discretion than might be prudent in the case of the powers of an auditor. Can the Minister just take a crack at that again and tell us what occasions may require that the auditor not have access to documents?

Mr. Ducharme: I would take it that reasonable would be not a denial, and that it allows in those reasonable times to come forward, the auditor I guess. I do not know when it would be an unreasonable time, but I would say that you would not have a denial when you mention that reasonable times are there for the auditor to go in and have access. Unless the Member would like to put in another word that would be a little better than "reasonable." I would be willing to hear it.

Mr. Chairman: Does that answer the question?

Mr. Carr: One possibility, Mr. Chairperson, would be to delete the word.

Mr. Ducharme: All times? You mean you would want to do it from two in the morning till five or make somebody come back for New Year's, or someone come back when maybe they are doing—No, I think that is probably why they have got reasonable times and it is used in a lot of wordings for access to buildings and things like this. It is used right throughout the industry, for instance, of real estate that I know of that you must apply for, and it does say reasonable time so at least it allows a benefit of that person to say here is why you cannot do this. I am informed that it is the same wording that is used in The Municipal Act.

Mr. Chairman: Section 58(6) to 58(11)—shall the section pass? Mr. Taylor.

Mr. Harold Taylor (Wolseley): Mr. Chairperson, I might ask a question of the Minister on the whole area of a City Auditor. Looking through it, it would appear that the section relates entirely to the context of financial auditing. My question is: it was my understanding in discussions that ensued at a committee hearing, back in, I believe, if my memory serves me correctly, December'88 when we did the first of The City of Winnipeg Act amendments, that the Minister had an intention to bring in a strengthened City Auditor section

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which would also involve operational auditing. In other words, how are the departments conducting themselves as it relates to existing policies and standards and guidelines which is aside from the financial aspect? I do not see that here unless it is in another section.

Mr. Ducharme: It is another section of the Act. It is in the dealing with accounts, Section 71 of the Act under Clause (e).

Mr. Taylor: Okay, you are referring to the existing statute, not anything being proposed. Now that though is not anything if I am correct, Mr. Chairperson, anything that has been brought in by this administration? Is that correct?

Mr. Ducharme: If you look on the Bill, 59(e), that is where we have expanded it. Where you read, monies expended with due regard for economy and efficiency. It is covered under (e) of that section.

Mr. Taylor: Yes, Mr. Chairman, that Clause 59(e) says, are you getting a bang for your buck? In other words, was it a wise financial decision and expenditure that was carried out? What I am referring to is something much broader than that. It is the sort of thing that has been talked about at City Hall as being an expanded role for the City Auditor's branch. It does not have to be, but that is where it has been talked about, and that saying is, are the departments operationally in compliance in other than financial ways with what has been set out as the policies and guidelines and standards of the City of Winnipeg?

Mr. Ducharme: That would be covered under (f) satisfactory procedures have been established to measure and report to council on the achievement of economy and efficiency.

Mr. Taylor: I see, Mr. Chairperson, so in those three lines we cover this vast area of operational auditing. I am a little flabbergasted at that, because in modern public administration the operational audit is now of almost equal weight of the financial audit if you are going to have modern efficient Government. I would suggest that, given the comments we did hear some 15 months back from this same Minister, I quite frankly expected something a little more state of the art than what we are seeing this evening.

Mr. Ducharme: To the Member for Wolseley(Mr. Taylor), this was your amendment that came forward when we did Bill 32. This is the way you worded that amendment. We suggested a different amendment at the time. This was your amendment and that is why it was put in.

Mr. Taylor: Mr. Chairperson, that is a rather outrageous comment. The fact of the matter is that we were awaiting the initiative from the Government to do a whole section on operational auditing, and that is why we backed off 15 months ago. We have before us here a statute that mentions it in three lines under 59(f) accounts, that is still accounts. That is not what we are talking about. I would, unfortunately, have to come to the conclusion that either there is not a political will to deal with

operational auditing which is absolutely essential for the running of modern efficient Government or the Minister does not understand it.

Mr. Ducharme: I guess you are entitled to your remarks about understanding it, but I am saying that is your amendment that you requested.

Mr. Chairman: Shall we continue? Sections 58(6) to 58(11)—shall the section pass? Page 9—pass.

On page 10, Sections 58(12) to 60. Shall the clauses pass—pass.

Mr. Taylor: Mr. Chairperson, does that include 60?

Mr. Chairman: Yes, it does, Mr. Taylor.

Mr. Taylor: Then I have a question, if I might, of the Minister just for a clarification.

What I see written here is not a problem. Is it possible for council to deflect the intent of this legislation by carrying out a practice different from what is written here? To be precise, over the last, I believe, four or five years, the auditor has not been reporting to council. He has been reporting to a committee of council and there has been quite a bit of consternation over that aspect, and he has either been reporting to the Standing Committee of Finance or a special subcommittee of finance that has been set up for auditing reviews.

This loses the opportunity for there to be a full-blown report before all of council with everything that entails and where everybody can see what is going on and have the opportunity with all their colleagues there to question and debate what the annual auditor report is. Is it the intention of the Minister that would not be the case, but that we would revert back to what was originally the reporting of the City Auditor to the full council?

Mr. Ducharme: I would take it to read that he can liaise with the different committees and makes a full report to council as it is in that line of 60 and that is the way we interpret it. We hope that is the way they interpret it, but that is what we have set it up and apparently that is what he has been doing.

Mr. Taylor: I would like to thank the Minister for that interpretation. I think sometimes it helps to put on the record what is the intent of those bringing forward the legislation, because if they have reverted—it has just happened then because that was going on for a number of years and was rather unpalatable to a lot of people. I appreciate that clarification.

