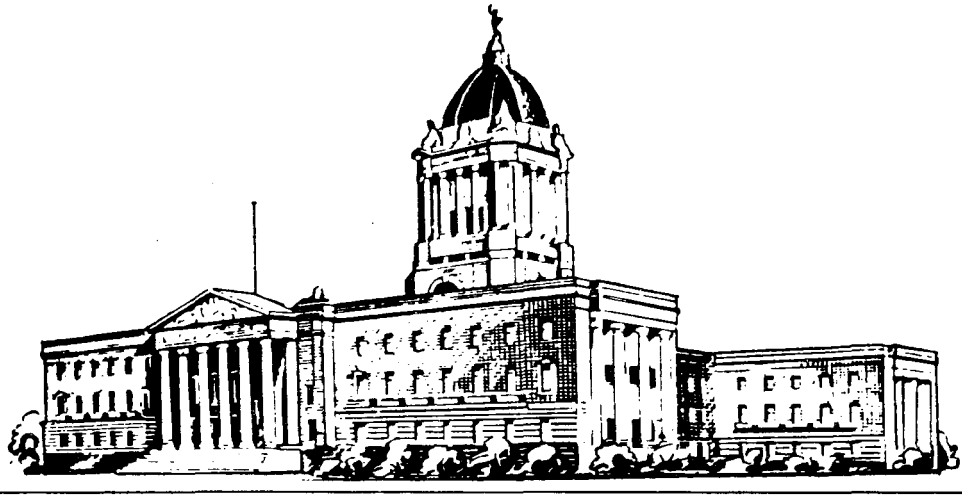
Hansard

Legislative Assembly of Manitoba

STANDING COMMITTEE
ON
PRIVATE BILLS

Chairman

Mr. Doug Gourlay
Constituency of Swan River



Tuesday, July 18, 1978 8:00 p.m.

Printed by P.N. Crosbie — Queen's Printer for the Province of Manitoba

Hearing Of The Standing Committee
On
Private Bills

Tuesday, July 18, 1978

Time: 8:00 p.m.

CHAIRMAN: Mr. Doug Gourlay

MR. CHAIRMAN: I call the committee to order. We have a quorum here. The committee is meeting tonight and before us are:

Bill No. 10, An Act Respecting The Royal Trust Company and Royal Trust Corporation of Canada.

Bill No. 13, An Act to amend An Act to Incorporate Co-operative Credit Society of Manitoba Limited.

Bill No. 16, An Act to amend An Act to incorporate St. John's Ravenscourt School.

Bill No. 17, An Act to amend An Act to Incorporate the Brandon General Hospital.

Bill No. 34, An Act to exempt the OO-ZA-WE-KWUN Centre Incorporated from certain provisions of The Liquor Control Act.

Bill No. 37, An Act to amend An Act to Incorporate the Wawanesa and District Memorial Hospital Association.

Bill No. 55, An Act for the Relief of Ingibjorg Elizabeth Alda Hawes.

Bill No. 63, An Act to Grant Additional Powers to Thistle Curling Club Limited.

Is there anyone here who wishes to make a presentation before the committee?

MR. HAROLD STUBBS: Mr. Chairman, my name is Harold Stubbs. I'm the secretary of the Law Society of Manitoba. I understood that the bill to amend The Law Society Act would be up this evening. There is a small amendment to The Law Society Act that was presented by Mr. Steen.

A MEMBER: It is not a Private Bill.

MR. CHAIRMAN: No, I didn't call 47. Apparently it doesn't come before this committee.

Was there someone else here . . .

MR. J. S. WALKER: Mr. Chairman, I intend to speak on the bill for the Relief of Ingibjorg Elizabeth Alda Hawes.

MR. CHAIRMAN: And your name?

MR. WALKER: J. S. Walker.

MR. CHAIRMAN: And that was Bill No. 55.

MR. R. SMELLIE: Mr. Chairman, my name is Smellie and I am here to speak to the bill regarding the Royal Trust Company and the Royal Trust Corporation of Canada.

MR. CHAIRMAN: Thank you. Anyone else?

MR. DOUGLAS FINKBEINER: Mr. Chairman, my name is Douglas Finkbeiner. I am with the firm of Brazzell and Company. We are the solicitors for the Thistle Curling Club Limited, and I am here to speak on the bill to increase the corporate powers of that company.

MR. CHAIRMAN: You will be called upon when your particular bill is introduced, to speak.

We will hear all of the presentations first, and we will start then with Mr. Walker on Bill No. 55, An Act for the Relief of Mrs. Hawes.

BILL NO. 55

MR. WALKER: Mr. Chairman and members of the committee, the Legislature has in the past passed bills of the nature of Bill 55, to relieve persons from the hardship of having missed a time period in a statute pursuing.

The petitioner in this case is not asking to have the time extended. That is not what the bill is directed at. The petitioner asks that she have the opportunity to apply to the Court of Queen's Bench so that a judge can look at all the circumstances in this particular case, and as the bill itself says, "On hearing the said motion, the court, having regard to the real questions in controversy, the very right and justice of the matter, and all the circumstances of the case, may, in its discretion, exercise its decision."

So that the Legislature here will not be extending the time for bringing an action, but will merely be making it possible for an application to the court.

All the facts will be fully argued before a court after the bill is passed. I would think that the Legislature in the past, in passing these bills, have passed bills for situations which are a lot less meritorious than the case of Ingibjord Elizabeth Alda Hawes. I am just wondering at this point whether the members of the committee have read the lengthy petition that Mrs. Hawes has filed with the Legislature and if the members of the committee are familiar with the facts of the case?

MR. CHAIRMAN: Has anyone read the particular. . .?

MR. WALKER: Well, very briefly then, maybe I'll just . . .

MR. CHAIRMAN: The Member for Minnedosa. - - - if Mr. Walker could cover the points in the petition, I'm sure in capsule form, or give the members of the committee some idea of just what the problem in this particular case is.

MR. CHAIRMAN: Will you proceed then, Mr. Walker.

MR. WALKER: Mrs. Hawes is a resident of the Town of Selkirk, born June 9, 1926, with a Grade 11 education. She is the mother of six children. Her husband is George Hawes who is employed with the Royal Canadian Legion in the Town of Selkirk and held that job for 22 years. During the last 14 ½ years, she has been a nurse's aide at the Selkirk Mental Hospital in Selkirk.

On December 15, she was a passenger in an automobile owned by a Wayne Oscar Goodman, and she was travelling south towards Winnipeg on No. 9 Highway and was in the vicinity of Lower Fort Garry when another automobile operated by Mr. Willard Gabriel Burns, going towards Selkirk, went out of control on an icy road and went into the path of the Goodman vehicle and very serious injuries were sustained in this accident. Mr. Burns, who drove the oncoming car that went out of control, was a young man in his thirties. His wife, who was also in her thirties, was killed and their four children were all injured in the accident. Mrs. Hawes, who was in the southbound automobile, suffered very severe injuries. She remained in intensive care in the Winnipeg General Hospital for three weeks. She was later transferred to the Selkirk General Hospital where she remained, I think, for a period of seven weeks. She had a multiple fracture of the pelvis, a fracture of the right femur, multiple fractures of the ribs, tearing of the lung, a pneumothorax. She is left presently with a limp in her walk; she walks with a cane.

While she was in intensive care, her husband retained a lawyer by the name of Robert Shewchuk of the Town of Selkirk to act on her behalf. She was unable to return to work until July, 1975. She saw the lawyer when she went out of hospital. She left all matters pertaining to this accident in the hands of her lawyer. She was unaware of any time limitation period, which was two years for this type of action. She had never had any previous experience in going to lawyers, or going to court. She was informed, and believed, that all the medical reports that were ever given to her lawyer were passed on to Autopac, and in the petition, on Page 4, there is a full page of all the reports which the lawyer passed on to Autopac — quite a lengthy number of medical reports.

