LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Thursday, 9 July, 1987

TIME - 8:00 p.m.

LOCATION - Winnipeg, Manitoba

CHAIRMAN - Mr. S. Ashton (Thompson)

ATTENDANCE — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Doer, Lecuyer, Plohman, Storie, Uruski

Messrs. Ashton, Cummings, Ducharme, Ernst, Findlay, Scott

APPEARING: Bill No. 39

Reeh Taylor, Downtown Winnipeg Ass'n

Bill No. 26

Bill Jarand, Manitoba Heavy Construction Association

Grant Wichenko, Private Citizen

Kenneth Emberley, Crossroads Resource Group and Manitoba Environment Council

H. Driedger for Ian M. Rollo, Manitoba Environmental Council

MATTERS UNDER DISCUSSION:

Bill No. 26 - The Environment Act
Bill No. 39 - An Act to amend The City of Winnipeg Act (2)
Bill No. 64 - The Highway Traffic Act (2)
Bill No. 67 - The Off-road Vehicles Act

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MR. CHAIRMAN: We have a number of presentations remaining as a follow-up, I guess, to our previous meeting. I'd like to suggest that we hear Mr. Taylor first. Mr. Taylor, committee members may recall, began his presentation last time, and deferred to a number of other people last time. So I suggest that we deal with Bill No. 39 first, and then we will revert back to Bill No. 26.

BILL NO. 39 - CITY OF WINNIPEG ACT (2)

MR. CHAIRMAN: Mr. Taylor.

MR. R. TAYLOR: Thank you, Mr. Chairman.

Do members of the committee need some more copies of this golden prose that we handed out last time?

MR. CHAIRMAN: I'm sure committee members studied it very intensely after your handing it out, but it may be useful as a refresher.

MR. R. TAYLOR: It would make some great bedside reading.

I am here tonight, not in my capacity as a lawyer, but because I happen to be, this year, president of the Downtown Winnipeg Association, which is the group that, in part, spawned the task force that Susan Thompson has been chairing for this last year or more.

So the Downtown Winnipeg Association, the DWA, welcomes Bill 39 very warmly. We think it will mark a major step forward in the promotion of commerce in Winnipeg. We wouldn't want you, therefore, to take any of the comments I have to make this evening in anything but a positive light. There's no disapproving connotation at all. We do have a few suggestions we'd like to make to you, which we believe will improve the bill and will avoid some needless expense and delay and red tape.

If I may ask you then, Mr. Chairman, and members of the committee, to look at the material that has been circulated headed "Bill 39, Amendments Proposed by the DWA."

First of all, on the first page, there are a couple of very minor things. You'll see in section 6(3)(d), it says: "The commission in fixing boundaries shall consider," it says, "all other similar and relevant factors." We think that if it's relevant, it doesn't really matter whether it's similar or not. We suggest you omit the words, "similar and," and we suggest the same thing in section 6(4).

If you would turn to the second page of that same material, Mr. Chairman, in your definition section, you've defined a business as meaning a business located in the zone and so on, and "licensed for business for the year." We suggest that should read, "licensed for business during the year," where it appears that second time. Otherwise, it's at least capable of an interpretation that the business has to licensed for the entire year, if it's going to qualify to vote or be eligible to participate at all.

These are small grammatical changes, but we do think they're important.

Next, in section 189(1) of the bill, we have another grammatical correction or improvement we'd like to suggest to you. At the moment, the bill says: "Council may establish the zone when a petition signed by 10 percent of the businesses that represent 10 percent of the total business assessment." We think that means you take 10 percent of the business assessment and then you take businesses representing 10 percent of that, and we don't think that's what you really intend at all. So we'd like to suggest to you a change, so that this will read then, "signed by businesses representing 10 percent of the businesses in number and 10 percent of the total business assessment." We think that's what you intend. We hope that's what you intend. So that's the next suggestion we have to make then.

Section 189(2), this is at the bottom of the second page, Mr. Chairman and members. Are we short some copies? I'm looking at the bottom part of the second page of our submission. The basic change we're

suggesting here, Mr. Chairman, is that council should not have to give notice by registered mail. Obviously, the intent is not that registered mail will get the mail there any more quickly or any more certainly. Indeed, I think we would all agree it gets there much more slowly, if at all.

The point is that we have roughly 2,500 businesses in the downtown area. It costs us - what is it? - $2.60, $2.80 or something for registered mail. You're looking at about $6,500 out of the city's coffers unnecessarily.

We suggest that notices be mailed in the ordinary course and then, as you'll see, we have suggested at the bottom on the right-hand column, "An affidavit or declaration signed by the city clerk or his nominee to the effect" should do the trick, and then the usual little saving clause at the very bottom of the page, "inadvertent omission to give notice to anybody shouldn't nullify any proceedings taken."

Alrighty then, if we can move on to the next page, we're talking about Notices of Objection, and really the same problem there that you had in section 6. The way that the matter reads at the moment: "No zone shall be established . . . "if there's an objection from ". . . one third of the businesses that represent one third of the total business assessment." Again, we don't think that's what the legislative draftsman really means. We suggest you say, one-third of the businesses in number and one-third of the total business assessment in amount. That would require a similar change to subsection (4) of 189, Mr. Chairman.

Now, if I can turn to a more important section, one of several, section 190(1), this is the section that authorizes City Council to pass a by-law establishing a management board for the zone. We've tried to think through the actual mechanics of the creation of a business improvement zone. If the zone is created - we have the enabling legislation - then the zone is created by by-law. Now what happens? There is, in effect, a vacuum, neither the personnel nor indeed the available funds with which to hold an election.

So we are suggesting to you, Mr. Chairman, that the by-law by which council establishes the board should establish a provisional board of however many people council thinks is appropriate, and that provisional board would just have one sole purpose in being. That would be to call an election within the business zone.

Because it has to have some funds with which to do that, we are suggesting that the City Treasurer be authorized or directed to advance the funds in the first place, but that those monies be paid back to the city as a first charge out of the zone levy when it's ultimately collected. That, therefore, you will find embodied in our suggestions to amend subsection (1) of 190, Mr. Chairman.

We have suggested a few quite minor changes in language for you to the other subsections of 190(1), but I don't think you need me to go over those word by word. You're hearing enough words from me as it is.

Sections 192 and 193 embody what we've just said, that the necessary expenses of that first election would come out of the city's treasury but simply as an advance, and would be paid back immediately the levy had been collected.

Section 190(1)(d), Mr. Chairman, is one that has caused us some head scratching. I think it's fair to say, from the viewpoint of the Downtown Winnipeg Association, we do not mind what you do with this subsection but I can tell you that certain members of City Council feel very strongly that no member of City Council who sits on the board of a business improvement zone should be from a business within that zone. A lot of city councillors have felt that there's too great a possibility of conflict. I have to express my personal view that this really shouldn't deter anybody. All that man or woman has to do is refrain from voting, just declare his or her interest and stay quiet. However, I thought it my duty to draw that to your attention.

There is one afterthought, which in my respectful submission is very important but which you will not find in the material in front of you. I scribbled this out in longhand when I was here on Tuesday night because it seemed to me that, if I were going to run for election to a board of management - and I assure you I have no such intent - one of the first questions I would ask is, what is my personal exposure, what's my liability. As I read The City of Winnipeg Act, members of the board of the BIZ are not protected under the statute, and the BIZ is not a body corporate.

So I want to suggest to you, Mr. Chairman and members, that you add a subsection 6 to section 190.- (Interjection)- Do we all get one of those, Mr. Chairman? That's very helpful, may need it afterwards. Thank you. Best lollypop you could give us in fact would be the passage of this bill with some speed.

The wording we want to suggest to you is: "Council may, in any by-law passed pursuant to section 189, provide that members of the board of management and employees of the board shall be indemnified out of the funds from time to time constituting the zone levy against claims that arise" and so on. We can give you the wording and, with your permission, I'll leave this proposed wording with the Chairman before I finally sit down and shut up, which I'll do shortly. But we do think it's important that members serving on that board get some kind of indemnification. Otherwise, they're going to stay away in droves. I certainly would, but then I plan to stay away as a drove of one anyway.

Section 191(1), Mr. Chairman, is on the top of the next page - you'll be pleased to see we're scampering down the home stretch here - "Objects of the board." The way the bill is currently drafted, the primary object of the board appears to be to beautify lands of the city in its zone. I would not say nothing could be further from the truth, but I have to tell you that's a secondary objective. We should put in its place that the primary objective is to promote the zone as a place for retail and commercial activity, and that we may, with the approval of council, include the beautification, improvement and so on of property owned or controlled by the city. You'll see I've made a little suggested change in longhand in your copies. I assure you, I don't think that change is necessary, but counsel for the city, the city solicitor, seemed to have some difficulty with the meaning of property owned by the city.

(Mr. Deputy Chairman, D. Scott, in the Chair.)

The powers of the board, we think we've made little change to what is in the bill in subsection (2) - that is 191(2) - except that we have lifted out of section 190 our subsection (a). That is to say here, in the powers of the board, "The board may set times, dates and

places for its meetings and regulate its meetings." We don't think for one minute that the City Council wants to do that. It's got more important things on its platter than that sort of nonsense. The board of the BIZ should be allowed to regulate its own internal affairs.

191(3), at the bottom of that page, is new, Mr. Deputy Chairman, new at least to this bill. We've tried to carve a pattern similar to that in The Corporations Act. We think we should provide, by statute, that every Business Improvement Zone must hold an annual general meeting to do certain basic things, and then you'll see we've suggested at the bottom of that page that the budget meeting, which we're coming to next, may but need not necessarily be part of the annual general meeting. We think that's desirable.

We go over the page then, Mr. Deputy Chairman, to section 192(1). We have no change to suggest particularly; 192(2), once again it's a matter of whether this has to be by registered mail, and we urge upon you to adopt the concept that we have here. We just omit "registered" altogether.

Then, 192(3), there's no change; subsection (4), very little change to suggest to you, except this - and we think that, from the viewpoint of the community committee, this is quite vital. I can assure you because I have met with at least one community committee in toto and, with one voice, they said, no, no, we do not want to have to call a special meeting.

The way subsection 192(4) reads at the moment, as you'll see from the left-hand column, it says: "Upon receipt of the board's proposals . . . "- that is proposals for a budget and a program - "City Council shall request the community committee to conduct a public meeting." The community committees will say, as I tell you, with one voice, why can we not just feed that into the ordinary agenda of our normal regular meetings, rather than a special public meeting? This is at least capable of that interpretation that there's a special public meeting required.

So we have suggested a slightly varied wording in our subsection (4), 192(4), which we think will accomplish that end, because we subscribe to the same philosophy that's embodied in this bill. We think there's got to be a public hearing, there's got to be adequate scrutiny. But the community committee should be able to deal with it in the ordinary course of its business.

If your committee, Mr. Deputy Chairman, is prepared to adopt the language we have suggested in subsection (4), 192(4), then 192(5) can stay as is. There's no reason to change it. But if not, we suggest that you take out subsection (5) altogether because the community committee does, in the ordinary course, advertise in the newspaper when its next meeting is going to be, tells people where and when and how they get there. So there's no reason for a special reference to it in the statute.

Section 192(5), subsection (5), once again, the same little change in wording, we suggest to you, "one third in number and one third of total business assessment," and 192(6), exactly the same change.

(Mr. Chairman in the Chair.)

One more small thing, in 192(7), what becomes (7) in our draft, Mr. Chairman, 192(8) in the bill that you have before you, it's a small word but, I think, significant. You have a provision in the bill that says: ". . . council may pass a by-law approving . . . "the program and the budget and the levy and, on that approval, may direct the payment to the board of the monies." We suggest to you, Mr. Chairman, that last "may" should read "shall," because when City Council has already debated the program and the budget and approved it, it seems to make a bit of a hollow mockery of that if they then have to go ahead and debate all over again whether to, in fact, authorize the payment of the monies that they've just approved. So having approved the budget and the levy, we suggest to you that should read that council shall direct the payment of the resultant funds.

No change in the bill's subsection (9), 192(9); 192(10) - and you're very close to the end now, as you'll see - we would like to leave in there, Mr. Chairman, or insert in there a little phrase saying: "The board shall not, without the prior consent of council, incur any debt that goes beyond the one year." We can think of many possibilities in which the board may very well, with the approval of its members, businesses in the zone, want to incur a debt that it will pay back over a couple of years or maybe even more. As long as it has the approval of council to do that, we see no reason why that shouldn't be done.

We've suggested a small change in that last section, 195, simply for purposes of clarification.

Before inviting any questions, Mr. Chairman, may I just add this. Once again, let me say we think this is excellent legislation in concept. It does require, we believe, a little nut-and-bolt tightening. The Business Improvement Zone, sometimes called district, sometimes area, is well-known in many other parts of North America. Toronto has a whole flock of them, Regina has one, Minneapolis - they thrive all over. It's a wonderfully crafted cooperative way in which the businesses can indeed get together and do something for their own area.

Please, Mr. Chairman, members of the committee, do not lose sight of one very important fact. That is that here you're legislating to enable people to do what they want with their own money. This is not a tax that's being levied in the normal sense. These are things that the businessmen in that zone want to do, businesspeople, with their own money. There are ample checks and balances already. City Council has the right to say yea or nay. So the more flexibility, the more loose and flexible you can leave this legislation, the happier the business community will be.

For once, I think it's fair to say that you can all look yourselves squarely in the shaving mirror and say that you allowed something to the business community without hurting anybody else.

So, with those comments, I invite any questions you may have.

MR. CHAIRMAN: Mr. Doer.

HON. G. DOER: I'd like to thank Mr. Taylor and your committee and your group for all the work you've been doing, on behalf of the government and the members of the Legislature.

We have gone over your brief with a fine-toothed comb, as you've gone over our bill, and I do appreciate

that. We have also reviewed it with City Council. We're providing enabling legislation that City Council has to again provide some by-laws for the Business Improvement Zones. We will be proposing some amendments to this bill, dealing primarily with the issue of the cost issues that you've identified and some of the internal procedures issues that you've identified in your brief.

Some other areas we've reviewed with our legislative draftsmen, and numbers of lawyers have looked at your legal interpretations and, hopefully, we think the bill will work with the drafting that's gone on in some areas. I respect the right of excellent lawyers to disagree about this point and some of the finer points of the interpretation.

But I do thank you for bringing many of these items to our attention, and we certainly took all of them very seriously as we reviewed your proposal.

MR. R. TAYLOR: Thank you, Mr. Minister.

MR. CHAIRMAN: Seeing no further questions, thank you again, Mr. Taylor. A special thanks for being so accommodating the other night after being here such a length of time. I think it was very helpful, certainly, to those others who couldn't make presentations the other night, so thank you for coming back again tonight.

MR. R. TAYLOR. Thank you, Mr. Chairman.

I think I lost my lollypops on the way in here. It wouldn't be the first time.

BILL NO. 26 - THE ENVIRONMENT ACT

MR. CHAIRMAN: We'll continue presentations, this time in regard to Bill No. 26. The first presentation is Mr. Bill Jarand for the Manitoba Heavy Construction Association.

Mr. Jarand.

MR. W. JARAND: Thank you, Mr. Chairman, ladies and gentlemen. My name is Bill Jerand, executive director of the Manitoba Heavy Construction Association. I have a copy of our brief, which is a very short brief.

Mr. Chairman, this brief is on behalf of the Manitoba Heavy Construction Association and concerns mobile plants and material stockpiles.

The nature of our industry demands that our road-building contractors be extremely mobile and be able to move Into an area, establish a field office and bring in the necessary machinery to get on with the job. The time frame of the job is dictated in the contract by the owner, in most cases, the Department of Highways. Our work is seasonal, the season is short, and we are at the mercy of the weather.

To complete this work, it is sometimes necessary to set up portable plants such as asphalt plants, concrete plants and material stockpiles. These plants are purposely set away from populated areas, so that any odour or dust emitted is minimized. The industry has done a good job in policing itself as to the location of these temporary plants and stockpiles.

We request of this committee that the location and installation of these temporary mobile plants and stockpiles be exempted from Bill 26, The Environment Act, and any future amendments to the act; that the location and installation be left to the discretion of the contractor.

MR. CHAIRMAN: Okay, are there any questions?

Mr. Cummings.

MR. G. CUMMINGS: Yes, I'd like to ask if it's the wording of the bill or possible regulations that could be attached to the bill that he's concerned about?

MR. W. JARAND: These are possibilities. The act in itself right now - we see nothing wrong with the act. We just don't want these things brought in, in the future, as amendments to the act.

MR. G. CUMMINGS: I think that you have touched on something that as Opposition we've continually been pointing out where we are involved in enabling legislation, and I think it's very wise on your part to put on the record your concerns about the possibility of amendments to the regulation down the road that could cause your industry some problems.

MR. CHAIRMAN: Thank you, gentlemen.

Mr. Lecuyer.

HON. G. LECUYER: I just wanted to make sure whether I had heard the first question correctly. Did Mr. Cummings ask whether a regulation - is that what you asked? I didn't hear the first question.

MR. G. CUMMINGS: I'll repeat for the Minister. What I asked Mr. Jarand was if it was the way the act was written or the possibility of controlling regulations being attached to the act that he was concerned about.

HON. G. LECUYER: I just wanted to make the comment that this is a matter that we propose to look into in the manner of regulation, which would then get around a concern on the problem that you raise.

MR. CHAIRMAN: Thank you, Mr. Jarand.

Next presentation is Mr. Grant Wichenko.

MR. G. WICHENKO: Thank you very much, Mr. Chairman.

