

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON
PUBLIC UTILITIES AND NATURAL RESOURCES**

Wednesday, March 14, 1990

TIME — 8 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Harold Gilleshammer (Minnedosa)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Cummings, Enns, Manness
Mr. Angus, Mrs. Charles, Messrs.
Gilleshammer, Harapiak, Helwer, Taylor,
Plohman, Storie

* Substituting for Mr. Taylor at 9:20 p.m., Mr.
Driedger (Niakwa)

APPEARING:

Hon. Mr. Jim Ernst (Minister of Industry, Trade
and Tourism)

Ms. Avis Gray, MLA for Ellice

Mr. Leonard Evans, MLA for Brandon East

Mr. Duncan Jessiman, Jr.

MATTERS UNDER DISCUSSION:

Bill No. 84—The Waste Reduction and
Prevention and Consequential Amendment
Act

Bill No. 92—The Manitoba Energy Foundation
Repeal Act

Bill No. 98—The Manitoba Data Services
Disposition and Consequential Amendments
Act

* * * *

Mr. Chairman: Will the Committee on Public Utilities and Natural Resources come to order. This committee met earlier today to discuss Bills 92 and 98 before we recessed at approximately 4 p.m.

After discussions in the Legislative Chamber today, this committee will be proceeding with Bills 92 and 98, as well as Bill No. 84. After the deliberations have finished with the Standing Committee on Public Utilities and Natural Resources, this committee will take a short break so that the next Committee on Law Amendments can set up to consider Bills referred in the House today.

What is the will of the committee? Shall we proceed with Bill No. 84 and proceed numerically? Mr. Angus.

Mr. John Angus (St. Norbert): Mr. Chairman, I would like to serve notice to the committee that the procedure you have outlined is satisfactory to me, except when it comes to Bill 98. I have reason to believe that there—

I have requested some amendments that the Government introduce that will give some protection and some comfort to the employees.

If we get those amendments tonight, Mr. Chairman, I am going to request that the committee rise until ten o'clock tomorrow morning so that we can measure the full impact of those amendments, and I had hoped there would be agreement on that. I want to serve notice now that, other than pass Bill 98 tonight, we may be able to deal with it depending on how complicated or how involved they are.

Hon. Harry Enns (Minister of Natural Resources): Mr. Chairman, not to take issue with the Honourable Member, but simply to not anticipate difficulties where perhaps none exist. If the amendments are straightforward and indeed cover up those very real concerns the Honourable Member refers to, then perhaps committee can deal with it.

Mr. Chairman: If it is the will of the committee, we will proceed with Bill 84. Mr. Storie.

COMMITTEE CHANGES

Mr. Jerry Storie (Flin Flon): Yes, in following along with the agreement of the House Leaders, I would like to move that the Member for Dauphin (Mr. Plohman) replace the Member for St. Johns (Ms. Wasylcia-Leis).

Mr. Chairman: The Member for Dauphin is replacing the Member for St. Johns? (Agreed) Duly noted by the Clerk. Mr. Angus.

Mr. Angus: A committee change, Mr. Chairman, pursuant to the agreement in the House, I would like to submit Harold Taylor (Wolseley) for Mr. Mandrake (Assiniboia).

* (2005)

Mr. Chairman: Mr. Taylor is replacing Mr. Mandrake. (Agreed) Fine, thank you.

**BILL NO. 84—THE WASTE REDUCTION
AND PREVENTION AND CONSEQUENTIAL
AMENDMENT ACT**

Mr. Chairman: With Bill 84, Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass.

Clause 5—Mr. Taylor.

Mr. Harold Taylor (Wolseley): Mr. Chairperson, yes, I have the file here from legal counsel. I gather they are stretched a little thin at this point. I will pass out an amendment to Clause 5.

Mr. Chairman: Mr. Taylor, would you like to proceed?

Mr. Taylor: I will summarize the essence of this amendment to Section 5 and it is five parts (1 to 5). What it deals with is the report that is to come before the Legislative Assembly on the waste reduction and prevention strategy. We have considered this to be a fairly major element of this new Bill. The concern we have is not when the report comes forward when we are in Session, but when the report comes forward and we are not in Session because this Legislature does not operate on prearranged schedules for its Sessions. In fact, ours are quite irregular, and you can in no way predict when the Legislature might be in Session and when the breaks might be, nor the duration of those breaks. So the intent is to have a committee of the House able to sit and receive this report while the House itself is not in Session, and there have been extensive discussions with both legal counsel and the Clerk of the Assembly on this.

Hon. Glen Cummings (Minister of Environment): Did the Member want to table his amendments or is he prepared to entertain debate on it now? We should have it tabled and then I will make my remarks afterwards.

Mr. Taylor: Mr. Chairperson, through you to the Minister, if he wishes, I will read it out; otherwise, I would consider it as read if you wish and the debate can be opened on the clause.

