



Second Session — Thirty-Second Legislature

of the

Legislative Assembly of Manitoba

STANDING COMMITTEE

on

LAW AMENDMENTS

31-32 Elizabeth II

*Chairman
Mr. P. Eyler
Constituency of River East*



MG-8048

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Second Legislature

Members, Constituencies and Political Affiliation

Name	Constituency	Party
ADAM, Hon. A.R. (Pete)	Ste. Rose	NDP
ANSTETT, Andy	Springfield	NDP
ASHTON, Steve	Thompson	NDP
BANMAN, Robert (Bob)	La Verendrye	PC
BLAKE, David R. (Dave)	Minnedosa	PC
BROWN, Arnold	Rhineland	PC
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CARROLL, Q.C., Henry N.	Brandon West	IND
CORRIN, Brian	Ellice	NDP
COWAN, Hon. Jay	Churchill	NDP
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DOERN, Russell	Elmwood	NDP
DOLIN, Hon. Mary Beth	Kildonan	NDP
DOWNEY, James E.	Arthur	PC
DRIEDGER, Albert	Emerson	PC
ENNS, Harry	Lakeside	PC
EVANS, Hon. Leonard S.	Brandon East	NDP
EYLER, Phil	River East	NDP
FILMON, Gary	Tuxedo	PC
FOX, Peter	Concordia	NDP
GOURLAY, D.M. (Doug)	Swan River	PC
GRAHAM, Harry	Virden	PC
HAMMOND, Gerrie	Kirkfield Park	PC
HARAPIAK, Harry M.	The Pas	NDP
HARPER, Elijah	Rupertsland	NDP
HEMPHILL, Hon. Maureen	Logan	NDP
HYDE, Lloyd	Portage la Prairie	PC
JOHNSTON, J. Frank	Sturgeon Creek	PC
KOSTYRA, Hon. Eugene	Seven Oaks	NDP
KOVNATS, Abe	Niakwa	PC
LECUYER, Gérard	Radisson	NDP
LYON, Q.C., Hon. Sterling	Charleswood	PC
MACKLING, Q.C., Hon. Al	St. James	NDP
MALINOWSKI, Donald M.	St. Johns	NDP
MANNESS, Clayton	Morris	PC
McKENZIE, J. Wally	Roblin-Russell	PC
MERCIER, Q.C., G.W.J. (Gerry)	St. Norbert	PC
NORDMAN, Rurik (Ric)	Assiniboia	PC
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ORCHARD, Donald	Pembina	PC
PAWLEY, Q.C., Hon. Howard R.	Selkirk	NDP
PARASIUK, Hon. Wilson	Transcona	NDP
PENNER, Q.C., Hon. Roland	Fort Rouge	NDP
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PLOHMAN, Hon. John	Dauphin	NDP
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SMITH, Hon. Muriel	Osborne	NDP
STEEN, Warren	River Heights	PC
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URUSKI, Hon. Bill	Interlake	NDP
USKIW, Hon. Samuel	Lac du Bonnet	NDP
WALDING, Hon. D. James	St. Vital	NDP

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS

Thursday, 7 July, 1983

TIME — 10:00 a.m.

**LOCATION — Room 255, Legislative Building,
Winnipeg**

CHAIRMAN — Mr. Phil Eyler (River East)

ATTENDANCE — QUORUM - 10

Members of the Committee present:

Hon. Messrs. Evans, Kostyra, Mackling and Storie

Mrs. Dodick, Messrs. Eyler and Filmon, Mrs. Hammond, Messrs. Harapiak, Hyde, Lecuyer, Malinowski, Manness and Nordman, Ms. Phillips, Messrs. Santos and Scott

APPEARING: Mr. Rae Tallin, Legislative Counsel

WITNESSES: Representations were made to the Committee as follows:

Bill No. 72 - The Wild Rice Act; Loi sur le riz sauvage, Mr. Sidney Green, Q.C.

Bill No. 78 - An Act to amend The Manitoba Telephone Act, Mr. Randy Moffat, President of Winnipeg Videon

Bill No. 91, An Act to amend The Real Estate Brokers Act, Mr. A.A. DeLeeuw, President of the Winnipeg Real Estate Board

MATTERS UNDER DISCUSSION:

Bill No. 72 - The Wild Rice Act; Loi sur le riz sauvage

Bill No. 78 - An Act to amend The Manitoba Telephone Act

Bill No. 91 - An Act to amend The Real Estate Brokers Act

Passed without amendment

Bill No. 80 - An Act to amend The Civil Service Superannuation Act

Passed without amendment

Bill No. 84 - An Act to amend The Residential Rent Regulation Act; Loi modifiant la loi sur le controle du loyer des locaux d'habitation

Passed without amendment

Bill No. 26 - An Act to amend The Financial Administration Act

Passed with an amendment

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MR. CHAIRMAN: I have a list of three people who would like to make presentations from the public and we have a list of bills to go through. Is it the will of the committee to listen to the public presentations first and then proceed to bills? (Agreed)

The first person on my list who wishes to make a presentation is Mr. Sidney Green. He wishes to make a presentation on Bill No. 72.

Mr. Green.

BILL NO. 72 - THE WILD RICE ACT

MR. S. GREEN: Mr. Chairman and committee members, I am here representing Holden Wild Rice and I wish to make a brief presentation with regard to Bill No. 72. The Minister indicated that in view of the fact insufficient notice was available to people who might be interested parties that the bill will not be dealt with today, but I was notified and am here and reserved the time for it. Also, Mr. Holden, Jr., came from Lac du Bonnet particularly because he was advised that presentations would be made today, so I would prefer to proceed if I can.

I would like to indicate, Mr. Chairman, that I am . . . (microphone hum) . . . sabotage.

A MEMBER: We treat everyone alike.

MR. C. MANNESS: It's been happening for a year-and-a-half now.

MR. S. GREEN: I believe, Mr. Chairman, that is almost the subject of my presentation, that is, people being treated alike.

I am here on behalf of Native Canadians, born in this country, lived all their life in this country, and who have developed a traditional lifestyle, which involved, Mr. Chairman, the development of wild rice as a commercial commodity, something which was unknown 83 years ago. I'm using 83 as an outside figure, that it was unknown to the inhabitants of Canada before that time to develop wild rice as a commercial commodity, to have it available in a commercial way, thus providing those economic benefits which result from creation of a commercial commodity; namely, the development of trade, the development of export markets, the effect that that would have on income from products exported out of the country, which much of it can be, and the development of employment opportunities which have been a tradition which my clients have been involved in for a period of roughly 35 years, since the mid-Forties, and have done so successfully to the benefit of the people of the Province of Manitoba.

I wish to indicate, Mr. Chairman, that I've reviewed this bill, and not that I can claim any expertise with respect to the sophisticated measures that are contained therein, I do not see in the bill anything that is not now available to the Minister by use of his authority over Crown resources and the leasing of Crown resources and the conditions that can be attached to the leasing of Crown resources, and indeed much of these things have been done without the

creation of the statute. That, Mr. Chairman, and members of the committee is neither a criticism nor an approval of the statute. There is that school of thought that has a propensity for legislation, and that school of thought that says that legislation shouldn't be enacted unless you need it for the purposes of doing something that you cannot do without its enactment. I think that those people who are in this room who know me know that I fall into the school of not having legislation unless it is needed, rather than the school of codifying legislation which appears to be the effect of this legislation, and the effect of other bills that are now being brought before the House, but that is by the by.

