



Fourth Session - Thirty-Fifth Legislature  
of the  
**Legislative Assembly of Manitoba**

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**STANDING COMMITTEE**

on

**MUNICIPAL AFFAIRS**

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42 Elizabeth II

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*Chairperson*  
*Mr. Ben Sveinson*  
*Constituency of La Verendrye*



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**VOL. XLII No. 2 - 12:30 p.m., FRIDAY, JUNE 25, 1993**

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**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
CHOMIAK, Dave	Kildonan	NDP
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	NDP
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, Cliff	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
WASYLYCIA-LEIS, Judy	St. Johns	NDP
WOWCHUK, Rosann	Swan River	NDP
<i>Vacant</i>	Rossmere	
<i>Vacant</i>	Rupertsland	
<i>Vacant</i>	The Maples	

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS**

**Friday, June 25, 1993**

**TIME — 12:30 p.m.**

**LOCATION — Winnipeg, Manitoba**

**CHAIRPERSON — Mr. Ben Sveinson (La Verendrye)**

**ATTENDANCE - 10 — QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Driedger, Ducharme, Ernst, McCrae, Stefanson

Ms. Friesen, Ms. Gray, Messrs. Maloway, Sveinson, Mrs. Render

**APPEARING:**

James McCrae, MLA for Brandon West

**WITNESSES:**

David Vincent, Private Citizen

John Angus, City of Winnipeg

Ed Blackman, Canadian Union of Public Employees

Paul Moist, Canadian Union of Public Employees

Anthony Dalmyn, Private Citizen

John Ryan, Private Citizen

**MATTERS UNDER DISCUSSION:**

Bill 38—The City of Winnipeg Amendment, Municipal Amendment, Planning Amendment and Summary Convictions Amendment Act

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**Clerk of Committees (Ms. Judy White):** Good afternoon, I would like to bring the Standing Committee on Municipal Affairs to order. I have before me the resignation of Mr. Rose as the Chairperson of the Standing Committee on Municipal Affairs. I will now read the letter.

Dated June 25, 1993: I would like to resign as Chairperson for the Standing Committee on Municipal Affairs, effective June 25, 1993. Signed, Mr. Bob Rose.

The floor is now open for nominations.

**Mrs. Shirley Render (St. Vital):** I would like to nominate Ben Sveinson as Chairperson, please.

**Madam Clerk:** Mr. Sveinson has been nominated for Chairperson. Are there any other nominations? Seeing none, would Mr. Sveinson please take the Chair?

**Mr. Chairperson:** Will the Standing Committee on Municipal Affairs please come to order. We have before us the following bill to consider, Bill 38, The City of Winnipeg Amendment, Municipal Amendment, Planning Amendment and Summary Convictions Amendment Act. Copies of the bill are available to committee members on the table behind me.

It is our custom to hear presentations from the public before the detailed consideration of bills. At this time, I have before me a list of four presenters who registered to speak to Bill 38.

I would like to canvass the room at this time and ask if there are any other persons present who would like to make a presentation to Bill 38 this afternoon? If so, please let the Committee Clerk here to my right know, and she will add your name to the list.

Did the committee wish to put a time limit on the presentations?

**An Honourable Member:** No.

**Mr. Chairperson:** I would like now to call upon the first presenter listed, Mr. David Vincent, to come forward and give his presentation to the committee. Mr. Vincent, proceed.

**Mr. David Vincent (Private Citizen):** Good afternoon. My name is David Vincent, and I am here to speak only really on one part of the bill, but that being Part 2, which is the change to The Municipal Act.

I have the distinction, I think, of actually bringing this to the House and having people review it. The history of this thing goes back a long way—and I do not plan on making a long presentation. Everyone knows what it is all about. It all has been passed by municipal boards, et cetera, and we are here at the

final stages where I need to have legislation passed to effect what I want to do with my piece of property.

I, unfortunately, have some deadlines here that I have to meet, and I think everyone is aware of that also. So, unfortunately, my interest in this bill is tied up with other interests, which I am sure we are going to hear presenters discuss. I need to have the co-operation of everyone here in order to effect the changes I need. I just hope that everyone understands that this problem goes back to 1972 when there was legislation passed by the provincial government at that time which caused a conflict, an overlap of jurisdiction on my piece of property that I own. I have approval through a community committee stage for a subdivision which I need to have done and approved at council by July 21. In order to do that, I have to have the legislation in place. So I appreciate everyone's co-operation to this point, and I am here just really to make sure no one speaks in opposition to that section.

Thank you.

\* (1240)

**Mr. Chairperson:** Thank you for your presentation, Mr. Vincent. If you wait just one minute. Are there any questions from members of the committee? None? Thank you very much for your presentation.

Would Mr. John Angus please come forward? Mr. Angus, do you have any written presentation?

**Mr. John Angus (City of Winnipeg):** No, sir.

**Mr. Chairperson:** Thank you. Proceed, please.

**Mr. Angus:** Thank you, Mr. Chairperson, committee members. I am here basically to answer any questions that you may have in relation to the proposed changes. I am not here to argue or to dispute the different positions that council may decide to take. I am here to defend the request that council be allowed to make certain decisions within their own jurisdiction and rise or fall and suffer the political well-being or wrath of the population that they represent by making those decisions. So primarily, I am here to answer any questions.

One of the questions that, in reviewing Hansard, was of some concern was the proposal for library fees. I, again, would suggest to you that in spite of the fact that we had two opinions that suggested that we have the right to charge for library fees, the legislation was slightly ambiguous.

When The City of Winnipeg Act was originally written—former Premier Schreyer had introduced The City of Winnipeg Act, and in it there was a section that referred to fees to be allowed to be charged for things such as recreational facilities, libraries, et cetera. Then the specifics of the act went on to identify more stringent regulations. In order to clarify that situation, we have simply asked the provincial government to put in there that we can, in fact, charge for library fees.

This does a number of things for us, ladies and gentlemen. One, it allows us to charge a nonresidential fee for those people that pay no taxes to the City of Winnipeg but live beyond the boundaries of the city of Winnipeg, work in the city of Winnipeg and continue to use a number of the facilities that we have, such as the library.

For the information of committee members—again I am not here to defend the council's decision—council has decided that there would be a \$5 fee for adults, no fee for children under 12 and a \$2 fee for seniors. Members of the Legislative Assembly, we have \$28 million in assets of books, video tapes, tape recorders, large-print books, different language books, special interest material in our library system, and the majority of councillors felt that a charge of less than 10 cents per week to access these facilities was not an unreasonable vehicle.

Those people that are disadvantaged and/or have not the financial wherewithal to participate, there are procedures in place to account for and to allow them, with no embarrassment, to participate in the utilization of the library. I must emphasize, this is for a library card. This is not for access to the library. It is not for going into the library at any time it is open and to use the material that is there. It is simply to take books out.

In conjunction with the new system of the membership fee, we have reduced the cap on overdue books which was established at \$20 and has now been reduced to \$10. That is the maximum that we charge a person for an overdue penalty. That is to encourage people to return their books even if they have had them over a long period of time.

The final thing that I bring to the attention of the Legislature is that we have done this to try and meet very difficult financial obligations we have within the city of Winnipeg. This is going to allow

us to raise close to \$300,000 and the alternative was looking at closing half a dozen libraries, principally in the inner city.

So we, as all governments, are faced with very legitimate difficulties in continuing to make ends meet, and we respectfully request that you allow us to participate in setting our own fee structures as the more than 40,000 to 50,000 citizens we represent decide and direct us to do as individual councillors of the City of Winnipeg.

I would be pleased to answer questions, Mr. Chairperson.

**Mr. Chairperson:** Thank you for your presentation, Mr. Angus.

**Ms. Avis Gray (Crescentwood):** I just would like to make a couple of comments actually, not a question, for Mr. Angus.

I certainly may personally have some difficulties with what the City of Winnipeg decides to do in regard to the setting of library fees. Of course, as an MLA I will certainly take that up with a number of councillors, and also as a taxpayer and a citizen of Winnipeg I will take that up with my particular councillor in my area.

However, I think Mr. Angus, his point about coming forward to this committee and asking that the city, by way of The City of Winnipeg Amendment Act, be allowed to have the authority to make those decisions, I support the city's right to do that. I think then, as again Mr. Angus has said, that it will be up to individual councillors to live with the decisions they make based on obviously a number of factors and they will be held accountable by their various constituents.

But in terms of the principle of The City of Winnipeg Amendment Act and allowing the city the authority to set fees or not set fees, I do not have a difficulty with that principle.

**Mr. Chairperson:** Are there any other questions?

**Ms. Jean Friesen (Wolseley):** Mr. Angus, you said you had two legal opinions on this particular section, and yet you still seem to feel, or at least the provincial government assumes, that it needs this legislation. Can you give us any further details on the ambiguity of those?