Mr. Ducharme: I think what the Member is referring to and I know some of us had to sit on that committee that usually he reported to. I guess that is what you are relating to. They used to report to a committee that was named by EPC, and then we sat down and he reported to us so I understand though now that he can still liaise with different committees but he must report to council.

* (2040)

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Mr. Chairman: Mr. Ernst, did you have a comment on that?

Hon. Jim Ernst (Minister of Industry, Trade and Tourism): Yes, Mr. Chairman, the Bill, while it says, shall report to council—in the preamble of the Bill that is exactly what it says—there is nothing to prohibit council referring it to a committee which traditionally happens in council activities. It may refer to an audit committee. It may refer to a finance committee. It may refer to any other kind of committee at which time the committee will deal with the issues as raised. Nothing prohibits that other than the fact the report ultimately is tabled first with council.

Mr. Taylor: Yes, I thank the Minister opposite, but the matter was not whether ultimately the report was presented to council, because what has happened is that instead of being the method that was done that became a formality and it was voted automatically into the referral committee. So there was no deliberation on the floor of council. There was no presentation on the floor of council. What I am trying to be assured of Mr. Chairperson is that what the Minister's intent is that notwithstanding the ability to refer, to pull something apart, to get further information, and further questioning, to delve into the full audit of the City of Winnipeg annually is that the formal presentation is still to be to council as a whole. I think I understood the Minister to say that.

Mr. Ducharme: To clarify, you cannot still stop or insist that council debate it. I think that is what the member across the way was saying that once it gets there they refer it to committee. We cannot stop that, but the intent is that it does go to council.

Mr. Chairman: Section 60 then, shall the clause pass—pass; Sections 61 and 62 pass—pass; Section 63, shall the clause pass—pass; Clause 64, shall the clause pass—pass; Clause 4 there, Sections 74 to 79—

Mr. Ducharme: I have a change. The amendment in both French and English is:

That section 4 of the Bill be amended by striking out "Sections 74 to 79 are repealed" and substituting "Sections 74 to 79, except sections 75.1 to 75.9 (ombudsman) and section 78.1 (pensions), are repealed".

(French version)

Il est proposé que l'article 4 du projet de loi soit amendé par remplacement des termes "Les articles 74 à 79 sont remplacés" par "Les articles 74 à 79, sauf les articles 75.1 à 75.9 et l'article 78.1, sont remplacés".

The rationale is renumbering in order to make the sections number consistent with the re-enacted City of Winnipeg Act.

Mr. Chairman: Okay, well, just wait till this amendment gets distributed here.

Mr. Ducharme: It is strictly a renumbering.

Mr. Chairman: Was there any question there then? Shall the amendment pass? Shall the clause as amended pass then—Clause 4, Sections 74 to 79? Ms. Wasylcicia-Leis.

Ms. Judy Wasylcicia-Leis (St. Johns): We now are doing all Sections 74 to 79. I am just wondering where I can move my amendment on 75(21).

Mr. Chairman: Sorry, I did not hear your question there, Ms. Wasylcicia-Leis.

Ms. Wasylcicia-Leis: I just wonder where I move my amendment to Section 75(21).

Mr. Chairman: That is the middle of the next page. We will get that later.

Ms. Wasylcicia-Leis: Okay, thank you. I just wanted to make sure I did not miss it.

Mr. Chairman: We will do Clause 4, Sections 74(1) and (2)—pass; Section 74(3)—pass.

Section 74(4), is this where you had a question there, Ms. Wasylcicia-Leis?

Ms. Wasylcicia-Leis: No, 75.

Mr. Chairman: Section 74(4)—pass.

Sections 75(1) to 75(3), is that where we had the questions?

Ms. Wasylcicia-Leis: Keep going.

Mr. Chairman: Okay, Sections 75(1) to 75(3)—pass; Section 75(4) to Section 75(7)—pass; Sections 75(8) to 75(11)—pass; Sections 75(12) to 75(15)—pass; Sections 75(16) to 75(19)—pass; Sections 75(20) and 75(21), just (20), okay 75(20)—pass.

75(21)—Ms. Wasylcicia-Leis.

Ms. Wasylcicia-Leis: I have an amendment. I move in both English and French

THAT subsection 75(21), as set out in proposed section 4, be amended

- (a) by striking out "and" in clause (e);
- (b) by adding "and" after the semicolon in clause (f);
- (c) by adding the following after clause (f):
- (g) any other board, commission, corporation or other body, whether incorporated or unincorporated, established by council or under this Act;

(French version)

Il est proposé que le paragraphe 75(21), figurant à l'article 4, soit amendé:

- a) par suppression de "and", à la fin de la version anglaise de l'alinéa e);

- b) par substitution, au point qui se trouve à la fin de l'alinéa f), d'un point-virgule;
- c) par adjonction, après l'alinéa f) de ce qui suit:
- g) de toute autre groupe, y compris un office ou une commission, doté ou non de la personnalité morale, qui est constitué par le conseil municipal ou en vertu de la présente loi.

Mr. Chairman: Shall the amendment pass—pass; shall the clause as amended pass—pass; Section 76, shall the clause pass—pass.

Section 77 to 78—just a second, do you have 78?

Mr. Ducharme: Yes, I have a motion, in both French—

Mr. Chairman: Do you have an amendment there? The Honourable Minister.

Mr. Ducharme: That Section 78 as proposed in Section 4 of the Bill be amended by striking out subsection (1) and substituting Section 77. It just corrects an error in the section number.

Mr. Chairman: We will just wait until it is distributed.

