

LAW AMENDMENTS COMMITTEE
10:40 p.m., Thursday, June 13, 1974

CHAIRMAN: Mr. D. James Walding.

MR. CHAIRMAN: The Committee will come to order. The bills remaining before the Committee are as follows:

Nos. 64, 68, 74, 75, 83, 86, 91, 92, 93, 94 and 96.

I have an indication there is one person wishing to make presentation to the Committee this evening. Is there anyone else present wishing to speak to the Committee? Hearing none, Mr. Kingdon, would you come forward please? Bill 92.

BILL 92

MR. KINGDON: Mr. Chairman and members of the Committee: On behalf of the 12,000 members of the Manitoba Teachers' Society, I do welcome this opportunity of being able to appear before the Law Amendments Committee regarding this bill, Bill 92, which is an Act to amend The Teachers' Pensions Act.

First, let me commend the Government for the features contained in Bill 92. In very general terms: in Section 1 the extension of survivor pension benefit; in Section 2 the escalation of deferred and disability pensions; and then in Sections 4 to 6, broadening the scope of portability of pensions under the reciprocal agreements and the adoption of the concept of a money transfer to the employer. And then in Section 7, repealing Section 59 (4) - no longer requiring the Society to pay the \$5.00 per month per eligible employee.

These are all amendments that we have advocated and we have requested, and hence we are very pleased that these aspects are now being included in Bill 92.

However, we are most disappointed in the fact that amendments to The Teachers' Pensions Act fail to deal with the most pressing problem to us, and that is the matter of war service for pensionable service for teachers. The Society has a list of about 30 known teachers whose war service is not being used toward credit for pensionable service, and at the present time the only teachers who may use war service credit for pensionable purposes are those who were teachers within one year of enlisting in the armed forces during the First and Second World Wars and the United Nations in Korean action.

War service is not being credited for teachers, first of all, who were in teacher training institutions or who were otherwise qualifying for a teaching certificate immediately prior to enlistment and who went directly from teacher training into the armed forces; and secondly, where teachers immediately prior to enlistment but who did not return to teaching in the public schools in Manitoba within the arbitrary time limit following discharge from the armed services; and thirdly, were not teachers immediately prior to enlistment but became teachers in Manitoba public schools immediately following discharge from the armed forces; and finally, served in the armed forces subsequent to the Second World War and the Korean War, and for example peace-keeping actions in the Middle East, the Far East and in Africa.

We believe that such war service should be credited towards pensionable service, and although this bill, Bill 92, does provide amendments that we appreciate and desire, we are disappointed that no action is being taken at this time regarding war service being counted toward pensionable service for teachers. Now perhaps it's not possible at this stage for further amendments but we would certainly hope that at the future sessions there will be serious consideration given for this request.

MR. CHAIRMAN: Thank you. Are there any questions of Mr. Kingdon? Mr. Marion.

MR. MARION: Thank you, Mr. Chairman. Through you to the witness. Have you discussed the pensionable service, the war service being credited as pensionable service, with the Government? Did you in your briefs?

MR. KINGDON: We have discussed this concern on a number of occasions for some time now. We have discussed this with each of the party caucuses and we have discussed it in some detail with the Minister of Education on several occasions.

MR. MARION: Another question through you, Mr. Chairman. How many teachers are affected by your concern?

MR. KINGDON: We know of approximately 30. There could be a few more but that is about the number.

MR. MARION: Thank you.

MR. CHAIRMAN: If there are no further questions, thank you, Mr. Kingdon.

MR. PAULLEY: Mr. Chairman, I wonder whether I may -- if there are no other delegations. I don't want to deprive them of their right to speak.

MR. CHAIRMAN: That's all.

MR. PAULLEY: I wonder, Mr. Chairman, whether the Committee would not agree - and there's no intention of being here until 4:00 or 5:00 o'clock in the morning, I say that - I'm wondering whether the Committee would agree to deal with Bills No. 68, Law Society Act, and 91, the Civil Service Superannuation Act, defer consideration of 92 dealing with the teachers in view of the representation tonight, and to deal with Bill 93, Bill 94, Bill 96, and following that, Bill 64 with the Treasury Branches Act. If that is agreeable to the Committee. I believe that the first named bills are relatively non-controversial and there may be one or two questions insofar as Bill No. 64, the Treasury Branches Act. So if that is agreeable to the Committee, may I suggest to you, Mr. Chairman, we deal in order 68, 91, 93, 94, 96 and 64.

MR. CHAIRMAN: Bill No. 68.

MR. PAULLEY: Oh, Mr. Chairman, if I may just carry that through, that if this is acceptable and agreeable to the Committee, that the members of staff who are here dealing with other bills, it may be agreeable providing my proposition is acceptable that they may absent themselves from the Committee and make themselves available for tomorrow morning.

BILL 68

MR. CHAIRMAN: Thank you, Mr. Paulley. I have an indication of one amendment to this on Page 2. Page 1 -- pass; Page 2, Section --

MR. PAULLEY: That's 68 is it, Mr. Chairman?

MR. CHAIRMAN: Yes. Mr. Boyce.

MR. BOYCE: Mr. Chairman, I move that Bill 68 be amended by adding thereto, immediately after Section 1 thereof, the following section:

Subsection 30.2 (3) amended.

1.1 Subsection 30.2 (3) of the Act, as enacted by chapter 55 of the Statutes of Manitoba, 1972, is amended by striking out the words "and the educational program of The Law Society of Manitoba" in the 5th line thereof and substituting therefor the words "educational programs of The Law Society of Manitoba and costs incurred by The Law Society of Manitoba in the administration and enforcement of this section".

MR. CHAIRMAN: Agreed? (Agreed) (The remainder of Bill No. 68 was read page by page and passed.)

BILL 91

MR. CHAIRMAN: Bill No. 91, The Civil Service Superannuation Act. There is an amendment on Page 3. Page 1--pass; Page 2--pass; Page 3, Section 9 - Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that the proposed new clause 26 (1)(d) of The Civil Service Superannuation Act, as set out in Section 9 of Bill 91, be amended by adding thereto, immediately after the word "service" in the 3rd line thereof, the words and figures "after December 31, 1965".

MR. CHAIRMAN: Section 9 as amended--pass? (Passed) (The remainder of Bill No. 91 was read page by page and passed.)

MR. PAULLEY: No. 93.

BILL 93

MR. CHAIRMAN: Bill 93.

MR. PAULLEY: No, we'll hold 92 in view of the representations made tonight.

MR. CHAIRMAN: Bill 93. Does Mr. Tallin have a report on this one, please?

MR. TALLIN: As required by Rule 110 of the Rules of the House, I report that I have examined Bill 93 and I would like to draw the attention of the Committee to Sections 1 and 2 of the bill which would divide certain proceeds payable to a minor, in equal shares between the minor and her two sisters.

MR. PAULLEY: In accordance with the will of the deceased.

MR. CHAIRMAN: Pass? (Agreed) (Bill No. 93 was read page by page and passed.)

MR. PAULLEY: 94, Mr. Chairman.

BILL 94

MR. CHAIRMAN: Bill 94. A nil report from Legislative Counsel. (Bill No. 94 was read page by page and passed)

MR. PAULLEY: Bill 96, Mr. Chairman.

BILL 96

MR. CHAIRMAN: Bill 96. There is a nil report on this one from Counsel. Mr. Paulley.

MR. PAULLEY: Mr. Chairman, if I may on this. There was a bill passed in the year 1903 which set the amount of money that the Brokers' Association can raise by debentures or go into debt of an approximation of a quarter of a million dollars. -- (Interjection) -- Excuse me, Mr. Chairman. Possibly Mr. Sherman should do this rather than I. I might say that I have taken a look at the contents of the bill and I realize that originally the real estate agents didn't know that there had been an escalation in costs in producing buildings from 1903 until today, so possibly, Mr. Chairman, the sponsor of the bill could indicate what the changes are.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Well, Mr. Chairman, actually I didn't mean to suggest that. The Minister had referred to the Brokers' Association. I was just going to point out that it was the Winnipeg Real Estate Board. But, as the Minister has suggested, it's an Act to amend the charter under which the Winnipeg Real Estate Board operates and specifically to amend that section which governs their borrowing power. It's true that the board was originally incorporated by a private member's bill in 1903. There was some updating and amending of the bill about three years ago. However, at that time nobody anticipated the requirement of the necessity of increasing the board's borrowing power, and the section of their charter governing their borrowing power limited it to \$250,000 borrowing power plus \$500,000 value of real estate held. Now, they're in the process of building a building and at today's escalated building prices and money costs it becomes totally impractical to build a building under that kind of restriction in terms of borrowing power, so they appealed to the House to permit them to have that section amended increasing their borrowing power, as stated in the amendment before members of the Committee, to \$750,000 and the clear value of the real estate held to a million dollars. And this is the sum and substance of the amendment sought. It came in late, as members of the Committee know, Mr. Chairman, and it's being rushed through.

MR. CHAIRMAN: (Bill No. 96 was read page by page and passed.)

BILL 64

MR. CHAIRMAN: The next bill before the Committee is Bill 64. Clause by clause? Section by section. Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I wonder if the Minister can indicate, or his officials can indicate, whether they have the Alberta Treasury Act here as well. I think for the purpose of discussing this -- do you have a copy there? Well it's kind of chopped up, I realize, but I think they will be of value because there are certain comparisons I would like to be in the position to make and I do not have my copy in front of me although I know the particulars. Mr. Chairman, I think if it's in the possession of the Minister, then there may be particular sections where I've asked him to read the Alberta section off as a basis for comparison and that's all.

MR. CHAIRMAN: (Section 1 was read and passed.) 2--pass? Mr. Spivak.

MR. SPIVAK: Can I ask something on this, on 2? Going back to the Alberta Act, the Alberta Act says that the Minister may establish; here it says "The government may establish" and I don't know whether that means anything particularly in terms of any particular Act, whether there is any significance in that the word "government" is used now rather than "Minister". It's like saying the Crown may.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: In drafting, it just seemed to me more appropriate that the government as a whole determines where branches of departments should be rather than the Minister.

