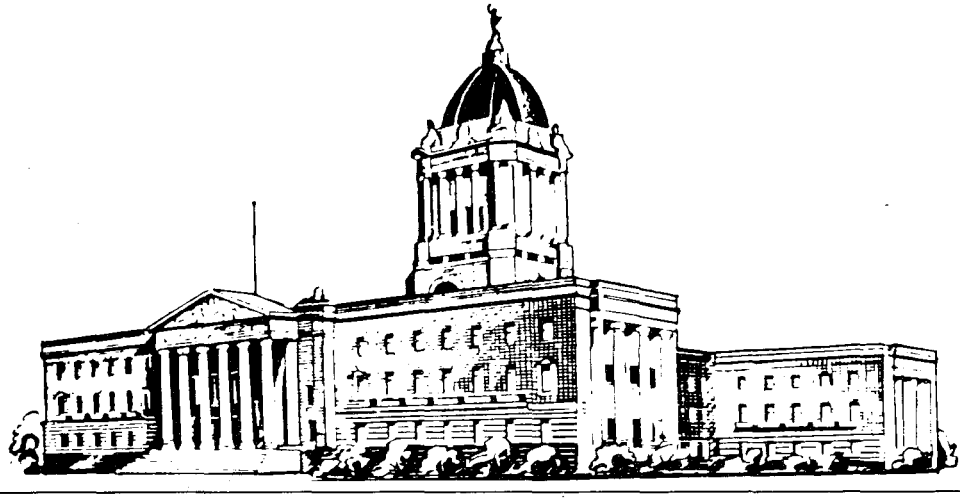
Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Chairman
Mr. John C. Gottfried, M.L.A.
Constituency of Gimli



8:40 p.m., Tuesday, June 17, 1975.

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MUNICIPAL AFFAIRS COMMITTEE
8:40 p.m., Tuesday, June 17, 1975

CHAIRMAN: Mr. John Gottfried.

MR. CHAIRMAN: Order please. We have our quorum. The bills presented for us this evening is the completion of Bill 44, the Planning Act, and we have in addition Bill 54, an Act to amend the Municipal Board Act.

BILL NO. 44 - THE PLANNING ACT

MR. CHAIRMAN: We stopped at the last meeting on Page 8, and I understand there is an amendment. Section 12(4), we have an amendment to be read, at the bottom of the first sheet. 12(4)(f).

MR. MILLER: Page 8. I move that clause 12(4)(3) of Bill 44 be amended by striking out the words "and subdivision" in the third line thereof.

MR. CHAIRMAN: Section 12(4)(e) as amended-pass . . . There's another amendment. 12(4)(f).

MR. MILLER: On 12(4)(f), I would move that clause 12(4)(f) of Bill 44 be amended by striking out the words "subdivision regulations or" in the fourth and fifth lines thereof.

MR. CHAIRMAN: Section 12(4)(f) as amended-pass. We also have another amendment on that page.

MR. MILLER: 12(5). That subsection 12(5) of Bill 44 be amended (a) by striking out the figure "26" in the third line thereof and substituting therefor the figure "27," and (b) by striking out the word "committee" in the fourth line thereof and substituting therefor the word "minister."

MR. CHAIRMAN: Section 12(5) as amended-pass. Page 8, as amended - Mr. Johnston.

MR. J. FRANK JOHNSTON: Mr. Chairman, I would like to question 12(4)(c), "suspend, with respect to the area, for such period of time as the Order states, the operation of any district or municipal development plans, zoning by-laws or building by-laws." Now does that mean what it sounds, just everything quits?

MR. PELLETIER: Yes, Mr. Chairman, the intent here is that if the special planning area is to be established there is an area of critical concern, and therefore the intent is that the order would suspend for such time as is necessary whatever regulation had to be enforced, and as set out in 12(4)(e) and (f) an advisory committee would be convened composed of municipal representatives who would then, with the government, set out new rules and regulations to be applied in the planning area. Subsequently there would be a new plan or an amendment to the suspended regulation that would have to be adopted in accordance with the Act to take care of that problem. It appears that there may be an occasion that you would need to suspend the regulation while something critical is going on.

MR. F. JOHNSTON: Well it's in the special planning area then?

MR. PELLETIER: It only applies to the special planning area.

MR. F. JOHNSTON: Right.

MR. PELLETIER: The suspension of any of these regulations.

MR. F. JOHNSTON: Section (d), Mr. Chairman, "state, that during the period mentioned in clause (c), no development shall be undertaken within the special planning area without the written permission of the minister." After consultation with the council or municipality. Don't you think that that would be a suggestion. We're consulting with them in Section 12(3), now we have a situation here where if there's any change within the special planning area without written permission of the minister, I think that there could be some consulting with the municipality or . . .

MR. PELLETIER: Mr. Chairman, I would say that the understanding in drafting this that it was felt that there would be consultation with the municipalities obviously, and the Act requires consultation under 12(6) and 12(3), and that while it does not specifically say that a building permit, for instance, would not be issued without the written consent of the Minister, that in the order of doing things, the procedure itself, then more than likely - I am just assuming now that the Minister may well delegate that authority back to the municipality under certain control conditions. I would say this is a matter of procedure of how you would handle the matter. It may be that the addition could be put in there "in consultation with the municipalities." Certainly it was intended in all cases where there was a municipality involved, there would be consultation.

MR. F. JOHNSTON: Well then, Mr. Chairman, could I ask the Minister if he could consider putting that in. I could make a motion to it but I wouldn't know that I might have the right wording.

MR. CHAIRMAN: The Honourable Mr. Pawley.

MR. PAWLEY: Yes, I would be prepared to accept an amendment along those lines, Mr. Chairman.

MR. BALKARAN: Clause 12(c). Just before "suspend," add the words "after consultation with the municipalities."

MR. CHAIRMAN: 12(d) as amended -

MR. REEVES: Just a minute now. It's (d) we're talking about, Andy, not (c).

MR. BALKARAN: It would be just before "state" then.

MR. F. JOHNSTON: Permission of the Minister after consultation with the . . .

MR. BALKARAN: Following consultation . . .

MR. F. JOHNSTON: Yes, following consultation.

MR. BALKARAN: At the end of clause (d).

MR. F. JOHNSTON: Yes.

MR. CHAIRMAN: 12(4)(d) as amended - Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, I might suggest an amendment here that in some cases we may be dealing with a planning district as well. It would have to - consultation with the municipalities or a district.

MR. CHAIRMAN: 12(4)(d) as amended - passed; Page 8.

MR. F. JOHNSTON: Mr. Chairman, 12(6), the school trustee, Mrs. Hemphill, last night was mentioning that she would like to have consultation with the School Board. Is that being considered? "Consult with the councils of affected municipalities," and she was concerned in this section regarding consultation with the school board in the area.

MR. PAWLEY: Mr. Chairman, we could add under 12(6)(a) "consult with the councils of affected municipalities and any concerned public authority, which would take in . . .

MR. MILLER: Definition of public authority.

MR. PAWLEY: Yes.

MR. BALKARAN: In a special area, too.

MR. McNAIRNAY: Howard, do you want that in the special area, the planning area?

MR. PAWLEY: Yes, I see no . . . I see, Mr. McNairnay, you have some considerance about this.

MR. McNAIRNAY: Mr. Chairman, if I may speak on that.

MR. CHAIRMAN: Mr. McNairnay.

MR. McNAIRNAY: This is dealing with a special area. There is an amendment proposed later, I think it's 27, Section 27, that I think answers the objections of the Manitoba Association of School Trustees in regard to consultation in respect to the preparation of development plans, and it seems to me that that is where the various school boards are going to have their major input, is in the preparation of a development plan, and it's unlikely, highly unlikely, that special areas are going to have any effect on school divisions. If you read the reasons for setting up the special area, they are concerned with environmental reasons, etc. It's possible, but I think most remote, and the concern of the Manitoba Association of School Trustees is taken care of in the amendment 27, I think, it is. Is it 27 Andy?

MR. CHAIRMAN: 12(6)(a) as amended - passed. Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I wanted to raise a question about Section 12(6)(b) where there is municipal boards to hold public hearings to consider submissions from any person affected - the courts in this country have generally interpreted the phrase "any persons affected" to be pretty much restricted to those directly in an area which their property would have a direct and tangible sort of relationship to some designation, and I would be concerned that this section might work to exclude other kinds of groups and associations that would have a fundamental interest in the designation of special areas, the different kinds of recreation and wildlife groups, conservation groups. If you look at the nature of the considerations under the setting up a special planning area, there would be many groups and organizations in the province that while they may not reside directly in that designated area, would certainly have an interest in commenting on and referring to this - proffering submissions. And the reason I raise it is that the courts have interpreted that particular section very strictly, and I would like to raise a question about whether it cannot read, submissions from any persons affected or interested in the special plan, and to submit a report therein.

MR. PAWLEY: What if we removed the word "affected" so that it would be "from any person that would submit a report thereon."

MR. AXWORTHY: Yes, that would certainly . . .

MR. BALKARAN: Mr. Minister, before you go on, I think you're equally aware that the phrase "any person interested" has always been judicially interpreted to mean almost anybody. Now you might want to weigh the restriction here as against broadening the net to include almost anybody to the extent where you can have an ad nauseam type of hearing, I don't know. So I just bring that to your attention. When you say any person, you open the net to endless, just that, endless. There's no longer a connecting factor now.

MR. PAWLEY: Except that I just wonder in what instance we would have somebody making a submission that would not have some sort of interest, whether it be an environment interest or . . .

MR. BALKARAN: I can't visualize a municipal board refusing to hear such a person. On the other hand if there was someone who obviously wanted to come in and delay the proceedings of the board with absolutely no interest whatsoever . . .

MR. AXWORTHY: Well, Mr. Chairman, what is delay in one person's eye is a sound and wise intervention in another, and I think that, as I say, the reason why I am concerned is because that particular wording was interpreted by, for example, I know a court in Newfoundland to exclude almost all those except those who had a direct impact. It was a down river stream case, and it was decided in the Supreme Court about two years ago and it is a very restrictive wording.

MR. PAWLEY: I wonder if a suitable compromise would be to say "from any person interested."

MR. AXWORTHY: That's certainly my concern.

MR. CHAIRMAN: From any person interested.

MR. PAWLEY: I don't know whether that's --(Interjection)-- it doesn't help?

MR. McNAIRNAY: "From any person interested" - you might just as well leave it "from any person."

MR. PAWLEY: You know, I don't envision too much difficulty in leaving it "from any person." I don't know whether it could be those that might wish to use the machinery of the municipal board, the hearing, deliberately to delay something because . . . despite the fact they have absolutely no interest in it, but I think that occasion would be so rare that the benefits would offset the disadvantages of changing this "from any person." And if we run into too much trouble, we'll come back and amend this.

MR. AXWORTHY: I think, Mr. Chairman, if we make any error, we should make an error on the side of as openness a procedure as possible, and if there is a problem then it can be corrected further down.

MR. PAWLEY: Well, I wonder now, if the Legislative Counsel has the rewording then. We're taking out the words . . .

MR. BALKARAN: Strike out the word "affected."

MR. PAWLEY: Right.

MR. CHAIRMAN: Mr. McGill.

MR. McGILL: . . . to say how many persons directly or indirectly affected.

MR. BALKARAN: That's what I was going to suggest, Mr. McGill, but I didn't think it would satisfy Mr. Axworthy.

MR. McGILL: Well it would give the courts more leeway I think if there was any question.

MR. BALKARAN: That's right.

MR. CHAIRMAN: Would that be satisfactory, Mr. Axworthy, "directly or indirectly."

MR. PAWLEY: Well let me say that my only concern about that, if you use the word "direct and indirect" then you have increased problems of definition, don't you. What is indirect? And you could run into all sorts of hassles over what is an indirect interest.

MR. AXWORTHY: I could see, if you provide that distinction, a heyday for lawyers or counsel appearing on municipal boards challenging different representations and submissions as to what's the meaning of the words "direct or indirectly." You would probably have more sort of turbulence on the municipal board on that basis simply on the challenge as to who should appear, and even when you have the present wordings, and I would think that if they were to change, the elimination of the word "affected" would be the simplest to my mind.

MR. CHAIRMAN: Honourable Mr. Pawley.

MR. PAWLEY: Yes, I would be prepared to remove the word "affected" and then proceed with the wording as it is, deleting the word "affected."

MR. CHAIRMAN: 12(6)(e) as amended-passed; Page 8, as amended-passed; Page 9 - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, 12(7)(d). "That a copy of the proposed development plan may be inspected by any person at a place and time specified therein." This is pertaining to the meetings. Could there be something there, or is there the intention there that those plans be available say at least 72 hours ahead of time, or available, so that those plans can be inspected before these meetings, these hearings.

MR. PAWLEY: Mr. Pelletier, is there a time limit?

MR. PELLETIER: Well, Mr. Chairman, the requirements of clause (7) are legal requirements as to notice, in other words to meet the requirements of law, and insofar as copies of plans, or whatever we've done in the past, schemes, by-laws, and all that, they certainly are usually available long before the hearing date themselves. In other words, they're not produced that night. This merely says that the notice shall specify that the plans or copies thereof would be available for a person to inspect and presumably copies could be made available, sometimes at cost and sometimes not. Sometimes the plans are so voluminous that it would be impossible to produce them at a reasonable cost for any person. Some development plans may entail substantial costs, it may be that by the time you're finished, like the City of Winnipeg plan for instance, they are probably 50,75 dollars if you were to produce a plan for everyone who wanted a copy. And the rural areas, of course, the development plan for a rural municipality may well be just a ten page document, in which case it may be very easy to produce copies for anyone. I think it's very easy to say or specify in the Act that you shall make available at cost or no cost a copy of a development plan. Usually the municipalities endeavour to provide a certain number of copies to interested groups, but I don't know if you provide one to every citizen who really wants one.

MR. F. JOHNSTON: Mr. Chairman, you know the copy of the proposed development may be inspected by any person at a place and time specified therein. Now that means that they are going to be obviously in the area probably for inspection. In your notices of the meeting, public hearings, couldn't it in the notice of the public hearings say, "the plans will be available 72 hours ahead of time before the meeting for inspection at such and such a place."

MR. PELLETIER: I see no problem there, Mr. Chairman. It's a matter of policy really as to what the municipality would like to do.

MR. PAWLEY: Mr. McNairnay, do you feel . . .

MR. McNAIRNAY: Let me speak to that, Mr. Chairman. Every time you put that kind of a restriction in a statute and you only provide 72 hours notice, that is subject to being attacked in the courts. I think what normally follows in a statement of this kind is that the plan will say that the plan and all the documents, all the supporting documents, will be available during the course of normal business hours 8:00 to 5:00, or whatever, at the municipal office for anyone who wants to inspect them. That is what is usually put in that type of thing. But when you start putting it in a statute, then every procedure, every statutory procedure, runs a risk that the municipal council is going to be frustrated in trying to carry out its duties because it gets bound up in very very difficult procedural problems.

MR. F. JOHNSTON: Well, Mr. Chairman, I can agree. I just used the words 72 hours prior, I could have said 24 or 100 hours. I'm just trying to see that there is a stipulation available there that the plans are available for inspection before the meetings are held. And Mr. McNairnay put it very well in the fact that they would be at the municipal office ahead of time, or something of that nature.

MR. PELLETIER: Mr. Chairman, perhaps it was overlooked there but when the notice goes in the newspaper, which appears 21 days before the hearing, at that time there is a plan already available, 21 days prior to the hearing. In other words, the plan is already prepared and is ready for public display. So obviously it's available at least 21 days prior to the hearing. And the time and place stated under (d) would actually be the specific place like the municipal office during the hours of probably 8:30 to 5:00, or whatever the office hours are. That's the intent there.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I have two concerns in this clause. One that refers

(MR. AXWORTHY cont'd) . . . . . to Section (d) which has just been discussed but also one in relation to Section (a), and it goes again back to the point that those who would be interested in the designation of special areas would again not be restricted solely to those who may live in the areas, but would be a number or organizations and individuals who would be concerned about and interested in the particular plans for a designated area, that again they may be interested in the wildlife conservation, recreation concerns, they may have other interests in it.

So first the publishing of a copy, or a notice of the public hearing which is restricted to circulation in local newspapers, may in fact add up to being in effect a blind restriction for many of those who may not read the Portage la Prairie Graphic, or something, as part of their normal reading material and yet would have interest in it. And while I know it's widely read throughout the province, it may be missed by some.

Secondly, Mr. Chairman, on Section (d),I have a very strong concern about that because I have had several experiences where even though there is provisions like this in the other legislation, particularly in The City of Winnipeg Act, the law tends to be honoured more in the breach than in the full observance because, as I think Mr. Pelletier stated, I think many of the plans can be fairly heavy and therefore municipalities oftentimes, those which may not be interested in securing a full range of public comment, don't make it particularly easy for people to get access, and again it would be if it was simply deposited in a municipal office, let's say a municipal office in the northern part of the province, or western, or southwestern part of the province, then again it makes it, say, somewhat difficult from another area of the province to gain access to it. I'm wondering whether in fact some proposal might also be that copies would be deposited in the Provincial Library for inspection so that there would be an alternative source of placement so that those would have it, and it would be one of the requirements of the municipality to place it in the Provincial Library for inspection; and secondly, I don't know if there is any way of insuring that when notice is given of the proposed special area, and notice of hearing being offered, whether there is alternative means of communication, whether it's through using provincial news services, or whatever, to make sure there is the widest possible circulation of notice on the proposed hearings.

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, to Mr. Axworthy. I think that we're running into a case of what is a desirable means of communicating the proposal to as large a number of people as possible as against the mandatory requirements of an Act. It's one thing to say you should publicize as widely as possible through whatever means you have at your disposal, which could include TV, radio, and so on, as much as you want, as opposed to another one which says you must meet certain minimum requirements. I think if you look at the province as a whole, we may have a special planning area in the area, say, of Grand Rapids for instance, well in instances like that the publication in the local newspaper - and there may not be one at all - certainly we cannot extend a notice to every resident in Manitoba. You know, you get to the point where it's almost impossible to comply with any specific requirement. This is really a minimum. You know, how many newspapers do you want and where . . . Do you have any suggestions? I think we'd like to have some, but we've gone through this over many many years now, newspaper notice advertising, and what you have. It's an impossibility.

MR. AXWORTHY: Well, Mr. Chairman, if I might just respond to that one point. Again I think that it's quite important, the import of this legislation, the establishment of special planning areas is a very major event in this province, it is not just like setting out a notice in a zoning by-law. The establishment of one of these areas is something that really is making a pretty substantial and radical change in land use and requires, I think, a maximum effort to insure that those who are interested, concerned, have a sense of what's happening, are informed of what's going on. It's tough to come up with the right solution right off the top, but I am suggesting that again because the designation of a special planning area affects people far more than, you know, local area, then it does require I think a minimum - as a minimum, that information be parlayed on a slightly wider basis than in a local newspaper of that area itself. It may be simply that the Provincial Government through its own news service prints that, or gazettes it, though the gazetting system doesn't work necessarily because it comes out too late.

MR. CHAIRMAN: The Honourable Mr. Pawley.

MR. PAWLEY: Well, you know, I think the import of Mr. Axworthy's comments are

(MR. PAWLEY cont'd) . . . . . quite acceptable. It's only a question of developing a practical alternative to which one can be assured that there would be provincial-wide notice. Whether or not it would be sufficient to say that one daily distributed within the Province of Manitoba, and one copy of the development plan to be made available in the Provincial Library, whether that would be a practical proposal under these circumstances or not, I . . . The number of designated areas would be very rare indeed I would think. This would happen at the most once or twice a year, I would think, so it's not going to be a thing that's going to be happening from week to week, month to month. So that I'm saying that to indicate that it's something that would not probably create a tremendous burden on anyone to insure provincial-wide coverage, whether it's through one of the dailies, provincial-wide dailies, or - and also the copy of the development plan to be made available at the Provincial Library.

MR. CHAIRMAN: 12(7)(d) - Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, before we proceed, I was just wondering again if I may follow up on the Minister's recommendation that aside from using the daily I wonder if you could develop a system so that the notice of proposal for hearings and plans would in fact be the information that would be communicated to every member of the Legislature, so if they had groups interested within their own areas, then they could see that the contact was made and be able to respond to it and through the - I think there is a provincial news service that sends out all those information sheets, and it might as well be put to use if it's going to be in existence. But I think it would certainly be important that members of the Legislature at least themselves know that these things are going on and are taking place on a regular basis, and then they may fulfill their own responsibilities as elected members to contact groups on information, and if there is a news media in their own locale that should be contacted then they can see to it.

MR. PAWLEY: What if the reference was to the Manitoba Gazette? The Manitoba Gazette would be received by each MLA. Leave it Manitoba Gazette, and one copy to be filed at the Provincial Library. The Manitoba Gazette would be received by each MLA and other interested groups, I would think.