On August 29, she signed a form for the Manitoba Public Insurance Corporation, which contained an authorization which is set out in the petition, to the effect: "I hereby authorize the release to my insurer, of any information requested in support of my claim," so that the insurer was free to contact any of the doctors to get more information. "That my husband and I," she says, "attended at the office of her lawyer when the adjustor from the Manitoba Auto Insurance Corporation was present," and there were some discussions held with regard to settlement of claim. I think the discussions mainly took place in the lawyer's office, and she sat outside in the waiting room. She was advised that there has never been any dispute as to liability; that is, the liability was always 100 percent clear; the driver of the vehicle in which she was a passenger was not at fault in any way. She says that she's completed numerous documents and forms for the Manitoba Public

Corporation, and that her lawyer assisted her in completing all those forms. The Manitoba Public Insurance Company made a payment to her of $1,996.41, which represented the no-fault benefits which she was entitled to.

She also states in her petition that she believes that the Manitoba Public Insurance Company has made payments to the other occupants of the vehicle, which were involved in the accident, and she believes that some death benefits were paid to the Burns family. She believes that the claim of Wayne Oscar Goodman was paid and settled by the Manitoba Public Insurance Company — that's the driver of her car. She believes that the claim for the infant that was involved in her car, Kristin Thomas Goodman, is still pending, and has not yet been settled by Autopac — it's in the courts. She says further that she believes that the Manitoba Public Insurance Corporation is in full possession of all the necessary facts, information pertaining to this accident. They have complete files, photographs and reports, and have made a full investigation, and that no prejudice will, or has been caused, by the failure to file the statement of claim.

She also says that she is advised, and verily believes, that the errors and omissions insurers of the Law Society of Manitoba are not likely to pay any claim arising out of the omission to file the statement of claim by the lawyer, in this case. She is advised that the reason for this is that the Law Society changed insurers on June 1, 1977, and that any claim arising prior to June 1, 1977 had to be reported to the Travelers Insurance Company, the former insurer, prior to June 1, and it was not. And the insurance contains a specific clause to the effect that this insurance applies to acts or omissions committed anywhere, provided such claim is brought during the policy period — and it was not. She is advised, and believes, that the driver of the car, Burns, — I won't read the rest of the petition. There is some more information pertaining to the background here, but it isn't really that relevant.

As I had indicated earlier, bills to relieve petitioners in these circumstances have been passed, and certainly this is a case in which there is considerable merit, and it is an eminently appropriate case, I would submit, for a bill to be passed for a number of reasons and I would like to deal with those reasons.

First of all, it is certainly a case of hardship; certainly the petitioner has suffered very severe injuries, lost seven months from work, still walks with a limp. In the petition, in the portion that I did not read, she told of being under the care of a psychiatrist because of her nerves, so the lady has suffered a great deal because of the injuries she sustained in the accident, and to date she has only received the $1,900 from Autopac.

The second matter I'd like to bring to the attention of the Committee is that this is a case in which there would be no prejudice whatsoever to the insurer if this matter were allowed to go to court for a judge to exercise his discretion on allowing a statement of claim to be issued. The reason there would be no prejudice whatsoever in this case is that this is not an action that arises out of the blue, something that has fallen unexpectedly from the sky, for Autopac. The insurers are fully aware of all the facts in this case; they are fully aware of all the injuries; they have lengthy medical reports. Some of the claims that have arisen out of this very serious accident have already been dealt with by Autopac. Some of them are still pending in the courts, and Autopac's lawyers are working on them, so Autopac has all the information that the petitioner, in this case, has. In fact, the lawyer, in this case, mailed them everything he had on the file; there is unusual disclosure, I would say. He has mailed so much to Autopac without getting anything in return in the way of any understandings with them. He simply mailed every document he had to them.

Someone could walk into the offices of Autopac today and go to their filing cabinet and pick out the file of Mrs. Alda Hawes and that file would be so complete, and it would be as complete as Mrs. Hawes' file is that I am holding before me right now. And they could take that file and complete the case; there is very little to be done in completing the case.

The adjustor, in this case, went out to Selkirk and saw the lady personally, so Autopac was able to have one of their adjustors meet the lady. Now, Autopac has already paid $1,996.41 — and let me just say that Autopac doesn't make these no-fault benefit payments unless they have a fairly complete picture of what the injuries are that have been suffered. And Autopac was satisfied from the reports that they received, that she was entitled, under the no-fault provisions, to the amount that they paid her.

The insurers, Autopac, know exactly what the liability situation in this case is. If they wanted to they could have made a payment to the lady of the amount that they had estimated the value of her injuries and damages to be. Let me just say this: it is a standard practice with Autopac, as it is with every insurer, that very soon after notification of a claim is made to the insurance company, the company estimates the amount of the liability that they face on that claim, so that a contingent liability would have been established in this particular case for Mrs. Hawes during the year 1975. They would have allotted a sum of money and put it aside in their contingent liabilities to cover Mrs. Hawes' claim. In fact, they would have had to do this for each of the parties that were injured in the accident.

The amount of money that Autopac set aside to handle this particular claim, would also have been taken into account when Autopac considered the new rates that would be charged for insurance during the subsequent years after taking it into account, and I would submit to this committee that if at the present time there were no relief granted to Mrs. Hawes, there would be a windfall gain to Autopac of the amount of money they had set aside for Mrs. Hawes' claim. They've already evaluated her claim, they've already set a contingency aside, and it's only by virtue of the failure to file a Statement of Claim, that that money is not being paid to her, and I submit that Autopac, being a publicly owned corporation, that it would not be fitting for a public body to make a windfall gain in such a manner.

I would sort of pre-guess some objection on the part maybe of some that maybe this is done to relieve the lawyer. We certainly heard that objection. Let me just clearly state that nothing in this Act will relieve the lawyer of his liability in the situation. On the contrary, this is a matter that will be taken into account when the matter comes to court, and on the hearing of the application. When the judge of the Court of Queens Bench comes to consider this application at some future date, if it is passed by our Legislature, then the judge will hear full argument as to the role of the lawyer, the fault of the lawyer, the conduct of the lawyer, and at that time the matter will be resolved. So, it will at that time become a very real issue before the court, but at this time the bill itself is not aimed at giving relief to that lawyer, it is simply putting the matter into the hands of the Court of Queen's Bench to determine, as the bill says, on the very right and the merits and the language of the bill and the real questioning controversy, the very right and justice of the matter and all the circumstances of the case.

So I ask the committee to recommend the passage of this bill in its final reading, and I recommend to the committee that its strive to see that justice be done in this case, notwithstanding the errors and mistakes that have been made by people in the system.

MR. CHAIRMAN: Thank you, Mr. Walker. Are you prepared to answer any questions that members of the committee may have?

MR. WALKER: Yes, I'll be pleased to answer any questions.

MR. CHAIRMAN: The Member for Ste. Rose.

MR. ADAM: Thank you, Mr. Chairman. It's just one of the latter comments that the witness made, when the witness stated that it would be wrong for a public company to have a windfall, under the circumstances of this case. I'm wondering why a public company should be more liable than a private company, under the same circumstances.

MR. WALKER: I would say that it's wrong in both cases. It is wrong to put aside a sum of money for a particular purpose, and then not use it for that purpose, particularly . . . you know, the whole concept of insurance is to protect those who have lost and suffered damage, and to spread that loss over the community. To take that loss and calculate it and then collect from the community that dollar amount, and then on some technicality not pay it to the victim, seems to me to be wrong, and whether it's a private company that does that or public, I think it is wrong.

MR. ADAM: Yes, that's the point that I wanted to clear. It came out as though you felt that the public would be more obligated than a private concern, and I wanted to get that straight.