MR. SPIVAK: So in other words what you're saying, though . . .

MR. CHERNIACK: The Minister could be irresponsible, eh?

MR. SPIVAK: No, no. But the point here is that that means the treasury branches are then open on the basis of an Order-in-Council. If the government establishes . . .

MR. TALLIN: Not necessarily, no. Government does a lot of things without Order-in-Council.

MR. CHERNIACK: Oh, really.

MR. SPIVAK: Well, you know, I think that when you say a Minister has, you know, the Minister has responsibility and he does it, he does it. He has that responsibility. It may or may not be done by Order-in-Council. When you say "the Government" I would assume that there has to be some directive upon which the Executive Council has made a decision and the decision is expressed in some form, in some written form, and that written form would have to be an Order-in-Council. Now that's fine. I don't care. I'm not trying to make an issue of this. I just want to establish that that will be the procedure.

MR. CHAIRMAN: (2)--pass?

MR. SPIVAK: Well, Mr. Chairman, I have no intention of delaying the Committee and I know there are some members who would like to leave right now, but the fact is I'd like to be able to establish, with respect to treasury branches, whether the appointment by government under this section means that there will be an Order-in-Council for the appointment of each branch.

MR. TALLIN: I don't think so. At the present time the Government selects where it's going to put branches of its various departments all throughout the Government without Orders-in Council and I would suspect that the same would occur here.

MR. SPIVAK: Okay. Can I . . .

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, how does the Government act other than through a Minister or by the Cabinet making a decision through Order-in-Council? What other alternative ways are there? So it says the "government" - I assume means the department which is charged with the responsibility of this Act can then proceed. So really, I suppose it's saying "the government" would mean either by ministerial direction or by Order-in-Council. Is that correct?

MR. TALLIN: That's right, it's just the way you presently do it.

MR. CHERNIACK: It's the way we presently do it, you say.

MR. CHAIRMAN: (Sections 2 and 3 were read and passed.) 4 (a)--pass; 4 (b)--pass; Section 4? Mr. Spivak.

MR. SPIVAK: Mr. Chairman -- (Interjection) -- I really would wish you'd wait. Yes I think that in the Alberta Act, if you have it in front of you, the words that were taken out and the words that may have significance really relate to the last line: "Whereas the Minister by the Superintendent or by an employee of the branches or by an agent of the Minister" - if I'm correct - and I think the significance - there might be a slight legal . . .

MR. TALLIN: Well employee's defined in this Act, whereas it's not in the Alberta Act.

MR. SPIVAK: Okay, that's fine.

MR. CHAIRMAN: 4--pass; 5--? Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I have to have the Alberta Act if I could for this, if it is possible.

MR. CHERNIACK: So, by all means.

MR. SPIVAK: Yes. Here is the point that I want to make. With respect to the Alberta Act, it says "in accordance with the Public Service Act" - and I assume that that's their Civil Service Act - "there may be appointed a Superintendent of Treasury Branches." And I'm assuming that that's correct at this point, and if I'm wrong I'd like to - I think that's correct. Whereas here, the people employed by the Government or the Superintendent of the Treasury Branch would give him the powers to make the appointments, would mean that those who are working are not civil servants. Am I correct in that? Is it intended that this should apply, that the people employed by the Treasury Branch are civil servants?

MR. TALLIN: Yes, they're employed by the Government as part of the departmental staff.

MR. SPIVAK: So the Civil Service Act would apply, although it's not explicit in the Act itself.

MR. TALLIN: No, it doesn't have to be.

MR. SPIVAK: I'm sorry?

MR. TALLIN: I don't think it has to be. The Civil Service Act says that people

(MR. TALLIN cont'd) employed by the Government shall be employed in accordance with the Civil Service Act.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: I think, Mr. Chairman, if I may, that we are not establishing a Crown Agency here, are we?

MR. TALLIN: No.

MR. CHERNIACK: That therefore this is part of a Government function, and therefore all the rules that affect Government as compared with a Crown Agency or a Commission are applicable; then all the rules affecting Government are applicable to the Treasury Branches.

MR. SPIVAK: All right. So long as there's - sorry?

MR. TALLIN: Except in one or two places where they're varied, where it says the Minister may issue cheques, and then the thing narrows out to comply with this aspect of the financial administration.

MR. SPIVAK: But I think then, although the appointment of the agent's section is separate and apart, just to - and No. 11 - I just want to establish the position. Is the appointment of the agent considered a Civil Service appointment? So in other words, he's like a contract employee.

MR. TALLIN: Yes.

MR. CHERNIACK: Oh no. I would envision the possibility - and I think that Mr. Blake referred to credit unions being said of that - I can envisage the possibility of a person who's doing something else being appointed as an agent. Is that not so?

MR. TALLIN: Yes, it's like the liquor control agent. I don't like the comparison but it's all right, they both produce revenues just as well.

MR. SPIVAK: So with the exception of the agent; everyone appointed is a civil servant.

MR. TALLIN: That's our understanding.

MR. SPIVAK: That's fine.

MR. CHAIRMAN: Section 5--pass. Six (a)--pass; (b)--? Mr. Spivak.

MR. SPIVAK: Dealing again with the question of the appointments. The appointments themselves will follow Executive Council appointments in the normal sense for the normal category of employees, is that right?

MR. CHERNIACK: I don't know what you mean by Executive Council.

MR. SPIVAK: Well, the Executive Council will appoint a certain category of professional officer . . .

MR. TALLIN: Approved.

MR. SPIVAK: Approved at least. Approved. They're approved by Executive Council, and that'll fall in the same procedure.

MR. CHAIRMAN: (b)--pass; 6--pass; 7--pass; 8 (1)--pass; 8 (2)--? Mr. Spivak.

MR. SPIVAK: I wonder if the Minister can explain the reasons for and the operation of an account in a Treasury Branch, that's in addition to, I guess, the Alberta Act. In other words, the Alberta Act says "subject to this Act the Minister may enter into contracts with any person pertaining to the making of deposits with the Minister and the operation of an account in the Treasury Branch."

MR. TALLIN: Because he may want to make a special - if you look further down in the Alberta Act, I think you'll come to a section which talks about other kinds of contracts relating to the operation of accounts. I just thought, actually if it's dealing with the operation of accounts he would make an agreement in connection with the deposit account with the depositor. That's just a drafting . . .

MR. SPIVAK: Oh, I see. All right, okay.

A MEMBER: Ready? Let's go.

MR. CHAIRMAN: 8(2)(a)--pass? Mr. Jorgenson.

MR. JORGENSEN: Well, Mr. Chairman, 8 (1), that pursuant to the dictum that was laid down last night by the Member for Radisson about conflict of interests, I wonder if MLAs would be eligible to make deposit in Treasury Branch and then be able to vote and speak on amendments to this Act in future?

MR. TALLIN: Well, I would say there would be great doubt in my mind.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I think there is a resolution for consideration on the Order Paper as proposed by the First Minister to be referred to the Committee on Statutory

(MR. PAULLEY cont'd) Rules and Regulations dealing with a disclosure of interests and the likes of that, maybe it could be handled, Mr. Jorgenson, at that particular time.

MR. JORGENSON: I'd better get myself on that committee.

MR. PAULLEY: Okay, I'm not on there yet, Mr. Jorgenson, only hopeful in that.

MR. CHERNIACK: Meanwhile don't borrow any money from the Treasury Branch. Or maybe we'll induce you to do it . . .

MR. JORGENSON: Right.

MR. CHAIRMAN: 8(2)(b)--pass.

MR. JORGENSON: I don't like to borrow any. I'm more likely to deposit.

MR. PAULLEY: So we'll both go on that committee, Warner.

MR. CHAIRMAN: (c)--pass; (d)--pass; 8--pass. Section 9 (a)--? Mr. Spivak.

MR. SPIVAK: Well, I wonder here, Mr. Chairman, if the legislative counsel can tell me why the section is a little different from the Alberta one.

MR. CHERNIACK: Because he's a better draftsman.

MR. TALLIN: I'm afraid I don't recall what the Alberta Act had in it.

MR. SPIVAK: The Alberta Act says, "Notwithstanding the terms and provisions of any contract the Minister may invest any moneys in a fund in such a period and improve real property as he may describe and may from time to time vary and transpose any investments that are made; may use any moneys in the fund to make purchase of goods, wares or merchandise for resell on such terms as to payment as may be agreed upon. Subject to the regulation, the Minister may loan any moneys in the fund to persons, firms or corporations upon such terms as may be agreed upon and may take any security for a loan so made, may realize any securities so taken."

MR. TALLIN: Well, I think the Clause (a) here was to confine their investment portfolio so far as securities are concerned other than a direct loan, to Bank Act investments, and it was a rewording to try and get that idea in.

MR. SPIVAK: Well, you see, let me just put the point here, that it says, "may loan any moneys in the fund to persons, firms or corporations upon such terms as may be agreed upon"; where this one says, "may pay moneys from the fund on such security for repayment." And there's a difference between making loans of money to persons, firms or corporations and loaning on security for repayment.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I stated in the House that we had yet to make the decision on whether we would want to operate in the way Ontario does, which does not make loans but rather provides all its money to the use of the Ontario Government; or whether we would want to do as Alberta does and set up our own loans. And the point I made was, that certainly it would not be desirable to set up in competition with Government agencies such as the MDC or the Economic Development Corporation or the Agricultural Loans, and therefore it might well be that we could accept deposits and then divert that money to be loaned out through existing agencies; and therefore it would not necessarily be a loan operation, but rather it could be by accepting securities, say, assignments of accounts of say, . . . mortgages, of the Agricultural Credit - and this I believe was designed to create that greater flexibility than a straight loan could.

MR. SPIVAK: Yes. Well, you see, now I think we come down to the very basic problem with respect to this Bill. And I think the point has to be made now. In effect the Government has options open to it and it's not sure where or how it will operate. And to that extent this is enabling legislation in that the options will be exercised by them, and this particular section gives the flexibility that you've talked about.