My clients have been, as Native Canadians, engaged in a traditional lifestyle which they wish to maintain. The act provides the Minister - and not only the act but the present regulations - provide the Minister with power to deal with that situation. It is my hope and my client's hope that respect for their traditional lifestyle, a respect for their rights as Native Canadians will be maintained not only in the legislation, but in the administration of the legislation.

There's one further feature of the legislation, Mr. Chairman, and one further feature of the present regulations or power to make regulations and that has to do with mechanical harvesting. I think Dean Swift said that the most important endeavour of human beings - I'm paraphrasing now - that whoever can make two ears of corn where once one grew does more than all of the politicians in the world put together. It appears that there is danger in this legislation of making one ear of corn grow where two once grew. There is certainly sincerity in dealing with the maintaining of job opportunities on the basis of using mechanical means to harvest wild rice, but I believe - and this was tried, and I was one of the people involved when it was tried - that in the last analysis more will be available to everybody concerned if you use the most efficient means of doing the harvesting.

This is not a change in the legislation. The Minister now has the ability under his rules with respect to Crown property to deal with this problem, and it has been dealt with. I merely urge the committee that people who are engaged in the commercial wild rice field are engaged in a competitive market, and that if they are to maintain the kind of efficiency that is necessary for them to compete, then they have to deal with that question. I note that the legislation provides that it will not apply except - and again, I'm interpreting to some extent - where there is completely natural growth rather than any development of the wild rice involved, and I hope that will be so interpreted as to enable my clients to maintain their position.

I indicate, Mr. Chairman, that they believe that they have a right to maintain that position not only under the common law of the Province of Manitoba but under the newly enacted Charter of Rights. That's the extent of my submission. I'd be pleased to answer any questions.

MR. CHAIRMAN: Are there any questions for Mr. Green?

Mr. Mackling.

HON. A. MACKLING: Mr. Chairman, I could argue but I'm not going to ask any questions.

MR. S. GREEN: You don't wish to argue unless we change the rules and have debate with people who appear before . . .

HON. A. MACKLING: No, I'm going to conform to the rules.

MR. CHAIRMAN: Any questions for Mr. Green?

MR. S. GREEN: That's a welcome change.

HON. A. MACKLING: It's not a welcome change, Mr. Green. I've always abided by the rules and you know it. You're the one that broke all the rules.

A MEMBER: It's going to be a hot day.

HON. A. MACKLING: Sure, it'll be a long hot day. I don't take crap from anybody.

BILL NO. 78 - THE MANITOBA TELEPHONE ACT

MR. CHAIRMAN: Order please, order please. Order please.

The second person on my list is Mr. Randy Moffat who would like to make a presentation on Bill 78.

MR. R. MOFFAT: Thank you, Mr. Chairman. I am Randy Moffat, President of Winnipeg Videon, and appear before you today to comment on the terms and the scope of Bill 78, An Act to amend The Manitoba Telephone System Act. Of particular concern to us are sections 52.2 and 52.3, regarding the control and ownership of equipment connected to or used for telecommunication systems. Before commenting directly on these sections, a very brief description of cable television in the province I think would be useful.

The cable television industry in Manitoba currently serves over 214,000 subscribers in approximately 40 communities. Licensed cable operators employ over 150 Manitobans and support an active grassroots community access television system in which literally thousands of Manitoba participate on an ongoing basis.

Winnipeg Videon has provided cable television service to the subscribers living on the west side of the Red River since 1967, under an agreement with the Manitoba Telephone System, and as licensed and regulated by the Canadian Radio-Television and Telecommunications Commission (CRTC).

Distant U.S. television and radio signals are received at a headend located in Tolstoi, Manitoba, that is jointly owned by Winnipeg Videon and Greater Winnipeg Cablevision, and are delivered to our local Winnipeg headend via microwave. Other television and radio program signals which Videon are authorized to carry by the CRTC are received off-air, or via satellite, or originated by Videon and inserted into the cable system at our local headend in Winnipeg. This headend facility and all of the electronic components necessary to receive, process and feed the signals into the cable system are owned by Videon as a condition of our licence from the CRTC.

The CRTC has required such ownership by Canadian cable operators to ensure compliance with its

regulations and policy directives as they relate to broadcasting matters in Canada.

We are deeply concerned that Section 52.2 of the proposed legislation does indeed allow MTS ownership of our headend facilities. Equipment presently owned by Videon works to receive, modify, emit and transmit television and radio program signals, terms specifically referred to in Section 52.2 of the proposed amendments.

In conversations that I've had with the Minister, Mr. Plohman, I do not believe - I've been left with the impression that it is not the intention of the government to require ownership by MTS of our headend facilities, and I suggest that the deletion of the words "transmitting, receiving, modifying and emitting" from the proposed amendments would resolve this area of our concern with Bill 78.

I would now like to address the broader question; that being the ownership of controlling, securing encoding and decoding equipment to be located in the homes of our cable subscribers. This equipment as well is required by the CRTC to be owned by cable operators.

The enactment of Section 52.2 of Bill 78 as proposed would create, I would suggest, an intolerable situation where either the Manitoba Telephone System or the cable operators in this province are in violation of the respective authorities governing their activities.

While it is true that certain exceptions to the requirement for MTS ownership of equipment are suggested in the proposed legislation, either through regulations made by the Cabinet or as provided for in agreements that may be struck between MTS and other persons. We do not believe that either of these provisions are adequate to ensure cable operators compliance with federal regulations. In the first instance, we are not aware of any proposed regulations pursuant to such exceptions, and in the second, MTS is not compelled, through any means, to enter into agreements which would permit ownership of equipment by a person other than MTS. We have been involved in negotiations with the Manitoba Telephone System for over three years in an attempt to reach agreement for long-term provision of service and these negotiations contemplate substantial capital investment by both parties including the purchase and installation of such equipment as would be included under the proposed legislation. One of the aspects which has delayed the successful conclusion of these negotiations is this very issue of ownership of the security and control equipment and I would suggest it now appears unlikely that an agreement will be reached without the intervention of a third party.

It may be useful at this point to recall, Mr. Chairman, the content of Order-in-Council 1470. It as well set out certain requirements for MTS ownership of network security and control equipment. That Order-in-Council was to be the subject of legal proceedings which questioned the jurisdiction of the province to pass such ownership requirements. However these legal proceedings were deferred pending the outcome of this legislation. We seriously question the jurisdiction of the province in imposing ownership restrictions such as those implied in Bill 78 and believe this too will be a matter for the judicial system to decide. Certainly no other province in this country has imposed such far-

reaching ownership restrictions as are contemplated under the proposed legislation.

Our major concerns regarding Bill 78 are related to the quality of service Manitoba cable subscribers can enjoy or can expect to enjoy in the years to come and the price which they will pay for such services.

It is clear to us that cable subscribers, Pay Television subscribers and customers of future services are sensitive to prices. We are concerned that substantial capital expenditures required for MTS to comply with ownership requirements mandated in this legislation and the acknowledged absence of a revenue base to support such an investment will create an unnecessarily inflated price structure, one which may cause many potential customers to not subscribe to the services. If reasonable expectations for market penetration cannot be achieved due to artificially high price barriers, then we would ask the question: Who will pay for the substantial costs of MTS investment in such equipment?

Another vital issue of importance is the matter of rates charged by the Manitoba Telephone System for use of its telecommunication system. As presently constituted, neither The Manitoba Telephone Act nor The Public Utilities Board Act provides for Public Utilities Board authorization of rates for telecommunications services. We believe that these acts should be amended to provide for PUB regulation of all rates for telecommunications services and not just telephone rates.

We strongly urge this committee to consider all of the implications of the proposed legislation. We believe that burdening the marketability of new services with the high price of administration and capital investment implied in sections of this bill will reduce the variety and quality of services that would be available to all Manitobans in the years ahead.