Mr. Chairman, members of the committee, thank you for the opportunity to allow me to present this brief to you tonight. I have some experience in doing environmental impact assessment work and I have a personal interest in enhancing the environmental quality.

I want to make it clear to the committee that I am speaking as a private citizen and not on behalf of any group or organization. Let me say at the outset that there are many good features in the act, and let me give you my comments and recommendations for changes to the act.

Section 1(2), the definition section, I have a number of comments regarding that section. The first question that I'm sure the committee needs to address is the definition of Class 1, 2 and 3 developments. I think the definitions are much too vague and need to be clarified in statute and made more precise in regulation.

The next definition I have some concern about is the definition of proprietary information, and my concern is how that information might need to become public as part of a review of an environmental licence. That section needs to be clarified.

I think a second point is that a similar problem exists in occupational health and safety with workers handling chemicals. Process information is needed in order to assess the hazard and there are often claims of manufacturers' trade secrets and there are mechanisms to handle that particular issue. There needs to be a process for declassifying information without jeopardizing the rights of the proponent.

And finally, in 1(2), there is the definition of the public registry. I think there may be ways of having that information filed, perhaps to the Manitoba Gazette, or a process of notice of information being filed to the Gazette. I'll touch on that later on in my presentation.

Section 2(2) deals with the functions of the department. The question I have here is how activities of other departments will be exempted under this act. One obviously does not want to create having the Department of Environment involved in every other decision of other departments. However, the environmental impact of other departmental decisions must be part of discussions such as setting fishing, hunting quotas, highway developments. All of those actions of departments need to go through a proper and thorough environmental impact assessment process.

If the actions of departments are going to be exempt, there must be adequate provision made in the regulations for the responsible department to do an adequate job of environmental assessment. I would suggest that exemptions to major departmental decisions - and I'm not sure how one would define that at this point - but major decisions need to have a public appeal process.

The one feature in the act which I do not have a reference to a specific section is the business of laying complaints.

The act has a procedure for public involvement in reviewing proposals by proponents when a proposal is actually being filed. The Clean Environment Commission and the Manitoba Environmental Council can conduct investigations on their own volition, but the process by which citizens lay complaints is not clear, or at least it's not clear to me.

There will be many instances where the actions of persons or corporations knowingly or unknowingly will affect the environment for which they will now need a licence to carry on that activity. I think the speaker from the Heavy Construction Association has a good example of where licensing procedures may change and there may or may not be a need for - there needs to be a complaint procedure for dealing with, knowing or unknowingly, acts which affect the environment.

The definition of development is very broad and covers all sorts of activity, and obviously environment officers cannot be everywhere watching for infractions.

Section 38 offers an opportunity for citizens to lay a complaint, but with whom a complaint is laid is, in my view, unclear. It has to be made clear because there is a director, there are officers, a commission, and the Environmental Council, all of whom could receive complaints from Manitobans.

How these complaints are going to be screened is somewhat unclear as well, in my view, and issues such as: Is the identity of the person laying the complaint confidential or not, and does the complainant have to appear at a hearing to give evidence if a hearing is eventually called for?

These either need to be clarified in statute or in the regulations.

I think, Mr. Chairman, people want to know that they have a right to complain - and they do - about adverse environmental impacts, and that their complaints will be acted upon. It's the same situation that workers face, and they have the means to protect themselves under The Workplace Safety and Health Act. And I would say as well that people who are the subject of a complaint need to know what their rights are as well.

Sections 6(3) and 8(4) address the question of investigation into environmental matters by the Manitoba Environmental Council and the Clean Environment Commission. I would like to know how soon this information must be made public and if the first time this information is made public is when the CEC or the MEC file their reports in the Legislature as per 6(11), or will it be automatically filed in the public registry?

Can the results of an investigation by the CEC or the MEC be used or information gathered which allows one to collect subsequent evidence be used or be called upon for the approval of a licence? I'm not sure why the commission or the Manitoba Environmental Council would conduct an investigation into an environmental matter, except to see whether a proponent is complying with the provisions of the act or not. I would like some clarification there.

Section 17 deals with the central registry. It's a good one and I support the concept. I suggest that consideration be given to filing information required under this act or, at minimum, notice that information is being filed in the registry, be done through the Manitoba Gazette. It is widely circulated. People following environmental matters only have to consult one source.

If you don't want to use the gazette to give notice of material filed, you may permit persons to receive quarterly or a monthly notice of a list of documents filed. Our firm, for example, regularly receives notices from the Environmental Protection Agency in the United States of material filed. We are required to reregister for our interest to receive that information every year. That way, you're mailing list is always current.

I would also like to see what gets filed to the registry expanded and clarified in the section. Reports of the Environmental Commission and the council and other documents should be filed as a matter of course, as well as being presented in the Legislature.

Section 41(2) requires that regulations go through a public process, and I'm glad to see that is in fact in there. I think that's an excellent section of the act.

Section 45 deals specifically with emission rights. Defining the emission rights approach in statute limits the ability of the government to fund environmental and abatement projects. Emission rights have a limited application, in my view, in this province. Transferable emission rights - or TER's as they're called in the states - are, in essence, the imposition of a market mechanism on a group of polluters in order to achieve at least

cost-abatement solutions. They're only one of a number of methods of funding abatement projects which are available.

I can give examples where one might use the TER if the committee wishes. However, my recommendation is that the statute should give the Crown general power to fund abatement projects and leave the issue of emission rights as one of the funding mechanisms, along with emission taxes, charges, sale of environment bonds to the regulations. There are many other abatement funding mechanisms that can be used besides emission rights.

Section 47 deals with confidentiality. I am concerned about this section because companies providing information about the content of the emissions could claim rights to secrecy. And it is the same problem that one faces in Workplace Safety and Health for providing workers with material safety daily sheets. This issue of manufacturing trade secrets and access to formulation by workers has been resolved, in my view, with the Workplace Health Management Information System, and that's done by agreement of all 10 Canadian provinces. Something similar should be done for environmental emissions so that in fact that information can be used.

I think another question is the process of releasing information gathered on a confidential basis and then needed for a hearing. I'm not sure how this information becomes public, and is decision to keep information confidential, can one appeal that or does one go through the as yet unproclaimed Freedom of Information Act?

Let me summarize the points that I have made under this - concerns that I have about this bill. No. 1, I think the definition of development needs to be clarified in statute. The process for excluding or including current government licensing decisions which affect the environment needs to be done carefully and publicly with appeal processes. The process for laying complaints and the rights of the complainant and the person who is the subject of the complaint needs to be clearly laid out. The investigative authority of the Clean Environment Commission and the Environmental2 Council needs to be made clear, and release of the information they gather also needs to be clarified. Information filed to the registry should be filed to the Gazette or a notice should be given of filing to the registry or a process by which people can receive notices of information filed should be set up.

Public review of regulations is welcomed. Emission rights, the clause relating to emission rights should be replaced by a general power allowing the government to cause to be funded environmental projects under the act, that a specific funding mechanism should be done by regulation. The proprietary information section needs to be clarified so as not used in a manner which is inconsistent with the spirit of this act.

I hope my suggestions will be helpful to members of the committee, and I want to thank you for the opportunity to present my views on this bill.

MR. CHAIRMAN: Are there any questions?

Mr. Cummings.

MR. G. CUMMINGS: In your summation, you said that you wanted to see development delineated by statute. Would you care to expand on that for me please?

MR. G. WICHENKO: Well, as the definitions of Class 1, 2 and 3 developments are the way it's defined in the act right now, the Class 1 development is whatever is defined as a Class 1 development by regulation, and I'm just saying that it needs to be more clear what the general class means.

You don't want to define everything by statute, but you want to have a general idea that Class 1 development is "X", Class 2 development is "Y" and a Class 3 development is "Z", rather than just leaving it open-ended.

MR. G. CUMMINGS: Then you're saying that you would prefer if this was not done by regulation but that it was spelled out at this time?

MR. G. WICHENKO: No, I'm saying that within the statutes you want to have the general class of what the development is and the details can be left to the regulations.

MR. CHAIRMAN: Mr. Scott.

MR. D. SCOTT: In reference to section 45, the sale of marketable emission rights, could you please expand a little bit, Mr. Wichenko, on your proposals there, in regards to "cause to be funded by act or regulation?"

MR. G. WICHENKO: Let me first explain what emission rights are and how they work. They've had limited application in certain areas in the United States. But, very simply, what one has, as in the case of the Los Angeles Refineries, you have perhaps - in the particular study I reviewed, there were 30 refineries and Los Angeles is defined by an airshed fairly tightly. The mountains are on one side, the ocean on the other side. What that means then is that reduction by any one emitter has the same effect on the environment.

So what happens if the total amount of emissions are, say, 400 units of pollution, and the authority wishes to reduce that down to 200 units of pollution? In effect, what they do is sell 200 units of rights to the various emitters. And one emitter may be a high-cost emitter, and it may be cheaper for that person or corporation to buy the rights, and another person may be a very low-cost emitter and can then sell those rights to the high-cost emitter.

It's like the real estate market. You have a willing buyer, a willing seller. A clearing price is established and you have a done deal, as they say in the business.

The emission rights approach requires that one have an opportunity for a market to be created for pollution. That means you need more than one or two polluters for an emission rights approach to work. It would have to be that type of situation for a rights mechanism to work. All I'm saying is rather than defining the idea of marketable emission rights by statute, one can simply define the need to allow the Crown to fund abatement projects.

It could be, as I said, emission charges - like a sewer levy is, in effect, an emission charge. It could be sale of bonds. Acid rain bonds have been talked about, other funding mechanisms that the government can use in order to raise money to be put into the Environmental Contingency Fund as defined by the act.

MR. D. SCOTT: Just one other point, where these rights are sold on an open market, if the jurisdiction of California, for instance, or any other jurisdiction that follows this practice was to cancel the practice, first, could I get you to summarize the effect of that? How effective has that process been in reducing pollution in the areas where it's been utilized?

But also, if it was to be cancelled, these rights, I presume, have a value. Is the government then subject and liable to compensating people for the value at cancellation of those rights or would that be beyond your . . .

MR. G. WICHENKO: That's certainly beyond my area of expertise. You should ask Legislative Counsel that question. I would assume that if rights were granted by the Crown that there's a right there, that they remain as a non-conforming use or something of that sort. I don't know how else you would deal with it.

But my point is that the emission rights section is one of a number of tools, not the tool in terms of funding abatement projects and should be seen in that context.

MR. D. SCOTT: In your summation as well, in your last comment, you made mention of something we felt was inconsistent with the spirit of the act, or did I hear you correctly there? I'm wondering if I missed what that one was.

MR. G. WICHENKO: My concern relates to the section on proprietary information. I simply want to make sure that information is not unnecessarily guarded for purposes of examining a polluter's activities in a hearing. This business of trade secrets has been well handled by all 10 provinces under the Workplace Health Management Information System. That will be a well-established practice, and something similar needs to be handled here so that section is not used to contravene the spirit of the act.

MR. D. SCOTT: Could that other process be included by regulation under this section, within this section, or do you think it's too difficult?

MR. G. WICHENKO: I don't know whether that should or should not be the case. That's a question for counsel.

MR. D. SCOTT: Okay, thank you.

MR. CHAIRMAN: If there be no further questions, thank you, Mr. Wichenko, and thanks for coming back after the long sitting.

MR. G. WICHENKO: Thanks very much for hearing me, Mr. Chairman.

MR. CHAIRMAN: Next presentation is Mr. Kenneth Emberley from Crossroads Resource Group and the Manitoba Environmental Council.

MR. K. EMBERLEY: I regret that I was not able to get the 15 copies for you. My main brief is the written brief with supplementary papers for your information.

I appreciate very much the opportunity to appear before you here. We've been involved with this new act for almost a year, stirring around about it, and it won't take too long to read this.

It is my earnest desire to be positive about this long-awaited, badly needed changed act, but there is so little real positive action in the act relative to the need for improvement.

Since 1942, when at age 19 I hired a typist to type the 66-page proposal I had made for post-war reconstruction which I had written, I have been a city planner and environmentalist involved with government. I'm a slow learner; it's taken me pretty nearly 40 years to figure out a little bit how the system goes.

There were the 1970 Hydro hearings, 1972 Senator Buchwald hearings before the Stockholm Conference, Justice Berger's hearings, the Constitution, and then six years with the Canadian Environment Network with annual meetings with the Minister, and over three years with the Manitoba Environmental Council with annual meetings with the Minister.

Last year, I took two weeks in Ottawa for the Fate of the Earth Conference, the Pan Pesticide Conference and the Brundtland Commission hearings, and we have their final report in our hands here now. Afterwards I have the six-page release that Madam Brundtland made on the presentation. If you haven't already seen it, I have one for each of you.

Last year, we had to fight for a year to get the Atikaki Wilderness Park away from the Forestry Department, the Mining Department and Manitoba Hydro. This year we had to get South Moresby away from the Forestry Department in B.C. and their Cabinet.

I feel the same sense of achievement getting a new environment act from this government, and we hope it comes out from this legislature, possibly even improved over what it is in its present form as we see it here in this writing. It's actually to me a little bit like getting a fresh-caught salmon away from a hungry bear and, when you finally do get it, it's hardly worth the trouble when you look at what you got left.

Now I don't want the Minister to think that he is being singled out especially to be unkindly treated. If he had seen all the briefs that have been prepared during the last six months on The Manitoba Act by many different learned peoples - lawyers, scientists, laypeople, a great number of briefs prepared by the most excellent qualified in groups in Canada on the Federal Environment Act - you would find almost all the same comments were made on the same piece of Legislature. So you can feel that you're in a very select group.

Look at what we have been doing for 17 years. Have we learned nothing? Brian Pannell listed many of the act's serious shortcomings. Hon. Lecuyer and Alan Scarth made impassioned speeches about the Brundtland Report. But where do the need and the platitudes come together in the new act in strong, clear forward-looking action? I don't see it.

How do we match Justice Berger's service to his country? That's the question. His professional quality inquiry showed that they were in no way prepared, either in technology, in economics, or in the understanding of local people's civil rights to have some control over their lives, when the McKenzie Valley Pipeline held a hearing.

If the gas pipeline had gone ahead at $40 billion, which was the last estimate, we would owe $40 billion interest every 10 years right now. We'd be selling gas

in Chicago at $10 a thousand to pay for that pipeline. They're selling gas for less than $2 a thousand in Chicago now and it would be bankrupt. This whole country would be bankrupt, just as Dome Petroleum or the Alberta Trust Companies, people who based their hopes on wildly inflated prices and values caused by energy crisis.

Environmentalists saw many of these defects. We tried to warn about them; we are trying to warn about the defects in this act. People, I'm sure, were warned about the defects in the 1972 or 1973 act when it was prepared. They waited 13 years for the improvements for a new act. But there were acts that were passed in Michigan and places like Alberta 10 years ago that have so many good features that still aren't in this act here in Manitoba, and still aren't in the federal act, a bill of rights for citizens to a clean environment or the right for citizens to proceed themselves to take initiatives, to help the government and help the country and help corporations.

The CBC, in their week-long series on the 10th Anniversary, reminded us how much we owed Justice Berger and the environmentalists and local people who knew so much more than the experts and most of their leaders in assessing that project.

The recession of 1980 and the half-hearted recovery since were all forecast in Business Week in 1975. The second our investment in energy megaprojects rose to 18 percent from 1975 to 1981, the recession hit full stream and every result was predicted in 1975.

Now 17 years after, the Club of Rome clearly detailed the law of limits to growth or any of your megaprojects are again beginning to increase interest rates and speed the approach of the next recession. I don't know whether we've learned a great deal in that 17 years. Howard Pawley, NDP member in Manitoba, with a 40 percent excess generating capacity, has pushed Limestone ahead of schedule.

David Peterson, the Liberals in Ottawa and Ontario, with a 45 percent excess generating capacity, is completing Darlington begun by Premier Davis of the Conservative Government.

Robert Bourassa, a Liberal in Quebec, with a huge surplus of electricity for export, wants to build another James Bay project.

And we're going to repeat the little tiny energy boom we had in Alberta, and then we're going to repeat another whopping beautiful recession.

Now additions to Bill No. 26 are needed to meet the needs outlined above. Funding for intervening environmentalists, social and economic activists should be at the level of one-tenth of 1 percent of the capital cost of all projects. There should be an absolute guarantee of environmentalist funding. I don't believe that there's a general acceptance yet by many people in the establishment that the environmentalists make a positive contribution.

A government has government funds, tax dollars with which to promote their programs. Brian Mulroney is going to spend $12 million on selling his project. Business has tax-deductible dollars with which they can promote their projects. When environmentalists, who are working as volunteers for nothing, contributing millions of dollars worth of free time to produce an equal quality product, to evaluate both the government and the business projects and to produce an alternative, a better alternative, they require funding. It has gradually become - and a number of the leading areas in environmental action in the nation - an accepted principle.

Conawapa Power Dam should have a Berger-type public hearing as a legal requirement in The Hydro Act. Before they drain the James River, like they drained the Churchill River, we need a Berger-type inquiry to find out what's going on. I wish you could see how beautiful the Churchill River looks up there with its great piles of stones and rivers, unable to operate, fish unable to spawn and the whole area absolutely desecrated.

Local citizens at the site, as well as environmentalists, must have a meaningful input into choosing the terms of reference for hydro studies, as well as their own studies they can conduct with funding. These studies have to be completed in a satisfactory manner before the first bit of construction begins, not like all the projects we've been building for 20 years in hydro.

