



Fourth Session - Thirty-Fifth Legislature

of the

Legislative Assembly of Manitoba

STANDING COMMITTEE

on

ECONOMIC DEVELOPMENT

42 Elizabeth II

Chairperson
Mr. Jack Penner
Constituency of Emerson



VOL. XLII No. 8 - 7 p.m., TUESDAY, JUNE 15, 1993

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

Members, Constituencies and Political Affiliation

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	Liberal
ASHTON, Steve	Thompson	NDP
BARRETT, Becky	Wellington	NDP
CARSTAIRS, Sharon	River Heights	Liberal
CERILLI, Marianne	Radisson	NDP
CHEEMA, Gulzar	The Maples	Liberal
CHOMIAK, Dave	Kildonan	NDP
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
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DOER, Gary	Concordia	NDP
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	Liberal
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Clif	Interlake	NDP
EVANS, Leonard S.	Brandon East	NDP
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
FRIESEN, Jean	Wolseley	NDP
GAUDRY, Neil	St. Boniface	Liberal
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
GRAY, Avis	Crescentwood	Liberal
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	NDP
LAMOUREUX, Kevin	Inkster	Liberal
LATHLIN, Oscar	The Pas	NDP
LAURENDEAU, Marcel	St. Norbert	PC
MALOWAY, Jim	Elmwood	NDP
MANNES, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	NDP
McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda, Hon.	Assiniboia	PC
MITCHELSON, Bonnie, Hon.	River East	PC
ORCHARD, Donald, Hon.	Pembina	PC
PALLISTER, Brian	Portage la Prairie	PC
PENNER, Jack	Emerson	PC
PLOHMAN, John	Dauphin	NDP
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	NDP
REIMER, Jack	Niakwa	PC
RENDER, Shirley	St. Vital	PC
ROCAN, Denis, Hon.	Gladstone	PC
ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	NDP
STEFANSON, Eric, Hon.	Kirkfield Park	PC
STORIE, Jerry	Flin Flon	NDP
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary, Hon.	Fort Garry	PC
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WOWCHUK, Rosann	Swan River	NDP
<i>Vacant</i>	Rossmere	
<i>Vacant</i>	Rupertsland	

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON ECONOMIC DEVELOPMENT

Tuesday, June 15, 1993

TIME — 7 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRPERSON — Jack Penner (Emerson)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Findlay, Stefanson

Mrs. Carstairs, Messrs. Dewar, Helwer,
Laurendeau, McAlpine, Pallister, Penner,
Storie, Ms. Wowchuk

MATTERS UNDER DISCUSSION:

Bill 4—The Retail Business Sunday Shopping
(Temporary Amendments) Act

Bill 23—The Retail Businesses Holiday
Closing Amendment, Employment Standards
Amendment and Payment of Wages
Amendment Act

* * *

Clerk of Committees (Ms. Bonnie Greschuk): I have before me the resignation of Mr. Reimer as Chairperson of the Standing Committee on Economic Development. I will read it at this time.

I would like to resign as Chairperson for the Standing Committee on Economic Development, effective June 15, 7 p.m. Jack Reimer.

The floor is now open for nominations.

Mr. Edward Helwer (Gimli): I would like to nominate Jack Penner as Chairperson.

Madam Clerk: Jack Penner has been nominated. Are there any other nominations?

An Honourable Member: That is quite sufficient.

Madam Clerk: Since there are no other nominations, will Mr. Penner please take the chair.

Mr. Chairperson: Will the committee on Economic Development please come to order.

The committee will now proceed with clause-by-clause consideration of the following bills: Bill 4, The Retail Business Sunday Shopping (Temporary Amendments) Act; and then following that it will be Bill 23, The Retail Businesses Holiday

Closing Amendment, Employment Standards Amendment and Payment of Wages Amendment Act.

For the committee's information, copies of the bills are available at the back on the table if you wish to receive a copy.

When this committee last sat, it agreed to not hear more public presentations and had started with the opening statements. Does the committee wish to make any additional comments before clause-by-clause consideration of the bills?

Mr. Jerry Storie (Flin Flon): Mr. Chairperson, just in terms of an overall comment, before we proceed on clause by clause, I have received dozens of letters. Of course, I solicited them as well. I wrote and asked for comments about the way the government had proceeded with this legislation. Obviously, I do not imagine the government is surprised nor was I to receive letters back indicating that many, if not all of the groups that had contacted me and raised concerns publicly are as opposed to this legislation now as they were some six months ago when the government first unilaterally decided that we were going to have this new Sunday legislation.

One of the most recent was a letter from the Knights of Columbus, signed by the Grand Knight, indicating the Knights of Columbus's dissatisfaction with the way the government has proceeded on this including, I suppose, the concern that this is an important economic and business decision that is going to be turned over to municipalities in a rather unfortunate and some would say—I was going to say cowardly, but that is not perhaps the best word—way, that the government has obviously not had the intestinal fortitude to proceed with what it originally thought and proclaimed was a sound business idea that was going to spur economic development and increase opportunities and increase employment and stem Sunday shopping and do all those wonderful things. I guess perhaps we are told by some quarter anyway that was not going to happen, that in fact there was some serious downside to this.

So, Mr. Chairperson, I do not propose to spend a long time debating each clause of the bill. I indicated at our last meeting that I would have some amendments, be proposing some amendments. Some were suggested by presenters to the committee at our last meeting. So I would like I guess to proceed as quickly as we can. Some of the amendments that I have proposed are in the process now of being translated. I am not sure how much of a problem that is going to be. I certainly am prepared to discuss the intent of the amendments I have proposed and, obviously, the government with its majority in committee may or may not wish to see them pass.

