



Third Session — Thirty-Second Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE
on
STATUTORY REGULATIONS
and
ORDERS

33 Elizabeth II

Chairman
Mr. C. Santos
Constituency of Burrows



MG-8048

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Second Legislature

Members, Constituencies and Political Affiliation

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

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS

Tuesday, 26 June, 1984

TIME — 8:00 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. C. Santos (Burrows)

ATTENDANCE — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Bucklaschuk, Evans, Penner and Uskiw

Messrs. Harper, Kovnats, Mercier, Nordman, Santos and Steen

APPEARING: Mr. Rae Tallin, Legislative Counsel
Mr. A.C. Balkaran, Deputy Legislative Counsel

WITNESSES: Mr. Bob Kozminski, Budget Rent-A-Car, made a presentation with respect to Bill No. 28 - An Act to Validate an Expropriation under The Expropriation Act; Loi validant une expropriation effectuée en vertu de la Loi sur l'expropriation

MATTERS UNDER DISCUSSION:

Bill (No. 6) - The Dangerous Goods Handling and Transportation Act; Loi sur la manutention et le transport des marchandises dangereuses

Passed with certain amendments

Bill (No. 18) - The Statute Law Amendment Act (1984)

Passed with certain amendments

Bill (No. 20) - The Statute Law Amendment Act (1984) (2)

Passed without amendment

Bill (No. 28) - An Act to validate an Expropriation under The Expropriation Act; Loi validant une expropriation effectuée en vertu de la Loi sur L'expropriation

Passed without amendment

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CLERK OF COMMITTEES, C. DePape: Committee, come to order. Since our former chairman, Ms. Phillips, is no longer a member of the committee, we have to proceed with the election of a new chairman. Are there any nominations?

Mr. Uskiw.

HON. S. USKIW: Yes, I would like to nominate Mr. Santos.

MS. C. DePAPE: Any further nominations? Seeing none, Mr. Santos, would you please take the Chair.

HON. R. PENNER: Let the record show it was unanimous.

MR. CHAIRMAN, C. Santos: The Committee on Statutory Regulations and Orders is now being called to order.

**BILL NO. 28 - AN ACT TO VALIDATE
AN EXPROPRIATION UNDER
THE EXPROPRIATION ACT**

MR. CHAIRMAN: We shall start with persons wishing to make presentation on Bill No. 28. Is Mr. Bob Kozminski around?

Mr. Kozminski.

MR. B. KOZMINSKI: Thank you, Mr. Chairman, members of the committee.

My name is Bob Kozminski, I'm the president of Budget Rent-A-Car of Winnipeg. I have the unfortunate pleasure of owning the corner of Edmonton and Ellice, located in the three-block area that's being expropriated, in order to I understand further enhance the downtown development area. What has happened now I understand, in going through Bill 28, is what I would call another uncertainty in the laws of expropriation. What are the rules, or more formally, what are the laws pertaining to expropriation?

As a private citizen or corporation, you believe that there is one set of rules and laws and that they are enacted and duly passed. You plan your business trying to consider the unknowns of the marketplace, but just when you feel you've got that mastered, all of a sudden, the government comes and intervenes in that marketplace by taking a downtown portion and as well depriving you of your place of business where you have been located for some 17 years.

Don't get me wrong, it's the city, the province and the Federal Government, as far as we're concerned, as to who is taking over our business and attempting to expropriate our property. The part that really hurts is that it's our tax paid dollars that are doing this to us. No private entity would possibly consider taking over a three-block centre of downtown Winnipeg, but yet the government feels that it can take over that entire area and deal with property owners without any consideration as to the laws upon which they are relying to take over that property.

If the property were needed for indeed — (Interjection) — a public works . . .

MR. CHAIRMAN: Order please.
Mr. Kozminski.

MR. B. KOZMINSKI: . . . such as a hospital, widening of the roadways or some other benefit for the entire

community, obviously I would not be here objecting so strenuously. When I don't know what's going to go on our particular property and I don't know the rules and the laws under which that property is being taken, I take very strong exception.

To take the property for an abstract, conceptual plan flies in the face of every principle of fairness and equity, but even worse is to take the property under the powers of laws passed in a democratic way, and when the government does not follow the same laws all they have to do is change them.

Last fall, when the downtown development plan was conceived, my business immediately started to examine the time frames involved in The Expropriation Act. I was informed in writing by this government on February 7th, in order to clear up my confusion as to the dates, that the confirming authority - and I quote a letter from the Director of the Land Acquisition Branch, "would need to be executed 120 days from that date or May 12, 1984." The party that was taking our property told us that they would have to take that property by May 12th.

On May 15th, my law firm, which acts on behalf of our company, wrote to the same Director of Land Acquisition as to the section in the act which states that if the confirming authority has made no order it shall be conclusively deemed to have ordered that the declaration be refused. After that date, needless to say, our efforts in terms of finding an alternate site came to rather an abrupt halt as we heard nothing and presumed, as the legislation states, that the expropriation was then going to be refused.

We told the three or four real estates looking for sites to stop looking, notified our bankers that bridge financing would not be necessary, and of course considered again our annual upgrade of our downtown premises as we'd obviously be staying there for a considerable length of time, and of course basically heaved a tremendous sigh of relief.

As I was driving to Brandon on a Friday afternoon to check out another business that we have, it was announced that the order had been confirmed. How can you confirm something that has been conclusively deemed to be refused back to the statutes? Much to my disappointment, I find it can indeed be remedied and that the confirming authority can do it before the notice of the intended expropriation lapses, but the statute also awards interest costs to the expropriated party - some consideration for the uncertainty, anxiety and the time frames that in the marketplace I can't deal with.

We happened to have an Offer to Purchase that by coincidence we entered into, subject to arranging satisfactory financing within 120 days, thinking that same 120 days that applied to the government would somehow apply to private citizens. Needless to say, I let that property go.

Again, when is the law not really the law; basically when your government does not follow it. If any private citizen or corporation ignores the law, they are charged and fined or sued. When the government ignores the law, all it has to do is change it, and retroactively for that matter. My ancestors left countries that practiced that kind of legislation 60 years ago.

How does one know where we stand? The downtown real estate market is in chaos. Those who have land

have now increased their prices or strengthened their negotiating position dramatically. We, however, can't negotiate and are going to be compensated based on past prices, before the government took three city blocks out of circulation.

When will we get an offer? The same person who informed me about May the 12th says September 22nd. On September the 22nd, if I don't receive an offer, will this government then amend the legislation to change that date to October 22nd, November 22nd, maybe 1985.

We can take a position, according to the legislation, and accept an offer without prejudice to the final settlement. If we do that, will this government then change the legislation that we're bound by the offer that we took on a without prejudice basis because it's part of the same legislation?

If the order for possession is too brief, or imposes an undue hardship, we can apply to the Court of Queen's Bench for an extension; or can we? This could be removed as well. We have a right to the Court of Appeal; maybe this will be removed as well. When will this end?

If the plan is to take the property by law, then for God's sake follow that law and, in the name of decency, follow the laws that you rely upon to take our property.

Sorry I was a little bit emotional, but . . .

MR. CHAIRMAN: Thank you, Mr. Kozminski.

Is there anyone else in the audience who wants to make a presentation? Mr. Kozminski, there are some questions for you from the Members of the Committee.

Mr. Mercier.

MR. G. MERCIER: Thank you, Mr. Chairman.

In the Minister's opening remarks to the bill he indicated that Section 2 is meant to ensure that substantial extra interest costs are not incurred because of the delayed transfer of documentation from one office of the government to another. Specifically, it is meant to remedy the fact that the declaration of expropriation was submitted to the confirming authorities some 25 days late. The late submission of this documentation did not in any way prejudice the rights of the land owners whose land was expropriated.

I would like to ask Mr. Kozminski if he has any comment to make with respect to that remark by the Minister in introducing this bill?

MR. B. KOZMINSKI: I guess basically my problem is that the time frames that are contained in the legislation are the only time frames that we can work with in the community. If the time frames are not followed by the government, then what time frames do we follow. If the government, through paper shuffling from one office to another, is unable to efficiently proceed with the expropriation, surely that's what the legislation was intended to combat in the first place.

If there's no pressure on a government to comply with legislation by virtue of penalties, in respect to interest or additional costs, what urgency is there to proceed?

I think every property owner within this particular area has somehow resigned themselves one way or another to the fact that their property is gone. But they want to know, when; and it's this uncertainty. You know

you hear that that area is a bad part of Winnipeg; that the businesses are unsuccessful. We do a million and half dollars of sales through there. We think we run a very successful business; we've been there for 17 years. We employ close to 50 people. We have a vacant property with a fairly attractive structure. Try and find me another vacant piece of property in the downtown core that's properly zoned that I can locate a Budget Rent-a-Car operation on. It's not that simple.

The time frames are what become critical and if you ignore the time frames it becomes impossible for us to plan, it becomes impossible to make offers to purchase, to enter into agreements because we're bound by those agreements. We can get sued. I'd love to come back to this committee and ask this committee to introduce a bill in the Legislature to allow me to get out of a contract to purchase property or to enter into a lease.

That's the problem, as far as I'm concerned, is the time frames. If the government, unfortunately, for whatever reason, doesn't follow the time frames as any other entity, it has to bear the consequences. Surely to God, the million people in the City of Winnipeg can better afford the consequences than the 95 businesses in the area who you are now going to disrupt supposedly for the benefit of the million people in the Province of Manitoba.

MR. G. MERCIER: Mr. Kozminski, can you give the committee any indication of what interest charges the government is saving by virtue of this legislation?

MR. B. KOZMINSKI: My understanding of the prescribed rate at the current point in time would be 10 percent. The way I read the legislation, if we were entitled to interest, the interest would go back to the date of the confirming order and run until we received the payment. The difference is that currently under the legislation, as I understand it, we would get the funds at the time of possession and interest would flow from possession. If one were to take a one-year period from now to possession, May, June hopefully of 1985, the interest on, I would think, \$40-50 million compensation at 10 percent is \$4 or \$5 million.

MR. G. MERCIER: Mr. Kozminski, have you been given any indication when you will be required to give up possession?

MR. B. KOZMINSKI: The same person who wrote me the letter telling me it was May the 12th also wrote me a letter saying that we are quite sure that the best interests of the affected businesses will be fully considered before a decision is made with respect to the taking of vacant possession. It is noted that your firm would like remain in possession until at least June of 1985. We trust the foregoing will clarify some of the time periods which are now under way in the proposed expropriation process.