Moved by the Honourable Mr. Ducharme

THAT section 78, as proposed in section 4 of the Bill, be amended by striking out “subsection (1)” and substituting “section 77”.

(French version)

Il est proposé que l'article 78, figurant à l'article 4 du projet de loi, soit amendé par substitution, à “par le paragraphe (1)”, de “à l'article 77”.

Shall the amendment pass—pass; Section 78 as amended—Mr. Maloway.

Mr. Maloway: Mr. Chairman, I believe my amendment should come in here.

Moved by Mr. Maloway

THAT the following be added after section 4:

Clause 90(1)(d) amended

4.1(1) Clause 90(1)(d) is amended by adding “a person who is nominated as a candidate in an election to, or is member of, the” before “House of Commons”.

Subsection 90(4) amended

4.1(2) Subsection 90(4) is amended by adding “nominated as a candidate in an election or” after “councillor is”.

(French version)

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 4, de ce qui suit:

Modification de l'alinéa 90(1)d)

4.1(1) L'alinéa 90(1)d) est modifié par substitution, à “ou de la Chambre des communes du Parlement du

Canada”, de “ou une personne qui est proposée comme candidate à une élection fédérale ou qui est membre de la Chambre des communes du Parlement du Canada”.

Modification du paragraphe 90(4)

4.1(2) Le paragraphe 90(4) est modifié par substitution, à “sont élus à l'Assemblée législative”, de “sont proposés comme candidats à une élection en vue d'obtenir un siège à l'Assemblée législative ou qui y sont élus”.

* (2050)

Now, this may be somewhat confusing, but I can explain it to you if you wish.

Mr. Chairman: Just wait a minute, Mr. Maloway. This amendment is out of order because it is dealing with a subject that is not dealt with in the Bill. I would have to rule this amendment out of order.

Mr. Maloway: Mr. Chairman, for many years councillors have retained their council seats while running for higher office, and I feel that is wrong. I feel that, like MLAs who must resign their seats upon being nominated to run in a federal election, city councillors should be treated in the same way. Many councillors might reconsider a career in a higher office if they had to resign their seat, and that would mean that only serious candidates would contest the seats.

POINT OF ORDER

Mr. Ernst: Point of order.

Mr. Chairman: Point of order, Mr. Ernst.

Mr. Ernst: Mr. Chairman, you have ruled that the matter is out of order. The Member, Mr. Maloway, is appearing to be arguing with you over your ruling. I think that he should either challenge your ruling or be quiet.

Mr. Chairman: That is right then. I am afraid the amendment is out of order, so we shall not deal with it any more.

An Honourable Member: Then I would challenge the ruling.

Mr. Chairman: The ruling of the Chair is challenged. Shall the ruling of the Chair be sustained? All those in favour.

Clerk of Committee (Ms. Bonnie Greschuk): One, two, three, four, five, six, seven.

Mr. Chairman: All those against.

Madam Clerk: One, two.

Mr. Chairman: The ruling of the Chair is upheld.

Mr. Chairman: We will go to Clauses 5 to 9.

Mr. Ducharme: I have a motion.

Mr. Chairman: On what?

Mr. Ducharme: It is under 4. I move, in both French and English—

Mr. Chairman: Do you want to wait till we get this distributed, please?

Moved by the Honourable Mr. Ducharme

That the Bill be amended by adding the following after section 4:

Re-numbering of provisions

4.1 The following provisions are re-numbered:

- (a) sections 75.1 to 75.9 (ombudsman) are re-numbered as sections 65 to 73;
- (b) section 78.1 (pensions) is re-numbered as section 79;
- (c) section 80.1 (records) is re-numbered as section 80.

(French version)

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 4, de ce qui suit:

Renumérotation

4.1 Les dispositions énumérées ci-dessous sont modifiées par substitution:

- a) aux actuels numéros d'article 75.1 à 75.9, des numéros d'article 65 à 73;
- b) à l'actuel numéro d'article 78.1, du numéro d'article 79;
- c) à l'actuel numéro d'article 80.1, du numéro d'article 80.

Shall the amendment pass—pass; Clauses 5 to 9—pass; Clauses 10 to Clause 14—

Mr. Ducharme: I have a change in 13.

Mr. Chairman: Perhaps we should deal with Clauses 10 to 12—pass.

An amendment to Clause 13.

Moved by the Honourable Mr. Ducharme

That the amendment to subsection 456(4) of the Act, as proposed in clause 13(b) of the Bill, be amended by striking out “In conducting a hearing under subsection (3), council or a committee appointed or designated under subsection (1) has” and substituting “In conducting a hearing under subsection (3), the committee appointed under subsection (1) has”.

(French version)

Il est proposé que la modification apportée au paragraphe 456(4) de la Loi et figurant à l'alinéa 13 b) du projet de loi soit amendée par remplacement des termes “Le conseil municipal ou le comité nommé ou désigné en application du paragraphe (1) détient, pour la tenue d'une audience visée au paragraphe (3), les pouvoirs et les priviléges ainsi que l'immunité” par “Le comité nommé en application du paragraphe (1) détient, pour la tenue d'une audience, les pouvoirs et les priviléges ainsi que l'immunité”.

Mr. Ducharme: Maybe I could clarify. The clarification is to reflect the correct intent of the legislation, i.e., that council's appointed committee conducts the hearings on police suspensions.

Mr. Chairman: Shall the amendment pass—pass; clause as amended—pass; Clause 14—pass; Clause 15 to 18—pass; Clause 19 to Clause 21—pass.

Clauses 22 and 23—

Mr. Ducharme: I have an amendment on 23.

Mr. Chairman: Okay. Shall Clause 22 pass—pass.

We will wait until the amendment is distributed.

