



Second Session - Thirty-Fifth Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE

on

MUNICIPAL AFFAIRS

40 Elizabeth II

*Chairman
Mrs. Louise Dacquay
Constituency of Seine River*



VOL. XL No. 1 - 10 a.m., TUESDAY, JULY 9, 1991



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

LIB - Liberal; ND - New Democrat; PC - Progressive Conservative

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	LIB
ASHTON, Steve	Thompson	ND
BARRETT, Becky	Wellington	ND
CARR, James	Crescentwood	LIB
CARSTAIRS, Sharon	River Heights	LIB
CERILLI, Marianne	Radisson	ND
CHEEMA, Guzar	The Maples	LIB
CHOMIAK, Dave	Kildonan	ND
CONNERY, Edward	Portage la Prairie	PC
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	ND
DOER, Gary	Concordia	ND
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	LIB
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
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EVANS, Leonard S.	Brandon East	ND
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
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GAUDRY, Neil	St. Boniface	LIB
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
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HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	ND
LAMOUREUX, Kevin	Inkster	LIB
LATHLIN, Oscar	The Pas	ND
LAURENDEAU, Marcel	St. Norbert	PC
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MANNES, Clayton, Hon.	Morris	PC
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McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
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NEUFELD, Harold, Hon.	Rossmere	PC
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PENNER, Jack	Emerson	PC
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PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	ND
REIMER, Jack	Niakwa	PC
RENDER, Shirley	St. Vital	PC
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ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	ND
STEFANSON, Eric, Hon.	Kirkfield Park	PC
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VODREY, Rosemary	Fort Garry	PC
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WOWCHUK, Rosann	Swan River	ND

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS**

Tuesday, July 9, 1991

TIME — 10 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mrs. Louise Dacquay (Selne River)

ATTENDANCE — 11 QUORUM - 6

Members of the Committee present:

Hon. Messrs. Downey, Ducharme

Mr. Carr, Mrs. Carstairs, Mrs. Dacquay, Ms. Friesen, Messrs. Helwer, Penner, Rose, Sveinson, Ms. Wowchuk

WITNESSES:

Rick Borotsik, Mayor, City of Brandon

Noel Pritchard, R.M. of Victoria Beach

Rochelle Zimberg, Manitoba Association of Urban Municipalities

MATTERS UNDER DISCUSSION:

Bill 18—The Municipal Amendment Act

Bill 19—The Local Authorities Election Amendment Act

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Madam Chairman: Order, please. Good morning. Will the Standing Committee on Municipal Affairs please come to order. This morning the committee will be considering Bill 18, The Municipal Amendment Act; and Bill 19, The Local Authorities Election Amendment Act.

It is customary to hear briefs before the consideration of bills. Is that the will of the committee?

Some Honourable Members: Agreed.

* (1005)

Madam Chairman: Agreed. We have a list of presenters wanting to speak to the bills, both 18 and 19, this morning. The list reads as follows: Bill 18, The Municipal Amendment Act, Mr. W. Ian Ford, City Clerk, and Mayor Rick Borotsik from the City of Brandon; and secondly, Noel Pritchard from the R. M. of Victoria Beach.

Bill 19, the same first two presenters, Mr. W. Ian Ford, City Clerk, and Mayor Rick Borotsik, the City

of Brandon; secondly, Rochelle Zimberg, Manitoba Association of Urban Municipalities. I understand Rochelle also will make a couple of comments on Bill 18 when she makes her formal presentation on Bill 19.

Does the committee wish to impose time limits on the presentations?

Hon. James Downey (Minister of Rural Development): Madam Chair, I would think we would not have to with the numbers that we have presenting today. However, we will have to read the list carefully. I see the mayor of Brandon is here. We may have to impose a 40 minute, as every other member of the Legislature would have imposed upon them. However, he is usually pretty good, and I do not think we would have to impose any time limits this morning.

Bill 18—The Municipal Amendment Act

Madam Chairman: The honourable Minister of Rural Development wishes to make a brief opening statement.

Hon. James Downey (Minister of Rural Development): Madam Chair, just a brief statement before the presenters. I just want to welcome them here this morning and say that I will be introducing some minor amendments to Bill 18 (The Municipal Amendment Act; Loi modifiant la Loi sur les municipalités), one which is maybe not so minor, but it is following some of the requests that have come forward from some of the clerks.

I am interested to hear what the presenters have to say and will respond afterwards. Thank you.

Madam Chairman: I would now ask Mr. Ford and Mayor Rick Borotsik to please step forward with their presentation.

Mr. Rick Borotsik (Mayor, City of Brandon): Thank you, Madam Chairman, members of the committee.

First of all, I would like to thank the Legislative committee for giving us the opportunity to make presentation to the proposed amendments to Bill 18.

I would also like to suggest, Madam Chair, that the number of people making presentation is not indicative of the importance of this particular act. The Municipal Act, as you are well aware, is the act by which all municipalities outside of the city of Winnipeg are controlled, if you will, by that term, and I am a little concerned and certainly disconcerted that there is not more representation with respect to the amendments.

I would also like it known and recorded that the amendments are a good first step, Madam Chair, but we have been dealing with the provincial government over the last numbers of months, particularly, and I am sure years before my term, with a complete rewrite to The Municipal Act. So I would ask that that certainly be recorded. This is a good first step, but it is not the final step.

A number of the amendments being made to the act are of a housekeeping nature and, in this regard, you have our full support. However, we do question some of the other changes, and it is our intention in this presentation to make you aware of the concerns we do have with those sections of the bill.

In addition to our comments on Bill 18, we will also be asking your committee to consider an additional amendment to the act. This is minor in nature and would, in our opinion, assist all municipal councils in the administration of their affairs.

First of all, Madam Chair, the statutory provisions on disqualification and forfeiture of council seat: The first area of concern that we have with the draft legislation is found in the amending provisions that are set out in Section 4 of Bill 18. Enactment of this section of the bill as it is currently written would, in our opinion, result in both positive and negative changes being made to Section 47 of The Municipal Act.

* (1010)

Section 4, Clauses (a) and (c): The amendments proposed in Clauses (a) and (c) of Section 4 will result in statutory reference being made in the act to the disqualification of "provincial judges" and "members of the Legislative Assembly" from sitting, acting or remaining a member of a municipal council. This addition of two new categories to the current listing of persons disqualified under the act from holding elected office will be seen as positive changes to the legislation and can be easily supported by all municipal officials.

Section 4, Clause (b): Unfortunately, the proposed amendments in Clause (b) of this section is a different matter. Acceptance of this provision would result in the removal from the legislation of any reference to certain specific categories of persons being disqualified from holding public office.

The removal of such restrictions would allow municipal employees to be nominated and elected as a member of their municipal council. We do not see this as a positive change being made in the legislation and would suggest that an employee duly elected would be in a position of conflict of interest as no person can serve two masters.

An elected member of a municipal council is under a strict duty to act at all times in the best interest of the municipality and the electors who place their trust in the member of council. No person should place himself or herself in a position where personal interest is, or may be, in conflict with a public duty.

A member of a municipal council is an agent or trustee accountable to the municipality whose affairs he or she administers, and accordingly his or her duties are of a fiduciary nature. The legal advice we have received is that no person entrusted with duties of a fiduciary nature may enter into any transaction in which his or her personal interest may be in conflict with the interest of the principal, in this case, the municipal corporation.

We are aware that a number of existing concepts and principles in election law are now being revised across Canada in light of the Canadian Charter of Rights and Freedoms, and that there has been a concerted attack on various statutory provisions respecting qualifications for voting and for running for elected office. However, it is also our understanding that those cases largely concern the right to vote in federal and provincial elections, and any decision might be of little value to someone attacking municipal election legislation.

If the current restriction on municipal employees is removed from Section 47 of the act, we will become the only province or territory in Canada to allow this to occur. The only exception to this restriction is found in Ontario and Saskatchewan, where municipal employees are allowed to be elected if they first obtain a leave of absence from their employer, and this must be done prior to seeking nomination.

If Clause (b) of Section 4 is not deleted from Bill 18, we would request that at least an amendment be made to this clause to ensure municipal employees must first obtain a leave of absence from their duties with the municipality—a fairly straightforward request, the fact being that the city manager of the City of Brandon can now also hold the position of mayor, and I would consider that to be a direct conflict. I understand that he is also, at this point in time, looking at that very aspect. I think it is the salary that has something to do with it.

Nominations and term of office for elected civic officials: Our next area of concern is found in Sections 5 and 8 of Bill 18. These amendments to the act relate to the statutory provisions that establish a term of office for all members of a municipal council, and the dates on which nomination papers may be filed by election candidates.

We recognize that these changes being proposed in Bill 18 were intended to improve the current legislation. Unfortunately, we believe this goal was not achieved.

Section 5: The amendments contained in Section 5 of the bill would establish new provisions regarding the term of office for municipal councillors. Acceptance of this change in the legislation will cause more problems than it will resolve.

It has been indicated by the Department of Rural Development that the proposed amendments to Section 52 of the act are of a housekeeping nature and were intended to clarify when a term of office begins and when it ends. Apparently the problem some people are having with the current legislation is in the interpretation of this section as it relates to Section 115 of the act, which establishes the date on which the inaugural meeting of the new council is to be held after the general election.

The current wording of Section 52 states that the term of office for a newly elected member of council commences 14 days after the general election, which is always held on the fourth Wednesday in October. Provision is also made in this section for the term of office of the previous council to expire on that date.

This section of the act also includes the statement that these provisions are "subject as herein otherwise provided." Unfortunately, there is no reference anywhere in Section 52 of the act that allows this term of office to begin at an earlier date.

A person would therefore assume that the three-year term for members of a municipal council would begin and end on the 14th day following the election. However, the provisions of Section 115 of the act allows the new council to hold its inaugural meeting earlier than the date established under Section 52.

Section 115 of the act provides authority for the new council to hold its inaugural or organizational meeting not earlier than seven days, nor later than 14 days, after the election. This section therefore is in conflict with the provisions of Section 52 of the act.

Unfortunately, the changes being proposed in Section 5 of the bill will not clarify nor improve the problem of interpretation between these sections of the act. It will, however, cause an additional problem for the larger urban municipalities in Manitoba. It will have a major impact in some years in the time available for a newly elected municipal council to prepare for its organizational meeting following the civic election. This is something that was not taken into consideration in the drafting of the amending legislation, and we will be addressing this concern in our comments on Section 13 of the bill.

* (1015)

The problem of interpretation could be resolved very easily by amending subsections 52(2) and 52(3) of the act to read: "Subject as herein otherwise provided for in Section 115 of the act . . ." We would ask your committee to consider this minor amendment to Bill 18.

Section 8: Under the current provisions of the act, the returning officer of a municipality is required to receive nomination papers from election candidates between the hours of 10 a.m. and 2 p.m. on the first Wednesday of October in the year of a general election. This allows a period of three weeks between nomination day and the election day which is held on the fourth Wednesday of October.

The problem with this legislation is that it established this as the only date and time in which the returning officer could lawfully accept these documents from candidates or their agents. The amendment being proposed in Section 8 of the bill was intended to remove these very tight restrictions and allow for the filing of nomination papers over an extended period of time.

Again, unfortunately, the current wording of the amending clause in Section 8 will not achieve this goal. It would require nomination papers to only be received by the returning officer in the seven days before an election, and this is clearly not the intent of the amendment.

It is our understanding that the Minister of Rural Development (Mr. Downey) is aware of this problem and that he will be introducing an amendment prior to the enactment of this bill. The reason for mentioning this error is to ensure that it is corrected by your committee and to indicate our full support of the intended changes to the legislation.

Remuneration of members of council, a very important clause. Please listen on this one.

Section 11(2): The amendments being proposed in subsection 11(2) of the bill will establish specific authority of all municipalities to grant payments to its elected officials for certain expenses incurred inside the municipality. We are pleased to see legislative changes that allow urban municipalities this additional authority.

Unfortunately, the person responsible for drafting this amendment did not provide for the striking out of the current legislation, the references to subsection 1 and substituting therefore the words, "Section 109." This further amendment in Section 11(2) of the bill is required due to subsection 110(1) of the act being renumbered as subsection 109(2).

We wish to indicate our full support for this change to the legislation. This particular change to the legislation is dealing specifically with the urban municipalities outside of the city of Winnipeg. Small rural municipalities have always had the authority to allow these types of charges by their councillors but not any urban municipality such as Brandon or other urban centres outside of the rural municipalities.

Statutory provisions on meeting of municipal councils: The amendments to The Municipal Act that are being proposed in Sections 13 and 14 of this bill will cause changes to be made in the statutory requirements for municipal councils to hold organizational meetings and will result in new legislation that restricts the authority of an outgoing council after election day.

The enactment of the amending legislation in Section 13 of the bill would present the City of Brandon with a major problem. In some years it would be impossible for our council to comply with this legislation, and we would suggest that other

urban municipalities would be faced with the same situation.

Under the current provisions of the act, we are required to hold an annual meeting each year for the purpose of organizing ourselves for the following 12 months. This statutory requirement will not be changed by this amendment nor has it caused any problems in the past. A term of office will continue to be broken into three separate sessions of council.

What will change is the date in which the organizational meeting must be held each year, and this will cause a major problem in some of the years in which a general election is held. You will recall that we made reference to this concern in our comments on Section 5 of the bill.

The current legislation allows a newly elected council the option of holding its inaugural meetings not earlier than seven days nor later than 14 days after the civic election. We believe this provision provides each council with the necessary authority to make its own decision as to when this meeting will be held and that it grants everyone sufficient time to prepare themselves for assuming public office.

However, Madam Chairman, the amendment being proposed in Section 13 of the bill would require the new council to hold its first meeting the week prior to the first Tuesday of November. This would cause the time period between election day and the date on which the inaugural meeting must be held to fluctuate due to the changes that occur each year in the calendar.

* (1020)

This change would require a municipal council in some of the election years to hold its inaugural meeting on the Thursday or Friday of the same week as the civic election that was just simply held on Wednesday previous. We do not believe this situation was taken into consideration at the time the bill was prepared and would note for your information that this exact problem would occur at the time of the general election for the city of Brandon in 1992.

It would be impossible for any newly elected council to hold its inaugural meeting within this limited amount of time, and the statute should not require any municipality to do so. We would, therefore, ask your committee to delete this amendment from Bill 18. The request, very simply, Madam Chairman, is you cannot mix relative and

absolute dates when you are dealing with this particular issue of election dates and inaugural meetings. You cannot have relative and absolute date mixes. Do one or the other and we will be able to deal with it.