Mr. Cummings: I would only ask the Member if he would look at this in respect to the fact that almost all other reports are handled in the manner that is outlined in the Bill rather than the process which he has brought forward.

Under Section 5(4) it indicates that, if the Legislative Assembly is not in Session, the committee shall be convened within 21 days of the report. I wonder if he appreciates the difficulties that could create in order to have receipt of the report. The manner in which we have proposed it is very much in line with how all the other reports are. In fact, this Bill goes even one step further in clearly outlining that a report must be brought forward on the progress, which goes beyond what most legislation does in the form that we have proposed it.

Mr. Taylor: I think the Minister really outlines a very pertinent point. Part of the motivation for the amendment that you see before it is that, from our viewpoint, the need of seeing an amendment of this nature reflects what we view as a very archaic system of committee structures and rules and a situation where there has been no major review for some 30-plus years.

* (2010)

In other Legislatures, and in the federal Parliament, this sort of a procedure can be done. However, it is not set up in this fashion in our Legislature. I think it is reflective of the state of the art of the committee structures and the rules that govern the operating of the committees and the empowering of the committees as well.

I had heard a comment from my colleagues opposite in the New Democratic Party as to why this was different, and it is different quite deliberately so, the idea being that, if we are in a long hiatus between Sessions, we felt that this Act, which I have to say is the most substantive of the four Environment Acts before us in this Session, is significant enough that we think the report should not await the Assembly coming into Session. With all the other business that would come forward, such as the throne speech and the budget speech and all the debates that there follow, we thought it was important enough to put forward this initiative and to see if the will of the committee is to see the report come forward and be dealt with seriously in between Session. Therefore, this amendment was worked in a way that will allow for it to happen and is within the existing rules of our House, but it, yes, does set a precedent and it is different.

Mr. Jerry Storie (Flin Flon): Mr. Chairperson, my thanks to the Member for Wolseley (Mr. Taylor) for sharing with me the concept some time ago with respect to this amendment. I think I indicated to him at the time that this was somewhat unusual, that there are many, many reports that are tabled by the Government and the normal procedure is to table them within 15 days after the commencement of a sitting of the Legislature. The Member for Wolseley, I think, argues quite rationally that this is an exceptional case. However, I want to point out two important issues.

Number 1, that the terms that are set out under Clause 4 which talk about the WRAP Strategy Report that is being requested do not, in my opinion, require the report to contain information that could be deemed essential or critical. The fact is that the report is a general report on the state of the art, if you will. So the report that we are talking about is not talking about or requesting or demanding or of such a crucial nature that the committee has to be called immediately, in my opinion.

The second point that I make is that we are now asking the Government, through legislation, to call a committee within 21 days. The calling of a committee is very expensive. At this point, given the nature of the report that is being prepared, it is not obvious that much will be accomplished or achieved by the calling of a committee.

Government, Opposition MLAs, Opposition Critics, can comment on a report. They have access to the legislative media room to make their comments, to criticize the report, the nature of the report, whatever. My only concern is that we may be calling a committee unnecessarily. Of course, the Minister, if he wishes, or if he is pressured to do so by public opinion or the opinion of Opposition Critics, can at any time—the Government can at any time call a standing committee. They can be forced to through the weight of public opinion.

So I appreciate the intent here. I certainly understand that we want the Government to be accountable for this legislation. My concern is that (a) we set a precedent, (b) we may be expecting too much from this report in terms of detail, and (c) we may end up

costing ourselves and the taxpayers money without significant advantage when the Opposition have many other avenues to criticize constructively or otherwise the report itself. I understand the motivation behind it. I certainly support the Member's desire to have this legislation enforced and Members to be kept informed, but I am just raising a question about how much will be accomplished in this particular method.

* (2015)

Mr. Taylor: If I might, Mr. Chairperson, respond to the comments from the Honourable Member for Flin Flon (Mr. Storie). I think he fairly points out that the report where we would look forward to between Sessions is not what one would call crucial or critical. I would not argue that with him. I think he has made a fair observation.

I would suggest that there is the potential for some positive momentum from this Act and from also the recycling task force that has been set up by the Premier (Mr. Filmon) as a result of the last throne speech. I put it forward, in all sincerity, not to say that it is crucial and critical and must be dealt with absolutely in this fashion, but as a suggestion to maintain a certain momentum and let us get on with this whole thing of recycling and reducing, in this case, our industrial waste.

I would mention to the Member for Flin Flon (Mr. Storie) that if we are between Sessions, Mr. Chairperson, there will not be the ability of Members to see the report, because it will not yet have been tabled. It will still be in the confines of the Minister's office. Again, the idea is get the report out, get it disseminated, get it commented upon, and continue the whole initiative towards waste reduction and recycling.

The Member for Flin Flon is quite correct when he points out this would set a precedent. There is no question at all that passing a motion like I have proposed for Clause 5 would very much set a precedent. I would suggest it would set a precedent that would be very positive in showing the way in which the Legislature might be more responsive between Sessions for all sorts of matters, some of this nature and some obviously more critical ones that do come up from time to time.