But the question that I put to the Minister - and he's going to reject it, but I still put it as a question that has to be placed on the record - is whether the Government should be coming to the Legislature and asking for permission to enter Treasury Branches and not being sure of the manner of the operation of the Treasury Branch; not being sure as to how and in what way funds will be invested, either within the Government or in the commercial way. And in effect, this flexibility, it's obvious from the wording and I accept that that's the intent; whereas in the case of Alberta it appears to be restricted to persons, firms or corporations, although there's still power for them to draw it out for their own purposes and I gather that they have, but I don't know under what section they have. What I'm saying is that I do not think - and I want to place this as a matter of record - I do not think that the members of the

(MR. SPIVAK cont'd) Legislature should have to approve the Government entering the treasury branch field and taking deposits without it being very clear of what the Government's intention is; and if the Government is not in a position because the study has not been made, then I suggest, Mr. Chairman, we should not have had the Bill presented to us at this time.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Well, Mr. Chairman, I appreciate Mr. Spivak putting this on the record again; and I accept that it goes on the record, and he's right that it should because that's his point of view. May I say that the intent to me is clear. The intent is to invite moneys for deposit and pay interest for it. The intent also is to make those moneys available in a way which will produce revenue for the depositors directly or indirectly, and to make loans. Now, if we go out of the business of the MDC and we go out of the business of the Economic Development Corporation, and we go out of the business of the Agricultural Credit and loans to fishermen, then it may well be that the moneys would be used for Government purposes only. But since we are going to be continuing the program of making loans, it's only a question of mechanics that will be the decision we make. We will decide whether we will do it through existing agencies or direct. But the purpose is the same. The mechanics are what have yet to be established, and therefore I have no hesitation in asking for legislative approval as to the intent and the purpose. And we can now debate to the extent that we have breath in our bodies to debate, and whether the intent is clear enough to approve our proposal or isn't clear enough and should be rejected. I believe that the committee and the Legislature will agree with me that the intent is clear and the mechanics having yet to be worked out, the enabling feature of this will then make it possible so to do.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I think one other matter has to be put on the record. If one was to examine the statements by the Premier during the election with respect to the entering into the treasury branch field -- (Interjection) -- well I think this is important, in spite of what the Honourable Deputy House Leader may say.

MR. PAULLEY: I just said uh, uh.

MR. SPIVAK: Yes. Well if one was to examine the statements made by the Premier and the statements that were made with respect to entering the treasury branch field, it was on the assumption that somehow or other interest rates would be lowered and that this would have an effect. Now if the Government intends to ask and seek deposits in which the deposits so placed with them will be applied for governmental purposes, I really do not believe that interest rates will be affected to the consumer. And I believe that that portion of what was, I think, part of the so-called mandate of the Government will not have been lived up to. And that's the dilemma I think that we have, because I think there's an essential difference from operating this as a savings depository in which money will be invested for Provincial Government purposes as opposed from money to be invested in a savings and be used for in a normal commercial way. And it may be that it could be flexible and have both, but it would appear to me at this point the Government not being sure puts us into, I think, a rather impossible position in trying to agree with the purpose. Because I think that there is an essential different purpose for the investment within the governmental structure, and I may be wrong, but I would think that in some respects even some of the objections of the credit unions would have been tempered by that kind of declaration. And I state again, that it puts the Legislature in an impossible situation in being asked to approve something for the Government that the Government itself hasn't decided. And this clause only illustrates the point, because it really is flexible enough for anything to happen. And really it's like a blank cheque being given to the Government.

MR. CHAIRMAN: (Sections 9, 10, 11, 12 and 13 were read and passed.) 14.1 (a)--pass; (b)--pass; (c)--pass? Mr. Spivak.

MR. SPIVAK: Mr. Chairman, on (c). I'd like an explanation of why it says, "except those that are specified by the Minister as not being chargeable to the fund."

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: It has been suggested to me that there will be occasions when certain work that is assigned to a Treasury Branch could well be in relation to an operation of Government, in which case we could designate that that is not the cost of operating the fund. I presume that if we set up an agency, say the Treasury Branch in some place other than in Winnipeg, it could then assume some of the function of the Department of Finance, or some

(MR. CHERNIACK cont'd) other department, which it will then serve to do - and under those circumstances we can indicate that that is a service to Government which is not an expense of the Fund.

MR. SPIVAK: Mr. Chairman, if we were to delete that - let me read it and see whether the Minister does not feel that it contains everything that he wants. "Payments from the Fund. There shall be paid from the Fund" - and I'm talking on (c) - "all other obligations or expenditures incurred in the course of the operation of the Fund or the branches." Now I think that would be axiomatic that any expense that's not incurred would not be included. And I think that would be far better than providing a discretion to be exercised by the Minister to be able to charge to the Fund what he deems. I, you know, accept what the Minister is saying as the reason for it, but at the same time am really reluctant to see the Minister be given the power to be able to charge the fund, you know, in an open way.

MR. CHERNIACK: It's the other way round. It's not charged to the Fund, it is really not charged to the Fund rather than charged to the . . .

MR. SPIVAK: Yes, I know.

MR. CHERNIACK: Well, I understood you to say it would be charged to the fund.

MR. SPIVAK: It's the reverse, and I explained myself wrong. But the point that I'm making is that it would mean that there shall be paid from the Fund all obligations or expenditures incurred in the course of the operation of the Fund or the branches, and that's what's intended and I don't think there should be . . .

MR. CHERNIACK: Well the example I gave was that the Branch may be asked to perform a function which we are now performing in a different way at a different expense for Government, and therefore it should be indicated that we don't want to burden the Fund with a cost which is an ongoing cost of Government now. And I can understand - and I, too, mark this as being one of the matters I would want to discuss. What is clear to me is that any payment that is made, the exception that is indicated, would have to be an exception that shows up in two places. One is Public Accounts out of an appropriation, and the other is the statement of the Treasury Fund itself as an indication that this came about. So that it would be in both cases an open statement as to what discretion was used by the Minister.

MR. SPIVAK: Well again, I think that we've talked about the problems of hidden subsidization with respect to this, and I can visualize a number of situations that could arise - and they may be theoretical at this time, but again I put it to the Minister. If in fact all the other expenditures incurred in the course of the operation of the Fund or the branches are paid from the fund and there is some additional work completed by the Treasury Branch, there's nothing that prevents money from being paid into the Treasury Branch for the work that's undertaken.

MR. CHERNIACK: But that in itself would then be a payment which could be attacked as a subsidization.

MR. SPIVAK: Yes, but on the other hand what you're saying here, as an example - assuming that if you were to arrange in a particular community that Autopac licences can only be obtained in a Treasury Branch, you are then going to be in a position to charge part of the expenses of the Treasury Branch operation to Autopac - and that may be a bad example, because Autopac may need all the subsidy it can get at a given time. But we could look at another situation - and we again talk about the problems of hidden subsidization in this - I don't think, I don't think you really want the ministerial discretion or the ability to be able to allocate in that way. This has been the problem we've made reference to already in Alberta, the problem of the joint sharing of real estate facilities in which costs - lighting, janitorial service, a variety of other things are competed - the Treasury Branch should bear what it has to bear, but it puts the Minister in a position of making the determination of what should be borne . . .

MR. CHERNIACK: Who should make that determination?

MR. SPIVAK: Well the problem is, if in fact it reads, "all other obligations or expenditures incurred in the course of the operation of the Fund or the branches," then it's pretty definite, that's what has to be undertaken. And when the Provincial Auditor goes to audit, he audits all the other obligations or expenditures incurred in the course of the operation of the Fund or the branches.

MR. CHERNIACK: So who makes the decision?

MR. SPIVAK: The Provincial Auditor.

MR. CHERNIACK: The Provincial Auditor doesn't make such decisions. He makes comments about those who do.

MR. SPIVAK: Well he makes comments because the Treasury Branch makes the decision.

MR. CHERNIACK: Well that's the point, Mr. Chairman - I'm sorry, I didn't want to interrupt you.

MR. SPIVAK: Well the point being, that the Treasury Branch makes the decision of what its expenses are in relation to its operation, and the Provincial Auditor in his audit confirms that or checks that. But what you're allowing now is the ability of the Minister, and you may not want it, but allowing the ability of the Minister to be able to charge some of the expenses to the Fund.

MR. CHERNIACK: Mr. Chairman, let's get back to the one of the first things we said when we started this evening, and that is that the Treasury Branch is really a branch of the Department of Finance, it is not a separate entity. And when Mr. Spivak says the Treasury Branch makes a decision, indeed that decision is made I assume by the Minister or by those delegated by him to make the decision. And eventually the Provincial Auditor doesn't decide it shall be so and so, he says somebody else decided; the Minister of whoever is in charge of this department has made a decision, I disagree with it. That is the Provincial Auditor's function. But the responsibility I believe maybe has to go right back to the Minister and the Minister - Mr. Spivak is right - I as Minister might not want to have that, make that decision, but I can't avoid the decision. But at least if I make it, I have to make it in a clear-cut manner which is as shown here, and then the Provincial Auditor both has the right to comment on it and the obligation to report it in the Public Accounts and in the statement of the Treasury Branches which he himself has to certify to. So that takes away the suggestion of the word "hidden" subsidy. If there's a subsidy, it will be exposed and not hidden, and that's the important thing.

MR. PAULLEY: The closest I have is this annual report.

MR. CHERNIACK: Yes, that's right. He has that right to.