If the exact wording has not been translated, I would still recommend that I discuss in principle what the amendment is, that we discuss it and vote on it and, obviously, if it is supported by committee then we will proceed. If not, we will proceed on to the next amendment. I am proposing that just to facilitate the work of the committee. If someone objects to that and wants to see the wording, we can wait.

Mr. Chairperson: Thank you, Mr. Storie. What is the will of the committee? Is it to proceed? [interjection] Thank you. We will then proceed to clause by clause if it is the will of the committee with Bill 4. Is that agreed? [agreed]

Bill 4—The Retail Business Sunday Shopping (Temporary Amendments) Act

Mr. Chairperson: Bill 4, Part 1, The Retail Businesses Holiday Closing Act, Clauses 1 to 3 on the following page.

Mr. Jerry Storie (Flin Flon): I move

THAT section 3 of the Bill be amended by adding the following after proposed section 4.2:

Renewal of agreement

4.3 No party to an agreement referred to in section 4.2 shall refuse to renew the agreement with an owner or operator of a retail business establishment by reason only that the owner or operator refuses to open the retail business establishment on a holiday other than Christmas Day or New Year's Day.

[French version]

Il est proposé que l'article 3 du projet de loi soit amendé par adjonction, après l'article 4.2, de ce qui suit:

Renouvellement de l'entente

4.3 Il est interdit aux parties à une entente visée à l'article 4.2 de refuser de renouveler l'entente avec le propriétaire ou l'exploitant d'un établissement de commerce de détail du seul fait que le propriétaire ou l'exploitant refuse d'ouvrir l'établissement un jour férié autre que le jour de Noël ou le jour de l'An.

Mr. Chairperson: Have you got a copy of the amendment, Mr. Storie?

Mr. Storie: I believe that copies are being circulated right now.

Mr. Chairperson: They are? The amendments?

Mr. Storie: Yes.

Motion presented.

Mr. Chairperson: Shall the amendment pass?

An Honourable Member: No.

Mr. Chairperson: No?

Hon. Eric Stefanson (Minister of Industry, Trade and Tourism): Mr. Chairperson, just speaking more to process before I would comment on this particular amendment, Bill 4, I think, as we all know, is the original trial period, which we all know has lapsed.

I am wondering if procedurally Mr. Storie agrees that this particular amendment would be more appropriately dealt with in Part 2 of Bill 23, where the Coming into Force of the overall legislation that will affect future decisions of municipal councils and obviously how stores would function under the rules would be a more appropriate time to deal with this amendment.

* (1910)

Mr. Storie: Mr. Chairperson, I actually asked the same question, but I understand, and I think, logically, because we actually have operated in effect—I guess we could ask the same question of this bill, why is it here? I mean, Bill 23 is the one we are going to operate in the future, but clearly there may have been agreements terminated, there may have been agreements entered into while Bill 4 theoretically was in operation.

I think it would be prudent to go ahead and amend Bill 4 because we are going to pass it. It will come into effect, have had retroactive status. I think we should proceed with it in consideration.

I will be proposing the exact same amendment essentially in Bill 23 as well. If we are going to deal with the bills in order, if we are going to deal with Bill

4 at all, my last question when we last met was, why are we dealing with Bill 4 at all anyway? Why do we not just—I do not know—do what we do with spent bills?

Mr. Chairperson: It has been the advice, I believe, Mr. Storie, that this bill should be dealt with because it is an item on the legislative agenda. It stands as an item on the legislative agenda and therefore the Legislature should deal with this bill. Therefore, this committee will deal with the bill as a normal bill, and we will then proceed to deal with Bill 23.

I think you are absolutely right. This is an amendment that should be considered by this committee if you, in fact, wish to amend this bill. If it is your wishes to amend this bill, or propose an amendment to amend this bill, then it is the right of this committee to consider that proposal.

Now, I ask the question, what is the will of the committee? Is it the will of the committee to amend the bill as stated?

Mr. Storie: Mr. Chairperson, I heard a nay from the other side when that question was asked a few minutes ago. I would like to hear from the minister what is wrong with this proposed amendment before we have a negative vote on the government side. It seems to me that the government has stated its intention to protect those who wish to decline the offer to open on Sunday. This seems to me to add some additional protection. I would like some explanation from the minister as to why we should not include this amendment.

Mr. Chairperson, if I might, I have some explanation. What we are talking about here is someone in an existing lease. They have a five-year lease. The renewal period is coming up, you have a good corner spot in a mall, and someone says, if you want your lease renewed you had better waive your right to close on Sunday. The government has stated quite clearly its intention to let the individual business owner decide. Then let us not put individual, independent business owners in a position where they have to bow to the will of some mall owner or some large commercial mall enterprise.

Mr. Stefanson: Mr. Chairperson, in anticipation that Mr. Storie might bring this amendment, partly because it was put forward by one of the delegations we had, some concerns and comments have been provided to me. In a

commercial tenancy, subject to a right to renew contained in a lease, there is no implied right to renew on the part of the tenant nor any obligation to renew on the part of the tenant.

Another point is, landlords will, from time to time, refuse to renew the lease of a commercial tenant for no reason other than a better tenant wishes to lease the space.

Another point is, the right to opt out already intrudes into the ability of parties to write contracts as they wish. It would not be wise also to intrude into this fundamental concept of landlord and commercial tenant law. A concern would be the provision could be unenforceable in any event, because the landlord would merely state a different reason for failing to renew a lease.

Having said all of those things during the trial period which was put in place for the fundamental purpose of having an opportunity to determine how Sunday shopping would work and function, all of the reasons we have discussed before in terms of consumer interest, in terms of economic impact, to the best of my knowledge we have not had a single concern expressed about this particular item from anybody other than the one delegation. We have no incidence of this being a problem, of it being a concern. I guess one would say, why legislate something that does not exist as a problem and does not need to be legislated?