In other words, I don't know. I've got a yellow pages deadline in January of 1985 to put a new location in. I've got rate brochures I have to install and an international system that goes to 57 countries in the world that have to be in by December 31st of 1984 to tell the world next year where I'm going to be. I have

to print all kinds of scratch pads, matches, contracts, everything else like this, telling them where I'm going to be, but yet the government won't tell me where I'm going to be. Will I have until June of 1985? I don't know. They don't even know what they're going to build on the property yet.

Again, uncertainty, and that's the greatest problem that we face in terms of the expropriation - the term "uncertainty."

MR. G. MERCIER: Mr. Kozminski, you may have just partly answered my next question. I was going to ask you or the owners that you've discussed this with in the area have what's going to go on this property?

MR. B. KOZMINSKI: The government appointed the inquiry officer. Presentations were made to the inquiry officer. The inquiry officer came to the conclusion that there was nothing firmly in place in terms of this three-block position.

I don't know whether there's going to be a residential, multiple-family site on my property. I don't know whether there's going to be a parking lot - I've heard of a parking garage. I don't know whether there's going to be a shopping mall. The merchants on Kennedy Street have no place to go. We have no idea how long or when.

I look across the street at a Firestone Tire Store that was expropriated two-and-a-half years ago and it's being used for storage of furniture at government expense. I have clients, Howell's Uniform Shop on Portage Avenue which was forced to vacate in the middle of winter because they were told that their property was immediately needed. It's still standing. It's still standing two years after it was taken and, again, I appreciate that perhaps a different level of government expropriated that through the Air Canada or Downtown Development Corporation, but as private citizens, government is government. When you take property in connection with an agreement between the city, the province and the Federal Government, it's one entity; it's one particular entity that has taken that particular property.

They haven't proceeded with the plans for the property across the street from me. When are they going to possibly proceed with this? Again, uncertainty. Again, I might add, that one of our main points was, we wanted to know why we couldn't participate in that redevelopment. Why weren't we, as a private entity, consulted by the North of Portage Development Corporation, as to whether we wanted to operate a parking lot, whether we wanted to build a structure on our property, whether the merchants on Kennedy Street could move to Edmonton Street when that part of it was developed and they wouldn't be out of business for a year or two years? Where do you go for a year or two years? No one wants to sign a lease with you for a year or two. They want five-year commitments. You can't buy a property for a year or two. You have to buy a property permanently. You can't move people around.

MR. G. MERCIER: Mr. Kozminski, you indicated that there were three or four real estate firms looking for property that you could use to relocate. Could you indicate for what length of time they were looking for

alternate sites and whether or not they were successful in finding a suitable location for you to relocate to?

MR. B. KOZMINSKI: I have a file, it's approximately two and-a-half inches thick. I've looked at anywhere from 20 to 25 locations on Broadway, including high-rise apartment sites owned by Qualico, including Greyhound Bus buildings, that I'd love to knock down but I can't get the zoning properly. I've talked to the proper people that own the Terry Balkan site, I've tried to talk to the people at Devon Estates in terms of the railway property. I've talked to other people at the corner of St. Mary's and York. We've attempted to make a deal with the people on the corner of Edmonton and St. Mary's. We've attempted to make a deal with the people on the corner of Kennedy and Graham. We've gone to the property at Graham and Hargrave. We've even looked at Portage Avenue sites. We've attempted to buy out certain people in terms of long-term leases on properties that are located on Portage Avenue.

I even told my father he might have to go in the hamburger business because the only place we could find that was acceptable was one that had a hamburger stand as well as a rent-a-car business. I've looked at 23 or 24 different sites. Only half of them met with our criteria. The other half were in the \$1 million to \$2 million range and needless to say, we can't afford that kind of price tag; and of course the property owners that have vacant property at this point in time are just sitting there smiling at you. They don't have to negotiate, the marketplace has changed. Take three blocks out of a 25 block area and you've reduced the supply and increased the demand.

MR. G. MERCIER: Thank you, Mr. Kozminski. I have no further questions.

MR. CHAIRMAN: The Attorney-General.

HON. R. PENNER: Just a couple of questions. Since the Minister of Urban Affairs announced on June 1st that the expropriation was being proceeded with, despite the questions raised by the Tonn Report, have you or any of the merchants in the area, owners or tenants, to your knowledge, been in touch with the North of Portage Development Corporation to discuss with them your concern to problems?

MR. B. KOZMINSKI: No, I quite frankly have to say that I haven't been in touch with them. I met Dr. Naimark and was advised by him on an informal basis that they hadn't finalized their plan yet and this was towards the latter part of May, beginning of June, shortly after the confirmation order, and he indicated however though, that the communication would go out to everyone affected in terms of, I presume, some sort of input. But as of yet I have heard nothing, and if the suggestion is that we contact them, then of course I'd be happy to contact them. But being the party that's taking our property, I would presume that . . . We used to get I thought, what was going to be a monthly notification on an update; that ceased in February. I haven't heard anything since February. I'm sorry, information release.

HON. R. PENNER: Thank you for bringing that to my attention. We'll see what we can do about that. The

North of Portage Development Corporation has a number of people who sit on it, nominees of the three levels of government. Is there anyone on the corporation board who, to your knowledge, in effect is a representative in a sense of the owners-tenant business persons north of Portage who can raise your concerns at the board level itself?

MR. B. KOZMINSKI: The individual I had some discussion with was Izzy Asper. If I'm not mistaken, I think he sits on that board, however he's been rather busy the last month or five weeks and hasn't been able to be contacted for some reason.

Actually, no. Like I say, I met Dr. Naimark through the University Alumni Association.

HON. R. PENNER: Schedule A of The Expropriation Act, with respect to the notice of intended expropriation, requires three things with respect to the declaration of expropriation. The declaration, I think, was dated December 15th, if I'm not mistaken. Namely, it shall serve notice of the intended expropriation upon all owners of land within 30 days. I take it that you received that notice.

MR. B. KOZMINSKI: Yes, we got it in the later part of December.

HON. R. PENNER: And published notice of the intended expropriation in the newspaper having general circulation; a don't think you've raised that as an issue. The third part of the issue you raised, in part, submit the declaration to the confirming authority having jurisdiction together with proof of service in the publication of the notice. Aside from - and I'm not at all Mr. Kozminski minimizing the loss of interest you feel might have been the case - I thought in the opening part of your statement you feel that the failure of the expropriating authority, which was the Government of Manitoba acting on behalf of the partners, to give notice of the declaration of expropriation to the confirming authority, which is also the Government of Manitoba, prejudiced you in some other way. I didn't quite follow that part of your argument if, indeed, it was part of the argument.

MR. B. KOZMINSKI: My understanding was that the expropriation be confirmed by a particular date; be it from the government to the government, it had to be confirmed. It was supposed to be confirmed, according to the letter, by May the 12th. The actual confirmation order is dated May the 24th, 12 days after the day it was supposed to occur. I looked at the legislation, studied the legislation and wrote the letter to the Department of Government Services and they wrote back to me clearing up my uncertainty, telling me that they were going to confirm it, or needed to confirm it by May the 12th. If I was uncertain, surely the Director of the Land Acquisition Branch who's taking \$30, 40 or 50 million worth of land, surely he should be certain as to the dates. If he's not certain as to the dates, who is?

What I'm saying, I think that the point that's being missed is that the uncertainty as to when this is going to happen, and the time frame in which it is going to

happen, is the greatest burden that those of us in that area have to face. When does it actually come into play; when are we going to get an offer; when are we going to get our money; when are we going to have to vacate? I think we've resigned ourselves to the fact that it's going ahead, and I have all kinds of objections to it, but that's not productive at this point in time. The point I'm trying to make is that if the legislation doesn't require the government to move with all dispatch and to follow the laws upon which it is relying to take our property, then chaos ensues.

HON. R. PENNER: I just want to thank Mr. Kozminski for his presentation raising his concerns. He need not in any way apologize for raising them as strongly as he did, I just want to assure him that basic question of uncertainty, which he has raised, I will take up immediately with the Minister of Urban Affairs, and I'm sure that either she or someone from her department will be in touch, not only with North of Portage, but with yourself to see what light we can bring on that problem.

MR. CHAIRMAN: The Minister of Tourism and Business Development.

Oh, I thought you wanted to speak.

HON. S. USKIW: No, no question.

MR. CHAIRMAN: Mr. Kovnats.

MR. A. KOVNATS: Thank you very much, Mr. Chairman.

Just a couple of questions to Mr. Kozminski. I believe that your displeasure is caused by the financial loss, or the potential financial loss, that will be incurred with the loss of your location. If a third party was appointed to reach some sort of an agreement for proper compensation, fair compensation, would you be satisfied?

MR. B. KOZMINSKI: I guess I'm somewhat skeptical and cynical at this point simply because an inquiry officer was appointed. Before that inquiry officer had fulfilled the hearings and come to a conclusion, I read in the newspaper, and perhaps it's wrong, that the government have all approved and ratified the expropriation. In other words, the inquiry officer was to look into the expropriation, but yet prior to that there was some deadline imposed from a federal funding requirement that required that the City of Winnipeg pass their portion of the funding, otherwise the funds were going to be lost.

When you say that someone may be appointed to adjudicate, I'm not sure as to what jurisdiction they would have. I think that The Expropriation Act has a framework that has worked fairly well in terms of compensation and I'm not particularly concerned about getting ultimately to that point in time. The point that I'm making is that when there is the set of laws and rules that are put into place, they can't be changed and they can't be varied at this critical point in time. I think this particular legislation was passed as a result of the fiasco, not fiasco perhaps, the litigation that ensued from the floodway, in terms of the antiquated laws that were in existence at that point in time. The

courts were just deluged with cases and I think this legislation came about to solve those problems and to require that the government follow particular procedures in terms of taking property. The point that I'm making is not so much the compensation, because I'd rather get upon my business and get upon the new location and proceed to advertise it and get going and start my business afresh within a time frame. I have to meet deadlines, I have time frames; I'm just saying to you that I think the government has to have those same time frames.

If the appointment of an independent party would in some way speed this procedure up, then I'm all for it, but I really think that the act itself has the framework in which to provide adequate compensation and, if not, it can go to the courts ultimately. All I'm saying is that if, by September the 22nd, there isn't an offer of financing to everyone that's fair and reasonable then that's going to create another tremendous problem and uncertainty, and I become concerned when this type of bill is passed which, in effect, in my opinion, appears to rectify an error by the director or by a government department, for whatever reason, in not proceeding with their paperwork within the time frame that they're required to by legislation. I'm presuming and hoping that the compensation and the possession orders will go in a much more efficient manner than this.

