



Legislative Assembly of Manitoba

STANDING COMMITTEE

ON

LAW AMENDMENTS

Chairman

Mr. J. Wally McKenzie
Constituency of Roblin



Friday, June 15, 1979 10:00 P.M.

**Hearing Of The Standing Committee
On
Law Amendments
Friday, June 15, 1979**

Time: 10:00 p.m.

AIRMAN: Mr. J. Wally McKenzie.

CLERK: You have your quorum, Mr. Chairman.

CHAIRMAN: Thank you. Very good.

N. GERALD, W. J. MERCIER: You will recall that we went all through this bill with the exception of the penalty sections at the end, and on 27 on The Liquor Control Act the Honourable Member for Vital raised, quite rightly, a question with respect to the penalties, and I have an amendment on 27, 28 and 29. I believe that we may have approved those sections, Mr. Chairman. The correct procedure may be to approve — I'm not sure how — perhaps you could indicate what was not approved.

CHAIRMAN: Well, for the benefit of the committee, we approved up as far as Section 29, we stopped at 30.

MERCIER: So if we could have leave to go back to 27, 28, 29 and 30, once we get them rebuffed.

CHAIRMAN: Have the members of the committee received the amendments regarding Sections 28 and 29 yet? Can we have leave to refer back to Section 27, 28 and 29? (Agreed) The Honourable Member for Radisson.

KOVNATS: I move that the Motion be received as printed.

CHAIRMAN: Pass.
Section 30. The Honourable Member for Radisson.

KOVNATS: I move that the Motion be received as printed.

CHAIRMAN: Agreed? Section 30 as amended—pass.

GREEN: Does this have a history to it, Mr. Chairman?

MERCIER: It's just a rewording of the present 194(2).

GREEN: Of the existing Act or existing bill?

MERCIER: Of the existing Act.

CHAIRMAN: The Honourable Member for Inkster.

GREEN: It is very strange, Mr. Speaker, that one can make it an offense, to make an assertion in my opinion, knowing the assertion to be false. But I'm not going to go into it; it's a metaphysical question.

CHAIRMAN: Section 30, as amended—pass. Section 193(1)(a)—pass; (b)—pass. 193(2) as amended. That's 30 . . . The Honourable Attorney-General.

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MR. MERCIER: Well, Mr. Chairman, you know, that was already passed . . . So that was already passed at the last . . . Mr. Chairman, the first amendments deal with the existing Sections 27, and 29.

MR. CHAIRMAN: Right. And the amendments for the other section is on 30.

MR. MERCIER: Right.

MR. CHAIRMAN: Title—pass; preamble—pass.

A MEMBER: Mr. Chairman, we've already passed 31.

MR. CHAIRMAN: Right, from the meeting before. Bill be reported.

Bill No. 30 — An Act to amend The Museum of Man and Nature Act — 37.

MR. GREEN: Page by page.

MR. CHAIRMAN: I believe there's an amendment. No amendments to this? Page by page.

MR. GREEN: Page by page.

MR. CHAIRMAN: Page 1—pass; page 2—pass; page 3—pass; preamble— pass; title—pass. be reported.

The Honourable Member for Elmwood.

MR. DOERN: Mr. Chairman, before the bill is passed, I wanted to make a few remarks. The primary thrust of this bill is to have one-half of the members of the Board appointed by the provincial Cabinet and I believe that that revision is a good one. I also think it's somewhat in line with the fact that many years ago, we had hospitals in this province which were felt to be run by private boards but when nearly 100 percent of the funding comes from the public purse, then I think it makes sense that there should be some direct public input on the board or some public control of the board, so I believe that this is in line. It's sort of realistic as opposed to the myth of the private board, because nearly all the funding, not all, but a substantial portion of the funding of our groups comes now from the provincial government.

Obviously we want to continue to encourage private donations and business donations, I believe there is a need for public input when it comes to the boards. We all know, and the Minister in particular, that there has been some considerable problems in the cultural life of Manitoba, I just want to say again to the government and to the Minister that I understand some of the problems that the government has, and I also understand the reasons for the making of a \$50,000 grant to Saskatchewan for the purpose of establishing a Diefenbaker Museum in Saskatchewan. I hope that if money can be found for national purposes outside of Manitoba that we will also have the assurance that money will be found for the needs of the cultural groups in Manitoba. I just say that charity begins at home, and that the Minister will have to fight hard in her Cabinet in her government, for support for cultural grants. Because it's all too easy to put ballet dancers and symphony orchestra players against highways, and to slash the cultural side, because that doesn't seem to be hard, substantive government programming.

But I just want to encourage her to fight the good fight, and to do everything she can to bail out and to assist our main cultural groups, which I believe make Manitoba a special place. It's one of the reasons why some of us live in this province, and I hope that she will be able to get a fair share of provincial revenues for that purpose.

MR. CHAIRMAN: Pass.

BILL NO. 39 — THE STATUTE LAW AMENDMENT ACT

MR. CHAIRMAN: Section 1— pass. Page by page? Page 1—pass . . .

MR. GREEN: No, Mr. Chairman, sorry. Each of these sections is a different statute.

MR. CHAIRMAN: (Sections 1 to 5 were read and passed.)

MR. MERCIER: Mr. Chairman, I wonder if we could go section by section until we get to what

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R. GREEN: Well, Mr. Chairman, I would even be willing to go page by page, if we stop at those pages where we know that there is . . .

1. CHAIRMAN: Okay.

(Pages 3 to 8 were read and passed.) Page 9—pass — the Honourable Member for Ladisbon.