Mr. Cummings: Mr. Chairman, perhaps there is an alternative to the amendment that is being proposed that may answer some of the concerns that Mr. Taylor has. I do not have a written amendment. I am searching for a word that would fit here, but if in Clause 5, tabling of the report, the Minister shall make the report available to Members of the Assembly and to the public within three months of its being completed, or words that would satisfactorily require the Minister to make the information public so that it is not something to be seen to be a clandestine operation. I would be quite prepared to accept that form of an amendment rather than have us get hung up in a process where we are in fact breaking new ground on how the Legislative Assembly operates. I do not necessarily disagree with either one of the Members that we need to do some revision in that area, but I would sooner they did not choose this Bill to be that vehicle.

Mr. Taylor: Mr. Chairperson, I think maybe we can look at an alternative here. The goal the Minister picks up on is the fact that critics in this area, and other interested Members, will want to get a hold of that report as soon as practical, as soon as the Minister has had his thorough review. Now the question would be, is it legitimate for the Minister to do a partial distribution in advance of a formal tabling in the House? If it is, then maybe there is an answer there.

Mr. Cummings: I would suggest that the precedent may be the quarterly financial reports that we give of the Crown, which gives a partial financial review without the formal yearly annual report being anywhere near complete.

Mr. Taylor: Yes, Mr. Chairperson, to that end then, if the Minister wishes to add some words to alter Clause 5 to have that effect which would be acceptable to both of the Opposition Parties, upon hearing those words, I am prepared to withdraw this amendment.

Mr. Cummings: With the agreement of the committee then, we will ask counsel to work on this one while we proceed.

Mr. Chairman: Agreed, and revert back to Clause 5? Okay. Shall Clause 6 pass? Mr. Storie.

Mr. Storie: Thank you, Mr. Chairperson, we have a number of amendments to Clause 6 that have been discussed previously. Those will be circulated now. I will not read verbatim the three amendments. They are being tabled. I assume they will be accepted as read.

MOTION:

THAT subsection 6(1) be amended as follows:

- (a) by striking out "committees" in the section heading and substituting "committee";
- (b) by striking out "may establish advisory committees" and substituting shall establish an advisory committee".

(French version)

Il est proposé que le paragraphe 6(1) soit amendé comme suit:

- a) par substitution, à "Comités", dans le titre, de "Comité";
- b) par substitution, à "peut constituer des comités consultatifs chargés", de "constitue un comité consultatif chargé".

MOTION:

THAT subsection 6(2) be amended as follows:

- (a) by striking out "committees" in the section heading and substituting "the committee";
- (b) by striking out "any committee" and substituting "the committee".

(French version)

Il est proposé que le paragraphe (2) soit amendé comme suit:

- a) par substitution, à “committees”, dans le titre de la version anglaise seulement, de “the committee”;
- b) par substitution, à “les comités constitués”, de “le comité constitué”.

MOTION:

THAT subsection 6(3) be struck out and the following substituted:

Powers and duties of committee

6(3) The committee established under this section shall advise the minister in respect of

- (a) the purposes of this Act and its implementation; and
- (b) any exemption proposed to be made by regulation under clause 22(1)(n);

and shall exercise any powers and perform the duties and functions that the minister approves, confers or imposes on it.

(French version)

Il est proposé que le paragraphe (3) soit remplacé par ce qui suit:

Pouvoirs et fonctions du comité

6(3) Le comité constitué en application du présent article conseille le ministre en ce qui concerne:

- a) les objectifs de la présent loi et son application;
- b) les exemptions devant être accordées par règlement en application de l’alinéa 22(1)n.

Le comité exerce tous les pouvoirs et s’acquitte de toutes les fonctions et obligations que le ministre approuve, lui confie ou lui impose.

What the three amendments essentially do, first of all in Subsection 6(1) is change the word “may” to “shall.” The current legislation says the Minister may establish committees for the purpose of providing advice. We are saying that the Minister shall establish an advisory committee. Basically, we believe there should be one committee and that this should not be an option for the Minister, but should be an obligation.

* (2020)

The amendment to Subsection 6(2) basically means that the Minister again shall appoint this committee in a certain way.

Subsection 6(3) defines more succinctly, I think, the powers and the duties of the committee, and basically we are saying the committee should have the right to advise the Minister with respect to the purposes of the Act and its implementation, the committee, I should say; and (b) because the Minister, in dealing with the

regulations that he may make under the Act, has given himself a regulation that allows for exemptions, we are saying that before he gives any exemptions under this legislation, the advisory committee should have a chance to review it and to provide advice.

Again, I do not think this is a particularly onerous section. We are talking about an advisory committee. We are saying if the Minister is going to implement this Act in a responsible way, the advisory committee will give him advice. If the Minister is seriously considering an exemption, and exemptions as far as we are concerned are serious under this Act, if the Act is going to be implemented in a holistic way, there should be few exemptions, but if exemptions are warranted, then the advice of this committee may be valuable. And again, it is only advice. So I propose the amendments and open it for discussion.