MR. G. MERCIER: I just have one more question. Mr. Kozminski, we received a submission last night from Mr. Dave McNeil, I believe of Scientific Beauty Studios. Yours is the second presentation; it would appear to be the last presentation. Can you indicate to the committee from discussions with businessmen and owners of properties in the area, if you have had such conversations as to reasons why other property owners and business operators in the area have not chosen to make a submission to this committee?

MR. B. KOZMINSKI: I talked to three particular clients that our office happens to act for, one of whom had the unfortunate experience of being in the Air Canada expropriation. We tried to explain that they would get compensation in due course. Now they've move next to the Toronto-Dominion Bank on Portage Avenue. They're going to be expropriated again. They still haven't resolved the first expropriation. I talked to them and they said please don't waste anymore of your time. You're not going to make any headway. No one is going to listen to you. That's one particular client.

The other two clients have just said basically the same thing, what's the use? The Expropriation Act is all government, one-sided, they can do as they please. If they don't follow it - and I'm trying to put it in layman's terms - they can change it.

So, I think the reason that you don't have a lot of people here is just total frustration that they can't change anything. They don't have any input into the system. I think that's a terrible tragedy when you think about it.

MR. CHAIRMAN: Are there any other members of the committee that want to put forth some questions?

Thank you, Mr. Kozminski.

MR. B. KOZMINSKI: Thank you very much, Mr. Chairman, and members of the committee.

**BILL 6 - THE DANGEROUS GOODS
HANDLING AND TRANSPORTATION ACT**

MR. CHAIRMAN: I ask again, is there any member of the audience who wants to make presentations?

Hearing none, we shall proceed with Bill No. 6, The Dangerous Goods Handling and Transportation Act - Mr. Orchard.

MR. D. ORCHARD: It might be appropriate if it was the will of the committee, I've got a number of questions on this bill if the other three bills could proceed quickly.

MR. CHAIRMAN: We'll take them in the order that they are on the paper. We shall then start with Bill No. 6 - The Dangerous Goods Handling and Transportation Act; Loi sur la manutention et le transport des marchandises dangereuses.

Shall we proceed page-by-page or clause-by-clause? Page-by-page, starting with Page 1 - Mr. Orchard.

MR. D. ORCHARD: Thank you, Mr. Chairman. In the first four pages there are a number of definitions and maybe we could deal with the whole works of them with just a few questions in there.

First of all, to the Minister, on Page 3 under "'handle' - includes the manufacture, process, mix, package . . ." It would seem to me then that this bill will have a very wide net of application in Manitoba, given other definitions such as hazardous situation, hazardous waste. Would I be fair in that assessment? In other words, I realize that hazardous waste - you've got to develop a list of goods by regulation. But is that a fair assumption that a lot of manufacturing places will fall under the jurisdiction of this act.

MR. CHAIRMAN: Mr. Minister.

HON. G. LECUYER: Thank you, Mr. Chairman. The firms that handle produce or products that fall under the definition of hazardous goods would, yes, according to the definition that is there.

MR. D. ORCHARD: Another question then, Mr. Chairman. To implement this act, regulations are probably going to do maybe two-thirds of the work. Are the regulations drafted? Are they ready to go?

HON. G. LECUYER: There is one regulation which is out for consultation at this time. This is the Dangerous Goods Regulation.

MR. D. ORCHARD: Okay. Is that fair to assume that that is a parallel regulation with the Federal Government's regulation?

HON. G. LECUYER: Yes, that is correct.

MR. D. ORCHARD: Then that particular regulation - is it fair to assume it comes from last year's Transportation of Dangerous Goods Act?

HON. G. LECUYER: Yes.

MR. D. ORCHARD: Then the hazardous waste on Page 3 - is any substance or group of substances so

designated by the regulations or conforming to criteria set out in the regulations; has that list been developed and have those criteria been developed?

HON. G. LECUYER: No, and I don't expect that that can happen until the Hazardous Waste Program that is currently only in its first phase reaches that level or degree of resolve where it's ready to be implemented and we wouldn't even be considering regulations at this time.

MR. D. ORCHARD: When we deal with manufacture - one commodity that is of reasonably widespread use in the province, anhydrous ammonia - that's no doubt classified as dangerous goods. Not a hazardous waste but dangerous goods.

HON. G. LECUYER: The list is the same, I am told. The list is the same.

MR. D. ORCHARD: Okay. Fair enough.

HON. G. LECUYER: For the hazardous waste goods and the dangerous goods.

MR. D. ORCHARD: Now, as to the regulation that's being distributed right now, for instance, have the Fertilizer and Chemical Dealer's Association been involved with the perusal of that draft regulation?

HON. G. LECUYER: They were involved already once when the federal regulation was drafted but we have included them again among those who have received the current draft of the regulation provincially.

MR. D. ORCHARD: My concern here is that is a widely-used fertilizer commodity, is transported, stored, handled in a number of locations throughout the province and in anticipation of something that may never occur, but I can foresee regulations being developed which are - call them blanket regulation for lack of a better description - which if enforced to the letter of the law, could do potentially one of two things, make the handling, storage and transportation of anhydrous ammonia for the farm community such an expensive proposition that it would put it out of the marketplace and then the net result, the second thing, would be the same thing, to make it extremely difficult for the manufacturers, through to the retailers, to put it out.

I make the comment to the Minister that in the drafting of the regulations that very careful consideration be given to the type of restrictions and potential handling codes, equipment codes that are going to be in place because regulations can be very very stringent on the farm community.

HON. G. LECUYER: Thank you, Mr. Chairman. I'll repeat what I've said, I guess, once more. It's out there for consultation. It's definitely not the intent of a regulation to impede the use of a product which is a standard part of the agricultural procedures of today.

We don't foresee that the specific product which is being mentioned, for instance, anhydrous ammonia, is going to require for instance, any special tanks beyond what's currently being used today.

MR. D. ORCHARD: That was my next question, and those kinds of goods are universally accepted international standards. Are North American standards in the Minister's opinion, going to suffice in terms of the regulations you're developing?

HON. G. LECUYER: It's definitely our concern that we are not going to develop here a regulation to accompany this legislation that is going to stand out on its own here. We are trying to develop across the country, provincially and federally, a regulation here that is going to be as close as possible from one end to the other of the country here. That is why the dangerous goods regulation is going to parallel very closely the federal regulation.

MR. D. ORCHARD: That same desire to remain in step with other jurisdictions, I take it, would fit in with Page 4, the safety mark, where you'd be using international symbols for your various explosive, corrosive, etc., etc.

HON. G. LECUYER: That is correct, Mr. Chairman.

MR. D. ORCHARD: Now, just two other comments
. . .

HON. G. LECUYER: I want to point out, Mr. Chairman, that all of the definitions that are in the list of definitions here, that part of the transportation of dangerous goods was already part of the act which we adopted at the last Session and now that we are bringing the two together of course, it's here again, but they are the same definitions that were already part of the act that was passed at the last Session.

MR. D. ORCHARD: I'm not sure certain whether hazardous situation was in there.

HON. G. LECUYER: No.

MR. D. ORCHARD: Which, by reading the definition, leaves a great deal of discretion to your inspectors or environment officers because it is in their opinion that a hazardous situation may exist and that can be - I think the Minister can understand - open to various degrees of interpretation.

HON. G. LECUYER: I think you have to accept the fact that we are speaking of people who first of all - and we're talking about an inspector, an environment officer, two different categories of people, both with a certain degree of expertise, the inspector being the lower level of expertise, the environment officer being the considered expert in the field of environment. Both of those then using their knowledge and their expertise in the field and as well, as the member will have seen, there are appeal mechanisms in the act as well.

MR. CHAIRMAN: Page 1—pass; Page 2—pass; Page 3—pass; Page 4—pass.
Page 5 - Mr. Orchard.

MR. D. ORCHARD: The reference to the military is for transportation of munitions, etc., etc., I take it.

HON. G. LECUYER: I missed the beginning, I'm sorry.

MR. D. ORCHARD: The reference to the Minister of National Defence and the exemptions; they are applied to transportation and munitions and other war materials, I take it?

HON. G. LECUYER: Yes, that is correct.

MR. CHAIRMAN: Page 5—pass.
Page 6 - Mr. Orchard.

MR. D. ORCHARD: How many inspectors and how many environment officers does the Minister anticipate will be needed to enforce the act and of the anticipated number, how many are in place?

HON. G. LECUYER: It's very difficult to give you exact figures. I'll give you some ball-park figures here because we're talking about an act which will be implemented over a period of time, will be phased in, for one thing. So if we are to try and arrive at the exact figures, that I could not possibly do.

But at the level of the inspector level, we're referring to some 40. In the Department of Public Health Inspectors, there would be the municipal fire chief and that would be what we'd consider at the inspector's level. There'd be some 10 environmental officers within the Environmental Management Division and some 5-10 within the Workplace Safety and Health Division.

MR. D. ORCHARD: Okay, I want to deal with Section 8. Under Section 8(1), "No person shall handle licensable hazardous wastes." Now going back to the definitions, "handle" means everything including - if I can find it - "everything including manufacture, use, transfer, process, mix, package, store, sell, apply, offer for sale," etc., etc., and the hazardous wastes of course take in all of your dangerous goods plus any additional hazardous wastes presumably as an industrial by-product.

Now this section requires licensing of any person involved in any of those activities that come under the definition of handle of any good or commodity that falls under the definition, by regulation of hazardous wastes. I would assume that gasoline will be a dangerous good. Are we talking about now having a new series of licences for filling stations, propane depots, chemical outlets, etc., etc?

HON. G. LECUYER: This section, for one, cannot be proclaimed until we have a licensable hazardous waste regulation file; and under that particular - according to the definition that we've passed earlier - licensable hazardous wastes will apply to a very very small category of products. The only one which I can think of in there right now could be PCBs.

MR. D. ORCHARD: Okay, then under licensable hazardous wastes, I maybe missed that, is that a separate definition?

HON. G. LECUYER: Yes.

MR. D. ORCHARD: Okay. And there you're going to have a much shorter list under dangerous goods hazardous wastes?

HON. G. LECUYER: Yes, that is correct.

MR. CHAIRMAN: Page 6—pass.
Page 7 - Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, on Section 8(5), how many current sites does the Minister know of that would come in under this section, where a person owns or operates a hazardous waste disposal facility?

HON. G. LECUYER: There are none of those at this point in time.