Section 14: The statutory amendment that is being proposed in Section 14 of the bill will establish new provisions in the act that will seriously restrict the authority of an outgoing council between the time of the election and the commencement of the term of office of the new council. It would appear the intent of the new legislation is to control and limit the kind of expenditures the old council may make after election day.

However, the question that must be asked is whether the restrictions described in Section 14 are really needed. We believe the provisions as they are set out in this amendment will cause some hardship in the ongoing activities of a municipal corporation.

An example of the type of problem that could develop as a result of this amendment would be when a full council is elected by acclamation on nomination day. This would result in the financial activities of the municipality being seriously restricted from the first Wednesday in October until the inaugural meeting which is held in November.

Fortunately, the chance of this occurring in the City of Brandon is extremely rare but it could happen very easily, and has happened, in smaller municipalities. We would, therefore, ask that your committee consider this amendment very carefully before enacted as legislation.

In this particular section the intent is to restrict the outgoing council, but what in effect is happening is you are turning the outgoing council into a very lame duck council. Restricted decision-making capabilities from the time of the election to the time of the new council coming in could quite well put the municipality in some severe hardship with respect to money bills, bylaws, monies to be expended that were not anticipated in budgetary meetings, as well as disciplinary aspects. Under The Municipal Act discipline has to be dealt with by the municipal council, should there be a disciplinary issue within those time frames of the old council going out and the new council coming in. There are also time frames restricting disciplinary action with employees. We may well fall within a severe period there where we may not be able to deal with

disciplinary action in the City of Brandon, particularly. So we wish that you would look seriously at that.

We appreciate the fact that there are checks and balances. We appreciate the fact that some old councils going out may well wish to enact some legislation that the new council may not wish, but, except for the fact, that is not usually the case. The case is usually one where the old council will allow the new council to make those decisions on their own in that time frame. So the checks and balances may be worse certainly than what is happening right now.

Statutory provisions restricting grants of money: There has always been a statutory provision in the act that established limited authority for municipalities to make financial grants. The amendment proposed in Section 20 of Bill 18 would allow for this authority to be expanded with more discretion being given to municipal councils on such matters.

Section 20: The authority for the municipal council to make financial grants is found in Section 380 of the act. Under the current legislation, grants of money can only be made to those persons, groups or organizations that meet the qualifications as set out in the act.

The amending legislation that is set out in Section 20 of the bill would cause this to change quite dramatically. It would appear that the province is prepared to let councils make grants for any purpose that in the opinion of the council is in the best interest of the municipality.

There is a real need for the authority granted under this section of the act to be improved and expanded. A number of the current grants being made by many of the municipalities do not meet the qualifications of Section 380. An example of this would be monies provided by the City of Brandon to Crime Stoppers programs in the city.

* (1025)

However, we do have a concern that the amendment to this section of the act might lead some municipalities to believe that grants could be made for the purpose of enticing businesses to establish in their communities. This would only result in a bidding war between neighbouring municipalities and we believe that this should not be allowed.

In dealing quite simplistically we do thank you for the autonomy and the authority that you are preparing to give us in this particular section of the act. As a municipality, we believe that we should have some autonomy in the grants we do provide, and that is dealt off quite well, being that it is being in the best interest of the municipality.

Interpretation of this section of the amendment, however, would indicate that municipalities would now have the right, from industrial development, to allow grants in lieu of taxes, and to allow other types of incentives to industry and business coming into the communities. This, in most cases, in most municipalities, would be fine, however, I think you will find that a lot of the municipalities will be competing against each other and it will be to the detriment of the municipality.

There is another clause later on in 380 that does specifically identify the grants in lieu of taxes, as well as incentives, but I would rather prefer to see this specifically mentioned in this particular clause. It would just simply have to say "with the exception of" direct to offset the taxation for industrial purposes. So there is a minor change to the draft legislation that could certainly solve all of our concerns.

Licensing provisions for trades and occupations: An area of major concern to the City of Brandon is the limited authority granted under The Municipal Act for the municipalities to regulate and control certain business occupations within their jurisdiction. The amending legislation that is set out in Sections 28, 29 and 30 of Bill 18 attempts to recognize the need for change in this area of municipal responsibility.

Section 28: The amendment that is proposed in Section 28 would allow municipalities to increase the amount they charge for licensing fees to a maximum of \$150. It would appear that the province does recognize the need to increase this type of fee but, unfortunately, the maximum amount to be authorized under this legislation is far too low.

All of the larger urban municipalities across Canada, including the City of Winnipeg, have statutory authority to establish considerably higher fees than the amount proposed in Section 28 of this bill. Their use of this authority has not been detrimental to the businesses located in their jurisdiction.

We believe all municipalities should have similar authority to establish a higher fee schedule in order

to ensure that all administrative costs involved in the licensing function can be recovered. The cost for the administration and enforcement of licensing bylaws is considerably high in most urban centres and we believe that property owners should not be required to assume any portion of this expenditure.

An example of this type of problem we face is in the licensing of transient traders. These types of businesses are extremely profitable and they remove from our local economies each year a considerable amount of money.

Local business people find it extremely difficult to compete with businesses that can come into my community each year at very low cost. They remind us constantly that they pay business taxes, property taxes and employ local people to work for their stores.

These are only a few of the many reasons why municipalities need the authority to establish higher licensing fees. We believe the legislation should be further amended to allow for the maximum fee to be increased to the sum of at least \$1,000.

On the trip in—and it is a long trip from Brandon to Winnipeg, I am sure most of you have made that trip—we had an opportunity to discuss this very clause. It was suggested at that time that the sum of \$1,000 should be changed to the sum of \$2,000. There are other municipalities throughout the country of Canada, and I am familiar with quite a number of them, that have the ability to change.

Now that is a maximum amount of \$1,000 or \$2,000. That does not mean that the municipalities will automatically set their fee structures or rate structures at that maximum amount. As a matter of fact, that does not historically happen. What we are doing now—you are unfortunately tying our hands, in the City of Brandon particularly, by allowing such a small amount of \$150 for transient traders licence fees. The City of Winnipeg is substantially higher, and it does allow them to charge a realistic fee for people coming into the community and selling their product at a fairly reduced rate.

So please give us the ability to compete. Give us the ability as a municipality to set a fee structure that is realistic. Give us a maximum amount of \$1,000 to \$2,000 and let us as a municipality dictate as to what our fee structures will be for those transient traders.

Section 29: The amending legislation that is being proposed in Section 29 of the bill will establish

new licensing provisions that will allow municipalities to control the mining and removal of aggregate within their jurisdiction. Unfortunately, we are still in the process of reviewing this legislation and cannot at this time provide any comments as to the effect it may have on the City of Brandon. However, to reiterate, we are pleased to see this type of expanded authority being given to municipalities. It shows that the province is serious in granting more autonomy to municipal governments and this is a positive step in the right direction.

* (1030)

Section 30: The change in the licensing provision that is set out in Section 30 of Bill 18 would allow for an increase to be made in the fee charged by municipalities in lieu of business tax. We do not have a bylaw enacted under this authority of the act and therefore find it difficult to speak on this proposed change in the legislation. However, we would suggest that the amount of \$100 is very low and probably should be increased to an amount that is more realistic, probably \$500.

Statutory provisions for issuance of tax certificates: The legislative amendments that are being proposed in Sections 32 and 33 of the bill relate to the issuance of tax certificates by a municipality.

Section 32: We have been advised by our city treasurer that the changes set out in Section 32 of the bill are intended to improve the information currently shown on a tax certificate and that this will assist municipal administrators in the issuance of such documents.

Section 33: The amending legislation that is being proposed in Section 33 is required as a result of the changes being made to the act by Section 32 of the bill.

However, it was suggested by our city treasurer that consideration should be given to include on Form 22 specific reference to the fact that property may be classified as farm property under Section 17 of The Municipal Assessment Act and that if the use of the land changes, the municipality is entitled to receive a tax payback of up to a maximum of five years for the differences in taxes levied if it was not classified as farm property.

This type of general statement could be easily included as a separate paragraph on Form 22 and would ensure that the municipality did not lose the

right to collect the difference in property taxes. It would also inform the purchaser of the land that additional taxes may be levied against the property if the land is used for a different purpose.

Not very many months ago, I sat before a similar committee such as this in dealing with the assessment review process. This was one of the areas that we were very pleased to have dealt with in that assessment review, where farm land within the city of Brandon or the city of Winnipeg or any other urban centre can be assessed at farm values. However, should they be used for a different purpose, an industrial purpose or a housing purpose, the municipality would have the right to go back five years and charge the difference in assessment and regain some of the potential that was sitting in that property within the city boundaries.

What we are asking for here is a simple amendment that would allow us, through the tax certificate, to red flag that particular issue so that we do not lose the opportunity of recovering some of those taxes, lost, if you will, or those potential taxes that we may be able to recover. So it is a minor amendment and it does fit well with the assessment review process that we just went through.

Earlier in our presentation, it was indicated that we would also be asking your committee to consider an additional amendment to The Municipal Act. It is only a minor change in the legislation, but it does affect our municipality in a very major way.

Subsection 306(3)(a): It has been brought to our attention that there is an error in subsection 306(3)(a) of the act. We believe this to be a misprint, but it has fundamentally restricted our ability to enforce the city's Maintenance & Occupancy Bylaw. This subsection reads as follows:

"Where upon inspection an enforcement officer finds any dwelling

(a) that does not comply with the standards established under subsection 301(2), or under subsection (2);"

In the view of our solicitor the reference to "subsection (2)" should read "subsection (1)."

It would appear this error occurred at the time the statutes of the province were re-enacted. The predecessor to the present 306(3) was 298(4)(a). It read as follows:

"Where upon inspection an enforcement officer finds any dwelling

- (a) that does not comply with the standards established under subsection (2) of Section 295, or under subsection (2) of this section"

The ability to enact our Maintenance & Occupancy Bylaw was formally authorized by subsection 298(2). It is now authorized by subsection 306(1). It seems that in the course of renumbering the sections of the act there was a failure to identify the need to change subsection (2) to subsection (1).

It seems very minor, but unfortunately with that misprint of subsection (2) and subsection (1) we, in the City of Brandon, can no longer enforce our Maintenance & Occupancy Bylaw.

Bureaucratically, we are told that we will not be able to issue any more orders under Maintenance & Occupancy; politically, we will be issuing orders but, unfortunately, we will not be able to fall back on The Municipal Act to help us enforce those orders.

The interpretation of this section now prohibits our inspectors from issuing orders under the Maintenance & Occupancy Bylaw. We have instructed our inspectors to continue issuing letters under this bylaw, but if an individual refuses to comply it appears that our hands will be tied as far as going in and cleaning up the property and having the courts support us.

This problem was brought to the attention of the Department of Rural Development in February of this year but, unfortunately, it did not arrive in time to be included in Bill 18. We would therefore ask your committee to include this amendment in the bill as we are now faced with an impossible situation.

It is a friendly amendment and again, unfortunately, I realize you are not going to be endorsing any further amendments to this particular bill. However, it is a friendly amendment and simply an error that will be corrected.

In summary and conclusion, I would once again like to thank the committee for hearing us. I would like to also reiterate my opening comments and the fact that I am disappointed that there are not more members of the municipalities that are controlled by The Municipal Act here to make representation before you.

I should also inform you that a number of months ago the City of Brandon hosted and invited all major

urban centres of over 5,000 population—we had a meeting in Brandon, and it was at that meeting that all of the urban centres indicated their support for changes to The Municipal Act, support not only from the amending process that we are dealing with right now but support for a complete rewrite of the act.

It is an old act. It is archaic in a lot of ways. We can deal with a number of situations and issues that we as the City of Brandon would like to see changed, but we will not do that at this time because we recognize you cannot make those changes at this time. What we would ask is that when you do anticipate changes and a rewrite to the act, that you do sit down and that you do talk to the major urban centres, particularly, for changes that they may wish, as well as the Manitoba Association of Urban Municipalities.

So, ladies and gentlemen, thank you very much for your time. Those are the proposals that we have with the proposed amendments before us right now. I would be more than happy to answer questions. Any questions I cannot answer, Mr. Ford and Mr. Backman will be more than happy to. That was less than 40 minutes.

Madam Chairwoman: Are there questions of Mayor Borotsik?

Mr. Edward Helwer (Gimli): Yes, Madam Chairperson, I just have a question on page 8 on Section 28 there. Your fee, you want to raise that from \$1,000 to \$2,000. The reason for this is you want to make up for the fact that you have a business tax to your own businesses in Brandon and also that the commercial property has a mill rate for education that is twice the residential rate. To go from \$150 to \$1,000 is a fairly substantial increase—

Mr. Borotsik: It is even more so, Mr. Helwer, to go from, I am sorry, from \$150 to \$2,000. It is larger. I am sorry to interrupt and if you just want to continue.

Mr. Helwer: I just want to get at the reason why you think you need \$2,000? We realize what you are trying to do there, but why do you need that type of an increase?

Mr. Borotsik: It is not an increase as such, Mr. Helwer. What it is, is it gives the ability and the authority to the municipalities to go to that level. We say within the preamble that we would like to be able to develop our own rate structure.

We may well, and as a matter of fact, I am sure we would, as the City of Brandon, probably set the levels at \$500 or \$400 or \$300, whichever is realistic

and what the market will bear, to be perfectly honest. However, it does give us the ability to go from zero to a realistic number, and it may fluctuate. It may well be that some of those fee structures will be higher for certain businesses and transient traders coming into the community than others.

For example, you may well want somebody who is coming in with a major electrical firm or a plumbing firm to be able to deal with a lower fee. But if you are looking at—and I will be honest with you, this is basically looking for the retailer. We have in the city of Brandon right now a number of retailers that come out of the city of Winnipeg. They bring what we call carload sales, and they take substantial dollars out of the community.

They are charged a maximum of \$150, whereas their sales and gross sales probably are in excess of \$100,000. The \$150 is not a deterrent, nor does it even partially go to cover off the lost incomes that we would be getting from business taxes and property taxes that are generated by our own businesses in the community.

Give us the ability simply to go to a realistic fee. The \$150 as written into the act right now is not realistic. It ties our hands and does not allow us to give that latitude. I throw the \$2,000 in. That may well be, from a political standpoint, a little bit too much to handle at this point in time. One thousand dollars is realistic, there is no question, as long as we can set the structure.

Municipalities in the R.M. may not have any fee for transient traders. They may set it at zero or \$10. That should be their ability, not ours.

Mr. Jack Penner (Emerson): Madam Chair, I was very pleased with the presentation, of course. It is always done very professionally by the mayor of Brandon, and we have known him well for a long time. I am also pleased—Did you say you came by car, by the way?