MR. PAULLEY: . . . disagreement between the Auditor and the Minister as to the disposition of funds or otherwise.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Mr. Chairman, I'm going to take the other extreme that was mentioned by Mr. Spivak, in a sense that I see this section as being very essential, because if you take as an example a credit union and having certain services offered to members of credit unions, we all know what services can be offered - insurance can be one, safety deposit boxes can be another, and so on, but that is not directly related to the operation of the credit union as a saving and credit financial institution. And like the Minister mentioned, if there was other services delegated to Treasury Branches not related to the operation of the Treasury Branch as such, there should be a clause here to be able to charge back. You gave the example of Autopac, if Autopac as an example doubled its rates and had a non-divided earning instead of a deficit, well you wouldn't want to see the Autopac subsidizing Treasury Branches. So I think that clause is very essential in either case.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: What I am now talking, is about the operation of the Treasury Branch as a near bank, which is a reference that's been used constantly. As a near bank, it means that a branch manager of a near bank would have to pay all the expenses that are chargeable to his operation, if in fact he has another capacity other than a Treasury Branch and he performs a function that is credited to him in the sense that funds may be made available for his function. But the fact is, that if you allow this to stand, what you are allowing is for the interlocking of a number of operations of Government in a way in which as a result of discretion charges can be made and will be made, and it is more susceptible than it would be if this was eliminated to the kind of manipulation that I suggest could happen. I'm not saying they will happen, but they could happen. -- (Interjection) -- Well I'm saying it could happen. And I must say to the Honourable Minister, if in fact the Treasury Branch is going to be a one-stop Government office, you know, for all intents and purposes a financial community clinic - in that concept, and I'm not being facetious . . .

MR. CHERNIACK: I like that.

MR. SPIVAK: Well - and I'm not being facetious about that, in the sense of having all government utilities being paid, auto insurance and fire insurance being made available, and a variety of other things happening in a government office; that also contains the social

(MR. SPIVAK cont'd) workers, and may very well in a community clinic, and it could in certain situations. Or even in a Liquor Commission store - and I mean, we don't know what this is going to be, so I can speculate on this, it may not be - then I'm saying that the way in which all of this is charged will be so fuzzed up that there's no way in which you're going to be in a position to know specifically; nor is there any way in which the Provincial Auditor is going to be able to determine on the presentation of the report, that the Treasury Branch operation is independent. And I think this is a concern.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Mr. Chairman, there are things that can be defined here and now, because we do have examples elsewhere in Canada. We do have examples of existing financial institutions here. Again, just to cite one example, let's say that a room in the Treasury Branch was leased to a lawyer, the charge back would have to be to that firm, and there has to be a clause to deal with those things.

MR. SPIVAK: But nobody's stopping that. There's nothing that I know in this Act, if that portion that is specified by the Minister is not chargeable, the Fund is deleted. There's a lease of an office, so there's revenue coming in, and the revenue comes in . . .

MR. CHERNIACK: How?

MR. SPIVAK: Well the person pays . . .

MR. CHERNIACK: I'm sorry, I was talking to . . .

MR. SPIVAK: I'm sorry. The person simply pays for the lease. So what's happening now is there's a discretion given to the Minister and I don't think that discretion should be given, for the very fears that I have expressed.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, Mr. Spivak is saying that he recognizes there could be a separation of cost, and he is not being helpful as to how to handle that, unless he wants us to say that the Treasury Branch will be completely a separate operation from the rest of Government. And then you say, all right then, whatever premises they occupy, they pay rent. But we have agreed, and he himself has pointed out, that there could be an advantage of joint occupancy. Once there's joint occupancy, then somebody makes a decision of which portion of rent is paid by one or the other. And if what Mr. Spivak is doing is in effect - and I'm not saying for a moment that that's what he wants to do - but if in effect what he is doing is taking the Treasury Branches completely separate from all other government operations saying, here are the four walls, you operate completely separately, then he is denying the Government and the Treasury Branches the opportunity of making a saving in operating cost and a sharing of cost. You know, I don't even want to debate that possibility because I don't think we will want to do it; what we do want is that the records are clear, there is nothing hidden, that there is complete disclosure. That we want, and I should think that we are jointly interested in that. To the extent that we can do it and remove the opportunity for people who are unkind to us of saying, you are in a surreptitious hidden way trying to feed one or the other, trying to live off the other, trying to put your fingers into the jam pot and suck at the jam; if we want to prevent people from saying it, then we have a joint desire to disclose the full picture. Now any other way we can disclose it is fine, but don't box us into putting additional cost. Now I would be quite prepared to say - and wherever this has been done it shall deserve special comment by the Provincial Auditor in the Annual Report of Treasury Branches - if it is felt that that is not now the obligation of the Auditor, and I think it is, then let's say so. But let us not prevent the opportunity for Government and the Treasury Branches to have that kind of joint use of premises or of staff or of pieces of paper or of the erasers or of ink.

MR. SPIVAK: Well, Mr. Chairman, I do not think that the people of Manitoba - nor do I think that it's been represented in the Legislature - expect that the treasury branches are going to be a government service department in the same way as every other government department. Rather, if we are talking about a near bank, we are talking about an operation that will be operating as a bank. Now if in fact it is the Government's intention to operate it in the way which the Minister has suggested, then the problems of cross-subsidization that I referred to in my statement in the Legislature can be raised. And, Mr. Chairman, what the Minister is suggesting is, because that is a good possibility and that would save costs, that that is what should happen. I am suggesting that if in fact discretion is given to the Minister as to whether or not it would be chargeable to the Fund, that in effect what we are doing is we

(MR. SPIVAK cont'd) are allowing the kind of flexibility that maybe the Government wants but I don't think should be provided because, Mr. Chairman, I would suggest that that would put the treasury branches in the most unfair competition with the credit unions in their ability to be able to service the same area and be able to attract savings. I think, Mr. Chairman, that the remarks of the Minister in the beginning were that, you know, they were prepared to offer competition, but the competition has to be I think fair competition, and I think that if the section reads that the Fund must pay all the obligations and expenditures incurred in the course of the operation of the Fund or the branches, that's clear that's what it has to pay. And I don't think there should be anything else.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, the credit unions have made it clear that when they start out they will often work for free, and members of the Conservative Party made that point; that they take advantage of the executive and they work for nothing; and they take premises where they take part, they assign a partial office - and they do all that in order to build themselves. Now Mr. Spivak should not want to deny to treasury branches the same kind of opportunities as the credit unions have in being able to cut costs. Now I'm still asking Mr. Spivak, what do you want? Do you want disclosure, or do you want to box the treasury branches out of the opportunity to keep their costs low? And if we share the same desire to make the treasury branches, once established, work - and I recognize that Mr. Spivak is opposed to the treasury branches - but accepting the fact, as he did quite a while ago, that we are going to have them, then do you want them to work well, as economically as possible, with full disclosure - or do you want to put obstacles in the way of the treasury branches being able to be a successful operation?

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, Mr. Cherniack gives me an offer and says that that's the only way the offer can be presented.

MR. CHERNIACK: No.

MR. SPIVAK: Well I'm suggesting to you that, you know, his position is not the position that has to be taken. Frankly at this point with respect to treasury branches, I think it has to operate as a near bank, and to the extent that it's going to have the contribution of government, everybody in government that I know that is being paid for or is being paid something . . .

MR. CHERNIACK: Very well.

MR. SPIVAK: . . . very well. And to that extent, Mr. Chairman, I do not believe that in any way does it compare to the credit unions - and that's an argument that can be advanced, but I don't think that Mr. Cherniack in all seriousness believes that. Having said that, I again say, and I think that the legislative counsel would indicate this, that if the fund of the treasury branch is to pay its obligations and expenditures incurred in the course of the operation of the Fund or branches, that that's all that's required. You know, I mean, if the treasury branch has to pay the expenses and obligations in the course of the operation of the Fund or the branches, and that's all. If in fact it shares a facility, if in fact there is a rental of some space, if in fact it carries on a function, it is no different than any other institution and I think that that has to be understood. -- (Interjection) -- Well any other bank. But the point is, it's not liable to -- (Interjection) -- Well that may be. They can pay rent, but they are not liable to a discretion of the Minister, and that's really what it says. -- (Interjection) -- Well no, that's not true. I mean, they're not liable to have their expenses allocated by . . .

MR. CHAIRMAN: Order please. Order please. Order. Members who wish to speak indicate, and I'll put you on the list and you can speak in your turn. Mr. Paulley.

MR. PAULLEY: Well I'm wondering, Mr. Chairman, whether or not - I'm just throwing this out into the ozone - in this particular Section 14 (1)(c) and I think this is the point where Mr. Spivak really is raising his question. It's dealing with the matter of "all other obligations or expenditures incurred in the course of the operation of the Fund or the branches except those specified by the Minister as not being chargeable to the Fund." Is there not room for - and I direct this through you to the Minister - that this cannot - and I offer this as somewhat of a compromise; I don't know how far I'm going to get with this - can we deal with "except those that are specified by the Minister as not being chargeable to the Fund, which such obligations and expenditures will be documented and referred to the next sitting of the Legislature," or something like that?

MR. CHERNIACK: Well isn't that Public Accounts?

MR. PAULLEY: Well whatever it is, but if it's contained in here -- my suggestion, Mr. Chairman, is if that is contained in here, then in this particular piece of legislation that what we do have is a semblance of disclosure by the Minister to the proper body, Public Accounts, where it is. It's just a suggestion of a compromise which may or may not be acceptable to the Committee. It does seem to me that the point being raised by Mr. Spivak is that unless we have some sort of documentation or documentary dealing with those matters that are specified by the Minister as not being chargeable to the Fund, we can be led up the garden path. I give that you you, Mr. Chairman, to the Minister, to Mr. Spivak, for what it is worth.

MR. CHAIRMAN: Mr. Petursson.

MR. PETURSSON: Can I get my two bits' worth is here? It seems to me that it points up here that there are certain obligations and expenditures that will be incurred in the course of the operation. The implication is there that there will be certain expenditures that will not be incurred or are not to be paid from the fund of the treasury branch, and while under certain circumstances it might be possible to pay them through the Fund, the Minister is in the position of indicating that these are not to be paid. It seems to me to be very simple, that the obligations that are not to be paid by the Fund are to be indicated by the Minister as they come along, and if he doesn't make the decision, then who does make the decision? Where does it come from?