1. KOVNATS: I'd like to move that Section 22 of Bill 59 be amended by striking out the figure "1" at the end thereof and substituting therefor the figure "31(3)." (Agreed)

1. GREEN: That's The Family Maintenance Act — clerical?

1. KOVNATS: Yes.

1. GREEN: Okay.

1. CHAIRMAN: Page 9, then, as amended—pass — the Honourable Member for Logan.

1. JENKINS: Mr. Chairman, my colleagues missed an item on Page 7. Could you go back to page 7, please.

1. CHAIRMAN: Page 7 — the Honourable Member for Churchill.

1. COWAN: Yes, thank you, Mr. Chairperson. I would just ask the Attorney-General if this will have the effect . . .

1. MERCIER: Which one?

1. COWAN: Excuse me, 12(1), the clause 6(1)(a) of The Fatality Inquiries Act amended. If this will have the effect of limiting, in any respect, the number of inquiries that are held into workplace fatalities?

1. MERCIER: No.

1. COWAN: There will be no change in policy. When there is a fatality in the workplace, there will automatically be an inquiry?

1. MERCIER: That's, well . . .

1. COWAN: The reason I asked — maybe if I can just explain. The reason I asked that is, you know, striking out the words "unexplained or sudden manner" in the second and third lines thereof and substituting therefor the words "or unexplained manner or suddenly of an unknown cause."

Now, the example I used in speaking to this particular clause in the House was, is if you had a fall loose that would be an explainable fatality, but it would have fallen under the other provisions because it would have been a sudden manner — explainable but in a sudden manner. Now that you're making it so that it has to be "or unexplained manner or suddenly of an unknown cause," you could no longer be suddenly of an unknown cause. It would be suddenly, but the cause would be known, and that is a fall loose or if a machine backed over someone. And that's what I'm worried about because I do believe those inquiries do give us insight into how to prevent future accidents of that nature.

1. MERCIER: Mr. Chairman, I can only say that it has been the policy, for example, in mining accidents, even where the cause was known, that just in order to clear the situation completely, an inquest had been requested to be done in all cases to clarify exactly what happened. That policy would continue.

CHAIRMAN: The Honourable Member for Inkster.

GREEN: Mr. Chairman, I believe the Honourable Member for Churchill has a point and I don't

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believe the Minister urgently needs this section. He says it's the policy in any event. All the Member for Churchill is saying is that now it's "unexplained or sudden manner," and now you're changing it to "suddenly of unknown cause." Unless you have an immediate difficulty why don't you put the section and bring it back next year, if you need it, because you're doing it in any event.

MR. MERCIER: Well, Mr. Chairmn, you'd have to differentiate from other situations which do not occur in the workplace or do not occur in a mine, where death occurs in a sudden manner and the cause is clearly known.

MR. GREEN: Except that you've had this legislation for . . . In other words, you're living now with this legislation and it seems to me that the Member for Churchill has raised a good point, and this is The Statute Law Amendment Act, that it seems to me that it would not be a big problem if you just lifted the section, live with it as you are now living with it, and tell us what your problems are. What the member is saying is that if it's now in an unexplained or sudden manner, there is an inquest. It can be in a sudden manner of a known cause and there won't be an inquest, excuse me, not an inquest, a fatal inquiry. And if the section is too difficult to live with, then you explain it and we will deal with it.

MR. MERCIER: Well, Mr. Chairman, the amendment has been requested by the Chief Medical Examiner, Dr. Parker, because in many cases a person has a heart attack and drops dead on the street and Medical Examiners are called in and it seems completely unnecessary to him. I happen to agree on that, and there's no intention to change the policy on inquests in circumstances described by the Member for Churchill.

MR. CHAIRMAN: The Member for Churchill.

MR. COWAN: Mr. Chairman, I would seek some guidance, not being as familiar with this whole process as some of the more experienced members, but would it be possible then to amend in such a manner as to make it clear that in the event of a workplace fatality that an inquiry will be held, because that would enshrine that in legislation and policy can change in an unexplained or sudden manner at times. So if we could amend it to ensure that in examples of workplace fatality an inquiry would be held, I think that would be sufficient for my concerns at this time.

MR. MERCIER: Mr. Chairman, the Member for Wellington I don't believe is present and a private member's bill raised a concern that he had and, in speaking to it, I indicated that I'd like to revise that whole Act before the next Legislative Session because there are other amendments. And certainly don't mind bringing into a revision of the Act a policy that indicates . . . Because, for example, we have been holding them in every death in a jail or a hospital, and I would like to review the whole Act and bring everything back in at the next session.

MR. CHAIRMAN: The Honourable Member for Inkster.

MR. GREEN: Mr. Chairman, I think what the Minister is saying is that if it's in the workplace is assuring the honourable member that that is the policy of conducting a fatal inquiry and by the next session the honourable member may have an amendment or you may have an amendment but in the meantime he will accept your assurance, and he's got it on the record, okay? (Agreed)

MR. CHAIRMAN: Page 9—pass; Page 10—pass — the Honourable Member for Churchill.

MR. COWAN: Yes, on Page 10, Section 29, which deals with The Payment of Wages Act, does this fit in and mesh with the payment of wages changes made in the other statute law amendment bill — I forget the number right at the moment?

MR. MERCIER: No. No, this is procedural.

MR. COWAN: It's procedural.

MR. CHAIRMAN: Page 11—pass; Page 12—pass — the Honourable Member for Inkster.

MR. GREEN: Page 11, the Member for St. Johns raised what I think is a valid point with regard to rules of discovery, inspection of documents, etc., and I don't know whether the Minister was

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report on it now or whether he will take the point and try to deal with it. I think there is a valid point that if the Crown produces somebody that the plaintiff doesn't feel is satisfactory, that at least he should have a right by order to have another officer produced, and I wonder if the Minister would indicate that he is at least going to look into that and possibly do something about it.