MR. AXWORTHY: That would certainly help, yes.

MR. PAWLEY: Some problems?

MR. McNAIRNAY: Mr. Bilton has just asked, who reads the Manitoba Gazette?

MR. BALKARAN: That is the worst formal notice you could ever think of.

MR. PAWLEY: Pardon?

MR. BALKARAN: Public notice is given or required to be given of regulations in various public notices and by publishing it in the Gazette. It's amazing how few people get the Gazette and have access to the Gazette, the Manitoba Gazette.

MR. McNAIRNAY: Lawyer's offices and secretary-treasurers.

MR. BALKARAN: The chief point every time, as to where this can be found. Nobody seems to know.

A MEMBER: Right in Winnipeg.

MR. PAWLEY: Well we're thinking in mind here - do all Manitoba MLAs receive the Manitoba Gazette?

MR. BALKARAN: No.

MR. PAWLEY: They don't?

MR. AXWORTHY: Yes they do.

MR. BALKARAN: Not complimentary copies as far as I am aware.

MR. DEREWIANCHUK: I do.

MR. BALKARAN: You do? Free?

MR. DEREWIANCHUK: Yes.

MR. BALKARAN: Earl McKellar came in from Virden one day and said he didn't get his regulations.

MR. PAWLEY: Mr. Chairman, to bring this to a head, let me propose that the development plan, a copy of same, notice of same be published in one daily newspaper circulating the province, a copy of the plan be deposited in the Provincial Library, and that a copy of such notice be distributed to all MLAs.

MR. CHAIRMAN: 12 - Mr. Einarson.

MR. EINARSON: Mr. Chairman, I appreciate . . . but there are many farmers, say, who don't get any paper.

MR. CHAIRMAN: 12(7)(d) as amended-passed; Page 9, as amended?

MR. BALKARAN: 12(8) on Page 9, Mr. Chairman. The fifth line the word "lease" is misspelled after "sell,". L-E-S-A-E should be L-E-A-S-E.

MR. CHAIRMAN: 12(8) as corrected - Mr. Einarson.

MR. EINARSON: Mr. Chairman, on this 12(8) you have the words here "for the purposes of implementing any feature of a development plan or carrying out the intent of the Order-in-Council, the government may acquire by purchase, lease, or otherwise, or, subject to The Expropriation Act." What are you referring to when you say "or otherwise"?

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, it was intended here, in any shape or form. In other words, gift, sweepstake, anything at all, you may get it. Who cares where you get it from.

MR. CHAIRMAN: 12(8) as corrected-passed; Page 9 as amended and corrected-passed; Page 10 - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, on Page 10 I would like to make a motion, amendment that Clause 14(1) of Bill 44 be amended by deleting the following words: "(a) the minister; or" and relettering (b) to (a) and (c) to (b).

MR. CHAIRMAN: Do we have a seconder for that? Any discussion? Honourable Mr. Miller.

MR. MILLER: Mr. Chairman, I find that odd because last night the representative of the Manitoba Urban Association in fact suggested that this should be strengthened and his feeling was that there should be - as I recall - that the Minister should be required after five years, or within five years, something to that effect, to act where the municipality or municipalities won't. That isn't being suggested, I don't believe the Minister is asking for that kind of direction. But simply to delete any reference to the Minister or to the government taking any initiative, I think would be a retrogressive step and really would make it, would almost void the operation of this planning in certain parts of Manitoba. Where necessary - I don't believe the Minister will act unilaterally but by having this here I think it will be a prod to those areas that perhaps might not be willing to move when in fact they should be moving.

MR. CHAIRMAN: Mr. McGill.

MR. McGILL: Mr. Chairman, I think this is you know really where we get down to some of the basic differences of philosophy in respect to the way this Act works. I think the Minister described it as a planning service act, and we have criticized it as being one in which the authority is centralized, and we would like to see more authority with the grass roots, or the community which has got some common interest. We would like to see the desire and the application for a plan to initiate with the municipality, or more than one municipality jointly. I think that this really is a test of where the authority lies in this Act, and I don't see any reason to provide the Minister with the authority to proceed without the express interest and desire of a municipality, or more than one municipality in joint operation.

Mr. Chairman, I feel this, you know, is just sort of a basic part of the bill and one where there certainly is a difference of opinion but I think it would be a test of the desire of this government to leave major authority within the community or on the other hand to establish and centralize the main authority under this Act.

MR. PAWLEY: Mr. Chairman, I'm a little concerned that this in fact would do the very opposite, because you could find an area or district consisting of a number of municipalities that would wish to plan together as a district, plan together, but one municipality out of four or five in that particular district refusing to go along with the other municipalities in the area, thus jeopardizing the very possibility of joint togetherness planning. If this is removed, 14(1)(a), then it really reduces the role of the Minister to one of passivity, one where he has absolutely no position of leadership. I think we have to keep in mind that the principal responsibility for planning does rest with the province, the province delegates this responsibility to the municipalities in the province but certainly does not remove itself entirely from a position of providing leadership if it's necessary to provide that leadership. And it would be used most reluctantly.

But certainly this amendment flies in the face of the other extreme position from this, the position that was taken by the Manitoba Urban Association last night in which they proposed that if districts were not formed within five years that the province establish those districts. I certainly thought that was going too far. But to go to this other extreme, I think is again going to a position that we ought not wish to accept. This at least is leaving the Minister with

(MR. PAWLEY cont'd) . . . . . some power, with some responsibility to provide leadership and to assist municipalities that do wish to come together, to plan as a district and may not be able to do so effectively because one municipality located strategically refuses to go along with the majority of the municipalities in a district.

MR. CHAIRMAN: Is there any further discussion? Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I want to ask the Minister in relation to this, he stated that the application which would be coming from a certain area that would involve three or four municipalities, thatif there was one municipality that was reluctantthis would sabotage or abort the program. As I read 14(1) which says, "An application to establish a planning district may be initiated by a municipality." Would that not mean that if there was three or four and one out of the three or four in fact felt a planning district would be a good idea, they could initiate that and that therefore there wouldn't be the requirement for the Minister to step in?

MR. PAWLEY: Well hopefully the initiative would take place at all times by the municipality. The district would be formed as a result of the initiative of a municipality, but what would occur if one municipality out of a group of four or five refused to come in, to participate, when that municipality might be required to complete the planning district, how could that be handled if you removed the responsibility of the Minister, the potential responsibility of the Minister?

MR. AXWORTHY: Mr. Chairman, what I am trying to get at is really perhaps what is meant in this case by application. I would assume that application is not a binding commitment, that it would simply be a request, in effect, that consideration be given to establishment of a planning district within a certain area, therefore there is nothing particularly holding against a particular municipality within a district to make that application and would therefore require other municipalities to then make its submissions on that particular application.

MR. McGILL: Mr. Chairman, I interpreted this to be that a municipality could initiate and make application for plans even though there might be an area that was somewhat reluctant and if that did occur it would seem to me that is the opportunity for the Minister to offer the leadership that he is talking about here. And I think leadership should be something that would encourage and eventually by debate bring in the area that is somewhat reluctant and doesn't see the advantages, rather than as it is now in holding, you know, it's the hammer, isn't it, really, in this case and the leadership isn't necessary. You simply have the authority.

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, in drafting this section, the intent here was that the Minister could initiate an application purely from the point of view that he may perceive a problem that the others are not aware of and the initiation of an application is really the first step. Consultation takes place with the municipalities following that initiation and subsequently there is a hearing by the Municipal Board to determine whether or not there should be a district, ultimately the Lieutenant-Governor-in-Council would make that final decision which is a political decision. The Minister merely initiates the ball along the way, as any municipality may also do.

MR. McGILL: Mr. Chairman, to the last speaker. He says that maybe the municipalities have problems they don't even know about. Well surely the way to handle that situation is for someone to go out and say, look you have a problem and we'd like to explain it to you rather than for the Minister to eliminate a problem which they haven't even known about in the first place. So I would like to see the leadership here bring the problem to the attention of the area, and surely if there is a problem, and they agree that they have a problem, then this idea of joint planning will be acceptable.

MR. PAWLEY: Mr. Chairman, we do get back to the point though that I had mentioned earlier that maybe a problem and maybe one that is perceived and acknowledged, accepted by the majority of municipalities in the district, but if there is one municipality out of the four or five that still refuses to acknowledge it as a problem, though it's pointed out to them as a problem and also pointed out to them by their neighbouring municipality, then I'm afraid that we would be stripping ourselves of any effectiveness if we were without any capacity to deal with that situation if we removed the Minister. So that even though the problem was perceived, even though it was pointed out, even though the other municipalities discussed it with municipality D, say, that we could not initiate the application which would take in this municipality.

MR. McGILL: Mr. Chairman, if municipality 'D' is reluctant and Municipalities A, B and C choose to submit a plan which they feel should include D, isn't that possible under the terms of this application?

MR. CHAIRMAN: The motion before us is that Clause 14(1) of Bill 44 would be amended by deleting the following words: "(a) the minister;or" and relettering (b) to (a) and (c) to (b). Are you ready for . . .

MR. PAWLEY: Well I would just like to ask the Legislative Counsel. I would not think an application should be made by a municipality that would include another municipality without the approval of that municipality. I take it that I'm correct in that interpretation?

MR. CHAIRMAN: Are you ready for the question dealing with the motion? Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, it is an important point and I think it should be clarified as to exactly who has the power to initiate these applications. I'm wondering as well, Mr. Chairman, if the Minister is concerned that he doesn't want to get hung up on the veto of a particular municipality within a proposed planning area, would it be possible to accept the amendment under 14(1) and perhaps add an additional clause, and that is that the Minister can only initiate an application upon request by a particular municipality.

MR. PAWLEY: What would happen if that municipality never initiated the request?

MR. AXWORTHY: Well I think that then we'd go back to the point raised by Mr. McGill, and it would indicate that there was absolutely no interest of any of the municipalities in that planning district to move towards a planning operation. But it would solve the problem that if in fact you had an area that would comprise four municipalities and three of them wanted it and one didn't, then if one of those three would request the Minister to initiate the application, then it could be so initiated.

MR. CHAIRMAN: Mr. McNairnay.

MR. McNAIRNAY: Mr. Chairman, I wonder if I could make a comment on this. I think in reading 14(1), it should be read with the full knowledge of how municipalities forming a planning district are going to operate. There is no point in forcing two or three or four municipalities together if they're not going to co-operate. They are not a levying authority, they are going to be dependent upon the good faith and the good will of the constituent municipalities that make up the planning district. I see this in action, that you're not going to be able to force strange bedfellows to try and work out a development plan if they are not willing to work together. And the whole thrust of this Act is that municipalities are going to have to be able to find common interests that will cause them to go into a district together.

Now you may get the odd situation that the Minister mentioned where three or four municipalities acknowledge that there are problems in their area that they think they can solve on this basis and one maverick municipality wants to hold out. I personally would have doubts about even trying to force that municipality in and make it a workable planning district, it's sort of a last resort type of thing and I think that this section should be read with that whole thrust of the legislation in mind.

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

MR. BANMAN: Wouldn't 14(5) have that kind of an effect? "The Municipal Board shall determine the area to be included in the planning district and shall advise the minister accordingly."

MR. CHAIRMAN: Mr. McGill.

MR. McGILL: Yes, to Mr. McNairnay. He made a good point, that you really can't force this situation upon one maverick municipality. That's why I feel that giving that minister the authority to actually force it on him is really not going to work. That somebody has to go out there and say look, here are the advantages and we think it's in your interests to go this way. I think this is probably the persuasion that will make a successful community planning out of perhaps an original opposition to it, rather than the Minister merely saying, well we don't care what you think, you know, it's going to happen, that's all. So I feel that force is not the proper way. Leadership, as the Minister said, is what we're looking for.

MR. CHAIRMAN: Are you ready for the question?

A COUNTED VOTE was taken the result being as follows:

Yeas 4; Nays 5.

MR. CHAIRMAN: I declare the motion lost.

Page 10-pass; Page 11 - I believe we have an amendment.

MR. MILLER: Mr. Chairman, on Page 11, I would move THAT subsection 14(5) of Bill 44 be amended by striking out the word "determine" in the second line thereof and substituting therefor the word "recommend."

MR. CHAIRMAN: 14(5) as amended-pass.

MR. MILLER: 14(6) Mr. Chairman. Subsection 14(6) of Bill 44 be amended by striking out the word "determination" in the first line thereof and substituting therefor the word "recommendation."

MR. CHAIRMAN: 14(6) as amended-pass . . . Mr. Johnston, Portage la Prairie.

MR. GORDON E. JOHNSTON: Ready for 15(1) yet?

MR. CHAIRMAN: 15(1)? Not yet.

MR. F. JOHNSTON: Mr. Chairman, did you say 11-pass? Page 11?

MR. CHAIRMAN: No, not yet. We have another amendment.

MR. MILLER: I move that subsection 14(7) of Bill 44 be struck out and the following subsection be substituted therefor - that's headed "Government may be heard." - 14(7) The minister designated under Section (6) may authorize any person to appear before the Municipal Board in any hearing held under subsection (3) to make representations for and on behalf of the government.

MR. CHAIRMAN: 14(7) as amended-pass. And there is a further amendment.

MR. MILLER: Further amendment to subsection 14(8). That subsection 14(8) of Bill 44 be amended by striking out the words "where a municipality forming part of the additional zone, as described under section" in the first and second line thereof and substituting therefor the words and figures "subject to Section 96 where a municipality forming part of the additional zone as described under subsection." And that subsection 14(8) of Bill 44 be further amended by striking out the words "otherwise directs" at the end thereof and substituting therefor the words "amends, repeals or replaces a by-law, order or plan in accordance with the provisions of this Act."

MR. CHAIRMAN: 14(8) as amended-pass - Mr. Johnston, you wished to speak on 15(1).

MR. AXWORTHY: Mr. Chairman, I wanted to raise a question on 14(8) before . . .

MR. CHAIRMAN: Mr. Axworthy, 14(8).

MR. AXWORTHY: Mr. Chairman, I just wanted to gain a fuller account from the Minister concerning the representations made last evening by the City of Winnipeg, concerning the development of a . . .

MR. PAWLEY: I'm afraid it's difficult to hear.

MR. CHAIRMAN: Would you please speak louder.

MR. AXWORTHY: Mr. Chairman, it's very difficult. The question I wanted to ask the Minister would be concerning the representations made last evening by the City of Winnipeg which expressed concerns about the fact that they are presently planning developments occurring in the additional zone and that they requested in effect that fairly specific planning guidelines already be laid out before a planning district came into effect. I was wondering if either the Minister of Municipal Affairs or perhaps the Urban Affairs Minister has had further discussion with the City of Winnipeg about their concerns in this regard.

MR. PAWLEY: I would gather that the amendment would insure that the development plan as per the City of Winnipeg would continue in effect until such a time as a new development plan was approved for a district around the City of Winnipeg.

MR. CHAIRMAN: 14(8) as amended - Mr. Axworthy.

MR. AXWORTHY: What procedure would be in effect once this district board involving municipalities in the additional zone was established, where would the City of Winnipeg be able to develop its contribution, or its interest in lands that abut directly on its borders, because obviously there is going to have to be a very close co-ordination in the working out of this? Would they be part of a district board? Would there be any advantage in, under this section, having them added to as auxiliary members or associate members of that district planning board to insure that the interests of the City of Winnipeg in terms of land development directly on their borders would be considered fully?

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. McNairnay.

MR. McNAIRNAY: Mr. Chairman, may I reply. The interests of the City of Winnipeg in that situation would be the same as the interests of any municipality on the other side of the district. That is, during the preparation of a development plan the city would have an interest in the policies which that district was going to adopt which might have a direct influence on the City of Winnipeg. The City of Winnipeg, or any other adjacent municipality around the district, would be able to make submissions at the appropriate time, as provided in the Act, to make their positions know. So the city would not have any special status any more than any other municipality, but would be an interested municipal body that would want to know what their neighbours were doing.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Well, Mr. Chairman, I now understand what is required. I'm not sure I totally like what I hear, on the basis that one of the major thrusts of this Act is to cope with the urban growth that is generated out of Winnipeg. It's not as if the City of Winnipeg is a municipality like other municipalities - it is in a sense the problem for which this Planning Act was almost developed to cope with, and it would seem to me that the planning of any response to growth that is generated as a result of population increases in the City of Winnipeg - which require a very high degree of integration of transportation, land use and so on - would require something more than just then making a submission. It would seem to me that services, facilities beyond the perimeter route are all very closely intertwined, and it would just seem to me that something more is required than for them to make a submission like any other private citizen or municipality would be.

MR. CHAIRMAN: Mr. McNairnay.

MR. McNAIRNAY: Mr. Chairman, let us take perhaps a specific example. Suppose that East St. Paul forms a planning district in that area, and in the course of preparing their development plan East St. Paul says that we would like to see high density urban development along a strip of land adjacent to the City of Winnipeg or even throughout the whole of the southern half of the municipality. This obviously has implications for the City of Winnipeg, transportation routes, etc., quite apart from the implications that it would have for a municipality which is still essentially rural. The City of Winnipeg, I would think, under those circumstances would be quite alarmed. They get notice of the plan, specifically, adjacent municipalities under 14(4) and the City of Winnipeg would probably make the strongest submissions, very strong submissions on the implications that it had for the City of Winnipeg.

Now, what isn't mentioned here it seems to me - but it's implicit - is if the province itself is going to have to come up with overall land use policy plans as assistance and as guidance to the municipalities, I personally don't see why the City of Winnipeg - though the state is greater I agree - why the City of Winnipeg would be in any preferred position over any other municipality that might be affected by what its neighbour is doing.

MR. CHAIRMAN: 14(8) as amended - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I wanted to speak on 14(6). Mr. Chairman, this bill, as we come along through this section, we have the municipal board hearings, we have the hearings with the municipalities, and in 14(5) the municipalities and the municipal board come to an agreement type of thing. Establisment of the district following the recommendation of the area to be included in the planning district by The Municipal Board, the Lieutenant-Governor-in-Council may establish the district to comprise the area determined by The Municipal Board or such other area as he considers advisable.

Now why in the name of heaven, after The Municipal Board and the municipalities have agreed does the Lieutenant-Governor-in-Council have a right to turn around and put in "or such other areas as he considers advisable"?

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Chairman, even at the present time The Municipal Board can be requested to make recommendations pertaining to change of boundaries in regard to two municipalities. Certainly in the final analysis I would think this has to be a political decision. The Municipal Board ought not to be the final decision-maker here because it is a policy decision as to the boundaries. The Municipal Board I would think would be better to call upon its resources as far as recommendation is concerned. In the final analysis, I would say that the Minister would have to assume responsibility for whatever area was in fact included.

MR. F. JOHNSTON: Mr. Chairman, you know, I know what the Minister is saying, but there seems to be agreement between the municipality and The Municipal Board, and why then should it be changed to any great extent? That's just my point, and I heard the Minister's explanation.

MR. CHAIRMAN: Page 11 as amended - anyone wish to speak to 15(1)? Mr. Johnston, Portage la Prairie.

MR. GORDON JOHNSTON: Yes. I refer to 15(1) paragraph (e).

MR. CHAIRMAN: There is an amendment on 15(1).

MR. G. JOHNSTON: Paragraph (e)?

MR. MILLER: I've got an amendment before that. 15(1)(d) on Page 11. That clause 15(1)(d) of Bill 44 be amended by striking out the words "and the conditions under which members may be removed or replaced" in the second line thereof.

MR. CHAIRMAN: 15(1)(d) as amended - any questions? Mr. Johnston.

MR. GORDON JOHNSTON: Well, Mr. Chairman, I refer to 15(1)(e) and I quote: "prescribe the proportions in which funds, if any, are to be contributed to the district board by the municipalities in the district and by the government to meet the expenses of the board." Now, Mr. Chairman, in the limited time that we have had to check the Act, I don't see any place in the Act where a planning district has the authority to levy moneys against the municipalities. And I would like also - if it is the intention of the government that planning districts be given the authority later on, then we'd like to know now, and also if there's going to be a limit on the levying power. In other words, will the group of municipalities be placed in the position . . .? As it is presently with school board, the school board presents the municipality with their budget, and that's it. Now as I say, I've checked the Act very roughly but I can't find any place where a levying authority is given for the municipalities to raise their moneys. Can we have an explanation there?

MR. CHAIRMAN: The Honourable Mr. Pawley.

MR. PAWLEY: There certainly is no levying power here by the district board. (e) would foresee amounts being contributed towards a district board by the municipalities. The amounts would have to be determined as a result of consultation with the municipalities involved working out the amounts that would be required to carry on the functions of the board. I would take it under (e) that this would only take place after there was consultation and involvement of the municipalities to ascertain the amounts of moneys that might be required to carry on the functions of the district board.