Following those comments, Mr. Chairperson, I would suggest that the amendment should not be supported and is unnecessary.

Mr. Storie: Mr. Chairperson, I am disappointed that the minister obviously listened to some advice from perhaps some developers. The fact is that of course the landlord's likely view of what might be a better tenant would include someone who would stay open if in fact the mall had decided that it was going to stay open. What may be viewed as better of course is someone that is more compliant with the landlord's wishes.

Talking about intruding into landlord and tenant affairs, it was not myself or the opposition or the small-business community that decided the government was going to intrude in this area.

We already have Section 4.2 that interferes with commercial leases. It does intrude already. The point of Section 4.2 was to protect the interests of independent businesses. What we are trying to do is ensure that happens, that independent

businesses are not, through the back door, disqualified from leaseholding; their interests subverted, because a landlord deems it in his interests to ensure that someone leased the space that is going to open on Sunday.

So, No. 1, we are talking about the commercial interests, the financial interests of the small business community here; No. 2, the concept of the government not intruding on commercial leases has already been breached by the government, and what we want to do is make sure that they live up to it; third, the minister references a trial period.

Well, Mr. Chairperson, as a small business operator, and as anyone who is familiar with small business will tell you, small businesses survive quite often by dint of hard work. They very seldom would find themselves in a financially jeopardizing position in a matter of two or three months.

This trial period has been woefully inadequate. Certainly, there are many small businesses, and the Manitoba Chamber included, that have expressed concern about the strength and the viability of some small businesses under this act. I think it is too soon for the minister to conclude that we have seen everything there is to see in terms of how this impacts on small businesses.

Certainly, it is likely true that very few of the small businesses who may be affected by this have had their lease come to term.

Mr. Stefanson: Without getting into a prolonged debate with Mr. Storie, I have to correct at least one of his points, that the advice did not come from developers, it came internally from people who work within government, within law and other areas, so it was not on the advice of developers that I raised the points that I put on the record.

His fundamental concerns about small business, I guess with my own background, I am not so sure I need a lecture from Mr. Storie in terms of how small business functions, or what they need or do not need. I indicated to him that we have received no complaints. We have received no concerns from small business on this issue. We do not believe in legislating things that do not need to be legislated, that there are no causes or problems that exist—sort of the position of creating problems that are not there, which is the practice of some.

Mr. Chalperson: I would remind both members that we are debating the amendment, that we are not debating who, or where, or who advised people

to amend. So I would suggest that the debate be relative to the amendment.

Mr. Storie: Thank you, Mr. Chairperson. I will try to be more relevant to the issue.

The minister mentioned that he had consulted with a number of groups; of course, he did not mention the Manitoba Chamber of Commerce, did not mention I guess Independent Grocers, or perhaps some small businesses who are tenants in malls. I respect the fact the government is going to do this. They have stated their intention to do this. I am a little disappointed that the minister is not prepared to offer the small independent businesses that lease in malls a little more protection.

I think it is quite clear that the independent mom and pop grocery store on the corner can close as they see fit. The difficulty is that in malls that is not possible. The government recognized that and obviously responded to some extent. This is just an extension to guarantee that the extension of leases is denied because someone has refused.

* (1920)

The minister may not believe that someone can prove that. It may in fact be difficult to prove, but it is some protection for businessmen who want to remain independent and operate their stores on the hours that they wish to choose.

If the government believes in that right to choose then I think they should support the amendment and add that additional protection. I cannot see it being any more intrusive than Clause 4.2.

Mr. Chalperson: Shall the amendment pass?

Some Honourable Members: No.

Mr. Chalperson: No? All those in favour of the amendment passing, would you say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those in opposition to the amendment, would you say nay.

Some Honourable Members: Nay.

Mr. Chalperson: I think the amendment has failed.

Clauses 1 to 3—pass; Clause 4—pass.

Part 2, The Employment Standards Amendments Act, Clause 5—pass; Clause 6—pass.

Mr. Storie: Mr. Chairperson, I move

THAT the proposed section 41.2, as set out in section 6 of the Bill be amended by striking out "or

threaten to discharge" and substituting "threaten to discharge, discipline, suspend, lay off, intimidate, coerce or impose a penalty on".

THAT section 6 of the Bill be amended by adding the following after the proposed section 41.2:

Penalty

41.3 Notwithstanding subsection 15(1) (offence and penalty), a person who contravenes section 41.2 is liable to a fine not exceeding \$2,000.

[French version]

Il est proposé que l'article 41.2, énoncé à l'article 6 du projet de loi soit remplacé par ce qui suit:

Interdiction de congédier

41.2 Il est interdit aux employeurs ou à leurs représentants de congédier ou de menacer de congédier un employé, de lui imposer une peine disciplinaire, de le suspendre, de le mettre à pied, de l'intimider, de le contraindre ou de prendre des sanctions à son égard si celui-ci:

- a) refuse ou tente de refuser de travailler un jour férié s'il s'est conformé aux dispositions de l'article 41.1;
- b) tente de faire valoir ses droits en vertu de l'article 41.1.

Il est proposé que l'article 6 du projet de loi soit amendé par adjonction, après l'article 41.2, de ce qui suit:

Pénalité

41.3 Malgré le paragraphe 15(1), toute personne qui commet une infraction à l'article 41.2 est passible d'une amende d'au plus 2 000\$

Mr. Chairperson: It has been moved

THAT the proposed section 41.2, as set out in section 6 of the Bill be amended by striking out "or threaten to discharge" and substituting "threaten to discharge, discipline, suspend, lay off, intimidate, coerce or impose a penalty on".

Shall the amendment pass? No?