Mr. Borotsik: We are attempting to get air service out of Brandon. We had a bit of a setback, but certainly that is not going to deter us either, Mr. Penner.

* (1040)

Mr. Penner: But you did come by car.

Mr. Borotsik: We did.

Mr. Penner: I would suggest very strongly that you fly next time, seeing that you increased your request from \$1,000 to \$2,000 coming in a two-hour car ride,

and I just worry about the fact that had you come here 50 years ago by ox cart, what the fee might have been at that time, had you had a bit more time. So, if you had flown, maybe you would have . . .

I concur. I have some sympathy for what you say, and it is my firm conviction that municipalities should be given even more jurisdiction in this area. Quite frankly, I believe that municipalities should be allowed to set their own fees as competitively as they think they should be, and I believe that. So I have some sympathy for the suggestions that you are making.

However, had I had the jurisdiction, I might have even gone beyond that and said we should remove this section from the act and allow for the municipalities to make those decisions themselves because I believe, in most cases, our municipal people are very competent and very capable and very professional in their deliverance of local authority and should have the autonomy to deal with those matters. So I have a lot of sympathy for the request that you are making.

Mr. Borotsik: Thank you, Mr. Penner. I suppose the only adjective you forgot was very "knowledgeable" as well. I think we know our own communities better than this committee or as well as the provincial government and I appreciate you, Mr. Penner, for your confidence placed in the municipalities.

Certainly we, as the City of Brandon, would look very favourably on having the section struck altogether. It was only our wish that we get a realistic fee structure put into place and the limitations on those fee structures being realistic at \$1,000.

Mr. Penner: I would like to ask the minister whether there could be consideration given to removing and, if not, why the section is here and why it was drafted this way.

Mr. Downey: As the member should well know, being a former minister, this has been in the act since, I am sure, the beginning of time. What we are doing is raising it from the \$100 to \$150 which was considered to be, in the terms of percentage increase, a substantial increase. I guess what is not being presented, and I guess what happens within the city of Winnipeg, is a schedule of what in fact different tradespeople coming to your community—or what all this would encompass as it relates to businesses carried on. If it is a matter of

trying to raise the charges of businesses wanting to do business in your community to meet those that are already there, I would think maybe there is another way of doing it, and that is reducing the taxes that some of the businesses are currently paying in your community so that it would in fact help everyone.

Mr. Borotsik: You are referring to the City of Winnipeg, Mr. Downey.

Mr. Downey: I am referring, Mr. Chairman, to the taxation problem, because I can tell you the general feeling that I have, as an elected representative, is that there are generally plenty of taxes already being applied to everyone in our society, that to increase taxes, or the ability to tax, is a direct cost to the consumers of product in the country.

The point you make is that you want more latitude in this particular section. You want more latitude in the ability to charge. Yet, when it comes to the granting or the provision of grants and the ability to grant money on behalf of the municipalities, you want more restrictions.

So I have to say to the member for Emerson, Mr. Penner, and I have to say to Mr. Borotsik, I am somewhat confused as to what the mayor of the City of Brandon is really asking for. On one hand, he wants total latitude to increase business charges to individuals coming to town to do business. On the other hand, he wants the restrictions maintained on the ability to grant to individuals, whether they be cultural groups or whatever within their jurisdiction or other businesses coming to town, he wants the restrictions maintained. I am not quite sure whether we are being consistent in what is being asked for here.

I guess I would have no difficulty in having a more in-depth review of it, but again I think we have to be conscious of the fact that it is a matter of being able to maintain the services—and remember, when these businesses come to towns they in fact encourage people to come to town to do business. Yes, they take money from your consumers, but if you have businesses in your town and competition is there in your town, there is another chance for those businesses that are permanently there for an opportunity to sell to the people that come to buy from the businesses that are there on an occasional basis.

I would like to have had, I guess, a little bit more of a schedule as to what the plan would be if a

person comes to town to sell, let us use an example of the Boy Scouts, or the Girl Guides coming into a community. I know I am being maybe a little bit farfetched in my comments, but a local group of which the council were to say, well, it would cost them \$300 to set up their stand, and their daily take might be \$200—and some. It is a matter of, what are we talking about. I appreciate if a company comes to town to sell \$100,000 worth of business, probably \$150 is not high enough, but we have to make sure—and I say this in the protection of the people wanting to do business, and the consumers—that we have a schedule laid out as to what you are thinking is.

My colleague the member for Emerson (Mr. Penner) is suggesting that we should say, throw it wide open. Well, we would be making a major move from a traditional activity that is taking place to one which has no restrictions on it at all. What I am not seeing before me is a proposal or a schedule of charges that might in fact be applied to transient business.

Mr. Borotsik: Madam Chairman, as a response, first of all, the Boy Scouts certainly would not be an issue with the City of Brandon. I do not think many of the retailers or business people in the city of Brandon would really be concerned as to whether the Boy Scouts sell \$300 of cookies or \$400 worth of cookies.

However, as for the schedule, it is difficult to put a schedule together when, under the act, all we do have is the ability to do is to charge \$150. I would be very pleased to be able to submit a proposed schedule on behalf of the City of Brandon to this committee or to the government, with respect to what our schedule would look like for the different fee structures charged to different organizations. I would be very pleased to do that, but it is difficult to put that in place when indeed the legislation itself does not allow that. It simply allows a maximum of \$150, and that is why we would like to see some latitude in that \$150.

I would also be remiss if I did not comment on the difference between the licence fees and the grants ability. Do not confuse the fact, the City of Brandon's presentation would like the autonomy and would insist on the autonomy in allowing to grant institutions and organizations monies on behalf of the municipality legally under the act. What we are suggesting with some control is—and by the way, this control is already written into the act

but not specifically enough that it would also have some interpretations given to it that may well give the ability of some municipalities to look at tax concessions.

The City of Brandon is very fortunate that we are very financially stable and financially strong. If the honourable minister would like us to compete with the other municipalities who are not so, believe me, I will sit here and I will say that the City of Brandon will compete. Unfortunately, I do not believe it is the best thing for the municipalities, or for the province of Manitoba, if we have every municipality out there beating on industry's doors and seeing who can give the most. I do not think that is good for the smaller urban centre. I do not think it is good for the City of Brandon, to be perfectly honest, to be going out and giving away our children's tax base. That is the type of control I would like to see.

As I say, in the bill itself, it does address that. What I am saying, what the City of Brandon's position is, is make it more specific so that there is not a need for interpretation, nor are we going to find any problems.

As for grants, yes, by all means. The City of Brandon would love to be able to make its own decisions and, as is in the report, anything that is in the best interests of the municipality, let the councils decide, and we will decide that.

* (1050)

Mr. Downey: Back to the subject as to whether or not municipalities should be restricted to the charge of \$150, maximum of \$150, I think in view of the presentation, in view of some of the comments I am hearing—would the committee and the presenter be receptive to taking it out of the act and allowing an ability to have that done by regulation under the act, which would in fact give the flexibility through discussion and establishing of a schedule so that there could be justification to the public before that step was made? Would that in fact suffice at this particular point, if we took the \$150 out and put in there an amendment which would allow a regulation to be adopted for that activity?

Mr. Borotsik: Mr. Downey, I would be most receptive to that. It certainly gives us the latitude we require. The responsibility should be placed on the people who are making those decisions, and that is the municipal council. You people around this committee table should not be taking responsibility, nor should you be taking any political flack, for

decisions that we should be making. Give us that opportunity and I assure you I will take that responsibility.

Mr. Downey: Madam Chair, if I get the support of the committee then I can ask for an amendment to be drawn up where the amount of a fee to be charged on a business coming to town as a transient business, I guess you would refer to it as, that it would in fact be referred to the regulation section.

Madam Chairman: Is that the will of the committee? Agreed?

Mr. Downey: Can I make another comment, Madam Chair, and that is in reference to subsection 306(3)(a). I understand that we are unable to as a committee add this into the bill as it is not part of it. We also have missed, I believe, a statute law amendment window as well. I can assure the member that I am pretty restricted.

I would like to have done it, but in view of the directions I am getting from the legal people and from the Committee Clerks, I am unable to do it. It would have to be done at the next sitting of the Legislature, and/or statute law amendment, unless we find another window that some of the people who run this place here can find for us. There is certainly no objection to doing it. It is a matter of finding the vehicle and the ability of doing the amendment which has been proposed.

Let me just further ask the mayor of Brandon on his request to—by the way, most of the things he has asked for we are proposing amendments for, with the exception of the control of outgoing councils. I do not intend to change or amend that portion of the act, but I do intend to amend the section which, in fact, refers to the election of paid employees with municipalities. Let me ask the mayor, I understand that there has been a request come forward from several secretaries asking for this to be amended to disallow them the opportunity to run as elected municipal councillors. Is that correct?

Mr. Borotsik: I am sorry, Mr. Downey, I did not quite get that. There has been put forward by the secretaries a request to remove this from the legislation?

Mr. Downey: Yes.

Mr. Borotsik: I am sorry, Mr. Downey, we do not know whether that is indeed the case, but we would support it should it be coming to this table to have it removed, and for the reasons mentioned. It is

difficult to be the slave and the master at the same time, and I use that term nonderogatorily. There is conflict-of-interest legislation that we have in place right now. It would be very difficult to have a secretary-treasurer sitting on the council of a rural municipality, and that, in fact, could happen under the proposed legislation right now.

Mrs. Sharon Carstairs (Leader of the Second Opposition): You indicated that you had two alternatives. One was to ban them completely, the other was Saskatchewan-Ontario. If we went the Saskatchewan-Ontario route, quite frankly, that would be more in keeping with the provisions under both the provincial elections act for MLAs as well as the federal act allowing somebody to run as a Member of Parliament.

Would that be acceptable to the Brandon council, that they, provided they had a leave of absence and were on a leave of absence during the period in which they served as a municipal councillor—would you have any difficulty with them serving?

Mr. Borotsik: Madam Chair, if I may answer. A little less difficulty, Mrs. Carstairs, with the leave of absence, particularly. For example, if we can say our fire chief wishes to run for council in the City of Brandon, it would be required that he have a leave of absence from his position and the City of Brandon would be required to carry on his position for the three-year term.

I do not think the fire chief of the City of Brandon is going to run for the pay position of city councillor in the City of Brandon. However, if he did decide to do so, we, as a city, would make have to make sure that his position would be available to him three years hence when he no longer was a city councillor. It is the best of two evils; it is the best solution should nothing be changed with legislation. Now it would be the best solution that we could see. The best solution we would have is that municipal employees not be allowed to run for public office in the municipality. However, if it is the only solution, we would be able to live with that, Mrs. Carstairs.

Ms. Rosann Wowchuk (Swan River): I want to thank Mr. Borotsik for his presentation. He brought a lot of points to our attention. On the aspect of people who are working for towns and municipalities, running for council, that was one of the points we raised when the amendments first came in. I see that it would be a real difficulty for employees to serve on council, and they would be

in a conflict position. I would rather had—not those two sections removed, and I think things would have been a lot easier not to have them run for council.

Mr. Borotsik: I concur with Ms. Wowchuk. I enjoy her comments.

Mr. Helwer: Mr. Chairperson, just on Section 5 and Section 8 in the brief that Mr. Borotsik presented there. He suggests, I would imagine, that we go back to the old system whereby, because of the dates in 1992, if the elections were held in 1991, this would give you two weeks between election day and your day that you would need your first inaugural meeting. In 1992, that is not the case. You would only have from Wednesday till the following Tuesday. Are you suggesting we go to a minimum time limit there of, say, 14 days from the date of the election or something of that nature?

Mr. Borotsik: Madam Chairman, that is exactly what we are saying, Mr. Helwer. Do either one or the other; give us the absolute dates or give us the relative dates. Tell us either absolutely what the dates are going to be in time frames, or relative terms, so that we can have either/or. Certainly, the situation as it is now is acceptable, but if you wish to make changes, that is fine as long as—and, Mr. Helwer, that is going to continue to happen. If '91 was the date of the election then it would certainly be workable, but as the elections go year after year, because of leap year and all the rest of it, you are still going to catch up on it with the calendar days. So there has to be some minor workings to the time frame of that. I believe the honourable minister has already identified this as being a bit of a problem and will probably be looking at amendments to this.

Mr. Helwer: On Section 8 there, the days and times for nominations, I believe there is something wrong with that Section 55(1) all right, and that will have to be changed. Has the minister got an amendment for that?

Mr. Downey: The short answer is yes.

Mr. Helwer: Okay.

Madam Chair: Are there further questions of Mayor Borotsik?

Mr. Downey: Just a further question. On the section that we indicated we did not have an ability unless we found a way of doing it, on Section 306. I understand, Mayor Borotsik, that this is causing your municipality, your city, some difficulty. Is that correct?

Mr. Borotsik: Yes, it is, Mr. Minister. Right now we cannot issue any orders to comply. We can simply send letters and hope that they comply. Unfortunately, the act would not allow us to go to court and would not support us in a court case.

Mr. Downey: As I indicated earlier, we may try and find a way of doing it, and if we can, we will try to accommodate it.

Mr. Borotsik: Madam Chairman, we thank you very much for that and in the meantime, we will probably continue to send orders regardless. As I say, politically, it makes a lot of sense.

Madam Chairman: At this time, I would invite Mr. Noel Pritchard to make his presentation. Thank you, Mayor Borotsik.

Mr. Borotsik: Thank you.

*(1100)

Mr. Noel Pritchard (R.M. of Victoria Beach): Madam Chair, members of the committee. Firstly, let me thank the committee for giving me the opportunity of addressing you this morning.

My name is Noel Pritchard. I am a councillor for the Rural Municipality of Victoria Beach and a cottage owner at the beach for the last 20-some-odd years.

The Rural Municipality of Victoria Beach Council has asked me to make representation to this committee with regard to the proposed amendment to The Municipal Act, Bill 18, and specifically subsection 45(2). This is all I will be talking about this morning.

Subsection 45(2) is amended by adding "consecutive" after "at least two." Our particular concern deals with the addition of the word "consecutive" after "at least two."

For those of you who are unfamiliar with this area of Manitoba, allow me to take a couple of minutes to describe a brief history of the R.M. of Victoria Beach. Victoria Beach is a peninsula on the east shore of Lake Winnipeg. Essentially, it is composed of two distinct areas, one, Victoria Beach proper and two, Albert Beach. The first campers at Victoria Beach were the two families of Kennedys who established their summer homes in the years 1902 to 1909.