MR. G. JOHNSTON: Well I raise the question: shouldn't there be a limit or a limitation to the amount that can be levied, because the planning board - I see later in the Act, they're going to have staff; they're going to have technical and other assistance provided by the Minister, and there's going to be quite a budget here. It's not a little thing, it's going to be fairly substantial. Surely the planning board wouldn't have an open end, just to say, we want so much money without the municipalities knowing what the authority is as to how they can be levied upon and also an upward limit. I believe there's limits presently in The Watersheds Act, The Municipal Act, for various co-operative ventures such as watersheds and so on. There's a limit on what can be levied.

MR. CHAIRMAN: Mr. McNairnay.

MR. McNAIRNAY: Mr. Chairman, if the district board had the power to levy, it would in effect be setting it up almost like another level of government - and that's a very serious step that would be taken, if they had the levying authority. We spent a great deal of time thinking about how the finances, the operating costs of a district board should be borne. We looked at the question of equalized assessment, we looked at the question of acreage, and we felt that if we adopted any kind of a fixed formula you run the risk of creating inequities. You get into situations that it may work one place but not another. Therefore, what this is really saying is that if three municipalities decide to go together - they may be an urban and two rurals or whatever - they can sit down and say, we will divide the costs on the basis of the urban, we're going to be using most of the planning services, we'll pay 50 percent of the annual operating costs. The two rurals might say, we'll pay 25 percent each. The province may adopt a policy of saying, we'll pay 50 percent of the annual operating costs. But this allows the municipalities to determine themselves the share of the annual operating costs which each will put up. And it was felt that this was the most flexible arrangement and gave the municipalities - after all, the councillors that are sitting on the district board are now coming from the municipal councils and are going to have to be able to go back to those councils and sell the cost of that operation for the year, and if the municipal councils are not prepared to put up that money it is going to seriously impair the effective operation of the board. But it seems to me that this section leaves a maximum amount of flexibility and jurisdiction with the municipal councils in the operation of the district board.

MR. CHAIRMAN: Pag 12 - Mr. Johnston.

MR. G. JOHNSTON: The explanation goes some way to satisfy me, but what happens when a municipality says, well we can't go for that heavy of an expenditure and they just say, no, we're not going to go that much. As I see the Act, it's up to two councillors, probably one from a municipality, and the municipality will have six councillors and a mayor or whatever. And supposing he doesn't sell that; if they say no, this is too rich for our blood, we can't afford it, we don't want to be caught up in the same box that we are caught in the school boards where we're presented with a bill and we have to pay. Here we're legally not required to pay and we're

(MR. G. JOHNSTON cont'd) . . . . .not. Then what?

MR. CHAIRMAN: Mr. McNairnay.

MR. McNAIRNAY: Mr. Chairman, I'd like to point out that these are not likely to be wildly fluctuating costs. We are talking about the costs of perhaps a part time planner, or a full time planner if the district is large enough to warrant it, a draftsman or two, a secretary, a building inspector, hopefully, eventually. So they're going to be fairly static costs subject only to the annual incremental increases that go with such an operation. But they're not going to be wildly fluctuating and a municipality entering into such an arrangement will have a fairly good idea before it ever enters into the district board what will be anticipated in the way of annual operating costs. It's not going to suddenly find in any one year a wildly fluctuating operating cost.

MR. CHAIRMAN: Page 12 - passed; Page 13 - there are two amendments on Page 13.

MR. MILLER: That subsection 17(3) of Bill 44 be amended by striking out the words "included in the district" in the second line thereof.

MR. McGILL: Mr. Chairman, did the counsel get the typographical error on Page 11?

MR. BALKARAN: Is there a typographical error?

MR. McGILL: 14(8), the second last line thereof.

MR. BALKARAN: Oh yes, "municipality" is spelled incorrectly.

MR. CHAIRMAN: 17(3) as amended - passed.

MR. MILLER: That subsection 19(1) of Bill 44 be struck out and the following subsection be substituted therefor: "Membership of board. 19(1) The board of a planning district shall be comprised of (a) at least one member of the council of each municipality included in the district as may be determined by the Lieutenant-Governor-in-Council; and (b) at the request of the board of the district a person employed by the government and designated by the Minister where a substantial part of the land in the district is Crown land.

MR. CHAIRMAN: 19(1) as amended - Mr. Johnston, Sturgeon Creek.

MR. F. JOHNSTON: Could I ask - you know, I've got a set of amendments that were given to me the other day, tonight I thought I was getting an extra set of the ones I got the other day - are the ones we got tonight different?

MR. BALKARAN: Yes, they are different only inasmuch, Mr. Chairman, that originally there were two sets of amendments given, and this last set of amendments combines those two sets into one.

MR. F. JOHNSTON: I've been working on the old set of amendments and now the new set comes out tonight. It's a little confusing.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I wanted to ask the Minister about 19(1), section (a) of the amendment as proposed, "One member of council as may be determined by the Lieutenant Governor-in-Council." Does that indicate very clearly however that the member of council is chosen by that council and is not subject to any veto by the Minister or by the Lieutenant-Governor-in-Council?

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Is that clear, that it is a member that is elected by council to the board?

MR. BALKARAN: 19(1)(a). It is an elected member of council.

MR. PAWLEY: But the member will be elected by the council.

MR. BALKARAN: Yes, it's a nomination.

MR. PAWLEY: Yes.

MR. BALKARAN: By council to the Lieutenant-Governor-in-Council who then makes the appointment.

MR. PAWLEY: The concern was that the Lieutenant-Governor-in-Council might be the one that would be making the appointment.

MR. BALKARAN: No, as I see it gentlemen, it's the council that submits the name of the representative.

MR. AXWORTHY: Okay, Mr. Chairman, should it not read then, at least one member of the council of each municipality as chosen by that council?

MR. BALKARAN: As nominated by that council?

MR. AXWORTHY: Or as nominated by that council.

MR. PAWLEY: Mr. Pelletier has an explanation for that.

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, the intent of 19(1)(a) is that the board is comprised of at least one member of council from each municipality. The total number is determined by the Lieutenant-Governor-in-Council. That may be not clear here. In other words, that such other members as may be determined - maybe that's what's missing - such other members as may be determined - number of members.

MR. CHAIRMAN: Mr. McGill.

MR. McGILL: Yes. Well, definitely the wording is faulty if that is the meaning intended here, because it can be read to indicate that the Lieutenant-Governor-in-Council determines which one member of council may be included in the board, certainly I read it that way. Now we have another interpretation - I think it becomes mandatory that the wording be changed to give the proper intent here.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, speaking on the same point, I think it is important that that clause spell out - there's two thoughts in that clause - one, is that the member of council is chosen by that council, is not subject to any qualification by the Lieutenant-Governor-in-Council.

But secondly, that the numbers that may come from any one council is a variable that may be determined by the Lieutenant-Governor-in-Council. I think that's got to be spelled out a little bit more, because certainly as was raised, I think in two or three representations last evening - I believe the Member for La Verendrye has raised the issue - what's the criteria to determine how many members should be chosen by the Lieutenant-Governor-in-Council from any one municipal group?

MR. CHAIRMAN: Mr. Howard Pawley.

MR. PAWLEY: Certainly the intent is - and we could draft this so that it's quite clear - yes, the legislative draftsman has some wording which maybe he would read, would clarify this point.

MR. BALKARAN: Mr. Chairman, in the second line in Clause (a) after the word "district", add the words "and such other members of the council", and then read on, "as may be determined by the Lieutenant-Governor-in-Council.

In other words, one member cannot be vetoed, but the other members would be appointed by the Lieutenant-Governor-in-Council.

MR. AXWORTHY: Could you say that again now?

MR. BALKARAN: Well, as I understood it, one member of council to be nominated and that person will be appointed by the Lieutenant-Governor-in Council; but the other members will be up to the Lieutenant-Governor-in-Council to determine.

MR. McGILL: You mean, so there's two different techniques of selection, one is to be nominated by your council and the second is to be chosen by . . .

MR. CHAIRMAN: The Honourable Mr. Pawley.

MR. PAWLEY: Maybe I should just outline the intent: That the exact number and the composition will be a matter which would have to be established by the Lieutenant-Governor-in-Council, whether there be one from each municipality totalling six members in total, or whether there might be some other type of distribution as to actual membership on the board. That's something that may very well have to be spelled out by Order-in-Council. The actual names of the individuals that will sit on that board would be names of individuals that would be nominated by the individual councils and would not depend upon Order-in-Council. Now maybe there's some redrafting required to clarify that.

MR. AXWORTHY: Mr. Chairman, I suggest that in fact it be split into two clauses: 1. To specify the point that the Lieutenant-Governor-in-Council will determine the number to be chosen from each, which will be not less than one; 2. To indicate that those sitting on the district board will be nominated and chosen by their respective councils.

MR. CHAIRMAN: Mr. Banman.

MR. PAWLEY: I wonder if we could first just clarify that wording.

MR. CHAIRMAN: Yes. Would you just wait a moment?

MR. BALKARAN: Would this help, Mr. Chairman? Maybe if you just made some changes here, and read it this way: The size of a board of the Planning District shall be determined by the Lieutenant-Governor-in-Council and shall be composed of

(a) at least one member of the council of each municipality included in the district; and

(b) as is presently worded.

MR. McGILL: (b) as . . .

MR. BALKARAN: As is presently worded: At the request of the board of that district, a person employed by the government. Does that come closer to what you're thinking?

MR. PAWLEY: As long as there is no interpretation in there that it's the Lieutenant-Governor-in-Council that is - which is a kind of a final appointing authority, that's our concern I think.

MR. BALKARAN: Well, you can add the words "included in the district and nominated by the council."

MR. AXWORTHY: Yes.

MR. PAWLEY: Yes.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Banman, I think was ahead of me, by decisions.

MR. CHAIRMAN: Was he? Okay. Mr. Banman, did you have priority over Mr. McGill?

MR. BANMAN: He's older than I am.

MR. CHAIRMAN: Okay, go ahead.

MR. BANMAN: I think the one problem that we still haven't tackled though is the one of representation overall in the different discussed areas. And of course as mentioned here, I think the amendment would take care of the one problem that I spoke about and I think that we're all concerned about, that the thing doesn't happen that happens when the housing authorities were sending a list of names and then the government picks out a certain name So I'm happy to see that in there.

But I think that the composition of the boards will have to be a formula that'll have to be applied so that we don't vary it from district board to district board, that there's a certain amount of continuity from one board to another, and I think that's a very important point. As I pointed out yesterday, I think that's the key to the Act and it's on those grounds that this Act will work or not be functional.

MR. CHAIRMAN: Mr. McGill.

MR. McGILL: I'm still waiting to hear what I would consider to be acceptable wording for that (a) part there, to get across the thought that there will be at least one appointed by the council, but there may be more - the number of additional members to be determined by the Lieutenant-Governor-in-Council. That is the number, not the individuals selected. So how do you say that in precise terms?

MR. PAWLEY: I would like to, while Legislative Counsel is working on that, just to say to Mr. Banman that I think it's important that - maybe that we not tie down the representation to a formula in advance. When we think about it a little further it might be advantageous not to. We might have a district of municipalities that would like to come to their own agreement based upon the particular circumstances within their district or region as to the type of representation that they would like. You might have in some districts as a result of discussion among the municipalities a desire that it be based upon one to each municipality, the populations that are nearly similar. You might in others find that they might wish it to be based upon population. The population might seem very reasonable in view of the circumstances. In another district, population might not appear to be reasonable and fairer representations might be obtained by equalized assessment.

It seems to me that this would be a matter for negotiation among the municipalities that would be grouping together to determine whether or not they wish to form a district, the type of representation that each municipality would want to have. So I'd be very hesitant to tie ourselves down to a pre-conceived formula that might in fact create difficulty for us by its very rigidity and lack of flexibility from one part of the province to another.

MR. MILLER: Mr. Chairman, I wonder if we could have those amendments read out by counsel, so that it's clear what . . .

MR. PAWLEY: Yes. Where is Legislative Counsel?

MR. BALKARAN: 19(1) with the amendment as proposed would read as follows: "The number of members of the board of a planning district shall be determined by the Lieutenant-Governor-in-Council and shall be composed of

(a) at least one member of the council of each municipality included in the district, nominated by the council of the municipality; and

(b) at the request of the board of the district, a person employed by the government and designated by the Minister, where substantial part of the land in the district is Crown land.

MR. CHAIRMAN: 19(1)(a) and (b) as amended - passed. Did everyone hear that clearly?

MR. McGILL: . . . additional members, they have to come from the municipality. You see, the number of members is controlled, at least one member will be from the municipality, but then the Lieutenant-Governor-in-Council might appoint four others not from the municipality.

MR. PAWLEY: No, that's certainly not the intention.

MR. McGILL: No, I know it isn't. But I mean, the way we've now got to it, it doesn't say that the additional members that the Lieutenant-Governor may wish to have will also come from the municipalities.

MR. BALKARAN: Mr. Chairman, I don't quite see - it says at least one member nominated - but what if the council has nominated four?

The ... says, "this district shall be comprised of nine people". And the municipality would nominate at least one from that municipality, it does not preclude them from nominating two or three.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Yes, if there are extras, additional people, that they will also be chosen from the council and not appointed by the Lieutenant-Governor-in-Council, and you should find wording to ensure that that is spelled out so that - as it now reads, the only safeguard there is, is that that one person would be nominated from the council.

MR. BALKARAN: Would it be clearer if Clause (a) said: "Shall be composed of one or more members of the council of each municipality nominated by the council of the muncipality".

MR. AXWORTHY: Right, now you're on to it.

MR. McGILL: Yes. Okay.

MR. AXWORTHY: That hits it, I think.

MR. CHAIRMAN: 19(1)(a) as . . .

MR. AXWORTHY: Well, Mr. Chairman, could we just get the full reading of it to make sure that . . .

MR. CHAIRMAN: Okay Mr. Balkaran.

MR. BALKARAN: The number of members of the board of a planning district shall be determined by the Lieutenant-Governor-in-Council and shall be composed of

(a) one or more members of the council of each municipality included in the district, nominated by the council of the municipality; and

(b) at the request of the board of a district, a person employed by the government and designated by the Minister, where a substantial part of the land in the district is Crown land.

MR. AXWORTHY: Right.

MR. CHAIRMAN: Finally. 19(1)(a) and (b) as amended - passed. There's a typographical error in 19(2).

MR. BALKARAN: Mr. Chairman, it's not really typographical. Second line 19(2) reads 19(1)(a) - as a result of this amendment, that should be clause (b).

MR. CHAIRMAN: 19(2) as corrected - passed; Page 13 as amended and corrected - passed; Page 14 . . .

MR. MILLER: There's an amendment on Page 14, Mr. Chairman.

MR. CHAIRMAN: An amendment.

MR. MILLER: Under "Voting by Chairman, 20(6) - the chairman or acting chairman of a district board is entitled to cast his vote as a member of council, and in the event of a tie vote the motion shall be deemed to be lost."

MR. CHAIRMAN: 20(3) as amended - Mr. Axworthy.

MR. AXWORTHY: Just one small question, Mr. Chairman. I wonder if the Minister of Urban Affairs plans to introduce such amendments to the City of Winnipeg Act?

MR. BALKARAN: Mr. Chairman, can I draw the members' attention to 20(4), first line: the reference to subsection (6), should be subsection (5); and in 20(5) the reference to 19(1)(a) should be 19(1)(b).

MR. CHAIRMAN: Page 14 as amended and corrected - passed; Page 15 - there's a correction, 21(4) on the third line . . .

MR. BALKARAN: After the word "seal" should be "or" - it should read "seal or the signature of".

MR. CHAIRMAN: 21(4) as corrected - passed; Page 15 as corrected - Mr. Johnston, Sturgeon Creek.

MR. F. JOHNSTON: Mr. Chairman, Section 22 - this really means you're setting up

(MR. F. JOHNSTON cont'd) . . . . .another secretary-treasurer and such other officers and employees as may be necessary and to fix their remuneration. You know, we were talking earlier about costs. There's no stipulation whatsoever as to how many people they can have - it just says: "and such other officers and employees as may be necessary" - that may be the stipulation - "and fix their remuneration". Really, with this Act, this is just another form of government in the district.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Well, Mr. Chairman, the problem is if the district covers a substantial number of municipalities and is expected to carry on the planning responsibility. . .

MR. F. JOHNSTON: Go ahead.

MR. PAWLEY: . . . and I foresee, by the way, here that over a period of time much of the present planning staff that is presently employed by the province might very well become employees of the district. Certainly they would require such necessary staff, and I would prefer to see the staff being the staff of the district rather than of the province as is the case now, in the future. At least I would want to ensure that that is a factor, that we can move towards decentralization of services so that districts themselves can provide their own staff, to provide their own responsibilities. It's permissive, and we have to keep in mind that this could cover a pretty substantial chunk of Manitoba, and the employees would not be provincial employees but would be district employees - not provincial employees as they are at the present time.

MR. CHAIRMAN: Mr. Banman.

MR. BANMAN: Thank you, Mr. Chairman. I wonder, through you to the Minister, if he would be able to tell us if he envisions this board as being one where the staff of this particular board would be comprised of people issuing building permits, building inspectors and things along that line.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Yes. This is a very distinct area that I would anticipate that they would undertake. One of the problems that we have presently is that individual municipalities cannot carry on this function properly. But a number of municipalities joined together could provide this type of function, and we do see that as a function that would tie in very closely with the kinds of responsibility . . .

MR. CHAIRMAN: Mr. Banman.

MR. BANMAN: So that in an area where you - and I refer specifically to my own constituency, one of the municipalities hasn't got a planning by-law at all right now - the area of La Broquerie, I believe, hasn't got a planning by-law at all. And for instance, the Town of Steinbach who does have their building inspectors, you wouldn't see it, as far as - I'm trying to sort of get the concept of this particular board - the Town of Steinbach under such circumstances would not have another building inspector issuing building permits, it would be done by this central authority, if you want to call it that.

MR. CHAIRMAN: The Honourable Mr. Pawley.

MR. PAWLEY: Yes, I would see that occurring for the best advantage.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I have some questions related to Section 23, the general powers of the board. It would seem to me that these are very extensive powers, especially when you compare them to the duties of the board that are laid out on the next page. But the question I'd like to ask is, for example, under Sections (a) and (b), (f) and (g), does that mean that this district board could itself undertake negotiations, for example, with Central Mortgage and Housing, for land assembly purposes, for new communities' money, for other forms of assistance, or would they negotiate directly with Manitoba Housing Renewal Corporation under these powers, without reference back to municipalities? Would they be able to negotiate with other agencies of government directly for, not just planning purposes, but development purposes in land, housing, transportation, etc.?

MR. PAWLEY: Yes. This would be authority that would permit them to do that sort of thing.

MR. AXWORTHY: Well, Mr. Chairman, could the Minister explain, if the powers are given to the district board to do that, what is the reference point back to the individual municipalities? Does it occur only in the levying of the moneys or expenses of the district board? Is that the only control feature the municipalities have?

MR. PAWLEY: Well, that would be the only control factor, plus the appointment of the nomination of the members to the board.

MR. AXWORTHY: Of the members to the board, I see. Okay.

MR. CHAIRMAN: Page 15 as corrected - Mr. Johnston, Sturgeon Creek.

MR. F. JOHNSTON: Mr. Chairman, 23(a) "acquire in any manner"?

MR. CHAIRMAN: Acquire in any manner.

MR. F. JOHNSTON: The words "in any manner"? You know, that sounds to me like they could drive up with a tank and take a man's property. You know, that "in any manner" - now, they could steal it. I would like that explained.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: A little while earlier - we just used a different phraseology - "lease, purchase, gift or otherwise" is what we used earlier.

MR. F. JOHNSTON: Yes, but it wasn't "in any manner" the last time. I beg your pardon? --(Interjection)-- Yes, okay - in any legal manner.

MR. CHAIRMAN: Page 15 as corrected - passed. Page 16, I believe we have some amendments.

MR. MILLER: Page 16, Clause 24(2)(e) of Bill 44 be amended by striking out the words "and the Minister" in the first line thereof.

MR. CHAIRMAN: 24(2)(e) as amended - passed.

MR. MILLER: And there's another one on Page 16, Section 25 of Bill 44, be struck out and the following section be substituted therefor:

"Agreement for services and grants. 25 - the Minister may make an agreement with a board of a district to assist the district

(a) by providing technical and administrative assistance; and

(b) by a payment to the district a financial grant subject to such terms and conditions as he may consider advisable".

MR. CHAIRMAN: 25 as amended - passed. Mr. McGill.