Ms. Wasylcia-Leis: While we are waiting for that to be distributed, the amendment that I was proposing on Section 5.1 is out being photocopied, so I would ask for leave of the committee or permission of the committee to go back to that when it is back in the committee room.

Mr. Chairman: What is the will of the committee? Can we go back to Clause 5.1 to deal with that amendment? (Agreed)

Moved by the Honourable Mr. Ducharme

That the Bill be amended by adding the following after section 23:

Transitional re section 48 & subsection 49(4)

23.1 Notwithstanding the repeal of section 48 and subsection 49(4) under section 3 of this Act, those provisions remain in force until a proclamation is issued under section 16(4) of Bill 32, The City of Winnipeg Amendment Act.

(French version)

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 23, de ce qui suit:

Disposition transitoire

23.1 Malgré l'abrogation de l'article 48 et du paragraphe 49(4) en vertu de l'article 3 de la présente loi, ces dispositions restent en vigueur jusqu'à ce que soit prise la proclamation prévue au paragraphe 16(4) du projet de loi 32, intitulé “Loi modifiant la Loi sur la Ville de Winnipeg”.

Would the Honourable Minister please explain?

Mr. Ducharme: It provides transitional legislation until the by-law is established by City Hall. Basically, that is what it means.

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Mr. Chairman: Shall the amendment pass? (Pass) Okay.
Shall Clause 23 pass—pass.

Clause 24(1)—

Mr. Ducharme: Just a minute. I have another amendment to 24(1).

Mr. Chairman: 24(1), okay.

Moved by the Honourable Mr. Ducharme

That subsection 24(1) of the Bill be struck out and the following substituted:

Coming into force

24(1) Subject to subsections (2), this Act comes into force on the day it receives royal assent.

(French version)

Il est proposé que le paragraphe 24(1) du projet de loi soit remplacé par ce qui suit:

Entrée en vigueur

24(1) Sous réserve du paragraphe (2), la présente loi entre en vigueur le jour de sa sanction.

All in favour of the amendment—pass.

* (2100)

Mr. Ducharme: I have another one.

Mr. Chairman: You have another one?

Mr. Ducharme: Yes. I have another amendment.

Mr. Chairman: On 24(1)? Okay.

Moved by the Honourable Mr. Ducharme

THAT Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee.

(French version)

Il est proposé que le conseiller législatif soit autorisé à changer tous les numéros d'articles ainsi que les renvois nécessaires pour l'adoption des amendements faits par le présent comité.

Shall the clause pass—pass. Mr. Carr.

Mr. James Carr (Fort Rouge): With an amendment, Mr. Chairperson.

Mr. Chairman: On 24(1)?

Mr. Carr: No, actually, in an earlier part of the Bill.

Mr. Chairman: What is the will of the committee? Shall we back up now to whatever section—Mr. Penner, the Honourable Minister of Rural Development.

Hon. Jack Penner (Minister of Rural Development): Mr. Chairman, I am not quite sure how committee procedures function in this forum, but it would be my

view that once a Bill has been passed, as we have just finished, that we should proceed onto other business. It would appear to me that would only be expeditious. Therefore, I would suggest we proceed with the next Bill.

Mr. Carr: Mr. Chairperson, the Honourable Minister of Rural Development (Mr. Penner) was not a Member of this committee when it dealt with The City of Winnipeg Act in the fall. There was agreement at that time that certain amendments that affect the residents' advisory groups could be brought forward under discussion of Bill 61 or 62. That is what is happening now. I would appreciate it if the Minister would listen to what the amendments are and judge them on their merits, rather than playing procedural games here tonight.

Mr. Chairman: Under Beauchesne's 698(3), an amendment is out of order if it is offered at the wrong place in the Bill, if it is tendered to the committee in a spirit—or whatever.

I am afraid that it is out of order. Mr. Carr.

Mr. Carr: Mr. Chairperson, during the course of debate over this Bill, I asked the Minister of Urban Affairs (Mr. Ducharme) when the appropriate time would be to introduce my amendment. He said at the end of the Bill. I took that at face value, Mr. Chairperson, waited until the end of the Bill and that is where we are now. I would respectfully suggest that you allow us to return to a previous section of the Bill to entertain this amendment.

Mr. Ducharme: I think the argument with the—the Chairman says it is not dealing anywhere in this particular Bill, in Bill 61; he is not saying in this total section.

Mr. Chairman: What is the will of the committee?

POINT OF ORDER

Mr. Chairman: Point of order, Mr. Kozak.

Mr. Richard Kozak (Transcona): Mr. Chairman, as all of us understand, committees have to a greater degree, than the whole House assembled together, considerable freedom and flexibility in the development of their agenda, and by leave or by vote of the committee it certainly would be, I think you would agree, within the range of possibility to consider this amendment.

Mr. Chairman: On the same point of order, Mr. Ernst, or a new point of order?

Mr. Ernst: No, not a new point of order, Mr. Chairman. I move that the committee recess for a five-minute period.

Mr. Chairman: Is it the will of the committee we recess for five minutes? Agreed.

* (2110)

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RECESS

Mr. Chairman: Committee, back to order. Is this to deal with the question, that we are going to deal with the amendment, Ms. Wasylcicia-Leis? Yes. About your amendment?

Ms. Wasylcicia-Leis: —Section 5.1.

Mr. Chairman: On a point of order, Mr. Ernst.

Mr. Ernst: The question when the committee adjourned was one of sustaining your ruling, I believe, with respect to declaring the amendment by Mr. Carr out of order. That was the question before the committee if I am not mistaken.