Mr. Storie: Mr. Chairperson, before we decide to vote on this again, I recognize that we have a chorus of nays from the government side. I am wondering whether the minister can indicate what his objection to this amendment might be?

Mr. Stefanson: Mr. Chairperson, I am more than prepared to do so. I would be interested, first of all, from Mr. Storie introducing the amendment, hearing some of his comments as to why he thinks this is required?

Mr. Storie: Again, I guess the government has indicated, in its effort to be evenhanded, that it wants to protect those workers who might choose to exercise their right not to work on Sunday.

What we are trying to do is ensure that there is the broadest possible interpretation of what might be deemed an unfair practice against an employee, that it is not simply a matter of firing or dismissing, that there are many other more subtle forms of discrimination, and that what we are trying to do is sort of broaden that definition so that people actually enjoy the right to refuse to work on Sunday. It is similar to the very fair equitable amendment that I proposed earlier with respect to commercial tenants.

Mr. Edward Helwer (Gimli): Mr. Chairperson, I think the amendment puts a dollar value on the penalty, and I think that should be—

Mr. Chairperson: Mr. Helwer, would you turn your mike up, please.

Mr. Helwer: Section 41.3 of the amendment there has a dollar figure in the fine or a maximum dollar figure. I think this amendment should be out of order, because it is indicating a dollar figure and these items should be taken care of in the regulations.

Mr. Chairperson: Mr. Helwer, we are dealing with the first amendment 41.2 and then we will move to 41.3. We are not at 41.3 yet. Thank you.

Mrs. Sharon Carstairs (River Heights): Well, with the greatest respect, both of the amendments are very close on top of one another and we seem to be doing some paper shuffling here. I take a great exception to what the member has said. There are lots of pieces of legislation in which fines are laid out very clearly in bills themselves. It does not have to go in regulation, and this is just one very good example of something that would prevent an action which the government says it wants to prevent.

Mr. Chairperson: Thank you. I will allow the debate on 41.3 once we get to 41.3. We will then allow the debate. I have no hesitation about allowing debate on that section, but we are not until the next amendment.

Mr. Stefanson: Mr. Chairperson, speaking to the first part of the amendment, first of all, this is fairly similar to some wording that is in the Ontario legislation, I believe, and fairly similar to some

wording that was again proposed by one of the delegations.

I guess what has been attempted in the first cut of the bill as we have before us is a balance between the employers and the employees. With the broader, vague wording that is being proposed by Mr. Storie it certainly can start to create various types of problems in terms of interpretation and unique kinds of broad issues that are being proposed by him.

The key purpose of this whole section was some protection for the employees in terms of discharge or threaten of discharge. We feel that is adequately covered. Once again, and I last checked with Labour as recently as today, to date I believe we have not had a single complaint from an individual in Manitoba throughout the whole trial period. We feel the legislation as it is written offers reasonable protection for the employees, and therefore there is no need at this particular time for the amendment. I guess one could say that with both of the amendments that Mr. Storie has proposed so far.

The trial period to date shows no need or evidence of a requirement. One could always suggest that if we were to find that there are problems in these areas it could be looked at at some future date, but to put legislation in place that is both vague and open to various types of interpretation—and the protection we feel is adequate in terms of what is in the legislation as it exists.

Mr. Storie: Mr. Chairperson, possibly you might suggest one of the reasons why there have been no complaints is because of the rather strict interpretation one could put on the existing 41.2, because the only circumstances under which a person could complain is if the employer discharged them or threatened to discharge them.

I think, particularly given the part-time nature of much of the retail sector, the more likely prospect is that they would go work from 20 hours to 15 hours to 12 hours to eight hours to two hours, and pretty soon they would be out the door. That is a much more subtle form of discrimination.

* (1930)

Certainly I am not surprised that no employer is dense enough, having read the act, to say, you are fired, you will not work on Sunday. The question is,

are there other more subtle forms of discrimination that are going on?

If this has not been a problem, then I do not see why we would not want to ensure that the other potential forms of discrimination are not included in the act so that employers are perfectly aware of the right of the employee to refuse to work on Sunday and the fact that there should be no retaliation. I am not sure that the proposed legislation provides that balance, given the fact that it only mentions discharge.

I ask the minister, I am certainly not hung up on the wording that I proposed. If the minister feels that there is some middle ground here, if he is concerned about the word "coerce" or other words, perhaps we can work to modify the amendment to make it a little broader but to address some of the minister's concerns.

Mr. Chairperson: The question before the committee is: Shall the amendment pass?

Mr. Stefanson: Mr. Chairperson, I should respond to Mr. Storie's final comment that once again in anticipation that this might be raised, partly because it was raised the last time we met on this bill, we have looked into it through various departments within government, and we feel that the legislation as it is written is reasonable.

What more can I say to Mr. Storie? It is a classic. He believes in putting things in place, additional legislation in, I guess, anticipation of all of these problems, and we are saying that there is no evidence or need at this particular point in time, certainly, for this legislation. What is in front of us is reasonable.

Mr. Storie: I am glad the minister has consulted with some other department. I am not sure that many of the individuals in other departments that he has consulted with would ever be affected by this particular legislation. I would feel a little more comfortable if the minister had consulted perhaps with the Food and Commercial Workers, some of the people who may ultimately have to use this legislation to protect themselves.

I am ready for the question, Mr. Chairperson.

Mr. Stefanson: Briefly, Mr. Chairperson, in response, Mr. Storie knows full well, in the amount of discussion we have had on this legislation, the amount of input that has been received from the public to my office, the input we had from the public hearings here, and again, it has been mentioned by

one group through all of the public hearings and through all of the correspondence that we have received and in the discussions that we have had.

Mr. Chairperson: The question before the committee is: Shall the amendment pass?

Some Honourable Members: No.