MR. McGILL: Yes. There's a typographical error there in 25(1), one of the many spellings of "districts" that comes up.

MR. CHAIRMAN: That's 26(1).

MR. McGILL: Is it now 26(1)?

MR. BALKARAN: That's being struck out, Mr. McGill.

MR. McGILL: All right. It'll be struck out.

MR. BALKARAN: Yes.

MR. McGILL: I'd like to refer then to 24(e), is that still in the Act, Mr. Chairman? 24(e).

MR. BALKARAN: 24(2)(e), yes.

MR. McGILL: It says, "Prepare and submit to the member municipalities and the Minister an annual report of its activities and an operating budget for the next ensuing fiscal year on or before the 1st day of March of each year."

Mr. Chairman, I think it's true that the municipalities are required to prepare preliminary estimates prior to a calendar year and to prepare final budgets prior to April 15th. So that planning districts should operate on a calendar year and should prepare budgets for approval no later than January 31st, and these would have to be included in the municipal budgets. I would think this would be one of the things that would have come up had the municipalities been able to look at this bill before it was being put through.

MR. CHAIRMAN: Mr. McNairnay.

MR. McNAIRNAY: Mr. Chairman, it's true what Mr. McGill says. But they are preliminary estimates. That's one of the major problems with any municipality finalizing its budget, it waits for the school levy which we know sometimes comes in June and holds up the finalizing of the municipal budget. This is the 1st of March. It could be advanced a month, but municipalities are really not in the process of finalizing their budgets until well into March. It might help the municipalities to know what the district was going to spend, to advance the date. . .

MR. McGILL: Yes, I think they probably should for January 31st. I wonder if this could be made January 31st here rather than the 1st of March.

MR. McNAIRNAY: Mr. Chairman, I would think that that would be reasonable. The costs of the district are not going to be, as I said earlier, fluctuating that much that they

(MR. McNAIRNAY cont'd) . . . . .shouldn't be able to submit their budget by the end of the calendar year to help the municipalities in their budget process.

MR. PAWLEY: Mr. Pelletier just mentioned to me that Budget and Finance did check it and approve the date as here.

MR. McNAIRNEY: Our Municipal Budget and Finance Branch.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Mr. Chairman, the fact that it says the 1st day of March, really the pressure is on the board if it wants to get its budget through the councils, their respective councils. Then it's going to have to produce that budget, that preliminary budget. If they produce it, there's nothing to stop the municipalities from striking their final budget, in which case the board is left hanging, so that's all the urging you need. It's not like a school board where the council must wait for the school budget to be prepared. Either they've got it by that date or the council can simply say, "Well, see you next year."

MR. CHAIRMAN: Mr. McGill.

MR. McGILL: I don't understand Mr. Miller's point. Is he arguing for the present date or changing it?

MR. MILLER: Yes, just leave it at the 1st day of March.

MR. McGILL: Well, I think it would at least encourage them to get going a little earlier - as you said, the 31st - the municipalities - a date that they also use I think for preparing and submitting their budgets.

MR. CHAIRMAN: Mr. McNairney.

MR. McNAIRNEY: Mr. Chairman, I'm encouraged by the fact that this was checked with our Municipal Budget and Finance Branch, and they're sticklers on this kind of thing. March, the date as it's contained in the draft is an outside date. It's a date they can't exceed, it's on or before that date.

MR. CHAIRMAN: Page 16 as amended - passed. Page 17 - Mr. Axworthy.

MR. AXWORTHY: Just a question at 25(1). On 25(1)(b) "by payment to the district of financial grants" - is there any indication what those grants would be designated for? Are they conditional grants of any kind - are they for technical assistance, for example, or are they just unconditional grants? Could the Minister indicate what, if there are conditions, what the conditions may in fact be?

MR. CHAIRMAN: I understand they have to be conditional.

MR. AXWORTHY: But, conditional for what?

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Chairman, the grants would be unconditional, since they would be used for the purposes of operation of the board.

MR. AXWORTHY: Well, Mr. Chairman, this relates back - I think there's an amendment further on - but does it mean for example, that the district board could apply for a grant to hire its own technical planning assistance other than that which is directly supplied by the Provincial Government?

MR. PAWLEY: Well, this could be - I would foresee that much of the staff would be hired by the district boards, much of the staff that is now supplied at the provincial level, but some of it could be provided by the provincial level as well. This is something that's going to have to be sorted out over a period of time. But I would expect that much of the staff that would now be provided by the province would be provided under the responsibility of the district boards, rather than the provincial.

MR. CHAIRMAN: Page 16 as amended - passed. Page 17 - there's a typographical error in 26(1) - "plan for the district" - "district" is misspelled. And I believe there is an amendment.

MR. MILLER: Yes. Subsection 26(4) of Bill 44 be struck out and the following subsection be substituted therefore:

"Preparation and amendment of plan 26(4). Subject to the provisions of this Act, the Board of a district or the council of a municipality may, after advising the Minister, prepare a development plan or any amendment thereto."

MR. CHAIRMAN: 26(4) as amended - passed. Page 17 as amended and corrected - Mr. Johnston.

MR. F. JOHNSTON: Page 17 is a fairly critical page. In Section 1 it says: "in writing, order the board of the district or the council of a municipality to prepare a plan for the district

(MR. F. JOHNSTON cont'd) . . . . . or the municipality, as the case may be, within two years from the date of the order . . ."

And then your Section 26(2) is a total loss of planning authority for the board of the district.

And section 26(3), the Minister can set up the region. In fact the Minister could force a plan - or the way I read this - force a plan on a board or a district that they don't even want.

And the 26(1((2) and (3) - (4) makes sense as far as I'm concerned - I would move that Sections 26(1), 26(2) and 26(3) be struck out.

MR. CHAIRMAN: Do you have a copy of your motion?

MR. F. JOHNSTON: No. I'll write one out.

MR. CHAIRMAN: Is there any discussion on the motion? Are you ready for the question? Mr. Pawley.

MR. PAWLEY: I just wanted to point out that under the present Planning Act - under Section 33(1), I gather, of the present Planning Act - the Minister writes to direct that a municipality prepare a development plan, so that in fact insofar as direction is concerned and instructing under the present Planning Act, the Minister enjoys that responsibility now.

I think that certainly the Minister has to assume responsibility here because there's going to be an overall statement of policy that has to be developed by the Provincial Land Use Committee, and development plans that are presented for approval must be consistent with the statement of policy enunciated by the Provincial Land Use Committee. If it's not consistent and there is conflict - for example, the Provincial Land Use Committee might instruct that no housing or residential development take place in flood plain lands. The development plan might in fact, contain some flood plain areas zoned residential, so that would require amendment to the development plan that would be presented. It would be in conflict with the provincial statement of policy and would require amendment on the part of the Minister. Those are the type of areas where there could be conflict and there would be need for the Minister to exercise responsibility, otherwise you would be back to the situation where we too often are now, where there is lack of policy direction and lack of uniformity in policy.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, in Section 3 it says: "Where the board of a district of the council of a municipality fails to comply with an order under subsection (1) and (2), the Minister may do all those things that are required to be done by the board or the municipality for the preparation and adoption of a development plan or amendment thereto."

Now, you know, if the board and the councils are not in favour, we go back to the argument we had before: that if you have the planning people and you have the people within the provincial department to direct and recommend and work with these people, I would agree with that. In fact I can remember speaking on your estimates last year, that the proper way to accomplish the planning in Manitoba is to work with the people in the rural areas. This section - really, you work with them, or try to, although I don't agree that you have up until now in the bill, and if they don't do exactly what they're told the Minister can do it.

MR. CHAIRMAN: Mr. Einarson.

MR. EINARSON: Well, Mr. Chairman, I would like to ask the Minister a question in regards to a meeting that he held with the union people executive last February, when it was just a tentative discussion as to what this legislation would be pertaining to. And I wonder, did the Minister discuss with those people at that time the kind of powers that would be exercised by the Minister such as we're discussing right now? Could he indicate or explain?

MR. CHAIRMAN: The Honourable Mr. Pawley.

MR. PAWLEY: Well, I'm trying to think of the particular meeting. Certainly the notes that I had last night with respect to the meeting with the Community Planning Association conference were very detailed notes and subject to correction, but I think dealt with this type of detail. Certainly it was very very clearly pointed out on every occasion which I spoke, that the province would have to assume responsibility for overall guidelines as to planning responsibility, would have to establish policy principles, and the development plans that would be presented by districts and by municipalities would have to be consistent with that overall policy direction on the part of the province; and that the province would, through a committee of Ministers, assume political responsibility for overall planning direction. I indicated by way of example, every time that I spoke, different examples of flood plain and the fact that we might want to preserve farmland so it would not be eroded through residential development

(MR. PAWLEY cont'd) . . . . . and other types of examples; and where a development plan might be presented from the district level or the municipal level, that the province would have to reserve onto itself the right to refuse approval of development plans that was inconsistent with policy direction at the Provincial Land Use Committee level. So I think that - certainly in any discussions that I've had in fact, that has been one of the major areas of emphasis. Mr. McNairnay, I think you would . . .

MR. McNAIRNAY: Well, Mr. Chairman, I'd just add - in speaking last January and February to a number of meetings of the Urban Association, this point was made quite clear, because it was discussed at some length. Also speaking on the concepts in this bill at the meeting in Brandon - I think it was either late February or early March, essentially attended by the union people - we discussed this in great detail. And my explanation was that the municipalities right now are being thwarted in trying to carry out development, in having subdivisions approved, because the Municipal Board has taken a position quite consistently during the last year and a half or two years that it is not prepared to go on approving plans of subdivision and development of municipalities until the municipal councils have done some policy thinking and know where they're going. That's where they stand now. And all this is saying, as I understand it, is that the Legislature has delegated to the municipalities the responsibility to adopt development plans. If they abdicate that responsibility, then the Minister steps in and says . . .

MR. EINARSON: Does it for him.

MR. McNAIRNAY: No. Says, "You've got two years" - or whatever the case may be - to do it or I will step in and do it."

MR. EINARSON: That's about the same thing, yes.

MR. McNAIRNAY: Yes.

MR. CHAIRMAN: It has been moved by Mr. Johnston, Sturgeon Creek, that Section 26, subsections (1) (2) and (3) be deleted from Bill 44. Are you ready for the question?

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

Yeas 4; Nays 6.

MR. CHAIRMAN: I declare the motion lost. Page 17 as amended - Mr. McGill.

MR. McGILL: Mr. Chairman, there was one typographical error corrected there. Now, I'm not an expert at punctuation, but I have difficulty with the punctuation in 26(3), the second line thereof: "the Minister may, do all those things that are required to be done by the board or the municipality" - what's the reason for the comma after "may"?

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: I think we might have to take it out.

MR. CHAIRMAN: Page 17 as amended and corrected-passed. Page 18 . . .

MR. MILLER: There's an amendment on Page 18, Mr. Chairman. On Page 18, that subsection 27(2) of Bill 44 be struck out and the following subsection substituted therefor: "Advice and consultation. 27(2) In the preparation of a development plan, the board of a district or the council of a municipality, as the case may be, shall

(a) Seek advice and assistance of a qualified planning officer or consultant employed or appointed by the board or the council;

(b) Consult with any public authority concerned; and

(c) Hold such public meetings and publish such information as the board or council deems necessary for the purpose of obtaining the participation, co-operation, of the inhabitants of the district or municipality, as the case may be, in determining the solutions of the problems, the matters affecting the development of the area.

MR. CHAIRMAN: 27(2) as amended - Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I think this particular amendment takes care of some of the major objections that have been heard and which we ourselves have held. I do feel, however, that the wording of 27(2)(c) should be altered. I think the qualifying phrase "as the board or council deems necessary" might just be struck out, on the basis that if a council or board didn't deem it necessary to publish information or hold hearings at all, then they wouldn't be held. I think it should simply be stated that they should hold public meetings and publish such information, otherwise this gives a council or board which wants to maintain a closed shop, every opportunity to do so. I think we should make the instructions from this legislation a little bit more positive in terms of the opportunities, and not leave that qualifying phrase inside of it.

MR. PAWLEY: Mr. Chairman, we're prepared to accept that proposal if we could develop the necessary wording to reflect that. Maybe by striking out the words "as the board or council deems necessary". And the other "such" before "public" and "such" before "information".

MR. CHAIRMAN: 27(2) as amended-passed. Page 18 as amended-passed Page 19, there is an amendment.

MR. MILLER: Yes. Page 19, that sub-clause 27(4)(viii)(B) be amended by striking out the words "and wildlife areas" in the second line thereof and substituting therefor the words "wildlife areas and water storage areas".

MR. CHAIRMAN: 27(4), sub-clause (viii)(B) as amended-passed.

MR. MILLER: Another amendment. Sub-clause 27(4)(viii)(D) be amended by striking out all the words thereof immediately after the word "land" in the first line thereof.

MR. CHAIRMAN: Sub-clause (D) as amended-passed. Page 19 - Mr. Johnston, Sturgeon Creek.

MR. F. JOHNSTON: Mr. Chairman, guideline for land use control measures and sub-division of land - now I'm just asking, were the guidelines for land use control to be set up in the development plan or are the development plans to be set up according to them? Do we have guidelines for land use control?

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Well, Mr. Chairman, the intent here is that if we start with 27(4) the first words:

(a) statements of aims, objectives and policy with respect to" - and then we carry on - "guideline for land use control." The development plan should set out the general policies of the community as to the sort of land use controls it entertains and feels are desirable. And these are again translated later on into the actual zoning by-law. In other words, a community may say, "In our opinion we think that low density for that particular area means 50-foot lots." Then that is translated to the zoning by-law itself. Or they might say, "In our community we think that the houses should be 15 feet apart," and that's the sort of guideline that the communities themselves would create as their own policies. So that each community could come up with quite a variety of land use guidelines and the development plan should spell those out. The zoning by-law itself then is the regulatory document and actually has those in terms of legal wording but the general policy should be in the development plan.

MR. CHAIRMAN: Page 19 as amended - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I have a question on 13. "such matters other than those mentioned in this clause as are, in the opinion of the board, or the council advisable."

You know, you really didn't need the clauses ahead of it - that is a very wide open clause. That to me says they can do anything. Maybe I'm reading it wrong, but . . .

MR. CHAIRMAN: The Honourable Mr. Pawley.

MR. PAWLEY: Is that not a residual clause, Mr. Balkaran, that would be a . . .?

MR. BALKARAN: Oh, I don't know, summing at a glance a clause, if you've omitted something from (A) to (D) you could use sub-clause 13 I suppose.

MR. F. JOHNSTON: Well, you know, it could be very subject to abuse, that clause.

MR. CHAIRMAN: The Honourable Mr. Miller.

MR. MILLER: Mr. Chairman, this really deals with the development plan - shall contain a statement of aims, objectives and policy, and that's what it's really dealing with. This is in a sense a catch-all in case the council or the board want to add something that somehow has not appeared in all the above. It may be a very slight matter, or it may be a variation that isn't spelled out specifically in the wording.

MR. PAWLEY: It certainly would have to be within their legal authority and take part in the normal planning process.

MR. MILLER: Yes. They can't do it beyond their legal authority. But I think in a lot of legislation this is contained as a catch-all.

MR. CHAIRMAN: Page 19 as amended-passed. Page 20 - there is an amendment.

MR. MILLER: Yes. Page 20, that clause 27(4)(d) of Bill 44 be amended by striking out the word "budget" in the first line thereof, and substituting therefor the words "works program."

MR. CHAIRMAN: 27(4)(d) as amended-passed.

MR. MILLER: Again on Page 20, that Section 28 of Bill 44 be amended:

(a) by striking out the word "budget" in the first line thereof and substituting therefor the words "works program"; and

(MR. MILLER cont'd) . . . . .

(b) by striking out the word "budget" in the third and fourth lines thereof and substituting therefor in each case the words "capital works program."

MR. CHAIRMAN: 28(a) and (b) as amended-passed. And in 29 there is a spelling error in the first line, "council" is misspelled. Page 20 - Mr. Banman.

MR. BANMAN: Thank you, Mr. Chairman. For clarification's sake Section 28 of Page 20 here, I wonder if the Minister would just elaborate this. Would this refer specifically to things such as - if the group would go into a development themselves and install sewer and water and this type of thing, is this what this section's supposed to deal with?

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Yes, it would be a general fiscal statement. Not only is there a long term planning objective outlined in the development plan, but also a fiscal statement of responsibility, which could include sewer and water; the other infrastructure that would be foreseen as being necessary as a result of certain development taking place according to the development plan - as schools, capital school costs and things of that nature.

MR. CHAIRMAN: Page 20 as amended - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, can I ask by leave to ask a question back further that I have? It's a technical error I think. On Page 19, 27(b) . . .

MR. CHAIRMAN: 27(4)(b) at the bottom of the page?

MR. F. JOHNSTON: Yes. By striking out the word "budget" in the third line . . .

MR. MILLER: On Page 20?

MR. F. JOHNSTON: No, on 19, 27(4)(b). I don't find "budget" in the third line. --(Interjections)-- No. Yes, but then right underneath I've got the amendment (b) - (a) and (b) in the amendments - motion. --(Interjection)--

MR. CHAIRMAN: Page 20 as amended and corrected-passed. Page 21. Mr. McGill.

MR. McGILL: Mr. Chairman. This was in the adoption of a development plan, 31, and here's a sentence that has no punctuation in it. "The board of a district or council of a municipality shall by by-law passed by a majority vote adopt the development plans." Now, if we put commas in after "shall" and "vote" we have a very unusual meaning here. "The board of a district or council of a municipality shall, by by-law . . .

MR. F. JOHNSTON: They might pass it by majority.

MR. McGILL: . . passed by a majority vote, adopt a development plan. That makes it mandatory. Where is the punctuation to be in this to make it - to give it the right . . .

MR. BALKARAN: I think maybe put a comma after "by-law". A comma after "by-law".

MR. McGILL: Well, the way it comes out it sounds mandatory that you have to pass it by a majority.

MR. CHAIRMAN: 30, subsection (1) as corrected.

MR. McGILL: Well, what's the correction?

MR. BALKARAN: If you put a comma after "by-law" Mr. McGill, doesn't it avoid the mandatory . . . .

MR. McGILL: Well, no, it still says you've got to do it. "This board shall by by-law passed by a majority vote adopt a development plan". Not only do you have to adopt it, but make sure you've got a majority vote.

MR. PAWLEY: Why would we need the majority vote there? Wouldn't that be implied?

MR. BALKARAN: Isn't that indicating that you have no alternative but to have a majority vote?

MR. PAWLEY: Yes.

MR. BALKARAN: Well, if you don't have a majority vote it wouldn't be passed anyway.

MR. McGILL: Then it doesn't pass.

MR. BALKARAN: Well we can strike out the words "passed by a majority vote" and change it to say "the board of the district or council of municipalities shall by by-law adopt a development plan."

MR. EINARSON: That's the means by which it is adopted?

MR. MILLER: That's how it's always adopted.

MR. BALKARAN: If Mr. Miller would like to move that, the deletion of the words "passed by a majority vote."

MR. MILLER: All right. I'll move the deletion of the words "passed by a majority vote"; it's redundant really.

MR. CHAIRMAN: 31 as amended-passed. Page 20.

MR. F. JOHNSTON: Mr. Chairman, on Page 20 we had a discussion before regarding the plans being available. I wonder if the arrangements that we made for plans before would be suitable to this section regarding having them available.

MR. PAWLEY: Well, the only thing is, these are the development plans which would be - the area designations were really of provincial-wide scope, important from a provincial-wide point of view, and I would think therefore that people anywhere in the province might be interested.

Here the development plan would be more of a local matter, a matter of district interest only. So I would think that the municipal offices, I wouldn't think it would be necessary to file them here at the Legislature for instance.

MR. F. JOHNSTON: No. Well, then the municipal offices, I can see the Minister's point. But again the plans should be available to be seen in the area for some time before - well, just make them available, that's what I'm concerned about.

MR. CHAIRMAN: Mr. Axworthy. Mr. Pawley.

MR. PAWLEY: Excuse me. On that point, 31(3)(a), "such notice is to be published at least 21 days before the date fixed for the public meeting" - that's 31(3)(a).

MR. AXWORTHY: Mr. Chairman, if I may speak to the same point. On the question perhaps legal counsel can interpret this for us. But when the clause in both 31(1) and 31(2) reads, "Shall permit any person to inspect at a place and during the time stated in the notice," would that give the power for a municipality or an official authority of that municipality to only permit inspection? What if someone for example, wished to copy the development plan? These are very extensive documents. They're not necessarily going to be examined in someone's office sort of day after day; what if someone is prepared to pay for a copy of a development plan and having it in their own possession, is there anything that would restrict that kind of thing happening under the word "inspect" or should there be more latitude be given . . .?