Mr. Chairman: That is right. What is the will of the committee? Do we want to deal with the Bill, with the proposed amendment by Mr. Carr? Do we have unanimous consent? Is it agreed by all Members? Agreed. Mr. Carr.

Mr. Carr: Thank you very much, Mr. Chairperson, and let me thank Members of the committee for their indulgence.

Moved by Mr. Carr

THAT the Bill be amended by adding the following after section 2:

"Subsection 41(2) amended"

2.1(1) Subsection 41(2) of The City of Winnipeg Act, as enacted under The City of Winnipeg Amendment Act, S.M. 1989-90, chapter 8, is amended by striking out "determine", and substituting "make rules, not inconsistent with this Act, determining the procedures under which the residents' advisory group shall operate, including".

Subsection 41(6) amended

2.1(2) Subsection 41(6) of The City of Winnipeg Act is repealed and the following is substituted:

Role of R.A.G.

41(6) A residents' advisory group shall

- (a) advise and assist the members of the community committee for which it is established; and
- (b) be entitled to notice of, and the right to participate in, the meetings of the community committee.

Subsection 41(8) added

2.1(3) Section 41 of The City of Winnipeg Act is amended by adding the following after subsection (7):

Financial support for R.A.G.

41(8) Where council passes a by-law under subsection (7), council shall provide funds to each residents' advisory group to enable it to operate effectively."

(French version)

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 2, de ce qui suit:

Modification du paragraphe 41(2)

2.1(1) Le paragraphe 41(2) de la Loi sur la Ville de Winnipeg, édicté en vertu de la Loi modifiant la Loi sur la Ville de Winnipeg, chapitre 8 des Lois du Manitoba de 1989-90, est modifié par substitution, à "déterminer le nombre de membres d'un groupe consultatif", de "déterminer, par règles compatibles avec la présente loi, les procédures régissant les activités du groupe consultatif, y compris le nombre de ses membres".

Modification du paragraphe 41(6)

2.1(2) Le paragraphe 41(6) de la Loi sur la Ville de Winnipeg est remplacé par ce qui suit:

Rôle du groupe consultatif

41(6) Le groupe consultatif de résidents:

- (a) conseille et aide les membres du comité municipal pour lequel il a été créé;
- (b) a le droit d'être avisé des réunions du comité municipal ainsi que le droit d'y participer.

Adjonction du paragraphe 41(8)

2.1(3) L'article 41 de la Loi sur la Ville de Winnipeg est modifié par adjonction, après le paragraphe (7), de ce qui suit:

Aide financière

41(8) Lorsqu'il prend l'arrêté visé au paragraphe (7), le conseil municipal fournit des fonds à chaque groupe consultatif de résidents pour lui permettre d'exercer ses activités d'une manière efficace.

Mr. Chairman: Any discussion on the amendment? Shall the amendment pass? Ms. Wasylcicia-Leis.

Ms. Wasylcicia-Leis: A question, was any of this—it was my understanding that part of this was addressed in Bill 32 in the last Session. Is this complementary or does it duplicate any of that which was passed in Bill 32?

Mr. Carr: It is complementary, Mr. Chairperson. The changes that were made at the time in Bill 32 changed one section that had the word "may establish residents' advisory groups" to "shall establish residents' advisory groups" and these sections add to what was done in Bill 32.

I should make the point, Mr. Chairperson, this amendment deals with administrative structure, which is the administrative component of Bill 61, so the amendments we are making are actually consistent with the actual text of Bill 61.

Mr. Chairman: Okay. Shall the amendment pass—pass. Shall the clause as amended pass—pass. Mr. Carr.

Mr. Carr: Mr. Chairperson, I understand from Legislative Counsel there needs to be an additional

amendment that has to do with proclamation moved in both languages.

Mr. Chairman: I thought you are dealing on 24(1) now.

Mr. Carr: Yes.

Moved by Mr. Carr

THAT section 24 of the Bill be amended

(a) by adding "and (3)" after "Subject to subsections (2)":

(b) by adding the following after subsection (2):

"Proclamation"

24(3) Section 2.1 comes into force on the day that section 41 is proclaimed under section 15.1 of The City of Winnipeg Amendment Act, S.M. 1989-90, chapter 8.

(French version)

Il est proposé que l'article 24 du projet de loi soit amendé:

(a) par substitution, à "du paragraphe (2)", de "des paragraphes (2) et (3)", au paragraphe (1);

(b) par adjonction, après le paragraphe (2), de ce qui suit:

Entrée en vigueur de l'article 2.1

24(3) L'article 2.1 entre en vigueur à la date à laquelle l'article 41 entre en vigueur en vertu de l'article 15.1 de la loi modifiant la Loi sur la Ville de Winnipeg, chapitre 8 des lois du Manitoba de 1989-90.

Mr. Chairman: Okay. That is right. Rather than moved by Mr. Rose, that is moved by Mr. Carr. Shall the amendment pass—pass. Now, Ms. Wasylycia-Leis.

* (2120)

Ms. Wasylycia-Leis: Yes, it would be at this time that I would like to deal with the amendment pertaining to Section 5.

Mr. Chairman: Okay.

Ms. Wasylycia-Leis: I will wait for it to be circulated.

Mr. Chairman: We are going to revert back to Section 5. What page is that on, Ms. Wasylycia-Leis?

Ms. Wasylycia-Leis: Page 20.

Mr. Chairman: Ms. Wasylycia-Leis, do you want to read your amendment, please?

Ms. Wasylycia-Leis: I move in both languages

THAT the following be added after section 5:

Subsection 212(1) repealed and substituted

5.1 Subsection 212(1) is struck out and the following is substituted:

212(1) Notwithstanding sections 772 to 777 of The City of Winnipeg Act, council may by by-law prescribe the rate of penalties to be added to taxes remaining due and unpaid.