**Mr. Angus:** May I refer to my notes? The existing section, to the member, Mr. Chairperson, through you, states that Section 402 refers to public baths, libraries, et cetera. Then it goes on to say the city

may establish, regulate and charge fees for the use of public baths, swimming baths, public bath house gymnasiums, et cetera, and it goes on to refer to more specific things.

It does not specifically say that we can charge for libraries, and while, as you well know, that if you have one lawyer in a town he starves to death; if you have two lawyers, they both become millionaires because they love to have differences of opinion and argue.

While we were relatively comfortable that we were within our bounds to do this and have been for out-of-town residents and things of that nature, it was thought by the law department that in order to put the issue to rest once and for all we would request the change be made to allow us to, by law or by council decision, make those decisions. I hope that answers your question. It is a clarification more than anything.

**Ms. Friesen:** I think the issue would be that previous legislation speaks of regulation of libraries and not specifically of charging fees.

Can I follow up with a couple of questions? The library already does charge fees for nonresidents and also for videos and records and that kind of thing. What, in the opinion of the city's law department, has been the basis for doing that, if they are now unsure of the ambiguity?

**Mr. Angus:** We believe the existing legislation gave us the permission to do that. There was a suggestion that at some point in time somebody may challenge the ambiguity of it, and we should ask for specific clarification so that there is no doubt that we have the right to do it.

**Ms. Friesen:** But nobody ever has challenged it since—what was that section of the last act? Time immemorial?

**Mr. Angus:** To the best of my knowledge, nobody has challenged that, but that does not mean that they will not. We are running into difficulties with large groups of people in places like Headingley and places like Stonewall and Selkirk working in the city and using our facilities on a regular basis, and at any one time any one of them could have felt compelled to challenge, and we are not sure where we would have been.

So we just did not want to run that risk nor inherit the costs of challenging or defending something that we have done when we can say, look, we think that we have the right to do it. If you agree, then

put it in there so everybody understands we have the right to do it.

**Mr. Chairperson:** Order, please, the minister would like just to make one comment.

**Hon. Jim Ernst (Minister of Urban Affairs):** If I could interject one moment. There are legal opinions from both the city and the province that the city has the right to charge for library service if they so wish.

This section, however, was being altered, changed, brought into the 1990s as a result of some ongoing discussions between the city staff and the staff of my department. So there was removal of terminology like public bathing houses, which is an archaic term in today's language, and use of public facilities. So there were things like arenas, which have been around since I suspect the 1960s or thereabouts, where fees and charges were being levied, but for some reason it was never included in the act.

So while we were making all these other changes, the question of libraries was also raised and we simply included the word libraries in that section along with arenas and swimming pools and other types of facilities. I do not think there is any question that the city does not have the right to do it. The suggestion is, if you are changing that section in any event, then you ought to make it as clear as possible. Any legislation ought to be as clear as possible for the public benefit.

**Ms. Friesen:** But, of course, the minister is putting his own particular perspective on this. Yes, there may be legal opinions which state one thing, but as the City of Winnipeg has said, there are legal opinions which suggest alternatives.

That is what we are considering here are the ambiguities and the kinds of principles which, as a province, we would like to apply to libraries.

On the matter of modernizing, I mean the minister uses the term "public baths" as archaic. Well, the swimming pool in my constituency is called a bath, and I do not think anybody has any objections to it. It is an historic term, and it is a term which stems from the principle that the public, the community, does have both health and leisure and recreational responsibilities. So the maintenance of that historic term, I do not think, is a big issue.

I wanted to know if your legal opinions, is the city prepared to table them and have they looked at the

relationship to The Public Libraries Act of Manitoba?

\* (1250)

**Mr. Angus:** Mr. Chairperson, I am not a lawyer. I do not have any written legal opinions with me. I am sure if you wanted to contact the legal departments of your own Leg Counsel, they would be able to give you those types of interpretations. I am here to simply represent, as a presiding officer of council, the fact that council has asked for permission to do this.

**Ms. Friesen:** Can I then ask the minister if his own research, Legislative Counsel, in looking at this bill, did look at its connection to The Public Libraries Act?

**Mr. Ernst:** Mr. Chairperson, I am prepared to table legal opinion from the Department of Justice for the information of the committee.

**Ms. Friesen:** I thank the minister for that. But still on this same section, could Mr. Angus tell us a little bit more about the other services which are contemplated in this section, charging fees for other services?

**Mr. Angus:** Is the member referring to the other services that may be offered by the library that we may want to ultimately attach a fee to? Or are you referring to other things in the act such as they have identified here, swimming pools, arenas, leisure centres, gymnasiums and so on? I would be pleased to try and direct my question to the specifics.

**Ms. Friesen:** No, I am still looking at Section 402, as amended: swimming pools, arenas, leisure centres, gymnasiums, libraries and may prescribe the fee or charge for the use of any public facility or the provision—and this is the part that concerns me—of any service to the public. Then the other part is: authorize the use of facility or provision of any service on any day of the week.

What is "any service" in the city's mind?

**Mr. Angus:** That is a fairly open-ended question, as you can appreciate. Let me answer your question in the following fashion. I was elected with more votes than I was ever elected for at the Legislative Assembly. I represent a constituency that is one and half times the constituency of the members of the Legislative Assembly.

Those people elect me and send me to City Hall and ask me to make certain decisions on their

behalf. I am guided by them to a certain extent. What we at the city are asking for, the 15 of us and the mayor, without any political inflection one way or the other, is that this particular assembly allow us to make those judgments and those decisions. We will make those decisions within our boundaries, and we will back off of those decisions when we find that we have made an error in judgment.

We have plenty of examples of those rights where we have taken initiatives in the best faith, the best interest of the majority of the group of councillors only to turn around, either in an emergency council meeting or subsequent council meeting and stand up and readily admit, across all party bounds and across all philosophical differences that we have made a mistake and that we want to be able to adjust it.

I think that the suggestion that it is ambience, that it is an all-encompassing piece of legislation, frankly, Mr. Minister and members of the committee, I say it is about time that you let the city elected representatives float or sink or swim in their own material in their own direction. I would hope that this Legislative Assembly would be able to do that, allow us to do that and then say to those people that they have difficulties with in their constituencies, go and talk to your elected representative at the city. Surely you have more important things to attend to.

**Ms. Frlesen:** I appreciate the point you are making, and certainly there may be a good deal of merit in that, but what we are being asked to do here is to delegate authority to the city or to delegate elements of regulation and price, and so I am simply asking, what does the city envisage under the term "any service" and "provision of any service on any day"? For example, can you give us a sense of the context of that. Are we looking at services that might be provided outside the recreational area?

**Mr. Angus:** As the members of the committee know, we have the right to charge for programs that our Parks and Recreation Committee decides to run for quilting or for car repair or for photography or food cooking courses. Those things are in existence and, you know, we would like to be able to continue them. I cannot as I stand here, nor am I politically naive enough to suggest that I am going to say we will for this and we will not for that. What we are asking for is permission to do it, and "any" means any. If you want to put in restrictions, then I

believe that is perhaps within your prerogative, but I would suggest that you do not put in the restrictions, that we allow the people out there to decide whether we are doing the right thing or not doing the right thing.

I will give you a further example, for the member, Mr. Chairperson. We have the right to negotiate our own wage settlements and our own packages, and we were as a city successful in negotiating with every one of our unions rollbacks that were comfortable both to the councillors and to the unions. If you had taken that right away from us, if you did not allow us that particular right, who knows where we would be in the City of Winnipeg right now based on the legislation that we have seen from this particular committee.

I am not here to argue your particular policies or the government's policies. I am here to ask this particular committee to acquiesce to the things the City of Winnipeg wants to try and do themselves and they will be politically accountable for those things.

**Ms. Frlesen:** I am not particularly arguing, as I am sure the councillor can readily see. I am not particularly arguing one political position or the other. I am asking, what is this legislature being asked to delegate? What is the context of any service? Is it, and the question I asked was, is it only recreational services?

**Mr. Angus:** In my mind as I would interpret that, that would give us a broad range of opportunities that we could look at. Now, I would have to get clarification, because there may be contradictory portions of the existing City of Winnipeg Act that will prohibit from doing certain things, so I am not going to suggest that we are going to be charging for baths or not charging for baths, or making those types of interpretations.

We, like you, come up with what we hope are reasonable ideas that the public will accept that will help us to accomplish certain goals. We float them at community committees or at standing committees. They then go to the legal department and to the experts that we hire to give us this information. They tell us whether it will work or whether it will not work or whether we will have difficulties, and so it is too open-ended a question for me to answer. Any means any.

**Ms. Frlesen:** Thank you, and you can appreciate that what I am having trouble with is the

open-endedness of service. Does it, for example, in your mind, cover garbage collection? Does it cover fire, police, or ambulance?