I wanted to ask the witness a further question in regard to the limitation, the time that proceedings were begun in this particular case by the injured party, was a lawyer involved? Did she have a lawyer looking after her affairs? Was it the injured party's fault that proceedings were not begun, or was it her solicitor's fault?

MR. WALKER: The answer is yes, she did have a lawyer looking after her affairs. Her husband had got the lawyer for her while she was in intensive care at the hospital.

No, to the other question, it wasn't her fault. She had done all that she could. She had signed authorizations for Autopac, she had put the matter in the hands of her lawyer, the error was one made by the lawyer.

MR. CHAIRMAN: Any further questions? Mr. Adam.

MR. ADAM: Well then, Mr. Chairman, what is being said is that a lawyer has been negligent in his duties in representing a client, which resulted in this situation, and the Crown — or regardless of whether it is the Crown or a private corporation — is now obligated to pick up the damages because of a lawyer being negligent. Does she not have any recourse against the negligence of

the lawyer?

MR. WALKER: Okay. First of all, again, I stressed at the outset that this bill is not deciding at this time whether the lawyer is relieved of liability or not. That is not the purpose of this bill. The only purpose of this bill is to allow Mrs. Hawes to apply to the court and to have the whole matter placed before a judge of the Court of Queen's Bench, who will take all these matters into consideration, including the conduct of the lawyer, and the court will determine whether or not a Statement of Claim should be filed. Now, in this particular case, as I had pointed out, the lawyer is without insurance. We have a letter received from the adjusters of the Law Society, in which they say they have advised the lawyer that the policy will not provide him with protection in regard to the potential claim of Mrs. Alda Hawes, so he is not going to be insured in all likelihood, and the claim appears to be a large one. It could very well be that there may be problems even collecting it from this particular lawyer, I don't know.

Let me just say that up until the time that this Statement of Claim was not filed, Autopac had reserved this money, put it aside in its contingent liabilities, it was fully prepared to deal with the claim, and was dealing with the claim, and you can say that this is a technicality that is right now standing in the way of those funds being paid out, but in the proper course of events Autopac would have paid that money to the lady.

MR. ADAM: Mr. Chairman, why is there no insurance in this case?

MR. WALKER: Okay. That is a little complicated, but the Law Society changed insurance companies in the middle of, I believe, it was 1977, June 1st, and the company that had been the insurers, the Travelers Insurance Company, had a clause in their policy that stated that any claims had to arise during the policy period and be reported during the policy period, and that policy period ended June 1st, 1977.

Now, the lawyer in this case did not report the claim during that policy period. After June 1st, 1977, a new insurer came into the picture and they, of course, are not liable for any occurences that took place prior to the commencement of their policy. So this lawyer is in fact caught between two insurance policies and not being covered by either one.

MR. CHAIRMAN: The Member for Ste. Rose.

MR. ADAM: Mr. Chairman, isn't that a situation that should be resolved between the lawyers' profession and the Bar Association, or whatever body they belong to. Isn't that something that they should correct . . . ?

MR. CHAIRMAN: Mr. Walker.

MR. WALKER: That is a matter which, of course, we are not going into at this point. All we know at this point is that the claim was given to the Law Society and passed on to the insurers and we have a letter from the adjusters for the insurer stating that, "We have received instructions from our principals advising us there is no coverage provided to Mr. Shewchuk in regard to this incident as Mr. Shewchuk had knowledge of the incident prior to June 1st, 1977, which was the inception date of the policy.

"We have advised Mr. Shewchuk that a policy will not provide him with protection in regard to the potential claim by Mrs. Alda Hawes."

That's all we know at this point.

MR. ADAM: Yes, Mr. Chairman, I am in full sympathy with Mrs. Hawes in her predicament but my problem is that because — perhaps because, we're not sure, but it appears that because of the negigence of a member of the law profession that now we have before us a bill which would not be necessary otherwise. And that is the problem that I have.

MR. WALKER: Yes, there is absolutely no doubt that what you have said is correct. It is due to the negligence of an individual. It's a human mistake that has been made.

Now, as I said at the outset, this is not a matter which the Legislature has to deal with. The only thing that is at issue before the Legislature at this hearing today and when the Legislature votes on the bill is whether or not this whole matter, including the error made by the lawyer, should be placed in court, in the Court of Queen's Bench, so that a judge, looking at all the facts, hearing the explanation of the lawyer, hearing the Autopac representatives, hearing the parties, will then, according to the wording of the bill, will then and only then make a decision and that decision will be having regard to the real questions in issue, which we're not able to resolve in this forum, and the very right and justice of the matter in all the circumstances of the case.

I suggest that it really would be unfair, even, to say, " "Well, it should be entirely the lawyer's fault, or he should be the only one to pay, and this should relieve the insurer absolutely." This is a matter on which the court will hear arguments and will decide at that time what the fair and just and proper thing to do with that particular case. In fact, all that we're asking for today is that the Legislature give an opportunity for that hearing to take place, so that those questions which you raise and which you are so concerned about will be argued before a judge and a judge will make a decision on that.

MR. ADAM: I have no further questions, Mr. Chairman, at this time.

MR. CHAIRMAN: I have the following members wishing to ask questions: The Members for Wolseley, Minnedosa and Winnipeg Centre. Now we will hear from the Member for Wolseley.

MR. ROBERT G. WILSON: Yes, Mr. Walker, I was interested in some of your comments, especially those about being fair and just and proper. You're asking us to exempt Mrs. Hawes from a Statute of Limitations on compassionate grounds, I believe; is that correct?

MR. WALKER: Well, this is a case of hardship.

MR. WILSON: Hardship, correct, yes.

I'd like to, possibly, Mr. Chairman, in a few brief moments put on the record . . . It seems quite a situation here. Maybe Mr. Walker would like to comment. And he has dealt with the fact that the lawyer was negligent in not issuing the statement of claim. But he further goes on to state that the Law Society, who carries $200,000 or $300,000 in the bank, forgot to have an insurance company, or if they did have one, the insurance company — and I am surprised with all the lawyers — had a clause in there which they didn't cover anybody once they stopped doing business with the Society, and yet a new policy comes into effect with a new insurance company and that insurance doesn't cover this particular woman, either.

So you are asking us, as politicans, to be fair and just on a hardship case with Mrs. Hawes because you say there may be problems collecting from the lawyer. Well, it's very strange. I had experience, myself, to go in front of the Law Society, and when you have a claim against a lawyer and the Law Society, the lawyers have a committee, which you go in front of — a sort of a board of inquisition — and they are there to protect the money that the lawyers are hanging on to. So therefore I put myself in the position that I am here to protect the taxpayers of Manitoba , but I'm also caught with the fact that I want to deal with Mrs. Hawes fairly.

I'd like your comment as to the policy and procedure that the Law Society for aggrieved citizens to get an extension of Statue of Limitations or some compassion, or some fair and just treatment. They are in front of your organization. They go in front of six or seven members, who are there to protect the fund, who grill the particular citizen, who seemed to be there to protect the money that is sitting there, which is their own money. So I draw the analogy, Mr. Walker, because it seems that because the Law Society made an error and did not have a policy to cover errors and ommissions we are being asked to give Mrs. Hawes the opportunity. And I agree with you. Maybe the judge will look at Mr. Shewchuk's role and ask that he pay part of it but obviously you said it's a very large claim, so the citizens of Manitoba, through Autopac, are going to have to pay out a substantial amount of money.

I will be inclined to support Mrs. Hawes' position but I just wanted to put on the record that here we are, as politicans, being asked to give Mrs. Hawes a break, yet the same procedure, from my personal experience, does not apply when appearing before a panel of lawyers.

MR. WALKER: Let me first say, in response to the Member for Wolseley, that I, first of all, appreciate very much the compassionate decision that he has made on this matter and the fact that he will support this bill.