Mr. Taylor: Thank you, Mr. Chairperson, I think that we could support that amendment.

Mr. Cummings: I believe that this is an amendment that we could live with. The only concern I have is that this clause was not intended to restrict. As long as the amendment, and I do not think it does, but it should not restrict the ability to have industry committees. For example, where we are striking goals and targets for the reduction of waste in a specific industry, and I would use tires as an example, I do not want the ability to have that committee in place as an advisory committee restricted. Given that interpretation, unless somebody around here can tell me differently, I will accept the amendments.

Mr. Storie: Just so it is clear on the intent. I am not certain of the wording. The intent was not to prevent any ad hoc committee, any industry committee from being established, and I do not think it does, but certainly for the record, that was not the intent.

Mr. Chairman: Are we ready for the question? On the proposed motion of Mr. Storie to amend Clause 6 with respect to both the English and French texts, shall the motion pass—pass. Shall Clause 6 as amended pass—pass.

Mr. Storie: I understand that 6(1), 6(2), 6(3) have been amended. All of 6 be passed as amended?

* (2025)

Mr. Chairman: Yes, we have passed 6(1), 6(2), 6(3) as amended.

Clause 7—pass; Clause 8—pass; Clause 9—pass; Clause 10—pass; Clauses 11 to 14—pass.

Clauses 15 to 17—the Honourable Minister.

Mr. Cummings: If Mr. Taylor would pass me back my amendments, I will read them into the record.

Mr. Chairman: Just reverting back, Clause 15—pass; Clause 16—pass.

On Clause 17, the Honourable Minister.

Mr. Cummings: I move

THAT the English version of clause 17(b) be amended by striking out "enforcement" and substituting "environment".

(French version)

Il est proposé que l'alinéa 17b) de la version anglaise soit modifié par substitution, à "enforcement", de "environment".

Mr. Chairman: Are you ready for the question? On the proposed motion of the Honourable Minister, Mr. Cummings, to amend Clause 17 with respect to both, or is it just one?

Mr. Cummings: No, both.

Mr. Chairman: With respect to both English and French—

Mr. Cummings: With respect to the English version, I am sorry.

Mr. Chairman: With respect to the English version—pass; Clause as amended—pass; Clause 18—pass; Clause 19—pass.

Clause 20—the Honourable Minister.

Mr. Cummings: Mr. Chairman, I move

THAT subsection 20(2) of the Bill be deleted and the following substituted:

Additional penalty

20(2) A judge may, in addition to any penalty imposed under subsection (1), require the convicted person to pay an additional fine that takes into account

- (a) any monetary benefit, or estimated monetary benefit, that accrues to the convicted person as a result of the offence; and
- (b) any environmental damage that results from the commission of the offence, and the cost or estimated cost of rectifying the environmental damage.

(French version)

Il est proposé que le paragraphe 20(2) soit remplacé par ce qui suit:

Peine supplémentaire

20(2) Le juge peut, en plus de toute amende imposée en application du paragraphe (1), condamner la personne déclarée coupable à payer une amende supplémentaire qui tient compte de:

- a) tout avantage monétaire ou de tout avantage monétaire estimatif dont la personne déclarée coupable bénéficie du fait de l'infraction;
- b) tout dommage causé à l'environnement en conséquence de la perpétration de l'infraction ainsi que du coût ou du coût estimatif de réparation des dommages à l'environnement.

Mr. Chairman: Question. On the proposed motion of the Honourable Minister Mr. Cummings to amend Clause 20, Subsection (2), with respect to both the English and French text, shall the motion pass—pass. The clause as amended—pass. Mr. Taylor.

Mr. Taylor: Are you doing all of 20?

An Honourable Member: Oh, I am sorry your amendment—

Mr. Taylor: Yes, is on 20.1.

Mr. Chairman: 20.1, Mr. Taylor?

Mr. Taylor: Yes. That has now just been distributed, Mr. Chairperson. There are two fairly simple amendments substituting amounts, which will give a lot more teeth to it and make them consistent with the Minister's own Acts, when he changed The Dangerous Goods Handling Act and The Environment Act of Manitoba.

Mr. Chairman: Are there any questions or comments? Mr. Storie.

Mr. Storie: I would indicate that I would support the amendment. I think the fact is—and I remember now the context of my discussion with the Member for Wolseley (Mr. Taylor) on this issue—it reminds very much of many other circumstances in our court system where the maximum fine is seven years. In many, many cases, in fact the vast majority, the maximum is never applied. Probably if you took the median where, for example, an individual can now be fined \$25,000, that may translate to \$5,000.00. That is probably more compatible with what courts do in many other circumstances.