MERCIER: Mr. Chairman, just briefly, this is the same legislation as exists in Ontario. There have arisen a couple of cases in Manitoba, which I suggest were frivolous actions in which Ministers were subpoenaed to appear. This does give the Attorney-General discretion but I think it's obviously incumbent upon any Attorney-General to act in completely good faith and produce the most knowledgeable people possible for examinations for discovery. I'm sure that any Attorney-General would feel compelled, I'm sure, to live up to that obligation.

GREEN: Mr. Chairman, I agree with the Attorney-General. I don't think that just because as a right you're entitled to examine a director, that you should use that right to bring into court someone no reason somebody who you are examining for purposes which could have nothing to do with the action, which you have a right to do according to the rules. I'm asking the Minister whether he would consider adding a proviso, and I'm not asking him to add it right now, although perhaps the Member for St. Johns was here he would be pursuing it. I would just suggest that you have an objection to the Crown being able to produce somebody and not have to just, for a frivolous reason, have a Deputy Minister obey a subpoena for which he knows nothing about, but that you would like added that if the plaintiff is not satisfied he is entitled to go to a judge and apply for an order for the examination of some person, and I said I'm not sure I'm asking you to do it now. I think that you would.

MERCIER: I certainly would be prepared to consider that for the next session, Mr. Chairman, provide some assurance — even though I don't think it is necessary — but a safeguard in the event that any Attorney-General in the future does not live up to the obligation of his office.

CHAIRMAN: The Honourable Member for St. Johns.

CHERNIACK: Mr. Chairman, I think that's a very good way of approaching it. If the Minister finds it difficult to make that change now and I can understand why, his undertaking that he will look into it and come back next session is good enough for me for one, and I would like to add the additional point that Mr. Green and I had discussed privately a day or two ago that it might well be that the same kind of view should be taken by the Court of Queen's Bench in the rule which permits to work exactly the opposite way, which seems to give the absolute power to any party to name the person to be appointed, and I can visualize that if I were suing Inco, I might insist that I want the president to come down here. That could be an arbitrary, unfair decision. So, Mr. Chairman, I'm encouraged by the Attorney-General's undertaking and I would suggest that he communicate with the Court of Queen's Bench and ask them for their view of the other side of the coin, that is the civil side. On that basis, I would feel that we have accomplished something that next year will be dealt with.

CHAIRMAN: Page 13 then—pass — the Honourable Member for Churchill.

COWAN: On Page 12, can the Attorney-General please take opportunity to explain the impact of sections 35, (1) and (2), Clause 3 of The Regulations Act, what impact that change will have?

MERCIER: Presently, Mr. Chairman, the Act only authorizes the dispensing with the publication of a complete regulation. This allows dispensing with the publication of a part of a regulation.

CHAIRMAN: The Honourable Member for Logan.

JENKINS: I didn't hear the last words that he said, if he would repeat that please?

MERCIER: The present Act, as I understand it, allows the dispensing with the publication of a complete regulation, at the present, but not just a part of a regulation. This would accomplish the purpose; you could dispense with publishing part of a regulation, rather than the whole regulation.

JENKINS: Well, have we had any problems with that in the past?

MR. CHAIRMAN: Mr. Balkaran.

MR. BAKARAN: Mr. Chairman, I wonder if I might assist. In the past, what was happening, when an Order-in-Council authorizes the dispensing of the publication of a regulation, a regulation, sometime was made up of two parts. There would be a one-page regulation with a number of schedules attached. I'm thinking of something like the pay plan under The Civil Service Act, for instance. Now, you can have the general regulations published, and we dispense with the publication of the various table of figures and The Manitoba Crop Insurance Plan is something like that. That would simply allow to dispense with the publication of all the voluminous sets of figures and tables and what not.

MR. CHAIRMAN: The Honourable Member for Churchill.

MR. COWAN: Thank you, Mr. Chairperson. One further question: Could the Honourable Attorney-General take opportunity to explain 4(5) then, the impact that will have?

MR. MERCIER: That's just where publication is dispensed with, and the notice of the dispensation published, then the regulation is deemed to be valid.

MR. CHAIRMAN: Agreed? Page 13 — the Honourable Member for Logan.

MR. JENKINS: I wonder if the Honourable Minister could explain the reason for the repeal of the Transit Grants Act? Is that to do with the now block funding that the government is at with the City of Winnipeg?

MR. MERCIER: That's correct, Mr. Chairman. The present Transit Grants Act provides for a nominal — I don't have the specific amount — I do: "There shall be paid in each year on requisition of the Minister, a grant equal to the lesser of 5 percent of the gross operating revenue of the Transit System, or the amount of the deficit incurred in the next previous year." It's a very outdated formula that has been brought up to date, 50 percent. It has been included in block funding by introducing the block funding concept. It seems wrong to at the same time be required by a piece of legislation to over and above that provide for the minimal grant. Grants are authorized under the administration of the Municipal Affairs Department.

MR. CHAIRMAN: The Honourable Member for Inkster.

MR. GREEN: Mr. Chairman, the Member for Logan raises the question quite properly. If we eliminated the grant, we would want to negative it on the record, but this is an old Act. It provides for 5 percent, and you are up to 50 percent already. So our letting this go by won't endorse the block funding, because we still think that the City should be using those funds to stabilize — the a good word — to stabilize transit rates.

MR. CHAIRMAN: Page 13—pass; Page 14—pass; Page 15—pass; Page 16—pass. Page 17, that is an amendment. The Honourable Member for Radisson.

MR. KOVNATS: I move that Section 48 of Bill 39 be amended:

(a) by adding thereto, immediately after clause (d) thereof, the following clause:

(e) Section 40 is retroactive and shall be deemed to have been in force on, from and after December 31, 1978; and,

(b) by renumbering Clause (e) thereof as Clause (f).

MR. MERCIER: That refers to the same Act.