(French version)

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 5, de ce qui suit:

Remplacement du paragraphe 212(1)

5.1 Le paragraphe 212(1) est remplacé par ce qui suit:

212(1) Malgré les articles 772 à 777 de la Loi sur la Ville de Winnipeg, le conseil peut, par arrêté, fixer le taux de la pénalité à ajouter aux taxes exigibles.

Mr. Chairman: On the proposed amendment by Ms. Wasylycia-Leis, this amendment is out of order since it is dealing with a subject that is not dealt with in the Bill. I am afraid this amendment is out of scope, so it is out of order.

Ms. Wasylycia-Leis: I would speak to that. Before I do so, let me just indicate there was an error in the way it was written, and it should read in that last paragraph "The Municipal Act," not "The City of Winnipeg Act." I think it is clear that this amendment as suggested by a presenter this evening, a Councillor Greg Selinger, is very important in terms of The City of Winnipeg Act. This is an appropriate time to be dealing with the amendment.

It is both, in our view, appropriate in terms of this legislation, but also timely in terms of the needs before us, before particularly the City of Winnipeg as they deal with some difficult financial situations. I think it is clearly imperative upon us to assist in any way we can to ensure that the City of Winnipeg has the revenue necessary to avoid cutbacks and to avoid increases in the mill rate. On that basis, certainly in our view it is within the scope of this committee and within the scope of the Bill before us. I would urge committee Members to consider that and to give serious consideration to the amendment this evening.

Mr. Chairman: Thank you, Ms. Wasylycia-Leis, but I am afraid that is still left to change, and this amendment is still out of order. Mr. Maloway, do you want to challenge the ruling of the Chair?

Mr. Maloway: On the ruling, it seems to me that we are starting to adopt very, very narrow scopes here. I recall last year when we passed the conflict of interest legislation we put in an amendment dealing with untendered contracts, so there are a lot of precedents.

Mr. Chairman: This has nothing to do with this Bill, I am sorry. The ruling of the Chair has been challenged. All those in favour of sustaining the ruling of the Chair.

Madam Clerk: One, two, three, four, five, six, seven.

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Mr. Chairman: All those against?

Madam Clerk: One, two.

Mr. Chairman: The ruling of the Chair has been sustained. We will go back to clause 24(1) as amended, "Coming into force"—(pass); clause 24(2)—pass; Preamble—(pass); Title—(pass). Bill as amended be reported—agreed and so ordered.

**BILL NO. 62—
THE CITY OF WINNIPEG
AMENDMENT ACT (3)**

Mr. Chairman: Bill No. 62, The City of Winnipeg Amendment Act (3). Clause 1—pass; Clauses 2 to 6—pass; Clauses 7 through to 10—pass; Clauses 11 to 16—pass; Clauses 17 to 23—pass; Clauses 24 to 31—pass; Clause 32 and 33—pass.

Clause 34—Mr. Taylor.

Mr. Harold Taylor (Wolseley): Mr. Chairperson, thank you. It is a new clause which would be numbered 34.1, so 34 could pass while it is being distributed.

Mr. Chairman: Clause 34—pass.

Moved by Mr. Taylor

THAT Bill 62 be amended by adding the following after section 34:

Section 624.1 added

34.1 The following is added after section 624:

Buildings spanning water courses

624.1(1) Notwithstanding any provision of this Act or The Rivers and Streams Act or any by-law, resolution or regulation, the city shall not, in its own capacity or as an authority under The Rivers and Streams Act, issue a permit for the construction or placement in the city of a building or structure, other than a highway, which would span a water course.

Retroactive effect

624.1(2) Where, before the coming into force of this section,

- (a) a permit is issued and is subsisting for the construction of a building or structure, other than a highway, which spans a watercourse; and
- (b) less than 10% of the anticipated work on the building or structure has been completed;

the permit is deemed to be cancelled and no compensation is payable to the holder of the permit.

(French version)

Il est proposé que le projet de loi 62 soit amendé par adjonction, après l'article 34, de ce qui suit:

Adjonction de l'article 624.1

34.1 La Loi est modifiée par adjonction, après l'article 624, de ce qui suit:

Construction en travers d'un cours d'eau

624.1(1) Malgré toute autre disposition de la présente loi, de la Loi sur les cours d'eau ou d'un arrêté, d'une résolution ou d'un règlement, la Ville ne peut, de sa propre autorité ou au termes de la Loi sur les cours d'eau, délivrer de permis pour l'érection ou la mise en place d'un bâtiment ou d'une construction, autre qu'une route, qui enjambe un cours d'eau.

Effet rétroactif

624.1(2) avant l'entrée en vigueur du présent article:

- a) un permis est délivré et est en vigueur relativement à l'érection d'un bâtiment ou d'une construction, à l'exception d'une route, qui enjambe un cours d'eau, et
- b) moins de 10% du travail prévu relativement au bâtiment ou à la construction a été exécuté;

le permis est réjeté annulé et aucune indemnité n'est payable au permissionnaire.

On the motion of Mr. Taylor, this amendment is out of order since it is not dealing with the subject within the Act, so it is out of scope in the Bill. Mr. Taylor.

Mr. Taylor: Yes, I would regrettably have to challenge the Chair on this matter, Mr. Chairperson.

Mr. Chairman: The ruling of the Chair has been challenged. All those in favour of sustaining the ruling of the Chair, please raise your right hand.

Madam Clerk: One, two, three, four.

Mr. Chairman: All those against.

Madam Clerk: One, two, three, four, five, six.

Mr. Chairman: The ruling of the Chair has been defeated.