As to some of the comments that were made, my understanding of the situation is this. You had indicated that the Law Society had made an error or had forgot to have insurance coverage. What happened here was that the Law Society sent a notice to the entire legal profession, prior to the expiry of the Traveler's Insurance policy and they cautioned the profession that the insurance coverage with the Travelers Insurance Company would be terminated on June 1st and that if there were any claims that any member has knowledge of that arose within the policy period, they had better come forward before the end of the policy and report their claims. Because if they did not, they would run into precisely this problem. And I have a clear recollection myself of having received that letter from the Law Society warning that if there were any claims I had knowledge of I had better come forward before the June 1st deadline, otherwise I would run precisely into this problem.

I don't know what reasons the Law Society had for changing the insurers from the Travel ers Insurance Company of America, or whatever it was, to GUESCO , but this warning was sent out to all lawyers that there is this clause in the policy which reads, "This insurance applies to acts or omissions committed anywhere provided such claim is brought during the policy period."

As to the second part of your question, I don't know at this point what the role of the Law Society will be with regard to this particular lawyer, with regard to this particular problem. At this stage, all I can say is that it is premature and it could well be that this is a matter which the Law Society will go into in more depth. Mr. Stubbs is right here today sitting behind me and he is fully aware of what I'm saying and I'm sure that he will be looking into the matter, he has a responsibility in that regard. All I can say is the Law Society has been fully notified of this and this is a very preliminary early stage in these proceedings.

MR. CHAIRMAN: The Member for Wolseley.

MR. WILSON: Well, the very fact that you're saying that a letter went out telling the members if they felt that they had made a mistake in their practice that they better bring it to the Law Society now because they might not be covered, Mr. Walker, would you say that anyone that had given a rttainer to a lawyer prior to June 1st, 1977, will also fall into the same category as Mrs. Hawes in that the Travelers will be exempted from any errors and omission insurance and the new insurance company would simply say, the retainer was given to the lawyer prior to June 1st, 1977? Does that mean that all the citizens of Manitoba who have dealt with a lawyer prior to June 1st, 1977, are not protected as of this date?

MR. WALKER: If the lawyer had knowledge that there was a claim and if the claim arose prior to June 1st, 1977, and he knew of it prior to June 1st, 1977, you are right, this situation would arise where the insurers would say, "You're not covered." I, of course, have very limited knowledge on that area. I haven't heard of any other claim of this nature. This is the only one that has ever been brought to my attention.

MR. WILSON: All right, thank you.

MR. CHAIRMAN: The Member for Minnedosa.

MR. BLAKE: Thank you, Mr. Chairman. I just have one or two comments to make to maybe elaborate on comments I made when I presented the bill in the legislature. As I mentioned, I have some personal knowledge of the particular problem experienced by Mrs. Hawes and in urging my colleagues and the members of the Committee to support our action, I just want to reiterate again that our actions here in this particular committee are merely to present the case before a judge and let some further decision be made. Because it's pretty obvious that there has been an injustice to the injured party in this particular case and there seems to be general agreement that there is no conflict with the actual claim that should be paid. The claim has been acknowledged in several different ways. I know in the past there have been Acts for the relief of injured persons come before this particular committee that have maybe not received favourable comment. Some of the members of this particular committee have sat in judg ment those cases and there are many new members on the committee. Possibly our judgment has not maybe always been a wise one.

I think the Member for Inkster, in some remarks today, indicated that while he wasn't in favour of action such as this, also indicated that probably there was a grey area here that we should maybe take a further look at. Because someone has been sleeping on their claim is really not just reason for them to be denied their claim if it's a just claim.

Mr. Walker has indicated to you that we are merely passing the Act for the relief of Mrs. Hawes to present the bill to a further court to allow a decision to be made after all of the facts have been sifted through thoroughly and assess the blame, if it should be, on the responsible party that failed to meet the time limit of the two-year period. I would ask Mr. Walker in his experience if he has had cases like this before that have gone to the particular court for a further decision and what has been the recommendations of the senior court in these cases?

MR. WALKER: Okay. I must say, first of all, this is the first time that I've ever been associated with a case of this nature. I do understand that there have been a number of cases go through the court. I do have in my possession now a complete set of, call them precedents, documents, from the Court of Queen's Bench in the case of Clifford Junghans, Henry Junghans, Albert Chezick and Harvey Chezick , applicants, and the respondent Cecil Lutman. In that case the facts were a little bit different. The lawyer, through an error, had diarized the date for the limitation period on the wrong month in his diary. The Legislature passed a bill very much in the form of the bill that

we seek today and the matter was referred to the Court of Queen's Bench. have in my possession a copy of the judgment of Mr. Justice Ferguson who heard very lengthy arguments, written arguments, presented by Mr. Gordon Hall, acting for the insurers. In that case T there was a private insurance coany. he date of the claim was back in 1963. Mr. Justice Ferguson, after hearing the lengthy arguments rendered his decision. In that case, he exercised his discretion allowing . . . the final paragraph of his order said: "The said applicants or any of them shall be at liberty to bring an action as aforesaid by filing a Statement of Claim in that behalf in Her Majesty's Court of Queen's Bench for Manitoba, or in a Country Court, not more than 90 days subsequent to the date of the entry hereof. The costs of this application shall be in the discretion of the trial judge in any such action." So that was the decision that he rendered after having listened to very lengthy arguments that , were, as I said, submitted in writing to the court, and in which the full conduct of the lawyer was fully considered and fully argued. The lawyer had his own representative there and the insurers had their lawyer there and there was a very considerable argument that took place.

MR. BLAKE: Thank you, Mr. Walker. I would only say to members of the committee that the bill in itself, An Act for the Relief of Mrs. Hawes, is pretty well self-explanatory. With my particular personal knowledge of the case, here is a mother who has worked for 14 and a half years at a shift from 11 o'clock in the evening until 7 in the morning and during those working years has raised a family of six and educated them well and when you understand the modest means and the thrift which she has experienced over those years, to now find herself at her age severely injured with an extreme handicap in getting around, An Act for the relief of Mrs. Hawes is certainly a timely one and I can only urge the members of the committee to allow this bill to pass on to a further court for a judgment that is probably going to sift a lot further into the facts than we will in this particular committee. We are not making the judgment to pay or claim at this particular time but merely submitting it to a further authority for judgment. Thank you, Mr. Chairman.

MR. CHAIRMAN: The Member for Winnipeg Centre.

MR. BOYCE: Yes, Mr. Chairman, I'm in somewhat of a quandry . You said you had several precedents. One was 1963.

MR. WALKER: I have quite a few documents. They all pertain to the same case.

MR. BOYCE: To the same case.

MR. WALKER: Yes.

MR. BOYCE: The one case in 1963.

MR. WALKER: In 1963, yes.

MR. BOYCE: That doesn't go to answering my question, Mr. Walker. Every case that has come up is somewhat comparable, and it's usually on compassionate grounds, and people who present their case — I think, Mr. Chairman, I'm in a position where I'm going to have to change my mind. I think it's more like my colleague, the Member for Minnedosa said, I've never supported one before. But I do have one question: in your presentation, there is an assumption, I believe, when you say a windfall — that is, if the case itself prevails.

MR. WALKER: I just couldn't hear the last sentence.

MR. BOYCE: You had an assumption in your presentation that there would be a windfall profit to Autopac. That's an assumption that . . .

MR. WALKER: That was one of the arguments . . .

MR. BOYCE: Excuse me. That's on the assumption that the case itself prevails.

MR. WALKER: If the case prevailed?
MR. BOYCE: Yes.