For years, Winnipeg cable subscribers have been deprived of the opportunity to enjoy many of the additional cable services available in other Canadian cities due to our inability to reach agreement with MTS regarding the upgrade of the Winnipeg cable plant and its subsequent use. I suggest that the implementation of this legislation will trigger lengthy legal actions over jurisdiction and further retard the development of cable television services, both in Winnipeg and the province generally.

We suggest the question will continue to be: Why can't we in Manitoba get the same variety of services available in other cities and provinces in Canada?

That concludes my presentation, Mr. Chairman. I would be prepared to answer any questions that the committee may have.

MR. CHAIRMAN: Are there any questions?

Mr. Kostyra.

HON. E. KOSTYRA: Mr. Chairman, I would like to thank Mr. Moffat for his presentation to the committee. I have a couple of questions.

Firstly, Mr. Moffat, on Page 3 in your second paragraph, you indicate that the enactment of this bill - in particular, you're referring here to Section 52(2) - that would create a situation whereby the Telephone System or the cable operators would be in violation of the respective authorities governing their operations.

I presume in this case that you're referring to decisions or dictums of the CRTC with respect to the ownership of certain cable equipment.

MR. R. MOFFAT: In the case of the cable operators, that's correct.

HON. E. KOSTYRA: A further question rising out of that, if that decision or that dictum of the CRTC were to change, would you still have the same objections to this section? In other words, if the CRTC changed its decision in this regard, would you still oppose this section of the act?

MR. R. MOFFAT: Not on this basis, obviously. If CRTC waived as a condition of our cable licence that we own any part of the plant, I would have no basis for making this stand on this issue.

I would continue, however, to feel that in a practical matter that these elements that we are talking about should continue to be owned by the cable operators and not the Telephone System. I suggest that it has been our experience that ownership by the cable operators will mean the most efficient, expedient method of providing cable service to the people in Manitoba.

HON. E. KOSTYRA: What you're saying is that your position would be the same. The argument behind your position would be on the basis of . . .

MR. R. MOFFAT: Yes, that's correct. I only pointed out in the section that you referred to that I would really like to avoid becoming a badminton bird between the Federal and Provincial Government if it gets into that area. It's an uncomfortable position.

MR. CHAIRMAN: Mr. Kostyra.

HON. E. KOSTYRA: A further question and a more general one with respect to the availability of services. One of the concerns that I have is that if the ownership of the decoding equipment rests with the cable company, it has to be either purchased or leased from the cable company in order to provide certain services. As an example, what exists now with respect to Pay Television, as I understand, in order to have that service the customer has to purchase or lease from the cable company the decoder, descrambler device in the home.

One of the concerns I have, as we may extend the kind of services that are available to a home, additional Pay TV channels as are licensed, additional services, educational, consumer product information or purchasing, and if different companies are licensed to provide that service that would mean that for each one of those services a customer would have to buy a different decoder from a different company. So it seems to me to make sense that that decoder device, that security device, be available for all potential users of the system, not the one at this point in time that may be licensed.

I wonder if you could comment on that as to how you would see that as we develop with respect to the availability of services, and if each company has to have its own, what cost would that be to the subscriber for those specific services.

MR. R. MOFFAT: You know, generally speaking, and addressing the question of a situation where there are multiple boxes in a subscriber's home, I think we have to be fairly careful about how we define the future. It may well be that events are such that services will be delivered by separate methods and regardless of what this committee does with Bill 78, that the practical aspects of it are that as banking services are delivered in the home that will require a different kind of a machine and the kind of machine that's necessary to provide Pay Television or Data Transmission Services or any of these things. But I understand the difficulty that the industry is facing right now is trying to make technological decisions on a piece of hardware in the absence of any real definitive definition in the future of how these things are going to happen. We've suggested to the Telephone System that we are quite prepared to give access to the Telephone System to whatever portion of the unused addressable equipment that we would, under our version of the world, put into the subscriber's home at rates that would be approved by the Public Utilities Board; and to guarantee, in essence, that the Telephone System, to the extent that it's possible and that they want to, could deliver whatever services that they've contracted to others to perform to the extent that they're able to be delivered over that specific animal that I really suggest will be used for only CATV Service, but if it's possible to deliver these other services over it that we will give the Telephone System access at rates that the Public Utilities Board would approve.

HON. E. KOSTYRA: Thank you, Mr. Moffat.

One final question, I guess. Is it not true on the other hand, just in response to your last comment, that the Manitoba Telephone System, if it does have control and ownership and does provide those facilities, that they would obviously make them available to you at a cost that would be reasonable with respect to the cost of purchasing and supplying that equipment.

I guess, I think I know the answer to that is yes; at least, I think you would answer that, and I guess therein lies a problem that you have a dispute as to what is the appropriate equipment.

MR. R. MOFFAT: Yes, well, we have a potential dispute as to what is the appropriate equipment. We also have - you know you used the words "reasonable rates," and again, I would want any such rates to be fully examined by the Public Utilities Board.

The unfortunate difficulty is that at the present time a decision really ought to be made about the selection of addressable equipment. It is our position; in fact, it's our knowledge that the only services that will be provided through that equipment for the present time, and I suggest for at least in the medium the foreseeable future, will be cable television. So if the Telephone System are faced with an investment of - pick a number - \$5 million to put these units in everybody's homes, it will be the cable subscribers that will have to pay the revenue to generate a return on MTS's investment. They view it as a separate profit centre. I suggest it is not. It's an efficiency; it's a mechanism that we as cable operators can introduce into the system.

The analogy would be, I think, if Air Canada replaced a fuel-gobbling DC-8 on a route from Winnipeg to

Vancouver with a fuel-efficient 727, that's an efficiency that Air Canada can enjoy, but the fares don't go up as a result of that to the consumer.

Our concern is that the fare to our cable operators will go up if the Telephone System, through ownership of this equipment, have to go ahead with the investment and, therefore, demonstrate to whoever it is that they demonstrate these things, their Board of Commissioners, a return on their investments.

HON. E. KOSTYRA: One final question, Randy. What is your experience? You are licensed and are delivering, I believe, one Pay TV channel through your system. What is your experience on the penetration?

MR. R. MOFFAT: To date, of Pay Television in the city?

HON. E. KOSTYRA: Was it in line with your expectations as to . . .

MR. R. MOFFAT: It's generally in line with our expectations. I think there is a wide difference between the number of people out there that are watching Pay Television and the number that are actually paying subscribers to our company. Unfortunately, the technology that is employed and the technical configuration of the existing plant is such that it's fairly easy to bypass.

Pay Television certainly has not been as successful in the short term as I had thought it might be in the City of Winnipeg. We haven't reached the subscriber penetrations that we thought that we might.

HON. E. KOSTYRA: Thank you.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: Mr. Chairman, firstly, I think it's regrettable that the Minister responsible for this act and this legislation is not here to participate in the discussions and hear the presentations, but I would like to ask Mr. Moffat a couple of items.

With respect to the equipment that is being proposed to now become the property of the Manitoba Telephone System, that is the equipment for controlling, securing, encoding and decoding, who at the present time paid for that equipment which is installed in the system?

MR. R. MOFFAT: That particular equipment does not exist.

MR. G. FILMON: Oh, okay, we're talking about a future . . .

MR. R. MOFFAT: This is a disagreement about future.

MR. G. FILMON: All right.

MR. R. MOFFAT: In the interests of clarity, I wonder if I might point out, however, that there are sections of the bill, other words, that it's possible to interpret to include equipment that already does exist in our headend. It is those specific words that have to be deleted. That's the headend equipment as opposed to the security and control in equipment.