* (2130)

Hon. Gerald Ducharme (Minister of Urban Affairs): I would like to know, usually when we put in a clause dealing with the City of Winnipeg, we go to the City of Winnipeg and discuss with the administration a major change. It could be a very, very good change. However, I would like to know what discussions the Member did have with proposing this motion with the City of Winnipeg and the administration, et cetera.

Mr. Taylor: I think that is only fair, and I think the Minister makes a reasonable request. The discussions have been at length with the members of what is now called the Winnipeg Rivers Management Committee, which is a committee that both embodies the previous functions of the Winnipeg Rivers and Streams Authority, No. 1, and also now has a broader scope and is attending to more than matters of impedance of flow of rivers or the damaging of banks of rivers which were the two main issues that the Rivers and Streams Authority dealt with.

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It now deals with a myriad of issues that come before that committee relating to matters of boating, boating safety, rescue, ice patrols in the winter time, so there is a safe place for people to ski and skate on the river. They deal with cleanup of the riverbanks, retrieving of obstacles out of the water, the operation of the successor to the Harbour Master operation which is now a properly recognized police force on the water. They are dealing with issues in that totality.

Their concern has been that until such time, Mr. Chairperson, and to the Minister, as we see the final repeal of the 1953 Rivers and Streams Act of Manitoba and the proper incorporation of authority with the city either in a new Act or incorporated in The City of Winnipeg Act and with a proper linkage between the Province of Manitoba, we are going to see problems come up again, again and again.

The problem is that we have a situation where we have full protection on the Red and on the Assiniboine. We have no protection, absolutely none, for this sort of thing to take place where buildings can be built either over the Seine River or the nine creeks that still flow in the City of Winnipeg. I think it is ridiculous that we should be leaving a loophole of this nature where a structure can be built.

We have seen the matter come up in 1985 where it was proposed that there be a 16-storey building built over Omards Creek up near the Velodrome in which there would be some 800 feet of the creek covered. It would in effect become a ditch. That is exactly what happened to the first eight creeks in the city. There were approximately 16 creeks in Winnipeg, there are only eight left now that are actually open natural water bodies. Now we have had more recent discussions of structures over creeks and I think the time has come. The people of Manitoba want to see some leadership on this.

The people of the City of Winnipeg decry the fact that we do not have legislation that gives adequate protection and that the time has arrived where we have to deal with this issue and deal with it properly. What it is saying is that, other than the normal access lanes, driveways or roadways, there will not be structures normally built over water bodies in the City of Winnipeg which makes the legislation as it applies to the Seine River and the nine creeks I mentioned, then consistent with the situation for the Red River and the Assiniboine River. As such, I think it is germane. I think it is timely; it is an absolute requirement. I would hope there will be support at this committee table for this amendment.

Mr. Ducharme: Just that someone who has probably put forward a very, very progressive information in regard to our rivers—and I know the Member is aware of what I have put position and put money up for something to be adopted at city. I am very concerned about such an important position you have taken.

However, I have a couple of questions I would like to put on the floor. I would like to know whether council has adopted a position on this change. I would like to make the committee aware that in the next round table dealing with The City of Winnipeg Act we will bring in

the planning that will be dealing with these type of matters in this particular matter.

The other one was that you have to remember we have proposed a resolution that could affect somebody, because remember, you do have a resolution that does say no compensation to the person who has been affected. They have not had a chance to come before this committee to speak on this very important issue. I would feel that it probably would be better for the committee to wait for us to come forward with our part in the planning, and then at that time the people would be quite aware and come forward and speak on this very, very important motion that the Member for Wolseley (Mr. Taylor) is putting forward. I have no problem with principles, but I always have problems when an amendment is brought forward and some people on these type of questions that I have asked have not been answered. That is my only concern, and I will leave it there.

Hon. Jim Ernst (Minister of Industry, Trade and Tourism): Mr. Chairman, I am going to ask you, and perhaps you can seek advice. I would like to know what the definition of highway is under The City of Winnipeg Act. Following advice on that, I have a couple of other questions, so if you will—

Mr. Chairman: Okay. The definition of highway? Or is it that long?

Mr. Ernst: It is not entirely clear, but I am concerned that the prohibition as outlined in the amendment by Mr. Taylor would prohibit such things as a footbridge, a bicycle path, a toboggan slide, all of which presently exist and which may want to be expanded upon at some point in the future, but presently exist over water courses in the City of Winnipeg, which, of course, are substantial public improvements and very desirable from many points of view.

There may be others, I do not know. Those just immediately came to mind, and I have some concern. I realize where Mr. Taylor has a concern and why he has introduced this amendment. At the same time, we would not, I would think, in all conscience want to prohibit such other types of structures as may be highly desirable. I certainly would not want to prohibit, for instance, to people in St. James-Assiniboia, in Niakwa Park, in a couple of other areas, in St. Boniface, the right to have a footbridge across a river or stream or creek. I would not want to prohibit the children of central St. James-Assiniboia and the provincial constituency of Sturgeon Creek the right to have a toboggan slide across the creek as presently exists there and has for a number of years. I would not want to prohibit people in Sturgeon Creek Park to have a bicycle path, including the structure across the creek, to allow them to navigate that area, and any other types of concerns.

* (2140)

Notwithstanding the fact I understand the principle and the intent, that Mr. Taylor (Wolseley) wants to prohibit in this case, now Rae and Jerry's from building upon Omards Creek, along Portage Avenue, the

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concern I have that it is rather all encompassing in terms of its application. So I have a concern in that regard. In addition, I would also seek advice as to whether or not you can, by legislation of this type, prohibit, under rules of natural justice, the compensation of an individual for expenses put forward.