MR. PAWLEY: I would have to ask Mr. Balkaran. I would think that it would be the same as any municipal by-law, it could be copied, a public document, like does the word "inspect" . . .

MR. AXWORTHY: . . . limit that?

MR. PAWLEY: Would that prevent that from . . .?

MR. BALKARAN: The municipality or the district board here may want to use the restrictive meaning, and perhaps refuse someone to make a copy or an extract of a plan. So if you wanted to make it clear that that was not the right to do that, maybe enlarge that by simply saying, "may be inspected etc. and make copies or extracts."

MR. AXWORTHY: Yes. I'm wondering if we could extend that somewhat, Mr. Chairman, because certainly these documents are going to be very technical, very extensive, and it may be requiring a high degree of inspection that wouldn't be possible if it was limited simply in a municipal office, and we should ensure that there is a right of portability of these plans, at least . . .

MR. PAWLEY: Well he was wondering if it could be amended.

MR. BALKARAN: If we simply added, Mr. Axworthy, at the end of that "The original may be inspected by any person at any place and any time stated in a public notice, and the person may make copies or extracts thereof."

MR. AXWORTHY: Yes.

MR. PAWLEY: Well, is that necessary for Legislative Counsel that we would spell it out that they could make copies. You know, a municipal by-law, one's entitled to make a copy. There could be some legal problem with this if we don't spell it out that they're entitled to make copies.

MR. McNAIRNAY: Well, Mr. Chairman, if I may speak to that. I don't think there's any problem. It's just extra wording to clarify a point that Mr. Axworthy has doubts on. But I don't think there's any question that it's a public document and anyone can come in and inspect it, and can make copies or take information from it.

MR. AXWORTHY: Well, Mr. Chairman, the reason I did raise it is because legal counsel did suggest that a municipality might apply a restrictive interpretation to it, and just apply the word in its legal interpretation. I think that would go against in part the spirit of it, and that was to make sure that there is a full disclosure and availability of information, and that rather than having a bunch of people lining up at a municipal office each fighting for the

(MR. AXWORTHY cont'd) . . . . . one copy, that it would seem to . . . if there is a problem of interpretation then we should clarify to ensure that these copies can be seen and used other than in a municipal office.

MR. PAWLEY: Well, what about this question of making copies there at the . . .

MR. McNAIRNAY: Well, Mr. Chairman, that could raise a very interesting point, if someone came in and said, "The Act says I'm entitled to make a copy. It's a big document, I want to run it through a Xerox machine. I want to haul it across the street or back home to my office or something." Whoever's in charge of that document is going to say, "It stays here. It's available for the public." And he says, "But I have the right to make a copy."

I have never known a problem to occur on this kind of thing.

MR. AXWORTHY: Well, Mr. Chairman, problems have occurred. There is problems in the City of Winnipeg right now where certain development plans and procedures are limited for use inside City Hall, and when people have gone to request, even community committee groups and resident advisory groups, and asked for access to this document they have not been allowed to take them from City Hall.

MR. McNAIRNAY: Mr. Chairman, because they're probably dealing with an original document in the Clerk's office that cannot be taken from the City Hall and indeed should not be taken from the City Hall. We're not talking about a thin little piece of paper. We could be talking about an extensive document with maps and supporting material which anyone should be able to come in and inspect, agreed, but to be able to haul out that original document, that first reading, second reading out of City Hall, for the purpose of making a copy, you know, I would find it very difficult to agree with that, because how would you know what you'd get back?

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman. I don't have a solution to the problem, but I think that it goes much further than just a piece of paper sitting in an office. I think that underlying what should be the intent of the whole planning process is to ensure that there is a full protection of rights of people that are going to be affected by this plan. One of the major rights is the right to the information about what is contained in the plan, and if that is any way restricted or limited and there are people who simply are not able, because as you say it is an extensive document, probably would require a fair degree of study and examination perhaps a group of, let's say, an agricultural association would like to bring in outside advice to look at the document and tell them what it means to them in terms of the use of their land. Then you know I could see that municipal office sort of stuck deep with consultants, experts, associations and groups all waiting for their 15 minute turn within that 21 days and I just simply want to make sure - and the reason I react is that when you use the word "inspect" and legal counsel said that that could be interpreted to say, "you've got it here fellows, you look at it here and nowhere else," then it really means, I think, that you're placing a very severe restriction on the dissemination of information and knowledge about the intent of the development plan, and that would I think be a very serious obstruction in that plan.

MR. PAWLEY: The only thing I would be very concerned about that we not work ourselves towards is that most rural municipal offices don't have xerox equipment, photocopying equipment, and if it was required that it be copied, xeroxed, and we have five copies in each municipal office, wewouldn't want them to be carted out, the municipal office wouldn't have the necessary equipment to xerox them.

MR. BALKARAN: Mr. Minister, my suggestion here was not that the municipality make the copy but that the person doing the inspection may make a copy.

MR. MILLER: He can do it by hand. He can write it out by hand if he wants.

MR. AXWORTHY: . . . five or six more pages . . .

MR. McNAIRNAY: Mr. Chairman, perhaps you know the solution might be that copies would be made available to anyone at cost price. If you're talking about an extensive document, if they want to come in and pay $50.00 to haul a document out to inspect it, if they think it's worth it. That happens now in municipalities. They have a schedule of fees that have to be paid for copies of documents that a municipality is asked to reproduce.

I don't foresee the kind of document in rural municipalities that you're talking about in the City of Winnipeg, much more extensive. For example, Mr. Whiting has produced in regard to the Springfield planning scheme a very simple statement of policies and objectives which I think is meant to be as informative as possible and could be mailed to everyone in the community and would be desirable to get that kind of public discussion that you're concerned

(MR. McNAIRNAY cont'd) . . . . . with. But when I think of reproducing the 1968 Metro Development Plan . . . and that was reproduced and sold, I think it was $5.00 or $10.00 a copy.

MR. AXWORTHY: Mr. Chairman, I wonder if one way out is to find another verb to replace "inspect" and maybe use "make available" at a place and time and in that way the interpretation perhaps that legal counsel put on it would not be as strict or as literal.

MR. BALKARAN: My suggestion merely, Mr. Chairman, was just to add on at the end of Clause (b) these words: "and a person may make copies thereof or take extracts therefrom." That left it up to the person to do it himself.

MR. CHAIRMAN: You have heard the -- 31(1)(b) as amended-pass; Page 20 as amended and corrected-pass; Page 21 - we have an amendment on Page 21.

MR. MILLER: That subsection 31(4) of Bill 44 be amended by striking out the words "or anyone who appears at the meeting" in the second and third lines thereof.

MR. CHAIRMAN: 31(4) as amended-pass. There is a correction 31(3)(b) - the first line of (b) "district" should be "districts".

MR. BALKARAN: . . . districts, municipalities.

MR. CHAIRMAN: Page 21 as amended and corrected-pass; Page 22 - Mr. Miller.

MR. MILLER: Yes, Mr. Chairman. That subsection 31(8) of Bill 44 be amended by adding thereto immediately after the word "council" in the first line thereof the words "of a municipality or the board of a district".

MR. CHAIRMAN: 31(8) as amended - pass? Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, on that particular Section 31(8) we're talking about minor alterations and, you know, where in the opinion of the Minister the alterations or amendments to the plan is of a minor nature. You know when you go through this bill you could have minor changes on just about anything. Now how does the Minister want to get involved with whether the fences are going to be six feet in this area or three feet in this area if there's minor changes. Now I may be exaggerating but you know is the Minister the proper authority there to make those minor decisions on those minor waiver notices?

MR. PAWLEY: Mr. Chairman, it is my understanding that the same clause is in the City of Winnipeg Act and it's an effort to avoid the necessity of going back through the same process, first reading, second reading, right on through, if in fact the alteration is of a minor nature. That I gather there is the same clause in the City of Winnipeg Act.

MR. F. JOHNSTON: But how are you to know whether it's a minor nature in this area or not. I mean you'd be going to get advice on it but like it's not that important. I can see your reason but I really don't know how you're going to know.

MR. PAWLEY: I would think it would be mainly typographical errors that would be involved here.

MR. McNAIRNAY: Not necessarily so. When you set out a clear statutory procedure that says first reading, advertising second reading hearing, and then at the hearing you may want to make some changes that aren't of any major consequence, without this kind of statutory provision there has always been a doubt - that's why the Metro Act was changed prior to the City of Winnipeg Act - there has always been a doubt as to whether council had any right to proceed or had to return, to start the process all over again because it wasn't the original by-law that was advertised, there have been changes made. So this permitted the council to proceed on with the thing in the event of minor changes.

Now what is a minor change? If the person affected does not consider it a minor change he has recourse to the courts and the courts will interpret what minor change means.

MR. CHAIRMAN: In addition on Page 22, Section 32(1)(c), the second line there is a comma missing after the word . . .

MR. BALKARAN: That's been deleted.

MR. CHAIRMAN: Must be deleted? - Pass?

MR. MILLER: No, the whole thing is deleted.

MR. F. JOHNSTON: Mr. Chairman, on Page 22 I'd just like to comment here again. After you've got the subdivision plan approved we've got the Lieutenant-Governor-in-Council again saying you can't give it third reading until they've finally given it the passage and after we've gone through all that, and again in 32(5) you've got modifications and revisions or adjustment with the Minister and the Lieutenant-Governor-in-Council in (b). Here again is what we keep bringing up in the bill, that the control in the local area just seems to be able to be overridden at just about any time in the bill.

MR. McNAIRNAY: Mr. Chairman, I'd like to point out that provision of this nature has existed in the Metropolitan Winnipeg Act and in the City of Winnipeg Act since the mid 1960s.

MR. F. JOHNSTON: Mr. Chairman, I just can't see where the Winnipeg Act is the basis of an Act which would be used in the rural areas of Manitoba. I think it's entirely different. It's in that Act, it may be, but we certainly don't agree that the complete control should be in the Lieutenant-Governor-in-Council and Cabinet.

MR. MILLER: Mr. Chairman, doesn't it also prevent the council from just giving three fast readings to something?

MR. PAWLEY: Yes. Though, Mr. Chairman, I would think again the basic need for this is to insure again that there is a consistency of provincial policy throughout the province that is not going to vary from district to district, that we would establish provincial policies x, y and z, and as long as there is no inconsistency between the development plan at the district level and the provincial overall policy there would be no difficulty. But we have to insure at all times that there is consistency between the provincial policy as established by the committee that's established, the political committee at the provincial level, and the development plan. Certainly if it's a matter that's purely of district interest or local interest, there would be no involvement here as far as the Minister or the province would be concerned, but if it's a matter which flies in the face of clearly outlined provincial policies then there would certainly be that insistence that that consistency be carried through.

MR. CHAIRMAN: There are further amendments on Page 22. I believe there's one in connection with 32(4).

MR. MILLER: That subsections 32(4) and (5) of Bill 44 be struck out, the following subsection be substituted therefor: "Action of the minister. 32(4) Where the minister is satisfied that the requirements of subsections (2) and (3) have been complied with, he shall submit the development plan by-law and objections to it, if any, to the Lieutenant-Governor-in-Council and may:

(a) recommend the approval of the plan subject to such modification, revision or adjustment as he deems necessary, or

(b) before recommending the approval of the plan direct, that the municipal board hold a public hearing to consider any objections filed with the minister and submit a report thereon with recommendations to the Lieutenant-Governor-in-Council.

MR. CHAIRMAN: 32(4) and 32(5) as amended-pass; Page 22 as amended and corrected-pass; Page 23 -

MR. MILLER: There's an amendment there.

MR. BALKARAN: Mr. Chairman, before the amendment is moved. As a result of the previous amendment subsection 32(6) should be renumbered 32(5) and the reference in the first line to subsection (5) should read "subsection(4)."

MR. CHAIRMAN: The amendment for Page 23?

MR. MILLER: Page 23. That Section 33 of Bill 44 be amended by adding thereto immediately after the word "reading" in the third line thereof the word "forthwith.

MR. CHAIRMAN: Section 33 as amended-pass. I believe there is another amendment?

MR. MILLER: Yes. Page 23. That Section 35 of Bill 44 be amended by striking out the words "purchase or expropriation" in the second line thereof and substituting therefor the words "or purchase or by expropriation subject to the provisions of The Expropriation Act."

MR. CHAIRMAN: Section 35 as amended-pass; Page 23 as amended and corrected-pass.

MR. McGILL: You got the typographical error there did you?

MR. CHAIRMAN: Yes. Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, on Page 23, just a couple of quick questions and then something else. Is there a land use committee at the present time?

MR. PAWLEY: No.

MR. F. JOHNSTON: No?

MR. PAWLEY: Mr. Chairman, there is no land use committee at the present time. Certainly the legislation would foresee an Order-in-Council being passed to provide for a land use committee at the Cabinet level.

MR. CHAIRMAN: There is a spelling error with Section 33, in the second last line of that section, stating that the "plan" has been approved.

MR. F. JOHNSTON: Mr. Chairman, 34(2). I would just like to ask what is the rush on that? I'm not a planner, I'd like to - why has all of a sudden it got to be done that fast when

(MR. F. JOHNSTON cont'd) . . . . . we get that far? "Upon the adoption of a development plan the council of a municipality" shall "proceed with the draft zoning by-law to carry . . ."

MR. PELLETIER: Mr. Chairman, the sequence of events here in six months is that it's rather essential that you now proceed to regulate as intended by the policy. There's not much purpose in preparing a development plan, setting out your major policies and then not carrying out the intent, and a zoning by-law merely is regulations of what you propose to do in the development plan.

MR. F. JOHNSTON: Now on 35, Mr. Chairman.

MR. MILLER: . . . as amended.

MR. F. JOHNSTON: Beg your pardon? Just a minute.

MR. MILLER: There's a small amendment.

MR. F. JOHNSTON: Yes. Just one question. You can buy and sell land here. What about recovery of the - Is the person that you expropriate from going to have the first right of recovery in this . . . --(Interjection)-- Well if you decide not to use the land.

MR. PAWLEY: I wonder if the Expropriation Act procedures would not provide for that.

MR. F. JOHNSTON: Well we could carry on, Mr. Chairman, that's just a question that . . .

MR. PAWLEY: Mr. Tallin will get the information.

MR. F. JOHNSTON: . . . I'd like cleared up. I would think that the person if you don't use it, should have a first right of recovery if you expropriate it.

MR. CHAIRMAN: 23, as amended and corrected except for Section 35-passed. Page 24.

MR. MILLER: We have an amendment there, Mr. Chairman. Section 36 of Bill 44 be amended by striking out the words "with the consent of" in the second line thereof and substituting therefor the words "after advisement."

MR. CHAIRMAN: Section 36 as amended-passed; Page 24, as amended-passed. Page 25 - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I have my doubts, maybe it can be explained but the words "appropriate authority" in the second line of 39(1), and further down we have "planning scheme, zoning by-law or basic planning statement, the appropriate authority." Now it seems to me the appropriate authority in this case should be a qualified or experienced person in this type of business. Who is the appropriate authority?

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, the term "appropriate authority" is used purposely because we will have a situation where not only a council or municipality would be issuing building permits in certain instances, or the board of a district, but also in certain areas where there are none of these agencies, it could be that a provincial agency is issuing a building permit. In other words, in certain cases it may be Mines and Resources, it might be a government agency has the responsibility for issuing a building permit, in which case then they would now be able to do that if it was inconsistent with any of the development plans or by-laws that were in force.

MR. CHAIRMAN: Page 25 . . .

MR. F. JOHNSTON: Just one other, 60 days, that seems rather short, you know, you can get a lot of things done in 60 days and have a lot of things bought in 60 days prior. Is that a standard . . .?

MR. PELLETIER: Mr. Chairman, that provision is one which is extracted from the City of Winnipeg Act, and is a further extension in total. I think you can get up to 125, plus 60 - 185 days. It has been found to be quite useful in having a situation where a person applies for a permit while the council is in the process of preparing either a development plan amendment, or zoning by-law, which would be contrary to what the person proposes to do. Now the effect of this withholding a permit runs two ways: One, it's in the benefit of the community. If by chance the council was to dispose of the by-law, decides to not proceed with it, the person would have a right to compensation for any damages that would be suffered. On the other hand though, if the effect was to carry out the by-law then the adverse effect of development with the original permit would be eliminated.

MR. CHAIRMAN: Page 25-passed; Page 26 - I believe there is an amendment.

MR. MILLER: Yes, there's amendments there, Mr. Chairman. That subsection 39(7) of Bill 44 be amended by striking out the word "none" in the fourth line thereof and substituting therefor the word "any."

MR. CHAIRMAN: 39(7) as amended-passed.

MR. F. JOHNSTON: Mr. Chairman, on Page 26, (b) at the top of the page. It seems to me that could be an indefinite delay, or just starting half way down "or amendment, alteration or replacement thereof that is not adopted but has been authorized by the council of a municipality or board of a district to be prepared for adoption under this Act at the time the application for the permit was made." Now, you know, that could go on forever. Now again it may come from the Winnipeg Act. I'm beginning to wonder, Mr. Chairman, through you to the Minister of Urban Affairs, if we go through the Winnipeg Act this year and throw these all out, what will this do to this Act? Does it apply? Is it indefinite?

MR. PELLETIER: Mr. Chairman, it is 60 days, plus an additional 125 days, which means that there is a maximum of 185 days possible, and if within that 185 days the community or council has not been able to carry out its intention of completing the by-law, or the development plan adoption, then the man is entitled to his building permit. They must complete within 185 days their procedures.

MR. F. JOHNSTON: I see.

MR. PELLETIER: And certainly I agree. We've had a number of cases where a planning scheme for instance has taken one and two years to be finally adopted.

MR. F. JOHNSTON: That was what I was going to ask . . .

MR. PELLETIER: But in this case the man would be entitled to his building permit after the 185 days, plus whatever compensation he requires if he has suffered damages.

MR. CHAIRMAN: Page 26 as amended-passed; Page 27, in Section 41, subsection (2)(d), there is a misprint. It should be "or" instead of "of" - of filling.

MR. PELLETIER: The first "of" should be "or", or filling.

MR. CHAIRMAN: Page 27 as corrected - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I'm not a planner, and I don't know whether the development standard provisions that we have in here, and here again I would like to draw your attention to some of the things that could happen what I believe in a rural area. I do have a fair amount of advice, and I caucused from rural members, "prohibiting the erection or the use of building structures" and then we have the definition of "building", "prohibiting the excavation or filling in of land" - there was an amendment there - "or the removal of movement of soil or other material from land;" "prohibiting the cutting and removal of trees or vegetation;" further down, "prohibiting public outdoor display in any form or manner of advertisements;" "prohibiting the placement of fences, hedges, shrubs, trees and other objects;" "regulating flood lighting," - now your barns in the country - "regulating flood lighting of any building or land;" "(u) regulating the hours of any use of land or buildings where the use if unregulated, may adversely affect the amenity of the area." Now farmers put their tractors away in buildings at any time of night when they're working. Now I just don't think that section applies to the rural area of Manitoba.

MR. CHAIRMAN: Mr. McNairnay.

MR. McNAIRNAY: Mr. Chairman, I'd like to make the observation that in the Municipal Planning Branch we have some 15 years of experience in working with municipalities in rural Manitoba. Not every one in rural Manitoba is a farmer. We have many urban communities where the problems are exactly the same as they are in the City of Winnipeg, perhaps one of scale. I'd point out that the beginning of this section says, "a zoning by-law may contain" - it's completely permissive. If the particular rural municipality looks at these and says, "it isn't applicable here," it doesn't put it in its zoning by-laws.

MR. F. JOHNSTON: Mr. Chairman, I have to agree with Mr. McNairnay's explanation but, you know, it almost seems that you can't cut your grass. I'm maybe again exaggerating but - and I know it's in Winnipeg - but I really don't see how if you've got some urban communities around Dauphin or Steinbach, or something of that nature how . . . I think we could have people going crazy getting permits, and if they can do all this it could cause hardships.

MR. CHAIRMAN: Page 27 as corrected-passed.

MR. PAWLEY: Mr. Chairman, possibly we could now move back to the question on expropriating authority.

MR. CHAIRMAN: Page 23.

MR. PAWLEY: Mr. Balkaran has the answer and I gather that there is a right of first refusal in the event of an abandonment of a land appropriation.

MR. CHAIRMAN: We're dealing once again with Section 35, Page 23.

MR. F. JOHNSTON: It does get back to the first . . . fine.

MR. CHAIRMAN: Section 35-passed; Page 23-passed; Page 27 as corrected-passed; Page 28-passed; Page 29 . . .

MR. MILLER: Page 29, Clause 43(2)(a) of Bill 44 be amended by adding thereto immediately after the word "representations" in the second line thereof the words "and objections if any."