\* (1300)

### Point of Order

**Mr. Ernst:** Mr. Chair, I do not want to interrupt the member for Wolseley particularly, but this line of questioning is, I think, getting away from us. The intent is to establish a change in paragraphs 406 and 402, paragraph (a) that says the city may establish, regulate and charge fees for the use of public bathing places, swimming baths, public bath houses, gymnasiums and may authorize the operation of them any day including Sunday.

So in the context of the bill, the intent is to allow them to charge for principally what would be recreational services associated with those kinds of things, not any other police or fire or some other broad city policy.

**Ms. Friesen:** That is what I wanted—

**Mr. Ernst:** I suspected that, and I hope that clarifies the matter.

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**Ms. Friesen:** Thank you, I am glad to have that on the record from the minister.

**Hon. Gerald Ducharme (Minister of Government Services):** Mr. Chairperson, just to clarify, John, what you mentioned earlier that the fees, the library fees—and I would like to go back to the library fees—are an alternative to keeping the inner city libraries open at this present time.

**Mr. Angus:** Through you to the minister, what I specifically said was that we at the city are faced with shrinking dollars and continuing demands on our resources. We examined a number of alternatives. One of them was cutting back on the number of books that we have in the libraries. Another was looking at trying to lay-off and/or short-shift staff. Another was closing specific libraries.

As an alternative, we came up with trying to generate what we assumed or hoped would be a reasonable amount of revenue. The membership fee is only for adults that can afford to pay it. It is less than 10 cents a week to be able to access more than \$28 million worth of material in our public library system. But it is more than that, Mr. Minister. It is to allow us to charge a fee to those

people that live beyond the boundaries of the city of Winnipeg and pay no taxes to Winnipeg but continue to utilize our services.

**Mr. Ducharme:** Just to correct the record again, so you are saying that you will use the fees of probably the majority of the library users, which would probably be outside the inner-city area, to help keep those ones in the inner-city area open?

**Mr. Angus:** No, Mr. Minister, I am not saying that at all. Mr. Chairperson, once again, this committee must think that I am politically naive because I will assure you that we will make those judgments in the future. There is nothing in allowing us to charge a library fee that guarantees that libraries will stay open at any level or that we will acquire books at any level. What we are simply asking for this particular year—I was giving you the logic as to how we arrived at that decision.

**Mr. Jim Maloway (Elmwood):** Mr. Chairperson, Section 25 evidently will allow the city to operate solid waste and refuse services as a utility, and I am wondering if the presenter could tell me whether there will be in the future then charges for garbage pickup.

**Mr. Angus:** Mr. Chairperson, through you to the member, that is a decision that a subsequent and future council will make based on information that is available. I will suggest to you now that there are several municipalities in North America and some specifically in Canada, most notably the city of Nanaimo in NDP-driven B.C., that does charge for its garbage. So we may in fact make that decision. We would like the right to be able to do that.

**Mr. Maloway:** Perhaps the presenter could expand a little further then on the statement that it would allow the city to operate solid waste and refuse services as a utility. How does he envision this developing?

**Mr. Angus:** The removal of solid waste from homeowners is a growing problem in North America. There are communities such as Toronto and New York that have no place to take their garbage. It is a horrendous problem. We in the City of Winnipeg, in my ward, have moved with a bit of futuristic thinking to acquire in excess of 2,000 acres of prime land that will sustain and allow the continued growth of a landfill site. That we would like to become a special individual-specific utility. That utility now charges what is called a tipping fee. The tipping fee is to the commercial contractors



and/or people that use that landfill site. It is a fee for the garbage they bring to that landfill site. Money is accumulated from that, and that money is going to be directed to various developments of the landfill site as it is filled up, i.e., a park such as they have the one in Kil-cona Park, out in the north part of the city, and/or for other waste minimization recycling programs.

We have even directed some of that funding from that particular utility to something called Take Pride Winnipeg which allows us to beautify the entrances to the city of Winnipeg. The purpose of having it as a utility allows us to segregate the operating revenue and identify the specific expenses for that utility. If there is a reserve that we can accumulate into general reserve of the city, we can do that, but the money does not ipso facto go into the general pot of general revenue the city has. So it allows us to develop a business standing alone that provides the service to the citizens.

**Mr. Chairperson:** Order, please. The minister would like to say a word here.

**Mr. Ernst:** If I can help clarify the situation, every other municipality in the province has the right to do this at the present time except the City of Winnipeg. The proposal here is to, of course, allow the City of Winnipeg at some point in the future, if they so choose, to do this.

**Mr. Maloway:** Mr. Chairperson, a final question to the presenter. When does he see the city starting to charge for garbage collection?

**Mr. Angus:** I refuse to be baited by that type of a question. It will be when council decides to take that initiative.

Mr. Chairperson, there are two other issues that I would like to comment on, on the issue. There is one of procurement. We at the City of Winnipeg find our hands tied in certain instances in being creative and trying to buy material. These are suggestions for changes in this act that will allow us to go beyond just the tendering process—not that we are going to eliminate the tendering process, but it will allow us to do other types of procurement which I think are beneficial.

Secondly, there is a bit of land grab down in the southeast corner. It is a reasonable tying up, of putting the city in a position of having the property that it realistically and for all intents and purposes monitors be legally within the boundaries of the city

of Winnipeg, and it allows those people the luxury of paying our high taxes.

**Ms. Friesen:** I wanted to go a little bit further on the first item you mentioned, that is the issue of procurement. Could you tell me what difficulties the City of Winnipeg faces now in procurement that this bill will ameliorate?

**Mr. Angus:** The minister may be able to comment on that, as much as I have, from his experience as to why they decided to put it in, but we are currently limited to tendering for almost everything that we acquire. We are not allowed to enter into any creative bartering, if you like, for services that will allow us to get things and get them at a reduced price.

I think members of the city's unions are here to talk about that as well and to ask questions about that for clarification. So again, through you, Mr. Chairperson, to the member, a large number of the things that are in The City of Winnipeg Act were developed and designed many, many years ago, and as the saying goes, the times, they are changing. We are not asking your permission to do anything untoward. We are not asking your permission—and as I live and breathe we cannot do anything untoward because the next day it is in the front page of the Free Press or on the Peter Warren show. We have a much better checks-and-balances system than even the opposition can provide in our particular system, and so we are asking for the rights to do some of the things that we want to do. This is maintenance legislation, in my opinion, and not substantive legislation that is going to allow us to take a totally different direction—permissive legislation.

**Ms. Friesen:** There is sometimes a time lag between what the city does and when it appears on the front page of the Free Press, perhaps, as we have seen with the Convention Centre.

I am still looking for some specific examples of the changes that the city is looking for here, and I did want to pick up on one thing. Is this particular section put in at the request of the city? Was it part of the notification of the official delegation? It is Section 12.

\* (1310)

**Mr. Ernst:** If I can, perhaps clarify for the member for Wolseley (Ms. Friesen), yes, this was a request by the City of Winnipeg. Essentially, what it is doing is validating the existing practices of the city.

The act says tendering only. In fact, what the city does in cases of limited scope, shall we say, they will call for selective proposals, quotations or a number of other issues, ways and means of procuring goods and services. They actually have been doing that, and it has been discovered that, I guess, inappropriately, that they ought not to have been doing that.

So what we are suggesting here is that rather than us put in legislation every "i" and "t" that is necessary for them to contemplate every kind of procurement practice that there is, is to suggest that the city put a by-law in place—the by-law which is public policy of the city, subject to public scrutiny on a regular basis every time it is changed—is to put in place a procurement policy that will say, this is how we will do this.

In the future, if ways and means of procurement change, then it is much simpler to change the city's by-law than it is to change legislation and would leave it open to less challenge. But I am advised that basically what it is doing is it is attempting to allow the city to regularize what they are presently doing and have been doing for some time. This is, basically, the way that they procure their goods and services.

**Mr. Chairperson:** Are there any further questions, Ms. Friesen?

**Ms. Friesen:** I wanted to clarify this because I thought I heard Mr. Angus say that it was the minister who wanted to put this in, and the minister is saying that it is the city's. So I am just looking for a final agreement on that.

**Mr. Angus:** The final agreement is, Mr. Chairperson, that the province never—and Mr. Ernst particularly—gives us nearly a quarter of what we ask for.

I believe that we have asked for the right to do this. We may have disagreed on the wording, but the principle is the same. Yes, we would like the opportunity to negotiate different arrangements.

**Ms. Friesen:** As I understand what the minister is saying is that you are asking for the right to negotiate the kinds of arrangements that you are already engaged in.