Some people say hydro doesn't come under The Environment Act. That's right, but what are we going to do to implement the Brundtland Commission and the world conservation strategy and improve the environment, if we don't begin to think ahead sometime, and figure out how we're going to get hydro, mining, forestry, all of these and agriculture under the guidance and leadership of the Environment Department, and with strong environment activity within each department, their own environment counsels, their own series of public hearings on all projects. Should we wait eight years until the next set of changes comes in The Environment Act, before we begin to implement the Brundtland Commission Report? That is my challenge to ask you to consider.

Hearings on every aspect of hydro funding, rates, energy conservation, co-generation, hydro buy-back of any surplus electricity from any co-producer is an absolute essential. Certainly, this is doubly essential, as a preliminary move, if the government ever decides to extend its monopoly over other forms of energy other than hydro electricity. If they decide to include gas as a government monopoly, there's a very large need for an independent hearing body.

As was pointed out Tuesday night, every department of government must submit to Environment Department leadership and drastically improve themselves on how their department deals with the environment and environmentalists.

The Brundtland Commission Report is not perfect, not by any means, but most of us are not either, so I enclosed for each committee member a copy of the Chairman's remarks there on the table here.

Right on the first page, she has three relevant passages. I think it's just so appropriate that the Minister and Mr. Scarth mentioned it last night. "Our financial and political institutions are out of step with the workings of nature. I believe that its greatest strength lies in the process by which the Brundtland Commission arrived at their unanimous consent. Our unanimity arose, not just from discussion among ourselves, but from our high-quality public hearings on five continents." Now, I put two words in there that don't belong there.

I go to item (a) halfway down page 4. Now relate this idea of our financial and political institutions to the first

page, the preamble of our Bill No. 26, where it says: "Intent and purposes, to sustain a high quality of life, including social and economic development, etc." These were all discussed last night, at great length by Brian Pannell.

I think it's most significant that in the new drastically improved Environment Act, which was so good that they produced a parchment proclamation about it, says that we're going to carry on our present government and business policies, which are all out of touch with the environment, and we're going to manage and make the environment work to suit our government business policies. That's doing it backwards. That's why I've enclosed, for your thoughtful consideration, my proposal of what a real Environment Act should look like.

It's entitled: "Industrial and Economic Priorities - the outline of the basic concept and theme." Now this is what I consider a real environment act needs to be like. I've discussed this with about 40 leading groups of people around the country in the last year. There's a fair amount of agreement that the idea has merit. We have to completely reverse our thinking. Instead of carrying out our economic development and trying to see how we can fit in the environment and slow down the destruction of it and regulate its poisoning, we have to put the environment first.

Now this isn't just some remote theory. Twenty reports have come out in the last five years, detailing the gradual collapse of our economic and our natural systems.

How many remember the beautiful, new Mirabel - Clarabelle Airport I call it? Do you know that the new Prince Rupert Grain Terminal is likely to be just as empty as Mirabel in 10 years, as we cut our grain acreage on the prairies, to save our prairie soil from destruction?

Mr. Trudeau said: "I have a dream, we need another $5 or $10 billion to pay for our foreign debts, so I think we should have an increase in grain exports." He never asked the farmers if the farms can spare it. We have to turn around and say, instead of saying I'm going to run the farm like I run a factory in the city - you know, a farm really is a field with a fence around it and you can pour money and fertilizers and machinery into it to any amount, and you can increase the production as much as you want. That's the theory that the big city scientists use, but that's why we're destroying our farm land.

There are many, many reports about it. Two of the finest agriculture experts we have in Alberta just produced a report two years ago, that detailed the gradual collapse of our agriculture system, and the gradual collapse of our farm land. It's not just a remote theory. That's what Mrs. Brundtland said. I was really, really concerned when Mr. Scarth came out last night and detailed the need for the farmers to have some rights and protection, so they could go on in our industrial agriculture system and destroy the farm lands. But does anybody stop and think that we've designed, in just four years, an agriculture system that throws 100,000 farmers off the farm every single year in North America, throws them into the city to provide a low-cost labour pool of unemployed, and also destroys the farm land.

Now, aside from that, it's pretty good. Aside from destroying the family farmers and destroying the farms, we've got a pretty good system. It works well. The farm machinery companies are making money; the banks are making money.

Now, are we at some time going to stop and look at the fundamental system? I have, at three different places - one of them in here is a new report by this Carol G.N. Grand, the Rotary Report on Agriculture, "Down to Earth". I brought it in Brandon when I was out at Marquis Project, and she lists in there - and I have two other papers that detail a 40-year program of federal and provincial agriculture policies to destroy the family farm, and through supermechanization and chemicalization, and manipulation of a low-cost food policy, destroy the family farm and the family farmer.

Now aside from that, the system's pretty good. We're doing the same in forestry. We've got a forestry system where we designed a method of cutting down trees which prevents the forest from reseeding itself. In B.C., they have 2 million hectares - that's almost 5,000 square miles - of some of the best forest land, completely cut down and never been properly reseeded.

The government says it's not their job to look after the industry of the country, and the businessmen don't own the land, but we have a wonderful system. The only thing is, it's destroying the forest and preventing the forest from reseeding and unemployed people sit around and nobody's putting them to work replanting the forest. But you know, they used to have a method of harvesting the forest that allowed the forest to replant itself.

I just talked to a lady who lives in Nanaimo last year at the Fate of the Earth Conference, and she says, let me tell you about the guy outside of Nanaimo. Since 1935, he's been cutting down enough trees to make a living, and he's got more beautiful trees growing in his forest today than he had in 1935, and they're doing it.

Now this is what the Bruntland Commission is suggesting, this is what sustainable development is suggesting. We have to reach so far and so fast ahead to think about our environment, to what we're doing. I'm concerned that our new Environment Act - hearing the talk from Mr. Lecuyer, he feels so strongly about the work he's doing with this joint federal-provincial task force, there are people who are throwing out a challenge to him all ready to have a massive set of public hearings and involve the public. But our Environment Act isn't even at the kindergarten stage of thinking about this.

I won't go into detail about the quality of the public hearings we've had, the public meetings, the information meetings we had about this Environment Act. It reminded me of what AECL does to environmentalists. They're probably the least-trusted and least-respected group in Canada, as far as environmentalists are concerned.

At the bottom of page 4, I'll go on. Just last week I was in Northern Manitoba with a group studying the effect of projects on the environment. We paid most of the costs out of our own pocket to do a job that's not done by institutions and any government, or in an adequate way, due to both attitude and lack of funds. It would have made you weep to hear the story of the treatment of local people and the environment by government and business with their major political and economic power.

The hinterland in this Third World country is manipulated by Winnipeg, Ottawa, Toronto, Montreal,

Washington and New York. Now I know nobody else thinks this way, but a few of us do and we're concerned.

I've dared to include a nice little paper in here for some of you on a new newsletter that I picked up in Ottawa on dams - international dams. There are three copies out there among those papers. I beg of you to share it with your colleagues. There's a 10-page newsletter on international dams.

Two years ago, I brought to the attention of this department and of the three political parties in this Legislature the way to bridge ecological centre studies on five world-scale dams. They came to the conclusion that almost every one of them was such an economic, social and environmental disaster that probably no new dam should be built anywhere until we begin to learn how to study them and plan them wisely and well. Of course, most of the dams aren't necessary if you practise energy conservation or water conservation.

It would make you weep to hear the story of a treatment of local people and the environment by government and business with their major political and economic powers. Jack Armstrong is quoted by Justice Berger in his address - and I've given out a couple of copies of it - as saying: "We should move into our frontier oil-bearing areas like an army of occupation," which is a very positive way of looking at development. Now Petro-Canada does the same thing now, working for the government on Canada lands that the government owns.

The Federal Government seemed to agree with this. The little Norman Wells oil field would have supplied the Yukon for almost 100 years when the Dene land claim is settled. That little community would have been more or less self-sufficient in their major energy need for 100 years. But because it constituted a three-month supply for Canada, the government and business felt we should drain that oil field quickly before the Yukon land claims are settled. It'll be empty in just another three years.

It is this attitude to the locals and the environment that is so wrong, and it exists almost unchanged in Manitoba, especially in hydro development. Twenty years after a major dam in Northern Manitoba, local fishing and hunting harvests and the communities have not recovered and they have never been compensated adequately.

In Ontario, the hydro officers have stated publically, the only way we can sell for export at a profit is if we do not pay for expensive acid rain scrubbers. We hope to make a good profit while we destroy the rivers, lakes, forests and the people of Ontario with acid rain. Now that's the responsible position of Ontario Hydro. They're now working on a method of selling tritium to help the United States fix the triggers on their nuclear weapons more quickly.

The people in Manitoba and the Legislature must have reached comparable decisions, but not publicly that I'm aware of. I've not yet heard of a legislative bill stating the Government of Manitoba puts the environment preservation and the people being treated fairly in a more important category with a higher priority than hydro development.

I've not seen legislation creating a beginning $50 million fund out of which hydro was required to pay promptly fair interim settlements and installments and forbidding hydro lawyers from demanding a sell-out of any rights to collect additional damages 20 years from now if damage continues or if new claims arise.

I'd like to see an itemized account of the money paid to the Indians and, beside it, the money paid to the lawyers fighting to avoid paying the Indian bands. In any year, when payments fall behind, the hydro project should be halted until they pay up to date. When I see that, I will believe the government and its Ministers are thinking and acting on the environment.

I've been struggling to understand this business of sustainable development since 1977 when the Science Council completed Study 27 of the Conserver Society. You must please let me tell you about it verbally. We cannot wait until a 1992 amendment of this new inadequate act to begin to save the environment; it cannot wait. All this act will do is continue to monitor and regulate the environment destruction by people, business and government policies.

Now that ends my official written presentation. I do wish to make one brief additional comment. I gave you a little bit of a historical background to try and show you the buildup that we have built. I've been working since 1982 with the Federal Environment Network trying to develop and get across to the public the idea of sustainable development. For five years, we've been trying to communicate. We've been trying to communicate to the Federal Government. We're getting nowhere. Their Environment Act, if possible, is worse than yours.

We have the most competent group of lawyers working in our environmental action group down in Ottawa and Toronto, and they concluded that the new federal act, the way it is designed, they have been able to regulate six major chemicals in the last five years. They think they should be able to do another six in the next 10 years, and they have 100 that aren't regulated and 50 more coming in. So you can see how long they'll be caught up.

It's not just a remote theoretical concept. We need to have public hearings; we need to have meetings; we need to have discussions; we need to have funding for the Clean Environment Commission, we need their funding for the Manitoba Environmental Council; we need to have funding for the provincial conservation strategy.

Do you know how much it costs to put a hydro worker to work up at Limestone? Two billion dollars, roughly, take or less a few hundred thousand - 5,000 temporary jobs for five years, that's $400,000 a job. Our Manitoba Environmental Council last year had $12,000 to spend on doing our environment work, theoretically representing 100 people of the province representing an incredible diversity of groups. Now that is a little bit less than half of the official funding we had for us to do. We get a little office, we get a telephone, we get a duplicating machine. We now have two secretaries, although we had one secretary a few years ago who almost had a nervous breakdown because of the strain of underfunding and overwork.

Now, my God, what is the word that people used to use? Put your money where your mouth is. If people say that they believe in the environment, we should be footing the cost of one hydro worker, $400,000 a year into the Clean Environment Commission to enlarge their work, to strengthen and support them, into the Manitoba Environmental Council. The Mining

Department, the Forestry Department, the Energy Department, our Hydro, our Agriculture Department, every one of these groups should be putting $400,000 a year into the environment to improve environment work. We haven't even reached the kindergarten stage.

This government here, four years ago, funded V. Scott to do a study on ecological agriculture, basically advanced organic farming, probably the best hope to save the family farm and the farm soil. That paper was so dangerous that the 200-page report could not be published in more than three or four copies. It's not available unless you go down and use the duplicating machine.

Mr. Wise, the Federal Agriculture Minister, has gotten another Manitoban to do a study for the whole of Canada on ecological agriculture and I bet he'll publish the report in Ottawa - although they've been sitting on it for six months - sooner than the Manitoba Government will publish their own agriculture report on the real possible hope for the family farm.

Now that's what I mean. Please, I'm asking for a little understanding of the need and a little understanding of the need to reach out, not reach out back and pass an act that's almost good enough for 1981 because this act isn't even good enough for 1981. The 1972 Michigan Act is 10 times better. Alberta spends $1 million a year on their Environmental Council. They do a whole lot of different things than our little group does, but I challenge you, please, gentlemen - and ladies too, because there must be some ladies on this commission too, I'm sure, who think and reach out into the future and don't accept a third-rate act. Give the people some power; empower the peasants. Don't you trust the peasants? Empower the ordinary people to help themselves and help the country to help save the environment.

I thank you for your time.

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

Mr. Lecuyer.

HON. G. LECUYER: I just want to thank you for coming back, Mr. Emberley, and making your presentation, taking the time. We certainly will read it with interest.

I thank you.

MR. K. EMBERLEY: Thank you.

MR. CHAIRMAN: Okay, thank you again, Mr. Emberley.

The next presentation is Mr. Ian Rollo.

MR. H. DRIEDGER: Mr. Chairman, a slight correction. I am not Ian Rollo. I was called in at last minute to stand in for him, and I will try and do his presentation some justice.

MR. CHAIRMAN: Perhaps if you could just state your name.

MR. H. DRIEDGER: My name is Harold Driedger. I am the Vice-Chairman of the Manitoba Environmental Council

MR. CHAIRMAN: Thank you.

Please proceed.

MR. H. DRIEDGER: The presentation I'm about to make is in the form of a letter that was addressed to Mr. Lecuyer, but we feel that the nature of our comments can serve and be appropriate for this forum here. These comments came out of an executive meeting which we held about two weeks ago.

We are greatly encouraged in reviewing the current version of Bill 26 to see that the concerns which were raised by many individuals and bodies, in addition to ourselves, relating to the fall draft have received attention. Revisions to the bill in response to public comment and criticism have, we believe, resulted in a proposal which will stand the people of Manitoba and their environment in good stead for many years to come.

Now, we make these comments knowing that they probably do not agree with all, but for example, Mr. Emberley's comments with respect to the nature of the act, but we feel that it is an improvement over what was there originally.

You, as Minister, and your department are to be congratulated for involving the public and listening to the various points of view. There are, however, several points remaining which we believe require attention and possibly debate before the bill receives legislative approval. I will go through these briefly. There are not many. They take largely the form of, not necessary grammar, but definitions and explanations.

For instance, on the definition section, page 2 and also on page 4, referring specifically to the definition of Class 1, Class 2, and Class 3 developments, particularly since these in the regulation section 41(1)(a), are dealt with differently, we feel that there should be some explanation as to how these classes are differentiated, a statement perhaps in an appendix stating what is a Class 1 development, what is in truth a Class 2 development, or a class 3 development? Without this, the average citizen cannot understand the different treatments and evaluate the appropriateness of the legislature.

Secondly, also in the definition section, the definition of environmental health, which is also mentioned in section 19(1), section 24(1), and section 24(4), the reference in this text clearly refers to public health, and this definition, therefore, should be renamed. Environmental health actually is the thrust and meaning of the entire act, not necessarily just the health of the citizens of the people. So perhaps the definition could be changed to reflect this.

Continuing on through some of the pages of the document where they're mentioning section 6(4), referring to public meetings and hearings, the legislation requires that a transcript of each hearing be prepared. Section 7(6), asks or states that this record of the proceedings should be made available to the public. The question we have is: What is the current practice? If the practice currently is one that these proceedings are made available to the public, they should be continued and, if they are not, it should be established. The proceedings should be made available.

I'm having difficulty understanding the actual thrust of this particular paragraph since I did not write this.

In the section called Appointment of Council, section 8(1), where the numbers of the members of the Clean

Environment Commission are clearly defined in section 6(1), the membership of the council, both in numbers and in representation, is left up in the air. Why not establish some number and mention the organizational and individual membership of the council? One is defined, one is not.

Continuing also on the same page, page 13 of the act, Chairperson of the Council, section 8(2), with all due modesty, we believe that the best process is election of a chairperson by the members of the council. At the very least, the Minister should be required to seek the advice of the council before deciding who to appoint, referring to the fact that the chairperson of the council will be appointed.

Page 14, the section on meetings, subsection (9), subsection (4), once again referring to how many meetings must be held, the quorum of the Clean Environment Commission is defined, but section 6(9), the council, is not.

Then there follows three other, I guess, questions or criticisms. The section referring to Ministerial Agreement, Section 11(2), item a), could give rise to problems if a forceful government department or agency, after undertaking token public consultation and environmental hearings, was to persuade Cabinet colleagues to pressure the Minister that its interests should override the requirements of this section of the bill.

It is the intent of this act, I believe, that the environment should be the ultimate concern of the Department of the Environment and therefore it is appropriate to ask: Should it not then also have a veto over the other departments or agencies?

Continuing with respect to the assessment of Class 3 developments, section 12(5), in this section, each of the assessment statements are permissive. The Minister should be required to do these things that are outlined in items b) through c). That is, it should read "should," not "may," because it is our feeling that the Class 3 developments are so broad in scope and will have such long-term impacts, many of them unforeseen, that in this instance the requirements should be followed, particularly with respect to the requirement of public hearings.

Lastly, with reference to the central registry, section 17, item a), this should contain a clause to indicate that the summary statement of proposed projects should also include a statement on the expected environmental impact so that people who are going to read these from a different perspective will see perhaps that all of the things that they are concerned about have been taken into consideration, or perhaps have been completely overlooked. They can, therefore, intervene.