MR. G. FILMON: That's the area that there has been some discussion about, and there is the concern that it is proposing expropriation without compensation of equipment that exists at the moment.

MR. R. MOFFAT: I really don't feel that is the situation. In the discussions I had with the Minister, he seemed quite concerned that the wording of the bill allowed that situation. I was left with the definite feeling that it was not his intention that the Telephone System own the headend facilities, and he invited me to make specific representations which I had hoped to make to him today - unfortunately, he's not here - with respect to the words that we would want deleted to cover that headend situation.

MR. G. FILMON: So then, Mr. Moffat, you're under the impression that the Minister is receptive to that proposed deletion of words, because that was his intention in effect?

MR. R. MOFFAT: That was the impression I was left with, yes.

MR. G. FILMON: With respect to the area that you mentioned on Page 3 about that equipment that does not currently exist in the system, your concern, Mr. Moffat, is it that if that portion of the system is both owned and controlled by the Telephone System, yet you are responsible for delivering the service via that equipment to the customer, that you will not be able to guarantee that service and its quality because the Telephone System has control of it? Is that the major aspect?

MR. R. MOFFAT: Certainly, that's one of the operational difficulties that we would have with that, being able to give prompt and efficient service to our subscribers without having to go through another step of calling the Telephone System and having them schedule it according to their standards.

MR. G. FILMON: Just one final question, Mr. Moffat. You've referred on a number of occasions to discussions and negotiations that have been carried on with the Manitoba Telephone System. In one case on Page 3, you refer to negotiations for over three years in an attempt to reach agreement for long-term provision of service and then you referred to perhaps having to have a third party settle that negotiation. At the present time, what is the mechanism available for settlement of any disagreement as a result of not being able to reach accord on these negotiations?

MR. R. MOFFAT: That mechanism is very clearly set out as between the Telephone System and ourselves. That is an arbitration proceeding that we both agreed should be conducted by the Public Utilities Board of the province. The Public Utilities Board may accept that role.

It also may be their decision or feeling that they are not clothed with the authority to make such arbitrations. It may well be that we would have to come back and ask government to pass an Order-in-Council or enabling legislation to empower the Public Utilities Board to

arbitrate such a matter. But as far as the Telephone System and ourselves are concerned, we have a written agreement that in the event that we can't reach agreement, and I am suggesting that we're at that point, that it go to be arbitrated by the Public Utilities Board.

MR. G. FILMON: But at the present time, the Public Utilities Board has not been asked formally to arbitrate?

MR. R. MOFFAT: No, it will shortly, but it has not yet been asked.

MR. G. FILMON: Okay. Thank you, Mr. Chairman.

MR. CHAIRMAN: Ms. Phillips.

MS. M. PHILLIPS: Thank you, Mr. Chairperson. Mr. Moffat, considering that you raised the analogy between Air Canada and fuel efficiency and the effect on customers, etc., I wonder if I could carry that analogy a little bit further, considering this legislation has been called "control of the electronic highway." Does this not seem to you to compare more to the fact that the public owns and maintains the runways and the airport facilities, that many different airlines use and rent the use of those facilities; is that not a closer analogy to what we are doing here in this legislation than what you suggested?

MR. R. MOFFAT: Well, it may well be, but the government does not own the airplanes that use the runways and the taxiways and the terminal buildings. That's not a necessary item. I suggest that the encoding equipment is Winnipeg Videon's airplane.

MS. M. PHILLIPS: Is which?

MR. R. MOFFAT: Is Winnipeg Videon, our cable company's airplane. It's just not necessary.

MS. M. PHILLIPS: No, I just wanted to clarify how you saw that picture and I tend to see it in a different way, that MTS and these boxes are being owned by the public is like the public owning and maintaining the access to the facility.

MR. R. MOFFAT: Well, I appreciate your point of view, it's certainly one that I heard before. Obviously, I don't concur.

MS. M. PHILLIPS: Thank you.

MR. CHAIRMAN: Mr. Santos.

MR. C. SANTOS: Thank you, Mr. Chairman. Mr. Moffat, why are you seriously questioning the jurisdiction of an elected Assembly of the province in imposing ownership restriction requirements, as opposed to the judicial system, which is non-elected.

MR. R. MOFFAT: I'm sorry, I didn't hear the question.

MR. C. SANTOS: On Page 4 of your submission . . .

MR. R. MOFFAT: Right.

MR. C. SANTOS: . . . You're questioning the jurisdiction of the province through the Legislative Assembly in imposing ownership restrictions through this bill, and you believe that this be a matter for a judicial system to decide. What makes you put your trust more on a non-elected judicial system as distinguished from an elected Provincial Assembly, responsible to the people of Manitoba?

MR. R. MOFFAT: Well, certainly the CRTC is not elected in that sense, but the power of the CRTC flows from The Broadcasting Act, which is a document passed by the Parliament of Canada, of which the members of Manitoba, of course, are represented there. In a sense, my plea is for both governments to get together and resolve the issue. In a real sense, as long as we know what the rules are and what set we're playing with, fine.

My point is, without casting any aspersions on the Legislative Assembly of the Province of Manitoba, we just don't want to become involved in the middle of the fight.

MR. C. SANTOS: You are also concerned, on the bottom of the page, about the substantial capital expenditure required for MTS to comply with ownership requirements. Are you saying that this province, through one of its Crown agencies or related agency, have no money to invest in such long-term capital investment?

MR. R. MOFFAT: No, not at all and that, I don't think, is what I meant to say in that area. My only point was that I'm sure that someplace, hidden in somebody's pocket, there is the \$5 million that's necessary to make that investment. As a matter of fact, I'm almost certain that that's the case. My issue in connection with that was, how does one justify a return on that investment, as opposed to having the money available to make the investment?

MR. C. SANTOS: Mr. Moffat, is it not that the real issue here is because ownership is inextricably linked with control and controlled ownership, and since communication is an area of activity, which can only be effectively and efficiently managed and monitored by one operator, the real issue is who should control telecommunications system, either the one dominant cable company or the government through the MTS.

I know that you are biased because you are the president of the cable television company, but on a strictly rational ground, would it not be better for a provincial Crown corporation or an analogous body like the MTS, acting as the instrumentality of the government, acting on behalf of the general public, to have this primary control of telecommunication in this province?

MR. R. MOFFAT: No, that wouldn't be my view. Obviously, I am biased and I agree with you. However, that's not my view for a reason; that's probably a bit different than the fact that I'm just the president of the cable system that serves the city on the west side of the river in Winnipeg. I'm very concerned that there be a rational licensing logic that is a federal one that can be exerted across the entire country as it affects telecommunications.

The ownership of cable by federal licensees ensures that certain undertakings, certain conditions of licence will be complied with. An example of the kind of the thing is simultaneous substitution. Cable operators in the province are required to substitute for the American version of a program, the same program broadcast by a Canadian television station, which substantially helps the Canadian Television Broadcasting industry. I don't think that if telecommunications was the jurisdiction of 10 individual provinces and a territory or two, that that same licensing logic or that the same support for the Canadian cultural industry, as it's represented by telecommunications, would exist.

MR. C. SANTOS: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Mackling.

HON. A. MACKLING: Mr. Moffat, I want to preface my question by just this brief comment. I assume you're aware of the fact that this bill and the bill you heard the submission on just before, just passed second reading in the House, I think it was on Tuesday evening.

MR. R. MOFFAT: That's what I understand.