Mr. Chairperson: All those in favour of the amendment, would you say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed to the amendment, would you say nay.

Some Honourable Members: Nay.

Mr. Chairperson: I declare the amendment defeated.

There is, Mr. Storie, another amendment on the paper that I have before me. Do you wish to propose that? [interjection]

THAT section 6 of the bill be amended by adding the following after the proposed section 41.2:

Penalty

41.3 Notwithstanding subsection 15(1) (offence and penalty), a person who contravenes section 41.2 is liable to a fine not exceeding \$2,000.

[French version]

Il est proposé que l'article 6 du projet de loi soit amendé par adjonction, après l'article 41.2, de ce qui suit:

Pénalité

41.3 Malgré le paragraphe 15(1), toute personne qui commet une infraction à l'article 41.2 est passible d'une amende d'au plus 2 000\$

Shall the amendment pass?

Some Honourable Members: No.

Mr. Chairperson: All those in favour of the amendment, would you indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, would you indicate by saying nay.

Some Honourable Members: Nay.

Mr. Chairperson: I declare the amendment defeated.

Division 3, The Payment of Wages Act, Section 7—pass; Section 8.

Mr. Storie: Mr. Chairperson, I move

THAT the proposed subsection 21(1.1), as set out in section 8 of the Bill, be amended by striking out

"or threaten to discharge" and substituting "threaten to discharge, discipline, suspend, lay off, intimidate, coerce or impose a penalty on".

[French version]

Il est proposé que le paragraphe 21(1.1), énoncé à l'article 8 du projet de loi, soit remplacé par ce qui suit:

Interdiction de congédier

21(1.1) Il est interdit aux employeurs et à leurs représentants de congédier ou de menacer de congédier un employé qui, s'il en a le droit en vertu de l'article 41.1 de la Loi sur les normes d'emploi, refuse ou tente de refuser de travailler un jour férié au sens du paragraphe 41.1(1) de cette loi. Il leur est également interdit, dans les mêmes circonstances, d'imposer une peine disciplinaire à cet employé, de le suspendre, de le mettre à pied, de l'intimider, de le contraindre ou de prendre des sanctions à son égard.

Motion presented.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: No.

Mr. Storie: Mr. Chairperson, again, this even sounds more reasonable than the first one.

Mr. Chairperson: The item is defeated. Section 8—pass.

Mr. Storie: I move

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

8.1 Subsection 21(2) is amended by adding ", and to restore any employment benefit lost by the employee as a result of being discharged or having the employment terminated" after "deems reasonable".

[French version]

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 8, de ce qui suit:

8.1 Le paragraphe 21(2) est modifié par adjonction, après "estime raisonnable", de "et de rétablir les avantages sociaux que l'employé a perdu en raison de son congédiement ou de sa cessation d'emploi".

Motion presented.

Mr. Chairperson: Shall the item pass?

Mr. Stefanson: Mr. Chairperson, can I have just one minute to check on it?

Mr. Chairperson: Mr. Storie, do you have a comment while the minister is considering with his staff?

Mr. Storie: This is just to, I guess, clarify what one might include as reasonable. It is to assure that someone could not just say, well, you know for your trouble here is \$400 when what they want is reinstatement, a right to earn a living.

* (1940)

So it is just ensuring that someone actually cannot get rid of an employee by using this as a means of doing it and saying, well, I will pay the penalty and take whatever, I guess, judgment that comes against me, but the employee will no longer have the benefit of working for the employer.

Mr. Stefanson: Mr. Chairperson, after a review of Section 21(2), the concluding statements in 21(2) are that the board may order the employer to reinstate the employee in his employment with or without such compensation as it deems reasonable. Obviously, the decision of the board could very well be to restore any employment benefits lost by the employee as a result of being discharged or having an employee terminated.

So, certainly, the kind of benefit that Mr. Storie is proposing here can be and should be part of the overall consideration that the board would take at the time of reinstatement. Basically, it is covered through that kind of board review that would be taken in any reinstatement. In fact, even the reference to employment benefit, I am not sure what the interpretation here would be of employment benefit. Compensation, as we all know, is I believe all inclusive in the broadest form so that it would cover any of the benefits whether it is wages, whether it is pensions, whether it is other forms of benefits and compensation that the employee would have been entitled to.

Mr. Storie: Mr. Chairperson, I assume that we are talking about the same section under The Payment of Wages Act. [interjection] The interpretation, I guess, could be that this compensation may include simply a lump sum for suffering. Who knows how the board is going to interpret that? It says, reinstate the employee in his employment with or without such compensation as it deems reasonable. What the amendment is trying to make sure is that apart from that, that the employment is in addition to whatever compensation is deemed reasonable by the board.

It says, and to restore any employment benefit lost by the employee as a result of being discharged or having employment terminated.

Mr. Stefanson: Mr. Chairperson, could I ask Mr. Storie what his definition of employment benefit is?

Mr. Storie: I assume that would mean the full range of benefits that an employee is normally entitled to—unemployment insurance, pension, other benefits that the company may normally provide, could be arranged, dental, who knows?

Mr. Stefanson: Mr. Chairperson, the act is quite clear as it is written that the board has the opportunity to determine all of those kinds of things and to make a judgment and to pass on the benefits to that particular employee, whether it is wages, pensions, other benefits. Or after a review, if they felt an employee had been obviously unjustly treated, one would believe that they would then provide for adequate compensation, which I have already said is all-inclusive and would therefore cover the kinds of issues that Mr. Storie is referring to.

So I do not think that we are in any way at odds of the entitlement, and the ability for the employee to receive them is provided the way the act is currently written.

Mr. Storie: My interpretation is that is less discretionary, 21(2) currently says "may." I thought that the "and" meant "plus," taking some of the discretion away from the board, making the employee's position more secure. That was the intention, anyway.