**Mr. Angus:** Some, yes.

**Ms. Friesen:** Then what is different? That is what I am asking.

**Mr. Angus:** I am not sure what you mean, what is different?

**Ms. Friesen:** I do not know whether we are running into semantic difficulties here, but the minister says, (a) that the city requested this, (b) that it is to regularize the existing practices of the city.

Okay, that is something for us to look at when we are examining this bill. Now what I hear Mr. Angus is saying is that it is only partly what the city asked for, or it is the wording that is somewhat different but the principle is the same, and that it will regularize some of the practices of the city.

So I am looking for, again, from the representative of the city, what this section on procurement will permit the city to do that it does not already do.

**Mr. Angus:** Let me, again, through you, Mr. Chairperson, suggest that the city has been doing different types of procurement. We have been advised that there was a requirement of The City of Winnipeg Act that we tender for everything.

We have gone to the minister and said this is a bit of a problem and could be a problem in the future of serious consequence. Will you allow us to be masters in our own house in this regard and put in that we, by by-law, can create our procurement policies? That is what I understand he has done.

**Mr. Ernst:** Let me try and clarify this before it gets any muddier. Mr. Carnegie, who is sitting behind me, is the counsel from the Department of Justice. He was a solicitor with the City of Winnipeg before coming to the provincial government. Mr. Carnegie also, I believe, was the head of Purchasing for the City of Winnipeg before coming to the provincial government's Department of Justice.

Mr. Carnegie wrote the procurement policy for the City of Winnipeg. That procurement policy is based on the model procurement policy of the American Bar Association, which is kind of the bible, if you will, for procurement policies across municipalities. The intent is, if I can require as an example competitive bids, which means it is based primarily on price. That is what you are after—competitive proposals, which means not only price but there has to be some maybe level of expertise attached to it or something along that line or requests for quotations.

It may be that if you are going to buy a computer system, you do not necessarily tender it,

particularly the software aspect of it. You seek out proposals from various suppliers to say this is what my software will do and what theirs will not and those kinds of things. It permits, for instance, single classes of procurement to be made from a single source. If you have all IBM computers in your operation, it is unlikely that you are going to go out and buy an Apple or a Macintosh or something like that; you are going to buy an IBM computer so it fits with all the other computers that you have. So that is also a content.

It also says, in an emergency situation, you can make a procurement. At that point, you really do not care what the price or you do not really care what the quote. The thing is you need it done and you need it done immediately, because it is an emergency. So it would allow that to occur as well.

So there are a variety of things that at the present time are not permitted, although are carried out. That procurement policy that was established, based on the general procurement guidelines of the American Bar Association, which is kind of what everybody uses I gather from what Mr. Carnegie tells me at least, is a normal practice. So the intent is to try and bring it into line with that, to suggest that tendering per se is not the only way you can buy something if you are an organization. The intent is to establish wherever possible, of course, competitive situations so that the taxpayer gets the benefit of the best price.

**Mr. Chairperson:** Thank you for your presentation, Mr. Angus.

**Mr. Angus:** Thank you, Mr. Chairperson. Thank you, members.

**Mr. Chairperson:** Would Mr. Ed Blackman and Paul Moist come forward, please? Mr. Blackman, do you have a written presentation?

**Mr. Ed Blackman (Canadian Union of Public Employees):** Mr. Chairperson, no, we do not have a written presentation.

**Mr. Chairperson:** Proceed, please.

**Mr. Blackman:** Mr. Chairperson, Mr. Minister, committee, we have some concerns. As expressed just previously candidly to the minister, for one reason or another we have not had an ample opportunity to go over this document as we should have, and there are a couple of areas in here that you have already touched on that concern us. One of them is the procurement area; the other is the services, such as libraries, and how that

procedure will work; the other area is the collection and disposal of solid waste.

Having said that, our major concern is in the procurement area and as has been said, we were led to believe and are led to believe that this procurement, the word "procurement," emanates from the drafting of the legislation and there is a procurement policy at the City of Winnipeg. I do not know that it is called procurement policy, but for the want of a better term I guess they have shortened it up.

\* (1320)

What we wanted to have was the opportunity to be sure that what is said in the procurement policy and what is existing in the present legislation or the present City of Winnipeg Act has the change contemplated exactly as Mr. Carnegie has indicated to the minister that is not a reflection of the existing policy of the City of Winnipeg. All we are doing is bringing this up to speed, so to speak, doing some housekeeping to bring the legislation up to speed with the existing City of Winnipeg Act.

**Mr. Ernst:** Mr. Chairperson, while maybe a little irregular, I hear what Mr. Blackman has had to say. What I am prepared to do is I will give it a little further explanation if you would like at the moment, and then I would be prepared to answer questions from Mr. Blackman directly or his associate, Mr. Moist, with respect to these issues to try and clarify them for them and perhaps facilitate the process. You see, it is not usually done that way, but I am quite prepared to do that.

**Mr. Chairperson:** Is it the will of the committee? Proceed.

**Mr. Ernst:** I can just say that the current section of the act, Section 141, refers only to tendering and the procedures under which tendering will take place. What it says is the council may prescribe such terms and conditions with respect to the calling for, or submission of, and other matters relating to tenders for the supply of materials for the furnishing of labour to the city or for both as, in the opinion of council, are expedient, including but without restricting the generality of the foregoing form of general conditions that shall form part of the tender (b) the fixing and requiring payment of deposits (c) the furnishing of bonds or other securities for the performance of any contract by persons contracting with the city, and (d) the crediting, refunding or forfeiture of deposits that the

cancellation of bonds and other securities. A person submitting a tender to the city is bound by the terms and conditions so prescribed.

That really is all that it says. That is what The City of Winnipeg Act says at the present time.

The intent of this section is that in terms of the purchase of goods and services by the city, that we are referring to them in global terms as procurement, the definition of which I think is probably relatively obvious to most. The intent is that the city would be allowed to rather than simply have to judge themselves by what I just read relating only to tender, that they can in fact do what they have been doing all along for some period of time, as I had explained a little bit earlier in an answer to a question by the member for Wolseley (Ms. Friesen). The intent is to allow them to set a policy and that policy can be argued, will be argued before council, publicly, as to what and how they will procure their goods and services. But that is up to council to decide.

It is really, I do not think, fundamentally altering what it presently says in The City of Winnipeg Act versus what potential procurement policy may say.

### Point of Order

**Ms. Friesen:** Mr. Chairperson, on a point of order. Could I have a copy of what the minister just read, the section of The City of Winnipeg Act? I do not have it with me.

**Mr. Chairperson:** It is not a point of order, but the minister will comply.

\* \* \*

**Mr. Ernst:** Anything to please the members of the committee.

Let me read the definition in the bill of procurement which says: ". . . the acquisition by contract of

- (a) goods, whether by purchase, hire-purchase, lease, rental or other agreement;
- (b) services from an independent contractor; or
- (c) goods and services from an independent contractor in respect of real or personal property, or both."

That is the definition of procurement.

Now, the city, as I said, would ultimately establish a procurement policy for the city based on

the definition of procurement in the bill and would establish how they would go about the acquisition of goods and services and under what categories and so on.

You know, ultimately, I do not know what methods of procurement there will be, other than ones that are normally understood, I think, by most people. The ones I outlined a little bit earlier, I think, are basically those. If there is some other method of procurement that they may or may not include in there, that would remain to be seen.

**Mr. Blackman:** Mr. Chairperson, two questions then. In the act it refers to labour and materials; in the new era that we are in we use the term goods and services: is there any difference in the terminology?

**Mr. Ernst:** Under Section 141(1) procurement is described as: (a)—have you got the section there, Mr. Blackman?—goods; or (b) services.

**Mr. Blackman:** My second question, as we are entering into the 2000 era and the era of Total Quality Management and things related, I just want to be sure on the contents of the policy Section 141(3)(a): "require classes of procurements to be made by way of competitive bids, competitive proposals or requests for quotations."

We have heard, over the last number of months, during the budget process, people have taken forays to Phoenix, Arizona and have come back with the notion or the idea that internally the city or the municipality can enter into the competitive bid process. Am I to understand that this is not intended in that regard?

**Mr. Ernst:** Certainly, the intent is not for that to occur. This is a procurement, an acquisition policy for the City of Winnipeg as opposed to a service policy for the City of Winnipeg if it wants to go out and do something. I suspect if the city wanted to do that, that is up to them. You know, I do not think they need necessarily any legislation to do that.

What we have here is an acquisition policy for the city. In other words, if it is going to buy services, then this is how it is going to do it.

**Mr. Blackman:** Well, one final question, the only question I would have then. I do not know whether I am out of order, but I was wondering if we would be given the opportunity to have our people, our legal counsel, to perhaps review this from our perspective to make sure that we could not help improve the language, if that is possible. I am sure

Mr. Carnegie has done an admirable and excellent job, but I would feel more comfortable if I had the opportunity to consult with people that advise us.