MR. WALKER: Yes. Well, I would suggest that in a case of this nature, it's very easy for an insurer to calculate what the risk is of their having to pay out funds. I think that from the facts that you have in the petition of Mrs. Hawes, and the police report is not filed, from the facts in my position,

I certainl have formed the conclusion, from what I have read, that there would be no question of liability at all in this case. Mrs. Hawes expressed that view in her petition. She was in an automobile travelling south on the highway on a wintry day when an oncoming vehicl went out of control and went right across the path of travel of her driver's car, and the collision took place by the front of her car, smashing into the side of the other car, killing the wife of the driver of the other car, who was a passenger in the passenger seat.

So, with facts like that, I don't think that Autopac would have very much difficulty concluding that there would be 100 percent liability likely in the case, and then each counsel — and maybe it's the adjustors that do it — have a responsibility in the Manitoba Public Insurance Corporation; as I said, in every insurance corporation — to place a value on a potential claim very early in the history of that claim, so that the company will know what it has at risk, and what rates it must charge in the future. And I would suggest that in this case, some time early in 1975, when Autopac was in possession of very considerable medical reports, that they would have placed a value on the claim and actually set aside a contingent sum of money to cover that claim, and actually took that into account when they came to set their rates in the following year to cover their losses, their loss experience. I just suggest that it appears to me that if that claim were now not paid, that would represent a windfall gain to the insurer.

MR. BOYCE: Well, Mr. Chairman, I certainly wouldn't like to pursue this much further, because we would be out of order in arguing the case, because that isn't the point.

MR. WALKER: Really, that is — you're correct on that. This is really not hhe purpose, to argue . . .

MR. BOYCE: . . . as an assumption that the case prevails.

MR. WALKER: Yes.

MR. BOYCE: That's all. Thank you, Mr. Chairman.

MR. CHAIRMAN: The Member for Ste. Rose.

MR. ADAM: Yes, I just had a couple of more comments to make, and one is that while I guess the witness did give us a couple of cases, or one case, it was, where there was a precedent, and that was one of my concerns, that any time that — and this particular case is a bit different than an ordinary citizen coming before the Legislature and asking for assistance, not knowing the Statute of Limitation is two years, or whatever. But this case is different. There is a lawyer involved who has made an error: this is what I understand.

MR. EDWARD McGILL: Mr. Chairman, on a point of order.

MR. CHAIRMAN: Point of order, the Member for Brandon West.

MR. McGILL: It seems to me the Committee is getting into a debate on this bill. I think we are at this stage, asking questions of the witnesses, and if we are going to get into a debate on the bill, I think we are going to be badly out of order at this point.

MR. CHAIRMAN: Well, thank you. Do you have a question, Mr. Adam?

MR. ADAM: The question I ask is, should we be passing this kind of legislation? We may be encouraging lawyers to be less dedicated to their work and be more sloppy, in other words; that's what I'm trying to get at.

MR. WALKER: I doubt that anything that has happened here is likely to encourage any lawyer to have his name before a committee like this.

MR. CHAIRMAN:
Any further questions? If not, thank you very much, Mr. Walker.

MR. WALKER: I would like to thank the members of the Committee for the hearing.

BILL NO. 10

MR. CHAIRMAN: Mr. Bob Smellie. This is on Bill No. 10, An Act Respecting The Royal Trust Company and Royal Trust Corporation of Canada.

MR. ROBERT SMELLIE: Mr. Chairman, I'm sure that all members of the Committee are familiar with the Royal Trust Company, but they may not know details of its history. That company is a company incorporated in the Province of Quebec, and it's registered to do business in all the provinces of Canada.

In 1975, the Royal Trust Company had some pressure from some of its directors and some of its customers to establish a western subsidiary to give them a little more voice in the business of the company, and so in 1976 they did incorporate two additional companies, one in Toronto and one in Calgary, as wholly-owned subsidiaries of Royal Trust Corporation of Canada. The one corporation, Royal Trust Corporation of Canada, with head office in Calgary, was originally intended to look after the trust company business in the four western provinces. Since that time, they have changed their ideas about how they wanted to organize things, and they determined that rather than split it up by just the four western provinces, they would split their business as between those provinces which are Common Law provinces, and the Province of Quebec, where the parent company will continue to look after the business, which is a Napoleonic Code province.

The problem arises that all of the people who deal with Royal Trust Company are not familiar with the change in the corporate structure, and there are many wills in existence which name Royal Trust Company, and it's the desire of the two companies that are involved here that wills and trusts of this nature should be handled by the subsidiary company, the Royal Trust Corporation of Canada. And that's the purpose of this bill, to make sure that that sort of thing can happen in an orderly fashion.

There is no attempt by the company to evade the original company's responsibility. The Royal Trust Company, as the parent company, is the sole owner of the junior company with head office i Calgary. It is completely responsible for it. I understand that the Honourable Member for St. Johns raised the question in the House that this legislation could be used as a means of avoiding responsibility by the Royal Trust Company. We undertook to provide an amendment at the Committee stage which would make certain that any action which could have been brought against Royal Trust Company but for this legislation, could be enforced against either the Royal Trust Company or Royal Trust Corporation of Canada.

There is one other amendment that we would like to add which was requested by the Registrar General of the Land Titles Office, to add words which would make it applicable to the words used in Manitoba, so that there is no question, when we are referring to such people as grantees will use in Manitoba the word "owner." So, there are two amendments that we understand will be introduced in committee, which have the full concurrence of the petitioner.

The question has also been asked whether or not similar legislation is passed in other provinces? A similar bill has been passed in all of the provinces of Canada now, except Ontario and Manitoba. In Ontario, the bill has had second reading, has been referred to the committee and, of course, as you are aware the House is adjourned until October, but all of the other provinces except Manitoba have passed a bill similar to this one. And I say similar because in some of the provinces they have made changes in the wording; for example, in Saskatchewan it was changed so that it all reads in the present tense, but the substantive intent of the bill remains exactly the same in those other provinces.

Mr. Chairman, I'd be glad to answer any questions.

MR. CHAIRMAN: Do we have any questions from the members of the committee? If not, thanks Mr. Smellie.

MR SMELLIE: Thank you, Mr. Chairman, gentlemen. ILL NO. 63

MR. CHAIRMAN: I'll now call upon Mr. Doug Finkbeiner.

Relating to Bill No. 33 — An Act to Grant Additional Powers to the Thistle Curling Club Limited.

MR. DOUG FINKBEINER: Mr. Chairman, I think it will be useful at the beginning to give some background to the problem that has arisen with this corporation.

The Thistle Curling Club Limited was incorporated by Letters Patent on February 8, 1921. It had an authorized capital of 500 ordinary common shares with the par value of $100 each, and 500 Class B shares, with the par value of $100 each. At the present time, there are issued and outstanding 265 ordinary common shares, all of which are owned by one individual, in other words no one individual owns more than one share and 176 Class B shares which are all owned by the unincorporated association known as The Thistle Curling Club.

The problem that has been faced by the corporation, is that of the 265 ordinary common shares, which are the only shares that have a vote, at the present time in excess of 100 of the ordinary common shares are held by persons whose present status and whereabouts are unknown. This creates a problem in organizing the affairs of the corporation, since with the whereabouts of so many shareholders unknown, it is difficult for the corporation to even get a quorum at its annual meeting of shareholders, and therefore difficult for it to conduct its business. A great number of the shareholders have died, and it is in the administration of their estate, it is obvious that no attempt was ever made to transfer the shares to the heirs of those deceased shareholders. The difficulties and expenses that could be faced by the Curling Club in trying to trace through the estates of the various deceased shareholders would be tremendous and certainly far too great an expense for a curling club to bear. Any delay in trying to clean up the records of the corporation would only increase the nuer of shareholders whose whereabouts is unknown, or who have died, and therefore increase the problem.

The remedy of that is being sought by this bill, is to grant to the corporation the power to levy an assessment against each of the issued shares of the corporation, and to cancel any shares in respect of which the assessment is not paid. This would serve a two-fold purpose: firstly, those shareholders who have died or whose present whereabouts is unknown, and perhaps have even forgotten thtt they own a share, would obviously not pay the assessment and their share would be cancelled; secondly, the corporation would be able to obtain additional funds for the operation of its affairs.