MR. CHAIRMAN: 42(a) as amended-passed. Mr. Balkaran.

MR. BALKARAN: 43(2)(c)(iii) in the second line the word "specific" is misspelled.

MR. CHAIRMAN: 43(2)(c)(iii) as corrected-passed.

MR. F. JOHNSTON: Mr. Chairman, we're getting back again to this business of "set out the general intent of the by-law and stating that a copy of the proposed by-law may be inspected by any person at a place, and at times stated in the notice." Again, they should be there for people to be able to inspect them and possibly take them out as we had before, or purchase them. Again, is that an objection, or can that be done?

A MEMBER: This is a zoning by-law, it's somewhat different.

MR. CHAIRMAN: Do we have any other amendments to Page 29?

MR. MILLER: Yes, there is. Clause 43(3)(b) of Bill 44 be amended by striking out the words "where it is proposed to amend a zoning by-law for the purpose only of re-zoning an area of land," in the first and second lines thereof.

MR. CHAIRMAN: 43(3)(b) as amended-passed.

MR. BALKARAN: Mr. Chairman, 43(3)(b)(ii) in the last line thereof the first word "respect" is misspelled. Would you please correct it?

MR. CHAIRMAN: Are there any further amendments? Page 29, as amended and corrected-passed. Page 30 . . .

MR. MILLER: Page 30. Section 43 subsection (6) of Bill 44 be amended by striking out the words "or anyone who appears at the meeting" in the second and third lines thereof.

MR. CHAIRMAN: 43(6) as amended-passed. Are there any further amendments or corrections?

MR. MILLER: Yes. On Page 30. That subsection 43(9) of Bill 44 be amended by striking out the words "as altered" in the fourth line thereof.

MR. BALKARAN: Mr. Chairman, that same subsection, the word "subject" the first word is misspelled, the "t" is missing.

MR. CHAIRMAN: 43(9) as amended and corrected-pass? Are there any further . . .

MR. MILLER: Yes, Page 30 again. Subsection 44(1) of Bill 44 be struck out and the following subsection be substituted therefor 44(1) Action of council,44(1) "On receipt of representations and objections, if any referred to in Section 43, the Council of a municipality may

(a) subject to subsection 43(9) give second and third reading to the by-law; or

(b) decide not to proceed further with the by-law and shall not notify those persons who filed objections or made representations of the decisions of council."

MR. CHAIRMAN: 44(1) as amended-passed; Page 30 as amended and corrected-passed; Page 31 . . .

MR. BALKARAN: Mr. Chairman, before the amendments are moved, 44(2) in the fourth line there is a reference to subsection 43(7) - that should read 43(6). And in 44(3) in the second line, the reference is to 43(7), that also should read 43(6).

MR. CHAIRMAN: 44(2) as corrected-passed. Are there any further amendments?

MR. MILLER: Section 45 of Bill 44 be renumbered as subsection 45(1) thereof, and the following subsection be added thereto immediately after the renumbered Section 45(1). "Effect of by-law where objection is filed.

45(2) Where a zoning by-law or amendment thereof has been given third reading by a council of a municipality, and an objection to any part of the by-law or amendment is received by the Municipal Board in accordance with clause 44(2)(b), those parts of the by-law or amendment that are not affected by the objection are in force on, from, and after the date on which the by-law or amendment received third reading."

MR. CHAIRMAN: Section 45 as amended-passed. Are there any further amendments to Page 31? Page 31 as amended and corrected-passed.

MR. MILLER: No, Mr. Chairman. Clause 46(1)(c) of Bill 44 be amended by adding thereto immediately after the word "behalf" on the third line thereof the words "or on behalf."

MR. CHAIRMAN: Section 46, subsection (1)(c) as amended-passed. Page 31 as amended and corrected-passed. Page 32. Do we have any amendments?

MR. MILLER: Yes. Clause 46(3)(b) and (c) of Bill 44 be struck out and the following clause be substituted therefor:

(b) order the council of the municipality to amend the by-law in such a manner and subject to such terms and conditions as it may prescribe.

MR. CHAIRMAN: Section 46(3)(b) and (c) as amended-passed. Do we have any further amendments?

MR. MILLER: Yes. 46(5) of Bill 44 be struck out and the following subsection be substituted therefor. "Filing of objection with Municipal Board. 46(5) Where under subsection 44(2) the board of a district or the council of an adjoining municipality files an objection to a zoning by-law or amendment thereof, the objection shall be filed with the Municipal Board and heard by that board in accordance with the provisions of this section."

MR. CHAIRMAN: 46(5) as amended-passed. Are there any further . . .?

MR. MILLER: Section 47 of Bill 44 be amended by striking out the words and figures, "Subsection 46(3)" in the second line thereof, and substituting therefor the word and figures "Section 46."

MR. CHAIRMAN: Section 47 as amended-passed.

MR. F. JOHNSTON: Mr. Chairman, on Section 47 the last words "all persons and is not subject to any appeal" - is it automatic that . . . or I've always felt that there is an appeal to procedures of the board or jurisdictions of the board.

MR. CHAIRMAN: Honourable Mr. Pawley.

MR. PAWLEY: Mr. Chairman, I think that the amendment . . . I think we'd have to go back, if I could, just for a moment 45(2) the amendment, that we should have added there "or amendment is received by the Municipal Board or board of a district," the words "or board of a district" should be added after the word "board." Is that clear? I didn't catch Mr. Johnston's question, if he would mind repeating it.

MR. F. JOHNSTON: Well it says "and is not subject to any appeal." That's fine, but isn't it sort of automatic that the procedures of a board, or a jurisdiction of a board are subject to appeal at any time?

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, the jurisdiction of a board or lack of it is always open to social right by the courts to be quashed. If the board proceeds without jurisdiction or exceeds its jurisdiction, that is always open. That's a prerogative writ and you can always apply for that.

MR. F. JOHNSTON: I see.

MR. CHAIRMAN: Page 32 as amended-pass; Page 33 . . .

MR. MILLER: Page 33, Section 49 of Bill 44 be struck out and the following section substituted therefor: "Quashing of by-law. 49 After a zoning by-law has been given third reading it shall conclusively be deemed to have been in the power of the municipality to enact and any proceedings to quash the by-law shall be taken in accordance with the provisions of The Municipal Act."

MR. CHAIRMAN: Section 49 as amended-pass; Page 33 as amended-pass - Mr. Johnston, 33.

MR. F. JOHNSTON: Mr. Chairman, I have a question on Page 33, Section 48(2). Regarding, "an agreement referred to in subsection (1) may provide that it runs with the land, and when registered in the appropriate Land Titles Office shall, without special mention thereof in the agreement" - well I don't have to read it all. But if I buy a piece of property and the board or the district or the council has not carried out their end of the bargain, or the law, with the first owner, why should I as the new owner be liable, and I believe I would be under this.

MR. CHAIRMAN: Mr. McNairnay. Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, this refers to an agreement with the municipality entered into by the municipality with a developer for the development of land. Now the municipality has said to the developer in other words, we require you to provide the following services, sewer and water, and so on, and then they register that agreement against the title to the land the owner now has. Subsequently, if the owner disposes of that land naturally that caveat runs with that land just like a Manitoba Telephone caveat, a Hydro caveat, and whatever

(MR. PELLETIER cont'd) . . . . . action takes place on the land is subject to that caveat. If the first owner has not fulfilled his obligations there is a lien against the land. Surely the municipality should not be held responsible for what the owner has failed to do.

MR. F. JOHNSTON: Well you know that's the explanation. But if I buy the land and the inspectors, whoever they may be, have allowed the first owner to do something and I buy it, but I don't even know it's happened, why would it come to me?

MR. PAWLEY: Mr. Chairman, the fact would be here that if you purchased the land you would be buying that land with the caveat registered against the title. You would be buying that with full notice of all the conditions and circumstances relating to the first sale as per the agreement, which would be likely filed in the Land Titles Office with the caveat. So you would be buying it with full notice.

MR. F. JOHNSTON: Now I know why we've got lawyers.

MR. CHAIRMAN: Page 33 as amended-pass; Page 34. There is a comma missing in the last line of Section 52 subsection (1) between "constructed" and "would." Is there an amendment? Page 34 as corrected-pass; Page 35 - Mr. Miller.

MR. MILLER: On Page 35, Mr. Chairman, there are two amendments. That subsection 53(2) of Bill 44 be amended by striking out the words "unless a variation order is granted to permit that use" in the third line thereof.

MR. CHAIRMAN: 53(2) as amended-pass.

MR. MILLER: That subsection 53(3) of Bill 44 be amended by striking out the words "or any variation order obtained to permit the repair or rebuilding" in the sixth and seventh lines thereof.

MR. CHAIRMAN: 52(3) as amended-pass - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, on 53(1). It says "no structural alteration except as required by law shall be made to a building or structure while a non-conforming use thereof is continued or while the building or structure does not conform to the provision of a zoning by-law or amendment thereof." I think that's a little bit dangerous. What if there is a safety hazard or a health hazard in the building? What if you've got to go in and make it safe? -- (Interjection)-- Or health hazard.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: I think the answer lies in the reading of the subsection itself. It says "except as required by law" and if it's a safety requirement surely that's a legal requirement.

MR. F. JOHNSTON: Well, that I didn't know.

MR. CHAIRMAN: Page 35 as amended-pass - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I'm sorry. I brought up the business of professionals before in Section 53(3). "In the opinion of the council is 50 percent or more of the replacement value of the building or the structure above its foundation." Now why in the opinion of the council? Why shouldn't it be an appraiser? You know, I've sat on councils and my opinion on a thing like this wouldn't mean that much. I think it has to be a professional qualified appraiser.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Mr. Chairman, the fact is council are not a bunch of idiots, and this is one of their citizens and one of their ratepayers, and they will seek advice, as I'm sure the member when he was a councillor in St. James, and he sought advice from his city engineer, or from whatever professional he had on staff. If he didn't have it on staff then council would seek advice elsewhere. But you know common sense on council will do this.

MR. F. JOHNSTON: Mr. Chairman, again, when I sat on St. James council we had a treasurer, a lawyer, we had more people of professional ability than - you know, sometimes I wondered if we needed them all but we did. And Metro has them, the City of Winnipeg has them; now we're talking about the rural area again, and I think you have to have a qualified appraiser in this area. I don't see why it would be so hard to say that the council must use a qualified appraiser, or get qualified or professional appraisal advice, or something of that nature. But "in the opinion of the council" is quite an open thing.

MR. CHAIRMAN: Page 35-pass; Page 36 - Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I'd like to raise a question with the Minister on the variation board. If you look at Sections 56 and 57 and 58, this is a very powerful board. It probably in some ways may have more impact and definition on what's going to happen in terms

(MR. AXWORTHY cont'd) . . . . .of the planning and development of these areas than almost any other body, and yet we define the board in about 20 words without setting out who is going to be on the board, how they are appointed, what's their tenure, are they members of council, are they private citizens, etc., because the whole question of variation to zoning by-laws in the history of cities and municipalities shows that that's where the real action is. That's where the pressure occurs for changes; that's where the kind of breakthrough in planning oftentimes occurs, and yet we don't really have much of an idea as to who is going to be on this board, what's their relationship to council, and whom the council is going to constitute a variation board. We don't know if the board is going to report to them periodically, and who is going to be on it, what payment do they get? This is a board that's going to have an awful lot of work to do. Are they doing it in public interest, or whatever? Perhaps the Minister would like to tell us a little bit more about the variation board.

MR. CHAIRMAN: The Honourable Mr. Pawley.

MR. PAWLEY: Mr. Chairman, it's the council of the municipality that would be the variation board. 56(1) is intended to portray that intent. "For the purpose of granting variation orders under this Act, the council of a municipality in which the property affected is located, constitutes a variation board." Now I don't know whether that's . . .

MR. AXWORTHY: Mr. Chairman, it then goes back though to a point which I think has been raised previously, that one of the side effects of this bill is that you're going to be putting a tremendous onus of activity upon rural councils and municipality organizations. Not only are they going to be involved in doing development plans and special area plans, and developing the by-laws, now they're going to be a variance board as well. I'm just wondering if the Minister has taken into account that what he is really bringing about here is a fairly qualitative change in the nature of local government in rural areas. It's now no longer something that gentlemen will do in their off hours or on their one night a month. This is now going to be something where they're going to be actively involved on a full-time basis, and I suggest that that's been the experience in the City of Winnipeg, is that they've now made really a core of professional politicians in effect because they're almost working at it three-quarter or full time. That seems to be what's going to be happening here as well.

MR. CHAIRMAN: Page 36 - Mr. Pawley.

MR. PAWLEY: I think Mr. Pelletier . . .

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, Section 56(1) sets out the council of each municipality as the variation board to handle the type of variation orders identical to those that are in the present Act today, which are being granted by a combination of a council and citizen advisory planning commission. Over the past years there have been a number of times some comments by councils to the effect that the commission was granting variations which were not quite in keeping with the intent of what council thought was their policy. They kept saying, well you know if we were there, if we had that right we would do differently. And the intent of this section is really to bring back to council the responsibility, firstly, of passing the zoning by-law, then knowing what the policy is in the municipality, through passing their own zoning by-law, they in turn can decide to what degree they're prepared to vary the by-law, to what extent. They will realize that after a while the variations have been so numerous you might say that the by-law itself has been changed by virtue of variation orders. They will be made aware directly of what's happening.

Now as to the onerous responsibility of a variation board on council, I think that in the rural municipalities you will find that it's hardly more than once a month, if that, that the council ever meets to deal with variation orders. The small urban areas they might meet once a month, and even then it's one or two variations. Major urban communities such as Brandon, for instance, might deal with variations twice a month with about 10 or 12 per meeting. But the average certainly is about two or three variations a month in rural municipalities or small urban areas.

MR. AXWORTHY: Mr. Chairman, if I might respond to that. I think that in a sense you can't have it both ways. You can't be describing a Planning Act which is designed to cope with this burdgeoning expansionary, dynamic kind of development that's occurring outside the perimeter, where there's going to be a tremendous number of actions being taken in the development area, and they now say it's not going to be any different than it was before. Because if it's the same as it was before, then we don't need this whole Act because we're again designing this Act in large part to cope with the management of growth in the fringe areas, and

(MR. AXWORTHY cont'd). . . . . that's where the pressure for variations, for changes, for alterations, are going to come not on one or two a month but even now - I don't see any members who represent fringe areas, but I suppose if the Member from Springfield was here he would tell you what's happening in the Municipalities of St. Andrews and Ritchot, and places like that. They are now finding a tremendous pressure being put on them because of the movement of an ex-urban type growth into these areas. I'm just concerned about what we're doing in terms of the councils themselves, and whether - I understand the reasons for locating it back into council, but whether that move's been thought out. Perhaps the Minister or Mr. McNairnay might indicate whether that has been discussed directly with the municipalities, and how they see this workload being encompassed.

MR. CHAIRMAN: Mr. McNairnay.

MR. McNAIRNAY: Mr. Chairman, it has been discussed and some councils view it as a mixed blessing, not because of the workload but because it forces the responsibility close to home on making decisions with respect to neighbours, friends, etc., in a small community. At the same time the alternative which they're facing now is that these variations can go on through to the Municipal Board, and the Municipal Board can take weeks or months on inconsequential, trivial matters. I cite the case of the municipal board having to make a trip all the way up to The Pas within the last couple of months on a variation of the planning scheme up there in connection with area requirements of a house. I think the requirement was 960 square feet and the house was 940 square feet. Now surely the council of the Town of The Pas could have deliberated on that and made a much faster decision at much less expense to everyone. We felt that by returning this to the local councils that they could make faster decisions, they were more familiar with the local conditions, and it was just the place where it should reside, where the jurisdiction should be.

MR. CHAIRMAN: Page 36-pass; Page 37 - there is a spelling error. Section 57(3)(f)(i) it should be "for the 'remainder' of its economic life." Page 37 as corrected-pass; Page 38 - Mr. Miller.

MR. MILLER: That Clause 57(6)(b) of Bill 44 be amended by adding thereto immediately after the word "the" where it appears for the first time in the first line thereof the words "application of the".

Wait a moment, I'm sorry. That 57(4)(c) of Bill 44 be amended by striking out the figure "200" in the third line thereof and substituting therefor the figure "150."

MR. CHAIRMAN: Section 57(4)(c) as amended-pass; Section 57(6)(b) as amended-pass. Are there any further amendments? Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, we just changed that 200 feet to 150 feet. I was kind of thinking it might be the opposite in the rural areas. You know, 200 feet is not that far. In a town or anything it's fine. Now I just wonder if it's good enough for 200 feet in the rural areas. Can we have some . . .

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, the 150 was suggested because that is the present requirements in the Planning Act, and you'll notice under (d) that in the rural area for instance councils instead of doing 150 feet usually utilizes (d) and "give such notice as is more adequate." If you're dealing with say a section of land your adjoining neighbour is notified all around, and that seems to - we have to go back really to the type of variation orders we're talking about. We're varying side yards 5 feet, 2 feet, 3 inches; we're varying the lot area requirements for maybe 5 acres down to 4.9 acres. These are all minor items. They're not major land-use decisions and therefore these are such a thing that the adjoining neighbours are more likely the only ones affected by any one of the variation orders.

MR. F. JOHNSTON: Thank you, Mr. Chairman. On 57(5) the word "person" in the third line, "any other person." What about partnerships or agreements or corporations or anything of that nature.

MR. BALKARAN: Person by definition under the Interpretation Act, Mr. Chairman, includes partnership, corporation.

MR. F. JOHNSTON: Thank you. Mr. Chairman, shouldn't 57(5) at the bottom of the page be 57(9)?

MR. MILLER: Yes, it should be. --(Interjection)-- Right on the bit, that's right.

MR. F. JOHNSTON: I wouldn't like to think we were getting ahead of ourselves.

MR. MILLER: Mr. Johnston moves that 57(5) be amended to read 57(9).

MR. F. JOHNSTON: I won one.

MR. MILLER: I second that motion.

MR. CHAIRMAN: Page 38 as amended and corrected-pass. Page 39 . . .

MR. MILLER: Page 39, Mr. Chairman. That subsection 58(1) of Bill 44 be amended by striking out the word "vary" in the second line thereof and substituting therefor the words "grant or refuse a variation of."

MR. BALKARAN: Mr. Chairman, in that same subsection in the fourth line the word "variation" is misspelled.

MR. CHAIRMAN: Section 58(1) as amended and corrected-pass. Are there any further amendments?

MR. MILLER: Subsection 58(2) of Bill 44 be amended by adding thereto immediately after the word "grant" in the first line thereof the words "or refuse."

MR. CHAIRMAN: Section 59(2) as amended-pass. Page 39 . . . Mr. McGill.

MR. McGILL: Mr. Chairman, 58(3) deals with the time allowed to file an appeal. I think perhaps in the difficulties and the delays that may occur in the delivery of mail in rural Manitoba, particularly in certain areas, and having some knowledge of Mr. Mackasey's difficulties from time to time, that seems like a little short on notice time.

MR. PAWLEY: Ten days.

MR. McGILL: I was going to say 14 days would be a more reasonable time.

MR. PAWLEY: Fourteen would be okay.

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, there is really no objection to changing 7 to 10 but I think it should be noted that this is registered mail and if we can't get anything by registered mail within 7 days, there's something wrong. This is not ordinary mail, this is registered mail.

MR. McGILL: Quite often registered mail takes longer than ordinary mail.

MR. PELLETIER: Well we haven't experienced that problem so far and this is the exact procedure we are now operating under.

MR. CHAIRMAN: 57(3) as amended-pass.

MR. PAWLEY: Excuse me under 58(3), would it not be possible to say seven days after the receipt of the . . .?

MR. BALKARAN: Mr. Chairman, that creates a bigger problem to try and establish the exact day that the person has received a notice and it becomes an evidentiary factor. Now if you want to extend the time would start with the time of the mailing, you can give him 14 days if you like but at least we have the precise time. (14 agreed)

Mr. Chairman, then if that change is made 58(4) will have to be changed to 14, too, in the first line.

MR. CHAIRMAN: (Agreed) Page 39 as amended and corrected-pass. Page 40 . . .

MR. MILLER: On Page 40, Mr. Chairman. Subsection 59(5) of Bill 44 be amended by striking out the word "shall" in the second line thereof and substituting therefor the word "may."

MR. CHAIRMAN: 59(5) as amended-pass. Page 40 as amended-pass. Page 41 . . .

MR. MILLER: Page 41.

MR. BALKARAN: Mr. Chairman, before the Minister moves that amendment, there is an omission. The heading in the middle of the page that says "subdivision control" - would you please insert just immediately above that heading Part VI.

MR. CHAIRMAN: We have an amendment on Page 41?