That brings to the end the presentation that I wish to make. Thank you very much.

MR. CHAIRMAN: Are there any questions? Seeing no questions, thank you very much for your presentation.

That brings to a close the public presentations. What is the will of the committee in terms of the order of the bills, in terms of the original order? No. 26 first? -(Interjection)- Okay. We'll proceed by numerical order.

What is the will of the committee in terms of the bill itself - page by page? Bill No. 26.

Page 1—pass.

Page 2 - Mr. Ernst.

MR. J. ERNST: Mr. Minister, is he proposing any amendments?

HON. G. LECUYER: Yes.

MR. J. ERNST: Have they been distributed at the present time?

MR. CHAIRMAN: Page 2? Or are we dealing with page 1?

MR. D. SCOTT: The first of the amendments that are proposed by the Minister doesn't refer to any particular items in the - or clauses. I'm wondering with the counsel's advice as to whether we have to do this with each item, or if one item will simultaneously make amendments to all of these phrases.

A MEMBER: That one motion will succeed in amending the bill throughout where those words appear.

MR. CHAIRMAN: I would suggest we stamp page 1 to pass that motion, and then proceed to other amendments. Mr. Scott, do you want to pose the amendment?

MR. D. SCOTT: Preamble on page 1.

I would move, Mr. Chairman,

THAT the French version of Bill 26 be amended by striking out throughout the bill the expressions, "des agent de pollution," and, "d'agent de pollution," and substituting therefore, "des polluants," and "de polluants," respectively.

French version

IL EST PROPOSÉ de modifier le project de loi 26 par le remplacement, à chacune de leurs occurrences, de "des agents de pollution" et "d'agents de pollution" par "des polluants" et "de polluants" respectivement.

MR. CHAIRMAN: On the proposed amendment - Mr. Findlay.

MR. G. FINDLAY: Agreed. Pass the translation on this bill.

MR. D. SCOTT: From my understanding, or maybe it would be best if the Minister did this.

MR. CHAIRMAN: It's only an amendment to the French version to clarify the language.

HON. G. LECUYER: It's been already done in the English version, but it wasn't changed in the French version.

MR. CHAIRMAN: Is there any futher discussion?

The amendment—pass.

Page 1, as amended—pass.

Page 2 - Mr. Scott.

MR. D. SCOTT: Page 2.

I move

THAT the definition of "alter" as set out on page 2 of Bill 26 be struck out and the following definition be substituted therefor:

"alter" means to change a development or a proposal or to close, shut down or terminate a development where the alteration causes or is likely to cause a significant change in the effects of the development on the environment; ("changer")

French version

IL EST PROPOSÉ de remplacer la définition de "changer" figurant au paragraphe 1(2) du projet de loi 26 par la suivante:

"Changer" Apporter une modification à une exploitation ou à un projet, ou fermer une exploitation ou y mettre fin, lorsque cela cause ou est susceptible de causer un changement important dans les effets de cette exploitation sur l'environnement. ("alter")

MR. CHAIRMAN: As printed.

MR. D. SCOTT: As printed.

MR. CHAIRMAN: On the amendment—pass.

MR. D. SCOTT: On the same page, the definition of class 1.

I move

THAT the definition of "class 1 development"; "class 2 development" and "class 3 development" as set out on pages 2 and 3 of Bill 26 be struck out and the following definitions be substituted therefor:

"class 1 development," means any development that is consistent with the examples or the criteria or both set out in the regulations for class 1 developments, and the effects of which are primarily the discharge of pollutants; ("exploitation de catégorie 1")

"class 2 development" means any development that is consistent with the examples or the criteria or both set out in the regulations for class 2 developments and the effects of which are primarily unrelated to pollution or are in addition to pollution; ("exploitation de catégorie 2")

"class 3 development" means any development that is consistent with examples of the criteria or both set out in regulations for class 3 developments and the effects of which are of such a magnitude or which generate such a number of environment issues that it is as an exceptional project ("exploitation de catégorie 3").

I would move the French version of that motion as well.

IL EST PROPOSÉ de remplacer les définitions d'"exploitation de catégorie 1", d'"exploitation de catégorie 2" et d'"exploitation de catégorie 3" figurant au paragraphe 1(2) du projet de loi 26 par les suivantes:

"exploitation de catégorie 1" Exploitation conforme aux exemples ou aux critéres, ou aux deux, indiqués dans les réglements à l'égard des exploitations de catégorie 1 et exploitation qui a pour principale conséquence d'entraîner la décharge de polluants. ("class 1 development")

"exploitation de catégorie 2" Exploitation conforme aux exemples ou aux critéres, ou aux deux, indiqués dans les réglements à l'égard des exploitations de catégorie 2 et exploitation dont les principales conséquences sur l'environnement ne sont pas reliés à la pollution ou s'y ajoutent. ("class 2 development")

"exploitation de catégorie 3" Exploitation conforme aux exemples ou aux critéres, ou aux deux, indiqués dans les réglements à l'égard des exploitation qui serait classée à titre de project exceptionnel en raison de l'ampleur de ses effets ou du nombre élevé de problémes que cette exploitation entraîne. ("class 3 development")

MR. CHAIRMAN: Is there any discussion on the amendment - Mr. Findlay?

MR. G. FINDLAY: -(inaudible)- still doesn't give -(inaudible)- class 1, class 2, class 3. There's a lot of definition left out. Does he give us any more clarification?

HON. G. LECUYER: Well, Mr. Chairman, to that I can only say that it is impossible to find a definition for the actual, and I don't think that one would want to provide all the detail in the definition. Certainly what we hope and feel that this is going to do is add that degree of explanation that is being requested by a number of individuals who came forward and requested that, but obviously again I repeat that all three of those classes will be defined in a great deal more detail in the regulation, but at least now the definitions tell us what to expect in the regulation and doesn't leave the field completely gray or wide open.

MR. CHAIRMAN: Okay. Agreement on the amendments—pass.

Page 2, as amended—pass; page 3, as amended—pass; page 4—pass.

Page 5.

MR. D. SCOTT: I move

THAT the definition "opération de pollution" in subsection 1(2) of Bill 26 be amended by striking out the words "des ouvrages" and substituting therefor the words "de l'exploitation."

I also move the French motion of that as well, as printed.

IL EST PROPOSÉ de modifier la définition d'"opération de pollution" figurant au paragraphe 1(2) du project de loi 26 par le remplacement de "des ouvrages" par "de l'exploitation".

MR. CHAIRMAN: As printed.

MR. D. SCOTT: As printed.

MR. CHAIRMAN: Is there approval on the amendments—pass.

Page 5, as amended - Mr. Findlay.

MR. G. FINDLAY: I'd like to ask the Minister, under pollutant, it says, pollutant means any solid, liquid, gas, and so on that is foreign to or in excess of natural constituents. From an agricultural point of view, if you're spreading manure on a field, how do you determine "in excess of natural constituents"? It's a very difficult thing to define when you're dealing with agriculture.

HON. G. LECUYER: Mr. Chairman, the definition that is here, first of all, is in the present act. We use the word "contaminant" and here we use the word "pollutant," but the definition of the wording in the definition is almost exactly the same.

Secondly, the definition is intended to be broad indeed, but I repeat again, the whole of the farming activities that the member has referred to do not require licensing and therefore, as they come under regulation, this definition - how would I say - the framework within which it is applied is as per then that regulation and not according to the definition that is here.

MR. CHAIRMAN: On the amendment, is there agreement—pass.

Next motion on the same page.

MR. D. SCOTT: Mr. Chairman, I move

THAT clause (b) in the English version of the definition of "pollutant" contained in subsection 1(2) of Bill 26 be amended by striking out the word "and" and substituting therefor the word "or".

I so move the French version as printed of the same motion.

IL EST PROPOSÉ de modifier la version anglaise de la définition de "polluant" figurant au paragraphe 1(2) du projet de loi 26 par le remplacement, à l'alinéa b), de "and" par "or".

MR. CHAIRMAN: On the amendment—pass.

MR. D. SCOTT: Next, I move

THAT clause (b) in the French version of the definition of "pollutant" contained in subsection 1(2) of Bill 26 be amended by striking out the word "et" and substituting therefor the word "ou."

I would move the French version of the proposed amendment as well, as printed.

IL EST PROPOSÉ de modifier la version française de la définition de "polluant" figurant au paragraphe 1(2) du projet de loi 26 par le remplacement, à l'alinéa b), de "et" par "ou".

MR. CHAIRMAN: On the amendments—pass.

Page 5, as amended—pass; page 6—pass; page 7—pass.

Page 8.

MR. D. SCOTT: Mr. Chairman, I move

THAT subsection 4(1) of Bill 26 be amended by striking out the words "at least every three years" in the 3rd line thereof and substituting therefor the words "within three years from the date of the coming into force of this Act and at least every two years thereafter."

I so move the French version of the motion, as printed.

IL EST PROPOSÉ de modifier le paragraphe 4(1) du projet de loi 26 par le remplacement de "au moins tous les trois ans" par "dans les trois ans de la date d'entrée en vigueur de la présente loi et au moins tous les deux ans par la suite."

MR. CHAIRMAN: On the amendments—pass.

Page 8, as amended—pass; page 9—pass.

Page 10.

Hang on a second. I have a faulty copy here. It goes from page 8 to page 17. Who took my pages 9 through 16? I thought the bill looked somewhat smaller than it normally does.

(Pages 9 to 12, inclusive, were each read and passed.)

Mr. Findlay on page 13.

MR. G. FINDLAY: One of the presenters tonight was asking if there was any idea what the number of members on the council would be.

HON. G. LECUYER: There are a number of detailed points, Mr. Chairman, that were referred to specifically a while ago, I believe, by Mr. Emberley, and I believe that some of these are best left to the inner workings of the council.

In terms of the specific - and that doesn't, by the way, address the point that you raise here. The intent here was to leave the members of the council at this point in time undefined, and perhaps that might mean that the council would, as we implement the new legislation, it would probably mean that the council would then - this is a matter that we would look into and determine and, if a specific number, then we feel is necessary in the act, it could come forward when we next amend the legislation.

MR. CHAIRMAN: Page 13—pass.

Page 14, amendment - Mr. Scott.

MR. D. SCOTT: Mr. Chairman, I would move

THAT subsection 10(2) of the French version of Bill 26 be amended by striking out the last two lines of the subsection.

A MEMBER: And the French version as printed.

MR. D. SCOTT: And I would move the French version as printed, yes, Mr. Chairman:

IL EST PROPOSÉ de modifier le paragraphe 10(2) du projet de loi 26 par la suppression de "À compter de la date de l'inscription, le directeur traite celle-ci comme un projet."

MR. CHAIRMAN: Page 14, as amended—pass.

Page 15 - Mr. Scott, and subsequent pages.

MR. D. SCOTT: I would move

THAT clauses 10(4)(a), 11(8)(a) and 12(4)(a) of Bill 26 be amended by striking out the words "dans le registre" in each clause and substituting the words "au registre."

And I so move the French version of that motion as printed:
IL EST PROPOSÉ de modifier les alinéas 10(4)(a), 11(8)(a) et 12(4)(a) du projet de loi 26 par le remplacement de "dans le registre" par "au registre."

MR. CHAIRMAN: Mr. Lecuyer on the amendment.

HON. G. LECUYER: Just to explain that this is not an amendment of substance, but an amendment just of correct use of language instead.

MR. D. SCOTT: On the motion, should we not refer in the motion as we have above to the French version of the bill?

MR. CHAIRMAN: Yes, the French version as printed, in terms of the original motion itself.

MR. D. SCOTT: Yes. So would we accept that clauses 10(4)(a), 11(8)(a) and 12(4)(a) of the French version of Bill 26 be amended?

MR. CHAIRMAN: Okay. With that further amendment to the amendment, any discussion—pass.
Page 15, as amended—pass; Page 16—pass.
Page 17 - Mr. Findlay.

MR. G. FINDLAY: We're into the bottom of page 16, the issuing of licences. Is there - the licences - any specific time of these licences, or are they subject to various periods of time?

HON. G. LECUYER: Mr. Chairman, the specific time that the member requests would be so referred to in the licence itself.

MR. G. FINDLAY: So the application for a licence can be for one or five years, or is there any variable period of time then, is it?

HON. G. LECUYER: As it's currently done in the orders of the Clean Environment Commission, there's always a specific length of time referred to, but they're not generally months; they're generally for a year or more. So, in a like manner, the licence would be, I would suspect, for a fairly lengthy period of time.

Now there could be - and the provisions of the licence could state that - unless the proponents were to expand or change its operations, at which time the licensee would be requested to apply for a variation of the licence. Other than that, the length of time presumably would be fairly lengthy.

MR. CHAIRMAN: Page 16, once again—pass; page 17—pass.
Page 18 - Mr. Scott.

MR. D. SCOTT: On page 18, 11(6), I move

THAT subsection 11(6) of subsection 12(2), (4) and (6) of the French version of Bill 26 be amended by striking out the word "directeur" where it appears therein and substituting therefor the word "ministre".

I so move the French version of the same act.
IL EST PROPOSÉ de modifier les paragraphes 11(6) et 12(2), (4) et (6) du projet de loi 26 par le remplacement, à chacune de ses occurrences, de "directeur" par "ministre".

MR. CHAIRMAN: On the amendment—pass?
Page 18, as amended—pass; page 19, as previously amended—pass.
Page 20 - Mr. Scott.

MR. D. SCOTT: I would move
THAT clause 11(9)(b) of Bill 26 be struck out and the following clause be substituted therefor:
(b) issue guidelines and instructions for the assessment and require the proponent to carry out public consultation;

And I so move the French version of the same act:
IL EST PROPOSÉ de remplacer l'alinéa 11(9)b) du projet de loi 26 par le suivant:
(b) établir des directives s'appliquant à l'évaluation et demander au promoteur de procéder à la consultation du public.

MR. CHAIRMAN: On the amendment—pass.
Mr. Scott.

MR. D. SCOTT: On 11(10), I so move
THAT subsection 11(10) of Bill 26 be amended by striking out the word "board" in the 7th line thereof and substituting therefor the word "commission".

MR. CHAIRMAN: On the amendment—pass.

MR. D. SCOTT: And I so move the French version of that motion:
IL EST PROPOSÉ de modifier le paragraphe 11(10) du projet de loi 26 par le remplacement de "Conseil" par "Commission".

MR. CHAIRMAN: French version—pass; page 20, as amended—pass; page 21—pass.
Page 22 - Mr. Scott.

MR. D. SCOTT: I would move
THAT clause 12(5)(b) of Bill 26 be struck out and the following clause be substituted therefor:
(b) issue guidelines and instructions for the assessment and require the proponent to carry out public consultation;

And I so move the French version of that motion.
IL EST PROPOSÉ de remplacer l'alinéa 12(5)b) du projet de loi 26 par le suivant:
(b) établir des directives s'appliquant à l'évaluation et demander au promoteur de procéder à la consultation du public.

MR. J. ERNST: The requirement of the proponent to carry out public consultation, Mr. Minister, can you explain how you would anticipate that happening?

HON. G. LECUYER: I had to reread the clause to understand the specific amendment here.

In the main clause, we're stating that the departmental planning board and other departments may do any or all of the following things, and that is the case now where, for instance, independently of the public hearing process, for instance, when we're talking here about Class 3 developments which would be the large projects, megaprojects, for instance, Hydro would itself hold public meetings in this case.

MR. J. ERNST: Mr. Chairman, I just wanted the Minister's explanation, but maybe he's missed the point of my question.

Whereas in the existing clause in the bill, the requirement for the opportunity for a public consultation would be carried out by vis-a-vis the government, in this case, or some board of the government, now you've put the onus of carrying out that public consultation by this amendment onto the proponent of the development. How is the proponent then going to carry out a public consultation process? What is that process going to be? How is it going to satisfy this amendment to carry out an adequate, presumably public, consultation process?

HON. G. LECUYER: That was the intent of the original clause, that the proponent was intended or meant by the original clause, and realizing that it was not clear enough, engendered the amendment we propose here. I repeat, as I said before, this is what happens now. The proponents in these cases do hold these types of meetings. They do not, in itself, constitute a public hearing process, but they do conduct these hearings to advise the public, to involve the public, and also to get the feedback that may be necessary or that they might need in developing the assessment, in carrying out their assessment.

MR. J. ERNST: Are there guidelines now for the carrying out of these public - I mean, presumably, public consultation could be going down at the local coffee shop for what could constitute a major development.

HON. G. LECUYER: Well, it states there, Mr. Chairman, that the initial guidelines and instructions, referring to the department or other departments, could issue these guidelines to assist them in how to go about doing this, and that's the intent, to help them and clarify what is required of them.

MR. CHAIRMAN: The amendment—pass.
Page 22, as amended—pass.
Page 23 - Mr. Scott.

MR. D. SCOTT: I move
THAT Bill 26 be further amended by adding thereto immediately after subsection 12(5) thereof the following subsection and by renumbering subsections 12(6) and 12(7) thereof as subsections 12(7) and 12(8) respectively:

Public Hearings.
12(6) Notwithstanding subsection (5), where the minister receives objections with respect to a proposed development and reasons for the objections, the minister may, within such time as may be set out in the regulations, cause the commission to hold public hearings thereon; but if the minster decides not to hold public hearings the Minister shall provide the objectors with written reasons therefor and shall cause a copy of those reasons to be filed in the public registry.