HON. A. MACKLING: As you heard, I didn't indicate The Wild Rice Act would be dealt with clause-by-clause here and we're hearing submissions that Ministers do not expect that all submissions will necessarily be made on these acts at this time. There will be an opportunity, I assume, if there are other people who are interested in The Telephone Act, that they will be given an opportunity to make representation. My concern is that you made reference to the fact that the Minister wasn't here. You are aware of the fact that — (Interjection) — Well, both Mr. Moffat and Mr. Filmon made reference to that and Mr. Moffat indicated his disappointment at the Minister not being here to receive his views. I would assume Mr. Moffat that you have a telephone and that you had good communications with the Minister in the past.

MR. R. MOFFAT: There's no difficulty with that, Mr. Mackling. As a matter of fact I have two legs and after you guys release me I'm going to walk upstairs and . . .

HON. A. MACKLING: That's right. So you're disappointment isn't that great, is it?

MR. R. MOFFAT: Well, I don't think I described it as being great in the first place, with all due respect. I don't believe I did.

HON. A. MACKLING: Pardon me?

MR. R. MOFFAT: With all due respect, I don't think I described it as a great difficulty in the first place.

HON. A. MACKLING: No, you said you were disappointed that the Minister wasn't here.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: A point of order. I think I made that observation. I think Mr. Moffat only referred to the fact that he had had discussion with the Minister on the issue, but he wasn't here to confirm it. He didn't indicate any concern or disappointment. I did and I think it improper and wrong for the Minister not to be here, but that's our business and I don't think that the witness should be cross-examined on this basis.

MR. CHAIRMAN: Might I remind the committee that . . .

MR. G. FILMON: I would suggest that an apology is in order for rude treatment of the delegate.

MR. CHAIRMAN: Order please. I'd like to remind the committee that the purpose of public hearings is to get input from the public. It is not to take issue with the public or to debate issues with the public.

HON. A. MACKLING: Mr. Chairman, I take it then, Mr. Moffat, you've had good communication with the Minister in the past and in respect to your observations here, you have every expectation to be able to talk to the Minister about those personally?

MR. R. MOFFAT: That's correct.

HON. A. MACKLING: Right.

MR. CHAIRMAN: Are there any questions for Mr. Moffat? Seeing none, on behalf of the committee, Mr. Moffat, I would like to thank you for taking the trouble to come here today and present your views.

MR. R. MOFFAT: Thank you for your time.

BILL NO. 91 - THE REAL ESTATE BROKERS ACT

MR. CHAIRMAN: The last person on my list is Mr. A.A. DeLeeuw who would like to make a presentation on Bill No. 91.

MR. A. DELEEUW: Good morning, ladies and gentlemen.

Mr. Chairman, on behalf of the Winnipeg Real Estate Board we are pleased to have the opportunity to appear before this committee again, in this instance to support the amendments to The Real Estate Brokers Act as contained in Bill 91. It is a pleasure to appear in other than an adversary position, as we have had the occasion to do recently, dealing with other matters before the Legislature.

The Real Estate Brokers Act is designed to protect the interests of the public in their dealings with real estate brokers and salesmen respecting real estate transactions in which they become involved.

One of the prime functions of the Real Estate Board is to ensure that its members endeavour to protect the public against fraud, misrepresentation or unethical practices in the real estate field. Over the years we have worked closely with the administrators of The Real Estate Brokers Act in the continued development of

appropriate regulations. Many worthwhile changes have been effected through the sharing of expertise to attain our mutual objectives.

We believe that the combination of appropriate legislation and the enforcement of a high standard of business practice has provided an ever-increasing safeguard for the public.

It has long been our concern that the existing bonding requirements as prescribed under the act for both brokers and salesmen are woefully inadequate and the interests of the public have not been well-served by the degree of protection presently prescribed.

We are fortunate in Manitoba that we have not had a major incident of the misuse of trust funds as, unfortunately, has been the case in other provinces. As far as we know, no member of the Manitoba public has suffered financial loss because of inadequate protection, and we are happy to see that the barn door is being closed before someone runs off with the horses.

We commend the Honourable Minister for recognizing the need for changes to the Act to eliminate the necessity of bonding real estate salesmen and increasing the bonding and insurance requirements of a broker. It is our understanding that in all the years that the present bonding system has been in force, a salesman's bond has only been "called" once. This would support our view that present regulations dealing with deposits and trust monies take the accessibility of clients' money away from the salesman and place the responsibility of their handling with the broker, where it belongs. It would seem much more realistic and cost-efficient to divert the premiums paid for a protection that is never needed to substantially increase the amount of protection where it rightfully belongs.

Our board, in conjunction with the Manitoba Real Estate Association, will continue to do its part in ensuring that the interest of the public who place their resources with our members will be well-protected.

Thank you.

MR. CHAIRMAN: Are there any questions for Mr. DeLeeuw?

Mr. Filmon.

MR. G. FILMON: Mr. Chairman, I just wanted to thank Mr. DeLeeuw for making his presentation because I, for one, questioned whether or not there was a need for having the bond for salesmen. I'm pleased to see that the Minister has acted in accordance with the wishes of the industry in this case and that he obviously is informed as to their wishes and has brought forth a bill that can be supported by the industry.

MR. CHAIRMAN: Mr. Santos.

MR. C. SANTOS: Mr. Chairman, I'd like to ask Mr. DeLeeuw one question.

Is there a conceivable way by which the broker can pass on the increased costs of bonding and insurance requirement to the consuming public ultimately?

MR. A. DELEEUW: I don't believe so. The cost of bonding isn't the great expense. What you more than likely would see happening is the broker of a company passing or sharing that expense with the sales people in his organization.

MR. C. SANTOS: Thank you, Mr. Chairman.

MR. CHAIRMAN: Are there any further questions for Mr. DeLeeuw?
Mr. Mackling.

HON. A. MACKLING: Mr. Chairman, yes, to Mr. DeLeeuw.

Just as a matter, it really does not relate to this bill, but you mentioned trust monies and the necessity for security for them. I wonder if you could confirm to me, in the normal transaction, who gets the benefit of any interest that accrues on the trust deposit?

MR. A. DELEEUW: Unless specifically stated in an offer to purchase, trust monies are placed in a trust account, and the trust account bears no interest.

HON. A. MACKLING: Well, then I assume that it's just like the equivalent of a current account with a bank and the bank has the enjoyment of the money.

MR. A. DELEEUW: I would assume so.

MR. CHAIRMAN: Are there any further questions for Mr. DeLeeuw?

Seeing none then, I would like to thank you on behalf of the committee for taking the time to come here today.

MR. A. DELEEUW: Thank you very much.

MR. CHAIRMAN: I have a list of bills which have been proposed by the Minister of Natural Resources for consideration.

Bill No. 80 being the first, Bill 26 the second; Bill 43 the third; and Bill 84 the fourth.

Mr. Mackling.

HON. H. MACKLING: Well, Mr. Chairman, I know that some of my colleagues have meetings and that's the reason that they're not all here. Would we start with Bill No. 84?

BILL NO. 84 - AN ACT TO AMEND THE RESIDENTIAL RENT REGULATION ACT

MR. CHAIRMAN: Bill No. 84, An Act to amend The Residential Rent Regulation Act.

What is the will of the committee on how to proceed? Page-by-page?

Mr. Filmon.

MR. G. FILMON: Mr. Chairman, we had some lengthy presentations - no, I'm sorry it's the other Act. It's Bill 89 that I was thinking of, Mr. Chairman, so I assume then that the Minister will proceed with 84 and let us know if he has any suggested changes.

MR. CHAIRMAN: Page-by-page. Page 1—pass; Page 2—pass; Title—pass; Preamble—pass. Bill be reported.