* (2030)

Twenty-five thousand dollars is an incredibly stiff penalty. The only concern I have with the amendment is that we apply the wording perhaps. The Member for Wolseley is not listening, but my only concern here is that there is always the potential for someone to unknowingly violate the Act. Now, we may say, well, we can leave that to the discretion of the courts. There are always extenuating circumstances or whatever.

I am wondering whether the Member for Wolseley (Mr. Taylor) would allow for wording which suggests that someone who unknowingly violates this Act would not be subject to the same fine. If we could include the word someone who "knowingly" violates it, that would be more acceptable, because clearly that would suggest an intention to circumvent the law. I would hate to think that someone, because a judge had a bad day, inadvertently violated some aspect of this legislation and—it is all encompassing, it is very all encompassing—would face a \$25,000 fine. I just raise that as a concern. I understand the intention. I think we should be serious when we impose fines or when we talk about the imposition of fines, but a concern that we are leaving a lot of discretion in the hands of courts and we are talking about major sums of money.

Mr. Cummings: I would only add that we are not talking about violations of The Environment Act; we are talking about violations of The Waste Reduction and Prevention Act. I appeal to the Member for Wolseley to consider that argument.

Mr. Taylor: Mr. Chairperson, I very much recognize the difference between the two as reiterated by the Minister. The issue here is that we are seeing fines enshrined in statute as opposed to in regulation and there is forever the problem of keeping fine levels, violation settings of any amount up to date when they are enshrined in legislation. That is part of the reason for this motivation.

The other thing is—there are two things to be borne in mind—it is a maximum. It is not saying there is a bottom end and this is the range; it is saying this is up to. So what it allows for is gross violation of this Act. However, the discretionary aspect available to the judge is, I think, very significant and which is one of the points I want to bring up to the Member for Flin Flon (Mr. Storie).

The other point is that when one talks about “intention” that is one of the very points that the judges themselves have to deal with. What was the motivation of the person that has been apprehended and charged under this Act or any other Act, including criminal?

It is very difficult from what I have been advised by lawyers to start writing in “intent” into the clauses within the statute, because it is extremely difficult to write in such a fashion that it is fair, it is administratively functional and it makes legal sense. That was the reason. It was upon that advice that I rested the case of saying, well, all right, put it to a maximum amount. Let it be for a worse case situation. The assumption is that is not the level that will be obviously levied. Now it allows for the inflationary context and it allows the judge to decide, well, what was it that the person did. Was it deliberate? Or was it totally unintentional? Was it of small consequence as opposed to large consequence? The idea being is allow the judiciary the greatest degree of discretion, while at the same keeping the Act up to date and reasonable in the level of the fine. That was where the motivation came from.

Mr. Storie: Mr. Chairperson, yes, the difficulty is that this Act is not The Environment Act. We are not dealing in the main with projects or developments which are going to have a major impact in and of themselves on the environment. We may be talking about someone who is selling a product or fails to charge a fee on a product which comes under this Act or a regulation of this Act. We may be talking about an act that in and of itself is fairly innocuous and not that significant in terms of the potential it has for damaging the environment and yet the wording of the Act says “every person who” is guilty of an offence. It does not talk about knowingly or unknowingly. It says guilty of an offence. They may still be paying a fine which, in the judge’s view or in view of the maximum allowable fine, is insignificant. But for a 39-cent failure, they may be charged \$1,000, and the judge says, look, the maximum is \$25,000. I only charged you \$1,000; that is pretty reasonable.

I am just wondering whether there is not a rationale to be used for using the word “knowingly” somewhere in this amendment.

Mr. Taylor: Mr. Chairperson, I think the Member for Flin Flon (Mr. Storie) does well to reflect on what is being suggested here and to think through what the potential implications are in practice on this. I think, though, we do have to look at the situation where somebody knowingly brings a product into the province, whether from offshore or from another province where regulations are not as strict and floods the market with hundreds of thousands of containers that do not in anyway meet the requirements of this Act, or the intent of the Government in power at the time and causes us one heck of a disposal problem and could even cause us an environmental problem other than the waste aspect.

In other words, I am talking about by-products from the containers and that is the sort of thing I had in mind. The very small example used, where there is a small infraction, I think there are going to be situations where firms will be spoken to by environmental officers and saying, strictly speaking, this is outside the law. It is not worth the charge of going through the whole court process. The judges do require a reasonable discretion, though, and I was just really leery about that point, that the Honourable Member did bring up about intent of how to put that in there in a workable fashion.

I guess upon reflection, I felt that the judges needed some leeway at the top and we wanted to keep the rates up to date. At the same time, I have a fair degree of confidence in the judiciary in the province, that they are going to come up with something reasonable and that just because the top end allows a fair amount is not going to inflate the scale of fines levied to a great degree. I am hoping that it would be used carefully.

Mr. Storie: We want the judges and the courts to have the potential of imposing the correct measure; the punishment should fit the crime. I just refer to the Section 16, every person required to pay, collect, remit, et cetera, a wrap fee, shall make to the Minister a report in such form and containing such information as may be described in the regulations.