To the best of our knowledge, the only people who were in this area on a somewhat permanent basis would be fisherman, fur trappers, et cetera. So the community was developed as a summer

community, and we would hope that you will allow us to perpetuate this idea.

In the fall of 1916, the CPR was completed to Victoria Beach and a number of cottages were built soon after. A number of years later, the permanent residents first appeared and engaged in fishing, fur farming and servicing the summer residents. The railroad serviced the summer population until the late 1950s when Highway 59 was completed.

Since the incorporation in August 6, 1919, the municipality has been served by a reeve and councillors composed of nonresidents and the permanent residents. At the present time, the Victoria Beach Council is composed of a Winnipeg resident, Reeve Dr. Sam McMorris, two Winnipeg resident councillors and two permanent Victoria Beach residents.

A brief examination of the composition of the council over the past two or three decades reflects this sort of composition of council. The present population breakdown of the municipality during spring, summer and fall, indicates there are approximately 2,000 nonresident electors and 174 resident electors. If this proposed amendment is passed by the Legislature, this will mean that approximately 8 percent of the electorate will be those only qualified to run for candidates for election to the office of reeve or councillor. For the past 72 years, the business of operating the municipality has been under the control of a blend of residents and nonresidents, and all things being equal, I would suggest the municipality has been operated most efficiently and to the best expectations of the citizens.

The tax levy for 1991 operating year is \$1,072,000, of which \$700,000, or 65 percent, is paid to the school division and provincial government. I should like to bring to the committee's attention that the nonresident taxpayers may not vote for school trustees as they are not eligible. Similarly, they may not vote for the provincial candidates seeking election in the riding of Lac du Bonnet.

Passage of the proposed amendment would effectively deny the nonresidents a voice in how their tax dollars are spent. Control of the expenditures of tax monies would rest with 8 percent of the taxpayers. An examination of the 1991 tax levy shows that of a total of \$1,072,000, \$988,000 is contributed by the nonresident taxpayers, 92

percent of the total, and the permanent residents contribute \$83,000, or 8 percent of the amount.

In conclusion, passage of this amendment will, in fact, remove the democratic process which is based on representation by population, whereby 8 percent of the electorate will have full control, not only of the budget but all decisions that would affect the lives of the nonresidents.

I feel confident that I am not only speaking on behalf of the council of R.M. Victoria Beach, but also the Victoria Beach Cottagers Association and the overwhelming majority of the electorate of the municipality.

Consequently, I urge this committee to retain subsection 42 of The Municipal Act as it presently reads and reject subsection 45(2) amended in Bill 18.

This municipality has existed for 72 years with a spirit of co-operation between residents and nonresidents. A change at this time would be totally unacceptable and inappropriate to both groups. Thank you for hearing my brief.

Madam Chairman: Are there questions of Mr. Pritchard?

Mrs. Carstairs: Thank you, Mr. Pritchard. When you say it would eliminate the vast number of electors, would not the majority of summer residents indeed live at Victoria Beach for two consecutive months?

Mr. Pritchard: Not really. This is a summer community. I am there for possibly two months of the year, but it is certainly not consecutively. That is our hangup. I am there two months and we all are there two months, but if you say I have to be there from the 1st of January to August 31 and, at that same time, operate a business or have a job in the city of Winnipeg, it just cannot be done. So what would happen is, the group would come out of the 8 percent of the permanent residents.

Mrs. Carstairs: I do not think that was the purpose of this amendment. Surely, it was just to ensure that the people who are going to vote, in fact, have some commitment to the community and, like you, would be there the summer months, not perhaps every single second of the summer months any more than normal permanent residents are there every single second of the summer months, but would have the commitment of being there for the summer period of time.

Mr. Pritchard: Mrs. Carstairs, this has been our hangup and we have tried to resolve this in our own minds. We have tried to get various people in this building to explain the word consecutive, but we read it and our lawyer reads it that we are obliged to live in the community for two months consecutively.

If you tell me that this is not what the intent is, then that is fine, but then why put the word in? Why put the word in because without the word it allows the summer residents to run as reeve and council?

Mrs. Carstairs: Perhaps we should ask the minister for a clarification of what they mean by consecutive then.

Mr. Pritchard: Thank you very much.

Mr. Downey: It is my understanding and the history of this has been, and the intent of the act was to, in fact, have people resident for some two consecutive months. That is what the intent of the act was. That is what it has been. The word subsequent has not been in there. It has caused some difficulties, and I can appreciate this.

I have had comments made on both sides of the issue. I am not sure whether Mr. Pritchard knows that they, in fact, have to meet less of a requirement than all other municipal corporations in the province where, in fact, you have to be a resident for not less than six months. So the two-month requirement, I do not think, should cause any major hardship.

In fact, they are still having an ability to be there for two months, but it is subsequent months that we are calling on so that there truly is—that definition is clearly spelled out in the legislation. That is what has been requested and that is what is meant by it, that subsequent months have to be lived in that community.

Mr. Pritchard: Excuse me, the word is "consecutive," not "subsequent."

Mr. Downey: I am sorry, consecutive.

Mrs. Carstairs: Could I ask another point again for clarification? If, for example, an individual maintains a home in Winnipeg and also a home in Victoria Beach, would there be any evaluation done as to whether they slept in the Victoria Beach house or the Winnipeg house in order to define this as consecutive two months?

For example, many of them -(interjection)- Yes, I know, and this is what I am concerned about in terms of these people. I mean, where are we

defining or how are we defining these consecutive two months?

* (1110)

In your case, I assume you are up there on the weekends. You may be back in the city doing your business thing and back up on Friday night, maybe even up on a Wednesday night, if you have got the time to drive up and back.

Mr. Pritchard: That is correct, yes. I guess we are seeking a clarification. Possibly we are reading more into this than we should. Then may I ask the minister, I do not have a heated cottage so I start going to the lake the end of April. I will be there more than 60 days up to, say, the middle of October. Now in his view, do I conform?

Mr. Downey: Madam Chair, it is pretty much left to the individual as to their own judgment because what would allow them to qualify to run as a councillor would be the signing of an oath that they have, in fact, lived for two months in that community. The definition of what has been two months, two consecutive months, I would think would pretty much be for the period of two months that person, probably the majority of their time, would have stayed at that residence. I am sure that if they were away, either on business or had to come to their city home for one or two days, or pick up supplies or something like that, that in my estimation they would still be deemed to be a resident of the community of Victoria Beach.

To make it up—and this is the real reason why it is being dealt with—to make up the two months on weekend visits to Victoria Beach did not qualify them to run for council, and that is what this is attempting to do. So it is a matter of clarifying it. The interpretation, I am sure, would be left up to the community and then challenged. If, in fact, the individuals in the community did not think that it was appropriate, it would have to be challenged in the courts.

The legislation has to be cleaned up to clearly spell out what the intent of the legislation is, and the intent of the legislation is consecutive weeks spent in that community, again, two months compared to the rest of the municipal corporations which have a residency of six months.

So I still think we are bringing it into line and being fair, so that is my comment.

Mr. Pritchard: You indicate that you are trying to be fair, but I would suggest to you, sir, that you are

being totally unfair. This community has been operating for 75 years without your definition of the amendment, and we have been getting along just fine. We really do not need a court challenge. We do not have the money for that sort of thing. We operate on a nickel-and-dime budget. If you excluded the word "consecutive," then I think we would all be just quite happy.

Madam Chairman: I have a number of members wishing to ask questions.

Mr. Helwer: Madam Chairperson, I represent the area on the east side of Lake Winnipeg and have the village of Dunnottar, town of Winnipeg Beach—the village of Dunnottar, as a matter of fact, has their municipal office in the city of Winnipeg, and all of their councillors are from Winnipeg—or the majority of them, maybe not all of them, but the majority of them. This section of the act would certainly affect them, also, and it will also affect the town of Winnipeg Beach. I am not sure whether—I think we should have a little more discussion about this and think about this one a little more.

Ms. Wowchuk: Just for clarification, most of these amendments have come at the request of different people and what I wanted to ask the minister was, have their been communities that have been requesting, has this been a concern that there is representation from outside their community, or where did the request come from to have this kind of a change made?

I think it is lenient. It does not affect my constituency or the area that I represent, but I think that if other communities have to comply with six months, this two months is quite lenient.

Mr. Downey: Well, basically it is a matter of clarification and I appreciate Mr. Pritchard's concern that it is really putting in the word "consecutive," which spells out that it is the desire of the law to, in fact, have a person who runs for municipal council to have lived in that community for two months. Not to spell out that they have lived there for enough weekends to make up two months, but in fact that is their residence for two months, as we are saying to the people in municipalities who do not have the same situation, where they have to live in there for six months.

So, I guess if we were to be consistent, then we would say that you would be able to make up your residency in a municipality that you are going to run a different way than you now do as a six-month

period. So it is really a consistency with the current law, and we have had requests to make this change from Winnipeg Beach residents.

Ms. Wowchuk: Thank you for that answer. When I looked at the two months, to me that is not such a gray area. I mean, if you go out there and you live for two months, that does not mean you have to stay there for the two months. If you are commuting back and forth to work, you are living there for two months. So nobody is going to be checking up on people whether they are there seven nights of the week or whatever. It is just maintaining a residence for two months. I do not see any difficulty with this two-month clause as it is right now.

However, as I said, it does not affect very many people whom I represent because we do not have these types of communities, very many of them, in our area of the province. I am willing to listen to what other people have to say, but two months seems quite lenient compared to six months in other areas.

Mrs. Carstairs: I have to say that it probably affects more people in my constituency than anybody gathered around this table, and I have some real concern about the "consecutive" after "at least two."

I also understand from the community's point of view that they do not want people on their council who have not got some attachment in a serious way to making policy changes. Was there any thought perhaps of increasing it to three, but giving leeway and not including the word "consecutive." My experience is that many of these people start to go out May 24 weekend. They continue to go well into September, and if it was three months, but was not consecutive, this might give vent to a greater commitment than the present allows, but not putting any hamstring responsibilities for those who, in fact, legitimately commute back and forth.

Mr. Downey: Well, I guess the difficulty is, and that is the case that has been made to me, is that there is no ability—how do you determine whether people are there, how many weekends, do you keep score, or what is the method of determining it? I think it is a difficult situation to draft legislation that, in fact, enforces the situation of residency on individuals. What I am saying is, we already have legislation on the books for municipal councillors that, in fact, says six months residency or you cannot be a municipal councillor. Now we are saying to the municipalities that have a different situation, I think the legislation

is being lenient when we say two consecutive months as it relates to it. You are asking directly, would three months of weekends—I do not think three months of weekends would be any different than two months of weekends. It is the same principle that has to be applied.

So I appreciate the difficulty that this is causing, but again it is a matter of having the legislation clearly speak out to the fact that it is residency for two months and I guess when it comes to leniency within that is to say to the individuals who are there, if you have deemed yourself having lived there for two months consecutively, whether you were away to the city for a weekend or whether you were away on business for two or three days, that judgment call would have to come on that individual. That really is the judgment call and I think that is fair, that the onus is on them to say they have, in fact, been there for two months, what they deem to be consecutive months.

* (1120)

Mrs. Carstairs: With the greatest respect to the minister, I think he is comparing apples and oranges. He is talking about most municipalities. Most municipalities are made up of people, the majority of whom live in that community all of the time, 100 percent of the time. You might have 5 percent, 10 percent of the people who do not live there. In a cottage community, you have the complete opposite situation in which the vast majority of people are there who are people on temporary residence, if you will, and not a permanent residency because the community was developed as a summer community and not a year round community.

So to say that the rest of them have six months and this only has two months is really comparing apples and oranges. They are entirely different structures.

I would like to ask Mr. Pritchard specifically if there has been a problem with people being elected to the Victoria Beach Council, or indeed the Winnipeg Beach Council, who are people that have really been absentee landlords, who have had their properties but have rented them out consistently, or have the councillors, to his knowledge, been people who have in fact resided in their cottages for a number of months, and as often as it was feasible for them, in light of the fact that they had their employment opportunities elsewhere?

Mr. Pritchard: To the best of my knowledge, and I reviewed the situation with the reeve and two or three other council members, this has never been a problem. The thought just keeps going over in my mind, if it ain't broke, why fix it? There is nothing wrong with the situation as it stands now. We have had no representation at the council level or socially or anything, to make this specific change. If it goes through and it is challenged, all it is going to do is divide a community that has got along very well for 75 years. We really do not need this sort of help.

If it is challenged and the challenge is successful, then we are back to my original statement that 8 percent of the population will be controlling the decisions and the budget; 8 percent will be handling that money.

Mrs. Carstairs: I think Mr. Pritchard indicated that nobody had come forward to the Victoria Beach council to indicate the need to have this regulation changed—

Mr. Pritchard: That is correct.

Mrs. Carstairs: —or this legislation changed. Can the minister tell us who has made representations to him which would indicate the need for this particular amendment to the legislation?

Mr. Downey: Madam Chair, let me again say it was Winnipeg Beach Council that had come forward asking for this. Let me further point out for the honourable member for River Heights (Mrs. Carstairs) that she said we were comparing apples and oranges. We are really not. I can, first of all, make the example that where an individual who is a councillor in rural Manitoba decides to move to the community, to the town, they are in fact forced to resign their position because they will not have a six-month residency. The LGD of Alexander, for example, 2,000 people approximately—I am using estimate, these are numbers the department gave me—approximately 2,000 people live in the R.M. of Alexander, and 3,000 people live in Winnipeg. They have the six-month residency qualification on them as well.

So I do not think we are being unfair in what we are applying here. It is just a matter of trying to bring some consistency and to make the legislation speak clearly to what the intent of it has been for as long as it has been in place, and that is consecutive.

Again, I say to Mr. Pritchard, I appreciate the concern which he is raising. I am not just pushing this through without having had some discussions

with departmental people. If it, in fact, causes major difficulty—and I do not think it should because I do not think we are being unfair in a two-month residency—particularly when we look at probably June, July, August and September, they are pretty good months in the summertime here of which I would think the majority of the person's time would be spent at their cottage. -(interjection)- That could well be, but we still have the last week in June to the first week in September which that could be made up. Again, not chaining them to their cottage, but giving them the kind of latitude which probably they have had.

Mr. Pritchard: One question of clarification then. Just take a situation of a man who runs for council. He opens his cottage the first of May. He closes it sometime after Labour Day. He has two weeks holidays a year. He spends those two weeks at the lake, and he goes down there weekends, et cetera. Now does this individual qualify?