**Mr. Ernst:** Mr. Blackman, under most circumstances I think I might well acquiesce to that. We do have, however, a difficulty we are also trying to accomplish with respect to the gentleman that spoke first. I would hope that the committee will deal with this bill today and get it back to the House next week so that we can by the 30th of June deal with it as required, but I will give you an undertaking that in the event there is still a concern after you consult your solicitor, and that in the event that an improved wording can be agreed upon early next week, that on third reading of the bill I would introduce an amendment to qualify that.

**Mr. Blackman:** Thank you, Mr. Minister. Mr. Chairperson, I believe Mr. Moist might have a couple of questions, if that is in order.

**Mr. Paul Molst (Canadian Union of Public Employees):** Mr. Chairperson, I will leave Section 141, because we will undertake to get something back to all parties present here by early next week, by Monday or Tuesday.

Just as one final comment on that bill, we took from the briefing notes associated with the bill the statement that the amendments here replace provisions on terms and conditions for tendering with broader provisions. This is the point that I am about to make that we have not had a chance to check with our counsel. The current statute talks about the city purchasing or procuring labour and materials, and we read that to be in the context of the city providing services. I will give you an example. The city runs a transit system. They may well tender out to the private sector the maintenance, heavy-duty maintenance, of those buses, but the clear context is in the city providing that service.

The new proposed wording, and this is the specific question we have for our counsel, now contemplates goods and services, perhaps the entire system. I know the province is not advocating that, and I do not think the city is even considering that, but under the current legislation the contracting out of that entire service would not be permissible. The new language is much broader. So those are the types of questions we are going to be posing with our counsel.

\* (1330)

**Mr. Ernst:** Well, that is fine, but I suspect if the city wanted to tender its entire transit service and lease its buses to the successful bidder, they can do that regardless of what this section says. But you will ask your lawyer accordingly, so that is fine. No point in getting into a protracted debate over semantics that might or might not change after you have had a chance to talk your counsel.

**Mr. Molst:** Mr. Chairperson, two other sections that we wish to speak on are Clause 22 of your bill which deals with fees. I have the act before me of what the present act says right now and I am aware of legal opinions on that section.

I guess we just want to make a couple of general comments on fees for use of libraries and other civic facilities because it might well be that the current act needs amending. Under the current act, it would not be permissible, we do not believe, for the city to charge fees for entry into public parks, for simply entering a park. Now, if you want to enter the park and purchase something, that is different. That was attempted in the last budget round at City Hall.

**Mr. Ernst:** I understand and I appreciate the concerns of Mr. Moist. The bill does not prescribe fees to be charged for any particular service. It is a permissive legislation to allow the city to charge fees it has historically charged and/or fees it may contemplate in the future, but the bill does not—it is a permissive section.

Mr. Chairperson, I do not want to be obstinate. I think I have tried to be co-operative as much as possible, but we are dealing with permissive legislation, and whether the city does or does not charge the fees is up to City Council. The argument whether you should or should not charge fees should be made before them, not before us.

**Mr. Molst:** Mr. Chairperson, through you to the minister, I simply point out that previous Legislatures have constructed over the last two decades a City of Winnipeg Act which in its current format, prior to this proposal, would not allow for the introduction of fees to enter a park. The proposed wording, I understand it clearly, is going to be up to City Hall whether they do that now. Previous Legislatures have determined the city should not be able to make that decision, as a matter of public policy interest.

Also, The City of Winnipeg Act, as it currently sits for the last two decades, is a creature of this

Legislature. You and your predecessors in this Legislature have paid for large portions of those public parks with provincial tax dollars, capital dollars, and as a matter of public policy, it has been a long-standing policy in this city that you do not pay to get into a park.

Last year they backed off in the city budget process with, I think, an illegal proposal. Next year, this amendment would make proposals to enter Assiniboine Park and charge somebody \$1.50 permissible, and with the greatest of respect, I think that is a policy issue for this Legislature.

So we make that comment and we make one final comment. We led a delegation of civic unions to meet through the Chair with the minister and colleagues of his to talk about something that is not in these proposed changes, and that is the real and serious revenue structures that face the city right now. I will not lay blame at this Legislature that the city is looking at very regressive forms of revenue generation like charging fees to enter libraries and things like that.

The city is doing that in large measure because they do not have options for revenue generation. They need the permission of this Legislature to generate revenues beyond what the act currently gives them, and the minister through the Chair is well aware that the civic delegation that met with him, I believe it was the 22nd of December last year and only just a few weeks ago on other matters relating to the city, have a very real concern that the city's revenue problems are not being adequately addressed by the Legislature, giving the city new avenues of revenue generation far more progressive than property tax increases or fees.

So it is not so much what is in Clause 22 here, it is what is not in the proposed legislation, and that is real reform of civic finances. That may or may not be a subject to discuss much further today, but we want to go on record as clearly stating that we believe the city of Winnipeg is an important feature of Manitoba's economy.

This Legislature has an important contribution to make because you give life to whatever taxing powers that they have, and to date some of the options, through the Chair to the minister, that we discussed last December and we discussed three weeks ago in your office have not been acted upon by the province, and we again make the submission. We do not believe that the City of

Winnipeg has a huge expenditure problem. It is an efficiently run city. It has a revenue structure problem. This tinkers with it. This does not solve it.

Finally, Mr. Chairperson, we want to comment on Clause 25. There was a question earlier on the notion of the city being allowed to operate a refuse utility, and again this is permissible. It simply allows the city to do it. I just wish to advise you, Mr. Chairperson and the members of the committee, there is legislation before the Ontario Legislature right now, Bill 7, which gives authority to municipalities in the area of the three Rs.

There is not a city over 100,000 of any substance in this country or any size where you would introduce user fees on refuse collection in the absence of some form of curb-side recycling. Again, there is not a large city in Canada—the best examples are B.C. and Ontario—where the city itself introduced those curb-side recycling programs on their own.

Bill 7 will articulate for you that province's commitment to things like recycling.

I think it is untimely for the city to be given the authority to strike a public utility in the absence of us having sorted out the province's WRAP legislation, your commitment to environmental programs. How we are going to reduce the amount of refuse that goes to landfills? Because if you allow the city to introduce a refuse utility option without there being curb-side recycling programs, you know what you are going to get? You are going to get people dumping garbage in bins that belong to commercial establishments. You are going to get people doing what they are doing just outside of Ottawa right now. They are stuffing into two garbage bags everything including the kitchen sink.

That is not productive. There is not a municipality in Canada that operates refuse as a utility where you pay per bag, and going with that is always a recycling program.

We do not have that here. So I am not really opposed to the city having the authority to strike a utility, but it should not be given to them now in the absence of any environmental programs of substance having been worked out between this level of government and the city.

Again finally, Mr. Chairperson, we may not resolve that particular subject matter today, but we

clearly go on record as saying we think the utility concept is doomed to failure within the city in the absence of recycling programs.

**Mr. Ernst:** Thank you, Mr. Moist. I can make a comment on two things. Yes, we did meet yourself and Mr. Blackman and other representatives of the city unions to discuss the question of provincial government funding. That matter did not fall upon deaf ears and I am not blind. However, we have limited abilities to reach those goals and to date, we have not come forward with any further abilities beyond some contribution of VLT revenues, which was announced in the budget.

\* (1340)

We will have to see how the province's finances fare in the next budget cycle in order to see what we can or cannot do for our capital city.

With respect to the issue of refuse collection, Again, this is permissive legislation for the city, I think, as you recognize. However, I can tell you that the Minister of Environment (Mr. Cummings) of the provincial government is working quite hard, as a matter of fact, and is I believe dealing on a very close basis with the Grocery Products Manufacturers association of Canada for a pilot project that would see Manitoba as the lead for environmental recycling of a wide variety of products, much wider than currently is the case.

Recycling is kind of a two-way street. It is one thing to collect it; it is quite another to get rid of it after you have collected it. We have seen that in Toronto where we have seen warehouses full of empty glass bottles that they have no way of dealing with. So the whole purpose is to establish not only the collection of materials to keep them from the landfill, but to be able to reuse them in an appropriate manner, a manner that is not inconsistent with sustainable development practices.

It does not make a whole lot of sense to, for instance, take empty plastic bottles, grind them up at not inconsiderable energy cost into sand-like material to mix it with concrete. What have you received in the process? You have obviously burned more energy. But anyway, I am getting off the topic, too, and I apologize.

Nonetheless, the fact of the matter is that this pilot project is well on its way, hopefully, to operation in Manitoba. I think we will all collectively be very happy to see that occur. So I tend to

concur in the sense that this is a very important topic, one that we ought to be addressing, we are, in fact, addressing, addressing it in a way, I think, that is probably very unique for the country. Ultimately, we may, if we are lucky, wind up with an industry here, a new industry that comes from this exact process of recycling materials. So with that, I thank you, Mr. Moist.