Does the Minister of Natural Resources have a second bill to propose?

HON. A. MACKLING: Yes, Mr. Chairman. The Minister of Labour is on her way down and should be here momentarily.

**BILL NO. 91 - AN ACT TO AMEND
THE REAL ESTATE BROKERS ACT Cont'd**

MR. CHAIRMAN: Is it possible to deal with Bill 91? There seems to be no serious issues taken.

Bill No. 91, page-by-page. Page 1—pass; Page 2—pass; Page 3—pass; Title—pass; Preamble—pass. Bill be reported.

That completes Bill 91.

**BILL NO. 80 - THE CIVIL SERVICE
SUPERANNUATION ACT**

MR. CHAIRMAN: Next, Bill No. 80, is it? Bill No. 80, is it the will of the committee to proceed page-by-page? Is the Minister ready?

(Pages 1 to 6 were each read and passed.) Title—pass; Preamble—pass. Bill be reported.

Bill No. 86 - the Member for Kirkfield Park.

MRS. G. HAMMOND: Mr. Chairman, I believe that was one of the bills that Mr. Penner had agreed wouldn't be dealt with this morning.

MR. CHAIRMAN: Mr. Mackling.

HON. A. MACKLING: Yes, as a matter of fact, Mr. Chairman, Mr. Penner did indicate that the critic had asked for the delay on this bill. Who was the critic?

MRS. G. HAMMOND: It was Mercier.

HON. A. MACKLING: Mercier.

MRS. G. HAMMOND: It was the same agreement on the other bills with Mr. Penner. Are you sitting this evening?

HON. A. MACKLING: Okay. No, we're not sitting this evening.

MR. CHAIRMAN: Would Mr. Mackling like to call the next bill?

HON. A. MACKLING: 91.

MR. CHAIRMAN: We did 91.

HON. A. MACKLING: Well, the Minister of Finance is on his way, I presume.

MR. CHAIRMAN: Is the Minister of Transportation available?

Are there any non-controversial bills on this list that the opposition critics would be prepared to discuss?

Order please, order please. Are there any concerns known to the opposition on Bill No. 17?

MRS. G. HAMMOND: Pardon?

MR. CHAIRMAN: Bill No. 17.

MRS. G. HAMMOND: That was to be held.

MR. CHAIRMAN: That will be held?

MRS. G. HAMMOND: Yes.

MR. CHAIRMAN: Will all . . .

MRS. G. HAMMOND: Mr. Penner's were to be held.

MR. CHAIRMAN: Are there any bills on this list that the opposition would be prepared to consider at this time while we're waiting for Mr. Schroeder and Mr. Uskiw?

Mr. Nordman.

MR. R. NORDMAN: . . . Mr. Chairman, what about 72 . . . ?

MR. CHAIRMAN: I believe that will be held in order to receive further public input.

Mr. Manness.

MR. C. MANNESS: Well, just Bill 43, by mutual agreement between the Minister and our critic; that was to be held too.

MR. CHAIRMAN: 43 is to be held.

Mr. Mackling.

HON. A. MACKLING: Mr. Chairman, the House Leader informed me yesterday of these arrangements. I do confirm with the Member for Kirkfield Park that I was advised late yesterday afternoon about the request to hold Bill 86, but the Minister indicates that it is imperative that because of the funding arrangements involved in commitments that the bill be dealt with and not left for any extensive period of time. There is an understanding between the House Leader and the Opposition House Leader that given the fact that a number of these bills were going to be held to convenience either Ministers or critics on them, that there would not likely be a sufficient number of bills to engage the committee this evening, so that — (Interjection) — I understand - this evening we would be in the House.

The Minister of Labour is indicating that time is of the essence, so I would ask, if it's possible to do so, if the Labour critic is available this evening, that we deal with this bill before the committee and agree to return to the House and those arrangements are somewhat unusual and I would ask that we get some agreement on that to further the work of the Legislature.

MR. CHAIRMAN: Mr. Ransom.

MR. B. RANSOM: Mr. Chairman, I'm afraid that that's not possible; that what the government has done is undertaken a series of public meetings which have taken the Attorney-General out of the Legislature to attend those meetings, and they have been of such significance, necessary for a member of the opposition to attend those meetings as well. The agreement made between the Attorney-General and Mr. Mercier, who is attending the meeting, was that certain bills would not be dealt with; that Mr. Penner is not here to deal with his bills and the trade-off then was that he would hold Bill 86. As a consequence, perhaps, Mr. Chairman, if I might make a suggestion to the Acting Government

House Leader that if the government was to consider introducing the Speed-up Motion and concentrate people's attention on the business of the Legislature and the committees we might be able to proceed in a more orderly fashion.

MR. CHAIRMAN: Mr. Mackling.

HON. A. MACKLING: Mr. Chairman, I will take the honourable . . .

MR. CHAIRMAN: Order please.

A MEMBER: Where's your House Leader?

MR. CHAIRMAN: Order please.

HON. A. MACKLING: Mr. Chairman, I will take the honourable member's comments certainly under advisement.

In respect to Bill 86, there has been an accommodation agreed to between the House Leader and the critic and I think I'm bound to recognize that, and we'll have to deal with that bill at a subsequent meeting of a committee. I know that the Minister was most anxious because of the commitments that are involved in that bill. However, the Minister of Finance is here and I would now suggest we deal with Bill No. 26.

BILL NO. 26 - THE FINANCIAL ADMINISTRATION ACT

MR. CHAIRMAN: Bill No. 26, what is the will of the committee on how to proceed, page-by-page? Page-by-page.

Page 1—pass; Page 2—pass; Page 3—pass; Page 4 - Mr. Ransom.

MR. B. RANSOM: Mr. Chairman, during the debate in the House, the Minister indicated that he was prepared to look at this section and give serious consideration to having it changed so that it wasn't possible for the Minister simply to pay out a claim against the government without having that claim recorded through an Order-in-Council so that it would be available for public scrutiny. Can the Minister indicate what sort of amendment he is proposing here?

MR. CHAIRMAN: Mr. Schroeder.

HON. V. SCHROEDER: The member is referring to Section 44(2)?

MR. CHAIRMAN: Mr. Schroeder.

HON. V. SCHROEDER: Mr. Chairman, I presume the member is referring to Sections 44(2) and 44(3), the \$5,000 that previously, without this section, could not be paid out without an Order-in-Council. The background, as I'm sure most members are aware and certainly the Member for Turtle Mountain, is that at present all legal claims require Cabinet approval, has actually for years been circumventing this particular section or this procedure by having claimants —

(Interjection) — Well, Mr. Chairman, it's been happening under all administrations. What happens is that people have a claim against the government, there are discussions about settlement and then, in order to complete the settlement, people go through with a lawsuit which is consented to by the government. Once the lawsuit is consented to and judgment entered in the court records, the payment is made because it is then as a result of the court judgment. When that type of activity is not circumvented, then it becomes subject to an Order-in-Council, as was the case recently.

The alternative could have been to go through that court procedure as has quite frequently been done. Quite frankly, I don't believe that this is the most momentous issue of the day. I had indicated - well, I should and I hadn't indicated this before - the Attorney-General's staff were the people who proposed this. I might add, that was proposed well before there was that other case. They asked originally for a \$10,000 limit, which is the identical limit that is available to the City of Winnipeg solicitor under similar circumstances. So it's not something that the A.G.'s department picked out of the blue to ask us to bring in, but we did reduce it to the \$5,000 proposal.