MR. CHAIRMAN: Agreed? As amended—pass; Schedule—pass; (Agreed.) Preamble—pass. Or Schedule — the Honourable Member for Churchill.

MR. COWAN: Yes, it's 67, An Act for the Relief of Dependents of Certain Workmen, being Chapter 68 of the Statutes of Manitoba, 1948. Has the Minister — and I may be incorrect on my interpretation of this, but if the dependants of the deceased workers — and I assume that the workers deceased and that is why we are dealing with this item — if the dependants have ceased to be eligible for Workers Compensation, and if not' if the repeal of this would have any effect on eligibility for worker's compensation. I believe it was Albert Tuytens, John Machuga and Rade Lu

ere the three workmen.

R. CHAIRMAN: The Honourable Attorney-general.

R. MERCIER: Mr. Chairman, perhaps I could ask for the assistance of Legislative Counsel with the advice I've received that these Acts were all of a private nature which have been completely silent.

R. DOERN: There are no dependants then that would be influenced, because it could happen, understand, if there were.

R. CHAIRMAN: Mr. Balkaran.

R. BALKARAN: The Acts themselves listed have ceased to have any operation. They are compiled by the directive companies as a result have all been repealed; taken off the books.

R. CHAIRMAN: Thank you. Pass.

BILL NO. 42 — AN ACT TO AMEND THE HIGHWAY TRAFFIC ACT

R. CHAIRMAN: Bill No. 42, an Act to Amend The Highway Traffic Act. Section 35(1)—pass; Page 1—pass; Page 2—pass; Page 3—pass — with amendments, I'm sorry. Have you got the amendments? On page 4.

R. KOVNATS: I move, that proposed new section 169.2 to The Highway Traffic Act as set out in Section 10 of Bill No. 42 be struck out and the following section be substituted therefor:
"Towing of vehicles transporting hazardous commodities.

"169.2 Every person towing a vehicle or a tank-trailer that is transporting any hazardous commodity upon a highway, shall comply with the regulations".

R. CHAIRMAN: (b)—pass; title—pass; preamble—pass. Bill be reported.

BILL NO. 54 — THE MANITOBA DATA SERVICES ACT

Bill No. 54. Are there any amendments on Bill 54? (Pages 1 to 7 were read and passed.) Page 7—pass. There's a correction — Mr. Balkaran.

R. BALKARAN: There's a spelling error, Mr. Chairman, the eighth line, the word "government" misspelled and we have to correct it. permission

R. CHAIRMAN: Agreed? The word "government" is not correctly spelled—pass.

MEMBER: What page is that on? the seventh line of the first

R. CHAIRMAN: The last page, 8, on paragraph. Title—pass; preamble—pass, Bill be reported.

BILL NO. 59 — MANITOBA HYDRO AND PUBLIC UTILITIES BOARD ACT

R. CHAIRMAN: Bill No. 59, An Act to amend The Manitoba Hydro Act and The Public Utilities Board Act. Are there any amendments? Board
The Honourable Member for St. James.

R. MINAKER: Yes, Mr. Chairman. If I might just for the information of the committee as we proceed in a detailed discussion of Bill No. 59, I would like to advise that there will be an amendment to Section 5 of the Bill. This amendment will have the effect of permitting Manitoba Hydro to engage in research into the development of new or improved techniques for the conservation of energy in the generation, transformation, transmission, distribution and control of power and energy works associated herewith and it pertains primarily with regard to High Voltage, DC transmission and research in that field.

R. CHAIRMAN: (Sections 1 to 4 were read and passed.) , Section 5 — the Honourable Member for Rhineland.

MR. BROWN: I move, that Section 5 of Bill 59 be amended by renumbering the section a subsection (1) thereof and by adding thereto immediately after renumbered subsection (1) thereof the following subsection:

"Subsection 15(2) am.

5(2) Subsection 15(2) of the Act is amended by adding thereto, immediately after clause (e) thereof the following clause:

(e.1) engage in research into and the development of new or improved techniques for the conservation of energy, and the generation, transformation, transmission, distribution and control of power and energy and works associated therewith; all upon such terms and conditions as the board deems proper;"

MR. CHAIRMAN: Any discussion?

MR. KOVNATS: Mr. Chairman, on a point of order, was I not reading the motions properly —(Interjection)—

MR. CHAIRMAN: The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Chairman, I'm not clear on the need for this resolution.

MR. CHAIRMAN: The Honourable Member for Rhineland.

MR. BROWN: Mr. Chairman, the way I understand it, that at the present time, Manitoba Hydro cannot spend any amounts of money, really, in research of this type. The federal government is going to set up a research station somewhere in Canada, on high voltage direct current lines. We're trying very hard to get that research station established in Manitoba. Under the previous Act, the way that I understand it, this was not possible, but this would enable us to put in a bid to try to get this research station established here.

A MEMBER: As well as other things.

MR. BROWN: Yes, as well as other things.

MR. CHAIRMAN: The Honourable Member for St. Johns.

MR. CHERNIACK: Well, since (d) says "make such enquiries and investigations" into all the various things, is it assumed that investigations is not enough to give him the authority to engage in research, is that it? That Hydro does not now assert the authority to do any research, is that what we're being told? Because that's what Mr. Brown did tell us.

MR. CHAIRMAN: The Honourable Member for Rhineland.

MR. BROWN: Yes, that's what I understand, in order for us to go into research of this type that we need this clause.

MR. CHERNIACK: Change lawyers, not change the Act.

MR. CHAIRMAN: 5, as amended —pass. (Sections 5 to 10 were read and passed.) Section 39(2)—pass; 39(3)— pass; 39(4) — the Honourable Member for Transcona.

MR. PARASIUK: I move that proposed new Subsection 39(4) to The Manitoba Hydro Act as set out in Section 11 of Bill 59 be struck out and the following subsection be substituted therefor:

Board may carry out investigations and hold hearings.