**Mr. Chairperson:** Are there any other questions for Mr. Moist? Thank you very much for your presentation.

**Mr. Molst:** Thank you.

**Mr. Chairperson:** Would Mr. Anthony Dalmyn come forward, please?

**Mr. Anthony Dalmyn (Private Citizen):** Mr. Chairperson—

**Mr. Chairperson:** Order, please. We will just pass out your presentation, then you can proceed. Proceed, Mr. Dalmyn.

**Mr. Dalmyn:** Thank you, Mr. Chairperson. I am here today to represent the interests of a number of citizens who came together on an ad hoc basis during the city's budget process in the earlier part of this year. The members of the committee will recall reading or hearing that the city proposed to close six branch libraries and to impose user fees on library cards.

A certain number of city library branches have been threatened off and on over the years, including the St. John's Branch and the Cornish Branch. In the process this year, a number of citizens from all parts of the city, some involved with historically active groups, others involved in the political process for the first time, lobbied for the continuance or survival of the inner-city libraries. There was a general resistance to the idea of charging user fees, at least a fee for a library card to all users. I think it was recognized that in other cities, and indeed in Winnipeg itself, fees for certain special types of services might be appropriate.

One of the questions that came out of the entire process is whether the city does have the authority to impose what I call user fees for libraries. I have listened to the previous presenters, including Mr. Angus, and I have heard the honourable minister's remarks about the legal opinions. I beg to differ. Under the existing legislation, it is at best a question of interpretation as to whether the city can charge a user fee for a library card. The dominant legislation, as I have indicated in the written portion

of my presentation, paragraph (b) in Section 402 gives the city the power to run the library system, to acquire new libraries, to manage, to govern. There is one financial matter addressed in that paragraph which is imposing penalties for breach of the rules.

Now, standing on its own, a court would read that and perhaps read into management the power to charge fees for various services, but read in the act as a whole, if you read the existing 402(a) which specifically mentions fees for swimming pools or public baths or gymnasiums; if you read 402(c) dealing with theatres and auditoriums and charging for the use of those; if you read through the rest of the act—in paragraph 540 there is provision for charging for facilities and services in parks. In Section 529 of the act, there is provision for a fee for trailer parks. In 525(7) there are fees for ambulance services. In 442 there is provision for the city to enact by-laws charging fees for the removal of waste, and indeed the city does have a by-law charging fees for the removal of waste at certain levels to commercial customers.

I have heard, for example, that there has been some difficulty of the interpretation of this with the city recently asking charitable nursing homes for garbage disposal fees. Many commercial businesses find it preferable to use a commercial service which pays a tipping fee. Reading through the act I have selected that handful of examples, but the general scheme of the act is that where the city requires the power to operate a facility or to provide a service, there is specific legislation for it, and the power to charge is usually specifically set out.

So with great respect to those who hold a differing opinion, I would suggest that without the inclusion of libraries in the amendments to 402(a) that are proposed in Section 22 of the bill, the city does not have the authority to charge a user fee for a library. I am not aware of the city having yet passed a by-law dealing with user fees for libraries. There is a rumour circulating among the groups that I am connected with that the city would like to start charging \$5 commencing July 1. I do not know of any lawful authority for them to do so, but this is the type of diffuse concern that the legal uncertainty has caused.

The question as to why user fees should be charged for libraries is, with all due respect to the minister and others, a question for the Legislature. The city does not have the power to levy income

taxes. The city does not have unlimited power to raise revenues in whatever way it sees fit. The province overall through its Minister of Urban Affairs (Mr. Ernst) co-ordinates civic policy. Public libraries historically—they go back centuries, and a free and open accessible public library is a hallmark of literacy and culture in a society.

The city of Winnipeg at one time, even in its booming years, the 1880 to 1920 era, was perceived as a place deserving of civic charity, so Carnegie—no relation I am sure to Legislative Counsel—donated money which was used to construct the Cornish and St. John's and other libraries which have inscribed over them, free to all. The idea of charging for access to libraries, I suggest, is extremely rare in North America.

I have made enquiries of Mr. Anhang, the chairman of the Library Board, and he has pointed to a few specific instances, primarily in the United States, in which user fees are levied. Usually they are very modest. Usually seniors are exempt. Usually children are exempt. Usually the money levied stays in the library system. The library system cannot be used as a source of revenue to fund other portions of the city budget. In a few instances they charge what might be termed premium fees.

The present proposed legislation contains no limitations on library fees. So what I am suggesting to the committee is that the Legislature of Manitoba has to look very long and hard at changing a historical policy of not charging for libraries, and on the part of this Legislature, not allowing the city or municipalities to levy user fees to the users of libraries.

\* (1350)

Even in the depths of the Great Depression there were no user fees for libraries, and with all respect to Mr. Angus and the city councillors who have an elected mandate and who are trustworthy people, at the same time members of the Legislature have an elected mandate to co-ordinate urban affairs policy and to preserve libraries.

So my suggestion to this committee is that the modernization of language in the proposed 402 paragraph (a) can be put off, or else take out the word "libraries" from 402(a) and move the "and." In the alternative, if the committee does, indeed, wish to delegate the power to charge for library services



to the city, then spell out the conditions a bit more clearly. It should not be a blanket grant.

The other portion of my written submission comments on the opening words of the proposed 402(a), which now suggests the city will have a generic power to establish and regulate facilities and services and then to charge fees for it. The general practice in the past of this Legislature has been to specify the powers the city has and not to grant open-ended grants of power.

In the budget process it was suggested that the city had power or might not have power to charge an admission fee to city parks such as Assiniboine Park, St. Vital Park and Kildonan Park. If memory serves, the previous presenter, Mr. Angus, was the sponsor of that proposal and the reasons for which it was withdrawn are not known.

It was suggested that people who live outside of Winnipeg but work in Winnipeg, notwithstanding that they pay municipal taxes to their municipalities, are somehow parasites on the city and that we are going to have border gates at the edge of the city and charge people to drive on our roads, to flush our toilets when they work in their offices, and to breathe the air.

I suppose, relating it mainly to libraries, I would be concerned that the general words of 402, the opening words, could be used to circumvent this committee's decision to delete the word "libraries" from the proposed 402. But in a broader sense, I am simply observing that these generic grants of power are unusual.

I listened to the exchange between the member for Wolseley (Ms. Friesen), the minister and the previous presenter, Mr. Angus, with some interest. We appear to have a philosophical difference about what should or should not be delegated to City Council. I am not talking about political philosophy between the member and the minister, but the question as to what City Council is to be trusted with.

The whole City of Winnipeg Act is about what City Council is to be trusted with. The fact of the matter is, in our Canadian tradition, there are certain things that City Council is not allowed to do, and the province remains accountable for the fundamental constraints upon them. I am suggesting that the general grant of power is a bit of an odd one and would allow the city to do things

that would appear to be inconsistent with other parts of the act.

Those are my comments. Thank you, Mr. Chairperson.

**Ms. Friesen:** Thank you for your presentation. On a specific amendment, you are suggesting what? Could you go over that again with me, or what would satisfy—is it in the written presentation?

**Mr. Dalmyn:** Dealing first with libraries, in the fourth line the word "and" should appear before "gymnasiums," and then "and libraries" is out.

**Ms. Friesen:** That is a very simple amendment. In your view, how would that cover the existing issue of the charges that the City of Winnipeg already imposes on people from outside the city and, essentially, a rental arrangement—I guess one could assume it is a rental arrangement—for videos and records?

**Mr. Dalmyn:** I think there is a gap in the legislation, and the way to deal with that would be to add to the existing 402(b) or to put in a 402(b)(1)—that would be point one, I suppose—that would allow the city to charge library fees to people who are not resident in the city of Winnipeg and part of the population base of Winnipeg or to charge for special services.

In the written portion of my presentation I mentioned, for example, the example from New York or Chicago in which people get best sellers for a special fee for a short-term loan because the libraries end up buying 20 or 30 copies of the latest best seller and keeping only five of them past a year.

That type of thing would be constructive public policy, and I am reluctant therefore to suggest that the city not have the power to charge any fees at all. But the idea of a general fee to seniors, children, low-income families and with no constraints as to amount is disturbing. It would appear to me that the province is legitimately the guardian of these institutions which provide collateral service to the educational systems and other systems.

**Ms. Friesen:** I realize that you are speaking here as a private citizen representing a group of citizens, but you did make some interesting comments which I wondered if I could ask you further about. I think you heard my discussion with Mr. Angus about the issue of what is meant by the provision of

"any service" in that section. When you spoke, you spoke of Section 540, charges for facilities in parks, and I think you heard the CUPE delegation speak about their concern in Section 402, that any facility might mean a charge for a park.