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, Mr. Spivak has called us to account on previous sections as to how it is we made the change from Alberta. The Alberta Act says so and so; why did you change it? Now he has to ask us "Why didn't you change it?" Because this is word for word verbatim out of the Alberta Act, which runs a pretty good operation I believe - at least they're showing a profit. The point that concerns me is that the Minister appoints a superintendent from amongst the Civil Service. He may. And I may therefore, as Minister currently, appoint somebody who has a certain staff level within the Department of Finance - he could be a director or he could be at a lower level - and if we take out the decision-making portion there, this man will say, "I do not recognize this or another expense as being an expense to the treasury branch. I won't pay it." Now who pays it or who decides? Mr. Petursson asks that question.

MR. SPIVAK: The auditor.

MR. CHERNIACK: The auditor doesn't make these decisions. Mr. Spivak seems to be giving to the auditor a function he doesn't have and I don't believe he ever had it. I don't know if he did. No, I'm told he never had it. How can the auditor make a decision and then comment on the decisions that are made? It seems to me that it is mutually contradictory, mutually exclusive, to say the auditor shall make a decision when we know that the auditor's task is to report to the Legislature his independent comment of decisions that are made. So I have to say that in the end a decision has to be made; the decision is within government. The treasury branches are not a separate Crown agency. The Minister has to be accountable for the decision he makes and the auditor has to have every opportunity and be invited to report on those decisions as they are made. I don't really know whether we -- (Interjection) -- I haven't exhausted my contribution.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Tell me then, as the Minister, whether you want that authority. Let's assume that a facility is rented which costs \$500.00 a month, \$6,000 a year. The Minister will designate that \$100.00 of that is chargeable to the treasury branch and \$400.00 of that is charged to other government departments that may be sharing the facility. Do you want that discretion to be in a position to charge what you consider to be the proportionate amount?

MR. CHERNIACK: Mr. Chairman, I have to answer that because there are many decisions I have to make which I don't look for and I don't want, but in assuming the responsibility the Minister does in operating a government operation the size that we do, there are many things that we assume as a responsibility that we don't really look for. Having said that and meaning that, that I have to assume, with the opportunity to serve the people of Manitoba, the obligation to make some difficult decisions, I have the protection of knowing that the auditor is looking over my shoulder and if he disagrees with that decision of paying 400 out of one pocket and 100 of another, I know he is going to come back and in his report he is going

(MR. CHERNIACK cont'd). . . . to point his finger at me and say, "This Minister made a decision with which I do not agree." And that is much more of a restraint on making sure I make a good decision than any decision made by the president of the CNR or the CPR or any other corporation - or the Royal Bank of Canada.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Accepting what you say, it's possible, where the proportion is \$100.00 and \$400.00 and is legitimate -- excuse me; where the proportion is \$100.00 and \$400.00 but should have been \$250.00 and \$250.00, to that extent someone could if they wanted to - I'm not suggesting they will - they could in effect causeé subsidization simply by doing that allocation. That may still appear reasonable. But they could, as a result of this power, exercise that authority to be able to in fact cause a subsidy.

MR. CHERNIACK: That's life.

MR. SPIVAK: Well that's life, but the whole object of this is to put the limitations on that kind of power.

MR. CHERNIACK: Well you haven't made one positive suggestion.

MR. SPIVAK: The Minister says that I haven't made any positive statement. I say to him -- well, I say the suggestion is a very simple one, that in this Act dealing with treasury branches - and I'm not dealing with anything else - if the Fund is to pay out all other obligations or expenditures incurred in the course of the operation of the Fund or the branches, that's all that's required. It should not be anything else because that's all it has to pay and deal with. That's all we have to deal with in this Act. There is no need for any ministerial involvement.

MR. CHERNIACK: Who is going to decide how much is chargeable to the Fund?

MR. SPIVAK: The treasury branch is going to have to decide.

MR. CHERNIACK: What's the treasury branch if not under the Minister?

MR. SPIVAK: But then you're saying that this is the same as an office of the Department of Health and Social Development; it is the same office as that of the social worker who has an office or is running a department. And, you know, I don't think it is and I don't think it's intended to.

MR. CHERNIACK: Do you want a Crown agency to be set up?

MR. SPIVAK: Well no, I don't want a Crown agency. You're the Government and you're the one who is supposed to know what you're doing in this.

MR. CHERNIACK: And also I'm prepared to make the decision and be accountable for it.

MR. SPIVAK: Well I know, but I'm saying to you that what you're doing by this is allowing for the complete cross-subsidization to occur and, you know, I don't think that that power or that opportunity should be given. Whether it will happen or whether it won't, it doesn't make any difference, but I don't think that that opportunity should be given. And what I do not understand is why it's necessary for all other obligations or expenditures incurred in the course of the operation of the Fund or the branches. If what you're saying is correct and an allocation is made that's improper, the Provincial Auditor is going to determine that in any case when he audits.

MR. CHERNIACK: Yes, but in the end somebody made a decision. The way you're doing it there's no decision being made.

MR. SPIVAK: Well the decision is made. The decision about the expenditure is what the legitimate expenditures are.

MR. CHERNIACK: By whom? Courts? Go to Court? Who makes the decision?

MR. SPIVAK: Well then what you're basically saying is that the treasury branch is not a near bank but an extension of the Department of Finance, so that in effect what we'd better do is we'd better change this to the Department of Finance Deposit Act, because in effect what you're going to do is advertise a . . .

MR. CHERNIACK: Well would you please ask Alberta how they handle it?

MR. SPIVAK: Well I know, but . . .

MR. CHERNIACK: Or Ontario.

MR. SPIVAK: I have raised the problem in the House and I raise it again, and I raise it based on the information that we have available to us from people who have studied and are experienced with what took place in Alberta, to indicate that the kind of cross-subsidization and the hidden subsidization that I refer to did in fact take place --(Interjection) -- Yes, did

(MR. SPIVAK cont'd) in fact take place.

MR. CHERNIACK: He denied it.

MR. SPIVAK: Well you may have made your investigation and I've made my investigation, and I think the people who we dealt with were fairly substantial and fairly knowledgeable about what really happened, and I say to you that that's the problem. Because in effect what you're saying is that you're not going to advertise the Manitoba Treasury Branch, you are advertising a Manitoba Department of Finance Branch, and in effect what you are saying is that this is the Minister's department, you know. In effect, what you're saying is that this is an extension of your finance arm and I don't think that's intended.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Mr. Chairman, I'm attempting to appreciate and respect the remarks of the Leader of the Opposition but I totally disagree with him, and obviously, you know, there is a reason for that. The Leader of the Opposition, in my mind is afraid to be afraid, and the main reason for that is that he is no longer in the government. You know, there are certain services that will be offered by treasury branches that will not be tied directly to the treasury branches themselves, and will have to be charged back to the appropriate service department or agency that is involved within the facility and is known by the people making use of treasury branches as being services of the treasury branches but they are not, and there has to be a clause in here to deal with that. To us that is the clause, and if you are afraid for abuse, Mr. Chairman, if the honourable member is afraid of abuse, he can challenge the Minister, he can challenge the Government, like he is really able to do in some cases. I suggest, Mr. Chairman, that we vote on this.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Well, Mr. Chairman, I think we're getting hung-up here on a few words. I think -- and for once in my life, I suppose, I sort of lean to the proposition of the Leader of the Opposition, and when I say this I cross myself very devoutly. (Laughter) We're dealing with Section 14(l). "There shall be paid from the fund" (a), (b), (c), and in subsection (c) it says: "except those that are specified by the minister as not being chargeable to the fund." Now, surely the judges, in order to make this absolutely clear that everybody knows what those obligations and expenditures are, that in this particular section the Minister should make a report or do what is necessary to indicate what is not being chargeable to the Fund in order that we know that if we have a large building in which are housed many departments of Government, or something along that nature, and only a portion of it is used by the treasury branches, that we're aware that all of those expenditures are not chargeable to the Fund.

I think, generally speaking, there is a suspicion that insofar as the treasury branches are concerned, a suspicion that there may be extraneous charges made against the Fund that are not proper, or that are made against the Fund that are not proper. I think it's just as simple as that.

MR. CHAIRMAN: Mr. Spivak.

MR. CHERNIACK: Mr. Chairman, would you read the Alberta Act . . . ?

MR. SPIVAK: I think it asks a few questions.

MR. PETURSSON: . . . there's some tremendous magic in the Alberta Act.

MR. SPIVAK: Yes, there is tremendous . . . and I've already tried to indicate that -- I tried to indicate to Mr. Petursson before, that the information from my research has been that in effect there has been both a cross-subsidization and a hidden subsidization in the operations. And that's not intended. But I want to put a question, if I may, to the Legislative Counsel without in any way getting involved in a policy . . . because if it's a policy statement...

MR. CHAIRMAN: Order please. Quiet please.

MR. SPIVAK: But I ask him, if in fact it says, "all other obligations or expenditures incurred in the course of the operation of the Fund to the branches?", would that not cover their operation and their expenses, whatever they may be? Does it not cover their operation and expenditures? And, in effect, does it not mean that they pay their operation and expenditures, that's all?

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: Well, where it is, it's basically what happens. . . .

MR. CHAIRMAN: Order please.

MR. TALLIN: That's probably true.

MR. SPIVAK: Well, I'm simply saying that if that's the case and it covers its expenditures and operations, which is the intent, then I would eliminate "except those that are specified by the Minister as not being chargeable to the Fund," because it only can pay for the expenses that are its expenses.

MR. TALLIN: Well, it's the reverse of what I'm saying.

MR. CHAIRMAN: Mr. Cherniack.

MR. SPIVAK: And then, Mr. Chairman, then you leave out the possibility of what I suggested that could occur. It may never occur, but at least we've eliminated that and whatever the expenses of the operation are it'll be paid for . . .

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, let's firstly get clear that a treasury branch is a branch of Government and is a branch of the Department of Finance. The name "treasury branch" is given, in Alberta, to a branch of the Provincial Treasurer's department, and the Act reads, "The Provincial Treasurer", deals with the Provincial Treasurer and the branch is a branch called a treasury branch. I'm told -- what is the Ontario name? -- Ontario Savings Office is what the treasury branch of Ontario is called. And what we propose here is to call Manitoba treasury branches because firstly, we have the Provincial Treasurer who is also Minister of Finance, and that is becoming an accepted term. The term "near bank" I think has no definition. The term "near bank" is an operation which comes as near to being a bank without being a bank, but really it is a government operation.