I might point out at this time that since the corporation was set up under The Companies' Act, any corporation under that Act does not have the power to be able to levy an assessment against the shares, and that power can only be granted through an Act such as the one that we're seeking.

A similar private Act was passed a short time ago in 1969, under an Act called "An Act to Grant Additional Powers to the Rossmere Golf and Country Club Limited" — this was Bill 26 of 1969 and it was assented to on May 22, 1969. It is listed as Statutes of Manitoba 1969, Chapter 33.

I might just point out, in addition, that some of the problems that are being faced by the corporation at the present time, in the last five years — although I don't think they were really informed of this until we told them — I don't think they ever did get a quorum, and as a matter of fact the first time they got a quorum at a shareholders' meeting was at the one where this particular matter arose, and where we received the consent of the shareholders present to proceed with this petition before the Legislature.$

If they continue to fail to get quorums at their shareholders' meeting, they wouldn't be able to comply with the provisions of The Corporations Act which require an annual meeting of the shareholders, since they would never be able to get a quorum.

When we were first contacted to try to give advice on how to — I can use the phrase "clean up the corporate records" — we questioned why a corporation like this, which is really a non-profit social type of corporation, would be one with share capital in the first place, and we suggested that we attempt to convert the corporation to one without share capital. On checking the provisions of The Corporations Act, it was found that you can only do that by a special resolution signed by all of the shareholders, which obviously is impossible, or passed at a meeting at which 95 percent of them are present, and that also was impossible. So they find themselves in a position where they are slowly getting to a point where they wouldn't be able to carry on their business as a corporation.

It is interesting to note, that even if they attempted to sell off the assets of the corporation, it would be very difficult for them to do so legally, since any sale that is out of the ordinary course of business, and obviously a sale of the entire venture would be, must be consented to by the shareholders, held at a meeting. And if they can't get a quorum, they would find themselves even unable to sell off their assets.

I think it should also be pointed out that it was raised at the shareholders' meeting, and there was some concern expressed by the directors as well, that they wanted to try to prevent anybody losing their share without really knowing about it. We've already complied with the normal requirements for a petition being presented before the Legislature, by advertising this matter in the Gazette, of course, and in one of the daily papers. In addition, when the matter was brought before the shareholders' meeting, a notice was sent to each of the shareholders listed in the corporate records. We sent out some 270 notices, and it was done by our law firm, and I might add that we have a pile of about over 100 that were returned, indicating either deceased or address unknown, and it's simply impossible to be able to trace all of these people down with the amount of money that a curling club has available to it.

I've reviewed the financial statements of the corporation, and it appears that it's really one of fairly small worth. I really can't estimate, I'm not an expert on that issue, but I would not imagine

that the shares would amount to a great deal, and even if anybody was really interested in buying — just on that point — it is presently the case that anybody who wants to be a member of the club doesn't have to buy a share anymore, so the chances of anybody really wanting to trade the shares, are really negligible.

I've already mentioned that there is no one shareholder that holds more than one share, with the exception of the Class B shares, which are not voting shares, and all of those shares are held by the unincorporated association called "The Thistle Curling Club". It's actually the group of members that curl. The President and the Executive have reviewed this matter already, and all of them are prepared to just consent to having their shares forfeited. It was a long-range plan of the corporation that if they are able to have this bill psssed, they would certainly be careful to give a great eeal of notice to the shareholders that they intended to assess the shares and that their shares would be forfeited if they failed to pay the assessment. It was suggested that at least 90 days be given to them and that notice would be sent out by registered mail to each of the shareholders.

As I have indicated, the alternative, I suppose, under corporate law, would be to have the corporation attempt to buy back the shares, which is now possible under The Corporations Act that was passed two years ago. This really is impractical and perhaps impossible in that, firstly, it is doubtful that you could find the shareholders, and secondly, the corporation really, at this time, has a retained earnings figure in a negative number. It really has no money to be able to buy back the shares and the directors and the shareholders were faced with the position where they really have no alternative, in order to try to keep the company a viable company, than to take this petition before the Legislature.

Mr. Chairman, I would be happy to attempt to answer any questions.

MR. CHAIRMAN: Are there any questions you wish to ask of Mr. Finkbeiner? The Member for Winnipeg Centre.

MR. BOYCE: Perhaps, Mr. Chairman, this would be a good place for the government to deploy a university student to trace people. But, seriously, it is not in my judgment good law, but nevertheless maybe this is the only alternative that they have at the moment. What is the net worth of the curling club at the moment?

MR. FINKBEINER: I have in my briefcase the financial statement from last year. I would have to speak in round numbers, without looking at it, but I believe that the net assets of the company were in the range of about $70,000.00. The liabilities were about $40,000, so if that is a proper figure and without getting an assessment of the building and plant itself, it is difficult to say, but if you divided that amongst the 265 issued shares, they are not of great value. I suppose one could argue, what is a curling club worth other than a curling club? If you try to sell it off, you only have, really, the piece of land because unless you want to curl on it, it is not really worth very much. So I don't think that any individual shareholder has a great stake in this, from a monetary point of view.

MR. BOYCE: What is the market value of the land itself? Is that just contained, in your allusion to your statement, as a book value, or is that an appraised value?

MR. FINKBEINER: It was the original cost value.

MR. BOYCE: The original cost value. Is that in 1978 terms?

MR. FINKBEINER: I believe it was. I could check that, if you wish.

MR. BOYCE: You say that the original shares were worth $100 par?

MR. FINKBEINER: Well, they were issued at $100.00. That was at the time when par value shares were . . .

MR. BOYCE: It was 500 A and how many B?

MR. FINKBEINER: There were 265 common shares issued.

MR. BOYCE: So, 765 altogether.

MR. FINKBEINER: No, 265 common shares, and 176 Class B shares, which are a special type of

share that have fewer privileges than the common share.

MR. BOYCE: What the corporation intends to do is just to tidy up this situation. An assessment of $1.00 would be sufficient.

MR. FINKBEINER: Yes, that was discussed at the meeting and it was decided that the assessment would basically be a one-shot effort and that they would probably, after bringing the corporate records into proper shape, then attempt to convert the corporation into one without share capital which, to me, from a legal point of view makes more sense, and they suggested that it would be perhaps a maximum of $5.00 and that would simply be the costs of paying this petition.

MR. CHAIRMAN: Was there another question? The Member for Brandon West?

MR. McGILL: Mr. Chairman, I would like to ask Mr. Finkbeiner about the intent of this legislation. It would seem to me that there is no limitation here in the assessment which could be made on the outstanding shares in any one year?

MR. FINKBEINER: No, there is no limitation. I think that that matter was reviewed quite thoroughly by the board of directors when they first discussed this, and as I have indicated, they felt it unnecessary to really put a monetary value on it since they felt it would only be used once and it was something that they would do simply to raise money to pay the petition that had to be taken before the Legislature. The directors have assured the shareholders, and the sharehoiders were happy with their assurance, that it would be a very nominal assessment, and only on the one-time basis.

MR. McGILL: But the Act doesn't say that it is on the one-time basis.

MR. FINKBEINER: No, the Act is silent on that point.

MR. McGILL: If it occurred to the directors, say, to eliminate all the shares immediately, they could do so by a charge of $100 against each share.

MR. FINKBEINER: Well, I suppose that's possible. If a shareholder were to ask me my legal opinion on that, I think I would advise him to call a special meeting of the shareholders and vote that board of directors out. This is basically a social club and there is no intention for them to do that.

MR. McGILL: Didn't you tell the committee that the intent was to become without share capital, a club without share capital, that this would fit the modern situation better than the original having common shares issued.