For example, a small business is selling a product which has such a fee attached to it. He fails to report, he goes to court facing a possible—if he is a corporation, he goes to court facing—I mean, we are talking about a small retailer—a fine of \$250,000.00. If he is an individual, he faces a fine of \$25,000 under the amendment. He may have done so unknowingly; even if he did it knowingly, he is failing to remit a deposit.

Mr. Chairperson, I am wondering whether the Member for Wolseley (Mr. Taylor) would consider an amendment which would define a minimum fine and a maximum. In other words, the minimum fine might be \$100 so that we clearly indicate we are not expecting judges to saw off in the middle and charge \$12,500, because we are talking about potentially very small retailers, even individuals who are conducting some form of business, potentially making a mistake because the

number of regulations this Minister can make is fairly wide ranging. Is it possible to at least define a minimum fine?

Mr. Taylor: Mr. Chairperson, I would like to think on that a moment. I would like to give a comment back to the Member for Flin Flon (Mr. Storie), as to the way this drafting is put here. It is drafted on the basis that a defence of due diligence is available to a person, and that means it is virtually the same as absence of negligence. In other words, if they did not knowingly neglect something and therefore created this problem, then in effect they are off the hook entirely. It is not a case of reduced fine; they did not do wrong and that is the principle the lawyer was using in drafting it.

* (2040)

If you feel much more comfortable with a lower number, a minimum number, I suppose that would not take from the intent. If we put something in the range of, say, \$250 on the one and \$500 on the other—somewhere in there—I would move that as a subamendment to -(interjection)- \$250 to \$25,000, okay, which would be a range -(interjection)- \$2,500 to 250,000—the proportions are the same, there is a 99 percent range in there, is what we have.

All right, Mr. Chairperson, that would be the subamendment on those numbers. So it would be reading (a) by striking out \$1,000 and substituting \$250 to \$25,000 and in (b) by striking out \$5,000 and substituting \$2,500 to \$250,000.00.

Mr. John Plohman (Dauphin): Mr. Chairman, these words should be written out properly and we should go on to other sections. I think what the Member is saying is that not less than \$250 and not more than \$25,000 and then the same kind of wording for the corporation.

Mr. Chairman: Is it agreed then? We are coming back to another clause later. If we can get it drafted properly, we will come back to this one. Agreed? Agreed.

Clause 21—pass; Clause 22—pass; Clause 22 to 25—pass; Clause 26—(pass); Clause 26—pass.

Okay, we revert back to Clause 5—we apparently need about five minutes to get the translation completed. What is the will of the committee on No. 5? Mr. Harapiak.

Mr. Harry Harapiak (The Pas): Mr. Chairman, maybe we can go on to another Bill, because all that is—

Mr. Chairman: Is it the will of the committee that we proceed to Bill 92 and then come back to this Bill? Agreed.

BILL NO. 92—THE MANITOBA ENERGY FOUNDATION REPEAL ACT

Mr. Chairman: We will proceed this time with Bill 92. Clause 1—Mr. Storie.

Mr. Jerry Storie (Flin Flon): Mr. Chairperson, it is difficult -(interjection)-

Mr. Chairman: Order, please; order, please. Mr. Storie.

Mr. Storie: —to debate a Bill that is this brief. The fact of the matter is that the Government of the Day wittingly or unwittingly has finally come to its senses and adopted a position on hydro development which is more consistent with the New Democratic Party over the last 20 years than their own position. In fact, I recall very vividly that when the new chairman of Manitoba Hydro was appointed, he said quite clearly that the Government was not interested in export sales, that the Government was interested in managing Manitoba Hydro for the benefit of Manitobans and that we were concerned with domestic consumption.

Of course, Mr. Chairperson, the irony of that was just before he had an opportunity to review the potential for the creation of wealth for Manitoba with the export of our hydro electricity we went through a period of three years while the Opposition, almost on a daily basis ridiculed the sale of the export of hydro electricity to Northern States Power. They were ill informed at the time, as were a number of other commentators in the popular press, most notably Fred, as my colleague from Morris notes. I note that Mr. Cleverley has changed his opinion. All of a sudden export of power for the production of wealth for Manitoba is not the export of jobs. Now I do not understand how that happened, where that conversion happened, but it happened.

The fact of the matter is when this Bill was introduced by my colleague, the then Member for Transcona, he said that there would be no money coming in to the Manitoba Energy Foundation until such time as the Northern States Power sale got under way, but that over a period of years because we were expanding in what is a new and growing market in terms of the sale of electricity, that we had the potential in Manitoba to create a fund, not unlike the funds that were created in Saskatchewan—and incidentally squandered by the Conservative Government in Saskatchewan, but also -(interjection)- thank you. The Member for Morris (Mr. Manness) says I am right on that. I would like that noted in the record—not unlike the heritage fund that was created by the Government of Alberta when they sold their resources.