39(4) Any person using power supplied by the corporation may apply to the Public Utilities Board to review the price or rate at which the power is supplied, and where there is reason to believe that the price or rate so charged exceeds what is just and reasonable, or that the price or rate is unjustly discriminatory or unduly preferential, the Board may carry out such investigations and hold such hearings as it considers just and necessary to ascertain whether or not the price or rate charged by the corporation is just or reasonable.

Mr. Chairperson, I bring in this amendment because I think there is some confusion as to what

being done by this new Act. And that is that the subsection which I intend to amend only allows for an appeal to the Public Utilities Board when the Hydro price is changed; that is when the Hydro rate is changed. It doesn't take into account a change in circumstances, where although the Hydro rate doesn't change, the net earnings of the Hydro Corporation may in fact change substantially, so that a price decrease might be warranted. And this amendment would clear that problem up.

It would allow the public, not frivolously, but seriously, to make application to the Public Utilities Board to consider a situation where it has reason to believe the price should be changed, and secondly, where it has reason to believe that the present rate structure is discriminatory and preferential, or preferential, and that might be the case right now with respect to some of the long-term fixed contracts. And if the Public Utilities Board did investigate that, that might, indeed, lead to a decrease in the rates being charged to the average consumer of Manitoba.

I think this amendment really would give some teeth to the assumption that the Public Utilities Board actually does have a role to play in relation to reviewing Hydro rates. And because it's quite important that the Public Utilities Board does have a full role to play and because it's important that the public have the opportunity of using the vehicle of the Public Utilities Board in this respect, I am bringing forward this amendment.

R. CHAIRMAN: The Honourable Member for St. James.

R. MINAKER: Mr. Chairman, I appreciate the honourable member's concerns and his objectives. It is correct that the Act says that submissions would be made when a price change occurs, which the member knows will not occur for five years. The other thing is that within 60 days after the price — if the application has been made, then it wouldn't be considered.

But I think what we get involved in with the honourable member's motion, or amendment, is to decide who will decide whether or not the reserve should be 2.4 percent, or whether they should be 16 percent like the average reserve is of most of the average public utilities in Canada. If we average out the different utilities in Canada, we find that you're looking at about 84 to 16, where we are presently 97.6, I think, to 2.4.

I know the honourable member was at Public Utilities on Saturday, when discussions took place where it was felt that the reserve should at least be 10 percent, and the Minister indicated this. So, with the amendment that's being put forward, it really throws that onus onto any individual who thinks that we shouldn't necessarily have \$120 million reserved, or we shouldn't necessarily have \$200 million reserves, in order to get to that 10 percent figure.

So that would be my concern about allowing that type of amendment to be approved at this time. Because I think it's been clearly put forward by the government their objectives in this case, and this particular part of the Act is in there for that reason.

R. PARASIUK: Yes, to begin with, the whole question of a reserve should surely be dealt with by the government, and that is done by policy. They will determine if they are, in fact, the body that sets the final rate. They should determine as a matter of policy what that reserve should be, whether it should be \$100 million, \$60 million. But surely it can't say we don't have a policy as to what the reserve is, and we'll play it by ear, and use a changing reserve figure to rationalize the surplus revenue being kept in the corporation, when indeed that surplus revenue might in fact be used to reduce Hydro rates?

You know, it may turn out, for example, that we could have a large export, an increased export of electrical power over the next three years, and we could end up with a reserve of \$600 million or \$700 million. That's not inconceivable. And what we are saying here is, well, we're not going to say what the reserve is and we're going to leave it totally open, and the public could not have an opportunity to apply to the Public Utilities Board to have this situation looked into.

And I think the best way of dealing with that is for the government to establish what it thinks a rational reserve should be. You know, if it wants to be 16 percent or if you want to have it at 8 percent or 8 percent, fine, establish that. At least then you have some way of measuring the performance of the Hydro utility and you have some way of measuring whether in fact that price is just or not. But to say, well, this is going to be a sliding thing that is left totally open I think is wrong. So I think that that rationale for rejecting this type of amendment is incorrect.

Furthermore, I think that the premise that Hydro rates are frozen is again incorrect. That has happened is that the government has stated a policy in the Budget that Hydro rates are frozen, and that has brought in an Act that speculates in foreign exchange. Now, it may turn out that that type of speculation in foreign exchange is sufficient; it may turn out that there could be something else. There could be a doubt, at which point some other action would have to be taken by the government to ensure that the so-called freeze of the government of Hydro rates is actually backed

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up in practice.

So that is somewhat conditional right now. It's not there for certain. It may turn out, for example on the other side of the coin that if you do have this bonanza, if you do have this bonanza (export sales, the price of Hydro should be reduced. And what this particular subsection of the proposed Act does is preclude the possibility of the public asking in a very reasonable manner to have this matter reviewed if export sales are high or if there is reasons believed that a new contract negotiated with Inco or a new long-term contract negotiated with Sherritt-Gordon is sweetheart deal, which, in a sense, provides for a subsidy from the average Hydro ratepayer to the bulk Hydro user, namely a large mining company. And I think we have to recall that Inco use as much hydro-electric energy as the City of Winnipeg and that they pay an amount for the whole year which is about one-quarter of what the citizens of Winnipeg pay for their hydro-electricity. So I think that is something that, I think, bears looking into and would be prevented by the subsection here in this Act.