MR. CHAIRMAN: Page 7—pass.
Page 8 - Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, on 9(1), no person shall generate hazardous waste. Are we once again referring to licensable hazardous waste or is this the whole gamut of dangerous goods hazardous wastes?

HON. G. LECUYER: Here we're talking about all hazardous wastes. We're not referring to licensable or dangerous goods here.

MR. D. ORCHARD: We're not talking about dangerous goods.

HON. G. LECUYER: No.

MR. D. ORCHARD: Then is it fair to assume there will be another list that has the hazardous wastes separate and apart from the dangerous goods that we're going to refer to there?

HON. G. LECUYER: I'm given to understand there is going to be a schedule of both categories of goods. But if dangerous goods is no longer used then it becomes a hazardous waste as well.

MR. CHAIRMAN: Page 8 - Mr. Orchard.

MR. D. ORCHARD: That leaves an interesting wide net potential.

HON. G. LECUYER: When the member made that comment, that leaves a pretty wide net, I don't know exactly what the comment meant. But, as an example, for instance, if you have a truck load of dangerous goods which is part of an accident when you collect that as part of the soil in which it may be impregnating, it becomes part of what would be as known as the hazardous waste materials, right?

MR. D. ORCHARD: That's what I mean by wide net.

MR. CHAIRMAN: Page 8—pass; Page 9—pass; Page 10—pass.
Page 11 - Mr. Orchard.

MR. D. ORCHARD: Under 18(1) Powers of environment officer and inspector. Any environment officer or inspector where he has reasonable and probable cause to believe dangerous goods are being handled, etc., may go on and do a number of things following on

Page 12 under the same section (a), (b), (c) and (d) including detaining or cause to be detained any vehicle which is transporting dangerous goods. Is the Minister satisfied that amount of discretionary power is a fair authority to give to your environmental officers and inspectors?

HON. G. LECUYER: If you read all the various sections here and you go through the powers of the different hierarchy of powers in terms of what the powers are that belong to the inspector, the environment officer and the director, there are different levels here. The inspector, for instance has the inspection power, he can enter and search. He can pass on whole orders. The environmental officer can go beyond that and has special powers in times of environmental accidents. He can deputize someone. He can revert to actions to avert hazardous situations. He can dispose or remove hazardous materials. When you go up to the level of the director, the powers are further increased, but there is a hierarchy in terms of powers here and, as I stated before, there is also stated in there the appeals process when these orders are questioned.

MR. D. ORCHARD: Mr. Chairman, I realize the Minister has got a hierarchy of power, as he calls it, an authority designated in these three levels of people. But the 18(1) stage where he has reasonable and probable cause to believe, now that's a subjective decision that the individual is going to be making and he may consider, and I'll use as my example the anhydrous ammonia being transported. One inspector may believe that is not a safe way in which it's being handled. This is a very open clause and when the Minister refers to the checks and balances that are in there, there really are none for anyone who is stopped by an environment officer or inspector, because these people have reasonable and probable cause to believe that there's a hazardous situation potentially there, because the final call is to the Minister.

If the decision is wrong, I didn't find any clause in the bill that allowed the person, so detained or charged or ordered to do a number of things according to this act, to recover any damages from the government for wrongfully issuing or making him comply according to his authorities granted in this act. I don't want to get into a prolonged debate on this, but that is really a wide open interpretation. You could have five different inspectors potentially feel that a reasonable and probable cause exists in five different situations and none of them would be agreeing on the same thing. Very subjective Mr. Minister, and very open to staff discretion.

HON. G. LECUYER: I don't think that it's as open as the member thinks it is. Furthermore, there's got to be some discretion somewhere, otherwise I don't know how tight a legislation we would be called upon to pass. The powers that are described here are exactly the standard powers that currently exist in The Clean Environment Act, The Public Health Act, The Workplace Safety and Health Act, they're exactly the same powers. If you look further in clauses 24 to 26 or 27, I believe it is, then you have the appeals process. If there are abuse or discretionary powers that go beyond what is

reasonable that's the reason why we have this appeal process and I don't know how else we're going to enforce any of this kind of legislation, other than through this kind of measure.

MR. D. ORCHARD: I realize that the Minister has a number of acts that he can refer to, passed by a number of governments that have those kinds of clauses in them; I just want to make reference to one more on page 13, then we can pass a number of pages. "Powers of Environment Officer. An environment officer may, where in his opinion such action is necessary to avert a hazardous situation." Once again, we've got the officer's opinion, it's a subjective decision. So, we can pass these pages and then I want to deal a little bit with the kinds of appeal processes that the Minister's got.

MR. CHAIRMAN: (Pages 11 to 14 were each read and passed.)

Page 15 - Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, here's the appeal process that the Minister is referring to. The appeal goes first, I assume, from an environmental officer or an inspector to the director. The director may do one of several things as provided in, I believe clause 25, no it's clause 24(2), but clause 26.(1), the Minister's decision, subject to Section 27, is final. The only appeal from the Minister's decision appears to be a reversal by order-in-council if I follow the process correctly. All of this appears to have a reasonable check and balance in it in that the Minister, as the political arm of this act, is the one ultimately responsible for decisions of his staff, which has always been the case.

The comment I want to make, and I would invite the Minister and possibly even legal counsel to comment on my proposal, when we go to Page 16 after the appeal in Section 27 to the Minister's decision by reversal and order-in-council theoretically. Your powers of your inspectors to detain cause the person to dispose, etc., etc.- they're all written into your previous clause that we've already passed. If, through all of the appeals it can be determined that one of your inspectors or environment officers and the director erred, in terms of the original order, hold order or otherwise, and the person so affected made his appeals and finally it got to you, Mr. Minister, and you decided, yes, he was forced to comply when he shouldn't have been, there is no section in here which allows for the person who has been wrongfully asked to comply with regulations in this act. There's no place in here for him to claim compensation if he's been forced to dispose, if he's been forced to detain and it's a shipment of goods which only has value if it gets there on a given day and the value is decreased, there's no avenue for compensation for wrongful decision by the Minister's departmental staff.

I think that, given that the Minister believes he has to have the phraseology in the act as in Section 20, "An environmental officer may, where in his opinion," and where the other one that we referred to earlier on, "Has reasonable and probable cause to believe that dangerous goods are being handled, etc., etc." Where you've got the discretionary power in there - and I

accept your argument that it has to be there - should there not be an offset so that an individual wrongfully forced to comply with the act has access to compensation for any costs or losses incurred by that wrongful, discretionary decision made by an inspector or an environmental officer or the director?

HON. G. LECUYER: That is possible now through civil action. I think basically what would happen, or what has to be redressed, would be a question of time and that may, indeed, involve a certain pecuniary loss, but the only recourse now, and there is a recourse now, is through civil action. I want the member to realize that's the reason why we've got these various levels of appeal, so that not all of this would necessarily go all the way up to the Minister and involve a great deal of time. We've got the first level of appeal in there designed specifically to allow for flexibility and quick turnaround decisions. So, if an environment officer or inspector decision is to be appealed, it is done so at the director's level and has to be done within five days. A director's decision is appealed to the Minister and that has to be done within a maximum of 30 days.

MR. D. ORCHARD: Let me lay out an example of five and 30 days, because that's your appeal process to the director and then the final appeal to you as the Minister.

Use anhydrous ammonia - I hate to get stuck on it, but that's the one that I'm somewhat familiar with - the shipping season may only last 40 days and if an inspector caused the detention of that load, because it was deemed to be a hazardous situation, and that took five days, and then the Minister's appeal took upwards of another 30 days, the season's over. Should that load be detained, the revenue for the entire season could be gone because it is a very short season.

So my question to the Minister is: should there not be, other than the recourse of civil action, a provision in here which shows the same kind of understanding for the need to put in discretionary powers to the inspectors, a recognition that if they're wrong, no citizen is going to have to bear undue cost because of it? Should there not be an offsetting clause in there? Possibly the Attorney-General might know whether that's a standard thing in other acts like this, because I think it would be a good clause to have in this act because there can be fairly substantive costs involved from the exercise of these discretionary powers.

MR. CHAIRMAN: Mr. Balkaran.

MR. A. BALKARAN: Mr. Chairman, nothing in this act, as I read it, deprives a person who has been injured by any action of an environment officer or director, or indeed the Minister, who suffered damages and it turns out to be the person who required the person to carry out an order or some instruction is wrong. Redress is all that's open to that person civilly. There is nothing in this act that deprives him of that right.

MR. D. ORCHARD: I agree.

HON. G. LECUYER: What I was going to add, Mr. Chairman, I know this doesn't provide the answer the

member is looking for, but under The Clean Environment Act, there can be currently the same losses, pecuniary losses as well. Right now the appeal under The Clean Environment Act is all strictly to the Minister. There is not that flexibility provided in there for decisions to be made. Hopefully there is a whole order for some improper handling or carrying of a product here and it's required for the operation as the member describes. The farmer, or whoever, requires that product is obviously not going to wait. He is going to proceed with another purchase and in the meantime is going to use civil action to recover the loss that will be incurred by whatever amount or product that is currently being detained.

MR. D. ORCHARD: I realize there is civil recourse through any perceived wrong. The question I'm asking is: when you're bringing in a new act to cover both handling and transportation of dangerous goods - this is a new concept, it's not anything we've had before - would it be unusual, would it be precedent-setting to have a saving clause in here which would lay out a course outside of civil litigation for recovery of damage from a wrongful order?

MR. CHAIRMAN: The Attorney-General.

HON. R. PENNER: The difficulty with that is, you're now not dealing with the question of the issuance of a licence, the refusal, etc., with the Minister, but where there has been a wrongful action and damages may be claimed. If you were to attempt to write in a statutory remedy, you're more likely to restrict the range of remedies available, than are available at common law. I think that's the problem.

MR. D. ORCHARD: Okay, so then in other words, no act of this nature would ever have a written obligation - if someone is wronged under the act, that they're entitled to some form of recovery of losses or damages.

HON. R. PENNER: No, I don't want to mislead the member inadvertently. The Labour Relations Act, for example, does provide a limited pecuniary penalty in certain cases, and then in doing so deprives a person who is aggrieved and falls within the statutory limitation from a broader remedy and gives them the narrower remedy. All I'm saying is, if we were to write a narrower remedy in here or a specific remedy, it might be construed as depriving them of the broader remedy at common law.

MR. D. ORCHARD: But only if the individual chose whatever level of compensation was under the written remedy or the statutory remedy. It wouldn't deprive him if he said, that's not enough, I lost more than that from going to the civil litigation.