Mr. Downey: Madam Chair, let me just say, I am not a judge, I am on the other side of it—we are writing the legislation, but I guess I would say this, as my interpretation as a minister, that if a person opened their cottage at a particular date and they closed it at a particular date, I would consider that would be a fair indication that that would be their residence for a period of that time. Again, I am not a judge, all I am saying is it could be considered that they opened it for the intention of living there, either they and their family would be there, you say, for two weeks. Again, I am not here to interpret the law, we are here to write the law and the point that has been raised has been that we have to clarify it, and the word "consecutive" has to be put in there to clarify that. Again, I leave it to the individual as to the time which they determine, in running for council, as to whether or not they deem themselves to have been a resident for two months.

Mr. Pritchard: Just if I may respond to that, then why put in the word "consecutive"? It serve no purpose, whatsoever. All it does is suggest there could be a court challenge and we do not have any money for that sort of thing.

The way it stands now, we are there for two months, off and on, which is fine, which is as you describe when you use the word "consecutive." Leave it the way it is and there is no problem.

Madam Chairman: Mr. Penner, I had you on the list. Did you have a subsequent question?

Mrs. Carstairs: Well, I am not feeling very comfortable about leaving this in the hands of the judiciary, quite frankly, when it seems very simple to just leave it as it is. I mean, it seems to me that consecutive certainly could be interpreted as every single night in that home for two months. If that is what it means, then Mr. Pritchard is quite correct, very few people are going to qualify and you could be down to 8 percent of the people being able to vote.

Madam Chairman: Ms. Wowchuk, did you have a subsequent question?

Ms. Wowchuk: I defer the questions.

Madam Chairman: Are there further questions of the presenter, Mr. Pritchard? The Honourable Mr. Downey has a subsequent comment.

Mr. Downey: My comment would be, I want to thank Mr. Pritchard for bringing forward his concerns. I am bringing forward this as a recommendation from the department and from the council which has seen it as a concern, as I refer to Winnipeg Beach again. My other justification is, in fact, we are enforcing a six-month residency in other municipalities and I think, based on fairness, I have to proceed on this basis, but I do appreciate the presentation which he has made this morning. Again, if it causes a lot of undue hardship, the legislators, I am sure, will be prepared to continue to monitor what difficulties it would cause. I say I am presenting it on the case of other municipalities that have a six-month residency and also the requests that have come forward from Winnipeg Beach. That is the comment I have to make.

* (1130)

Ms. Wowchuk: I just want to ask one other question of the minister, and that is when we are talking about six months in the other one, in the municipalities—I have not had a chance to look through the act—is the word "consecutive" in that part of the act? Does it have to be six months consecutive in the municipalities?

Mr. Downey: No, it does not.

Ms. Wowchuk: I think that it is a good idea, because I feel that the people who live in the community should run the affairs of their community. The people who live at the beaches permanently should have the say in what happens in their community, but I have a question why the word "consecutive" is put in this part of the act and why it is not put into the part of the act for the municipalities.

Mr. Downey: Madam Chair, if the member feels strongly enough about it, I am sure she is quite free to add the word "consecutive" in an amendment. If that is her wish, then that is a consideration that this committee can take.

Mrs. Carstairs: Well, I would just like to make one more comment—

Madam Chairman: Order, please. Just one moment please.

The debate between the members and the minister, the questioning should ensue when we are considering the clauses. So I would ask now, to get the committee back on track, please, for your co-operation in directing questions only to the presenter.

Mrs. Carstairs: My question to Mr. Pritchard is: He says he goes there from April to October, which, considering whether you begin at the end of April and the end of October, you might be considering eight months, in fact. If the legislation was changed to six months, but not consecutive, would that not make it easier for you or other people in your community? Because many of them may, in fact, be there six months, but it would not be consecutively.

Mr. Pritchard: Okay. Well, I will tell you. The snowbirds would be there, you know, for the six months. I would not be there for six months. I have to make a living. That is a holiday up there.

Mrs. Carstairs: But, in fact, you say that you open the cottage in April. You close it in October. That would be April, May, June, July, August, September, October; that is seven months.

Mr. Pritchard: If that is the way the act will be ultimately defined, fine. We can live with that. We all do, and we are all continually winterizing our cottages. My cottage is not winterized, but most of them are becoming more and more winterized. So we could be there for 12 months, but the problem is, right down to the nuts and bolts, we want a mixture of the residents and the nonresidents. That has worked for 75 years and we want to continue to see that happen.

Madam Chairman: Mr. Penner, I believe, has a further question of Mr. Pritchard.

Mr. Penner: Just one brief question, Madam Chairman. Mr. Pritchard, under the current City of Winnipeg Act, I believe the same six-months provision is currently in place that is in place for the

municipalities. I happen to live part time in the city of Winnipeg and part time in a rural municipality. Would it be advisable that somebody like myself were allowed to run for the mayor of the City of Winnipeg, not having permanent residence in the city of Winnipeg?

Mr. Pritchard: I see no reason why not, to be honest with you. I mean, if you have that much interest in running for office in the city of Winnipeg, more power to you.

Mr. Penner: One more brief question. That would, of course, allow the mayor of the City of Brandon then to hold dual office. He could in fact then, under your scenario, be the mayor of the City of Brandon and, at the same time, hold temporary residence in the city of Winnipeg, and also concurrently run for a position on City Council in the City of Winnipeg, if in fact what you are suggesting should be allowed.

Mr. Pritchard: You know, we are not really suggesting anything. We are saying, hey look, we have gotten along well for 75 years and now you come along and you are going to throw a Scud into things that really nobody wants. There has been no representation to me socially or at council level that we want this sort of thing. Make our life easy.

Madam Chairman: Thank you, Mr. Pritchard, for your presentation.

Mr. Pritchard: Thank you.

Bill 19—The Local Authorities Election Amendment Act

Madam Chairman: We will now hear from the presenters for Bill 19, The Local Authorities Election Amendment Act (Loi modifiant la Loi sur l'élection des autorités locales). The first presenters are Mayor Borotsik from the City of Brandon and Mr. Ian Ford, the City Clerk. Mr. Borotsik, you may proceed.

Mr. Rick Borotsik (Mayor, City of Brandon): I will be very brief on this presentation, I can assure you of that. First of all, if I just may make a comment to Mr. Penner. There has been some request of members of Winnipeg to have me run for mayor in the City of Winnipeg, Mr. Penner, so maybe this is an opportunity. That was being facetious. We have to keep a sense of humour, do we not?

Once again, Madam Chair, I do thank this committee for allowing the City of Brandon to present its brief on Bill 19. I assure you this will be a very short presentation. The changes to

legislation that will result from the passage of Bill 19 will greatly assist all municipalities in the administration of their civic elections. We are extremely pleased to see the province address some of the questions and issues that have caused all municipal people considerable problems in the past.

Recommendations are being submitted by the Manitoba Association of Urban Municipalities on behalf of a number of municipalities, including the City of Brandon. We fully support the views of MAUM and would request that the support of your committee in making these suggested changes to Bill 19.

We have had numbers of hours spent with MAUM in developing their presentation so we will let Rochelle Zimberg make her presentation later, but there are three additions that I would like to talk about, the first of which is the List of Electors—Revision. The existing provisions under Section 14(1) of the act requires that the preliminary list of electors is to be submitted not later than the fourth Wednesday in August, and Section 19(1) directs that the revision of said list is to be completed not later than the first Wednesday in September.

This results in the preparation of the electors list, including revision, being carried out in the summer months when many electors are away from the municipality.

As it is not practicable to enumerate during the summer months, it has been our practice in the City of Brandon to carry out the enumeration process in the month of June with the revision being carried out during the first week of September.

(Mr. Jack Penner, Acting Chairman, in the Chair)

However, even the above practice does not give a true picture of the electorate of the municipality in the same manner as the provincial or federal elections, simply due to the time of year we are required to conduct our enumeration, revision and election.

An alternative could be to move the election day into November and move the time frame from the enumeration process to the beginning of September with the revision being conducted at the end of September. Not only would this result in a more accurate list of electors being prepared but would also provide more flexibility to the scheduling and conducting of advance poll days. This time frame has been utilized in the province of Ontario.

I suppose the previous speaker would be able to comment on that as most of the people in the city of Brandon do have a tendency to go to either Winnipeg Beach or Grand Beach or all the rest of those wonderful recreation areas, and we cannot find them in the city of Brandon during the summer. However, if we could change the electoral times, we would—the enumeration times.

Nomination of candidates: This was an issue that came up in the City of Brandon just at the last election, and as a suggestion, the existing nomination forms should be more explicit, such as the qualifications of candidates as outlined in the act being listed in the nomination form, and with particular respect to the residency requirements that you have just talked about, a six-month residency requirement is necessary to run for elected office.

We had an individual who ran in the City of Brandon. Under the act, however, it is not necessary that we go through the requirements with the candidate; the candidate himself or herself signs an affidavit as such. It would be nice to be able to have the residency requirements on nomination forms.

The third point is the existing provisions respecting advance poll days do not accommodate citizens who are away for a week or more in that they must miss both the advance poll and the election day. However, if advance poll days were to be scheduled earlier, such action would put pressure on nomination day, preparation of the electors list and printing of the required ballots. Part of this problem may be resolved through the changes being proposed in Bill 19 which deal with voting by mail. This will enable a person who is required to be away from the municipality on both advance poll days and election day to cast a ballot by mail.

We previously had concerns respecting political activities of candidates on election day; however, many of these concerns have been addressed. A concern still remains with respect to the lack of regulations or guidelines for expenses incurred by candidates and for contributions made to candidates by the electorate.

* (1140)

The last point, and this is an important point and very simple but unfortunately still very confusing. There has previously been much confusion experienced by both election workers and the electorate as a result of the difference in

qualifications of electors for school division elections and civic elections. It is our opinion that the qualifications of an elector should be the same for both types of elections.

That is with reference to the ownership of property. In a municipal election if an individual, an elector, owns property prior to the election, they are eligible to cast a ballot. In the school division, however, an elector must have residency in the municipality for a period of six months. Now, in municipal elections where school divisions are elected at the same time, those individuals are handed the ballot both for the school trustees as well as the municipal council. However, most or some of them may well be casting a ballot illegally for the school trustee, for the simple reason being they may not have residency clause for the school board, but they have ownership of property for the municipal election.

In conclusion, again I would like to simply say, Mr. Acting Chairman, that I thank you and the committee for hearing our concerns on Bill 19. Again we would like to congratulate the government in putting forth these amendments. There are other amendments that certainly will be proposed at a later date and we would continue to hope that you and the government would be prepared to listen to the people who you are administering, we, the municipalities, the ones who should know what is best for the municipalities.

Thank you, Mr. Acting Chairman.

The Acting Chairman (Mr. Penner): Thank you, Mr. Borotsik. Would the minister have any comments? Mr. Ducharme.

Hon. Gerald Ducharme (Minister of Government Services): Just a comment. I do not know where your snowbirds go in the summer, but I have found that I have knocked on doors in the winter and knocked on doors in the summer, and I will tell you, after the last election, that I am not now convinced that more people are not home in the summer to be able to get hold of. I have found, at least in the area of the city that I knocked on doors, more of them to be able to contact in the summer than we did in the winter, and more home during the day in the summer.

So I do not know whether the revision is getting affected by doing it in the summer.

Mr. Borotsik: Mr. Acting Chairman, in response to Mr. Ducharme, it is our belief that there is a serious effect to the enumeration and the revision because

of the summer months. The city of Brandon, particularly—I can only answer for the city of Brandon right now, and I know that the majority of residents in the city of Brandon do have cottages and summer homes outside of the city. A lot of them have a two-month consecutive residency during the months of July and August, and it is difficult to find them at home during the period.

I personally have not pounded on doors in the summertime so I cannot assure you unequivocally that there are less people home in the summer, but I can tell you from our own enumerators that they do find it a problem.

Hon. James Downey (Minister of Rural Development): I have a question. I am not clear as to why you, Your Worship, would say that an individual who does not live in a municipality when it comes to an election of an elected official, if he or she does not live in that municipality, but pays taxes, why they should not be able to determine who is going to represent them in the expenditure of those tax dollars.

Mr. Borotsik: I have not made that comment in this presentation.

Mr. Downey: I took it that the point you raised was that you wanted the individuals who were voting in a municipal election to have the same rules applied as to a school board election. Is that correct or am I misunderstanding it?

Mr. Borotsik: Mr. Chairman, just if I could clarify, maybe I did not make my point very well.

What I am saying is both the municipalities and the school boards should have the same rules. The problem now is in a municipal election—and it is not a problem; we appreciate the fact that if somebody comes into the municipality and owns property, if the election is on October 25 and they own property on October 24, they are eligible to vote in that municipal election, and we have no argument with that.

The problem is that in the school board, when they go and they get their ballot for the municipal council, they also get a ballot for the school trustees. They are not eligible to vote for school trustees because the school division in The School Act says that there is a six-month residency requirement there.

So, Mr. Minister, we are not arguing against that, we are saying bring them together so that they are both the same and they are not breaking the law.

Mr. Downey: We are dealing with The Municipal Act and you are saying what we are doing is correct in The Municipal Act, so the correction should be made in The School Elections Act where people who own property should be able to vote on a school board election.

Mr. Borotsik: Absolutely, Mr. Minister. We are not taking you to task on this amendment. We are simply saying, please make some other amendments to the school act.

Mrs. Sharon Carstairs (Leader of the Second Opposition): I have a couple of questions, the first one of which is, is it possible to buy property on the 24th of October and vote on the 25th of October, and if it is, why are people in Victoria Beach being denied it when they have not—(interjection)— Yes.

Mr. Downey: The difference that she has not picked up is that one is to become a municipal councillor, the other is to vote in an election. That is the difference.

(Madam Chairman in the Chair)

Mrs. Carstairs: My real question has to do with the voters list itself. British Columbia has a permanent voters list which covers every voter in the province and is administrated by the province but is open and eligible to the municipalities at any time, so that they never need to do enumeration. They simply have to go and say, give us the voters list of our particular municipality.

I think it is worth investigating in the province of Manitoba. I do not know what the costs are going to be, nor does anybody else, I suspect, but I wonder how the City of Brandon would react to the establishment of a permanent voters list, the concept of it only?

Mr. Borotsik: Madam Chair, conceptually I have no arguments at all with a permanent voters list. I think we would have to deal with the mechanics of it. Certainly there is a cost associated now with the City of Brandon in providing its enumeration and electoral list. If that cost would be borne by the province, then you have no argument by me, or from me, Mrs. Carstairs. I do not think that would happen. I think there would be a cost associated still to the municipality.