And I so move the French version of that amendment:
IL EST PROPOSÉ de modifier le projet de loi 26 par l'insertion, aprés le paragraphe 12(5), de la disposition qui suit et par la substitution, aux numéros de paragraphes 12(6) et 12(7), des numéros 12(7) et 12(8) respectivement:

Audiences publiques
12(6) Par dérogation au paragraphe (5), lorsqu'il reçoit des oppositions, accompagnées de motifs, à l'égard d'une exploitation projetée, le ministre peut, dans le délai imparti par les réglements, faire tenir une audience publique par la Commission. Toutefois, s'il décide de ne pas faire tenir d'audience publique, le ministre fournit à l'opposant ses motifs par écrit et fait déposer une copie des motifs au registre central.

MR. CHAIRMAN: The amendment—pass.
Mr. Scott.

MR. D. SCOTT: I would move
THAT the French version of subsection 12(8), as renumbered, of Bill 26 be repealed and the following substituted therefor:

Rejet des recommandations de la Commission.
12(8) Lorsque le ministre a demandé la tenue d'une audience publique à l'égard d'un projet, que par la suite des conseils et des recommandations lui sont présentés et qu'il n'intégre pas toutes les recommandations de la Commission dans la licence environnementale, le ministre doit faire parvenir par écrit, au moment où il avise le promoteur de sa décision, les motifs de celle-ci au promoteur, à la Commission et au registre central.

HON. G. LECUYER: Mr. Chairman, just to satisfy the inquisitive looks that I see around, it's a very minor change. It simply makes it comply with what you see there in English.

MR. CHAIRMAN: Page 23, as amended—pass.
Page 24 - Mr. Scott.

MR. D. SCOTT: I would move
THAT subsection 14(1) of Bill 26 be amended by striking out the word "may" in the 12th line thereof and substituting therefor the words "is likely to".

And I so move the French version of that act:
IL EST PROPOSÉ de modifier le paragraphe 14(1) du projet de loi 26 par le remplacement de "peut" par "risque de".

MR. CHAIRMAN: Amendment—pass.
Page 24, as amended—pass; page 25—pass.
Page 26 - Mr. Scott.

MR. D SCOTT: Mr. Chairman, I have a motion. I have an amendment.

I move

THAT section 17 of Bill 26 be amended by striking out the word "central" in the 3rd line thereof.

French version

IL EST PROPOSÉ de modifier l'article 17 du projet de loi 26 par la suppression, à la 3e ligne, de "central".

MR. CHAIRMAN: Page 26, as amended—pass.

Page 27 - Mr. Scott.

MR. D. SCOTT: Could I just refer back to section 17 for that amendment and ask the Minister for clarification? (Agreed)

Does that mean that if a project has taken place in . . .

HON. G. LECUYER: I'm sorry. Would you begin that again?

MR. D. SCOTT: Okay. When you are eliminating the word "central," does that require or does that indicate that if we have a project going on in one particular place, perhaps out in Glenn's riding, that there would not be a requirement to have it filed here and it would only be filed out there?

HON. G. LECUYER: Mr. Chairman, first of all, that change already appears elsewhere, but we do not intend it to be only one single central registry. Therefore, it would be misleading to say, or it may, or it could allow the department to file all of these in only one central place. That was not the intent. The intent was to make this accessible to the public and, therefore, they would be filed more than in one registry.

MR. D. SCOTT: That is what I had hoped I was reading. Okay.

Page 27 is clear?

MR. CHAIRMAN: Page 27 . . .

MR. D. SCOTT: Or wait! There's 18(2). There's one at the top of page 27, is there not? -(Interjection)- Yes.

I would move

THAT subsection 18(2) of the French version of Bill 26 be amended by striking out the words "sur le rapport" where they appear therein and substituting therefor the words "dans le rapport".

French version

IL EST PROPOSÉ de modifier le paragraphe 18(2) du projet de loi 26 par le remplacement de "sur le rapport" par "dans le rapport".

HON. G. LECUYER: Now it's in French.

MR. CHAIRMAN: Amendment - pass? On the amendment, Mr. Findlay, or on page 27?

MR. G. FINDLAY: Page.

MR. CHAIRMAN: On page 27 - Mr. Findlay.

MR. G. FINDLAY: I guess section 20, "Powers of environmental officers," certainly continues to concern me. The power of an individual without a warrant - sections (a) and (b) there at the bottom and over on page 28 - where "there is reasonable and probable grounds to believe that a pollutant is or will be produced," section (c) "to believe that environmental damage is occurring," who decides what's reasonable and probable, and who is liable in the instance they do go in and do something or stop something and it is proven later that there wasn't reasonable or probable grounds? Is that individual or department responsible for damage and financial loss that occurs because of his actions?

First, I want to know who makes the decision and who is responsible if an error is made in an overt action.

HON. G. LECUYER: First of all, all the actions of the environmental officer in this case, as elsewhere, when we're referring to the directorate, are appealable and the . . .

MR. G. FINDLAY: Appealable to the Minister?

HON. G. LECUYER: Are appealable to the Minister.

As well, Mr. Chairman, the wording used here is the same as you would find, for instance, in The Dangerous Goods Act and in a number of other regulatory acts, and is in compliance with the Charter of Rights and, of course, could eventually be tested in the court.

MR. G. FINDLAY: My main interest is from an agricultural point of view, of course, and when a person has that power to enter somebody else's premises, his business premises, in confined rearing of animals - and the Minister of Agriculture has turkeys. He knows the consequences of somebody coming in and the spread of disease if he's going around checking turkey farms, for instance, and he goes from one to the other and he's not required to be responsible for the prevention of disease. He creates a certain degree of risk for the individual who is being inspected. Well, I guess there is responsibility on his part, but again the question of liability is there.

HON. G. LECUYER: Mr. Chairman, the inspection of that type of operation, for instance, has to do with environmental impacts, and these environmental impacts are not observed generally in terms of what goes on in the premises, but what goes on or how it impacts on the environment. Therefore, we're talking about what goes on outside of these premises.

Now, having said that, I don't remove forever where all possibilities of that being required inside but, should what you indicate occur, then I would suspect that the environmental officer could be charged for negligence and is not protected for acting negligently under the act.

MR. G. FINDLAY: I guess the next question is if it was found that he did act negligently, who would the affected individual appeal to, or would he have to go through court to execute a charge?

HON. G. LECUYER: They would have to be in court, yes. Action would have to be taken to court.

MR. G. FINDLAY: So the affected individual is subjected to a fair bit of costs, probably more costs than maybe is warranted. Therefore, the rights of the individual have certainly been abused in the process.

HON. G. LECUYER: I suppose we're entering here into a matter of judgmental decisions, and it's very difficult to comment on that and how the judge in a particular case like that might impose costs on government and the department.

It hasn't happened and to indicate I suppose that environment officers do carry on their responsibilities with a great deal of professionalism, this type of action certainly would not occur. First of all, as I said before, their job in determining, or the following up on a complaint, for instance, where we are informed that an activity such as, let's say, what goes on in a turkey operation, for instance, is causing some particular type of environmental damage, would normally be assessed on the basis of what's happening outside of the operation. That activity in terms of what occurs and how it's carried out inside generally affects some specific section under the Department of Agriculture but not the Department of Environment.

MR. G. FINDLAY: I guess going back in the section 20 there, "any reasonable time and where requested," what's the definition of being requested? Can one individual cause somebody to be inspected, or does it take a number of requests before an inspection is triggered?

HON. G. LECUYER: Specifically where, under section 20?

MR. G. FINDLAY: In section 20, line 2, "An environment officer may at any reasonable time and where requested," is that requested by the Minister or requested by a citizen or what involves a request?

HON. G. LECUYER: I, Mr. Chairman, draw the attention, first of all, that the environment officer may, as indicated, " 'may' at any reasonable time and where requested" by the Minister or I suppose it could be by the director of the department, for instance.

MR. G. FINDLAY: I would just say that it's not very clear as to requested by whom. I read it as to be requested by any citizen that this action could happen. It doesn't specify it has to be by some superior.

HON. G. LECUYER: Yes, it could be anybody.

MR. G. FINDLAY: Is that the Minister's intent then, that it's open that loose?

HON. G. LECUYER: Yes, but the environment officer, that's why - and I was on the right track when I started but deviated when I got to explaining. The environment officer "may," and that's the key word.

MR. G. FINDLAY: Yes, okay.

MR. CHAIRMAN: Any further discussion of page 27? Page 27, as amended—pass; page 28—pass.

Page 29 - Mr. Scott.

MR. D. SCOTT: I move
THAT subsection 21(2) of Bill 26 be deleted and subsection 21(3) be renumbered as subsection 21(2).

MR. CHAIRMAN: Pass.

MR. D. SCOTT: En français, le même chose.
Pass the French, as well, Mr. Chairman, as printed.
IL EST PROPOSÉ de supprimer le paragraphe 21(2) du projet de loi 26 et de substituer, au numéro de paragraphe 21(3), le muméro 21(2).

Next motion:
THAT section 22 of Bill 26 be amended by striking out the words "subsection 21(1) and (2)" wherever they occur and substituting "section 21" therefor.

The French version thereof and as printed:
IL EST PROPOSÉ de modifier l'article 22 du projet de loi 26 par le remplacement, à chacune de ses occurrences, de "du paragraphe 21(1) ou (2)" par "de l'article 21".

MR. CHAIRMAN: The amendment—pass.
Page 29, as amended—pass; page 30—pass; page 31—pass; page 32—pass.
Page 33 - Mr. Scott.

MR. D. SCOTT: I would move
THAT subsection 25(1) of Bill 26 be struck out and the following subsection be substituted therefor:

Action by Minister to minimize danger.
25(1) Notwithstanding anything in this act, where the Lieutenant Governor in Council considers it in the public interest to take emergency action to alleviate environmental emergency or where a health emergency as declared by the Minister of Health exists, the Minister may authorize the taking of such actions as is deemed necessary by the Lieutenant Governor in Council or the Minister of Health to mitigate the emergency or alleviate the threat to health without reference to the normal approval or licencing processes pursuant to this Act.

And I move the French version of that motion.

Intervention du ministre en cas de risque
25(1) Lorsque le lieutenant-gouverneur en conseil estime qu'il est justifié dan l'intérêt public de prendre des mesures d'urgence pour atténuer une situation d'urgence touchant l'environnement, ou lorsque le ministre de la Santé a déclaré une situation d'urgence en matiére de santé, le ministre peut, par dérogation à toute autre disposition de la présente loi, autoriser la prise des mesures que le lieutenant-gouverneur en conseil ou le ministre de la Santé juge nécessaires pour atténuer la situation d'urgence ou la menace à la santà sans qu'il soit nécessaire de passer par la procédure normale d'approbation ou de délivrance de licence prévue par la présente loi.

MR. CHAIRMAN: On the amendments, any discussion—pass. Page 33 as amended—pass.

Page 34 - Mr. Scott.

MR. D. SCOTT: I would move
THAT subsection 27(1) of Bill 26 be amended by striking out the word "aggrieved" in the 3rd line thereof and substituting therefor the word "affected".

And the French version.
IL EST PROPOSÉ de modifier le paragraphe 27(1) du projet de loi 26 par le remplacement de "lésée" par "touchée".

MR. CHAIRMAN: On the amendment—pass.
Mr. Scott.

MR. D. SCOTT: I would move
THAT subsection 27(2) of Bill 26 be amended by striking out the word "up" in the 15th line thereof.

I would move the French version thereto as printed.
IL EST PROPOSÉ de modifier la version anglaise du paragraphe 27(2) du projet de loi 26 par la suppression, à la 15e ligne, de "up".

MR. CHAIRMAN: Pass.
Page 34, as amended - Mr. Findlay on Page 34.

MR. G. FINDLAY: On page 34, I'd like some clarification on sections 27(3) and then following through to the top of page 35, 28(1). In the Lieutenant-Governor-in-Council approval on the bottom of 34, further on down, it says "the minister shall refer the proposed disposition of the appeal to the Lieutenant-Governor-in-Council for approval."

Then in 28(1), there is an appeal to Cabinet and, at the bottom of that section, the minister shall refer the matter back to Cabinet.

It appears to me that Cabinet has already approved something and then they're going to deal with an appeal. The same body is dealing with something they've already decided on. Is that the way appeals are normally handled? There isn't a separate body for the appeal.

HON. G. LECUYER: Mr. Chairman, the appeal is referred to Cabinet but - let's get that straight now - if a hearing is requested under that appeal, my understanding is that Cabinet or a subcommittee of Cabinet would have to hear the appeal, would have to give an opportunity to the appellant to come forward and express his reasons for appealing.

MR. G. FINDLAY: That's the issue that's at hand here. You've already ruled on something, and then you're back appealing to the same body. It seems kind of fruitless. You're asking for a second judgment.

HON. G. LECUYER: Mr. Chairman, these clauses are not as closely related as it appears. The Minister can refer an appeal likely to Cabinet but, where the Minister has not referred an appeal, citizens could appeal directly to Cabinet where the Minister hasn't referred it to Cabinet.

MR. G. FINDLAY: We're not talking about the same appeal.

HON. G. LECUYER: That's right.

MR. G. FINDLAY: It's two separate types of appeal.

HON. G. LECUYER: That's correct.

MR. CHAIRMAN: Page 34 - Mr. Cummings.

MR. G. CUMMINGS: On that same point, what is the reason for allowing it to circumvent the Minister at this point?

HON. G. LECUYER: Mr. Chairman, when proposing this section of the act, we wanted indeed to give the public some major input into the decision-making process. Where the individuals are indeed aggrieved or feel that the Minister's decision is not satisfactory, couldn't very well appeal again to the Minister. Therefore, the only other level where they could appeal would then be to the Cabinet.

MR. G. FINDLAY: A follow-through, 27(2), 27(3) and 28(1), it would appear that a person can appeal to the Minister. The Minister then makes a judgment on that appeal, gets it approved by Cabinet. If the affected person is not happy, he can again come back to Cabinet. In other words, the same judge gets to look at it a second time, so 28(1) doesn't appear to serve any useful need.

HON. G. LECUYER: Yes, but only, Mr. Chairman, on these things that are indicated therein.

MR. G. FINDLAY: No public hearings. But those same issues could have caused things to start back in 27(2), could they not have?

HON. G. LECUYER: I'm advised that we're talking about section 28(1), but there is also an amendment to that section.

But I draw the attention to the fact that we're talking about much broader ranges of issues under 27(2). If the Minister hasn't held or allowed the public hearing to take place or the terms and conditions of the licence, those are the only two items that appear under the current version of 28(1). I have to read how it's amended here. It's even further restricted under the proposed amendment.

Perhaps we can go to the amendment so that the member can know what the contents of that amendment are. If we can pass page 34, Mr. Chairman, we can go on to the amendments on page 35.

MR. CHAIRMAN: Is that the will of the committee? It seems unanimous. That was 34 we were on, as amended. On the additional sheet, Mr. Scott.

MR. D. SCOTT: It's been moved
THAT subsection 28(1) of Bill No. 26 be struck out and the following be substituted therefor:

Appeal to the Lieutenant-Governor-in-Council
28(1) Where a person is dissatisfied with the decision of the Minister as to the terms and conditions of a Class 3 licence, the person may in writing, within six

weeks of the issuance of the licence, file an appeal to the Minister with respect to the decision and the Minister shall refer the matter to the Lieutenant-Governor-in-Council.

MR. CHAIRMAN: And the French version as printed?

MR. D. SCOTT: And the French version as printed.

IL EST PROPOSÉ de remplacer le paragraphe 25(1) du projet de loi 26 par le suivant:

Appel au lieutenant-gouverneur en conseil

28(1) La personne qui est insatisfaite de la decision du ministre quant aux modalités et conditions d'une licence de catégorie 3 peut, par écrit et dans les six semaines qui suivant la déliverance de la licence, interjeter appel de la décision au ministre. Le ministre renvoie l'affaire au lieutenant-gouverneur en conseil.

MR. J. ERNST: Why are you deleting the fact that, if the Minister required no public hearings, these people would have a right of appeal?

HON. G. LECUYER: Mr. Chairman, I propose we withdraw the amendment, and that the section remain as presently worded.

MR. CHAIRMAN: The amendment's withdrawn.

Mr. Scott, do you agree to withdraw it?

MR. D. SCOTT: I don't mind seeing it withdrawn. I just wanted clarification on that, of whether or not the public hearings have already been held. I would not want to have the Minister not be able to hold public hearings. If that's what it does, I would certainly want to have it withdrawn as he has suggested.

HON. G. LECUYER: Mr. Chairman, when we proposed this change, it was with that in mind, that hearings could have already been held. But because the hearings are not mandatory, if we remove the no public hearings, then it leaves no room to appeal the fact that there weren't any. Therefore, in that regard, I prefer to remove or to do away with the proposed amendment.

MR. CHAIRMAN: Page 35, as not amended—pass.

Page 36 - Mr. Ernst.

MR. J. ERNST: Page 36, Mr. Chairman, I have an amendment.

Mr. Chairman, during debate on Second Reading of this bill, I promised to introduce an amendment. This amendment has been drafted by Legislative Council.

I would move, Mr. Chairman,

THAT Bill 26 be amended by adding the following section immediately after Section 31, entitled Prohibition.

Prohibition.

31(1) Notwithstanding any other provision of this act or any other act, no person shall use, develop, or undertake any other activity that may damage or have the potential to damage the quality of water in all or part of Indian Bay or Shoal Lake, located at or adjacent to those portions of the seventh and eighth townships and all of or part of ranges 15, 16, and 17, all east of the principal meridian.