I suspect, Mr. Chairman, that under the rules of natural justice you cannot deny someone compensation for that which he either a) has expended money, or b) has legal ownership. Perhaps you could seek advice in those areas. That might further enlighten the committee as to how they might vote on this issue.

Mr. Chairman: Is there any more discussion on the amendment?

Mr. Taylor: The Member for Charleswood (Mr. Ernst), I think, brings up some points that do have to be discussed. I think they are points that are not trivial. The sort of examples that were brought forward were ones that, yes, were looked into, and the matter of footbridges for pedestrians or specific structures to handle bicycles or things like that was considered to be under the definition of highways as the city views it in their own administration.

I would add to that, in way of further explanation, that rail bridges are exempted by the Railway Act of Canada, which is legislation that takes precedence over any legislation of the province. That is covered off okay too. I did mention in my talk about the fact that private laneways are also covered off in this, so an access issue is not there.

The fact of the matter is that we have just checked the building permits of the City of Winnipeg, and there are no building permits for structures over creeks in existence at this time. There are no building permits where the compensatory factor would be. Quite frankly, the second clause which one titled Retroactive effect 624.1(2) is quite frankly insurance. It does not even exist, the situation today. It is just a case of being cautious.

The matter of the rights of owners is interesting in that they do not have the right to channel water, they do not have the right to take the water, they cannot impede, they cannot do anything, either it is a structure or a dumping or anything of that nature, to legally impede the flow of the water. There seems to be this loophole that allowed for the fact that it could potentially be built over. I would suggest what we see here is a clause that closes that loophole, which says that notwithstanding you can own land to water, you cannot do those things on it now and neither can you build over and forever cover off the stream from public view.

I would suggest there is an incumbent responsibility on those property owners that abut water. Water courses are part of our natural heritage, and as such, no one property owner should have the right in any way, sanctioned by this Legislature, either by action or by inaction, to take away that natural heritage from, in this case, the people of the City of Winnipeg.

I would suggest it could be looked at in a broader sense, but this relates strictly to the urban contacts.

We have lost half of our creeks already over this last century. I would suggest that is not reasonable, that we should not cover it off. There has been good research done on it. One only has to listen to the cries of City Council over the years, we cannot do anything about this. It is limited by the provisions of The Rivers and Streams Act that do remain, an old piece of legislation that already has been two-thirds repealed, the last remaining portion only remaining for the purposes of administrating that work within the jurisdiction of the City of Winnipeg.

The questions have been fair from both Ministers. I think we have answered them, and I am quite prepared to answer further questions should there be any. This amendment was not put forward lightly. It was not put forward without consultation, and it was not put forward without research.

I would request the support of the committee to put forward what I think is a very forward looking amendment to The City of Winnipeg Act revisions here. Myself and Mr. Edwards, the Member for St. James, have worked some time on this, and have worked with groups. We felt this was the best way to end some of these crazy problems that come up from time to time when development is proposed over a water course and eliminate the grief and the turmoil that goes on in communities every time one of these proposals come forward, proposals that are, I would suggest, unreasonable. The time has come when we are not going to allow the culverting over and the structuring over of our water courses.

I repeat, I ask the support of the committee in this matter.

Mr. Ernst: I thank Mr. Taylor for his explanation. I have a concern, however. Mr. Taylor indicated that in the normal context of what the City of Winnipeg views as a structure, there is no cause for concern.

We are not dealing with the City of Winnipeg's view, we are dealing with a provincial statute. The provincial statute will govern. That is my concern. I do not care, quite frankly, how the City of Winnipeg views or does not view it; they will view it in accordance with the provincial statute. Whatever is passed by the Legislature is how they have to view it. They do not have any choice in the matter. My concerns have not been answered in that respect.

Secondly, Mr. Chairman, I did seek advice from you, through you to the counsel present, as to the question of natural justice and whether in fact the Legislature can pass a law that unilaterally takes away the right of eminent domain as an accepted Government power, but the right to take it away without compensation is not.

I would like legal advice as to whether or not we can in fact, in good conscience, pass a law which takes away the rights of individuals that are normally maintained, I guess, under rules of natural justice. It seems eminently unfair to me, and I would think that Mr. Taylor as well would find it unfair, that if it was his property that was being expropriated without compensation such as proposed here, he would be the

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first to go to court to determine that in fact he was being unduly and harshly dealt with and that the rules of natural justice for him had been denied.

Mr. Chairman, I would hope that you would seek—in fact, I am not prepared to vote on this question at all until such time that we have an indication from counsel present and we have all kinds of them. Surely, between them all, they can come up with a legal opinion with respect to the question of natural justice and whether in fact we can expropriate without compensation as proposed in the amendment of—well, Mr. Taylor indicates that in his view the question of expropriation without compensation is outrageous and I concur. I concur it is outrageous. Quite frankly, I would not want to deny an individual that right in any event, Mr. Chairman, so I would ask that you consult and have advice in this regard.

* (2150)

Mr. Ducharme: I would suggest that there is one amendment by Mr. Taylor and there were a couple by Mr. Maloway that they file those amendments and that we deal with this Bill later on during the week. Anybody who has any comments they can take them back to their caucuses and they can talk them over with their caucus and come back to this Bill. We will deal with it then.

Mr. Ernst: Mr. Chairman has not risen yet. I would ask that legal counsel provide a legal opinion as to the question of expropriation without compensation proposed by Mr. Taylor.

Mr. Chairman: Okay, when next we meet we will have the explanation from legal counsel. Will the committee rise then?

Committee rise.

COMMITTEE ROSE AT: 9:51 p.m.