I would certainly prefer a permanent list with updates, obviously, on an ongoing basis, in order to keep it up to a standard that is believable and acceptable. Conceptually I would agree, in simple terms.

Ms. Roseann Wowchuk (Swan River): Madam Chair, the question I would like to ask Mr. Borotsik deals with elections, and you have raised the point that there are a lack of regulations and guidelines for expenses incurred by candidates. This has been a concern of mine. I would like to ask you what kind of regulations or guidelines you would like to see? Would you like to see them similar to provincial or what kind of guidelines do you think there should be as far as spending in municipal elections?

Mr. Borotsik: Madam Chair, that is a very interesting question. We raised that here because there are limits that are in place right now provincially, federally and in the City of Winnipeg. Under their own act they have limitations as to the amounts that can be expended. To be honest, in the City of Brandon I do not think, depending on the type of restrictions placed on it, that you would have many people exceeding a realistic restriction.

We may well, and should well look at a restriction on a per capita basis on a ward system. What that number is, Mrs. Wowchuk, I do not know, but I think realistically there should be some limits. I do not believe that the City of Brandon and the candidates in that area would exceed those limits, but one does not know until the limits are placed.

It has not been a major problem with the city of Winnipeg in most cases, but I think realistically you should look at some restrictions. It is a restriction that may well have some abuse placed on it by some members or some candidates, and we should look at that restriction. That is why we mentioned it here.

Ms. Wowchuk: I appreciate it being raised because, as you say, it may not affect all municipalities or towns, and I know that in many rural municipalities there is very little money spent on elections. You get in by acclamation. Sometimes you cannot get anybody to run. There have been communities, and there were a few that were brought to our attention. There were very large amounts of money being spent in municipal and small town elections. That is something that I would like to see looked at, and I am glad you raised it in your presentation.

Mr. Borotsik: Thank you.

Mr. James Carr (Crescentwood): Madam Chair, I would just like some clarification on a couple of points. One is, is there anything stopping the municipalities, in general, and the City of Brandon,

in particular, from passing bylaws which restrict election expenses among those seeking public office in the City of Brandon?

Mr. Borotsik: If I can, with consultation with my resource staff, I do not believe we have the authority under the act right now to pass such a bylaw to restrict any expenses.

Mr. Carr: Then this comment would be directed toward the Chair. The City of Winnipeg does require such a bylaw which the City of Winnipeg has enacted which imposes a per-voter or per-constituent limit on election expenses. Would the province not be interested in some uniformity across the province in this regard?

Secondly, an amendment currently before another committee, or will be brought to committee as soon as second reading is over on Bill 68, will deny the possibility of political parties making contributions to those who seek elected office in the City of Winnipeg. Is it the opinion of the government that should also apply to municipal elections?

* (1150)

Mr. Downey: I guess the whole question arises as to whether or not there have been pressures, difficulties or resolutions come forward from municipal Manitoba, if I may, where there have been issues or problems in the past. I can refer to staff, but I am not aware of any requests or pressures and, in fact, am not aware of any difficulties that have been on the expenditure of monies for elections of municipal councillors untoward or exorbitant or should be publicly disclosed. I am not aware of that, but it is worthy of future consideration as the minister responsible. I am prepared to look at that whole issue to see if, in fact, there is a broad problem or concern in municipal Manitoba.

Mr. Ducharme: To the mayor, just before you go, there has been mentioned when we were doing The City of Winnipeg Act and also recommendations to the city on that one about terms. What is your council—did they give any opinions on terms?

Mr. Borotsik: The term of the council? This will be a personal thought because the council of the City of Brandon has not dealt with that specific issue. I know -(interjection)- No, as a matter of fact, going back to the election expenses, I do not spend much money because I do not want this job that badly. Believe me, I am not going to spend a lot. However, from the terms, I know sitting on the SCAM, there are a number of jurisdictions right now throughout

Canada who have gone to four-year terms. So there is now a mishmash between four, three and two—very few two's left—most of the two have gone from a two to a three.

In talking to those elected individuals, anybody who has a four-year term seems to think that they can get more accomplished in four years than they can in three. So from a personal standpoint—and that is all it will be is a personal comment—I think a four-year term should be looked at quite seriously. I know that they are looking at it right now in the City of Winnipeg where the government is, and with respect to the City of Winnipeg, if you are looking at four in the City of Winnipeg, then there should be no reason why other urban centres in the province of Manitoba should not be looked at in the same light. We keep fighting these battles all the time, that there are other urban centres outside of the city of Winnipeg. Do not just simply say that four years is good for the city of Winnipeg but not for other urban centres outside.

Personally, I would have no difficulty with a four-year term. I think you would get good people still, as you do now get good people to run at three years, but probably would have the ability to have a little stability there for a four-year term as opposed to a three.

Mr. Ducharme: . . . was the problem with dealing with four was that you make sure it was co-operative with the outlying municipalities. I am sure glad you did not mention that you like a senator's term.

Mr. Carr: Madam Chair, just a question to the mayor. Is it your wish that the City of Brandon would have legislative authority to be able to impose spending limits on campaigns? Do you want it or do you not?

Mr. Borotsik: I think, given the flexibility, that the city should be able to put its own spending limits on. I would not want it dictated as to what those limits would be, but yes.

Mr. Carr: You do not even have the statutory authority now to do that. Now my question is, do you want it?

Mr. Borotsik: The answer simply is yes.

Madam Chairman: Thank you for your presentation. If there are no further questions of Mayor Borotsik, I would ask Rochelle Zimberg to come forward, please.

It is my understanding, for the benefit of the committee, Rochelle, that you wish to make one comment on Bill 18 and then proceed immediately to further comment on Bill 19. Is that accurate?

Ms. Rochelle Zimberg (Manitoba Association of Urban Municipalities): Yes, thanks, Madam Chairperson.

Madam Chairman: Thank you. You may proceed.

Ms. Zimberg: I would wish to bring greetings on behalf of our association and apologize that neither our president nor our chairman of the local authorities elections task force was able to be here to make this presentation today.

Regarding Bill 18, our association has asked by way of resolution through our annual conventions that there be a joint committee to review the entire Municipal Act and that committee be made up of the two municipal associations, the administrators and the Department of Rural Development. We look at the amendments that have been presented in Bill 19 as basically housekeeping amendments, and that is one of the reasons that we did not bring a formal brief to you at this point.

In regard to some of those minor housekeeping amendments, I have spoken to the deputy minister regarding Section 55(1), and he assures me that the wording in that particular amendment is not going to be in the final draft.

The other concern that has come up, which Mayor Borotsik has spoken to at length, was Section 713(3), and that is the amount of money to be charged to transient traders. We think that the \$150 is far too low as well, and either it be raised, as Mr. Borotsik has said, to \$1000 or \$2000, or put in line to what the amendments are, the bylaws are, in The City of Winnipeg Act.

Those are the two main issues that I wished on that particular issue, Madam Chairman.

Madam Chairman: Thank you, Rochelle. Are there questions of Ms. Zimberg?

Mr. Downey: Not to delay the activity of the committee, I just want to thank her for her presentation.

I can inform her, as well, that I am going to be communicating to the president of the Urban Association and the Union of Manitoba Municipalities a request from them to point out some of the major changes that they foresee in The

Municipal Act before we in fact structure the committee which she has suggested. She can report back that we are taking seriously the request as has come from them, and also from the City of Brandon.

I am communicating that to them; so we are trying to get some guidelines so I can go to my colleagues in government to say: These are some of the things that they would like to see changed, and we should establish a committee to do it.

Ms. Zimberg: Thank you.

Mr. Ducharme: Rochelle, I have not had a chance to read it over, qualifications of electors. What is your difference? You heard the discussion earlier; you were present in regard to the school division. You have made a recommendation, I notice, under 7(C), an owner of land which is assessed in the latest revised realty assessment role.

Are you saying that a person for school board would not have to be a resident? Is that what your recommendation is? Under 7(C), or actually Section 5(1), but you have it listed under 7. On page 2.

Ms. Zimberg: Madam Chairman, it is my understanding Section 5(1) currently states the act provides that a resident of the school division must be a Canadian citizen of full 18 years of age at the date of election, be a resident in the authority for a period of six months of the date of the election, and the same Section 5(1) then goes on to broaden the qualifications for an elector in the municipality to allow a resident and non-resident alike to be listed on the voters list to vote, provided they own land which is assessed in the latest revised realty assessment role or are tenants or occupiers of lands whose names are entered on the latest revised realty assessment role.

The recommendation basically is, the absence of any compelling to the contrary, Section 5(1) of the act should be amended to make the qualifications for school trustee the same as for municipal officials.

This can be accomplished by adding the words "and municipalities" after the words "local authorities" in the introduction under "Qualification for electors" where they occur in the first paragraph of this act, and by deleting the phrase "in the case of elections in a municipality" where it occurs in Section 5(1)(b). This would have the impact on certain pieces of other legislations regarding qualifications of a candidate, such as The City of

Winnipeg Act, Section 85; The Public Schools Act, Section 22; and The Municipal Act, Section 46. So, does that clarify?

Mr. Ducharme: Just one quick question. Have you had any resolutions—I have not seen any lately—on terms from your association?

Ms. Zimberg: Terms of office?

Mr. Ducharme: Yes.

Ms. Zimberg: Madam Chairman, we had a resolution just this last convention from the City of Winnipeg on terms of office that was dealt with at our convention but was not passed.

* (1200)

Mr. Ducharme: I hate to prolong this. Yes, I understand the City of Winnipeg, but I am wondering, because we are concerned about the outlying municipalities, what type of response did you get from the other municipalities, other than the City of Winnipeg?

Ms. Zimberg: Madam Chair, there was a difference of opinion throughout our membership on terms of elections. In fact, one councillor came up and said he wished it was only two years, but we have not dealt with this in depth by task force, or by any survey and so on, of our membership at this point.

Madam Chairman: Thank you. Are there further questions of Ms. Zimberg? Thank you for your presentation.

Ms. Zimberg: Sorry, Madam Chairman. Did you want me to review The Local Authorities Elections Act, or is that it?

Madam Chairman: Oh, I am sorry. My understanding was that you were just tabling that for the benefit of the committee, but if you wish to go through the presentation, please proceed.

Ms. Zimberg: Thank you, Madam Chair. The association is very pleased to have had the opportunity to express its concerns regarding Bill 19, amendments to The Local Authorities Elections Act.

The association supports the thrust of the amendments being proposed in Bill 19. Many of the amendments reflect our concerns which our association has expressed by way of resolutions passed at our annual conventions over the past few years.

The association would suggest, however, that there are further amendments that should be made. The association has compiled for the members of the committee the attached list of further amendments to Bill 19. We sincerely hope your committee will examine these amendments carefully and incorporate them into Bill 19.

Some of the amendments have already been addressed by Mayor Borotsik, who is also a member of our committee and a member of our board.

Section 44, Nominations: It is recommended that there be a fixed date, being 21 days prior to elections, for the receipt of nominations.

Section 57(2), Advanced polls: It is recommended that the dates of the advance polls be as flexible as possible and reflect the flexibility in The Provincial Elections Act, which has 13 days of advance poll, the first being five days after nominations have been received. There should, however, be some thought given to the fact that it would take some municipalities longer than five days to print ballots.

Section 95(3), Mail-in vote: The association is very pleased with the amendments to this section of the act.

Section 62, Ballot boxes: It is recommended that the above section be amended as follows:

Types of Ballot boxes: Each ballot box shall be made of a material which is in the opinion of the Chief Electoral Officer sufficiently durable for the purposes of a ballot box and furnished with, a) a suitable number of nonreusable sealing mechanisms which are serially numbered; or b) a lock and key, and they shall be so constructed that the ballot box papers may be deposited therein but cannot be withdrawn therefrom without removing the seal or unlocking it, as the case may be, or so damaging the ballot box that it is obvious that it has been tampered with.

The result of this amendment would be to allow, at the discretion of the returning officers, the use of disposable cardboard ballot boxes and seals as presently used in some of the provincial and federal elections or the use of seals or locks on traditional ballot boxes.

There is a concern with several of our members that storage of the metal boxes is becoming quite a difficult problem.

Section 82(2), Appointment of scrutineers: It is recommended that the word "poll" be clarified so that a candidate can appoint only two scrutineers in each polling place. This would bring it into line with The Manitoba Elections Act. It would remove any ambiguity as to whether the word "poll" refers to the number of polls within the polling place or the polling place itself.

Section 112, Disposition of ballot papers: It is recommended that the time after which ballots can be destroyed be shortened to three months rather than one year and that the section be amended as follows: "three months, except in those instances where there is a notice of recount filed as provided under Section 102(1) of the act".

Retention of ballot papers for one year is too long of a time. Considerable space is required to store the ballot papers and the boxes for one year.

Qualifications of electors, I just presented that, so I will not have to read through that again. That is my presentation, Madam Chairman.

Madam Chairwoman: Thank you. Are there questions of Ms. Zimberg? Hearing none, I would like to thank you for your presentation.

At this point in time we generally give consideration to the bill clause by clause. However, we are going to have to have approximately a 10-minute recess—two-minute recess—at some point to change the auditory tape, and additionally I believe the minister has requested some time for the staff to prepare the amendments.

What is the will of the committee?

Mrs. Carstairs: It seems to me, or it would appear that there do not seem to be a lot of amendments to Bill 19. Most of the amendments appear to be Bill 18. Could we proceed to pass Bill 19 and then take the break in order to facilitate passage of 18?

Madam Chairwoman: I am sorry for the interruption. I have just been prompted that there is no time. The tape has now expired, so we will have to take at least a two-minute break.

What is the will of the committee, a five-minute break?

Mrs. Carstairs: Five minutes.

Madam Chairwoman: Okay, the committee will reconvene at 12:10 p.m.

* * *

The committee took recess at 12:05 p.m.

After Recess

The committee resumed at 12:13 p.m.

Madam Chairman: Order, please. Would the committee please come to order. It is my understanding that we will proceed through Bill 19 first. I would also like to, at this point in time, establish whether there is the will to group some of these clauses in the event there are no amendments required.

Clauses 1 to 3—pass.

Clauses 4 to 7.

Ms. Wowchuk: I have one question on Clause 6.

Madam Chairman: Clause 6, all right, then I will proceed and ask if there is the will to pass Clauses 4 and 5, if there are no questions prior to those clauses.

Clauses 4 and 5—pass.

Clause 6—Ms. Wowchuk has a question of the minister.

Ms. Wowchuk: Yes, the minister had indicated that most of these changes were being made as a result of requests from municipalities. Have there been municipalities requesting that official agents be put in place, and if they have been, what would the power of those official agents be? The clause allows official agents to be put in place but does not give him/her any powers, and I would just want to question what the purpose of that is.