I think there is another point, Mr. Chairperson, and that is that the Public Utilities Board does not react to frivolous applications. In fact, I would hope that it wouldn't. It has, on its Board, a Vice-Chairman, the former Conservative Premier of Manitoba. I don't know the person personally. I don't know if he reacts to frivolous applications. I certainly would hope that he doesn't. He never struck me, from a distance, Sir, as being a frivolous type but perhaps the present government feels that he might weaken or succumb to frivolous applications. I certainly don't think that and I think that the other members of the Board, that I know, certainly wouldn't succumb to frivolous applications and therefore I think that we should allow the Public Utilities Board to operate in the same rational manner, to determine whether an application is reasonable or not, and, if it is reasonable, to proceed. And, Mr. Chairperson, the present subsection precludes that and my amendment would open up to the public in a reasonable manner, allowing for due process.

MR. CHAIRMAN: The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Chairman, thank you. I believe that I heard Mr. Minaker say that we know that there will not be any rate changes in the next five years. He confirms that that's what he said, but then when Mr. Parasiuk challenged that, he said it is a difference of opinion. Will Mr. Minaker confirm that there's nothing in the law that says that there shall not be a rate change in the next five years, because that's my impression; there is no law that says that.

MR. CHAIRMAN: The Honourable Member for St. James.

MR. MINAKER: Mr. Chairman, it has been stated by the government that it will be the policy of the government that Hydro rates have been frozen for the next five years, and if we look at the Section 39 it primarily is set up for that manner that the government has made that a policy decision and if you see how the appeals are made and so forth, that the decision to recognize a request or appeal will be thrown on the shoulders of the government and if they decide against the recommendation of the Public Utilities Board, then it can be duly pointed out that it was the government that made that decision and the responsibility lies exactly there.

MR. CHERNIACK: Mr. Chairman, I understand that argument but now Mr. Minaker has changed it. He said, "We all know that there will not be any change in rate." Then he says, "If there will be a change in rate, the government will do it", and that's a contradiction because now he is, in Section 39, the amendments here as set out in 11, indicating that there may be changes in rate. And if the government is fixed on there being no changes in rate, wouldn't it be a lot simpler just to say "There shall be no change in the rate, no application to the Board, no review", period.

MR. MINAKER: Mr. Chairman, my understanding of what the government policy is that's been stated is that the upper limit for Hydro rates has been set for the next five years. We hope that if the export sales increase and so forth, and if the reserves build up I would presume that if the conditions exist a decision will be made by the government accordingly. What my understanding is: The upper limit for Hydro rates in Manitoba has been frozen for the next five years.

MR. CHERNIACK: Mr. Chairman, why not say that in 39(2)? "The corporation may, from time to time, reduce the rates but may not increase the rates." Wouldn't that be what Mr. Minaker says is the government's position? And then there would not be an argument, or would there?

Mr. Chairman, the reason I am saying this is that we've been making speeches, haven't we, in the House today and yesterday, saying that there is nothing in any Act before us — we have yet to deal with that Act — which determines that there shall be a freeze on rates? And Mr. Minaker

says it's government policy. Well, policies may change; there is no way that you can guarantee that there would not be a change in policy, even tomorrow, much less than three years. Well, there may even be a change in the makeup of the existing government. So why wouldn't it be simpler just to say what you mean and say it in the law so there will be no question about it?

IR. MINAKER: Well then, Mr. Chairman, if we took Mr. Cherniack's proposal, then we would have to amend that section in five years time, so why not leave it the way it is, the way we're putting forward? We might have to.

IR. CHERNIACK: Mr. Chairman, if government has determined that for five years, not six years but for five years, there shall be no increase in rates, you can say so in the Act and then you don't have to change the law; you can just say "For the next five years, there shall be no increase in rates", and then you are saying what you say you mean. And that's pretty straightforward, and we know it.

Now, on the other hand, there is nothing wrong with changing a law in five years time if you want to. Why, there's nothing wrong with changing it in one year. The Attorney-General has undertaken to come back next year with a report on what he thinks could be done in changing the law that we just passed. There is nothing wrong with that. That's why we have Statute Law amendments, so that it's easy to change the laws from time to time.

So I am asking that of Mr. Minaker because I want it confirmed — and you know I am pressing hard because I think that I am right — that there is nothing in the law that prohibits or prevents change in rate. If the government will next year or two years from now say we've been suffering through tremendous droughts, these are Acts of God and we must increase the rates, or if the government says the cost of oil has gone up so tremendously that we have to do something about keeping abreast because of our costs going, we must change it. There is nothing in the world to prevent the government from having a valid explanation for a change in the presently enunciated policy and it could justify it just the way it justified firings that took place, or reductions in services that took place on the basis of the word mess, another four-letter word, m-e-s-s, and that excused the government from doing all kinds of things contrary to its election platform.

So, having said that, Mr. Chairman, and not wanting to debate it any further unless Mr. Minaker or other members want to, I want to ask what is wrong and how is the government adversely affected by the resolution before us, that there should be a full and clear review and understanding of what is that motivates the Corporation from wanting to make a change. That's all this is, you know, doesn't give the Board power other than to review and to state an opinion.

Are you denying the Board the opportunity to review and state an opinion? I think you are, and I don't think that has anything to do with the government's policy or approach to rates in the future. So what is the reason for rejection of this?

R. CHAIRMAN: The Honourable Member for St. James.

R. MINAKER: Mr. Chairman, I know Mr. Cherniack heard my concerns earlier when I answered Mr. Parasiuk, but getting back to 39(2), that suggestion of change, we have the authority to fix the rates and the rates have been fixed for the next five years, so why would we bother to change that? And I'm confident it won't happen, that if the rates were increased within that five-year period, I'm sure that Mr. Cherniack would be the first to remind us of the fact that we stated that it would not happen. So I'm sure that he will be on top of that particular situation, which I know will never occur between the next year and the next five years.