HON. R. PENNER: Then there wouldn't be any point in writing it in you see.

MR. D. ORCHARD: It might avoid a lot of civil litigation on smaller claims.

HON. G. LECUYER: I personally don't know that what the member suggests can be written in. It has never

arisen or seemed to be a problem under The Clean Environment Act at this point in time. The Attorney-General mentions that if it's written in, it may make for a narrow remedial measure for the loss or the only other way would be arbitrary and I don't think that is providing justice either.

The point I wanted to make was that the member is making reference constantly to agriculture and agricultural products which is primarily not what this act is intended to deal with. This act is primarily intended to deal with substances which are far more - how would I say? - hazardous, the substances that are more dangerous than what he is referring to, and that's primarily the intent of the act.

MR. D. ORCHARD: I don't disagree with the Minister, but the Minister also has to acknowledge that anhydrous ammonia will fall under this as a dangerous good, under the transportation provisions of this act. So you know, that's the example I'm using.

Okay, given that you don't think it's advisable to write in a remedy, I just want to point out that on Page 17, Section 29(2) but nothing in this section deprives a person who incurs cost in complying with an order, decision, instruction, etc from recovering those costs from another person where he believes that another person is responsible for complying with the order, decision, instruction, or directive. Now that's from providing cost recovery from Party A to Party B through their business relationship under an order under this act, I would assume.

Now you're allowing them to recoup costs and there is specific reference here, yet there is no specific reference to any individual able to recoup costs if staff or civil servants have made a wrong decision. That's the point I'm making.

MR. CHAIRMAN: Page 15—pass; Page 16—pass.
Page 17 - the Honourable Minister.

HON. G. LECUYER: Thank you, Mr. Chairman. I'd like to move an amendment that Section 29(2) of Bill 6 be amended by striking out the figures "25" in the 1st line thereof, and substituting the figure "24."

MR. CHAIRMAN: Is that agreed? (Agreed) As amended, Page 17—pass.
Page 18 - Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, under Section 30(4), "Where any action is taken by an environment officer, or person acting on the instructions of an environment officer in accordance with this section, the costs incurred by the government are a debt due to the government by the person having ownership, custody or control at the time of the accident, of the contaminant, and are recoverable by the government . . . "I understand why that's here, but I don't quite understand why there couldn't be an offset for someone wrongfully - I won't pursue the matter anymore, but the Minister has got his own protection in here for his staff and his government. There's no protection for the individual.

HON. G. LECUYER: I'll give you an example, Mr. Chairman.

For instance, if we find ourselves, let's say, in a remote area or even let's take an northern point like Thompson where we have to, on a contract basis, ask for somebody to move PCB transformers for instance, there is immediate cost and this clause simply makes provision for the recovery of the cost involved, because the product has to be moved.

MR. CHAIRMAN: Page 18—pass; Page 19 - Mr. Orchard.

MR. D. ORCHARD: On Page 19 before we go any farther, my question to the Attorney-General. Under Section 35(1) Admissibility of report. I haven't read all the statutes in Manitoba, but is that a normal provision in there - "A certificate or report purporting to have been signed by an inspector" etc., etc., ". . . is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing . . . ?" That seems to be pretty generous.

MR. CHAIRMAN: The Attorney-General.

HON. R. PENNER: You'll find that in a variety of regulatory statutes where it's expected there may be all kinds of officials, through the course of time, issuing certificates. If the prosecuting attorney, acting for the Crown were required as a matter of proof leading towards a conviction to have to, in fact, bear the burden of proof of the official character of the person signing, it would place an inordinately heavy and costly burden on the Crown. What, however, is provided for in the last clause as a saving provision is that where a person really thinks that it's a phony, they have the burden of proof, and if they satisfy it on a balance of probabilities, then they will have made their case.

MR. CHAIRMAN: Page 19—pass.
Page 20 - Mr. Orchard.

MR. D. ORCHARD: One question on the Insurance Clause, Section 38. Will the Minister be attempting to ensure that there is equal insurance requirements across Canada - I'm asking here in terms of transportation of dangerous goods, so that each provincial jurisdiction might have similar insurance requirements?

HON. G. LECUYER: I am not too sure without having it in front of me whether this same clause appears in the federal transportation of dangerous goods, but whether it does or not, it would certainly be, as far as I am concerned, desirable to have a clause which has or confirms that it is in conformity across the whole of the country in this regard, yes.

MR. CHAIRMAN: Page 20—pass.
Page 21 - the Honourable Minister.

HON. G. LECUYER: I'm sorry, it's a little further on.

MR. D. ORCHARD: Mr. Chairman, just some general comments on the next three pages.

As is not unusual, this is the meat of the act, by and large, where you have the ability to draft regulations

which can do, I would suspect, almost anything by the time you get to cc) on Page 23, and 40(2) allows even further adoption of regulations. This is where the meat of the act is, I believe. Once again, when you've got such things as on Page 23 the shipping documents or transportation once again when you're dealing interprovincially.

I'm quite sure the Minister will give me the assurance that they're going to have conforming requirements nationally across the country, so that transporters of hazardous goods aren't fraught with new forms everytime they cross a provincial boundary. Would that be a fair assumption?

HON. G. LECUYER: The member is right that this is a list, an enabling list allowing for regulation under this act. This act is on the other hand one that is going to regulate transportation of goods interprovincially and is going to parallel a federal act, so therefore there is enabling clauses here for regulation.

On the other hand, because of the interprovincial transportation of dangerous goods and because of the federal act, which this parallels, the risk that we multiply regulations is not likely to occur. Furthermore, come back to the process which exists now before any regulation can actually occur, it goes through a pretty lengthy process of consultation. So the fears, which may be justified on the basis of the very fact that there, in effect, exists a lot of regulation, I think maybe is not so warranted in this particular case.

MR. CHAIRMAN: Mr. Orchard, before I recognize you, would you kindly speak closer to the mike so our recorder can record it?

MR. D. ORCHARD: Thank you, Mr. Chairman.

On Page 22 under (t) "the requirement and installation of automatic sensing devices or monitoring equipment in industrial settings;" are those requirements presently in place or are these new requirements that will be necessary with the passage of this act at industrial settings; i.e. manufacturing plants?

HON. G. LECUYER: There is no such requirement at present time. We're referring here to if some future developments occurred in making these and we're talking here a similar system as a fire alarm system, making these necessary, then there would be the enabling clause here to allow it to happen.

MR. D. ORCHARD: Then am I fairly surmising from what the Minister said that there is no industry right now with passage of this act that would have to be required to comply with this? You don't know of any right now?

HON. G. LECUYER: That's correct.

MR. D. ORCHARD: Okay.

MR. CHAIRMAN: Page 21—pass; Page 22—pass.
Page 23 - the Honourable Minister.

HON. G. LECUYER: Thank you, Mr. Chairman. I move that Clause 40(1)(cc) of Bill 6 be amended by striking

out the word "as" in the 2nd line thereof and substituting therefor the word "is."

MR. CHAIRMAN: Page 23, as amended—pass.
Page 24 - the Honourable Minister.

HON. G. LECUYER: Thank you, Mr. Chairman. I move that Section 42 of Bill 6 be amended by striking out the word "only" at the end thereof and the last word of Clause 42 should be struck in the French version, "seulement."

MR. CHAIRMAN: Page 24, as amended.

MR. D. ORCHARD: Under Clause 43, Municipality may make by-laws, would this allow and I'm sorry, I'm going to refer to anhydrous ammonia again, Mr. Minister, would this allow . . .

MR. CHAIRMAN: Does it smell good?

MR. D. ORCHARD: It depends what shape you're in.
But Section 43, would this allow the City of Brandon, with this Section 43, to pass a municipal by-law which would not allow the transportation of anhydrous ammonia within the city limits?

HON. G. LECUYER: First of all, it's one of the clauses that was already in The Transportation Act passed last year, but that doesn't answer our question. In effect, if this was not inconsistent - and that's the clause in the end - with the provisions of the province, then yes, they could pass such a by-law.

MR. D. ORCHARD: I don't think it would be inconsistent. So where's the check and balance, and I'm not saying it's going to happen, but by giving this authority to the municipality, if I read it correctly, it leaves the municipality as the final decision - no, I see some head shaking. If a municipality passes a by-law which is unduly restrictive on a given industry, then do I take it that they have a court of appeal where they can contest this by-law other than the courts?

HON. G. LECUYER: Mr. Chairman, it says, but where there is a conflict between the provisions of a by-law made by the municipality or the City of Winnipeg and any provision of this act or the regulation made under this act, then the provision of the act or the regulation, as the case may be, prevails over the by-law of the municipality.

MR. D. ORCHARD: You wouldn't see that as being a problem then, the circumstance I brought up?

HON. G. LECUYER: The clause might not have been there at all and then simply the municipality would not have been allowed this extra measure of flexibility at all. It's there because some municipalities might want to pass such a by-law and in effect even passing such a by-law does not interfere with the movement of the products on a provincial-wide basis.

MR. D. ORCHARD: In other words, let's leave Brandon out, but let's take a community located on a highway

where the provincial road goes right through the middle of town, all within the town limit. The town could not pass a by-law restricting transportation of any hazardous good because the act would then supersede that bylaw. Is that what you're saying?

HON. R. PENNER: Yes. In fact the act and regulation did not then speak and it was really a dumb thing, it was tying up the movement of anhydrous ammonia — (Interjection) — which was badly needed in the nether regions of Brandon. The Lieutenant-Governor-in-Council could pass an O/C amending the regulation the following week.

MR. D. ORCHARD: And knowing the level of understanding you have with the topic I've been broaching, I know that will get pretty hot.

MR. CHAIRMAN: Page 24, as amended.

MR. D. ORCHARD: When does the Minister expect he would be proclaiming this act?

HON. G. LECUYER: Mr. Chairman, passing first of all the dangerous goods regulations, I don't see that happening or being ready until, I don't know how many months down the road, but definitely not before the fall. Then there are parts of the act that would require the licensing regulation to be passed before they could be proclaimed and there are other parts of the act that require the manifest system to be in place before they can be passed, or before the act can be proclaimed, or that section can be proclaimed. So it will be proclaimed in various stages.

MR. D. ORCHARD: And you may well be looking at three or four years?

HON. G. LECUYER: We're talking about hazardous waste disposal. There may be sections in there that will require a fair bit of time before they can be adopted.

MR. CHAIRMAN: Page 24, as amended—pass;
Preamble—pass; Title—pass.
Bill be reported.