Mr. Downey: There has been no specific request, but again as long as we are trying to bring into line somewhat this legislation with The Provincial Elections Act, but there has been no specific request.

Ms. Wowchuk: But at some point then, if there would be elections expenses put in place by municipalities, this would be the avenue for them to be accountable for their expenses. Is that the purpose behind it?

Mr. Downey: No, it would be so they can have an individual at the polling station representing them at the activities of the voting day event.

Ms. Wowchuk: I am sorry, I do not quite understand that, because right now the candidates have the ability to have a scrutineer at the polling

station, so what would be the difference between a scrutineer and an official agent? I just do not quite understand that.

Mrs. Carstairs: I think Ms. Wowchuk makes an interesting point here, Mr. Minister, because "official agent" is used in The Elections Act provincially, with a very specific function, and that function is a financial function. It is not a function having anything to do with scrutineering. If you use this word here as official agent and then at some time try to make The Elections Act somehow or other deal with municipalities, you are going to run into real confusion of terms.

Mr. Downey: Madam Chair, if I can, the current act allows the individual to have an official agent acting on behalf of the candidate. If I understand the clarification now, the change now is that that individual can attend at the poll on behalf of that individual and act as a scrutineer. That is really what the clarification is. The person has now been able to act as an official agent. Now that individual can spend time during the hours of polling at the polling place on behalf of the candidate. That is the addition of the work that that individual can do.

* (1220)

Madam Chairman: Clauses 5 and 6—pass; Clause 7—pass.

Clause 8. Does the Honourable Mr. Downey have leave to introduce an amendment? Agreed? Agreed and so ordered.

Mr. Downey: Madam Chair, I move, seconded by the honourable member for La Verendrye (Mr. Sveinson),

THAT the proposed subsection 56.1(1), as set out in section 8 of the Bill, be amended by adding "or a moving poll" after "a special poll".

(French version)

Il est proposé que le paragraphe 56.1(1), énoncé à l'article 8 du projet de loi, soit amendé par adjonction, après "bureau de scrutin spécial", de "ou itinérant".

Motion presented.

Madam Chairman: Is it the will of the committee to adopt the amendment? Agreed? The amendment is accordingly passed.

Mr. Downey: I have an additional amendment, and I move, again seconded by the member for La Verendrye (Mr. Sveinson),

THAT the proposed subsection 56.3(1), as set out in section 8 of the Bill, be amended by striking out "that has fewer than 50 beds".

(French version)

Il est proposé que le paragraphe 56.3(1) énoncé à l'article 8 du projet de loi, soit amendé par suppression de "dans des établissements de moins de 50 lits".

Motion presented.

Madam Chairman: Shall the amendment pass—pass.

Clause 8, as amended—pass; Clauses 9(1) to 9(2)—pass; Clauses 9(3) to 13(1) inclusive—

Mr. Edward Helwer (Gimli): Just a question to the minister, just a clarification. In 56.3(1)(b) institution means a—

Madam Chairman: Just one moment, please. Is it the will of the committee for Mr. Helwer to have leave to revert back to the amendment in Clause 8? The member has leave.

Mr. Helwer: Not necessarily the amendment, but just in 56.3(1)(b) where it says "an institution in which persons" does that mean that people living in an institution such as Stony Mountain would have the ability to vote in municipal elections? What do they mean by institutions there?

Mr. Downey: If you were to go to 56.3(1)(b) it says: "an institution in which persons who are not serving sentences for offences under the law are detained while awaiting trial" so they would be in a remand situation.

Madam Chairman: Clauses 9(3) inclusive to Clause 13(1)—pass; Clauses 13(2) inclusive to Clause 14—pass; Clauses 15(1) to 17 inclusive—pass; Clauses 18 and 19—pass; Clauses 19(2) inclusive to Clause 20—pass; Preamble—pass; Title—pass. Shall the Bill as amended be reported? Agreed? Agreed.

Is it the will of the committee that I report the Bill as amended? Agreed and so ordered.

Bill 18—The Municipal Amendment Act

Madam Chairman: We will now consider Bill 18 clause by clause.

Ms. Jean Friesen (Wolseley): I would like to draw the committee's attention to the fact that I do own property at Victoria Beach, and I will withdraw when those clauses come before the committee. I would

also like to point out that I have never voted in an election at Victoria Beach and do not intend to on the basis of a property franchise.

Madam Chairman: I would like to thank Ms. Friesen for drawing the potential conflict to the attention of the committee. We will now proceed to consider Bill 18, clause by clause.

Clause 1—pass.

The minister has asked for a two-minute break to allow him to prepare the amendments in the appropriate order.

Hon. James Downey (Minister of Rural Development): This is an additional amendment which I have considered and asked for the support of the committee. It is where a council—and we will be introducing it—has been elected by acclamation, that they would be able to continue on without the same restrictions as if a council had changes. It was presented by the City of Brandon, that they would be able to continue to govern as they were in the past, that we would in fact not restrict them as we would a new council being elected. I am preparing an amendment which would, in fact, allow that to take place.

Now I have another amendment, Madam Chair.

Madam Chairman: Clause 2?

Mr. Downey: Section 4.

Madam Chairman: No. We are still on Clause 2. We have only passed Clause 1.

Mrs. Sharon Carstairs (Leader of the Second Opposition): Does the minister want approval in principle to that amendment now?

Mr. Downey: That is correct so I can have the drafting of it done.

Mrs. Carstairs: In third reading as opposed to this one.

Mr. Downey: No, right now. We will be proposing it.

Madam Chairman: The amendment will be introduced when we reach that clause in the bill.

Clause 2(1) and 2(2)—pass. Clause 3.

Mrs. Carstairs: Madam Chair, the minister is unwilling to—

Madam Chairman: Excuse me, please. I just want it noted on the record that Ms. Friesen is exempting herself from further discussion and

consideration of this clause because of a potential conflict.

Mrs. Carstairs: The minister is unwilling to accept the removal of the word "consecutive", thereby leaving subsection 45(2) as it presently exists unamended.

Mr. Downey: Madam Chair, I have taken careful consideration of the presentation that was made and, as well, the comments made. I am of the opinion that I think to add the word that we are adding, "consecutive", I am of the opinion at this point that it should be part of the bill.

Mrs. Carstairs: Madam Chair, can the minister tell us why he had no contact with the Victoria Beach Council, since this seems to have come at the recommendation of the Winnipeg Beach Council, and it seems inappropriate that one council in a cottage area should determine the policy for all councils in that cottage area?

Mr. Downey: Madam Chair, there are other ways of talking to municipal people. There are other ways of having comments made. I do not know why staff had not, particularly, talked to Victoria Beach. However, we are going through the process of discussion before a legislative committee of which people have received the bill. They are fully aware of it and have had the chance to come forward and make their concerns known. I think it is an opportunity to consult. Again, I think that if there was an oversight then I would apologize to those individuals. However, they have had the opportunity to make their thoughts known, and I have taken into consideration comments made.

* (1230)

Madam Chairman: Order, please. The hour being 12:30, what is the will of the committee?

An Honourable Member: Leave to sit to finish.

Madam Chairman: Leave to sit to finish this bill. Agreed? Agreed and so ordered.

Mrs. Carstairs: Madam Chairperson, the MAUM, which has just presented to us, has indicated that they would like to be involved in a full debate of The Municipal Amendment Act. Would that not be a more appropriate time for this type of amendment to come up than by doing it now, particularly when there has not been the kind of consultation with all of the cottage communities that will be affected, by the minister's own admission?

Mr. Downey: Madam Chair, again the Urban Association have made a presentation to the committee today. They have had the bill for several weeks and I have not had anybody protesting that we are adding this word. So there has been ample opportunity to make a presentation on this particular issue. Both the urban and the union would have had an opportunity to make presentations, and I have heard none.

Mrs. Carstairs: Madam Chairperson, it is quite clear that the Victoria Beach council has raised their objections. They raised them very vigorously at today's presentation, and this may have indeed been the first time that MAUM was apprised of their particular difficulty with this piece of legislation. If the minister is unwilling to change his mind on this, then let it clearly go on the record that Mr. Carr and Mrs. Carstairs will oppose this particular section of the bill.

Mr. Downey: Madam Chair, I fully appreciate that. All I want to say is that both the City of Brandon, all the councils, all the municipalities have received this. The organizations representing Victoria Beach have been aware of this bill that is coming forward and, as I have said, I have had no one speaking out against it, assuming that the path we were on was one which could be supported.

I do fully appreciate, and I have said it several times—and I have spoken to the representative from Victoria Beach that I have taken into consideration what has been said by that individual. What we are doing is spelling out what the intent of the law is more clearly. The law has been in fact intending to have this in place since the writing of the act, I guess. What I am saying is I believe in fairness, that it is not unfair to do what we are doing.

Madam Chairman: Shall Clause 3 pass? All those in favour of Clause 3, please say yea. All those opposed, please say nay. In my opinion, the Yeas have it. Clause 3 is accordingly passed.

Clause 4.

Mr. Downey: Madam Chair, I move, seconded by the member for Gimli (Mr. Helwer),

THAT section 4 of the Bill be amended by striking out clause (b), renumbering clause (c) as clause (d), and adding the following after clause (a):

(b) by repealing clause (d) and substituting the following:

(d) a treasurer, clerk or other paid officer of a municipality who is appointed by a by-law of the municipality;

(c) by repealing clause (e); and

(French version)

Il est proposé que l'article 4 du projet de loi soit amendé par suppression de l'alinéa b), par substitution, à l'actuelle désignation d'alinéa c), de la désignation d) et par adjonction, après l'alinéa a), de ce qui suit:

b) par substitution, à l'alinéa d), de ce qui suit:

d) le trésorier, le greffier ou un dirigeant rémunéré de la municipalité qui est nommé par arrêté municipal.

c) par suppression de l'alinéa e):

Madam Chairman: Order, please. Does the Honourable Mr. Downey have leave to introduce proposed amendments on Bill 18? Agreed? Agreed and so ordered.

Clause 4. It has been moved by the Honourable Mr. Downey, seconded by Mr. Sveinson,

THAT section 4 of the Bill be amended by striking out clause (b), renumbering clause (c) as clause (d), and adding the following after clause (a):

(b) by repealing clause (d) and substituting the following:

(d) a treasurer, clerk or other paid officer of a municipality who is appointed by a by-law of the municipality;

(c) by repealing clause (e); and

(French version)

Il est proposé que l'article 4 du projet de loi soit amendé par suppression de l'alinéa b), par substitution, à l'actuelle désignation d'alinéa c), de la désignation d) et par adjonction, après l'alinéa a), de ce qui suit:

b) par substitution, à l'alinéa d), de ce qui suit:

d) le trésorier, le greffier ou un dirigeant rémunéré de la municipalité qui est nommé par arrêté municipal.

c) par suppression de l'alinéa e);

Mrs. Carstairs: One question. It would appear to me that what the mayor of Brandon was asking for was all municipal employees. Unless I am misreading this, this does not exempt all; it just exempts certain officers. Can the minister tell us why he went this route rather than the route of exempting all municipal employees?

Mr. Downey: I guess, Madam Chair, the recommendations from staff were that this probably would suffice.

If there were individuals who were working, say, at a—one could maybe say—less sensitive area as it related to decision making, that those individuals could, in fact, in maybe some small communities be part of the council and not be in what I would refer to as a sensitive situation as related to passing of money, that type of thing. And if they were to be, then they could, in fact, exclude themselves on that decision-making exercise, i.e., salaries to workers within a municipality.

It is a matter of trying to bring a balance, I guess, if I can, not to restrict totally people who may be working for a municipality. They should have every right to be interested in the overall, if I could, politics of running the municipality and not be totally restricted. It is a matter of sensitivity, and that is really—what we have tried to strike is a fairness, and that is why we are introducing it in this manner.

Madam Chairman: Shall the amendment pass? The amendment is accordingly passed.

Shall Clause 4, as amended, pass? Clause 4, as amended, is accordingly passed.

It is my understanding, unless it is the will of the committee to introduce clauses, there will be subsequent amendments commencing with Clause 7.

Clauses 5 and 6—pass; Clause 7.

Mr. Downey: I move, seconded by the honourable member for Emerson (Mr. Penner),

THAT the proposed subsection 53(1) as set out in section 7 of the Bill, be amended by adding "with the returning officer" after "shall be filed".

(French version)

Il est proposé que le paragraphe 53(1), énoncé à l'article 7 du projet de loi, soit amendé par adjonction, après "sont déposées", de "auprès du directeur de scrutin".

Motion presented.

Madam Chairman: Shall the amendment pass—pass.

Clause 7, as amended—pass; Clause 8.

* (1240)

Mr. Downey: Madam Chair, I have an amendment.

I move, seconded by the honourable member for Turtle Mountain (Mr. Rose),

THAT the proposed subsection 55(1), as set out in section 8 of the Bill, be struck out and the following substituted:

When nominations to be received

55(1) The returning officer shall receive nominations in the seven days before the first Wednesday in October during the regular business hours of the municipality on the days the offices of the municipality are normally open.

(French version)

Il est proposé que le paragraphe 55(1), énoncé à l'article 8 du projet de loi, soit remplacé par ce qui suit:

Moment du dépôt des déclarations

55(1) Le directeur du scrutin accepte les déclarations de candidatures au cours des 7 jours ouvrables de la municipalité précédant le premier mercredi d'octobre, durant les heures normales de bureau.

Motion presented.

Madam Chairman: Shall the amendment be passed—pass.

Clause 8, as amended—pass; Clause 9—pass; Clause 10—pass; Clause 11.

Mr. Downey: Madam Chairman, I move, seconded by the member for La Verendrye (Sveinson),

THAT subsection 11(2) of the Bill be amended by renumbering clause (b) as clause (c), and by adding the following as clause (b):

(b) by striking out "subsection (1)" and substituting "subsection 109(2)".

(French version)

Il est proposé que le paragraphe 11(2) du projet de loi soit amendé par substitution, à l'actuelle désignation d'alinéa b), de la désignation c) et par adjonction, après l'alinéa a), de ce qui suit:

b) par substitution, à "paragraphe (1)", de "paragraphe 109(2)".

Motion presented.

Mrs. Carstairs: Can the minister just tell us what the intent of all that is?

Mr. Downey: That is to make sure that municipal Manitoba runs properly.

Mrs. Carstairs: To make it perfectly clear, Mr. Minister, would you like to tell us exactly how the

municipalities will function better as a result of this convoluted amendment?