R. CHERNIACK: Mr. Chairman, I, too, know it will never occur because it never need occur, but I would like to know if this government will stake its future in government on the statement that the rates are fixed and will not be changed in five years. Will the government resign if for any reason the rates are changed? Will Mr. Minaker resign if for any reason the rates are changed? I say that without any suggestion of being smart about it. I'm saying that it is not in any law and there is no way that the government would have to come back to the Legislature and say, well, because of whatever reason, we have had to change our policy. It doesn't have to do anything but just change the rates. Since it is not in the law, and the government refuses to put it in the law — and I for one undertook to vote for any such law that the government was prepared to bring that says rates are fixed — and since it isn't shown there, then at least will Mr. Minaker let the government on the test by that undertaking?

R. MINAKER: Mr. Chairman, while I'm a member on the government side, Mr. Cherniack fully knows I'm not a member of the government and he knows that I can't answer that question.

MR. CHERNIACK: Mr. Chairman, Mr. Minaker has been charged with the responsibility of piloting this bill, but he is not a member of the Treasury Board — I'm just looking for a member of the Treasury Board. Can it be that there isn't one present? I'm sorry, Mr. McGregor is so prominent in his appearance that I didn't see the gentleman beyond him; maybe he's prepared to do that.

MR. CHAIRMAN: 39(4) — the Honourable Member for St. George.

MR. URUSKI: Thank you, Mr. Chairman. I believe, Mr. Chairman, that this suggestion that has been made in terms of providing what would be called in Conservative language, Sunset Law, believe the Prime Minister of Canada, as one being a Tory Prime Minister, is one who is very favorable and disposed to the idea of bringing in Sunset Laws — in fact, your colleagues, the former Ministers of Government Services, and your present Premier, talked about bringing in laws that do away with themselves at an appropriate time. Since the amendment, or the intention of government was to freeze Hydro rates for five years, surely it should be one of the simplest matters in Conservative philosophy and policy, of including a Sunset Law which has a date fixed to it in which it will no longer be valid. The government of the day surely should have no resistance or compunction about not putting such a section in, as being suggested, in order to indicate quite forcefully what they have been trying to indicate, that in effect Hydro rates are frozen for five years.

MR. CHAIRMAN: The Honourable Member for Transcona.

MR. PARASIUK: Mr. Chairperson, we could deal with this another way. We could also put in Sunrise Law, and that is, if the government should do that to clarify its positions, it should put in a Sunrise Law saying that the Public Utilities Board will become operable with respect to Manitoba Hydro in five years. That's another way of stating it. But for the next five years, the Public Utilities Board really is completely irrelevant to the whole question of Hydro rates. So, we could put it in as a Sunset Law, to use Joe Clark's terminology, or we might talk about it as a Sunrise Law, but the net effect is the same, and that is that the Public Utilities Board, really, is completely irrelevant to the whole question of Hydro rates for the next five years unless my amendment is approved.

MR. CHAIRMAN: May I suggest to the Honourable Member for Transcona that he read this motion into the record so that we can deal with it. —(Interjection)— We did; it's already in the record. Any more debate?

All those in favour of the amendment as proposed by the Honourable Member for Transcona signify in the usual manner.

MOTION presented on the amendment, and lost.

MR. CHAIRMAN: 39(4)—pass; 395(a)—pass; (b)—pass; (c)—pass; 395—pass; 396(a)—pass; (b)—pass; 396—pass; Page 4 — pass — the Honourable Member for Transcona.

MR. PARASIUK: Yes, on the paper that was distributed, I was going to propose an amendment to 399. I'm not going to propose that amendment.

MR. CHAIRMAN: Page 5—pass; Page 6—pass — the Honourable Member for Transcona.

MR. PARASIUK: Mr. Chairperson, I move that Section 15 of Bill 59 be struck out.

A MEMBER: Mr. Chairman, on a point of order, Sir, you could just vote against it, it amounts to the same thing.

MR. PARASIUK: Yes, I will ask that the vote be taken on it, then I would like to speak to the matter. What Section 15 of this Act does is, through legislation, prevent the Public Utilities Board, the duly constituted Public Utilities Board, a quasi-judicial body of the Province of Manitoba, which has government appointments on it. The Vice-Chairman, as I said before, is the former Conservative Premier of Manitoba.

This Board, in its judgment, in its considered judgment, in October of 1978, decided that the reason was to believe that Hydro rates were discriminatory or preferential, and it therefore formally and publicly undertook to conduct hearings, and to investigate whether, in fact, that reason was

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ie. That is, whether in fact the Hydro rates were discriminatory or preferential. That is a body that has expertise. The government is saying that we believe that the Public Utilities Board certainly does have a role to play with respect to Hydro rates in five years, and that, if indeed the provincial government, over the course of the next five years, does change the Hydro rates, that the Public Utilities Board should have the power to review that change in Hydro rates, if some one makes an appeal within 60 days.

Now, the point is, if you are giving this trust to the Public Utilities Board, which supposedly will be exercised in five years, then surely you should allow the Public Utilities Board to carry out, in good faith, the investigation that is presently launched. To do otherwise, Mr. Chairperson, would be to really cover up the entire question of the Hydro rate structure as to whether they are discriminatory or preferential.

And I think to cover it up by legislation like this, really does raise doubts, and tends to confirm at the government is indeed afraid that the Hydro rates are preferential, and are discriminatory, in favour of users like Inco, or Sherritt-Gordon, or any other bulk purchaser on a long term fixed contract. And I think that the matter should be cleared, the Public Utilities Board, in whom I have complete faith, has launched this investigation; and I see no reason whatsoever for the government to override that Board, to show a lack of confidence in that Board, and legislate that it cannot proceed to carry out the investigation that it has already launched. And that is only one investigation, and it did make that decision.