BILL NO. 18 THE STATUTE LAW AMENDMENT ACT (1984)

MR. CHAIRMAN: Proceeding, we are now considering the next bill, No. 18, The Statute Law Amendment Act (1984).

We shall proceed page-by-page if that's acceptable to the committee.

Page 1—pass.
Page 2 - Mr. Tallin.

MR. R. TALLIN: Just this afternoon a mistake was pointed out to me on Page 2, on Section 3(1). Just a little over halfway down the page, there is a reference to Clause 1(1)(m) of The Manitoba Public Insurance Act, that should be Clause 1(1)(r). Would it be all right to make that as a correction, rather than as a formal motion?

MR. CHAIRMAN: Agreed? (Agreed.) Page 2, as corrected—pass.

Page 3 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, would the Attorney-General explain section 3(9)?

MR. CHAIRMAN: The Attorney-General.

HON. R. PENNER: The explanatory note advises me that . . .

MR. G. MERCIER: I've read that.

HON. R. PENNER: Okay and that still leaves you . . .

MR. G. MERCIER: Yes.

HON. R. PENNER: I wonder Mr. Tallin . . .

MR. CHAIRMAN: Mr. Tallin, please.

MR. R. TALLIN: The act provided a limitation for bringing actions. Generally it's two years. The act at the present time says that an action on a contract must be brought within two years unless a longer period is set out in the contract. This is to allow the corporation to set out a shorter period within which an action must be brought on the contract.

MR. G. MERCIER: Mr. Chairman, could the Attorney-General explain why MPIC want that authority?

HON. R. PENNER: I'm not sure. My understanding is that there may be specialized contracts of insurance which, in the trade, carry a shorter limitation period than the normal two years and they would want to be in a position to be dealing in the market with that kind of general insurance policy on the same terms and conditions. That's my general understanding of it.

MR. G. MERCIER: The Minister responsible for MPIC was here earlier. I wonder if we could somehow revert to this later?

HON. R. PENNER: Here he is.

MR. CHAIRMAN: He is coming.

HON. R. PENNER: Explain yourself.

MR. G. MERCIER: I would ask him then, Mr. Chairman, there is an amendment on page three of Bill 18, Section 3(9), which would allow MPIC to reduce the limitation period to less than two years under a contract. Could the Minister explain why MPIC wants that authority?

MR. CHAIRMAN: Mr. Minister.

HON. J. BUCKLASCHUK: Yes, which specific section is that? I'm just trying to spot it.

A MEMBER: 3(9).

MR. CHAIRMAN: Section 3(9). Page 3.

HON. J. BUCKLASCHUK: This, Mr. Chairman, is in reference, I believe, to the General Insurance section and that is in conformity with the private sector where there's a one-year limitation. I'll just get the specific reference to it in one second.

The notes that I had from MPIC were that it authorizes the General Insurance Division to continue maintaining one year as a limitation period on the policies issued by, and this is in conformity with the practice in the private sector.

MR. G. MERCIER: Is that a provision in The Insurance Act that governs the private sector that allows a one-year limitation period?

HON. J. BUCKLASCHUK: It's the existing practice, and whether it's governed by The Insurance Act or not, I don't know.

A MEMBER: The question is whether it's written into the statutory provisions, but I doubt it.

MR. G. MERCIER: Mr. Chairman, does the Minister not have any further information? Why would this public created insurance company want to reduce the limitation period? Has there been some sort of a problem or is this going to result in lower premiums?

HON. R. PENNER: Just while the Legislative Counsel is looking up The Insurance Act, I think probably the Member for St. Norbert has read 29.12 of The MPIC Act and clearly what it does is provide for a two-year period, unless a longer period is provided in any contract or insurance plan. That's reasonably clear, and it's reasonably clear from the explanation which was given so that there might be a contract of insurance which provides a three, four, five or six-year limitation period. God knows why anyone would do that with insurance, but the provision is being made and you're question is, "Why is provision being made?"

Provision is being made for a one-year term and the answer which I gave is not inconsistent with the answer suggested by the Minister. That is there are policies out there in the marketplace which carry a one-year limitation period. This is to allow MPIC to market such policies.

HON. S. USKIW: Isn't MPIC governed by the statutory provisions of The Insurance Act at any risk?

HON. R. PENNER: Yes.

HON. S. USKIW: We can't override those by an act of the MPIC.

MR. CHAIRMAN: Is that a question from the Minister of Tourism?

HON. S. USKIW: Well, I guess it's worthwhile putting on the record.

My suspicion would be, if I have the floor, Mr. Chairman, that nothing in The MPIC Act can change the statutory provisions of insurance law, which applies to all companies operating in Manitoba and indeed in Canada. I don't think that we can take anything away

that the public now enjoys by way of The Insurance Act. This must have been beyond the requirements in the other act which they are now withdrawing from, or at least I would assume.

MR. CHAIRMAN: Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, I just find it unusual that when we've had a provision that provided for a two-year limitation period or longer, that the government would now be proposing to reduce that period. It would appear that the wording of the amendment would allow it to go not just to one year, but even to a lesser period of time. The words "or otherwise" are being used and at the very least it would appear they could be reduced to three months or six months depending upon what Autopac decides. I don't think that's something that we should really accept without some greater explanation.

HON. R. PENNER: Here's a case in point in The Insurance Act 16 - the statutory conditions with respect to hail insurance is one year - so there's one year left in The Insurance Act with respect to that kind of insurance.

MR. G. MERCIER: At the very least, this provision would allow the limitation period to be reduced in some instances to less than one year.

HON. R. PENNER: We couldn't reduce it to less than the statutory limit, which is Mr. Uskiw's plan.

HON. J. BUCKLASCHUK: Mr. Chairman, can I just clarify that.

Under the existing legislation, the clause reads, unless a longer period is provided in any contract or insurance plan, no action or proceedings against the corporation in respect to any claim, under a policy or plan, unless the action or other proceedings commence within two years after the furnishing of reasonably sufficient proof of loss or claim. All we're doing is substituting a longer period to read otherwise.

MR. G. MERCIER: Which would mean it could go either way. Which would mean that it could be in theory reduced I guess subject to specific references to different types of insurance policies could be reduced . . .

HON. R. PENNER: My recollection is that there are one or two, in addition to this, there are one or two statutory floors, but as Mr. Uskiw points out, we can't override the statutory floor.

MR. CHAIRMAN: That qualifies the amendment. Page 3 as amended—pass; Page 4—pass; Page 5—pass; Page 6—pass.

Page 7 - the Attorney-General.

HON. R. PENNER: Mr. Chairperson, I move:

THAT subsection 15(1) of Bill 18, The Statute Law Amendment Act (1984) be amended by adding thereto, immediately after the word "Manitoba" in the 3rd line thereof, the figures "1970."

MR. CHAIRMAN: Page 7 as amended . . .

HON. R. PENNER: No, Clause 15 as amended.

MR. CHAIRMAN: Clause 15 as amended - the Attorney-General.

HON. R. PENNER: I move:

THAT subsection 16(1) of Bill 18 be amended by adding thereto, immediately before the word "Consolidation" in the 3rd line thereof, the word "Continuing."

MR. G. MERCIER: Mr. Chairman, I don't really wish to speak to the amendment, but I wish to speak to the clause. If you want to pass the amendment, then I'll speak to the clause.

MR. CHAIRMAN: Oh, you want to speak on the clause.

HON. R. PENNER: So, we'll just deal with the amendment first.

MR. CHAIRMAN: We'll deal with the amendment first. Is that agreeable?

HON. R. PENNER: Amendment agreed.

MR. CHAIRMAN: Amendment agreed to—pass.
Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, the explanation for this section indicates that these amendments will require - it follows along in the next page, at least one of the persons to be appointed as a solicitor who is an employee of the society. My question is to the Attorney-General with respect to wage negotiations because the lawyers of Legal Aid do have a group that's recognized in dealing with wage negotiations.

If a member of that group is to be a member of the board, there doesn't appear to be any statutory recognition of that conflict that will occur.

HON. R. PENNER: It will come within the general conflict-of-interest provisions. We have situations which occur in virtually every board meeting of Legal Aid. I read the minutes very carefully, where one or another solicitor member of the board as it is presently constituted absents himself when the question of an issuance of a certificate or the enlargement of a fee comes up affecting the firm from which that solicitor comes.

In accordance with that well-recognized policy, it is clearly understood that at that juncture when in fact they move into closed session to discuss the labour relations matter, then the employee representative must absent himself or herself as is done for example with faculty members of the Board of Governors at the University of Manitoba and the University of Winnipeg and the University of Brandon without there being a specific statutory requirement.

MR. CHAIRMAN: Okay. Page 7 as amended—pass; Page 8 - the Attorney-General.

HON. R. PENNER: I move:

THAT subsection 16(2) of Bill 18 be amended by striking out the word "section" in the 2nd line thereof and substituting therefor the word "subsection."

MR. CHAIRMAN: Subsection 16(2) as amended—pass.
The Attorney-General.

HON. R. PENNER: Thank you, Mr. Chairperson.

I move:

THAT subsection 17(1) of Bill 18 be amended by removing the phrase "(in this section referred to as 'the Act')" from the 4th line thereof and inserting it after the word "Statutes" in the 2nd line thereof.

MR. CHAIRMAN: Subsection 17(1) as amended—pass.
Mr. Mercier.

MR. G. MERCIER: On this page - is this the page that deals with the human greed committee, Mr. Chairman.

HON. R. PENNER: I didn't hear that but, yes.

MR. CHAIRMAN: Page 8 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, could the Attorney-General, particularly with respect to this Section 63(3), it refers to expenses incurred by a perso, after a person seizes to be a member and that's because of death or dissolution of the Assembly.

Obviously, I can see expenses having been occurred after the death of a member that the member's estate should be reimbursed for, but I am particularly concerned about after dissolution of the Assembly - does that refer now to expenses that will be incurred by a member really after he is no longer a member because the Assembly will be dissolved, an election will be called and this section is very general with respect to that.

I wonder if te Attorney-General can indicate something.

HON. R. PENNER: Yes, when this issue was discussed by the Legislative Assembly Management Commission, specific examples which were used - and I can sympathize with them because I would be in the same position - should it happen, of course, not death, after which I don't care, but dissolution when I will have a fear and a trembling and a sickness unto death. I'm on the hook on the lease for our constituency office on Osborne and if an ungrateful electorate should turf me out, an ungrateful landlord may not listen to my heart rendering sobs and say, you're on the lease, you pay.