The difference, Mr. Chairperson, is that in Manitoba we have a renewal resource. We are not like the Government of Saskatchewan which built its heritage fund on extractable resources namely, potash and oil. We are not like the Government of Alberta that built its heritage fund on the extraction of a nonrenewal resource, namely, oil and gas. We in Manitoba are blessed with a renewal resource. We are blessed with river systems that can be used to tap that renewal resource.

Mr. Chairperson, the fact of the matter is that the Northern States Power sale—and to the Liberal Members on the committee who called it lemonstone, to the Conservative who called it a fraud. The sale to Northern States Power is a foot in the door. Anyone who is a salesperson knows that a foot in the door is a very important first step. The fact of the matter is that the Northern States Power sale is going to raise some \$1.7 billion of wealth for Manitobans. I recall the

Minister responsible for Manitoba Hydro (Mr. Neufeld) saying, huh, 1.7 billion. It is down to only \$800 million, \$900 million.

Mr. Chairperson, in the context of today's provincial budget, in the context of the Minister of Finance's (Mr. Manness) ability to raise funds, \$800 million or \$900 million is a lot of money. The sale to Ontario Hydro, the 200 megawatt sale which was announced in 1987, the 1000 megawatt sale which was announced by the current chairman of Manitoba Hydro is going to generate literally additional billions of dollars worth of profit. Again, Mr. Chairperson, we have only touched the surface of the potential for those sales.

Mr. Chairperson, what I find particularly ironic about the repeal of the Manitoba Energy Fund is that the Minister of Finance (Mr. Manness) and the Government of the Day says, no, we should not be setting aside 50 percent of the profit based on assuming all of the costs, calculating all of the costs of production and sale and then looking at the revenue and saying 50 percent of the profit of this sale should be set aside for a rainy day fund. It should be set aside for additional economic development of the Province of Manitoba. What was the excuse? Well, the Minister of Energy and Mines (Mr. Neufeld) when he introduced this Act said, well, Manitoba Hydro customers, Manitoba Hydro ratepayers—

An Honourable Member: Should not be supplemented.

Mr. Storie: That is right—should not be required to subsidize other activity of the Government of Manitoba, but what do we find the Government of Manitoba doing? Through the back door as my friend Mr. Peltz, who represents the Consumers' Association, has so vividly pointed out, the Government—

An Honourable Member: Withdraw the Bill, that is easy.

* (2050)

Mr. Storie: Mr. Chairperson, with friends like this who needs enemies? The fact of the matter is that this Government is doing exactly what it says this Act would do. This Government is saying that the Manitoba Energy Foundation would require the ratepayers of Manitoba Hydro to subsidize other activity. At the same time, this Minister of Finance (Mr. Manness) and the Minister of Natural Resources (Mr. Enns) get behind closed doors in Cabinet, increase the water rental rates to Manitoba Hydro, and do exactly the same thing. Require the ratepayers of Manitoba, the taxpayers of Manitoba, to subsidize general revenue by charging Manitoba Hydro increased water rental rates. There is no difference. The only difference I submit is a lack of vision. The only difference.

Mr. Chairperson, we—no, I will not get into that. There is a whole set of arguments that needs to be made about restructuring the way Manitoba Hydro rates is set, but the fact of the matter is that this amendment, that this particular piece of legislation, I should say, would never have required an increase in hydro rates

from Manitoba Hydro consumers. All it would have done would have been to slow the rate of increase. This clearly would have, because it was splitting the profits, not have cost Manitoba ratepayers anything additional. Its repeal is an ideological act. It is an act which shows very little vision because the Minister of Finance (Mr. Manness) on the one hand has set aside a fiscal stabilization fund, and yet he fails to accept the fact that 50 percent of the profits of Manitoba Hydro's export sales could be set aside to do the things, in terms of our economy, that need to be done some time in the future.

The Alberta Heritage Fund, The Saskatchewan Heritage Fund, while it existed, was used as a tool for supporting economic development and economic growth.

Mr. Chairperson, we are not going to support the repeal of the Manitoba Energy Foundation. We recognize that the Liberals and the Tories share one thing, and that is a lack of vision. They did not support hydro development, and we recognize that the Tories have now changed their minds, the Conservatives. The Liberals are still living in the past, will never perhaps accept reality, and I expect the Liberals to support this amendment. They do not understand Manitoba Hydro; they do not understand hydro development; and they do not understand why this is important for Manitoba.

Hon. Jim Ernst (Minister of Industry, Trade and Tourism): Mr. Chairman, just a few words on the record on behalf of the Minister of Energy and—(interjection)—are you voting for it? While I think the Honourable Member for Flin Flon (Mr. Storie) has put a considerable number of remarks on the record which are in large part superfluous to the whole operation, but nonetheless I would like to point out that, unlike Alberta, there is a major cost associated with hydro-electric generation in the Province of Manitoba, a very significant cost that is not present in the extraction of oil and gas from the Province of Alberta, so that, Mr. Chairman, it is significantly different.