MR. FINKBEINER: That is their long-range goal. They haven't given us any specific instructions on that. But as I mentioned, they would absolutely be prohibited from taking step, under The Corporations Act, since they simply wouldn't be able to find the shareholders to be able to make the move. They have to have the unanimous consent of all of the shareholders, or a resolution passed by 95 percent of the shareholders present at a meeting, and they simply couldn't have that sort of a meeting, because they can't locate that number of shareholders.

MR. McGILL: Or make a nominal charge so large that the shares would be given up immediately under the terms of this bill.

MR. FINKBEINER: Well, I recognize that as a possibility although I would suggest it is quite remote. This is basically a group of people who get together to curl and there is no intention to try to forbid anybody his normal rights.

MR. CHAIRMAN: Any further questions. The Member for Ste. Rose.

MR. ADAM: Mr. Chairman, how many shareholders are there at the present time in this club?

MR. FINKBEINER: There are 265 shareholders that each hold one common share of the corporation, and in add tion there are 176 Class B shares that are issued, all to one entity, which is the Thistle Curling Club. That is the unincorporated association.

MR. ADAM: So there are 265 shareholders?

MR. FINKBEINER: 265 shareholders, that's right.

MR. ADAM: Would you know how many were at the general meeting?

MR. FINKBEINER: There were 42, as I recall, or 43, which was the largest meeting they had had in about seven years.

MR. ADAM: So 42 members of the club, out of 265, have mad a decision to request these powers to assess the shares that are outstanding. . .

MR. FINKBEINER: That's correct.

MR. ADAM: . . . to make an annual assessment on the shares?

MR. FINKBEINER: That's correct. Although I might add that notices were sent to the last known address of every shareholder and those were the only ones who came to the meeting. M

MR. ADAM: 42 shareholders out of 265 is about what percentage, 20 percent?

MR. FINKBEINER: Approximaeely, about 17 percent.

MR. ADAM: So it seems that there wasn't a very representative representation at that particular genera meeting in order to make this kind of a change.

MR. FINKBEINER: Well, that's something that really isn't the fault of the corporation, I suggest, because notices were sent to each of them and proxies were included in all of the notices. So any shareholder who was contacted could certainly have sent the proxy and those who didn't were either not interested or the notice was returned indicating that the person was deceased or that his whereabouts was unknown, which is the problem that they're facing.

MR. ADAM: Mr. Chairman, you are assuring the members of the committee here that all shareholders were notified in the proper manner by registered mail or whichever way . . . ?

MR. CHAIRMAN: If there are no further questions, I would like to thank you, Mr. Finkbeiner.

MR. FINKBEINER: Thank you, Mr. Chairman.

BILL NO. 16

MR. CHAIRMAN: I call on Mr. Sellers, re Bill No. 16, An Act to amend An Act to Incorporate St. John's Ravenscourt School. Mr. Sellers.

MR. F.W. SELLERS: Thank you, Mr. Chairman. I am the Chairman of the Board of the school and this Act was put before you to amend the incorporation of our constitution. I think it might be helpful to the Committee if I trace a bit of the history of the school, because it goes back to the pioneer days of this province in the fact the school was incorporated in the 1820s and has been in existence ever since.

The Act, which is to be amended, results from the amalgamation of two schools, St. John's College School and Ravenscourt School, and the school is in the Fort Garry site of Ravenscourt School.

About seven years ago the school recognized a need and allowed the enrolment of young ladies to the school, so the school, instead of being a boys' school, in fact became a co-educational institution to provide education for young ladies and young men right through to Grade 12.

The amendments to the Act before you are as a result of the recognition that the 1951 bill refers to an all-boys' association and we would now like to refer to it as an alumni association to reflect the nature of the school today.

The second request for a change in the constitution has to do with the selection of the Board of Governors, on which originally it was only members of the alumni association of the school. They wish to broaden that and define it as the majority of the board shall be members of the alumni association or parents of the alumni association, or parents of students at the school today. That's paraphrasing it.

The third change that we ask is that the Board of Governors have a term of four years, rather

than five years as is presently in the Act. And of course we retain the provision of the rotational nature of the board, so every year there will be one-fourth of the board rotating and new people will become Governors of the school.

The rest of the provisions that we ask to be amended are basically housekeeping in that we now term or call the Head Master a Principal, whereas the original Act refers to a Head Master. We feel it should properly reflect what we now term the Head of the school. Instead of calling the teaching staff Masters, we ask that the Act reflect they be known as the teaching staff of the school.

That essentially, gentlemen, Mr. Chairman, are the changes that we ask. We believe it to be that of a housekeeping nature. We believe it also to more properly reflect the nature of the school, as it exists today and I would, with your indulgence, Mr. Chairman, respectfully request that this Committee recommend to the House the fees that have been paid in relation to this appearance. It will be refunded to the school, because it is a non-profit organization. I would be delighted to answer questions, Sir.

MR. CHAIRMAN: Are there any questions? If not, thank you, Mr. Sellers.

MR. SELLERS: Thank you.

MR. CHAIRMAN: Are there any other persons that wish to speak that haven't been called ppon? I guess we have heard all the presentations. I will go clause-by-clause on Bill 10, and I will ask the Solicitor to comment.

MR. TALLIN: This is the report on Bill 10. As required by Rule 1(10) of the Rules of the House, I have examined Bill 10, An Act respecting the Royal Trust Company and Royal Trust Corporation of Canada. I should like to bring to your attention the provisions of Sections 2 and 3 of the bill. The effect of these sections is to vest in or bestow upon the Royal Trust Corporation of Canada property rights, dealings and obligations which were previously or would have become property rights and obligations of the Royal Trust Company.

This is an unusual occurence. Although I cannot say that the Legislature has not enacted similar provisions in the past, I am not aware of any. There have been a number of occasions when, on the amalgamation of companies, property rights, duties and obligations have been vested in or bestowed on a company other than the company which originally owned or had them. As far as I am aware, this is the first time that such a procedure has been requested in respect of the creation of a subsidiary company.

MR. CHAIRMAN: Section 1—pass; Section 2—pass; 3(1)—pass; 3(2)—pass; 4(1)—pass; 4(2)—pass — the Member for Brandon West.

MR. McGILL: I have an amendment relating to Section 5. I move that Section 5 of Bill 10 be amended by numbering the present section as subsection (1) and by adding thereto, at the end thereof, the following subsection:

Enforcement of judgments against Royal Trust Corporation of Canada.

5(2) Notwithstanding the provisions of section 4 or subsection (1) of this section, any judgment obtained against Royal Trust Corporation of Canada in any matter that, but for this Act, would have been against The Royal Trust Company may be enforced against either Royal Trust Corporation of Canada or The Royal Trust Company.

MOTION presented.

MR. CHAIRMAN: 5 as amended—pass — the Member for St. James.

MR. MINAKER: Mr. Chairman, just for the information of the Committee, it is my understanding that Mr. Cherniack has had an opportunity to review the amendment, and he was concerned about this particular section, and to my knowledge, it's satisfactory in his in his opinions, just for the information of committee.

MR. CHAIRMAN: 5 as amended—pass; 5—pass; 6(a)—pass; 6(a)(1)—pass; (2)—pass; (3)—pass; (a)—pass; (b)—pass; (c) — the Member for Brandon West.

MR. McGILL: Mr. Chairman, I move that Clause 6(c) of Bill 10 be amended, (a) by adding thereto immediately before the word "grnntee" where it appears in the second line thereof, and again in the third line thereof, in each case, the word "owner"; and (b) by adding thereto immediately before

the word "deed" in the third line thereof, the words "certificate of title."

MR. CHAIRMAN: (c) as amended—pass; (d)—pass; (e)—pass; (e)(1)—pass; (e)(2)—pass; 6—pass; 7—pass; 8—pass; Titie—pass; Preamble—pass; Bill be reported — the Member for Ste. Rose.