R. CHAIRMAN: The Honourable Member for St. James.

R. MINAKER: Mr. Chairman, my understanding, the object of this particular section of the Act is to clear the slate and start everything fresh, from the point of time when the rates have been frozen. And it's my understanding the last rate increase was the value, or the quantity that had previously recommended and granted to the Hydro from the Public Utilities Board. So that, if the previous decisions that were approved, if there is any change in rates downward, then the method of appeal can be followed through, if it's desirable to do so. So that any further changes five years down the road, the people can appeal through the means that have now been approved by the committee.

R. CHAIRMAN: The Honourable Member for Transcona.

R. PARASIUK: Yes, Mr. Chairperson. To set the record straight, in October of 1978, the Public Utilities Board ruled on the Hydro rate increases, and that is the price that presently exists for Hydro. So that decision was taken by the Public Utilities Board, and I understand that that decision has been confirmed by the Government of Manitoba which is fair enough, that's one part of the issue.

At that same hearing, when it made that decision in October of 1978, the Public Utilities Board, which is a creature of this government, also agreed to look into the whole question of the fairness of the entire, overall rate structure. And they then said, "We will conduct further investigations; we will conduct further hearings." They presumably have done some preliminary work; they presumably want to continue in doing that.

Now, that has nothing to do with the price increases at all. They have made that decision already. If they have gone further, and they have said that, "We have reason to believe that the Hydro rate structure may in fact be preferential or discriminatory in favour of certain groups, as opposed to other groups.

And to prevent the Public Utilities Board from carrying out that investigation, is not to wipe the slate clean; it's to cover it up. And there's a very big difference between that, because they've already ruled on price increases, but they are looking at what exists. And they are looking at it to determine whether some groups get preferential treatment from Hydro, and whether other groups don't. And it's a very simple clear matter that the Public Utilities Board had jurisdiction in, they made that decision with respect to the price increases, and they also made the decision with respect to the investigation of the Hydro rate structure.

Now, if this government lacks confidence in the Public Utilities Board, they should change the Hydro rate that the Public Utilities Board came up with in October of 1978; but it's not done that. It shows that it has confidence in that respect. They should fire the Public Utilities Board, if they lack confidence in the Public Utilities Board; but they haven't done that. Or, they should let it continue on with this one single investigation that they are carrying out with respect to discriminatory or preferential Hydro rates.

COUNTED VOTE was taken, the result being as follows:

yeas 3; Nays 11.

MR. CHAIRMAN: I declare the motion lost.

Section 15—pass; Section 16— pass; Preamble—pass; Title—pass; Bill be reported—pass

BILL NO. 68 — AN ACT TO AMEND THE STATUTE LAW AMENDMENT ACT

MR. CHAIRMAN: Bill No. 68, an Act to amend The Statute Law Amendment Act: Page 1—pas Okay, there are amendments here.

Page 2 — the Honourable Member for Radisson. Oh, he's gone. The Honourable Member fr Virden.

MR. MORRIS McGREGOR: I move

THAT Clause 4(a) of Bill 68 be amended by adding thereto immediately after the word "directo in the 3rd line thereof the words "or society".

MR. CHAIRMAN: Agreed? (Agreed.)

Page 4—pass; Page 3—pass — the Honourable Member for Churchill.

MR. COWAN: On Page 2, could the Attorney-General explain what is happening with Section Section 96.1 of The Corporat ons Act, and the Liability of receiver for wages, and the Receiv subrogated; and the Rights of director who pays receiver?

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: Mr. Chairman, this was set out in the explanation of this bill. It was stated th this section is to replace a former section of the Act that was inadvertently repealed as of Septem 1, 1978.

MR. CHAIRMAN: Okay. Page 2—pass; Page 3—pass; Page 4—pass; Page 5 — the Honourat Member for Virden.

MR. McGREGOR: I move

THAT Clause 10(1)(a) of Bill 68 be amended by striking out the figure "(5)" in the 2nd line there and substituting therefor the figure "(6)".

MR. MERCIER: And the next one, as well.

A MEMBER: Mr. Chairman, I'd like an explanation of that.

MR. MERCIER: Yes, that's just a grammatical — it should be subject to Subsection (6), rath than (5).

MR. CHAIRMAN: The Honourable Member for Churchill.

MR. COWAN: On this particular item . . .

MR. CHAIRMAN: But there's another motion. The Honourable Member for Virden.

MR. McGREGOR: I move

THAT Subsection 10(2) of Bill 68 be amended by striking out the figure "(5)" at the end there and substituting therefor the figure "(6)".

MR. CHAIRMAN: Agreed ? The Honourable Member for Churchill.

MR. COWAN: On this item, Mr. Chairperson, I wonder if the Minister could explain how many tim this particular subsection has been brought into effect — how many times it's been used?

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: It might be helpful if the next motion were moved, I think Mr. Domino has a moti Well, the difficulty is, it's an amendment to the last section,which will, in fact, rather than ha

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his section come into force on Royal Assent, it will come into force on Proclamation: The reason being that the Caucus having considered the discussions that went on this morning, wherein I indicated that I had asked the Law Reform Commission to do a study of the conflicts and the confusion between various liens in about 27 statutes in Manitoba, wished the Law Reform Commission to consider this matter, and make a report to me, and eventually to the Cabinet and to the government before any consideration is given to proclaim this section.

IR. CHAIRMAN: Agreed? (Agreed.) Page 5 as amended — pass; Page 6 — the Honourable member for St. Matthews.

IR. DOMINO: On Page 6, Mr. Chairman, I'd like to move

THAT Section 15 of Bill 68 be amended, as follows:

(a) by adding thereto, immediately after the word "Act" in the first line thereof, the words "except section 10"; and

(b) by adding thereto, at the end thereof, the words "and Section 10 comes into force on a day fixed by proclamation."

IR. CHAIRMAN: Agreed? (Agreed.) Title—pass; Preamble—pass; Bill be reported.
Committee rise.