Mr. Downey: It gives the urban members the opportunity to have indemnities equal to rural members.

Madam Chairman: Clause 11(1)—pass.

Shall the amendment to 11(2) pass—pass; Clause 11(2), as amended—pass; Clause 12—pass; Clause 13.

Mr. Downey: I move, seconded by the honourable member for Gimli (Mr. Helwer),

THAT the proposed subsection 115(1), as set out in section 13 of the Bill, be amended by striking out "in the week before the first Tuesday of November" and substituting "within 21 days after the fourth Wednesday in October".

(French version)

Il est proposé que le paragraphe 115(1), énoncé à l'article 13 du projet de loi, soit amendé par substitution, à "au cours de la semaine précédant le premier mardi de novembre", de "dans les 21 jours suivant le quatrième mercredi d'octobre".

Motion presented.

Madam Chairman: Shall the amendment be passed—pass; Clause 13, as amended—pass; Clause 14.

Mr. Downey: I have an amendment, Madam Chairman.

I move, seconded by the member for Emerson (Mr. Penner),

THAT the proposed section 122.1, as set out in section 14 of the Bill, be amended by striking out "After the day of an election of a new council or, where all members of a council are elected by acclamation, after the day the candidates are declared elected", and substituting "After the fourth Wednesday in October in the year of an election,".

(French version)

Il est proposé que l'article 122.1 énoncé à l'article 14 du projet de loi soit amendé par substitution, à "A partir du lendemain de l'élection d'un nouveau conseil ou, dans le cas d'un conseil élu sans concurrent, à partir du lendemain de la déclaration d'élection", de "Après le quatrième mercredi d'octobre d'une année d'élection,".

Mrs. Carstairs: Madam Chair, just for clarification from the minister, this does not change the intent,

this just makes it possible for a council elected by acclamation to continue.

Mr. Downey: That is correct, Madam Chair.

Madam Chairman: It has been moved by the Honourable Mr. Downey,

THAT the proposed section 122.1, as set out in section 14 of the Bill, be amended by striking out "After the day of an election of a new council or, where all members of a council are elected by acclamation, after the day the candidates are declared elected", and substituting "After the fourth Wednesday in October in the year of an election,".

(French version)

Il est proposé que l'article 122.1 énoncé à l'article 14 du projet de loi soit amendé par substitution, à "A partir du lendemain de l'élection d'un nouveau conseil ou, dans le cas d'un conseil élu sans concurrent, à partir du lendemain de la déclaration d'élection", de "Après le quatrième mercredi d'octobre d'une année d'élection,".

Mr. Bob Rose (Turtle Mountain): Madam Chair, just for clarification, in the year of an election, is that not the same thing as when there is an acclamation? Does that not say that is the year of an election? Am I misunderstanding this here?

Madam Chairman: Would you repeat your question, please, Mr. Rose?

Mr. Rose: Well, the substitution is "After the fourth Wednesday in October in the year of an election," and there is no reference to whether there was an acclamation or not. I would interpret that to be any year in which there is an election.

Mr. Downey: We were discussing this—maybe the member would repeat his question, if he would, please, just to make sure we are absolutely clear.

Mr. Rose: My question is just for clarification, really. If I understand what we are saying, in the year of an acclamation, the council will continue without interruption. Is that our intent?

Mr. Downey: Yes, that is correct. After the election day, if they are elected by acclamation their powers to govern the municipality will not have changed any prior to that of the election. If a new council is elected, then they are restricted in what they can carry out on behalf of the council following that election till the new council is in fact elected.

Madam Chairman: Shall the amendment pass—pass.

Clause 14, as amended—pass; Clause 15—pass; Clause 16—pass; Clause 17—pass; Clause 18.

* (1250)

Mr. Downey: Madam Chair, I am introducing this amendment because we do have a municipal corporation that made a presentation to committee today, and I would hope that members would support us in the desire to have that municipality of Brandon operate within the law. So I will be introducing an amendment.

Madam Chair, I move, seconded by the honourable member for La Verendrye (Mr. Sveinson),

THAT the Bill be amended by adding the following after section 18 of the Bill:

Clause 306(3)(a) amended

18.1 Clause 306(3)(a) is amended by striking out "subsection (2)" and substituting "subsection (1)."

(French version)

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 18, de ce qui suit:

Modification de l'alinéa 306(3)a)

18.1 L'alinéa 306(3)a) est modifié par substitution, à "paragraphe (2)", de "paragraphe (1)".

Madam Chairman: I have reviewed the amendment, and, unfortunately, I have to rule this amendment out of order procedurally, according to Beauchesne's Citation 698(8)(b) which states: "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."

Therefore, I am ruling the amendment out of order.

Hon. Gerald Ducharme (Minister of Government Services): I challenge your ruling.

Madam Chairman: The honourable member Mr. Ducharme wishes to challenge the ruling of the Chair. Is there a second member wishing to challenge? The rules are that there are two members required to challenge the ruling of the Chair.

Mr. Jack Penner (Emerson): Well, Madam Chair, it appears that if we do not make the correction at this time in the committee that the City of Brandon might in fact continue to operate illegally, as it appears that they have done in the past. Therefore,

I would suggest that the committee here exercise its responsibility in ensuring that the laws are in fact the laws that we can legally apply in this province. Therefore, I would suggest very clearly that the Chair should allow the amendment to pass and be dealt with at this committee and at least discussed.

So I would ask the Chair to reconsider her ruling and allow us to debate and consider the amendment that is being proposed by the minister to ensure that the act in fact is, and can be, carried out legally.

Madam Chairman: My ruling has been challenged by two members. I understand there is a further question on the ruling.

Mrs. Carstairs: My question is—I think all of us are sympathetic, including the Chair, to making this amendment. However, you cannot make amendments if in fact they are going to in any way affect the effectiveness of the rest of the bill. What I would really like to hear from legal counsel, through the minister, is by adding this amendment at this point in time, are we in any danger of nullifying the rest of the bill because the bill has been passed with an illegality in it? If we are doing that, then I would suggest we have to be very careful.

Madam Chairman: I think the point under question is—the actual amendment is very legal. It is procedure, it is the procedural—

An Honourable Member: You are about to be overruled.

Madam Chairman: The question before the committee is, shall the ruling of the Chair be sustained? All those in favour, please say yea. All those opposed, please say nay. In my opinion, the Nays have it. The ruling of the Chair has been overturned.

The Honourable Mr. Downey has moved

THAT the Bill be amended by adding the following after section 18 of the Bill:

Clause 306(3)(a) amended

18.1 Clause 306(3)(a) is amended by striking out "subsection (2)" and substituting "subsection (1)."

(French version)

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 18, de ce qui suit:

Modification de l'alinéa 306(3)a)

18.1 L'alinéa 306(3)a) est modifié par substitution, à "paragraphe (2)", de "paragraphe (1)".

Shall the amendment be passed—pass; Clause 18, as amended—pass.

My understanding is that we have no further amendments for some time. Therefore, shall Clauses 19 through to Clause 25(1)—pass.

Clause 25(2)—pass; Clauses 26 and 27—pass; Clause 28.

Mr. Downey: I move, seconded by the member for Emerson (Mr. Penner),

THAT section 28 of the Bill amending clause 713(3)(d) be amended by striking out "\$150." and substituting "an amount prescribed by the Lieutenant-Governor-in-Council by regulation".

(French version)

Il est proposé que l'article 28 du projet de loi, modifiant l'alinéa 713(3)d), soit amendé par substitution, à "100\$", de "150\$", de "ne dépassant pas le montant que le lieutenant-gouverneur fixe par règlement".

Madam Chairman: It has been moved by the Honourable Mr. Downey

THAT section 28 of the Bill amending clause 713(3)(d) be amended by striking out "\$150." and substituting "an amount prescribed by the Lieutenant-Governor-in-Council by regulation".

(French version)

Il est proposé que l'article 28 du projet de loi, modifiant l'alinéa 713(3)d), soit amendé par substitution, à "100\$", de "150\$", de "ne dépassant pas le montant que le lieutenant-gouverneur fixe par règlement".

Mr. Rose: Madam Chairman, just a question for information. Does that mean that each individual, municipal corporation would apply to the minister, or would it be an overall—

Mr. Downey: No, it could be, but it would be my intention to—really what I would like to see is a schedule as to what the different charges would be, outlined by a community. For example, and the reason that I have had asked for this to be put in regulation, let us face it, I think we have to have more consultation with it. I think we have certain situations where municipalities I think have to clarify what really their intentions are, as a scheduled charge for individuals, remembering our job is to look after the total interests of all the public, that we try and bring into line a schedule of what the plans are. That is not to say I do not have confidence in

the municipalities. I think it is a step in the right direction and we do it with caution.

Madam Chairman: Order, please. We have another procedural concern that I wish to draw to the attention of the committee. The amendment as written read "by the minister by regulation." It was subsequently changed in consultation with our legal advisers, in pen. The minister read it with the proposed change, Lieutenant-Governor-in-Council, as did I, but I need the leave of the committee to accept the amendment as changed. Leave? Agreed? Agreed, and so ordered.

Mr. Ducharme: Just a question to the minister. When you set up in regulations, can you set it up that the municipalities, by bylaw, in the regulations? Can that be done in regulations?

Mr. Downey: Madam Chairman, I have to get further clarification on that from legal counsel. I have not got an immediate answer.

Madam Chairman: Is it the will of the committee to proceed?

Some Honourable Members: Proceed.

Madam Chairman: Shall the amendment be passed—pass. Clause 28, as amended—pass; Clause 29.

Mr. James Carr (Crescentwood): To the minister, on the section that deals with definitions of mining and removal of aggregate. As the minister knows we have spent quite a bit of time in committee passing an entirely overhauled mining act for the Province of Manitoba.

Can the minister give us some assurances that there is nothing in this act which is contradictory to the act that was just passed by the Legislature?

Mr. Downey: Can I just say that the origin of the request to have this changed came from a committee of the—I will deal specifically with the question as quickly as I can. The origin of this request came from municipal corporations, the industry, the sand and gravel industry and the aggregate industry, and the department working to try and resolve this long outstanding issue of the municipality being unable to get a fair return from the taxing on equipment that was in the aggregate pits. I do not believe that there is anything that would in any way be contradictory to the mines and energy act. This is more to the taxing of the aggregate that is hauled over the municipal roads, but no ability to tax product in the pit.

* (1300)

Madam Chairman: Clause 29—pass; Clause 30.

Mr. Downey: Madam Chairman, I move, seconded by the member for La Verendrye (Mr. Sveinson),

THAT section 30 of the Bill be amended by striking out "\$100" and substituting "an amount prescribed by the Lieutenant-Governor-in-Council by regulation".

(French version)

Il est proposé que l'article 30 du projet de loi soit amendé par substitution, à "100\$", de "le montant que lieutenant-gouverneur fixe par règlement".

Madam Chairman: Once again, is it the will of the committee to accept the amendment as read by the minister, as opposed to the written copy? Agreed.

Moved by the Honourable Mr. Downey

THAT section 30 of the Bill be amended by striking out "\$100" and substituting "an amount prescribed by the Lieutenant-Governor-in-Council by regulation".

(French version)

Il est proposé que l'article 30 du projet de loi soit amendé par substitution, à "100\$", de "le montant que lieutenant-gouverneur fixe par règlement".

Shall the amendment pass—pass. Clause 30, as amended—pass; Clauses 31 to 34(1)—pass; Clause 34(2)—pass; Clause 35(1).

Mr. Downey: I move, seconded by the honourable member for Gimli (Mr. Helwer),

THAT proposed section 35 of the Bill be amended

(a) by striking out "subsection (2)" in subsection (1) and substituting "subsections (2) and (3)";

(b) by striking out "Sections 29 and 34" in subsection (2) and substituting "Sections 28 to 30 and 34"; and

(c) by adding the following after subsection (2):

Section 18.1 retroactive

35(3) Section 18.1 is retroactive and is deemed to have come into force on October 19, 1988.

(French version)

Il est proposé que l'article 35 du projet de loi soit amendé

a) au paragraphe (1), par substitution à "du paragraphe (2)", de "des paragraphes (2) et (3)";

b) au paragraphe (2), par substitution à "articles 29 et 34", de "articles 28 à 30 et l'article 34";

c) par adjonction, après le paragraphe (2) de ce qui suit:

Entrée en vigueur de l'article 18.1

35(3) L'article 18.1 entre en vigueur à compter du 19 octobre 1988.

Mrs. Carstairs: I think we would like a little explanation to the gobbledegook if we could.

Mr. Downey: That is not gobbledegook, I was making it clear.

Madam Chair, what we have done is to change the fee section change to come into effect on proclamation, not on Royal Assent.

The second change is to make the section which referred to, particularly, Brandon, 306(3), that it is retroactive to October 19, 1988, so that they are deemed not to have been breaking the law for that period of time.

Madam Chairman: It has been moved by the Honourable Mr. Downey

THAT proposed section 35 of the Bill be amended

(a) by striking out "subsection (2)" in subsection (1) and substituting "subsections (2) and (3)";

(b) by striking out "Sections 29 and 34" in subsection (2) and substituting "Sections 28 to 30 and 34"; and

(c) by adding the following after subsection (2):

Section 18.1 retroactive

35(3) Section 18.1 is retroactive and is deemed to have come into force on October 19, 1988.

(French version)

Il est proposé que l'article 35 du projet de loi soit amendé

a) au paragraphe (1), par substitution à "du paragraphe (2)", de "des paragraphes (2) et (3)";

b) au paragraphe (2), par substitution à "articles 29 et 34", de "articles 28 à 30 et l'article 34";

c) par adjonction, après le paragraphe (2) de ce qui suit:

Entrée en vigueur de l'article 18.1

35(3) L'article 18.1 entre en vigueur à compter du 19 octobre 1988.

Shall the amendment pass—pass.

Clause 35(1), as amended—pass; Clause 35(2)—pass.

Mr. Downey: Madam Chair, I would like to add a new section, a final section.

I move, seconded by the member for Gimli (Mr. Helwer),

THAT Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee.

(French version)

Il est proposé que le conseiller législatif soit autorisé à changer tous les numéros d'articles ainsi que les renvois nécessaires à l'adoption des amendements faits par le présent comité.

Motion presented.

Madam Chairman: Shall the amendment pass—pass.

Schedule Form 22—pass; Preamble—pass; Title—pass. Shall the Bill as amended be reported. Agreed. Is it the will of the committee that I report the bill as amended? Agreed and so ordered.

The hour being passed 12:30 p.m., committee rise.

COMMITTEE ROSE AT: 1:06 p.m.