Do you have any reconciliation of those perspectives? What would your interpretation be of "any service?" What is the context that we should be looking at?

**Mr. Dalmyn:** I would prefer to think that the words "any services" in the new 402(a) would be limited to similar things, and I believe the minister indicated the intent, at least of his government, to so limit it. Mr. Angus, not to put too fine a point on it, said thank you, but once we have it we will interpret it our way, and we will see you in court if anyone does not like what we do.

I do not wish to comment on the legality of what the city is already doing in terms of zoo fees or a potential entrance fee to parks. I have not considered that. The city does have a charging power in existing Section 540 to deal with services and facilities in anything that is defined as park land, including the zoo or a botanical garden.

If the new words are limited to their context dealing with what I would take to be arenas, libraries and mini-buildings, I would not think it broadens 540. It should not. But, as Mr. Angus so aptly put it, I am only one lawyer.

**Ms. Frlesen:** I realize you are not appearing here as a lawyer and I am presuming a bit to ask these kinds of questions, but I wondered have you looked at the context of The Public Libraries Act of Manitoba, and what kinds of connections would you direct us to between that act and the issues we are discussing here with libraries? Is there a connection?

\* (1400)

**Mr. Dalmyn:** With respect to public libraries in the city of Winnipeg, I do not see anything in that legislation that allows for charging.

**Ms. Frlesen:** It is my interpretation that that is a matter of provincial policy on libraries, so I think there is a perspective there that we can look at, if not a direct legal connection.

**Mr. Dalmyn:** I would not add to that except to take the opportunity to observe that if indeed it is existing provincial policy that libraries outside of Winnipeg should be publicly accessible, I am

wondering why the city is saying that Winnipeg becomes a special case, big and tough as it is.

**Mr. Chairperson:** Mr. Dalmyn, thank you for your presentation.

**Ms. Gray:** Just to clarify, and I thank Mr. Dalmyn for his presentation as well. Mr. Dalmyn, your concern—and certainly it is a very valid point that we want to be able to preserve our libraries—is that you would like to see amendments to The City of Winnipeg Amendment Act such that we limit the City of Winnipeg's ability to make those decisions regarding admission fees to libraries. You would prefer to see an amendment which would limit the ability of the City of Winnipeg to make those types of financial decisions. Is that a correct statement?

**Mr. Dalmyn:** I would clarify it. I would say notwithstanding what the city is doing in charging some people today, they really do not have the legislative authority to do it. I am suggesting that they not be given an open-ended power to charge whatever fee they want to whoever they want. There should be limitations as to the total amount, no fees to seniors, no fees to children, special-case scenario, or best of all, do not charge for access to the library itself.

If you want to impose a surcharge to people who take out more than five books at a time, or a surcharge or nominal fee for a paperback bestseller, or the use of a bestseller, that is something else. But an access fee, in the opinion of all the various people who have gotten involved in library policy, is a deterrent to the use of the library itself, a hardship for seniors, a hardship for children. It will, if anything, further the impression that our libraries are not used.

If I may put it in specific terms, it was suggested that the St. John's library and the Cornish library had low circulations, and that was the rationale for putting those libraries on the block. When we look at the surrounding areas, we see in Cornish Laura Secord School, which had only a couple of hundred pupils a few years ago, has ballooned in population with six-, seven- and eight-year-olds.

You have hundreds of school children in that immediate area who need access to a library, and if you are going to start charging fees, you are putting a deterrent on. As well, looking at the specific instance of the Cornish library, many of the children live immediately adjacent to the Cornish library in various low-rental or subsidized housing units and

their parents stood in line at four in the morning to get them into alternative programs at Laura Secord School. We see those children who are right across the street from the library and we know in many cases that the means are not there. It is going to be a sacrifice to the family to pay that library card.

Councillor Golden suggested you can evade it easily, but when all is said and done, a library fee is a deterrent to usage for honest citizens. I am suggesting it not be done, and that the province draw the line, not the city.

**Ms. Gray:** I agree with your comments about libraries, and I believe that there should not be fees either.

I asked that question about limiting the abilities of the city because I was wondering if you also support the piece of legislation in front of this Legislature, Bill 16, which will effectively limit the ability of another group of decision makers, i.e. school trustees, to make financial decisions within their own constituencies, and that is the legislation which deals with making financial decisions or limiting the ability of those school trustees to make financial decisions. Do you support that that type of legislation in principle as well?

**Mr. Dalmyn:** Mr. Chairperson, I suppose I bring a somewhat different perspective to this than the honourable member. In the eyes of the law, City Council, school divisions are delegated legislators. The Legislature establishes a mechanism through The City of Winnipeg Act, through The Municipal Act, through the Brandon charter, through The Public Schools Act to make these bodies publicly accountable and makes what comes cumulatively to a very broad grant of power and says, these elected people will legislate and raise public money by certain types of taxes and spend public monies in certain ways but always within these limitations, because we are one province, we do not have two provinces—Winnipeg within Manitoba—nor do we recognize school trustees by virtue of their election as having unlimited powers to decide educational policy.

I make that observation with my knowledge of the legal theory underlying municipal and school legislation. I have no personal position on Bill 16. I simply point out that if the buck stops somewhere, it is on this hill and not in the boardroom of the school divisions or down on Main Street.

**Ms. Gray:** Mr. Chairperson, basically, in terms of the library fees, I just want to reiterate my earlier comments that I may not agree with the idea of the city deciding, or if they decide, to set library fees, but I certainly believe in the ability or the right of the City of Winnipeg to make those types of decisions and then to be held accountable for them.

**Mr. Chairperson:** Thank you for your presentation, Mr. Dalmyn.

**Mr. Dalmyn:** Thank you, Mr. Chairperson.

**Mr. Chairperson:** As this completes the public presentations, are there any others that would like to come forward and make a presentation?

Sir, would you give your name and in fact if you have a written presentation.

**Mr. John Ryan (Private Citizen):** No, I have no written presentation. My name is Mr. John Ryan. The party that was going to make a presentation on behalf of the city evidently could not make it because of the short notice this morning and he had a commitment. So I am just going to speak just as an ordinary person on behalf of the city here, and this is in regard to the collection of unpaid parking fines.

**Mr. Chairperson:** Proceed, Mr. Ryan.

**Mr. Ryan:** Now, I am just reading here. It says: The following is added after section 510.

What is 510?

**Mr. Ernst:** Section 510 is the delegation to the City of Winnipeg as being the traffic authority for the City of Winnipeg.

**Mr. Ryan:** I understand that the city met with Mr. Ernst about a year ago, in June. Is that right, sir?

**Mr. Ernst:** Well, I meet with the city all the time.

**Mr. Ryan:** No, but I mean in regard to this particular issue here.

**Mr. Ernst:** Well, we have had a number of meetings.

**Mr. Ryan:** Okay, now, I mean, I am not a speaker. I am just speaking from my heart here. Here we are in the city of Winnipeg. We have over \$4 million in unpaid traffic tickets, people sitting there with two cars, two different licence numbers and having 20 tickets on one licence number and maybe 25 on the other, and the city is crying they need money. They have been saying for years and years, the province will not give us the legislation, the power to go after these people. You met with

the city. You agreed. I have got a copy from Mr. Driedger stating that you are willing to give the city the authority.

Okay, the mayor, everybody I spoke to, the Chief of Police, everybody agrees this money should be collected. I got a ticket here just the other day. I am a citizen, and I just want to show you I am paying my ticket, and I want everybody else to pay theirs. That is all I want. I want a fair shake while I am on this earth. We are all only just passing through here, and \$4 million, if you do not want the \$4 million because somebody should be—they should not be sitting there in City Hall and getting paid if nobody is doing anything. If that is what they are going to say in running an efficient city, well, let us get on with it.

That is a lot of money today. They are nickeling and diming us on bus fares. They want to cut libraries. They want to close up swimming pools, and there is \$4 million sitting there and nobody is doing anything about it.

**Mr. Ernst:** Mr. Ryan, first of all, I do not think it is fair to say that nobody is doing anything about it. The fact of the matter is that you have two methods of collecting the money, or actually today you have one method. That is issue a warrant for the arrest of the individual for nonpayment of their fines after appropriate due course. That is a very expensive way of doing it. We have devised, collectively amongst us, this way of doing it which is to allow them to tow vehicles on the basis of summary conviction and registry in the Personal Property Registry. So I am assuming, Mr. Ryan, you support the bill then, and—

**Mr. Ryan:** I certainly do.

**Mr. Ernst:** As soon as we can pass it, then we can get on with the whole process, and that is exactly what we are trying to do.