French version

IL EST PROPOSÉ d'amender le projet de loi 26 par l'insertion, aprés l'article 31, de ce qui suit:

Interdiction

31.1 Par dérogation à toute autre disposition de la présente loi ou à toute autre loi, nul ne peut utiliser, exercer ou entreprendre une autre activité qui peut détériorer ou qui est capable de détériorer la qualité de l'eau dans Indian Bay ou Shoal Lake ou dans toute partie de ceux-ci qui est soit située dans les portions des townships 7 and 8 de tout ou partie des rangs 15, 16 et 17, tous à l'est du méridien principal, soit adjacente aux townships.

Mr. Chairman . . .

MR. CHAIRMAN: Do you have a copy of this for the Chair?

MR. J. ERNST: Yes I do.

I would also move the French version attached to that, Mr. Chairman.

Under the motion . . .

MR. CHAIRMAN: Mr. Ernst on the motion.

MR. J. ERNST: Mr. Chairman, I don't want to go through 40 minutes of dialogue as we did the other day in the House. I think that was adequate for the time.

I've had some discussions with the Minister regarding that amendment. Discussions indicated by the Minister that, in fact, activity that may pollute Shoal Lake could be covered or is covered, in all or in part, under the proposed act.

My concern is not so much that it may or could be covered or is covered, for that matter, under the act. There are many permissive sections under that act, and there are many levels of approvals under that act.

It is my concern and the concern of my colleagues, I think, that the water supply of the City of Winnipeg is so different than any other potential activity in the province that it needs to have its own definition. Something in the act needs to say that the City of Winnipeg water supply must be protected at all costs, and that it will take an act into Legislature to change the regulations to allow something to pollute that water supply.

As I indicated in debate, Mr. Chairman, it's not the be-all and the end-all, but it's a start and, I think, a significant start to say to everyone in Manitoba and anyone who cares to look at coming to Manitoba that, in fact, we are concerned about the water supply of Winnipeg, so concerned that we'll put it in legislation to say that any activity that could damage that will be prohibited, is prohibited and requires an act of the Legislature to change it.

I don't think, Mr. Chairman, that's asking too much. You have the water supply of better than half, say two-thirds perhaps, of the people of the province, a water supply that's been intact and untreated for 68 years. I think that, by the introduction of this amendment, at least we will provide a clear signal to all concerned,

all those who are interested, all those who may at some point want to do something to pollute that water supply, that it's not going to be tolerated.

Other actions will have to be taken, other negotiations undertaken, but certainly this will be a clear signal that, as far as the people of Manitoba are concerned, they are concerned about that water supply and they are prepared to do everything they can to protect it.

MR. CHAIRMAN: Okay, on the amendments - Mr. Lecuyer.

HON. G. LECUYER: Mr. Chairman, as the member prefaced his remarks already with the fact that we had talked about this, for a number of reasons: first of all because, as I indicated, much of the area therein described by the amendment doesn't drain into Shoal Lake; secondly, a good portion of that is Indian reserve land which we do not control and which we cannot control. The rest of those lands are Crown lands. The entire portion of that that is not Indian land is Crown land and, therefore, already controlled under The Mines Act, already controlled under The Crown Lands Act and the Land Use Policy under The Crown Lands Act and The Parks Act, because it's also controlled under The Parks Act.

Furthermore, under this legislation, which is intended to cover the general environment of the whole province, which is not issue- or site-specific and which already enables to declare specific areas as sensitive areas and thereby, in so doing, affect prohibitions.

It is really impossible to accommodate this type of amendment. Although the intent of the agreement, I can sympathize in its entirety, and I believe that the spirit of the passing of this act will enable us to achieve the very intent which we all want to achieve, as is stated within the amendment that the member proposes.

I think the intent of it is good. I don't think that it can be accommodated as such.

MR. J. ERNST: Mr. Chairman, I don't want to prolong the agony here, but there are many acts which govern many things that take place in this province but unfortunately, all too often, matters can fall between the cracks. Some Minister or some administrator somewhere will have jurisdiction, as would happen under this act. There are activities that could be approved by a lower-level administrator and without the knowledge really, I suppose, of the Minister for that matter.

My concern is this, that we make a strong public statement that we put into legislation something that says this is the most important thing that we face. This is something that we have to put into and make it a prohibition, so that only the act of the Legislature can change it. Therefore, it can't fall through the cracks, and it can't become - you know, this Minister may be very sensitive to those kinds of things, but we may have a Minister at some future point who isn't as sensitive. We may have somebody who is completely way out of line in this kind of a thing.

My concern is that water supply is something that needs to be protected at all costs. I see that this amendment certainly is one way of making that clear statement.

HON. G. LECUYER: Mr. Chairman, the only thing I can do is to repeat that it's well intentioned, but it cannot be accommodated as such as an amendment into this act. Other than what is Indian land - that is part of the amendment there, because the member's amendment refers to certain sections of that which is Indian reserve land, which therefore we cannot control as so worded. The rest of it is Crown land on which, therefore, no activity can take place without these other departments, including the Environment Department, being therefore so informed. I think that those are sufficient guarantees to achieve the prohibitions and the intent of the amendment proposed.

MR. J. ERNST: One question of the Minister, the Minister says it cannot be accommodated under this act. Is he now referring to a legal accommodation or one that he chooses to impose?

HON. G. LECUYER: My understanding is that, legally, it cannot be accommodated as so worded.

MR. J. ERNST: Could I hear then from Legislative Counsel, Mr. Chairman, because I asked Legislative Counsel if it could be included, and he in fact told me it could.

HON. G. LECUYER: I'm told that you can put it in, but it has no application.

MR. J. ERNST: It has no application to what?

HON. G. LECUYER: To Indian lands.

MR. J. ERNST: But it has application to every other piece of land that would be contained in those descriptions.

HON. G. LECUYER: But because part of it contains Indian lands and those are the lands closest to Shoal Lake, to the body of water that the member wishes to protect.

MR. J. ERNST: I'm aware, Mr. Chairman.

MR. CHAIRMAN: All those in favour of the amendment, please indicate by saying aye; all those opposed to the amendment, please indicate by saying nay.

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

Yeas, 4; Nays, 5.

QUESTION put on amendment, MOTION defeated.

MR. CHAIRMAN: We're back to page 36. Page 36—pass; page 37—pass.

Page 38 - Mr. Scott.

MR. D. SCOTT: I would move

THAT section 36 of Bill No. 26 be amended by striking out the words "or in lieu of" in the 2nd and 3rd lines thereof.

MR. CHAIRMAN: And the French version as printed.

MR. D. SCOTT: And the French version as printed, so I guess I'll do that.

IL EST PROPOSÉ de modifier l'article 36 du projet de loi 26 par la suppression de "ou en remplacement".

MR. CHAIRMAN: Pass.

A further amendment to page 38 - Mr. Scott.

MR. D. SCOTT: I move

THAT section 37 of the French version of Bill No. 26 be amended by striking out the words "d'environnement" and substituting therefor the words "de l'environnement".

MR. CHAIRMAN: And the French version.

MR. D. SCOTT: And the French version of that motion as printed.

IL EST PROPOSÉ de modifier l'article 37 du projet de loi 26 par le remplacement de "d'environnement" par "de l'environnement".

MR. CHAIRMAN: Pass. Page 38, as amended—pass. Page 39 - Mr. Scott.

MR. D. SCOTT: Thank you. I'll take a deep breath here.

I move

THAT subsection 41(1) of the French version of Bill No. 26 be struck out and the following subsection be substituted therefor . . .

MR. J. ERNST: Mr. Chairman, on a point of order.

MR. CHAIRMAN: There is a motion being put, probably not in order but, by leave, I'm sure we can . . .

MR. J. ERNST: On a point of order, Mr. Chairman, is there some method of dealing with this, other than having an honourable member read, particularly with the fractured language capabilities?

MR. CHAIRMAN: It can be moved as printed. Some of us would like to see Mr. Scott read through the three pages.

MR. J. ERNST: None of us, including him, need go through the agony, Mr. Chairman.

HON. G. DOER: You can go out in the hallway and read them off.

MR. CHAIRMAN: Mr. Scott, are you prepared to move the motion as printed.

MR. D. SCOTT: If the committee so desires, it would save a great deal of time, and the French version thereof.

THAT subsection 41(1) of the French version of Bill 26 be struck out and the following subsection be substituted therefor:

Réglements

41(1) Le lieutenant-gouverneur en conseil peut prendre des réglements et des décrets d'application compatibles avec la présente loi et conformes à son esprit; ces réglements et ces décrets ont force de loi. Il peut notamment, par réglement et par décret:

a) prévoir la classification des exploitations en exploitation de catégorie 1, en exploitation de catégorie 2 et en exploitation de catégorie 3 et prévoir la procédure d'évaluation pour chacune de ces catégories;

b) prévoir la classification de certaines zones géographiques de la province en fonction de leur capacité d'assimilation de pollution et prévoir des normes de limite de charge polluante pour ces zones;

c) élaborer des politiques de gestion de l'environnement relativement à l'expansion économique, à l'utilisation conflictuelle des biens-fonds et des ressources et au degré de concentration des industries;

d) afin d'éviter l'accumulation d'effets nocifs, restreindre ou limiter le nombre et le genre d'exploitations dont la construction ou la gestion peut être permise dans tout ou partie de la province;

e) prévoir la fixation d'objectifs quant à la qualité de l'environnement pour tout ou partie du Manitoba, prévoir le mode de fixation des objectifs et leur utilisation;

f) soustraire des exploitations ou des catégories d'exploitations aux exigences prévues à l'article 10, 11 ou 12 de la présente loi;

g) élaborer des régles applicable aux demandes de licences ou de permis, requises aux termes de la présente loi ou des réglements et prévoir la délivrance, le retrait, la révocation ou la suspension des licences et des permis et le refus des demandes;

h) prévoir la fixation des droits afférents à la signification et ceux relatifs à une licence ou à un permis et prévoir l'affectation ou l'administration de ceux-ci;

i) prévoir les exigences relatives à la preuve de solvabilité sous la forme d'assurance ou de cautionnement ou sous toute autre forme qui satisfasse le directeur pour les personnes possédant ou dirigeant des exploitations qui peuvent causer ou causeront des dommages à l'environnement;

j) prévoir la conception, l'emplacement, la configuration, la construction, l'adaptation, la modification, l'entretien et l'installation d'exploitations en vue de la réduction de leur effets nocifs sur l'environnement ou sur la salubrité de l'environnement;

k) prévoir la conception, l'emplacement, la configuration, la construction, l'adaptation, la modification, la gestion, l'entretien et l'installation de systémes, de procédés ou d'ouvrages en vue de la réduction ou de l'élimination de la pollution ou d'autres dommages causés à l'environnement, notamment les sites destinés à l'élimination des déchets, les lieux d'enfouissement sanitaire, les systèmes de collecte et de traitement des eaux usées, les systémes de

manutention et d'élimination des boues industrielles ou d'épuration, les incinérateurs et les systémes de recyclage;

l) prescrire ou établir des méthodes de collecte, de traitement, d'acheminement et d'élimination des polluants, interdire certaines méthodes ou les assortir de normes ou de condition;

m) prévoir l'emplacement des sites destinés à l'élimination des déchets et des lieux d'enfouissement sanitaire et, que ceux-ci soient abandonnés ou non, réglementer ou interdire la construction et l'emplacement de structure de toute sorte sur des biens-fonds situé à la distance des sites destinés à l'élimination des déchets et des lieux d'enfouissement sanitaire que prévoient les réglements ou exiger des approbation à cet égard;

n) prescrire des restrictions, des modalités et des conditions concernant l'échappement de polluants ou le genre, la quantité ou les conditions d'utilisation des ressources d'une exploitation ou prescrire l'interdiction de laisser échapper des polluants;

o) prévoir l'utilisation de produits ou de substances qui peuvent polluer ou emdommager l'environnement, prévoir l'interdiction d'utiliser ces produits ou substances ou prévoir l'assujettissement de leur utilisation à des restrictions;

p) prévoir l'élimination, la réemploi ou le recyclage de produits, de résidus d'écoulements ou d'emballages offerts en vente dans la province et qui peuvent faire partie du flux des déchets;

q) exiger l'inscription auprés du ministére de certaines exploitations ou catégories d'exploitations;

r) prescrire un permis de construction ou de gestion, assorti de restrictions, de modalités et de conditions, pour certaines exploitations et la délivrance ou le retrait des permis par le directeur ou l'agent de l'environnement;

s) prévoir les modalités de contrôle des échantillons et déterminer le matériel, les appareils ou les dispositifs à utiliser pour prélever des échantillons;

t) prévoir les activités de production de bétail;

u) prévoir la déclaration du ministre accordant un statut équivalent ou des normes équivalentes;

v) prescrire l'interdiction de jeter de déchets et réglementer l'élimination des déchets;

w) prescrire les méthodes de gestion en matiére d'environnement qui doivent être appliquées à l'égard de la planification, de la construction, de l'exploitation, de la fermeture et du rétablissment d'une exploitation;

x) prévoir l'utilisation, l'emmagasinage, la manutention ou l'élimination des pesticides et des récipients ou prévoir l'interdiction d'accomplir ces actes;

y) prescrire les formules à utiliser pour l'application de la présente loi.

MR. CHAIRMAN: They look awfully similar to me.

MR. D. SCOTT: I hope they are.

MR. CHAIRMAN: Okay, we have a motion as printed—pass.

Okay, that was on page 39. We're back to page 39, as amended.

HON. G. LECUYER: Mr. Scott was just asking why it had to be amended, and I was going to say that I'm told that the provisions, as they were written in French, were interpreted in a narrower sense than they were in English and had to be rewritten.

MR. CHAIRMAN: Thanks for that explanation.

Page 39, as amended—pass; page 40, as amended—pass; page 41, as amended-pass.

Page 42, as amended . . .

MR. G. FINDLAY: Page 42, Mr. Chairman.

MR. CHAIRMAN: On page 42 - Mr. Findlay.

MR. G. FINDLAY: Mr. Minister, on numerous times you've told me that agriculture, through regulation, has its operations excluded from this act. I see on page 42, under regulations 41(1)(8)(i)(t), respecting livestock production operations. What are your intentions there?

HON. G. LECUYER: There's a provision for making a regulation, Mr. Chairman, and that regulation is already made and what we're saying, if there is no provision for making it, we couldn't even transfer the regulation that covers livestock operations. Now the regulation exists, and I've stated that this regulation will move under this act but, if there's no provision for it, then it couldn't be moved. Therefore, then the agricultural operations would become licensable, and that's not what the member wants.

MR. G. FINDLAY: You're certainly right there, but you've only got one bit of agricultural operation covered here in terms of livestock. There's grain farming, there's stubble-burning, we can think of a number of issues. Stubble-burning is the other area that concerns me, and yet there's no mention of it in here. If we're going to be consistent in having regulations for those specific operations to exclude them from licensing, we've got to have them both in or both out.

HON. G. LECUYER: I know there's a clause which is broader in general. I'm trying to put my fingers on it right now.

For instance, subsection (n) might accommodate the formulation of a regulation affecting, for instance, stubble-burning. Now there's not regulation which - we're not talking about forming regulation or licensing operations which, as the member referred to, for instance, grain farming, which is not an operation that causes pollutants and is not licensable as such nor does it have to be regulated.

MR. G. FINDLAY: I guess to be more specific then, we could talk about spraying chemicals. That's an aspect of grain farming.

HON. G. LECUYER: It's already covered by a regulation which exempts it for farming activities.

MR. G. FINDLAY: In the regulation, under (t), it's a regulation of exemption, is it, as it exists now and will continue to exist?

HON. G. LECUYER: The regulation provides the criteria. It's a regulation which indicates the codes whereby the livestock production activities, operations, can go about. But the fact is that these are - what applies to one particular livestock operation also applies very, very similarly to another, which enables the drafting of a regulation which covers them all and which does therefore, in so doing, pre-empts the requirement of formulating an application in each individual case inasmuch as they abide and carry their activity according to the criteria so established within that regulation.

MR. D. SCOTT: Is the Minister saying that agriculture would not be included in, say for instance, section (o) with respect to the use, restriction or prohibition of use of any product or substance that may pollute or damage the environment or that, under (x) - and particularly under (x) really - respecting the use, storage, handling, disposal or prohibitions of the use, storage, handling or disposal of pesticides and containers?

HON. G. LECUYER: Well, Mr. Chairman, there is such a regulation as expressed under section (x) respecting the pesticides in containers and the requirements for application, but it so states that this does not apply to a farming operation. Therefore, the regulation exempts the applications of duly authorized pesticides, which the authorization per se comes under Agriculture Canada. Therefore, as long as these pesticides are authorized under Agriculture Canada, they are exempt under this pesticide regulation which is already in existence which we adopted here.

There is currently a federal-provincial committee working on this but that doesn't change that provision at all. It's in terms of the clarifying and perhaps eventually adopting new procedures whereby pesticides are going to be authorized in the future under Canada and the methods and procedure whereby they are going to be reviewed, but that doesn't affect this at all.

MR. D. SCOTT: So what happens in a situation where a farmer was using a pesticide or a herbicide where it essentially got out of control or, through misapplication, ended up contaminating a substantial piece of land adjacent to his or contaminating to a very high level the soil and possibly groundwater, as well as running off into a stream and polluting the stream? Are you saying that the farmer is exempt from environmental legislation?

HON. G. LECUYER: No, Mr. Chairman, what I'm saying is that, for one thing, obviously the department would be required to intervene if there was a major spill, for instance. The department would also be required to intervene if, in carrying out his activities - let me put it this way.