Mr. Stefanson: Well, Mr. Chairperson, I think I have provided comments, and I see no need for this amendment at this time.

Mr. Chairperson: The question before the committee is: Shall 8.1, subsection 21(2) be added to the bill?

Some Honourable Members: No.

Mr. Chairperson: No. The item is denied.

Part 4, Coming Into Force, Section 9(1)—pass; Section 9(2).

Mr. Storie: Mr. Chairperson, just a final note, as we put Bill 4 to rest here, that this is just part of the ongoing saga of the government's mishandling of the Sunday shopping issue.

Mr. Chairperson: Shall item 9(2) pass—pass; Preamble—pass; Title—pass. Bill be reported.

Bill 23—The Retail Businesses Holiday Closing Amendment, Employment Standards Amendment and Payment of Wages Amendment Act

Mr. Jerry Storie (Flin Flon): Mr. Chairperson, just for the record, we obviously could go—

Mr. Chairperson: Mr. Storie, if you would give me just a minute. We are now going to be dealing with Bill 23, The Retail Businesses Holiday Closing Amendment, Employment Standards Amendment and Payment of Wages Amendment Act.

Mr. Storie: I suppose I could have gone through each of the amendments that were proposed for Bill 4 and include them as proposed amendments under Bill 23. Having had the discussion once, I do not see much point in that. Again, it is the government creating more paperwork through incompetence by having these two pieces of legislation, sort of simultaneously, because they cannot decide what they want to do.

Suffice it to say, the arguments that were made with respect to Bill 4 I think hold with respect to Bill 23. The government says it wants to protect the small business's interests, even though this legislation undermines that security for lots of small businesses in the city of Winnipeg and across rural Manitoba.

In terms of the commercial leases, I think we have tried to lend some strength to the protection that small businesses have when it comes to refusing to open on Sunday, despite what their leases may call for, and we have tried to protect in the amendments the right of workers to refuse to work on Sunday.

So, Mr. Chairperson, the committee can take, as introduced, those amendments for Bill 23 in the appropriate sections. I do not think there is any need to rehash the debate unless the minister wishes to.

Mr. Chairperson: What is the will of the committee? Shall the amendments as proposed by the honourable member be passed?

Some Honourable Members: No.

Mr. Chairperson: No? Thank you.

Mrs. Sharon Carstairs (River Heights): I do have a few comments I want to make on this particular bill.

Mr. Chairperson: Thank you, Mrs. Carstairs. Please proceed.

Mrs. Carstairs: As I indicated in the House on Bill 4, while I supported the amendments of the New Democratic Party because I thought they would have made the bill even better, I in fact would have voted for Bill 4. I would have voted for Bill 4 because I believe that the majority of people in my constituency want Sunday shopping.

However, let me make it absolutely clear, I will not vote for Bill 23. I will not vote for Bill 23, because I think this is an abrogation of responsibility on the part of this government which is unconscionable and shameful.

Mr. Chairperson: Part 1—pass.

Division 1, Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass.

Division 2, Clause 5—pass; Clause 6—pass.

Division 3, Clause 7—pass; Clause 8—pass.

Part 2—pass.

Division 1, Clause 9—pass; Clause 10—pass; Clause 11—pass; Clause 12—pass; Clause 13—pass.

Division 2, Clause 14—pass; Clause 15—pass.

Division 3, Clause 16—pass; Clause 17—pass.

Part 3.

* (1950)

Mr. Storie: Mr. Chairperson, the minister may have an amendment to Clause 18.

An Honourable Member: Clause 19.

Mr. Chairperson: We will pass part—

Mr. Storie: Mr. Chairperson, then perhaps we will deal with my amendment to Clause 19 first.

Mr. Chairperson: Well, we are not quite to Clause 19.

Mr. Storie: You wanted to pass Part 3, though.

Mr. Chairperson: No, we will deal with it.

Clause 18(1)—pass; Clause 18(2)—pass.

Clause 19.

Mr. Storie: Mr. Chairperson, I move

THAT section 19 of the Bill be struck out and the following substituted:

Coming Into force and repeal of Part 2

19(1) Part 2 of this Act comes into force at 12:01

a.m. on October 1, 1993 and is repealed on September 30, 1994.

Revival of former provisions

19(2) Subsection 4(1) and clause 9(b) of The Retail Businesses Holiday Closing Act and section 21 of The Payment of Wages Act as they stood on April 12, 1993 are declared to be in force on October 1, 1994 as fully and effectually as if Divisions 1 and 3 of Part 2 of this Act had not been enacted.

[French version]

Il est proposé que l'article 19 du projet de loi soit remplacé par ce qui suit:

Entrée en vigueur et abrogation de la partie 2

19(1) La partie 2 de la présente loi entre en vigueur à 0 h l le 1er octobre 1993 et est abrogée le 30 septembre 1994.

Remise en vigueur d'anciennes dispositions

19(2) Le paragraphe 4(1) et l'alinéa 9b) de la Loi sur les jours fériés dans le commerce de détail ainsi que l'article 21 de la Loi sur le paiement des salaires, tels qu'ils étaient libellés au 12 avril 1993, sont déclarés être en vigueur le 1er octobre 1994 comme si les sections 1 et 3 de la partie 2 de la présente loi n'avaient pas été édictées.

I see the minister smiling. I hope the minister had the same idea as I did that this is a stupid idea. We should give it a year to live and then put it to death.

Hon. Eric Stefanson (Minister of Industry, Trade and Tourism): Mr. Chairperson, I will not prolong debate on this. I think it is self-evident what Mr. Storie is doing here. I certainly would recommend to the committee not to support this particular amendment. Subsequently, I do have an amendment to Section 19, and I would like to propose after this one.