I don't conceive that it is possible that a decision as to what is the cost - when Mr. Spivak asked Mr. Tallin, he asked him an obvious question. All obligations of the branches shall be paid by the branches. That's true. And if the branches were something separate somebody would make a decision. It could be a court; it could be an arbitrator, but somebody has to make a decision. I do not conceive that I would be a Minister of a Department and let a decision be made affecting my department by somebody who doesn't consult me or is not accountable to me for that decision. And nor do I conceive that the people of Manitoba are well served if the person who is the head of a department doesn't make the decision ultimately and is accountable to those people.

Now, Mr. Chairman, we indicated long ago that we based our draftsmanship on that of the Alberta Act, and this is word for word with the Alberta Act - word for word. It's not as Mr. Spivak said, "not quite". It is word for word, and I'll read it to you if you like so you can check it out. And also word for word - not word for word, but also largely 14 (2) is a copy of the subsection following that portion of the Alberta Act. And let me read the Alberta Act as compared with 14 (2) so you can draw a comparison. "Expenditures in connection with the operation of the treasury branches that are not to be paid out of the fund pursuant to subsection 5" (which in this case is comparable to subsection (1)) "shall be paid out of moneys appropriated by the Legislature". And here it is spelled out more clearly, "shall be paid from and out of the consolidated fund with moneys authorized under an Act of the Legislature to be so paid and applied."

Clearly, the moneys that are accepted under 14 (1)(c) must be provided and paid out of the consolidated fund with moneys authorized under an Act of the Legislature, which is a Supply bill, and then comes right into Public Accounts and then is reported in Public Accounts issued annually as being moneys paid out and is subject to review; and I said long ago that I am quite prepared to include in there provision that the financial statements of the treasury branch shall include a report of that, which is along the line suggested by Mr. Paulley.

MR. MCKENZIE: That's right.

MR. CHERNIACK: But Mr. Spivak doesn't like that, because Mr. Spivak, I believe, is trying to separate and say that treasury branch branch which is operated by a superintendent who is appointed by the Minister of Finance out of the Department of Finance apparently makes a decision independent of that of his own Minister. I don't buy it. I don't see it's practical. I don't see it's responsible and I have a feeling that we've been going around a merry-go-round for the last 10 minutes, and I'd like to get off the merry-go-round.

MR. CHAIRMAN: Mr. McKenzie, please. Order please. Mr. McKenzie.

MR. MCKENZIE: I listened to the witness here last night very carefully in his arguments that he prepared in debate of this bill and I'm satisfied, with my Honourable Leader in the debate that's ensuing here, either the credit unions under this section are going to compete with the Government or they're going to compete with treasury branches. Now, if they're

(MR. MCKENZIE cont'd) going to compete with the treasury branches on some form of an equal footing, and that's what they asked for last night, let's delete that section. But if you want the credit unions to compete with the Government, the Minister of Finance, then leave it in. Now, it's your option.

MR. CHERNIACK: Well, we've exercised our option with that.

MR. MCKENZIE: Okay. Let's have it understood to the credit union people that this is what they're going to have to compete with.

MR. CHAIRMAN: Order please. Mr. Schreyer.

MR. SCHREYER: Mr. Chairman, I think there is a solution along the lines of the wording suggested by the Minister of Labour, but I confess that I haven't had an opportunity to really ponder the words really all that closely, although on surface they appear to deal with the problem in a way that should be satisfactory to all.

Really my purpose in asking for the opportunity to speak was to indicate to Mr. Spivak that I really believe he has brought himself into a completely circumferential line of reasoning. In other words in a circle because -- and I think that what would be helpful here is to recall the historical wording here, the reason for it. The treasury branches emanate -- the wording emanates from the fact that in Alberta, just as in Manitoba until about 1970 -- correction, 1967 -- the, what is now the Department of Finance was previously the Provincial Treasury and they are literally, and I underline the word literally, the branches of the Provincial Treasury and therefore the operation is a line department operation, admittedly of a considerably different kind, but it is a line department operation. And if you accept the historical genesis of the term treasury branch, it is because it was pure and simply a regionalized branch operation of the Department of the Provincial Treasurer, and therefore, the argument as to whether the Minister should or should not have the final authority as he has with respect to other functions of the department shouldn't even arise.

MR. PAULLEY: That's right.

MR. SCHREYER: Now, Mr. Spivak has suggested for reasons of better legislative control that someone other than the Minister, someone more impartial, should be the final authority. And on surface, you know there's a certain appeal to that, but who? Well, I'd suggest not the Provincial Auditor because the Provincial Auditor - and surely we can agree on this - the Provincial Auditor is not to be saddled with an operational authority. He is charged with the responsibility of auditing that which has been done . . .

MR. PAULLEY: Right.

MR. SCHREYER: . . . and reporting thereto to the Legislature. If you give him the function of an administrative operational kind then you are changing the nature of his function and his responsibility.

I suggest you cannot either give this task to the Superintendent of Insurance because he is in a line of authority and command through the Deputy Minister and the Minister in that position, and if you charge him with the sort of final authority in this respect you are creating a certain hybrid arrangement here that will bode no good. In the end the Minister is responsible to the Legislature, and I think the wording can stand exactly as is or with the suggested change by the Minister of Labour, and that surely ensures accountability.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, far be it for me to suggest that this has not been a useful debate. In effect, what the Government is saying is that the treasury branches are an extension of the Department of Finance.

MR. SCHREYER: Always were.

MR. SPIVAK: Well, the First Minister says "always were". The reference to treasury branches were near banks. Well, near banks . . .

MR. CHERNIACK: Operating like near banks.

MR. SPIVAK: Well, near banks have a different kind of connotation. They have a connotation of a separate entity in the same thought. Well, in the same concept as a credit union, and so in effect what you're saying to the credit union people, and I think this is clear, that they are essentially competing with the Government, with the Department of Finance, and with the Minister.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Fine, Mr. Chairman. I'm willing to let this go on the basis that I do not accept Mr. Spivak's interpretation of the nature of the debate, that has happened on this

(MR. CHERNIACK cont'd) debate, will no doubt continue on the hustings and elsewhere. So for the record, and speaking just after he did, I don't accept his interpretation.

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

MR. SPIVAK: Well, Mr. Chairman, on 14.1, well, I would move, Mr. Chairman, that the words in 14.1(c), the words "except that those that are specified by the Minister as not being chargeable to the fund" be deleted.

MR. CHAIRMAN: You have heard the proposed amendment. Those in favour of the amendment. Only members of the committee may vote.

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

MR. CLERK: Yeas, 6; Nays, 14.

MR. CHAIRMAN: The amendment is defeated 14 to 6.

MR. PAULLEY: Do you want to accept my suggestion?

MR. CHERNIACK: There's no need for it.

MR. PAULLEY: Okay.

A MEMBER: It's a good suggestion.

MR. CHAIRMAN: 14.1(c) -- pass; 14.1 -- pass; 14.2 -- pass. Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I move that the words "chargeable to the fund" be added after the word "expenditures" in the first line. So it would read, "Expenditures chargeable to the fund in connection with the operation of the branches that are not to be paid out of the fund."

MR. CHERNIACK: That's a contradiction in itself.

MR. SPIVAK: No.

A MEMBER: What does that mean?

MR. SPIVAK: "Expenditures chargeable to the fund in connection with the operation of the branches that are not to be paid out of the fund." No, it isn't, because . . .

MR. CHERNIACK: No, no, he's contradicting it.

MR. SPIVAK: Why am I contradicting it?

MR. CHERNIACK: Well, you explain it.

MR. SPIVAK: Well, in effect, what you're saying is that the fund can pay out expenditures, and those expenditures that are paid out may not - they are chargeable to the fund and then there's - sorry.

MR. TALLIN: These are expenditures that are not to be paid out of the fund, therefore they're not chargeable against the fund.

MR. PAULLEY: Why didn't you accept my suggestion when you were on the up there . . .

MR. SPIVAK: Well can I ask, are there charges payable - oh, I see. You're suggesting that there'll be no charges payable by the fund that will be paid out of the consolidated revenue at all?

MR. TALLIN: No.

MR. SPIVAK: There's no power in that. No. But there is power for the fund to pay charges that are not chargeable.

MR. TALLIN: No. There are expenditures made in connection with the treasury branches.

MR. PAULLEY: Yes.

MR. TALLIN: Some of those expenditures will be paid from the fund . . .

MR. SPIVAK: Those that are chargeable to the fund.

MR. TALLIN: Those are chargeable to the fund?

MR. SPIVAK: Yes.

MR. TALLIN: Some will not be paid from the treasury branch fund; some will be paid from the Consolidated Fund, and those are rechargeable to the Consolidated Fund.

A MEMBER: How do you find them out?

MR. SPIVAK: Well, yes, but this doesn't apply now as a result of the change that I proposed. Well, that's fine. All right, let it go then.

MR. CHAIRMAN: 14.2 -- pass; 14.3 -- pass. Mr. Spivak.

MR. SPIVAK: You know, Mr. Chairman, on this, I'd like to understand whether it's the intention of the Government to, in effect, provide an advance not exceeding \$500, 000 on one occasion, or can they advance \$500, 000 every day?

MR. CHERNIACK: I think it's cumulative is it not, Mr. Legislative Counsel?

MR. TALLIN: Yes.

MR. CHERNIACK: As I read it, it's cumulative. It doesn't on one occasion - it can be 10,000 or 100,000, but it can't be more than a total of 500,000 and I suppose that's another thing. Is that not correct?

MR. TALLIN: Yes, but if you want to make it clear you could put in, "not exceeding in aggregate \$500,000."

MR. SPIVAK: That's fine.

MR. CHERNIACK: I don't care.