The individual farmer is exempt on the application of pesticides on his home land. Now if the farmer, for instance, were to contaminate his neighbour's land, that's a different matter. He's not exempt because he pollutes or contaminates his neighbour's land. He's exempt for his own activity, for his own operation.

MR. D. SCOTT: What about the contamination of a river system? I'll use the one that's had the most study done on it probably, both the Assiniboine and La Salle Rivers, where there have been pesticide residues of significant volumes starting to be picked up and more frequently, I believe. Is there any recourse, through this act or through this department, to go in and to issue an order for the general application in that watershed?

HON. G. LECUYER: Mr. Chairman, that is one of the concerns that gave rise to the request by Environmental Ministers across the country to raise pressure on the Federal Environmental Minister to, in turn, raise pressure to the Agricultural Minister, to the Freshwater Fish and Oceans Minister and the Health Minister so that we could come together and review those procedures that I referred to awhile ago, because what the member now refers to is not attributable to a specific member or a farmer. He's talking about the cumulative effect, which we have to consider as a general problem which we have to address, but it's not specifically attributable to a specific farmer. Therefore, it does not come under that category.

MR. D. SCOTT: It sounds something like acid rain, where it's difficult to attribute the acid rain to a particular smelter. Therefore, you have difficulty trying to prosecute any particular polluters or smelters, or the coal fire-generating plants.

When we have the volumes that we have used today, I guess I was mistakenly under the impression that we would have the authority under the act and within the department to be able to act on these matters. I don't know that it's necessarily, quite frankly, up to us to pass it off to the Government of Canada when it's our responsibility to protect natural resources under the Constitution of the province.

With all due respect to my colleague and a person I respect tremendously, the Minister of Agriculture, I think that we do have responsibilities and farmers have responsibilities to the environment, the same as anybody else does. I think they're the first to recognize that. I don't know that they should have a special exemption, over and above all other industries which are covered under this act. I'm stating a principle, Mr. Chairman.

MR. CHAIRMAN: Page 42—pass; page 43—pass. Page 44 - Mr. Scott.

MR. D. SCOTT: I move

THAT the French version of section 45 of Bill 26 be amended by the addition of the words "en fiducie" immediately after the word "détenus".

MR. CHAIRMAN: On the amendment—pass? Page 44 as amended—pass.

MR. D. SCOTT: And the French version as well.

IL EST PROPOSÉ de modifier l'article 45 du projet de loi 26 par l'insertion, aprés "détenus," de "en fiducie".

MR. CHAIRMAN: Pass. Page 45—pass; page 46—pass.

Page 47 - Mr. Scott.

MR. D. SCOTT: Page 47, I move

THAT the French version of subclause 51(2)(d)(i) be amended by the insertion immediately after the word "prescriptions" of the following words "relatives à l'utilisation des biens-fonds dans la municipalité".

And the French version of that amendment.

IL EST PROPOSÉ de modifier le sous-alinéa 51(2)(d)(i) du projet de loi 26 par l'insertion, aprés "prescriptions," de "relatives à l'utilisation des biens-fonds dans la municipalité".

MR. CHAIRMAN: That was my error. That's on page 48. Can we pass 47 and then deal with the motion? Page 47—pass.

Page 48, on the amendment as read—pass; page 48, as amended—pass; page 49—pass; Title—pass.

Bill be reported.

Bill 26 is passed.

BILL NO. 39 - THE CITY OF WINNIPEG ACT (2)

MR. CHAIRMAN: The next bill before the committee is Bill 39, An Act to Amend the City of Winnipeg Act (2).

HON. G. DOER: Mr. Chairman, there are some amendments to the bill that I had circulated to the Opposition on Tuesday night. There's only one very slight change. There's one less proposed amendment here. I'll give you that in that, based on Legislative Counsel, there was one that wasn't necessary because the City Clerk performs that function. That was based on the city lawyer.

A MEMBER: One second and we'll be able to do it all at once.

HON. G. DOER: Okay, that's just what I was going to say.

MR. CHAIRMAN: Is it the intention of the committee to proceed on the amendments as a whole?

Mr. Ernst.

MR. J. ERNST: Mr. Chairman, I propose that we deal with the amendments as a whole, and the act as a whole, once amended.

MR. CHAIRMAN: Okay, who is going to move the - Mr. Scott, are you moving the amendments, as printed, in their entirety?

MR. D. SCOTT: Agreed. I so move.

MR. CHAIRMAN: Including the French version?

MR. D. SCOTT: The French version, as well.

MR. CHAIRMAN: And English version?

MR. D. SCOTT: Yes.

MR. CHAIRMAN: Will those in favour please note.

MEMBERS: Aye.

MOTION:

THAT proposed clause 5(5)(b) of the Act as set out in section 1 of Bill 39 be deleted and the following clause be substituted therefor:

(b) The vice-president (academic) of the University of Winnipeg in place of the president of the University of Winnipeg; and

French version

IL EST PROPOSÉ de supprimer l'alinéa 5(5)b) de la Loi figurant à l'article I du projet de loi 39 et de le remplacer par ce qui suit:

b) le vice-président (cours) de l'Université de Winnipeg à la place de son président;

MOTION:

THAT Bill 39 be amended by adding immediately after section 6 the following section:

Subsecs. 138(1.1) and (1.2) rep. and sub.

6.1 Subsections 138(1.1) and (1.2) of the Act are repealed and the following subsections are substituted therefor:

Offence-engaging in business without licence.

138(1.1) Any person who engages in a business, trade or calling or who does any act or thing for which a licence is required without having the appropriate licence commits an offence and is liable

(a) in the case of an individual, to a fine of $1,000 or to imprisonment for six months, or both; and

(b) in the case of a corporation, to a fine of $5,000.

Order to remedy breach.

138(1.2) The magistrate imposing a penalty upon any person under subsection (1) or (1.1) may, in addition to imposing the penalty, order the person to observe the provision that was breached or to apply for the appropriate licence.

French version

IL EST PROPOSÉ de modifier le projet de loi 39 par l'adjonction, aprés l'article 6, de ce qui suit:

Abrogation et remplacement des paragraphes 138(1.1) et (1.2)

6.1 Les paragraphes 138(1.1) et (1.2) de la Loi sont abrogés et remplacés par ce qui suit:

Infraction

138(1.) Toute personne qui, sans être titulaire d'une licence, exploite une entreprise ou un commerce, exerce une activité ou accomplit un acte ou une chose pour lequel il faut être titulaire d'une licence commet une infraction et se rend passible:

a) dans le cas d'un particulier, d'une amende de 1 000, d'un emprisonnement de six mois ou de ces deux peines concurremment;

b) dans le cas d'une corporation, d'une amende de 5 000.

Ordonnance
138(1.2) Le magistrat qui impose une peine à une personne en vertu du paragraphe (1) ou (1.1) peut, en plus de lui imposer cette peine, lui ordonner de se conformer à la disposition qui a été enfreinte ou de présenter une demande en vue d'obtenir la licence pertinente.

MOTION:
THAT proposed subsection 189(2) of the Act as set out on page 6 of Bill 39 be amended by striking out "registered".

French version
IL EST PROPOSÉ de modifier le paragraphe 189(2) de la Loi figurant à la page 6 du projet de loi 39 par la suppression de "courrier recommandé" et son remplacement par "la poste".

MOTION:
THAT proposed clause 190(1)(f) of the Act as set out on page 7 of Bill 39 be struck out and the following clause be substituted therefor:
provide guidelines for the conduct of the affairs of the board;.

French version
IL EST PROPOSÉ de supprimer l'alinéa 190(1)f) de la Loi figurant à la page 7 du projet de loi 39 et de le remplacer par ce qui suit:
f) établit des directives concernant la conduite des affaires du conseil de direction;

MOTION:
THAT proposed subsection 190(1) of the Act as set out on pages 7 and 8 of Bill 39 be amended by adding immediately after clause (h) thereof, the following clause:
establish procedures for the board to follow in mailing notices under subsection 192(2).

French version
IL EST PROPOSÉ de modifier le paragraphe 190(1) de la Loi figurant aux pages 7 et 8 du projet de loi 39 par l'adjonction, aprés l'alinéa h), de ce qui suit:
i) établit des procédures, que doit observer le conseil de direction, régissant la mise à la poste des avis prévus au paragraphe 192(2).

MOTION:
THAT proposed clause 191(2)(b) of the Act as set out on page 8 of Bill 39 be struck out and the following clause be substituted therefor:
(b) recommend the establishment of parking facilities within the zone;.

French version
IL EST PROPOSÉ de supprimer l'alinéa 191(2)b) de la Loi figurant à la page 8 du projet de loi 39 et de le remplacer par ce qui suit:
b) recommender l'établissement de parcs de stationnement dans la zone;

MOTION:
THAT proposed subsection 191(2) of the Act as set out on page 8 of Bill 39 be amended by relettering clause (c) thereof as clause (d) and by adding after clause (b) the following clause:
(c) establish the internal management procedures of the board;.

French version
IL EST PROPOSÉ de modifier le paragraphe 191(2) de la Loi figurant à la page 8 du projet de loi 39 par la substitution, au numéro d'alinéa c), du numéro d'alinéa d) et par l'insertion, aprés l'alinéa b), de ce qui suit:
c) établir ses procédures de gestion interne;

MOTION:
THAT proposed subsection 192(2) of the Act as set out on page 9 of the Bill be struck out and the following subsection substituted therefor:

Notice.
192(2) At least two weeks prior to the meeting under subsection (1), the board shall
(a) notify by mail every business located in the zone of the time, date and place of the meeting;
(b) publish in a daily newspaper having a general circulation in the city a notice stating the time, date, agenda and place of the meeting; and
(c) file with council proof of compliance with the procedures prescribed under clause 190(1)(i).

French version
IL EST PROPOSÉ de supprimer le paragraphe 192(2) de la Loi figurant à la page 9 du projet de Loi et de le remplacer par ce qui suit:

Avis
192(2) Au moins deux semaines avant la réunion visée au paragraphe (1), le conseil de direction:
a) donne, par courrier recommandé, avis des date, heure et lieu de cette réunion à chaque entreprise située dans la zone;
b) publie dans un quotidien ayant une diffusion générale dans la Ville un avis énonçant les date, heure et lieu de la réunion ainsi que l'ordre du jour de celle-ci;
c) dépose auprés du conseil municipal la preuve qu'il a observé les procédures prescrites en vertu de l'alinéa 190(1)i).

MOTION:
THAT Bill be amended by adding immediately after section 8 the following section:

Subsec. 223(7) rep. and sub.
8.1 Subsection 223(7) of the Act is repealed and the following subsection is substituted therefor:

No assessment where certificate.
223(7) Where the tax collector has certified to any person that the taxes on land, a building or a part thereof have been paid, no further assessment shall be made and no additional taxes shall be levied during the year for which the certificate is issued against that land, building or part thereof except with respect to

new construction, additions or repairs completed after the certificate was given and except where a change in ownership or use results in a change in liability to tax.

French version

IL EST PROPOSÉ de modifier le projet de loi 39 par l'adjonction aprés l'article 8, de ce qui suit:

Abrogation et remplacement du paragraphe 223(7)

8.1 Le paragraphe 223(7) de la Loi est abrogé et remplacé par ce qui suit:

Certificat de paiement d'impôts

223(7) Lorsque le percepteur d'impôts a certifié à une personne que les impôts à l'égard de tout ou partie d'un bien-fonds ou d'un bâtiment ont été payés, aucune autre évaluation ne peut être faite et aucun impôt additionnel ne peut être levé, pendant l'année pour laquelle le certificat est délivré, sur tout ou partie de ce bien-fonds ou de ce bâtiment, sauf à l'égard de nouvelles constructions, de rajouts ou de réparations terminés aprés la délivrance du certificat et sauf lorsqu'un transfert de propriété ou un changement d'usage a pour effet de modifier l'assujettissement à l'impôt.

MOTION:

THAT Bill 39 be amended by adding immediately after section 9 the following section:

Sec. 314 am.

9.1 Section 314 of the Act is amended by striking out "officer" and substituting therefor "person".

French version

IL EST PROPOSÉ de modifier le projet de loi 39 par l'adjonction, aprés l'article 9, de ce qui suit:

Modification de l'article 314

9.1 L'article 314 de la Loi est modifié par la suppression de "tel autre agent" et son remplacement par "telle autre personne".

MOTION:

THAT proposed sub-clause 352(1)(f)(ii) of the Act as set out in section 12 of Bill 39 be amended by deleting "riverbanks" and substituting therefor "the banks of rivers".

French version

IL EST PROPOSÉ de modifier le sous-alinéa 352(1)f)(ii) de la Loi figurant à l'article 12 du projet de loi 39 par l'insertion, aprés "rives", de "de cours d'eau".

MR. CHAIRMAN: Okay. The bill, as amended—pass; Title—pass; Bill as a whole—pass.

BILL NO. 64 - THE HIGHWAY TRAFFIC ACT (2)

MR. CHAIRMAN: Bill No. 64, An Act to Amend the Highway Traffic Act (2); Loi Modifiant le Code de la Route (2). Is it the intention of the committee to deal with the bill as a whole, page by page? What is the intent?

Mr. Cummings.

MR. G. CUMMINGS: I have an amendment that is being circulated.

MR. CHAIRMAN: Okay. Shall we deal with the amendment and then with the bill as a whole after that?

Mr. Cummings.

MR. G. CUMMINGS: Mr. Chairman, I'd be prepared to move that we consider the amendment. After it has been dealt with, we can pass the bill as a whole.

MR. CHAIRMAN: Okay, Mr. Cummings, do you wish to move your amendments?

MR. G. CUMMINGS: Mr. Chairman, I move

THAT subsection 5(19) of the Act as proposed by section 1 of Bill 64 be struck out and the following substituted therefor:

Proof of ownership, declaration, certificate of condition.

5(19) Before registering a vehicle the registrar may require proof of ownership and

(a) in the case of a salvage vehicle as defined in subsection 156.1(1), that the registrar may require production of the written declaration required under subsection 156.1(2), and

(b) in the case of a used vehicle, the registrar may require production of a certificate of condition in the form prescribed in the regulations for the purposes of clause 20(1)(a) certifying that as of a date not more than 15 days before the date of the registration the vehicle is in safe condition to be operated on a highway and that it and its equipment are in compliance with this Act and the regulations.

French version

IL EST PROPOSÉ de supprimer le paragraphe 5(19) de la Loi, tel qu'il figure à l'article I du projet de loi 64 et de le remplacer par ce qui suit:

Preuve de propriété, déclaration et certificat d'état

5(19) Avant d'immatriculer un véhicule, le registraire peut exiger la production d'une preuve de propriété et de plus:

a) dans le cas d'un véhicule récupéré selon la définition de ce terme au paragraphe 156.1(1), le registraire peut exiger la production de la déclaration écrite requise en vertu du paragraphe 156.1(2);

b) dans le cas d'un véhicule d'occasion, le registraire peut exiger la production d'un certificat d'état en la forme prescrite par les réglements pour l'application de l'alinéa 20(1)a), lequel certificat atteste qu'au plus tard 15 jours avant la date d'immatriculation le véhicule est en bon état de marche et que ce véhicule et son équipement sont conformes à la présente loi et aux réglements.

Mr. Chairman, the reason for proposing this is to ensure that more of the vehicles that come forward for registry have a safe motor vehicle certificate with them. I am well aware that there have been other occasions, when and in fact, as the Minister has pointed out to me, there have been other sections put on the books that are very similar to this. This amendment is brought into this particular bill because we are looking at salvage vehicles where we have the onus on the person registering the vehicle. It seems to me that it would not be an undue hardship to expect that the person applying for registration of all used vehicles be prepared to comply with conditions that are outlined in this amendment.

MR. CHAIRMAN: The Minister.

HON. J. PLOHMAN: Mr. Chairman, this particular amendment would give effect to a section of the bill that is already in place. In essence, it's redundant, in that there is already a section of the bill which deals with this precise substance of this subject, but it has not been proclaimed. It was brought in as Bill 38 in 1980, as I showed it to the Member for Ste. Rose a few minutes ago, and it is section 20 of The Highway Traffic Act.

So what we have there is a requirement that all persons selling used vehicles would provide a certificate to go along with that vehicle or, precisely what is happening and asked for here, that the person registering the vehicle would have to supply a safety certificate, a safe vehicle certificate. I think it's the latter, as a matter of fact, that it is the person who is actually registering the vehicle who would have to supply a safe vehicle certificate. This is essentially what this amendment that the member is giving is presenting here.

So, in essence, we have the same thing on the books right now. I would suggest to the member that what he should be doing is imploring the government, through whatever means he decides is most appropriate, to proclaim that section if he believes or if his caucus believes it.

But there is really no purpose in moving an amendment that is, in substance, precisely what is already on the books. I, frankly, don't think that this amendment is appropriate because what's on the books being the same has not been proclaimed, precisely because it puts the onus on the buyer of the vehicle, as opposed to the seller of the vehicle, and we would like to look at that issue perhaps in the future.

MPIC is reviewing that whole issue. They may very well come forward with a proposal that is similar in the future that will put the onus on the seller.

MR. CHAIRMAN: On the point of order, Mr. Cummings?

MR. G. CUMMINGS: Mr. Chairman, the Minister is very likely correct that this duplicates what is already on the books. However, by putting the onus on the - I frankly wish to use this vehicle to tell the government and tell the Minister that this is now, I believe, overdue, this type of an amendment to The Highway Traffic Act. As the Opposition critic in Highways, I would therefore encourage the Minister, if he wishes to throw this out, to proclaim the unproclaimed section of the act that he presently has.