Mr. Storie: Mr. Chairperson, I had hoped, perhaps foolishly, that the minister would come to his senses. I seen the look on his face when I introduced the motion.

An Honourable Member: Saw.

Mr. Storie: I saw—I am sorry, pardon me—I saw the look on his face. [interjection] Just jump right in whenever you like, Sharon.

I saw the look on the minister's face, and I thought perhaps we had struck upon the same idea how to get the government—[interjection]

Mr. Chairperson: Order, please.

Mr. Storie: We struck upon the same idea how to get the government out of this mess that it has created for itself.

Mr. Chairperson, the Minister of Agriculture (Mr. Findlay) goes oh-oh-oh. I can tell the Minister of Agriculture if he went out to his communities where he once worked, out in Virden, and asked them what they think about Sunday shopping, or if the member for Gimli (Mr. Helwer) went and canvassed his businesses in Gimli in his communities about what they thought of Sunday shopping, they would say this is a mistake.

I have letters from the member for Minnedosa's (Mr. Gilleshammer) home community. Portage has also expressed concern. Mr. Chairperson, the member for Portage (Mr. Pallister) may find it funny. The fact is that as a lot of the communities around the community of Portage, Oakville and others, see the demise of their small grocery stores as the shoppers are sucked in to SuperValu and Safeway, because they are open on Sunday, then maybe the people in his community will decide that they wanted someone who would stand up and say this is not such a bright idea.

Mr. Chairperson, this is a serious proposal. I believe a one-year sunset clause will do what this government refused to do. It will give us a chance to assess the impact after a year of this legislation. I certainly think that the idea of a trial period would have had merit, and had the government genuinely been interested in assessing the impact, if they had begun by establishing some sort of base of information on the circumstances in rural economy and the small business sector prior to the introduction of the legislation and followed it up with some sort of objective assessment after the trial period to see whether in fact retail trade had declined in the small business sector, whether particular sectors within the small business community were affected by this, we would have been debating at least from some sort of base of legitimate understanding.

The government has done this for political reasons to satisfy the Winnipeg Chamber of Commerce. That is the only reason it is being done, and they have refused, either through neglect or wilfully, to listen to the small business community and what they said.

The minister may try and say, well, the Manitoba Chamber is shifting, and now they are not so

concerned. I can tell you—and I have travelled in rural Manitoba—when I speak to the small business community, they are universally concerned. They do not think this is a good idea for their communities; they do not think it is a good idea for their small businesses.

I had hoped that the minister would say, here is an opportunity to have our experiment. It comes to an end, and we go back to what we had in 1987. Well, actually, we had it for a week in April of '93, as well, but it gives us a chance to go back to what everyone or most people agreed was a reasonable consensus, a reasonable compromise when it came to Sunday shopping.

I think that a sunset clause, and it has been used on many different kinds of legislation, the most recent being final offer selection, can be a useful device in an act. I do not think, quite frankly, that many government ministers are comfortable with this legislation.

I think that this kind of a clause gives the government an out. I am not doing this because I want to protect the political future of the Minister of Industry, Trade and Tourism (Mr. Stefanson) at all. I am interested in making sure that we are not saddled with a piece of legislation that works against the interests of the small business community for next year and the year after that and for the next decade, because there is not the political will in the caucus to challenge the Winnipeg Chamber of Commerce. That is why I think we need a sunset clause, and that is what I am proposing.

Mr. Stefanson: I do not see the need for this amendment as being proposed by Mr. Storie. He keeps referring to the Winnipeg Chamber of Commerce. Yes, they were one organization that appeared in support.

There are many other individuals, organizations, businesses that have appeared in support of Sunday shopping. You have sat through the presentations, Mr. Storie, to look at the list and see—

Point of Order

Mr. Storie: Mr. Chairperson, on a point of order, the minister is—I was going to say intentionally, but that would be unparliamentary. The minister is misconstruing what both SuperValu, Westfair and Canadian Tire said in committee.

Mr. Chairperson: Mr. Storie, you do not have point of order.

Mr. Storie: What they said was, they were prepared—

Mr. Chairperson: Order.

* * *

Mr. Stefanson: Mr. Chairperson, we have had delegations, we have had correspondence from individuals, businesses, organizations that do support wide-open Sunday shopping. We realized all along since we went into this, unlike some members in our legislature, that it is not an issue that has unanimity amongst all Manitobans. It is a controversial issue.

I think anybody who has followed the trial period has indicated there have been economic gains as a result. There has been consumer preference shown when you have individuals and organizations and businesses appearing and talking about the level of activity that is occurring on Sunday. That is showing that consumers in many regions of our province want to see wide-open Sunday shopping. It is also showing that many retailers want to see wide-open Sunday shopping.

I do not know if this will help alleviate some of Mr. Storie's concerns or not, but another province that now has had Sunday shopping for a about year, that happens to be governed by a New Democratic Party at this time, that brought in the wide-open Sunday shopping, there was a recent article that appeared in the Toronto Star just a few days ago.

* (2000)

I will just read very brief excerpts from it: One year after the provincial government gave its unofficial blessing to Sunday shopping, the hustle and bustle of Saturday is spilling over into Sunday, but people continue to attend church, and families still go on picnics. Church leaders say the faithful still come to Sunday services, and operators of tourist attractions such as the Metro Zoo report little change in Sunday attendance figures. There is a lot of business being done on Sunday, says Mel Fruitman of the Retail Council of Canada. It does seem to be satisfying consumer needs. While union leaders are preaching abstinence, many of their members are shopping on Sundays, helping to make it the second most profitable retail sales day. Well, Sunday shopping has not hurt or helped

attendance at his church, is a quote from Mr. Wyatt of Trinity-St. Paul's United Church.