MR. MILLER: Yes, Page 41. Clause 60(1)(i) of Bill 44 be amended by striking out the words "by a municipality" in the third line thereof.

MR. CHAIRMAN: 60(1)(i) as amended-pass. Page 41 as amended . . .

MR. BANMAN: Mr. Chairman, for clarification sake here. 60(1)(c) and (d), does this mean that anybody that is going to take out a mortgage on his property that he already owns will also have to come to the board?

MR. PELLETIER: Mr. Chairman, we're referring to 60(1) are we not?

MR. CHAIRMAN: Yes.

MR. PELLETIER: There is a difficulty in grasping this whole section and the next one because of the requirement of legal language, but the intent here is really this: That to obtain lot split control, you need this sort of thing because a lot split takes place not only in the actual transfer of a piece of land but by lease or agreement, assignment or mortgaging you can

(MR. PELLETIER cont'd) . . . . . effectively create a subdivision without going through the normal procedures. A person can in other words, convey land, lease it and so on as long as the transaction for these undertakings covers land which is described within the registered plan of subdivision, in other words, is all of lot 1 or something like that, or, the action he's undertaken also covers the whole of the title. In other words, if you own section 30, you may do anything you want with your land without requiring it approved. There's no problem there, because you're dealing with the whole of the land within the title or within lot 5 of block 2. It's only when what you're purporting to do has the effect of creating a split or encumbrancing a portion of the lot, only then do you require an approval.

MR. BANMAN: So if I understand rightly, to put this down in simple language, if I own a home right now and tomorrow I need some money and I go and mortgage that home . . .

MR. PELLETIER: There's no problem, you don't have to ask anyone.

MR. BANMAN: Then I do not have to come to the board.

MR. PELLETIER: . . . you want to create a subdivision . . . yes.

MR. CHAIRMAN: Mr. McNairnay.

MR. McNAIRNAY: But suppose your home was on one lot and you had an adjacent lot next door, and you're in one title, and you wanted to sell off one of those lots to me, that would require approval. Less than the whole title.

MR. BANMAN: Yes, because what some of the municipalities have done is they've said to try and control this, they passed by-laws stating that there is no lot line changes allowed unless council which would I don't know, I guess would do the same thing except when you're coming into lease agreements and this type of thing, I guess this is where you want to catch them.

MR. McNAIRNAY: That's never been effective of course. The only way that that kind of a regulation is effective is at the Land Titles Office because that's where the title changes. That's where you can catch it.

MR. CHAIRMAN: Page 41 as amended-pass. Page 42 . . .

MR. MILLER: Page 42, Mr. Chairman. That Section 60(2) of Bill 44 be struck out and the following subsection be substituted therefor: Part lot control. 60(2) Where land is within a plan of subdivision registered before or after the coming into force of this Act, no person shall

(a) convey a part of any lot or block of the land by way of deed or transfer, or

(b) grant or assign a part of any lot or block or the land, or

(c) mortgage or encumber a part of any lot or block of the land, or

(d) grant a partial discharge of mortgage in respect of the part of any lot or block of the land, or

(e) enter into an agreement of sale and purchase of a part of any lot or block of the land, or

(f) lease or enter into any agreement that has the effect of granting the use or rights in a part of any lot or block of the land directly or by entitlement to renewal.

MR. CHAIRMAN: Section 60(2) as amended-pass . . .

MR. MILLER: I'm not through. Unless (g) the land referred to in the transfer, grant, assignment, mortgage, partial discharge of mortgage, encumbrance, agreement of sale and purchase, lease or agreement, comprises the entire parcel described in a certificate of title issued under The Real Property Act to the grantor, transferor, assignor, mortgagor, encumbrancer, vendor, lessor, or grantor of a use of or right in the land, as the case may be; or

(h) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada or Her Majesty in right of Manitoba; or

(i) an approval is given by the approving authority to convey, mortgage, or encumber the land, register a partial discharge of mortgage in respect of the land, or lease or enter into an agreement with respect to the land pursuant to this Part.

MR. CHAIRMAN: Section 60(2) as amended-pass. Page 42 as amended-pass . . . Mr. Johnston.

MR. BANMAN: . . . a further amendment?

MR. F. JOHNSTON: No. I've just got to ask about 60(3) "a plan prepared and filed in the Land Titles Office pursuant to Section 121 of The Real Property Act after this Part comes into operation, is not a registered plan of subdivision within the meaning of this Part." Now to me that sounds retroactive. I just don't understand that section. Now it's not unusual for me not to understand one of these sections but I don't understand that one.

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: A registered plan has a certain specific meaning within The Real Property Act which is what we understand generally is a plan of subdivision as opposed to explanatory plan which is one where the Land Titles has decided that the title is so confused that we'd create a sort of plan which identifies the new properties instead of by metes and bounds for instance by merely calling them now Lot A, Lot B or whatever it is. And this section is required in order that 60(2) would not mean that if you had one of those little explanatory plans you'd be able to squeeze under 60(2) and not require any approval of your transfer of any other parcel. It's not a true registered plan, it's merely a plan created by Land Titles for their own convenience. In other words where it used to say that the property was the first 100 feet and then down 30 degrees and another 100 feet, that was the description. They now say for convenience we'll create a plan on paper, but it's not a true registered plan. That's to clarify the intent, that that's not a registered plan.

MR. F. JOHNSTON: Thank you.

MR. CHAIRMAN: Page 42 as amended - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, again I'd like to ask the gentleman, you know, "registered for eight years or more, not to be a registered plan of subdivision for the purposes of this Part." It seems to me if there's a subdivision at the present time that's not completed but has sewer in and roads in or something of that nature, eight years, you know, you could be into a tremendous waste of money here. Why is it eight years?

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, I extracted this particular eight years from the City of Winnipeg Act which has been operating with it. It could be any number of years. The effect is that if you will notice later on, it's the municipality that initiates the action here. It has, let's say, a subdivision plan which has been registered let us say eight years. It may not necessarily have any services and if it has then obviously it would not proceed to cancel the plan out, particularly if there are any developments on it.

This is useful in the case of old plans particularly those that were registered in 1915 or so where you had a whole series of 25 foot lots and today they are impractical. So rather than go through a cancellation procedure, the municipality may just "declare" that the plan is not a registered plan and then through the use of 60(2) could proceed to grant consent to consolidate two of the 25 foot lots into a 50 or whatever size is required by the by-law, without going through the cancellation procedure. It is a means of using the old registered plan without going through a cancellation. But this is initiated by the municipality on its own volition, in other words, where they deem it desirable for their purposes.

MR. F. JOHNSTON: Thank you.

MR. CHAIRMAN: Page 42 as amended-pass. Page 43, is there an amendment? Honourable Mr. Miller.

MR. MILLER: Page 43. That subsection 60(9) of Bill 44 be amended by adding thereto at the end of clause (b) thereof the word "or"; and (b) by adding thereto immediately after clause (b) thereof the following clause (c) an easement or agreement for a right-of-way for any sewer, water, natural gas, power or telephone distribution line where the instrument or a plan of the right-of-way is accompanied at the time of its presentation for registration by a statutory declaration of the person who secured the right of way declaring that the right of way in respect of which registration is sought was secured for the purpose of a distribution line to consumers or users of the service for which the right of way was secured and also the purpose of a general transmission line for any such service, and the securing of a right of way for such distribution line shall be deemed not to have the effect of subdividing lands.

MR. CHAIRMAN: Section 60(9) as amended - pass.... Mr. Johnston, Sturgeon Creek.

MR. F. JOHNSTON: Mr. Chairman, I just want to - lease of land for one year or less duration to be used exclusively for agricultural purposes. You know, one year doesn't seem like enough if you're doing to clear land and plant it. I'm not speaking from experience at the present time but I am wondering if that one year provision is enough for a person to make a piece of land he's leased or rented pay.

MR. PELLETIER: Mr. Chairman, the intent here is that care should be taken so that the lease itself does not contravene subsection (2) in other words, of 60. That the lease becomes a perpetual one and through the lease arrangement you're actually getting around the requirements of a conveyance. It could be that you might want to wish to add perhaps say

(MR. PELLETIER cont'd) . . . . . three years, five years, as long as the effect of that lease is not to be a renewal forever and ever and you have effectively created a subdivision through the lease arrangement.

MR. F. JOHNSTON: Well certainly I agree with you, but if a farmer wanted to lease his land, I don't think he'd have much success if he said, I can only lease it from year to year. I don't know, I don't think I'd take it on a one-year basis if it was going to be agricultural, I'd work to three. Is it that important that that can't be changed to three years in this case?

MR. PELLETIER: No, whatever the committee wishes, Mr. Chairman. If it's more desirable that it be three years . . .

MR. PAWLEY: Well I think the usual farm lease would certainly be at least three years, eh? Three to five years. Let's change this to the three.

MR. CHAIRMAN: Agreed?

MR. F. JOHNSTON: Do you want me to move that, Mr. Chairman? I'd like to move another one I won.

MR. CHAIRMAN: Three years or less. Is that agreeable?

MR. F. JOHNSTON: Yes, Mr. Chairman.

MR. CHAIRMAN: Are there any further amendments?

MR. MILLER: Yes, subsection 60(10) of Bill 44 be struck out and on Page 44 - oh, you want to finish 43 first. I just moved that subsection 60(10) . . .

MR. CHAIRMAN: Page 43, as amended-passed. Page 44 . . .

MR. MILLER: Section 61 of Bill 44 be amended (a) by striking out the words "the Part according to their" in the first and second lines thereof, and substituting therefor the words "this Part according to its." (b) by striking out clause (b) thereof and substituting therefor the following clause: (b) providing that this Part does not apply to certain areas of the province. And (c) by striking out clause (i) thereof and substituting therefor the following clause: (i) providing that an approving authority's approval is not required with respect to certain classes, types or areas of subdivisions as set out in the regulations.

MR. CHAIRMAN: Section 61 as amended-passed. Page 44 as amended-passed.

MR. F. JOHNSTON: Mr. Chairman, I'd just like to make a comment on 44. It seems that every time we get to the end of a section, or get close to the end of a Part of this Act, we again have the Lieutenant-Governor-in-Council making all the decisions.

MR. PAWLEY: This is relating to a necessity of passing regulations under the Act. I don't think there's any other way that it could be dealt with.

MR. CHAIRMAN: Page 44 as amended-passed. Page 45 . . .

MR. MILLER: Page 45, Mr. Chairman. That Section 63 of Bill 44 be amended by striking out the words "an application for subdivision" in the first line thereof, and substituting therefor the words "a subdivision of land."

MR. CHAIRMAN: 63 as amended-passed. Page 45 as amended-passed.

MR. F. JOHNSTON: Mr. Chairman, the proposed subdivision conforms to the establishment of the provincial land use policy. Right at the end it says, "and in accordance with the spirit and intent of this Act." How was the spirit and intent determined?

MR. PAWLEY: I wonder, Mr. Balkaran, if that would . . .

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: . . . Mr. Chairman, but it crops up every once in awhile. I don't know just what it means. I suppose sometimes if a matter gets before the court and you don't have those words in an Act, that the judge interprets what's done to be within the spirit and intent of the Act, whatever it means it's there.

A MEMBER: And the judge so rules.

MR. F. JOHNSTON: Andy, you're an honest man.

MR. CHAIRMAN: Page 45, as amended-passed. Page 46, we have an amendment?

MR. MILLER: That Section 67 of Bill 44 be amended by adding thereto at the end thereof the following words and figures: "And the authority shall forthwith in writing notify the Land Titles Office accordingly and upon such verification the provisions of subsection 52(2), (3) and (4) apply mutatis mutandis.

MR. CHAIRMAN: 67 as amended-passed. The Honourable Mr. Miller.

MR. MILLER: That Section 69 of Bill 44 be amended by striking out the word and figures "Section 71" in the fifth line thereof and substituting therefor the word and figures "Subsection 72(1)."

MR. CHAIRMAN: 69 as amended-passed. Page 46 as amended-passed

MR. F. JOHNSTON: Mr. Chairman, I'd just like to ask a question on that amendment. The way it was before is wrong, you should deem it acceptable and compel the proper action by the authority. Did that amendment do that or did it just . . . ? Was it 69?

MR. MILLER: Section 69 I just changed Section 71 to read subsection 72(1).

MR. F. JOHNSTON: You didn't change 69? I'm not watching here. Well in 69, "an application to subdivide land shall be deemed to be refused when a decision thereon is not made within the time fixed by the regulations for the consideration of the application in its complete and final form by the approving authority in which case the applicant may appeal to The Municipal Board under Section 71."

MR. MILLER: It's under subsection 72.

MR. F. JOHNSTON: You know, why? Isn't that kind of wrong? Shouldn't it be deemed acceptable then the action be taken by the authority?

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, the intent of that section is that the regulations will specify a certain time limit for any approving authority to deal with a subdivision application. In other words, it won't be able to drag for months and months and months. After an application is received in its final complete form, the authority will have such time as may be set out in the regulations. Let us assume for the sake of the argument that it is three months. If within three months it has not been able to make its decision then the application is deemed refused and the man has the right to then appeal for a decision to the Municipal Board. It may be that the applicant exercises 70, in which case he says don't bother calling it a deemed refusal, I'm prepared to wait until you finally make your decision rather than to go through the appeal procedure. This enables a man with the knowledge that at the end of whatever time limit, he will get an answer. It won't be dragged out indefinitely. This is his protection.

MR. CHAIRMAN: Page 46 as amended-passed. Page 47, in Section 72 subsection (3) there is a comma missing between "hearing" and "notice" in line two of that section. Page 47 as corrected-passed. Page 48 . . . Mr. Miller.

MR. MILLER: That Section 73 of Bill 44 be amended by striking out the words "an adequate public roadway" in the third and fourth lines thereof, and substituting therefor the words "adequate highways."

MR. CHAIRMAN: 73 as amended-passed. Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I'd just like to raise some question about the different sections relating to this question of dedication. The first one really is in Section 74(1) where there's a dedication of public reserve land other than for roads and the criteria set one acre for each 100 persons. Can the Minister or staff give some indication what criteria was that based upon. What's the formula at work here particularly by one acre for 100 persons in these times, particularly in rural areas?

MR. PELLETIER: Mr. Chairman, the formula was derived after some extensive search of what has been done in the past number of years as the result of requirements by the Municipal Board and own personal allowage of what might be required as a reasonable dedication, not a total requirement that a municipality might need, that depends on their own aspirations. In the past it has been the requirement that you extract anywhere from five percent to ten, and it is unrelated. In other words, the requirement of five to ten percent of the land being subdivided, be dedicated, is unrelated to the use. In other words, if you have it used for single family subdivision of approximately four to five units per acre as opposed to a town house development where you might get as much as 25 and 30 units to the acre, you're still getting the same amount of park land. The intent here is that if the development is of a different density, you know, 100 persons to the acre will be equivalent to what would be required under R-1 type of density. And this is the formula that really came down to 100 persons.

I should point out that recent amendments to the Ontario Planning Act came down to 125 persons per acre but 100 persons was approximately what we ended up here when we called for R-1 densities. And really it's a formula but I think it's far more realistic as to the expected use of the land in terms of park requirements which includes also the need for schools as well.

MR. AXWORTHY: Mr. Chairman, perhaps Mr. Pelletier could tell me whether this would be, or how this might be applied if under this Act one of the municipalities wish to introduce a plan unit development concept, which I think is permissible under this Act, where the criteria for settlement is not related to density but has several different kinds of criteria used for it. Will this same dedication requirement apply?

MR. PELLETIER: Mr. Chairman, yes. The dedication requirements are on a plan of subdivision. To a planned building group development, there is ultimately a subdivision plan which is created. Initially it's the land itself is sort of thrown all into a pot and you set out the various alignment of the buildings, private roads, and so on, but ultimately there is a plan of subdivision which is approved and that means that Section 74 would then operate and the requirement would be in that density.

MR. AXWORTHY: A further question, Mr. Chairman, in 74(3) where there is dedication of land determined as unsuitable areas. Would the authority so requesting as dedication be required to produce proper studies of topography, etc., in order to be able to make this request, or is it just simply on its face value that it says we consider that land to be unsuitable therefore you must give it to us, or would they be required to show due cause based upon proper studies or impacts, and where would this be protected or safeguarded in the Act?

MR. PELLETIER: Mr. Chairman, the Act speaks very bluntly as to what the requirement is. The regulations would spell out in more details the operation of the sections as to what the minimum requirements would be for application, and probably some of the standards that would be established there for that. In addition, I should point out that whenever a person applies for subdivision and these requirements are put in, there's always an appeal to the Municipal Board as to the adequacy or not of the demand made by the approving authority.

MR. AXWORTHY: So under this section then if an authority, a municipality, requested a dedication of so-called land in an unsuitable area, that request could be appealed to the Municipal Board, at which time the municipality would be required to show evidence as to what it considers to be unsuitable and therefore reserved for public use. Is that a correct interpretation?

MR. PELLETIER: Yes, Mr. Chairman, it's assumed that a municipality is using its powers in its proper fashion and not without due cause.

MR. AXWORTHY: Just on that further, Mr. Chairman. In a very practical case where let's foresee the day when development or subdivisions are planned on the basis of utilizing irregular forms of topography, such as ravines and creeks, and so on, as an integral part of their plans, which they rarely do now but they might in the future, how would that affect this dedication clause? Would this still be retained. Could this then be retained as part of a private use of land, or is it subject to negotiation?

MR. PELLETIER: I would suggest, Mr. Chairman, that the Act is permissive in that respect. The authority may require, it does not say "shall." The approving authority requires dedication on a mandatory basis only when it deals with subsection (4), otherwise it's a permissive matter. The authority may require a dedication.

MR. AXWORTHY: Mr. Chairman, I have one further question on dedication where it refers to the article on 49. I don't know if I can be allowed to continue on that line, or wait till the page is completed. I wanted to ask about the uses of dedicated land, which is Section 76(1).

MR. CHAIRMAN: Page 48 as amended-passed. Page 49 - Mr. McGill.

MR. McGILL: Mr. Chairman, Page 48, it's a minor point but in 74(3) the second last line, it talks about drainage course or creekbed. That doesn't look right to me. Is creekbed one word? Should that be two words?

MR. BALKARAN: I didn't look it up in the dictionary.

MR. McGILL: I think it should be two words.

MR. BALKARAN: We'll look it up . . .

MR. PAWLEY: I wonder if that could be checked out.

MR. BALKARAN: I doubt whether you will find it in a dictionary.

MR. McGILL: Then it must be two words.

MR. PAWLEY: I think it should be two words.

MR. CHAIRMAN: Honourable Mr. Miller. I think we have a . . .

MR. MILLER: Subsection 75(1), Mr. Chairman, of Bill 44 be amended (a) by adding thereto at the end of clause (b) thereof the word, "or"; and (b) by adding thereto immediately after clause (b) thereof the following clause: (c) that the person be required to dedicate other lands not within the subdivision for public use.

MR. CHAIRMAN: 75(1) as amended-passed. Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, if I may ask questions related to the Section 76(1) Uses of public reserve land. Where it is designated they must be as for parks, recreation, school sites, buffer strips, shoreland reserves. Perhaps Mr. Pelletier or Mr. McNairnay

(MR. AXWORTHY cont'd) . . . . . might indicate if this in fact would be a restrictive definition of the use of public reserve lands, if it came to a matter of planning let's say something like a townsite centre, which might include civic buildings and other forms of civic, cultural enterprises which may not be directly related to recreation but may include a mixture of buildings, some of which might have commercial use, some of which may be public use, others which may be of a development kind, but again considering that in areas if you were looking at new community development or some other form that the . . .

MR. BALKARAN: I wonder - perhaps we could expedite this, Mr. Chairman. There is an amendment to that subsection which would add a clause (f) and it simply says "public works" which would encompass most of what you are talking about I think.

MR. AXWORTHY: Yes, I think that would go some way, Mr. Chairman, but it would still mean that if in fact the development subdivision was to include a town centre site on dedicated land, which may also include certain commercial properties, certain good planning requires that you just don't separate all public buildings, separate from commercial, but there's sometimes a salutary use, let's say, for providing sites for churches, for small businesses, for other kinds of things. Would this be restricted under the use of this particular clause if that kind of planning were to occur? Again hopefully it might, and I would not want to see it restricted by this Act.