MR. SPIVAK: So that means - I want to understand it - that would mean that 500,000 would be the maximum that would be able to be drawn, and any other amounts would have to be authorized by the Legislature.

MR. TALLIN: Okay.

MR. SPIVAK: Now, I wonder if it's agreed not to exceed the aggregate of 500,000, of whether there'd be agreement that under such terms and conditions and interest rates as is set by the Lieutenant-Governor-in-Council.

MR. TALLIN: Interest rates are parts of the terms and conditions.

MR. SPIVAK: Yes, I know, but I'd like the interest rate specified because I think this is one of the fears that people have, and I think it should be specified as a requirement.

MR. CHERNIACK: Wouldn't that have to be by O.C.? Sure, this is by O.C. It would be revealed. Mr. Chairman, it shows up right in the O.C.

MR. SPIVAK: So that the amendment would be the amounts not exceeding an aggregate of 500,000 under such terms and conditions and interest rates.

MR. CHERNIACK: No. Not exceeding an aggregate of 500,000.

A MEMBER: Principal, we accept that.

MR. SPIVAK: Yes, that's one.

Now, having accepted that, "or such larger amounts as may be authorized from time to time by the Legislature and under such terms and conditions and interest rates."

MR. CHERNIACK: Mr. Chairman, I can only indicate that terms and conditions does include interest rates, and does have to show up in the O.C., and is accountable, and I see no need for that. It so happens that this is so well drawn to the extent that we were able to benefit from the Alberta Act; I don't know though if this is in the Alberta Act. Nevertheless, this is correct as it is, and there's no need to make any additional change to satisfy the Leader of the Opposition's argument.

MR. SPIVAK: Well, I think, Mr. Chairman, in spite of what Mr. Cherniack says, I think that one of the fears of people is that, in effect, money would be advanced to the operations which will put it in an uncompetitive position and even a subsidization could occur as a result of that, depending on what the borrowing rate of the government is at a given time.

And so with all due respects to the Minister and with the fact that he says it's included, I think in the interests of the public relations of the treasury branch and the Government, and also in the interests of protecting the people who have raised the concerns as to unfair competition, that it be specific. And if it's a statement that is not required it will not hurt by putting it in. And so, Mr. Chairman, I would like to move, that under such terms and conditions after the word "conditions" the words "and interest rates" be added.

A MEMBER: I'm worried about that, because . . .

MR. CHAIRMAN: Just so that we will keep things clear, I take it that your first amendment was the term "in aggregate" to be put in. That was accepted.

MR. SPIVAK: Yes.

MR. CHAIRMAN: So this is a second amendment that's separate from the first? Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, the point has been made, valid or not, but the concern has been expressed, that if it is felt necessary in this Act to say "under such terms and conditions and interest rates", it may be construed that where it does not say that, which is the vast majority of the present legislation, where it only says "terms and conditions", it may be construed by some judges as being different from including interest rates, otherwise why put it in this being the latest Act.

Mr. Chairman, the point made by Mr. Spivak dealing with the public relations of the treasury branches, I must say I do not share with him . . .

A MEMBER: Well, maybe it gives . . .

MR. CHERNIACK: . . . his confidence in his own desire to improve the public relations

(MR. CHERNIACK cont'd) of the treasury branches. I think we'll have to stumble along without his guidance in that respect.

MR. SPIVAK: Mr. Chairman, I'm quite sure that you will stumble along, but I would like to move the amendment, and if the Government wants to defeat that, they can.

MR. CHAIRMAN: It has been so moved. Are you ready for the question? Those in favour of the amendment.

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

MR. CLERK: Yeas, 6; Nays, 14.

MR. CHAIRMAN: 14. The amendment is defeated.

Section 14.3 -- pass, as amended pass; Section 14 -- pass; Section 15 -- pass - Mr. Petursson.

MR. PETURSSON: Mr. Chairman, there was no amendment.

MR. CHAIRMAN: There was a small amendment.

MR. CHERNIACK: . . . an aggregate of 500, 000, that's just to spell it out for those who don't quite follow.

MR. PETURSSON: Surely.

MR. CHAIRMAN: (Sections 16.1 to 19 were read and passed.) 20 -- pass - Mr. Spivak.

MR. SPIVAK: I wonder if the Minister can indicate why the change is made from the Alberta Act?

MR. CHERNIACK: Well, now I have to see the Alberta Act to see what the change is.

MR. SPIVAK: The Alberta Act as I understand it, it says "The Provincial Auditor shall at least once a year, and as he considers necessary, make an audit of the books, accounts, and vouchers of the branches and report the result of the audit to the Minister." Here it says: "At such other times as the Minister may direct."

MR. CHERNIACK: I would interpret that because my understanding of the Provincial Auditor in Manitoba is that he can go as often as he considers necessary without needing a specific legislative authority. Now, Mr. Tallin, is that correct?

MR. TALLIN: That's right.

MR. SPIVAK: Well, then why want the direct . . .

MR. CHERNIACK: . . . is that incorrect, Mr. Tallin?

MR. TALLIN: No, I think that's true.

MR. CHERNIACK: Yes. Well, then it's not necessary to . . .

MR. TALLIN: Well he can follow a continuing audit if he chooses.

MR. CHERNIACK: Yes.

MR. SPIVAK: Well, but then why, at such other times as the Minister may direct?

MR. TALLIN: He may want a specific audit as of a particular date.

MR. CHERNIACK: And of a particular branch.

MR. SPIVAK: Well, why wouldn't it not say then, "the Provincial Auditor shall at least once a year and as he considers necessary, and such other times as the Minister may direct?"

MR. CHERNIACK: Because I think it's unnecessary to say that when he already has that authority in the Provincial Auditor's Act which was so well prepared that it covers this.

MR. SPIVAK: Well, again, you know, in some cases you include and some cases you exclude. You know, the Alberta Act which has worked so well, and which you have been bringing up to us all the time . . .

MR. CHERNIACK: Yes, but I doubt if the Alberta Act or the Provincial Auditor's Act is as well drawn as ours.

MR. SPIVAK: Well, but the fact is, even if "as he considers necessary" was put in, it would not be in contravention of the practice or even what the law is, as I understand it from the Legislative Counsel, and the problem here is the concern, and I think legitimately, that's been expressed, that if a surprise audit is not capable of being conducted on a treasury branch, and that interpretation may be given by the Legislative Counsel but the wording would indicate that that could not be done.

MR. CHERNIACK: Is that so ?

MR. SPIVAK: Well, if a surprise audit could not be done, then it would be one of the concerns, and it's been expressed already by those who understand that a surprise audit is necessary for a financial institution. I again, you know, again, if what is being repeated is in fact the law, I see no reason why we should not put it in, particularly because of the concern in this particular situation, which would be true of a provincial bank or another deposit

(MR. SPIVAK cont'd) institution, and it would read, "The Provincial Auditor shall at least once a year and as he considers necessary and at such other times as the Minister may direct", because if I'm correct the Minister can direct at any time in any case. So he has the same power and yet you're specifying the Minister.

MR. TALLIN: But at least once a year means that he still has the power to make it a hundred times a year if he wishes on his own hook.

MR. SPIVAK: Well, then I ask the Legislative Counsel, is it not a fact that under the Act, not this Act but the Provincial Auditor, can audit at such time as the Minister may direct. Is he not subject to the direction of the Minister to go in and to audit?

MR. CHERNIACK: Do you want to take it out?

MR. SPIVAK: No. But the point is, you've put it in. I agree. All right, that's fine. I accept the fact that there could be a specific case, some information supplied to the Minister, he says that thing should be checked right away. I'm not questioning about that. You put that in. But then I'm saying, then put in, "as he considers necessary" as well.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, to build in a redundancy into the Act to take care of Mr. Spivak's decision that the Provincial Auditor cannot make a surprise audit is almost a recognition that he can't make a surprise audit, and I believe he can any time of any department of Government. So, you know, I don't know that it's our obligation to pleasure Mr. Spivak. But I think it is our obligation to have an Act that is workable, and I accept if the Legislative Counsel says that it takes care of what I believe it does, and under the Provincial Auditor's Act the auditor has that power. I don't know what the Alberta auditor can or may not do, and therefore I am not accountable for that.

Mr. Spivak in one case says, "Why did you put it in, why did you copy the Alberta Act? And now he's saying, "Why didn't you copy the Alberta Act?" I am trying to rationalize an Act which will stand on its own feet and that stands on its own feet in Manitoba, and I don't think it's necessary to provide something in order to give Mr. Spivak the opportunity to say, "Ah, yes, that was done to make possible a surprise audit." I believe the surprise audit was possible. So I don't see the need to accommodate to him and then have him get up, or somebody else, tomorrow and say, "See how badly they do the Act? We had to change it for them."

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, well, if in fact the Minister has the power to direct the Provincial Auditor, then that portion did not have to be put in.

MR. CHERNIACK: Let's take it out.

MR. SPIVAK: But in effect it was put in. I see that that's . . .

MR. CHERNIACK: It wasn't put in. It was here.

MR. SPIVAK: Well it's in the Act.

MR. CHERNIACK: Yes.

MR. SPIVAK: And if in fact that has been put in, it seemed to me that there is nothing wrong with putting "as he considers necessary". And the logic that the present Minister applies to this situation, you know, I take his particular situation and say it's really redundant to put this in, you have the power in any case but you have and you may suggest that you are accommodating me, but I am attempting to accommodate what I think is a concern, not my concern.

MR. CHERNIACK: Whose? Whose?

MR. SPIVAK: The credit unions.

MR. CHERNIACK: They never expressed that.

MR. SPIVAK: Well they may not have expressed it to you directly, but they have expressed it to me.

MR. CHERNIACK: Oh. Secret communications.

MR. CHAIRMAN: Order please.

MR. SPIVAK: Mr. Chairman, you know, I want to - you know it's late, and I realize that, you know . . .

MR. CHERNIACK: All the time you need.