So, in a province where he can talk to some individuals who, I am sure, he knows, I think he might find out, if he takes the time to do that, that it is not the destruction of families or other communities, the picture that he paints, and that municipalities in Manitoba, not unlike Saskatchewan, Alberta and British Columbia, will have the opportunity to make a decision in the best interests of their communities, whether or not to have wide-open Sunday shopping starting October 1 of this year, Mr. Chairperson.

Mr. Storie: Just one point, I recognize that other jurisdictions have attempted—I do not think that justifies the Province of Manitoba proceeding with wide-open Sunday shopping. I think there are lots of reasons other than religious reasons for opposing it.

I made the point when I spoke to the bill, and by some of the questions that I asked of presenters, that sort of identified that Ontario is not Manitoba, that the city of Winnipeg is an economic magnet. It continues to suck the lifeblood out of rural Manitoba. This bill will ensure that that process is accelerated. That is the concern.

We are a different province than Ontario, certainly different than Alberta and British Columbia. The minister may recall, when the Canadian Federation of Independent Grocers made their presentation, they identified that around Regina, for a hundred kilometre radius, small communities were suffering.

We have an even more pronounced kind of economic anomaly in Manitoba. We have a huge, gigantic population, huge business community, 60 percent of the population in one part of the province. I think the business community that was here, certainly the representatives from rural Manitoba—and unfortunately, because the government refused to go out and listen to rural Manitobans, there were only two rural presenters.

There were many opposed to the legislation, but there were really only two rural presenters. One was the mayor of Winkler, and the other was a representative from Morden, the Morden Chamber of Commerce. But the government has refused to listen to all of the other people who have written, who have expressed their concern publicly to what the government is going to do.

Reading statistics from Ontario has very little relevance for the economic situation we find ourselves in in Manitoba. The minister does not appear willing to consider at least having an end to this so that we can have some genuine sort of assessment of whether it is having an impact, as some people believe it will have, certainly as I believe it will have, on small communities around Winnipeg, perhaps around Brandon, although the council in Brandon appears ready to turn thumbs down to Sunday shopping.

I am sure that it will also have a negative impact on lots of the independent small businesses in Winnipeg.

So I am prepared to call the question on my amendment.

Mr. Chalrperson: The question has been called. Shall the amendment pass?

An Honourable Member: A recorded vote.

Mr. Chalrperson: You want a recorded vote? The question has been called. All those in favour of the amendment, would you indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chalrperson: All those opposed, would you indicate by saying nay.

Some Honourable Members: Nay.

Mr. Chalrperson: I declare the amendment lost.

An Honourable Member: I want a count.

Mr. Chalrperson: You want a count? All those in favour, would you indicate by a show of hands.

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

Yeas 4, Nays 6.

Mr. Chalrperson: I declare the amendment lost.

Mr. Stefanson: Mr. Chairperson, I have one amendment that I would like to propose, and that is, I move

That Bill 23 be amended

(a) in the heading of section 19, by striking out "Coming into force" and substituting "Coming into force: Part 2"; and

b) by adding the following after section 19:

Coming into force: Part 3

20 Part 3 of this Act comes into force on the day it receives royal assent.

This is to deal with a drafting error, Mr. Chairperson.

[French version]

Il est proposé que le projet de loi 23 soit amendé:

(a) par substitution au titre de l'article 19, de "Entrée en vigueur de la partie 2";

(b) par adjonction, après l'article 19, de ce qui suit:

Entrée en vigueur de la partie 3

20 La partie 3 entre en vigueur le jour de sa sanction.

Mr. Chairperson: It has been proposed by the minister.

Mr. Storie: Explain, what does this really do?

Mr. Stefanson: It is quite self-explanatory. It is the coming into force of this particular bill.

Mr. Chairperson: The question has been called, shall the amendment pass?

Mr. Stefanson: If you look at page 12, starting with Section 18(1), it deals with the coming into force of Part 1. [interjection] No, but I am just pointing out how the bill works. So that deals with the coming into force of Part 1. Section 19 deals with the coming into force of Part 2, but there is no provision for the coming into force of Part 3. If Part 3 does not come into force, we know what happens. So this is required to make sure everything comes into force.

Mr. Chairperson: Order, please. I would suggest to two members, if they want to discuss markets, that they should discuss markets somewhere else. Order, please.

There is an amendment by the minister that the bill be amended. The question has been called, shall the amendment pass?

Some Honourable Members: Pass.

Mr. Chairperson: Pass. No? All those opposed to the bill, would you indicate by a show of hands? No? All those in favour of the bill, would you indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed to the bill, would you indicate by saying nay.

Some Honourable Members: Nay.

Mr. Chairperson: The amendment is accordingly passed.

Shall Clause 19 as amended pass?

All those in favour of Clause 19 as amended being passed, would you indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed to Clause 19 as amended being passed, would you indicate by saying nay.

Some Honourable Members: Nay.

Mr. Chairperson: I declare the amendment passed.

Preamble—pass; Title—pass.

Shall the bill as amended be reported?

An Honourable Member: No.

Mr. Chairperson: Is it the will of the committee that I report the bill as amended? Agreed?

An Honourable Member: No.

Mr. Chairperson: All those in favour of the bill being reported as amended, would you indicate by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed to the bill being reported as amended, would you indicate by saying nay.

Some Honourable Members: Nay.

Mr. Chairperson: The bill shall be accordingly—

An Honourable Member: Formal count.

Mr. Chairperson: Formal count?

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

Yeas 6, Nays 4.

Mr. Chairperson: I declare the bill passed, and the bill shall be accordingly reported.

The time being 8:10, committee rise.

COMMITTEE ROSE AT: 8:10 p.m.