What I would suggest, and I would ask whether the members of the opposition would be satisfied with it, is a further subsection, subsection (4) to 44, which would require a statement of the total amount of all payments made under this section to be included in the Public Accounts, so that it would not be something that is done as a courtesy but is something that would be done at the end of each year as a matter of law in the Public Accounts of the province. In that sense, although there wouldn't be the Order-in-Council business, there also needn't be the lawsuits and the extra bother and paperwork involved. On the other hand, there would be the protection of these numbers being made public at the end of the year in Public Accounts.

MR. CHAIRMAN: Mr. Ransom.

MR. B. RANSOM: Mr. Chairman, the Minister didn't indicate how many cases there have been of this nature. Perhaps he could give an indication of that.

Secondly, I think there is quite a difference between a payment that is ordered by the court and that which the government decides, on the basis of whatever advice they have, should be paid, because they are likely to end up paying that much or more if the proceeding goes ahead.

I recognize that this may be a staff proposal, Mr. Chairman, but we are the legislators who have to approve or disapprove of that thing. Frequently, staff will do things that might be administratively convenient, but are not necessarily completely in the public interest as it's perceived by the elected people. I think, in this case, that there surely cannot be a great number of these, and that it is the sort of thing that first of all the Executive Council should be aware of. If a payment is being made of a nature of the one that involved the Attorney-General earlier, then I think that's the sort of thing that the Executive Council should be aware of. It's the sort of thing that the public should certainly be aware of.

Perhaps the Minister's suggestion would deal with the public aspect. The only difficulty with that, of course,

is that it comes so long after the event would have taken place because of the nature of the delay in Public Accounts; but I suppose we would be prepared to consider that at least as a possibility.

Can the Minister give us any indication of the number of cases that would have fallen into this category within the last year or two years or five years?

HON. V. SCHROEDER: Mr. Chairman, I am told that it could be about half-a-dozen or so in a year.

I should say that although certainly there is agreement that there's a distinction between a payment made as a result of legal opinion or an opinion by a legal officer and a payment made as a result of a court judgment, the point that I was making is that frequently there is agreement before court judgment is entered as to precisely what that judgment will be. The two sets of lawyers appear before the court and indicate that there is agreement and ask for judgment to be entered in a specific amount. When that happens, really there has been a minimum of judicial discretion exercised.

It's simply no different from the two sets of lawyers agreeing to a number and then going through an O/C, excepting that it creates a bunch of paperwork for the courts on the one hand. On the other hand, it creates activity for the Cabinet which has not been that frequent in the past.

As I have indicated, the section was requested, and the member is right when he says that including it in the Public Accounts does mean that it doesn't come to public attention immediately, so I would propose that we consider the inclusion in the Public Accounts. If members feel strongly about it, I would be prepared to withdraw Sections 44(2). I believe it would just be 44(2) that would be required to be withdrawn.

MR. B. RANSOM: The Minister made a statement that perhaps he didn't intend to make exactly, but he said that the situation where it goes through the court when there's agreement between the two lawyers and a recommendation is made, he said is really not much different than going through an O.C. Of course, I would agree with that, but this doesn't take an Order-in-Council. What the Minister is doing, as he fully realizes, is removing the need for the Order-in-Council.

It seems to me that if we're only dealing with perhaps a half-a-dozen of these issues, that it is really not an onerous thing for Cabinet to have to consider them, as opposed to making a decision to write off an account that can't be collected or to make a refund relating to sales tax, those kinds of things that are of an administrative nature. But for something that has begun to work its way through the legal process and then is short-circuited in some way and the action is bought off - certainly in the eyes of the public, that's the way this sort of thing is interpreted - then it really makes sense to me that that should be a decision that Cabinet is aware of and, following upon that, that the public is aware of. I would strongly suggest to the Minister that he simply make that change. If he doesn't wish to, obviously, the government has the majority and they can make whatever change they wish.

HON. V. SCHROEDER: Mr. Chairman, let's remember that if we don't put this section in, people will not be

aware of what's happening anymore; in fact, probably will be less aware of what's happening than if the section is in. That is because when those agreements are made by legal officers of the Crown, they go through the court proceedings and that's the end of it. There are no Orders-in-Council. It's very seldom that a government settles these kinds of things by Order-in-Council rather than having a consent judgment entered by the courts.

When the consent judgment is entered by the courts, the only time it will be picked up is the one in a 100 where there is something interesting to a reporter who goes through the court files, and that's the only time the public becomes aware of it. What this will do is indeed provide for more availability because it at least will be available at some time to members of the Legislature. It will also save money; there's no doubt about that, because people will not be required to go through the motions of going and getting a consent order through the courts, because that is the way it's being done now and I believe it will probably continue if we remove this section.

This is an item that will cut back on bureaucracy, because what it will do is say once there is an agreement, let's not play games; let's not pretend that somehow a judge has exercised some kind of discretion and, therefore, it's okay to pay this money out without an Order-in-Council. Let's pay it out, once the agreement is there, and we will then wind up, after the year end, showing the money in the Public Accounts of the province.

MR. B. RANSOM: Clearly, the court puts some manner of stamp of approval on it, which the public is prepared to accept to a greater extent than they are if a decision is made by a Minister, which is what's being proposed here. If the Minister wishes to simply have them go through Cabinet and be ratified by Orders-in-Council, fine, that's a decision of the entire Cabinet and it's one that becomes public immediately. I have no difficulty with that.

The difficulty that I have is when something is done by the Minister alone and not by Cabinet and is not public information.

HON. V. SCHROEDER: Mr. Chairman, let's again make it clear to the committee that this is not the opinion of a Minister. That opinion has to be based on the opinion of a legal officer of the government; that if that person sued the government, then that means there doesn't even have to a lawsuit commenced. There obviously would have been the negotiations possibly leading up to a lawsuit, but once there is an opinion by a legal officer of the Crown that if there was a lawsuit, a person would reasonably be expected to obtain a judgment against the government; it's only at that stage.

Once you have that kind of an opinion by an independent officer of the Crown, that this kind of decision would be made by a Minister, and let's remember that we're talking about a \$5,000 limit. We're not talking about \$50,000 or \$100,000 or that sort of thing, but in everyday life there are occasions where - I'm thinking back over the years - the government leases a piece of road building equipment from somebody and then finds that on the weekend

somebody borrowed the thing and wrecked some gears on it, or some government employee damaged some farmer's telephone line or something like that and there's a few hundred dollars payable in one way or another; those are the kinds of things that once there is agreement as to the amount of damage involved, it seems so rational not to have to go through the paperwork of getting a consent judgment which, again, is a judgment on which a judge simply says, well, if the two parties agree that this is how much you pay, that's how much you pay and that's the end of it. I mean, it's not as though the judge exercises any kind of discretion, so it may be that it is something that might reassure people because they've seen a court judgment; but the fact of the matter is the court judgment is meaningless in terms of having decided any kind of issue because the issues were decided before the parties got to the judge.

MR. B. RANSOM: Mr. Chairman, I would point out to the Minister that when he introduced this act, he made no reference to this section at all as being any sort of significant change from what was being done now. I don't recall this argument being put forward when the Minister responded in the House. This seems to me to be an entirely new argument now, saying that this is going to take paperwork out of the courts and allow the Minister to make the settlement. Perhaps if the Minister had fully explained, initially, what was happening with this bill and what he was trying to do, we might have saved a significant amount of discussion on it.

I am prepared to accept a reporting of every settlement made in this nature, that they be identified as such in Public Accounts. I think if I was in government, I wouldn't want to see it proceed that way, but as long as it is fully reported, then I think we would find that acceptable, Mr. Chairman. If the Minister can propose an amendment to allow for that, then that would be better than what we have at the moment. It might even be better had there been some distinction between cases that involved Ministers of the Crown and those that involved normal employees of the Crown as well.