MR. PELLETIER: Mr. Chairman, the proposal to use such public reserves for the type of usage that Mr. Axworthy mentioned I think would take us away from the original intent of requiring dedication of land, and to the best of my knowledge in all the years that I've been involved in planning, it's always been that you need somebody to dedicate land because you want open space, either for school grounds or park land, and so on. And that has been the crux, I suppose you might say, how legislation somehow eventually gets done so that you extract from a developer so many acres of land so that the poor kids can have some place to play. Following that, you know, if you proceed along that line and if we keep adding or use that particular land and cover it all with concrete then effectively I don't know whether we've done anything better than what we had before. I think the general intent here is that public reserves are just that. They're intended to be for open space basically, usable open-space land. That's not saying that perhaps land should not be acquired and used for other public purposes, but I don't think it should come under the aegis of these sections where you actually extract it without compensation. The intent of that section is really to use it for open space.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I'm fully aware that that has been the traditional use of dedication. I am suggesting though that the planning method and outlook is changing as new ideas come to the forefront, and particularly I think in terms of some of the new townsites that are being developed in Ontario and otherwise where in fact efforts are being made not to provide for segregation in the communities between certain uses but to start having mixed uses of land which would involve usable public space, would involve the use of school grounds and intermix that or integrate that with certain kinds of smaller commercial ventures and other forms of public ventures. I would hasten to add that one of the problems they ran into in Ontario when they were developing some of the sites like (coughing) was to overcome some of those problems so that you could use the public dedication of land for a more effective tool of planning, of developing a more interesting kind of town center site than is normally allowed under traditional zoning concepts, and I'm trying to anticipate some future possibility that we may have more imaginative planning and more imaginative subdivision in this province than we have had heretofore.

MR. PAWLEY: I wonder, Mr. Chairman, would there not be sufficient flexibility with the amendments to permit that type of - there wouldn't be?

MR. PELLETIER: Mr. Chairman, the word "public works" would not be broad enough to include the type of facilities Mr. Axworthy is talking about.

MR. MILLER: Not commercial.

MR. AXWORTHY: Or even non-profit and private stuff.

MR. MILLER: The definition of "public works" does not include commercial.

MR. PELLETIER: It does not include commercial, Mr. Chairman, and does not include either churches or any of those facilities.

MR. AXWORTHY: Or private non-profit operations . . . ?

MR. PAWLEY: Does Mr. Axworthy have any suggested changes to the wording then to . . .

MR. AXWORTHY: That's a tricky one.

MR. MILLER: Mr. Chairman, may I suggest that this Act is not going to be proclaimed, they're going to have to live with this for a while. There are going to be amendments to this Act, it's a new concept and if it's found that in fact the kind of planning that Mr. Axworthy mentions is desirable and municipalities want to use it then I'm sure the Act can be amended in future years. Nothing is going to happen in the next year which will require anything of this nature to take place. What the concern was to set aside in the public domain certain lands and dedicate those lands, to assure that they will in fact be dedicated. I think that was the major concern.

MR. AXWORTHY: Well, Mr. Chairman, I defer to Mr. Miller's submission mainly because at this time of night I can't think of an alternative wording to offer but I would only offer the caveat really that one of the problems is when you write things in legislation it tends to set the rules and takes on the inertia of the written word and I would only hope we could open it up and change it next year.

MR. CHAIRMAN: Page 49 - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I have to go to just what Mr. Axworthy went on 76(1). 75(2) "For the purpose of subsection (1) the value of the land shall be determined on the basis of its market value immediately after the subdivision of the land as determined by a qualified appraiser acting on behalf of the municipality." Now, you know, if the fellow's got to be - when we're talking dedication of land, that's a nice way of making money but I think if he's going to be paid it should be immediately before.

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: If I understand, Mr. Chairman, the question is should the appraisal take place prior to subdivision?

MR. F. JOHNSTON: Yes.

MR. PELLETIER: Well we're talking then, Mr. Chairman, about dedication of land, let us say, 10 acres of land or the money in lieu of.

MR. F. JOHNSTON: How is that again?

MR. PELLETIER: Well we have to get back to the intent of the section. The requirements of Section 74 and 75 are the dedication of land. If the dedication is, and the municipality requires land, it gets, let us assume, 10 acres of land.

MR. F. JOHNSTON: Yes.

MR. PELLETIER: That has X dollars value today, prior to the subdivision, let's say.

MR. F. JOHNSTON: Yes.

MR. PELLETIER: On the other hand, if the municipality says instead of land we are prepared to take money in lieu of, the value of the land prior to subdivision is so much less than what its ultimate value will be in subdivision that the municipality could say, you know, 10 acres of raw land is much less in value than the money that they would receive if it was appraised prior to subdivision. They wouldn't even be able to buy maybe one-tenth of an acre of that same land after the subdivision takes place.

MR. PAWLEY: Mr. Chairman, I would just like to add that surely by action of the public authority the municipality or district that has by its very act enhanced the value of this land by way of approval of a plan of subdivision, it's by the actions of that public authority rather than by any other instrumentality, then surely it would be only reasonable that the public authority enjoy the benefits of the value after its act rather than before its act.

MR. F. JOHNSTON: That's pretty rough. That's pretty rough.

MR. CHAIRMAN: Page 49 as amended-pass - Mr. Jorgenson.

MR. JORGENSON: Let me draw your attention to 75(1), the heading: "Deferment of waived dedication." Somehow or other that does not quite make sense to me. I wonder what that's supposed to mean.

MR. BALKARAN: It should be "Deferment or waiver." Should be "waiver."

MR. CHAIRMAN: 49 as amended-pass . . . Mr. Miller.

MR. MILLER: Mr. Chairman, I have a motion on that. On Page 49. That subsection 76(1) of Bill 44 be amended by striking out the word "or" at the end of clause (d) thereof; and (b) by adding thereto at the end of clause (e) thereof the word "or"; and (c) by adding thereto immediately after clause (e) thereof the following clause, (f) public works.

MR. CHAIRMAN: 76(1)(a) and (b) as amended-pass. Are there any further amendments on Page 50?

MR. MILLER: Page 50, yes. Subsection 77(1) of Bill 44 be amended by striking out the word and figures "Section 74" and substituting therefor the words and figures "subsection 74(1), (2) and (3)."

MR. CHAIRMAN: Section 77(1) as amended-pass. There's a misspelled word in Section 78 subsection (2) in the first line "Upon." There should be an "o" there instead of an "a". Page 50 as amended and corrected-pass; Page 51 - are there any amendments? Page 51-pass - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I think I'm aware of the reason for 78(4)(b). And that is if somebody is going to hold up you know the whole subdivision. But you know "equitable manner and for the purpose of this clause the municipality shall be deemed to be the owner of the land," that is almost expropriation without compensation. I don't really know why that should happen. I know that there have been cases where people just wouldn't sell, but that's a word called "democracy." I just can't see why the municipality should be deemed to be the owner of the land.

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, I believe there is a misunderstanding here, the intent of 78(4)(a) and (b) both. The cancellation of plan and re-subdivision now takes place under Sections 96 to 103 of The Municipal Board Act and they would still carry on. What we have added is a clarification of what happens when you do that. At the present time let us take a subdivision on a grid pattern which one owner - it doesn't matter how many owners - they own all of the land let's say that are identified by lots and blocks and so on. A municipality is the owner of all the streets or lanes that are shown on the plan. What we are suggesting is in the subdivision procedures when you go through it it is much easier to assume that you end up with one parcel of land. You throw all the land in a pot. In other words, the municipality effectively owns through a grid pattern approximately 30 to 32 percent of the land, the owner owns 68 percent in actual net land that he owns today. By lumping them all together and then recreating the new subdivision and take into account the requirement for parks, streets, roads and so on, the municipality shares with the owner in an equitable manner as to each his own share of the park and land. The owner really doesn't get any less than he had before but it means that it's easier in terms of subdivision allocation. The municipality probably starts out with 32 per - cent in streets and lanes and so on; it ends up probably with a new plan effectively probably using about 20 percent of the land for streets, perhaps only 12 percent for parks and so on. The owner gets back his original holding of let's say 68 percent of the land less any required dedication for parks, which he shares with the municipality. It's not taken away from the man at all. It's just how the principle of subdivision should take place.

MR. CHAIRMAN: Page 51-pass; Page 52 - Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, before the amendment is moved. Section 80, line 4, the word "brought" is misspelled. The "t" is missing.

MR. CHAIRMAN: The Honourable Mr. Miller.

MR. MILLER: On Page 52. That clause 81(1)(c) of Bill 44 be amended by adding thereto immediately before the word "or" in the second line thereof the words "development plan."

MR. CHAIRMAN: 81(1)(c) as amended-pass; Page 52 - Mr. McGill.

MR. McGILL: Mr. Chairman, I'd like the Minister to explain this clause on Offences and penalties. Is it possible that a reeve or another officer of a municipality by attaching their signatures to a by-law passed by a municipality might come in conflict with some part of this Act and thus be subject to penalties as stated in this clause although they, as officers of the municipality, might be simply doing that which is required of them in approving or signing a by-law which had been passed by the council.

MR. PAWLEY: Mr. Chairman, I think that Section 82 would provide that safeguard insofar as members of council would be concerned, the indemnity section, if in fact members of council were acting illegally under Section 81(2).

MR. CHAIRMAN: 52 as amended-pass; 53-pass; Page 54-pass.

MR. McGILL: There's a typographical error on 54.

MR. BALKARAN: What section?

MR. McGILL: Fourth line thereof, 85.

MR. CHAIRMAN: Page 54 as corrected-pass. Page 55 - the Honourable Mr. Miller.

MR. MILLER: I've got two amendments here, Mr. Chairman. That subsection 87(1) of Bill 44 be struck out and subsection 87(2) be renumbered as Section 87; and that renumbered

(MR. MILLER cont'd) . . . . . Section 87 of Bill 44 be amended by striking out the words and figures "notwithstanding subsection (1)."

MR. CHAIRMAN: 81(1) as amended-pass - Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, before we pass it could someone please tell me why we are striking out a clause which says that the Crown is bound by this Act? It would seem to me that if anyone is they should be after all this. There must be some plausible reason.

MR. PAWLEY: Mr. Chairman, the basic concern as I understand it is the desire to review the City of Winnipeg Act in which the Crown is actually subject to the provisions of The City of Winnipeg Act. There has been a number of concerns expressed in connection with difficulties that have been encountered in the City of Winnipeg context due to the fact that the Crown has been subject. Up until now under the old planning act the Crown has not been subject to the provisions of the old planning Act and it was our thinking it would be better to just simply maintain the status quo until we have had an opportunity to better review the effects of this within The City of Winnipeg Act.

MR. AXWORTHY: Therefore, Mr. Chairman, what I gather then is that the province is really though in part setting up to some degree a discriminatory situation between what applies in areas outside the City of Winnipeg and as to what applies inside the City of Winnipeg. I understand the political reasons why one wouldn't want to be encumbered by the same difficulties experienced with zoning by-laws inside the City of Winnipeg but it does appear that there are certainly enough other controls in the Act that it just strikes me as odd more than anything.

MR. PAWLEY: That has been the continuing situation ever since 1971 with The City of Winnipeg Act. There has been this discrepancy.

MR. AXWORTHY: Yes.

MR. CHAIRMAN: Mr. Johannson.

MR. JOHANNSON: Yes. Mr. Chairman, sometimes old dogmas and traditions have great wisdom in them and one of the practices long standing in British jurisdictions is that the Crown is not bound by the local governments it creates unless it specifically says that it will be bound. And it has not been the previous practice in Manitoba for the Crown to be bound until the Crown bound itself in The City of Winnipeg Act and there were some rather undesirable results from that. It is not, as I gather, the practice in other jurisdictions that the Crown binds itself.

MR. MILLER: Nor the Federal.

MR. JOHANNSON: Certainly the Federal Government is not bound by local zoning. When the Federal Government decided to build a mint in Winnipeg it simply decided where to build it and I gather the local municipality changed the zoning.

If I may illustrate, in the Province of British Columbia the Minister of Housing, for example, gets along very well with the municipalities within the Vancouver urban area but ultimately if there were a conflict he has the power to override their zoning or building permits. But that reserve power has never been used because he believes, the Minister of Housing believes in co-operating with the local councils. I frankly think that the province made a mistake in the City of Winnipeg Act, and we've suffered because of it. In the case of - a very minor item - but the washrooms in Memorial Park. The City had no authority to refuse a building permit, it did hang this up for awhile and the major drawback that's resulted from that City of Winnipeg Act has been that the city has been aided in totally frustrating our family housing program in the City of Winnipeg.

MR. AXWORTHY: Are you finished?

MR. JOHANNSON: No, I'm not finished. The Minister of Urban Affairs has announced that there will be a comprehensive review of The City of Winnipeg Act and this question will be one of the items that will be reviewed. And if it were decided at that time that as a general principle, if it were decided at that time that the Crown should be bound then it could be decided for the entire province. But meanwhile I think it's better to leave this matter out of this Act.

I find that the whole question of a provincial mandate being frustrated because of a technical power conferred upon a creature government would be frankly absurd.

MR. AXWORTHY: Mr. Chairman, I thank the member for his constitutional lesson, but there still is a major anomaly that we are prescribing here, a very wholesale set of environmental standards and requirements for everyone except it seems the Province of Manitoba. It somewhat strikes me that - what was the words we used? - "spirit and intent of the law" may not be fully being lived up to in the sense that saying there be only one person, and perhaps

(MR. AXWORTHY cont'd) . . . . . the two corporate bodies that can disobey, if they so desire, is the Federal and Provincial Governments. I would suggest that if one wants to take laws like this seriously, then we have to say there should be some limitations. I understand the frustration of the Provincial Government at not being able to undertake their public housing program, but I would say that I would prefer to see this clause stay in and then if the review, once it examines the merits of the case, came up with some very good reasons why not then it could be reopened and amended. But this way it's an Act, if you eliminate it now it will probably be like a lot of things, just forgotten in the wake. I would feel fairly strongly that it should stay in this Act. I thought that it was one of the things that did indicate at least the province was prepared to abide by its own rules.

MR. DEPUTY CHAIRMAN: 87(1) as amended-pass?

A MEMBER: Ayes and nays.

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

Yeas, 6; Nays, 4.

MR. CHAIRMAN: I declare the amendment carried. I believe there's another amendment on Page 55.

MR. MILLER: No. I read that out.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I have another . . . I'd like to raise this issue with the Minister. Yesterday when we brought to his attention the contradiction between the Section 88(1) and Section 88 (14) he indicated at that time we would try to find some way of resolving the problem of the fact that compensation for property injuriously affected is a pretty wide open general condition here, but in 88(14) it almost eliminates every basis upon which compensation would be paid. I wonder if the Minister has had time as yet to look at that apparent contradiction and find some resolution for it.

MR. CHAIRMAN: Page 55 as amended . . .

A MEMBER: Did you hear that?

MR. PAWLEY: Yes we did.

MR. CHAIRMAN: Page 55 as amended-pass?

MR. AXWORTHY: Mr. Chairman, we don't leave this point alone because it's a contradiction in the law frankly.

MR. PAWLEY: Mr. Chairman, there is a lot of difficulty in respect to the Sections 88 right through to - well all of Section 88. There are a number of difficult areas. I suppose the simple thing would be to strike out Section 88. I'm very hesitant to do that. This section has been in the Planning Act for many many years and I would be very hesitant to strike it out at this point without a thorough and very active discussion with the municipal people. I feel that the basic concept of 88 is justifiable, and I think that the intent of those that drafted this section is to be commended. But I do think the ability to enforce per the arbitration the other conflicts that exist here, are very very difficult to deal with. What I would like to propose doing would be to pass 88 but not to proclaim 88 until we have had an opportunity to discuss this entire section to try carrying it over from the old Act with the municipal people, and to ascertain whether it can be salvaged or whether it ought to be repealed in its totality. Now if I could just say that I think there would be two portions here where most of the Act would not be proclaimed for a certain period of time 88 would not be proclaimed for a much longer period of time till it comes back to the Legislature I think for a more thorough review. I'm very hesitant to just strike it out at this point. At least it's been here with the municipalities for many years. But you know I don't want to be placed in a position of supporting some of the vagaries of the provisions.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I understand the Minister's difficulty. I think that as you go through 88 you find that not only are there vagaries it's just a number of sections which are really quite unworkable. But I want to raise this point, that the provisions of this Act, as we have gone through them up to this point, provide in many cases for some very significant changes in the balance between individual property rights and public rights and community rights. We are shifting pretty substantially that balance and giving the different district boards, the municipalities and the councils the right to use property and land for community purposes, and therefore the question of compensation is very critical. I for one believe that if you're taking away those rights from someone then you must require a very clear enunciation of the

(MR. AXWORTHY cont'd) . . . . . compensation that will be in return. Otherwise you're taking - while I agree that perhaps we've reached the stage where to use land more in a public interest sense, it may be required, I think we must be equally careful that we don't disregard the individual property rights that are included in this, and it would seem to me that all of a sudden we come to the one section of the Act which could provide some proper protection or safeguard for those individuals who are going to be affected by this Act. As I pointed out in the speech on second reading, you've got a situation where Farmer A can have his values increased by 1,000 percent and Farmer B can have his land devalued by 50 percent, simply by the designation of a special area as to one being agricultural and one for development purposes.

So I understand how the Minister says he doesn't want to take the 88 out but he won't proclaim it even longer than the other part of the Act. But this involves a matter of principle though, Mr. Chairman. That's the problem. I mean there is a real principle about the question of compensation that goes very much to the heart of the Act, and I'm not so sure that we should just simply leave it at that. Maybe we should put some instructions from this committee forward into the negotiations or consultations that he's going to be holding with the municipalities, and maybe ask the Minister for a commitment that in fact this part of the Act will not be proclaimed until the next session, and by that time - I believe he indicated that a meeting of Municipal Committee could be called and there would be then new provisions for compensation added to the Act and there would be nothing done until that time. It may still be in the Act but it would not be enforceable until the next session received recommendations for changes. If the Minister would agree with that then I could see passing it, but I think it would require that much of a step.

MR. CHAIRMAN: Order please. Order. I would like to call order at this moment while the recorder is changing the master tape.

You may proceed, Honourable Mr. Pawley.

MR. PAWLEY: I think that probably we have very little difficulty here in approaching this, if I understand Mr. Axworthy correctly. It would certainly be my intent not to proceed with the proclaiming of Section 88 at this time, or in the future until such time as there has been opportunity to have a thorough review of it by our own officials.

(a) To discuss this section with the municipal organizations. I think implied in that is certainly coming back to the House because there's no way that these sections as they stand here can effectually accomplish what the intent is. So certainly to report back to the House with appropriate amendments. I would prefer to do that rather than just scratch them at this point because first, the municipalities have had this for many many years, although they may not have used it, and I would prefer to consult with them first before we just simply scratch it out, and

(b) The general concept I think is a good one, and I wouldn't want any action to be interpreted in scratching it that we're just turning our backs on the concept itself. I just wonder if that might sound reasonable to him.

MR. CHAIRMAN: Page 55 as amended-pass? Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I think we're reaching towards it, but as I said before I think in this Act where there are certain basic principles, this is one, and I'm not quite sure the Minister and I are totally identical. If he is stating that the Act would be passed with Section 88 and decided it would not be proclaimed until such time as amendments to it were considered, then I would agree.

MR. PAWLEY: That's right.

MR. AXWORTHY: If that's agreeable, fine. Okay.

MR. CHAIRMAN: Page 55 as amended-pass; Page 56-pass; Page 57-pass; Page 58 - Mr. Miller.

MR. MILLER: Page 58, Mr. Chairman. That Clause 93(a) of Bill 44 be amended by adding thereto immediately after the word "Winnipeg" therein the words "and the additional zone."

MR. CHAIRMAN: 93(a) as amended-pass.

MR. MILLER: That Bill 4 be amended by adding thereto immediately after Section 95 thereof the following section: "Transitional. 96 Notwithstanding the repeal of The Planning Act, being Chapter P80 of the Revised Statutes of Manitoba, in this Act referred to as the repealed Act, where prior to the coming into force of this Act, in this Act called the New Act, any matter, application, proceeding or hearing was commenced under the provisions of the

(MR. MILLER cont'd) . . . . . repealed Act or The City of Winnipeg Act with respect to the additional zone, that matter, application proceeding, may be continued and completed in accordance with the provisions of the repealed Act, or the City of Winnipeg Act as the case may be, and regulations made thereunder as if the new Act had not been enacted.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, the heading of Section 95 reads: "Substituting regulations." That word should be "subsisting". If you would make that correction please.

Following the amendment to the addition of Section 96 would result in renumbering the next two sections as 97 and 98 respectively.

MR. CHAIRMAN: Page 58 as amended-pass; Preamble-pass; Title-pass. Bill be reported.

MR. F. JOHNSTON: On division.

MR. CHAIRMAN: On division? (Agreed)

We have one more bill, Bill 54, an Act to Amend The Municipal Board Act.

BILL NO. 54 - AN ACT TO AMEND THE MUNICIPAL BOARD ACT

MR. CHAIRMAN: Page by page? (Agreed) (Pages 1 and 2 of Bill No. 54 were read and passed) Preamble-pass. Bill be reported.

Committee rise.