The members of the Legislative Assembly Management Commission in their wisdom, and I think in their wisdom, said there may be some continuing obligations of that kind relating to a constituency office and that's what they're there for and that's what the money was paid for, for which the member should be reimbursed. That's the explanation.

MR. G. MERCIER: Mr. Chairman, I take it there will be some rules made by the Management Commission, because obviously the taxpayer shouldn't have to, given

a normal four-year term of a government, a member who, say he committed himself to a six-year lease, for example, just for argument sake, so there was two years left on it, the taxpayers shouldn't be required to compensate the member for that. I take it then there will be some very precise rules made by the Management Commission, so there will only be reasonable expenses that will be provided.

HON. R. PENNER: I agree with that and in my reading of the guidelines that have been established by the commission is that it's a fairly rigorous job in making sure that expenses paid out are well within the parameters of the act. I think we always should go back to a base line here and that is that the amount of constituency expense that is allowed per member in this jurisdiction of \$2,500 is about the lowest in the country, and we're still confined to that. That's the ceiling in any event.

MR. G. MERCIER: I appreciate that, Mr. Chairman. I want to make the point also, though, that after the dissolution of the Legislature, a member should, for example, not be purchasing equipment, should not be printing new materials and that sort of thing, because he really is no longer a Member of the Legislature. I can see the problem if there is a continuing obligation that was entered into prior to dissolution, that there is some justification for reimbursing the member for, but nothing new, no new financial commitments should be entered into.

HON. R. PENNER: Just in response to the point raised by the Member for St. Norbert. He raises a good point, I think, that indeed the Legislative Assembly Management Commission should look fairly closely at this clause from the point of view of establishing the guidelines.

MR. CHAIRMAN: Page 8 as amended—pass; Page 9—pass; Page 10—pass; Page 11—pass.
Page 12 - Attorney-General.

HON. R. PENNER: Mr. Chairman, I move:

THAT subsection 21(2) of Bill 18 be amended by striking out the figures "325(4)" and the 1st line thereof and substituting therefor the figure "325."

MR. CHAIRMAN: Section 21(2), as amended—pass; Page 12, as amended—pass. Page 13 through Page 18 were each read and passed.
Page 19 - the Attorney-General.

HON. R. PENNER: Mr. Chairman, I move:

THAT Subsection 32(3) of Bill 18 be amended by striking out the word "and" where it appears for the first time in the 4th line thereof.

MR. CHAIRMAN: 32(3), as amended—pass; Page 19—pass.
Page 20 - the Attorney-General.

HON. R. PENNER: I move:

THAT Section 33 of Bill 18 be amended by striking out the word "provide" in the 1st line thereof and substituting therefor the word "provide."

MR. CHAIRMAN: Section 33 as amended—pass; Page 20 as amended—pass; Page 21—pass.
Page 22 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, could the Attorney-General indicate whether the amendment to The City of Winnipeg Act is in conformity with the request of the City Council. Specifically, does this amendment allow sort of non-discrimination between single family residences and duplexes?

HON. R. PENNER: I can only say that on Monday of this week the amendments, which are being introduced in The Statute Law Amendment Act, were given to the City of Winnipeg delegation and they were satisfied with it.

MR. CHAIRMAN: Page 22—pass.
Page 23 - the Attorney-General.

HON. R. PENNER: First of all, it's slightly out of sequence. If I can take a minor amendment first to 39(a) and then come to 38.

I move:

THAT Clause 39(a) of Bill 18 be amended by striking out the word "subsection" in the 1st line thereof and substituting therefor the word "subsections."

MR. CHAIRMAN: Section 39(a), as amended—pass.
The Attorney-General.

HON. R. PENNER: This is more substantial and I gave notice of it in the House today while closing debate. I move:

THAT Section 38 of Bill 18 be struck out completely and the following sections substituted therefor:

Sec. 6 of The Public Utilities Board Act.

38 Section 6 of The Public Utilities Board Act, being Chapter P280 of the Revised Statutes, is amended

- (a) by striking out the words "shall devote the whole of his time to his duties under this act and he" in the 1st and 2nd lines of subsection (1) thereof; and
- (b) by striking out the words "other than the chairman" in the 1st line of subsection (2) thereof.

Now, I think as I explained, and I'll explain again, the proposed addition to The United Health Act was brought to my attention by the Superintendent of Insurance and my Deputy Minister in Consumer and Corporate Affairs who raised certain concerns, which I feel ought to be addressed in some depth; namely, that we may be granting a power to United Health Services Corporation, trading in some of its aspects under the name Blue Cross, to get into competition with the general insurance field, and of course United Health Services Corporation is neither regulated nor taxed, and it would be competing with a regulated and taxed industry. We thought there were policy implications there that should be discussed with the industry and time did not permit adequate discussion with the industry. So the removal of it is not to say that this isn't something that may not be done at a subsequent session, but it clearly is the type of thing

that should not be dealt with in Statute Law Amendments and certainly not without consultation with the industry.

MR. G. MERCIER: Mr. Chairman, is it in order to make a motion to strike out a section amending the United Health Services Corporation - with which I don't agree on the basis of the comments of the Attorney-General - but substitute an amendment to another act in its place?

MR. CHAIRMAN: We have the following rule, Citation 773, "An amendment which is out of order on any of the following grounds cannot be put forth from the Chair," and among those mentioned, Subsection (8)(b) says, "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," which means that unless this committee gives leave, we can't do it. Leave is given? The Attorney-General.

HON. R. PENNER: To complete the explanation, which I gave during Consumer and Corporate Estimates, we find that we can do very well at the present time, in any event, with a chairperson of PUB, who is part time - and I think we have a very good one - and hence the requirement that the person shall devote his full time is not necessary.

MR. G. MERCIER: Before we consider giving leave, could the Attorney-General indicate what will happen to the present chairman?

HON. R. PENNER: He will stay.

MR. G. MERCIER: On full salary?

HON. R. PENNER: No, he's not on full salary.

MR. CHAIRMAN: Is leave granted by the committee? (Agreed) Leave granted.

Amendment, Section 38, Substitution of Section 38—pass.
The Attorney-General.

HON. R. PENNER: I move:

THAT Section 39 of Bill 18 be amended by striking out the word and figures "29 and 38" in the 1st line thereof and again in the 2nd last line thereof and substituting therefor, in each case, the word and figures, "and 29."

MR. CHAIRMAN: Section 39 as amended—pass; Page 23 as amended—pass; Preamble—pass; Title—pass.
Bill be reported.

BILL NO. 20 - THE STATUTE LAW AMENDMENT ACT (1984)(2)

MR. CHAIRMAN: The next bill under consideration is Bill No. 20, The Statute Law Amendment Act (1984)(2).

HON. R. PENNER: Page-by-page.

MR. CHAIRMAN: Page-by-page. Page 1—pass; Page 2—pass.

Page 3 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, when we dealt with this bill today I asked if there could be an explanation of the reasons for the amendment to The Civil Service Special Supplementary Severance Benefit Act.

HON. R. PENNER: First of all, I would refer to the notes. Is it an explanation beyond the notes that is required by the member?

MR. G. MERCIER: Yes, please.

MR. CHAIRMAN: Mr. Tallin.

MR. R. TALLIN: I'm afraid the only knowledge I have is that the liaison committee, which is a committee of employee representatives of employees who are covered in The Civil Service Superannuation Act, came to an agreement with the government with respect to amendments to The Civil Service Superannuation Act which would increase the benefits; and the undertaking was that the cost of those benefits to the government would be offset by certain amount of monies that would pass to the government and including a write-off of this obligation and this is part of that agreement which was in the last section of the Civil Service Superannuation Bill this year.

MR. CHAIRMAN: Page 3—pass; Page 4—pass; Page 5—pass.

Correction on Page 6 - Mr. Tallin.

MR. R. TALLIN: In modern parliaments, pipeline is one word, but the way we have our act written, which was written back in 1931, it was two words, so it's just a correction of changing "pipeline" one word to "pipe line" two words, if that's convenient.

MR. CHAIRMAN: Agreed? Agreed.

As corrected, Page 6—pass; Page 7—pass; Page 8—pass; Preamble—pass; Title—pass.

Bill be reported.

BILL NO. 28 - AN ACT TO VALIDATE AN EXPROPRIATION UNDER THE EXPROPRIATION ACT

MR. CHAIRMAN: Bill No. 28 - page-by-page.

Page 1 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, we have heard tonight in this committee and last evening in committee representations from two property owners in the vicinity of the expropriation area whose lands are being expropriated.

The owner last night indicated that his business had been operating successfully for some 45 years, that six out of his seven tenants were successful small businessmen, that it was impossible for him to become a part of the future proposal, because he couldn't leave the area for two years and come back. He was very upset and very concerned in the same manner as the gentleman, Mr. Kozminski, who appeared here tonight

and his comments are recent enough that I don't have to repeat them to the committee.

It would appear that the government, in conjunction with the other two levels of government, appear determined to proceed in spite of alleged defects in the expropriation process that they have undertaken, in spite of the recommendations of the public inquiry officer. There's obviously a great deal of uncertainty in the minds of the people who are being expropriated. Could we at least get from the government, through the Attorney-General, an undertaking that, as quickly as possible, the owners affected will be contacted and will be spoken to and be given as much information as possible about what is going to happen and when it is going to happen and if possible will be accommodated within the new development when it occurs? Obviously there are a large number of people adversely affected and people who have been successful just want to maintain their operations. There's a heavy responsibility I think on the Provincial Government, on behalf of the federal and the city governments, who are involved in this project to accommodate them as much as possible and an extraordinary effort I think has to be made.

HON. R. PENNER: I agree with that. I am happy to repeat an undertaking I gave a bit earlier this evening with respect to relaying the concerns that have been expressed related to uncertainty. It is my impression that there is some ground clearly for those concerns because of the particular history of this expropriation. I suppose no expropriation is pleasant for those who want to remain there, but certainly they should have as much certainty with respect to time and compensation as quickly as possible as they can get. That will be discussed by me with the Minister of Urban Affairs tomorrow, I'm sure to the extent that we, as the expropriating authority, can deal with that aspect of it, that all possible steps will be taken to clear away some of the roadblocks.

With respect to the other aspect, where we don't have more than a partnership role and then only through arm's length nominees on the North of Portage Development Corporation, certainly we will use our good offices to raise with the corporation, but having read Mr. Tonn's report and some of the statements that were made before the Tonn Commission, I am satisfied that has already been communicated and understood and appreciated that those businesses located within that three-block area, which are viable and suitable to the area, and I think most of those who appeared in my opinion would fit that category, should be worked into the scheme.