\* (1410)

**Hon. James McCrae (Minister of Justice and Attorney General):** Mr. Chairperson, in addition to what Mr. Ernst is doing here, we are moving now. I moved today earlier to move a bill at second reading to make it impossible for people who disregard their parking tickets to make use of the Fine Option Program as well. So we are working in concert here, Mr. Ernst and I, to address this problem.

**Mr. Ryan:** Yes, but the Fine Option Program, you know what that is. What does that mean to me?

**Mr. McCrae:** The Fine Option Program is the program where you can work off your fine. Well, if it is a parking ticket, you cannot do that anymore.

**Mr. Ryan:** This is cash. This is everybody has to pay.

**Mr. McCrae:** That is right. If you can afford a car, then you can afford to pay the parking tickets.

**Mr. Ryan:** I spoke with the Chief of Police, and this is 15 years it has been going back and forth. I had two heart attacks over this. I was dead twice. You can check with the St. Boniface Hospital. Last July 4, they brought me back, and I said, if it is the last thing I do, I am paying this ticket, but I want everybody else to pay theirs. I am talking from the bottom of my heart.

**Mr. Chairperson:** Thank you for your presentation, Mr. Ryan.

**Mr. Ryan:** I am sorry if I got carried away, but—

**Mr. Chairperson:** Thank you very much. As that completes the public presentations, is the committee ready to proceed?

**Mr. Maloway:** Mr. Chairperson, perhaps we could have a five-minute recess and meet with the minister and discuss our amendments.

**Mr. Chairperson:** Is it the will of committee to recess for five minutes? Agreed.

The committee recessed at 2:14 p.m.

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### After Recess

The committee resumed at 2:25 p.m.

**Mr. Chairperson:** The clauses are accordingly passed. The bill will now be considered clause by clause. During the consideration of a bill, the title and the preamble are postponed until all clauses have been considered in their proper order by the committee.

Clauses 1 to 21 inclusive—pass.

Shall Clause 22 pass?

**Mr. Ernst:** Mr. Chairperson, I move, in both official languages of Canada,

THAT Clause 402(a), as set out in Section 22 of the Bill, be amended by striking out " , gymnasiums and libraries," and by substituting "and gymnasiums".

[French version]

Il est proposé que l'alinéa 402 a), énoncé à l'article 22 du projet de loi soit amendé par substitution à

"des gymnases et de bibliothèques", et "des gymnases".

**Motion presented.**

**Mr. Chairperson:** Is it agreed?

**Some Honourable Members:** Agreed.

**Mr. Chairperson:** The amendment, as proposed, is accordingly passed.

Shall Clause 22, as amended, pass?

**Mr. Maloway:** Mr. Chairperson, we were waiting for our amendment to be copied, so if we could recess for a few minutes longer, we would be able to proceed then.

**Mr. Chairperson:** Is it agreeable by the committee to go on to pass the remainder of the clauses?

Clauses 23 to 51 inclusive—pass.

The committee will recess for about two minutes.

The committee recessed at 2:29 p.m.

### After Recess

The committee resumed at 2:32 p.m.

**Mr. Chairperson:** We are reverting to Section 22. Ms. Friesen, you have an amendment to Section 22.

**Ms. Friesen:** Mr. Chairperson, I move, seconded by the member for Elmwood (Mr. Maloway), in both official languages

THAT section 22 of the Bill be struck out and the following substituted:

22 Section 402 is amended

- (a) by renumbering it as subsection (1);
- (b) by striking out the section heading and substituting "Public facilities and services";
- (c) by striking out clause (a) and substituting the following:
  - (a) establish and regulate public facilities and services, including, without limiting the generality of the foregoing, swimming pools, arenas, leisure centres and gymnasiums, and may prescribe the fee or charge for the use of any public facility or the provision of any service to the public and may authorize the use of any facility or provision of any service on any day of the week;
  - (b) by adding the following as subsection (2);

### Free use of library by residents and electors

**402(2)** Notwithstanding any other provision of this Act, the city shall permit the residents of the city to have free use of

- (a) the circulating and reference books of every public library and branch it maintains; and
- (b) other services it thinks practicable that are offered in those libraries and branches;

### [French version]

Il est proposé que l'article 22 du projet de loi soit remplacé par ce qui suit:

22 L'article 402 est modifié

- a) par substitution, à son numéro, du numéro de paragraphe 402(1);
- b) par substitution, au titre, de "Installations et services publics";
- c) par substitution, à l'alinéa a), de ce qui suit:
  - a) établir et réglementer des installations et des services publics, notamment des piscines, des patinoires intérieures, des centres de loisirs et des gymnases, prévoir les droits ou les frais exigibles pour l'utilisation des installations publiques ou pour la fourniture de services au public et autoriser l'utilisation des installations ou la fourniture des services n'importe quel jour de la semaine;
  - d) par adjonction, après le paragraphe (1), de ce qui suit:

### Utilization gratuite des bibliothèques

**402(2)** Malgré toute autre disposition de la présente Act, la Ville autorise ses résidents à utiliser gratuitement les livres de prêt et de référence de chacune des bibliothèques publiques et succursales qu'elle entretient ainsi que les autres services qu'elle entretient ainsi que les autres services offerts par celles-ci et qu'elle juge utiles.

### Motion presented.

**Mr. Maloway:** Mr. Chairperson, the reason for the subamendment—we do like the amendment of the minister that the minister introduced and we passed—but we would like greater certainty. We feel that this subamendment does that because it is always possible that if we leave things the way the minister has them right now that the city could interpret "libraries" to mean "public facility," which is referred to in this section as it stands.

While the minister has taken the step to remove "libraries," he has left "public facility" there. I think there is every possibility that the city will say, well, so what, "libraries" are not in there but "public facility" is and "libraries" come under "public facility" so our subamendment here further gives some certainty to what the minister himself is trying to do.

**Mr. Ernst:** I have considered the proposed amendment by the member for Wolseley. I am prepared to accept part (a) but not part (b). Part (b) is relatively problematic in our view in terms of other facilities relating to library services. The City of Winnipeg, for instance, may rent out or choose to rent out a portion of libraries and things of that nature. It is somewhat discretionary, somewhat confusing, and I do not think it is serving any useful purpose. I think that the principal purpose of the member for Wolseley (Ms. Friesen) is in fact in part (a), and I am prepared to accept it.

Mr. Chairperson, can I suggest that the member for Wolseley withdraw her amendment and then the Clerk will take it away and take out part (b) and bring it back and then she can reintroduce it.

**Ms. Friesen:** Thank you. We will do that. Okay, for the record then, we will withdraw that motion and we will be reintroducing section (a).

**Mr. Chairperson:** Order, please. We will recess for another one or two minutes and come back with the amendment.

The committee recessed at 2:38 p.m.

### After Recess

The committee resumed at 2:39 p.m.

**Ms. Friesen:** Mr. Chairperson, I move, seconded by the member for Elmwood (Mr. Maloway), in both official languages of Canada,

THAT section 22 of the Bill be struck out and the following substituted:

22 Section 402 is amended

- (a) by renumbering it as subsection (1);
- (b) by striking out the section heading and substituting "Public facilities and services";
- (c) by striking out clause (a) and substituting the following:
  - (a) establish and regulate public facilities and services, including, without limiting the generality of the foregoing, swimming pools,

arenas, leisure centres and gymnasiums, and may prescribe the fee or charge for the use of any public facility or the provision of any service to the public and may authorize the use of any facility or provision of any service on any day of the week;

(d) by adding the following as subsection (2):

#### Free use of library by residents and electors

**402(2)** Notwithstanding any other provision of this act, the city shall permit the residents of the city to have free use of the circulating and reference books of every public library and branch it maintains.

#### [French version]

Il est proposé que l'article 22 du projet de loi soit remplacé par ce qui suit:

22 L'article 402 est modifié:

- a) par substitution, à son numéro, du numéro de paragraphe 402(1);
- b) par substitution, au titre, de "Installations et services publics";
- c) par substitution, à l'alinéa a), de ce qui suit:
  - a) établir et réglementer des installations et des services publics, notamment des piscines, des patinoires intérieures, des centres de loisirs et des gymnases, prévoir les droits ou les frais exigibles pour l'utilisation des installations publiques ou pour la fourniture de services au public et autoriser l'utilisation des installations ou la fourniture des services n'importe quel jour de la semaine;
- d) par adjonction, après le paragraphe (1), de ce qui suit:

#### Utilisation gratuite des bibliothèques

**402(2)** Malgré toute autre disposition de la présente loi ville autorise ses résidents à utiliser gratuitement les livres de prêt et de référence de chacune des bibliothèques publiques et succursales qu'elle entretient.

#### Motion presented.

\* (1440)

**Mr. Chairperson:** Amendment to Section 22—pass; Section 22 as amended—pass; Preamble—pass; Title—pass. Bill as amended be reported.

Committee rise.

**COMMITTEE ROSE AT:** 2:41 p.m.