MR. SPIVAK: Yes, I have all the time too. I am not going to be, you know, deterred by the reaction of the members opposite. I can suggest to you - and I put on the matter of record - that credit union officials who are in responsible positions have put it to me and have put it to members of the caucus, not only to myself; and there are other members of the caucus who will speak on this who have indicated that in their concern, without understanding the legal

(MR. SPIVAK cont'd) language, that it would mean that treasury branches would not be capable of a surprise audit that they themselves are susceptible to.

MR. PAULLEY: They don't know The Auditor's Act.

MR. CHAIRMAN: Mr. Cherniack.

MR. SPIVAK: Well, Mr. Chairman, they may not know The Auditor's Act, but they do know that the Minister can direct - and, Mr. Chairman, for that reason I think it's important. And if in effect it is really superfluous because it's a power that already exists, I suggest that "at such other times as the Minister may direct" is superfluous in the same sense. But you've included that, and for that reason and because I think there is a sense of reasonableness in what I'm saying, that that should be included. Now, you know, the Minister can take the position it's not necessary, the power is there and that's only - he can give me the arguments back and forth, but I don't think that this is an unreasonable proposition to ask that it be included.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, it might not be unreasonable if indeed the credit unions asked us to do it. But the fact is they didn't ask us to do it. The fact is we've had a brief from them presented in person and in writing and there is no such concern expressed, and the credit unions knowing surely that we are responsible for drafting it, never did express such concerns to us. Therefore one wonders how concerned they were if they went to a minority party, to the opposition party, then in caucus expressed certain concerns that they didn't feel worthwhile expressing to the Government, to the Government Party, or indeed to this committee which is reviewing this, and they were here. So you know, I just can't accept that kind of statement. I can't accept the statement that somebody is concerned about what goes on in Alberta with cost subsidization. Unnamed people who don't bother to come and tell us these things are not people that I think that we have to pay that much attention to.

MR. SPIVAK: Mr. Chairman, I want to place on the record . . .

MR. CHERNIACK: Would you wait until I'm through, please?

MR. SPIVAK: Surely.

MR. CHERNIACK: The one point that Mr. Spivak says is, why are you saying that "at such other times as the Minister may direct"? The Legislative Counsel has informed us that I am correct in saying that the Provincial Auditor can make as many audits as he likes, can make a surprise audit whenever he likes. If he tells me that I have the right to direct that he make a special audit in The Provincial Auditor's Act and not needed here, then by all means I'm prepared to delete it here because redundancy is not something we should hope to achieve. I don't know why this was put in and I will now invite my officials to whisper it in my ear why it was put in, why it was necessary. If it's not necessary, let's take it out.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, as a matter for the record. One of the reasons that the credit unions came to us and talked over the bill was the attitude of the Minister of Finance and - I'm not sure about the Minister of Finance, certainly the attitude of the Premier in the meeting that was held a week ago Saturday I believe.

MR. CHERNIACK: They never met with me. How could they say that?

MR. SPIVAK: Well, I said the Premier.

MR. CHERNIACK: You said the Minister of Finance.

MR. SPIVAK: I corrected - Well I said the Minister of Finance, but I know the Premier . . .

MR. CHERNIACK: Withdraw that.

MR. SPIVAK: I thought the representation was made to the Minister of Finance, but I'm not sure of that. I'm not sure of that, I admit that.

MR. CHAIRMAN: Order please.

MR. SPIVAK: Well, Mr. Chairman, I want to place this on the record. The reason that the credit unions came to us, was the general attitude of the Government towards them as expressed to us with respect to the Act and the recognition that it really made no difference what kind of representation they were going to make, the Government was proceeding - and they were told that.

MR. CHERNIACK: You told them that.

MR. SPIVAK: No, the Premier told them that. That's No. 1. No. 2, they dealt with us on the sections of the Act, and in the presence of five members of the caucus they talked particularly or specifically about the clause that I'm referring. I want that put on the record.

(MR. SPIVAK cont'd) I'm sorry they did not make the representation to the Minister; I think the general attitude may have been that the Minister . . .

MR. CHERNIACK: Or to the Committee.

MR. SPIVAK: Or to the Committee - that the Government really didn't give a damn about them, so therefore there was really no point of proceeding. That is the, you know, conclusion that I can draw because of the attitude that they expressed to me. And I put that as a matter of the record. But nevertheless, whether they went to one member of the Legislature or went to me as the Leader of the Opposition, or whether they went to one member of the NDP caucus or a Cabinet Minister, nevertheless having made a representation on their concern I have - any member, any group have the right to draw this to the attention of the Committee and to ask for both explanation and clarification and inclusion. In this particular situation I think that the inclusion is warranted and I think would be beneficial. It's up to the Government, if they don't want to do it, that's fine. But as a matter of procedure, the fact that they didn't go to the Government is susceptible to a lot of interpretations, and I presented one. There may be others, but I suggest to you that they in general did not feel very comfortable with the NDP caucus or with the Government.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Well, Mr. Chairman, Mr. Spivak has placed himself on the record. I think the record should also clearly indicate that in the terms and the wording used by Mr. Spivak it was all hypothetical, because he cannot clearly delineate what transpired . . .

MR. SPIVAK: I don't have to.

MR. PAULLEY: My friend, he says he doesn't have to. So I think then I should put on the record that Mr. Spivak really condones and substantiates that it's gobbledegook that he is talking about, because he doesn't know what transpired - if anything transpired between any meeting with the Premier and representatives of the credit unions, if such a meeting was held with the Minister of Finance. So if we're going to . . .

MR. CHERNIACK: No such meeting.

MR. PAULLEY: The Minister of Finance says that no such meeting took place, so if this is for the purposes of the record I, the Minister of Labour, also want it put on the record that Mr. Spivak's contribution is purely hypothetical and is in effect - what do you call it - a figment of his own imagination as to the connection between the government caucus, government members and members of the treasury branch.

MR. CHAIRMAN: Section 21 -- Mr. Spivak.

MR. SPIVAK: Mr. Chairman, almost really on the question of a point of privilege. The representation made to me and the information supplied was not hypothetical. The meeting did take place. I really do not want to become involved with the Minister of Labour with respect to his understanding of the parliamentary procedure. He's been here 22 years, and he knows well enough what happens with people who are concerned and deal with opposition and deal with government. If it's necessary for me to recite the procedures or examples, I think I could, and every member knows that. I now place on the record that on more than one occasion different representatives - officials of the group who came here along with particular credit unions - have come to us voicing their concerns with respect to the Act, some of whom were present at the meeting with the Premier - and I'm sorry if I indicated the Minister of Finance, that was an error. I think someone made reference to it and I may have brought this in by error, and I apologize for that. But in the discussion with the Premier and their concern with the fact that it appeared that nothing they could say could persuade the Government differently - and for that reason they dealt with the sections of the Act and their concerns, and as a result of that we brought this to the attention of the Committee which is our function. And for any suggestion to be made that somehow or other what is being implied did not occur, or what is being represented is not so, to those who would try to draw this as a conclusion from what I'm saying I would say (a) you are wrong --(Interjection)-- Well, the references have been made from aside - (a) you are wrong, (b) it's not a question of . . .

MR. CHAIRMAN: Order please.

MR. SPIVAK: (b) In addition to that, what you do is you demean by your actions - you actually demean the legislative process, including the process of this Committee, by those kind of actions and that kind of representation.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: The credit unions have not come to me in any form of communication

(MR. CHERNIACK cont'd) suggesting they would like to discuss sections of the Act or their concerns in relation to the sections of the Act. Their position on the principle has been made public but not given to me or not given to our caucus I believe. --(Interjection)-- Well they came in opposition to the principle, but there have been no concerns such as expressed by Mr. Spivak. What stuns me is that they were here yesterday coming before this Committee to talk about their concerns. Nothing --(Interjection)-- Well Mr. Wiebe, but he represented the CCSM - and did not mention their concerns about any particular section such as surprise audits. I am also somewhat surprised that nobody in the Conservative caucus has had this meeting where they expressed their concerns, didn't assure them that under the Provincial Auditor's Act he had that power and therefore that they need not have that concern; either explain to them that they weren't justified in the concern; or else say to them, well when you come before the Law Amendments Committee, point that out because that's important. Or ask them the question, Mr. Brown, Mr. Spivak, Mr. Blake, ask questions of Mr. Wiebe. Not one brought out from Mr. Wiebe that kind of concern. Therefore, since we know now that the Provincial Auditor has the power, and since there is no valid explanation that I have heard why there is the inclusion of "at such other times as this Minister may direct" in this section, I don't see any point in any further discussion.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, as a matter of record --(Interjection)-- no, Mr. Chairman, as a matter of record, the officials that we met with today - and they met with us and they were present - not all, but some were present last night when Mr. Wiebe made his presentation, so that it would be very clear that the representations that were made concerning this particular item along with others came as a result of a meeting at their request today.

MR. CHERNIACK: They could have seen us today too.

MR. SPIVAK: Well, they could have.

MR. CHERNIACK: I was around all day.

MR. CHAIRMAN: (The remainder of Bill No. 64 was read and passed.) Bill be reported.

MR. SPIVAK: No, Mr. Chairman, Bill not be reported, Mr. Chairman.

MR. CHAIRMAN: Mr. Spivak.

MR. PAULLEY: Oh no. The motion, Mr. Chairman, is the Bill be reported.

MR. SPIVAK: Fine.

MR. PAULLEY: If the Leader of the Opposition wants to have a vote . . .

MR. SPIVAK: Have a vote, Mr. Chairman. --(Interjection)-- Mr. Chairman, question.

QUESTION put, MOTION carried.

MR. PAULLEY: Mr. Chairman, I want to indicate for the benefit of the members of the Committee, that according to my records there are four bills outstanding: Nos. 74, 75, 83, 86 - excuse me, there are five - and 92, and it would be my contention that after routine proceedings tomorrow morning in the House and the possible introduction of two resolutions, that we adjourn and come into Law Amendments Committee, but the Speaker will be available until 12:30. So therefore, Mr. Chairman, I move the Committee rise.

MR. CHAIRMAN: Committee rise.