Indeed, it may be possible but that is something I can only conjecture, to work some of them into the scheme in their existing locations. What would be different and that probably is necessary from the point of view of a major redevelopment encompassing a large area is that instead of being owner-occupier, they would be tenant-occupier of the development corporation.

That may be the difference, but I'm pretty sure that some of them can be accommodated in the same way that the Gordon downtown motel is being accommodated in the scheme on its present location. That same kind of thing can be followed through,

certainly I would think and again this is only conjecture, with some of the Kennedy Street shops in a well-developed business location north of Portage.

MR. CHAIRMAN: Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, government expropriations have a tendency to drag and drag and drag with nothing happening. Would the Minister and the government consider that giving the North of Portage Development Corporation a certain period of time, a reasonable period of time, perhaps it's nine to 12 months that is required to review the whole project development and determine what private sector investment there will be, what government investment there will be? Having determined that and decided that perhaps you don't require all of the property, perhaps only half of it or a third of it or a quarter of it is required, to make a decision perhaps ask the North of Portage Corporation to consider this in their terms of reference that what is to go ahead should go ahead quickly because other people who are being expropriated whose property doesn't have any short-term use for development, perhaps consideration in those instances could be given to abandoning the expropriation.

I would recommend to the government that the corporation be asked to, perhaps in their final recommendations, consider whether or not a portion of the expropriated properties, whether or not they should be abandoned, if there are not sufficient prospects for private sector or public development.

HON. R. PENNER: I'll convey those concerns and discuss them with the Minister, yes.

MR. CHAIRMAN: Bill No. 28 - I'd like to read the title, An Act to Validate an Expropriation under The Expropriation Act, Loi validant une Expropriation effectuée en vertu de la Loi sur l'expropriation.

Page 1—pass.

Page 2 - Mr. Kovnats.

MR. A. KOVNATS: I was just looking at the French and on the bottom of Page 2 where it says "Entrée en vigueur, 4, La présente loi entre," should there not be an accent, acute or grave, I don't know which one it is called, on the last "e"?

HON. R. PENNER: No.

MR. A. KOVNATS: Is there not one there?

HON. R. PENNER: No.

MR. A. KOVNATS: Well, I know it's not feminine because that would give you an extra "e" at the end.

HON. R. PENNER: You're out on that one.

MR. CHAIRMAN: It is correctly written.

Page 2—pass; Page 3—pass; Preamble—pass; Title—pass.

Bill be reported.

MR. G. MERCIER: No.

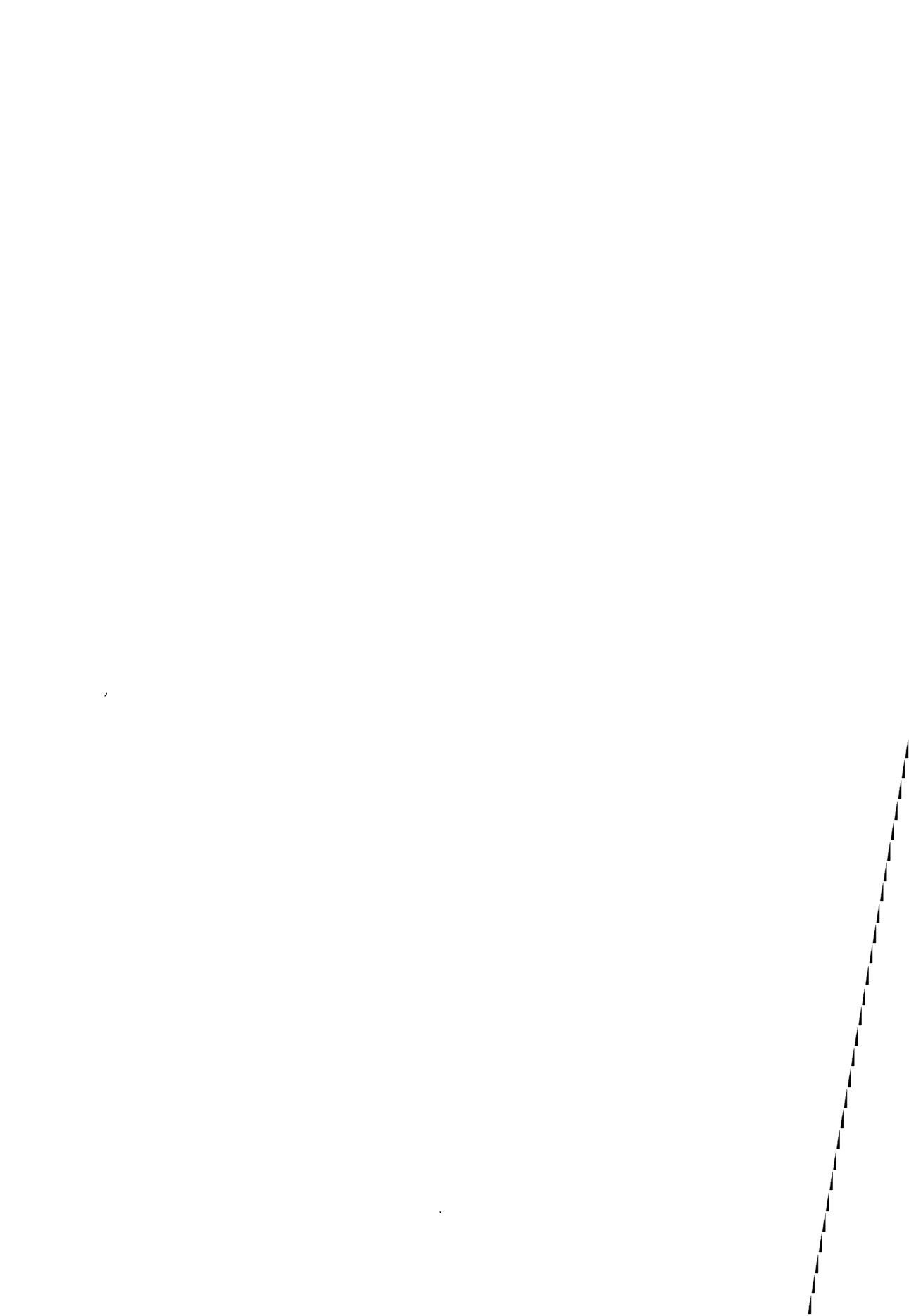
MR. CHAIRMAN: All those who are in favour that the bill be reported, please say aye. All those opposed, say nay.

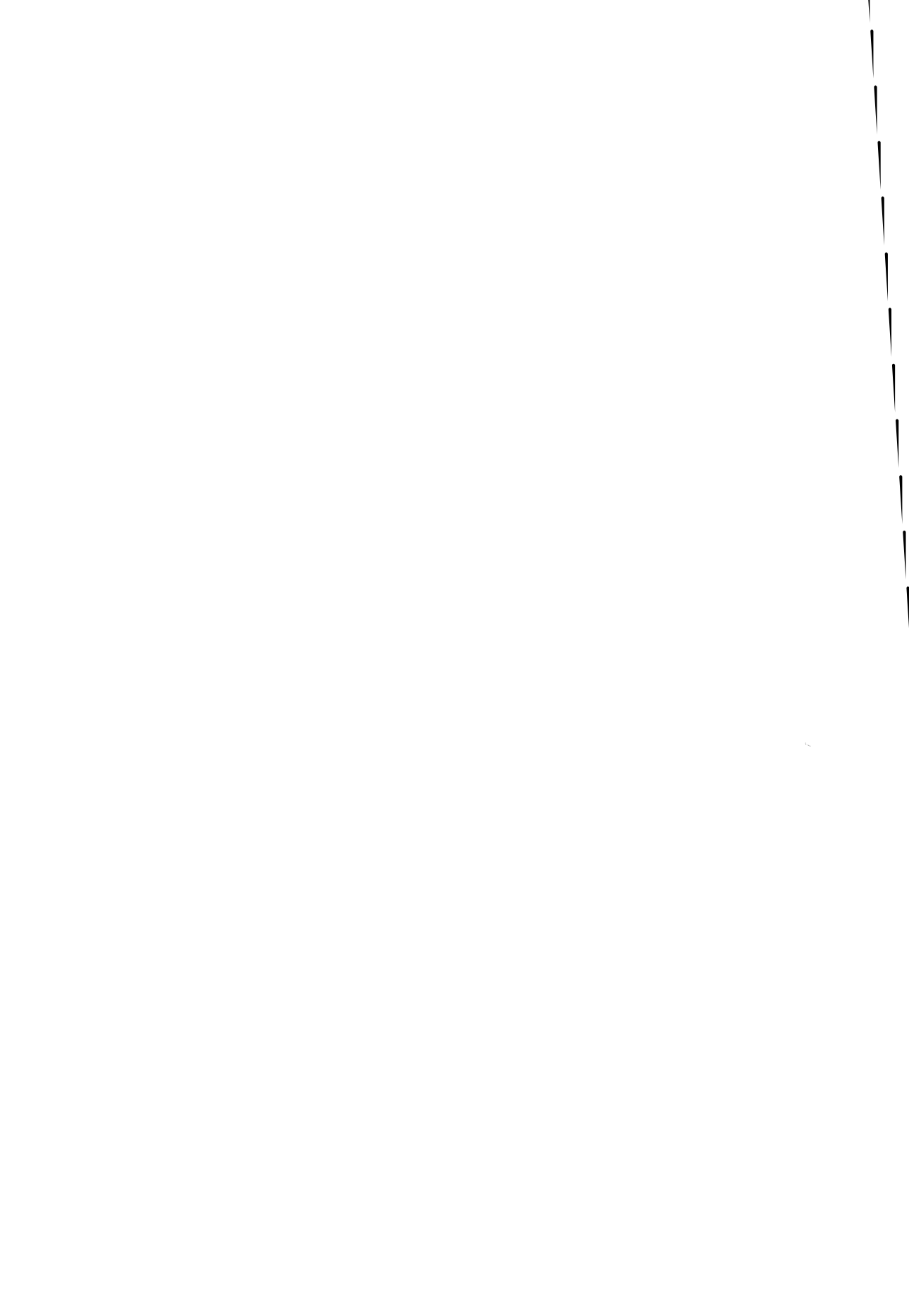
In my opinion, the ayes have it. The bill shall be reported—pass.

HON. R. PENNER: Committee rise.

MR. CHAIRMAN: Pass.
Committee rise.

COMMITTEE ROSE AT: 10:20 p.m.







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