HON. V. SCHROEDER: Yes, the member is right, I should have referred to this section when I introduced the bill on second reading. When I went over the notes and glanced over the bill quickly, I should have picked up on the fact that this ought to draw the opposition's attention because of a case that had recently appeared, and the member is quite right that I didn't flesh out any argument the next time around when I closed debate.

I should point out as well that, I'm told by staff, another reason for this that I haven't referred to before is that often there are claims which are against named civil servants as well as the Crown, and when you have these consent judgments, the name of the civil servant then appears in court records as having submitted to a judgment when that civil servant basically is unrepresented because it was just simpler to do that. I just say that, that is another reason that the amendment had been requested.

My proposed amendment would be Section 44(4), headed before that section it would be "Statement in

Public Accounts" and the subsection would read, "A statement of the total amount of all payments made under this section shall be included in the Public Accounts."

MR. CHAIRMAN: Mr. Ransom.

MR. B. RANSOM: Mr. Chairman, the Minister doesn't have that written out at the moment, but we're not interested just in the total amount, we're interested in identification of each case in which money has been paid out. Now, we don't need the details in Public Accounts, but each one needs to be identified so that in the examination of Public Accounts, members can look at one and say, "Here's an item for \$3,053; what are the details?

Secondly, I would like the Minister to consider adding another section here which would say that any case involving a member of the Executive Council be dealt with by Executive Council, so that the section here would deal with ongoing administrative matters of the Government. I think that the Minister would be well advised and the government would be well advised to know that if there is anything involving a Minister in the Crown, any payment being made relating to some alleged action of that Minister, it would be wise for the Executive Council to be making that decision. Perhaps the Minister would consider doing that as well.

HON. V. SCHROEDER: First of all, the subsection, I'll read it over, I think this would include the first portion of the member's concern. "A statement of the total amount of all payments made under this section," that's a statement of the total amount of all payments made under this section, "shall be included in the Public Accounts." If that doesn't include individuals and individual amounts, maybe we could change it to, "A statement of the total amount of all payments made under this section shall be included in the Public Accounts, including the name and amount paid to each payee."

Would that be satisfactory on the first part?

MR. B. RANSOM: It meets my requirement, Mr. Chairman. Whether or not it meets the requirement of the drafting of the Legislative Counsel might be something else.

HON. V. SCHROEDER: I have an alternate proposal here at the end of Section 44(2), after the word "purpose," deleting the period and continuing "and every payment made under this subsection and not approved under subsection (3) shall be separately reported in the Public Accounts as settlements of Claims."

MR. B. RANSOM: That's fine.

MR. CHAIRMAN: Would the Minister like to find someone to move that? Does the Minister have a written copy for the committee?

HON. V. SCHROEDER: I soon will.

Mr. Chairman, on the other request, the problem is that on practically all - or on many, I shouldn't say

practically all - but on many lawsuits against the Crown, the lawsuits name the individual Minister as being responsible for the department. As I understand it, the consent judgments in the past have been, therefore, as well, entered against the individual Minister as well as the department, although the Minister has not, you know, in the ordinary sense, had - although Ministers, of course, take ultimate responsibility for a department. When something happens out in the field, for instance, in the Department of Highways, people don't in the ordinary way directly attribute that to the fault of a Minister, so that is a bit of a difficulty with this one.

MR. B. RANSOM: Is the Minister saying that it's not workable to try and include that sort of amendment?

MR. CHAIRMAN: Mr. Tallin.

MR. R. TALLIN: I would think that if you dealt with the claims on settlement, it would be very difficult to distinguish which claims were made against Ministers, if they were going to be brought to suit. You're talking about an action, which has not yet started often, and it's difficult to tell whether or not the action, when it is brought, would be brought against the government alone or against the government plus a whole bunch of other parties, including Ministers and administrative officials and that sort of thing. Usually a lawyer will add as many parties as possible in order that he can get a broad a coverage for the liability as possible.

MR. B. RANSOM: Mr. Chairman, if there are difficulties then in making it workable, I would be prepared to simply accept the amendment then that deals with the reporting of these items, and we can ask questions during Public Accounts even though it be substantially after the fact.

MR. CHAIRMAN: Mr. Scott.

MR. D. SCOTT: Mr. Chairman, to make the amendment a little more official, if you like me to move it and read it into the record.

I move that subsection 44(2) of The Financial Administration Act as set out in section 9 of Bill 26 be amended by adding thereto at the end of the words "and all payments made under the subsection and not approved under subsection (3) shall be separately reported in the Public Accounts as settlements of Claims."

MOTION presented and carried.

MR. CHAIRMAN: Page No. 4, as amended.
Mr. Santos.

MR. C. SANTOS: I'd like to ask a question relating to 44(3). The limit, the threshold ceiling is 5,000, but there is no limit as to the number of items. Theoretically, if there are \$4,999 and it occurred 10 times, that would be 49,000, and it will not need any approval by the Lieutenant-Governor-in-Council.

My question is: Is there a limit as to the cumulative amount by which it will require some kind of approval?

MR. CHAIRMAN: Mr. Schroeder.

HON. V. SCHROEDER: Mr. Chairman, no. There is no limit on the cumulative numbers, but one would hope that - you know, you can't cut up lawsuits into tiny little bits and keep going through them. If you have something that is related to a specific incident, then I think that it would be incumbent on the legal officer of the Crown to have it dealt with as a whole, as opposed to in a whole pile of little parts.

If there is an individual against whom there are a series of wrongs, then, of course, each particular wrong might be; and if each wrong was under the sum of \$5,000, then certainly there is no cumulative limit, but they would have to be completely different actions pursuant to which he would have a right to claim against the Crown.

MR. CHAIRMAN: Mr. Santos.

MR. C. SANTOS: This is only a suggestion; maybe the ceiling of \$5,000 is too high, considering that the number of such incidents may be more than 10 in any fiscal year.

HON. V. SCHROEDER: I should point out to the member that the similar clause for the City of Winnipeg solicitor is \$10,000.00. I think it's a fairly unlikely proposition that these things will come in great bunches.

MR. C. SANTOS: Thank you, Mr. Chairman.

MR. CHAIRMAN: Page 4, as amended—pass; Page 5—pass; Page 6—pass; Page 7—pass; Title—pass; Preamble—pass. Bill be Reported.

What is the will of the committee?

Mr. Mackling.

HON. A. MACKLING: Well, Mr. Chairman, before you deal with a motion, it's my understanding that the House Leader has had dialogue with the House Leader of the Leader of the Opposition, and the expectation was, when the list was first set, that there might be a possibility that we wouldn't finish our work with the extensive number of bills that were there and that we would meet this evening; but it appeared yesterday, with the commitments of Ministers at other meetings and the critics of bills being at other meetings, that we wouldn't likely go into committee this evening and we would go into the House. That's my understanding, Mr. Chairman.

MR. CHAIRMAN: Mr. Ransom.

MR. B. RANSOM: Mr. Chairman, the Minister of Natural Resources may be more or less correct in what happens but, of course, the committee cannot direct that the House sit tonight. The House directs when the committee sits. At the moment, the House has directed that the committee sit this morning and tonight.

I suggest that there will have to be a unanimous consent by the House this afternoon to decide whether the House sits. The committee, having finished all the work that it's possible for it to finish under the circumstances, doesn't have to meet tonight, but the House will make the decision this afternoon whether it sits tonight.

MR. CHAIRMAN: Committee rise.