HON. J. PLOHMAN: Mr. Chairman, I think the other point is that this is amending a section in an inappropriate way and that this section doesn't deal with this subject matter. It is a different section of the bill that deals with the subject matter and should, in effect, be amended and it's not being dealt with at this time.

MR. CHAIRMAN: We were dealing on a point of order just to make it clear to the committee. The proposed amendment would contravene Beauchesne 773(8)(b), which states that an amendment may not amend sections from the original act unless they are specifically being amended in a clause of the bill before the committee. So the amendment is out of order on those grounds.

Proceeding then to the bill, bill as a whole—pass; Title—pass.

Bill be reported.

BILL NO. 67 - THE OFF-ROAD VEHICLES ACT

MR. CHAIRMAN: Bill 67, The Off-road Vehicles Act, is it the will of the committee to go page by page, or do we want to deal with the amendments and then the bill as a whole? What's the preference?

Would it be agreeable of the committee to deal with the amendments and deal with questions afterwards on the bill as a whole? -(Interjection)- Amendments first and then questions, okay.

The consensus of the committee is to deal with the amendments first, Mr. Scott, when you get them, and then afterwards deal with other questions.

The first amendment, Mr. Scott.

MR. D. SCOTT: Dealing with the amendments first, I would move

THAT the definition of "ceinture de sécurité" set out on page 2 of the French version of Bill 67 be amended by striking out all the words of the definition immediately after the words "subir" and substituting therefor the words "Sont notamment visées la ceinture-baudrier, la ceinture sous-abdominale ainsi que la ceinture composée de l'une et de l'autre".

Et aussi la version française:

IL EST PROPOSÉ de remplacer la derniére phrase de la définition de "ceinture de sécurité" donnée à l'article 1 du projet de loi 67 par "Sont notamment visées la ceinture-baudrier, la ceinture sous-abdominale ainsi que la ceinture composée de l'une et de l'autre".

MR. CHAIRMAN: Amendments—pass.

MR. D. SCOTT: I would move

THAT section 13 of Bill 67 be struck out and the following section be substituted therefor:

Age of registraint.

13 No person
(a) less than 16 years of age shall register an off-road vehicle; or
(b) 16 years of age or more but under 18 years of age shall register an off-road vehicle unless the person has deposited with the registrar the written consent of his or her parent or legal guardian to the registration.

IL EST PROPOSÉ de remplacer l'article 13 du projet de loi 67 par le suivant:

Âge du requérant.
13 Il est interdit:
a) aux personnes âgées de moins de 16 ans de faire immatriculer un véhicule à caractére non routier;
b) aux personnes âgées d'au moins 16 ans, mais de moins de 18 ans, de faire immatriculer un véhicule à caractère non routier sans avoir préalablement déposé auprés du registraire le consentement écrit de ses pére ou mére ou de son tuteur.

MR. CHAIRMAN: Any discussion on the amendment?

MR. D. SCOTT: Should that be registration or registrar? I'm just wondering, on the very last words, should it be "registration" or "registrar"? It didn't seem to read correctly.

HON. J. PLOHMAN: It's correct the way it is.

MR. CHAIRMAN: Okay. That amendment then is passed.
Next amendment.

MR. D. SCOTT: I would move
THAT clause 14(a) of Bill 67 be amended . . .

MR. CHAIRMAN: Oh, pardon me. On the amendment previous, Mr. Cummings.

MR. G. CUMMINGS: I agree with Mr. Scott. That doesn't read right when it says, "or legal guardian to the registration."

MR. G. DUCHARME: It should be just legal guardian and that's it, stop there. "Legal guardian to the registrant" or even "legal guardian," period, one or the other. It should be "registrant."

HON. J. PLOHMAN: Mr. Chairman, if you leave out the prepositional phrase, "of his or her parent or legal guardian," take that out, you just read it "the written consent to the registration." What we are requiring is written consent to the registration.

MR. G. DUCHARME: It's not like you do on a regular automobile where you can get the signature on the bottom level? Would that suffice?

HON. J. PLOHMAN: The function of registration that we're talking about - written consent to that particular process or function.

A MEMBER: But I guess in the French we don't need that.

HON. J. PLOHMAN: We would assume that the translation is correct.

MR. CHAIRMAN: Yes, we're assuming the translation is correct. It doesn't appear at first glance, but I have to assume that there are those who have better translations of this bill than I do. It appears to me that the French version is the version that was being suggested in English. Apparently, there is a problem with the French translation but I guess that'll have to be dealt with with a further amendment.
Can we deal with the amendment as is, subject to further changes?

MR. D. SCOTT: Well, just get that and go on to the next one. We'll just hold on.

HON. J. PLOHMAN: Okay, we're advised that it's correct the way it is.

MR. D. SCOTT: Okay, 13 - pass?

MR. CHAIRMAN: Section 13—pass.
14(a) - Mr. Scott.

MR. D. SCOTT: I would move
THAT clause 14(a) of Bill 67 be amended by adding immediately after "ownership" the words "and insurance".

French version
IL EST PROPOSÉ de modifier l'alinéa 14(a) du projet de loi 67 par l'insertion, aprés "propriété", de "et celle d'assurance".

MR. CHAIRMAN: On the amendment, is there any discussion?

MR. D. Scott: Pass.

MR. CHAIRMAN: Amendment—pass.
Mr. Scott.

MR. D. SCOTT: I would move
THAT section 20 of Bill 67 be amended by striking out "and the limits prescribed in the regulations" and substituting therefor "and the regulations under that Act".

French version
IL EST PROPOSÉ de modifier l'article 20 du project de loi 67 par le remplacement de "aux conditions prévues aux réglements" par "et à ses réglements d'application".

MR. CHAIRMAN: On the amendment, any discussion?
Amendment—pass.
Mr. Scott.

MR. D. SCOTT: I would move
THAT subsection 22(2) of Bill 67 be amended by adding immediately after "officer" the words "or to the registrar".

French version
IL EST PROPOSÉ de modifier la version anglaise du paragraphe 22(2) du project de loi 67 par l'insertion, aprés "officer", de "or to the registrar".

MR. CHAIRMAN: On the amendment, any discussion? Amendment—pass.
Mr. Scott.

MR. D. SCOTT: I would move
THAT subsection 23(2) of Bill 67 be struck out and the following subsection substituted therefor:

When lamps required to be on.
23(2) The operator shall have the lamps with which the off-road vehicle is equipped on
(a) at any time from one-half hour before sunset until one-half hour after sunrise; and
(b) at any other time when visibility is reduced to 60 meters or less.

French version
IL EST PROPOSÉ de remplacer le paragraphe 23(2) du projet de loi 67 par le suivant:

Allumage des phares
23(2) Le conducteur doit allumer les phares dont est équipé le véhicule à caractére non routier:
a) en tout temps entre une demi-heure avant le coucher du soleil et une demi-heure aprés son lever;
b) au cas de visibilité réduite à 60 métre ou moins.

MR. CHAIRMAN: Any discussion? Pass.
Mr. Scott.

MR. D. SCOTT: I would move
THAT subsection 35(2) of Bill 67 be struck out and the following subsection be substituted therefor:

Licence requirement.
35(2) No person shall operate an off-road vehicle directly across a roadway and shoulder unless that person is the holder of a valid driver's licence of a class other than class 7.

French version
IL EST PROPOSÉ de remplacer le paragraphe 35(2) du projet de loi 67 par le suivant:

Permis obligatoire
35(2) Il est interdit de traverser la chaussée ou l'accotement au volant d'un véhicule à caractére non routier sans être titulaire d'un permis de conduire valide de quelque classe que ce soit, excepté la classe 7.

MR. CHAIRMAN: Discussion? Is that agreed? Pass.
Mr. Scott.

MR. D. SCOTT: I would move
THAT subsection 57(2) of the French version of Bill 67 be amended by striking out the word "irréfragable" in the 8th line thereof and substituting therefor the word "réfutable".

French version
IL EST PROPOSÉ de modifier le paragraphe 57(2) du projet de loi 67 par le remplacement de "irréfragable" par "réfutable".

MR. CHAIRMAN: Amendment—pass.
Mr. Scott.

MR. D. SCOTT: I would move
THAT the word "reglementer" in clause 68(d) of the French version of Bill 67 be struck out and the word "régir" be substituted therefor.

And the French version of this, as well as the previous ones that have passed.
IL EST PROPOSÉ de remplacer, à l'alinéa 68d) du projet de loi 67, "réglementer" par "régir".

MR. CHAIRMAN: Pass.
Mr. Scott.

MR. D. SCOTT: I would move
THAT clause 68(q) of Bill 67 be struck out and that clause 68(r) of Bill 67 be relettered as clause 68(q).

French version
IL EST PROPOSÉ de supprimer l'alinéa 68q) du projet de loi 67 et de changer l'indice de l'alinéa 68r) par "68q)".

MR. CHAIRMAN: It sounds pretty controversial. Is that passed or not? Standing vote? Pass.
Mr. Scott.

MR. D. SCOTT: I would move
THAT section 71 of Bill 67 be struck out and the following sections be substituted therefor:

Repeal.
71 The Lieutenant Governor in Council may by proclamation repeal all or any part of The Snowmobile Act, chapter S150 of the Continuing Consolidation of the Statutes of Manitoba.

Commencement of the Act.
72 This Act comes into force on a day fixed by proclamation.

French version
IL EST PROPOSÉ de remplacer l'article 71 du projet de loi 67 par ce qui suit:

Abrogation
71 Le Lieutenant-gouverneur en conseil peut, par proclamation, abroger tout ou partie de la Loi sur les motoneiges, chapitre S150 de la Codification permanente des lois du Manitoba.

Entrée en vigueur
72 La présente loi entre en vigueur par proclamation

MR. CHAIRMAN: On the amendment, Mr. Plohman.

HON. J. PLOHMAN: Yes, just on 71, that is to deal with the issue of proclamation of portions of this act in order to ensure that there's no conflict to repeal certain sections of The Snowmobile Act until such time as the whole act comes into force. It deals with the question raised by the members previously.

MR. CHAIRMAN: Pass. We have one further page of amendments. Perhaps we can deal with those. I believe . . .

HON. J. PLOHMAN: We want to look at them first, see where they came from.

Spark arresters - by the delegation, I indicated that we had sufficient leeway in the regulation to deal with this issue. However, it seems that someone decided that there was maybe a better way to do it.

MR. CHAIRMAN: Okay.

Mr. Scott, you have the better way.

MR. D. SCOTT: I suggest that these are good amendments and I shall therefore move them.

THAT section 24 of Bill No. 67 be struck out and the following substituted therefor:

Mufflers

24(1) Every off-road vehicle shall be equipped with a noise muffler in good working order which shall be in operation while the engine is running to prevent excessive or unusual noise and no person shall equip, operate or permit the operation of an off-road vehicle that has a muffler cut out, straight exhaust, gutted muffler, by-pass or any device which has the effect of by-passing or reducing the effectiveness of a noise muffler.

Spark arresters

24(2) Every off-road vehicle shall be equipped with a spark arrester in good working order which shall be in operation while the engine is running to prevent the possibility of a fire hazard to the terrain.

French version

IL EST PROPOSÉ de remplacer l'article 24 du projet de loi 67 par le suivant:

Silencieux

24(1) Le véhicule à caractére non routier est équippé d'un silencieux en bon état, fontionnant de façon continue lorsque le moteur tourne, afin d'eviter toute émisson sonore excessive ou anormale. Il est interdit, d'une part, d'equiper un véhicule à caractére non routier d'un silencieux à clapet d'échappement libre, d'un silencieux évidé, d'un silencieux de fantaisie, d'un conduit de dérivation ou d'un autre dispositif ayant pour effet d'anéantir ou de réduire l'efficacité du silencieux, et, d'autre part, de conduire un tel véhicule ainsi équipé ou d'en permettre la conduite.

Pare-étincelles

24(2) Le véhicule à caractére non routier est équipé d'un pare-étincelles en bon état, fonctionnant lorsque le moteur tourne, afin d'éviter les risques d'incendie.

MR. J. ERNST: Could I explain, once you finish it.

MR. CHAIRMAN: I recognized Mr. Ernst and I'll recognize . . .

MR. J. ERNST: I'm prepared to wait, Mr. Chairman. I have a question on 24(2), but if you want to wait till everything else is completed.

MR. CHAIRMAN: Do you want to move the further motion and we'll deal with those two motions?

MR. D. SCOTT: I move

THAT clause 68(f) of Bill No. 67 be amended by inserting "24(1)," after the word "sections" and before the number "30" therein.

French version

IL EST PROPOSÉ de modier l'alinéa 68(f) du projet de loi 67 par l'insertion, avant "des articles", de "du paragraphe 24(1) ainsi que".

MR. CHAIRMAN: So we'll deal with the combined motions, which is a motion now.

MR. J. ERNST: I'm prepared to hear the comments of the Minister prior to my asking a question. It may resolve it.

HON. J. PLOHMAN: As the members will recall, on Tuesday evening, we had representations made by the Snowmobile Association, which outlined concerns about the requirement for spark arresters on certain vehicles that aren't equipped with them. By splitting up mufflers and spark arresters into two separate sections, this will enable us to include an exemption for spark arresters in those vehicles that don't have them by regulation. If they were all lumped in together, we couldn't do that.

MR. CHAIRMAN: Okay, the motion is agreed.

Back to the bill as a whole - Mr. Ducharme.

MR. G. DUCHARME: Page 11, 9(5), could the Minister tell me why you cannot transfer the plates over to the spouse as you do with an ordinary automobile? I know you don't do it now, but why not?

HON. J. PLOHMAN: I'm not convinced that we couldn't have that provision in here. However, at the present time, no, it is not allowed by this legislation as it is with a motor vehicle. I guess the rationale was that with the motor vehicle we're dealing with essential transportation and so, therefore, there's a need to transfer it over quickly; whereas, with an off-road vehicle, we're not dealing with the same sort of urgency insofar as reregistering these vehicles by a spouse or someone else who is the beneficiary after a person is deceased.

Mr. Chairman, I'm also advised that the existing snowmobile act makes no provision for that either. What the member is asking for would be, I guess, an improvement on the existing snowmobile act because that's what we're doing with this off-road legislation generally, but it isn't one that we have an amendment for at this time. I don't have any strong disagreements with it, but I don't think it's essential either.

MR. G. DUCHARME: My main concern is that we've now encompassed more vehicles into this so-called act. You've got now encompassed vehicles that are out at the lakes, they are out everywhere, all over the place.

I felt that this would now be a good time to do it so that people could change without going through the total process of going back out to the lake. Say a wife is in town and these vehicles are now out at the lake or at their seasonal residence or that, well, now they have to go through the whole process of changing their plates and everything else; whereas, if you had it like an automobile, they could do it in town now and they'd still be covered wherever their vehicle is. That's my concern, because you're now getting to motorcycles and off-road vehicles that you weren't involved in with the snowmobiles before.

HON. J. PLOHMAN: Mr. Chairman, they couldn't drive those vehicles into town in any event on the streets, unless they want to highball it across the terrain, in the ditches, and so on. So they would have to bring in the plates . . .

MR. G. DUCHARME: That's what I'm saying.

HON. J. PLOHMAN: . . . and then simply reapply for a new registration. What is the difficulty?

MR. G. DUCHARME: What I'm saying now is they have to go through that process whereas, if the mother or somebody was in town, she could go in, do the estate to spouse and they could be still operating legally wherever the vehicle is. I'm just saying that now that you've encompassed a lot of vehicles, I think that maybe it would be a good time to look at it.

HON. J. PLOHMAN: I'm not saying it would not be desirable, Mr. Chairman. They do have 14 days though to accomplish that under this act. So it does give them enough time to come in and to bring the plates in. It's not like with a motor vehicle where you couldn't even drive the thing into town to go and do the transaction. You're not immobilized when your off-road vehicle is not available.

MR. G. DUCHARME: Okay. I just wanted to get my . . .

HON. J. PLOHMAN: Yes. I think it's a worthy point. We don't have any - we could consider it in the future.

MR. G. DUCHARME: Page 13, I was wondering whether - and I'd asked the question before - under your liability, because we're concerned about the passengers and injuries, is the compulsory insurance going to require passenger hazard under that section? You've got bodily injury. You do not mention passenger hazard under your compulsory insurance program.

HON. J. PLOHMAN: What section is that?

MR. G. DUCHARME: Under 20, page 13.

HON. J. PLOHMAN: I'm advised it's third party, not passengers.

MR. G. DUCHARME: One more last question. Will my automobile now, under insured motorist, be covered when I hit an off-road vehicle who's not insured?

HON. J. PLOHMAN: Mr. Chairman, we had discussed this somewhat after the member raised it the other day.

I just want to, first of all, clarify the issue of the passenger. If the third-party liability insurance policy does not specifically exclude passengers, then they are covered under third-party liability insurance, I'm advised by Mr. Kapoor from MPIC.

As well, in terms of underinsurance, I'm advised that, unless specifically excluded, it would be included under that, unless the policy specifically named other than the motor vehicle. Right now the policy simply covers involvement with another motor vehicle. It would have to specifically say, outline that it covers anything you might hit in that policy in order for that underinsurance to be valid. It won't automatically happen.

MR. CHAIRMAN: Is there any further discussion on this?

The bill as a whole—pass.

The brings to a finish the business before the committee.

Committee rise.

COMMITTEE ROSE AT: 11:25 p.m.