MR. ADAM: Just on a point of privilege, I would hope that when there are anyaamendments, that the opposition would be given a copy so that we could have a look at them when they are, any other of the bills that there are amendments available, that we can have a look at what the amendments are.

MR. TALLIN: I apologize. The fault here is on me; I didn't get enough copies to pass around but there is one extra copy in the file if you would like to see that one.

MR. CHAIRMAN: Bill 10 be reported.

BILL NO. 13

MR. CHAIRMAN: Bill No. 13. I will call upon the solicitor to read the report.

MR. TALLIN: As required by the rules of the House, I have examined Bill 13, An Act to amend An Act to Incorporate the Co-operative Credit Society of Manitoba Limited, and have not found any exceptional powers sought or any other provision which, in my opinion, requires special consideration.

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

BILL NO. 16

M. CAIRMAN: Bill No 16 The solicitor, please.

MR. TALLIN: As required by the rules of the House, I have examined Bill 16, An Act to amend An Act to Incorporate St. John's Ravenscourt School and have not found any exceptional powers sought or any other provision which, in my opinion, requires special consideration.

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

MR. WILSON: I'll defer to the Member for St. James for an explanation.

MR. CHAIRMAN: The Member for St. James.

MR. MINAKER: Mr. Chairman, because I am not on the committee, I have asked Mr. Wilson if he would move the resolution to waive the fees on this particular bill.

MR. WILSON: Mr. Chairman, that the fees paid with respect to Bill 16, An Act to amend An Act to Incorporate St. John's Ravenscourt School, that the fees be refunded, less the cost of the printing.

MR. CHAIRMAN: Agreed? (Agreed)

BILL NO. 17

MR. CHAIRMAN: Bill 17 The solicitor, please.

MR. TALLIN: As required by the rules of the House, I have examined Bill 17, An Act to amend An Act to Incorporate the Brandon General Hospital and have not found any exceptional powers sought or any other provision which, in my opinion, requires special consideration.

MR. CHAIRN: Page-by-page. Might I point out that there are two corrections on the bill, one in 3(6) the third last line, that says, "resolution of a council" should be "resolution of the council." On Page 4, in Section 15, the word "accounts" is spelled with only one "c".
Page 1—pass; Page 2—pass as corrected; Page 3—pass; Page 4—pass as corrected; Page

5—pass; Title—pass; Preamble—pass; Bill be reported.

BILL NO. 34

MR. CHAIRMAN: Bill No. 34. The solicitor, please.

MR. TALLIN: As required by the rules of the House, I have examined Bill 34, An Act to exempt the OO-ZA-WE-KWUN Centre Incorporated from certain provision of The Liquor Control Act. I should like to point out to the committee that if the bill is enacted, it would exempt the corporation from certain provisions of The Liquor Control Act as set out in the title. There is an amendment to this.

MR. CHAIRMAN: Section 1(a)—pass — the Member for Ste. Rose.

MR. ADAM: I was wondering if we could get an explanation from the sponsor of this bill?

MR. CHAIRMAN: The Member for Virden.

MR. McGREGOR: Yes, Mr. Chairman, what was the question?

MR. ADAM: Could we get an explanation, Mr. Chairman, on this bill.

MR. McGREGOR: Well, the problem that showed up after it got under way was the fact that the municipality had not cleared all the hurdles in The Liquor Vote Act some years ago when municipalities voted for "wet." That was basically beer only. Then came along the cabarets, etc., and all the municipalities had to do — Daly did not take that second step, therefore that is what this amendment is saying. As I read into the record yesterday, clearly that the municipality all had agreed and signed, each councillor.

MR. CHAIRMAN: (a)—pass; (b)—pass —

MR. WILSON: Mr. Chairman, I would like to propose an amendment to Bill 34, An Act to exempt the OO-ZA-WE-KWUN Centre Incorporated from certain provisions of The Liquor Control Act, a motion that Section 1 of Bill 34 be amended by adding thereto at the end thereof the following words: "and not withstanding that the Rural Municipality of Daly, in which the premises of the corporation are situated, does not have in force a licence sale byllaw approving the issue of the class of licence in the municipality, the Liquor Control Commission may issue a club licence of any of the classes mentioned in Section 111 or 112 of The Liquor Control Act to the corporation in respect of its premises in the municipality, and if any such licence is issued to the corporation in respect of its premises in the municipality, liquor may be sold, served, purchased and consumed on those premises in accordance with The Liquor Control Act and the regulations made thereunder and any terms and conditions attached to the licence as though the municipality had in force a licence sale by-law approving the issue of that class of licence."

MR. CHAIRMAN: 1(b)—pass as amended; 2—pass; Title—pass; Preamble—pass; Bill be reported.

BRANDON GENERAL HOSPITAL

MR. CHAIRMAN: The Member for Winnipeg Centre.

MR. BOYCE: I wonder if I could move a motion on behalf of the Brandon hospital. I would move that the fees paid in connection with the petition of Brandon General Hospital be refunded, less the cost of printing.

MR. CHAIRMAN: Agreed? (Agreed)

BILL NO. 37

MR. CHAIRMAN: Bill 37. The solicitor, please.

MR. TALLIN: As required by the rules of the House, I have examined Bill 37, An Act to amend An Act to Incorporate the Wawanesa and District Memorial Hospital Association, and have not found

any exceptional powers sought or any other provision which, in my opinion, requires special consideration.

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

BILL NO. 55

MR. CHAIRMAN: Bill No. 55. The solicitor, please.

MR. TALLIN: As required by the rules of the House, I have examined Bill 55, An Act for the Relief of Ingibjord Elizabeth Alda Hawes. I should like to point out to the committee that if the bill is enacted, the petitioner would be permitted to apply to the court for an enlargement of the time for bringing in action which was otherwise barred by the provisions of The Limitations of Actions Act.

MR. CHAIRMAN: Section 1 — the Member for Brandon West.

MR. McGILL: May I ask counsel, what is the essential difference between this Act for the Relief of Mrs. Hawes, and the one last year which we considered? It was for the setting aside of the statute of limitations, I believe, in the case of The Act for the Relief of a person whose name I have forgotten now, last year, I think it was.

MR. CHAIRMAN: The solicitor.

MR. TALLIN: As far as I am aware, there is no difference at all in the format or the nature of the request. As a matter of fact, I think the bills are almost identical except for the factual situations set out in the preamble and the names that are set out in the sections.

MR. CHAIRMAN: Section 1—pass; Section 2—pass; Section 3—pass; Section 4—pass;

MR. CHAIRMAN: Mr. Tallin, please.

MR. TALLIN: As required by the rules of the House, I have examined Bill 63, An Act to grant additional Powers to Thistle Curling Club Limited, and I point out to the committee that the bill would authorize the Thistle Curling Club Limited to assess its shareholders with special assessments and to cancel the shares in respect to which any assessment is not paid. (

Bill 63 was read page by page and passed.8)

MR. CHAIRN: That completes the bills before us. Committee rise? The Member for Ruperstland.

MR. BOSTROM: I believe there was one of our members who wished to move an amendment at the report stage on the bill.

MR. CLERK: That will take place in the House, Mr. Bostrom, after the bill has been reported.

MR. BOSTROM: Well, can someone explain how that procedure takes place. I'm not quite sure.

MR. CLERK: Would you like me to do it?

A MEMBER: What bill?

MR. BOSTROM: Well, if it doesn't require notice to the committee, I would not delay the rising of the committee.

MR. CLERK: No, it won't take a moment.

MR. BOSTROM: If it does not require, you know, notice to the committee at this stage, I would not delay rising of the committee, I'll just get the information and . . .

MR. CLERK: Tell him to get me a copy of the amendment tomorrow and we'll take care of

MR. BOSTROM: Okay, thank you very much.

MR. CHAIRMAN: Committee rise.