Also, the vast majority of power that is generated here is consumed domestically, consumed by Manitobans, Manitoba industry, where in Alberta and Saskatchewan to a large part, that gas and oil is exported. I think we need to put those kinds of things on the record and to say that if you oppose the GST—and all Members from the NDP have indicated that they are in opposition to the GST—this Act in effect becomes a GST with relate to hydro-electric rates. It is a one dollar tax for every one dollar of profit generated, so it is a tax on the generation of profits, Mr. Chairman. So, with those few words, I will conclude.

Mr. John Angus (St. Norbert): The legislation, when it was originally introduced, was well intended and possibly could have created the type of money pot that the former Government was hoping would be comparable to the Heritage Fund, but in reality it turned out to be virtually ill conceived, and I think that as the profits from the sales generate back in to Manitoba Hydro, and consequently will be used to keep the rates low, and to keep the rates to all consumers low, I have no objections to the repealing of this particular legislation.

I think that if Manitoba Hydro starts to generate large profits as a result of these sales, they will not only (a) keep the rates low, but more money will accrue from Manitoba Hydro to general revenue on the tax base for distribution by the province. So I have no difficulty with the repealing of this particular legislation at this time.

Mr. Storie: I do not want to unduly delay. I too can read the writing on the wall. The Liberals and the Conservatives are going to oppose this, regardless of the logic, regardless of what potential it has. I just want to say to the Minister of Industry, Trade and Tourism (Mr. Ernst), I have said that the first major export sale in the history of Manitoba Hydro occurred in 1984. The second major sale occurred in 1989, a major sale. The Minister says that the relative contribution of export sales to Manitoba Hydro is small.

When the Ontario Hydro sale comes into place, roughly 23 percent of our hydro-electric production will be for export. When the 1,000 megawatts, along with the 5,000 megawatts is finally in place, when they are in place together, roughly 23 percent of our total production will be for export, and that is only the beginning. We have the potential to export at least the same amount, at least 100 percent of what we use domestically. At that time the potential for creating wealth for the Province of Manitoba grows phenomenally.

I still say that the Minister's explanation is shortsighted. It does not recognize the potential, and that indeed is unfortunate.

* (2100)

Mr. Chairman: Shall Clause 1 be passed? Would all those in favour of passing Clause 1, raise your hands.

Clerk of Committees (Bonnie Greschuk): One, two, three, four, five, six.

Mr. Chairman: Those opposed.

Madam Clerk: One, two, three.

Mr. Chairman: Clause 1 will pass. Shall Clause 2 pass? Those in favour of passing Clause 2, please raise your hand.

Madam Clerk: One, two, three, four, five, six.

Mr. Chairman: Those opposed to Clause 2.

Madam Clerk: One, two, three.

Mr. Chairman: The Clause shall pass. Shall the Preamble be passed—pass.

Some Honourable Members: No.

Mr. Chairman: Shall the Title be passed—pass.

Some Honourable Members: No.

Mr. Chairman: Reverting to the Preamble, those in favour of the Preamble passing, please raise your hands.

Madam Clerk: One, two, three, four, five.

Mr. Chairman: Those opposed to the Preamble.

Madam Clerk: One, two, three.

Mr. Chairman: The Preamble shall pass. Shall the Title be passed? Would those in favour of passing the Title please raise your hand.

Madam Clerk: One, two, three, four, five.

Mr. Chairman: Those opposed to the Title passing.

Madam Clerk: One, two, three.

Mr. Chairman: The Title shall pass. Shall the Bill be reported?

An Honourable Member: On the report stage, no.

Mr. John Plohman (Dauphin): Mr. Chairman, after witnessing this display by the Liberals and Conservatives against a fund that would have provided economic development benefits for the Province of Manitoba, we can see that the Liberals and Conservatives in this province truly are no different. They are one and the same in terms of the role of Crown corporations and the economic development of this province.

What they are illustrating here, Mr. Chairman, clearly is a philosophical repeal of a Bill, not because it is hurting Manitobans, not because it was ill conceived or was wrong, but simply because of philosophical reasons. Both the Conservatives and Liberals have taken the position that Crown corporations should not be used for economic development benefits of all the people of Manitoba when there is an opportunity.

That is the difference here between the New Democrats on this side of the House and this side of the committee table, and the Liberals and the Conservatives in this vote that has taken place today, simply making decisions with regard to future benefits for Manitobans. We have aired the reasons for the Member for Flin Flon (Mr. Storie) as to the kind of benefits that could accrue from a fund such as this, a heritage fund, and one that led to its being set up in the first place. To ignore those possibilities and that potential, simply because they believe that Crown corporations should not be used for that purpose.

I think that flies in the face of the historical development of Crown corporations in this country over the years. It is typified by the kind of actions that the federal Conservative Government is taking at the federal level with regard to VIA Rail, the post office and CN which means that profits is the only role for Crown corporations, that they must make a profit, must be run like a business, and that equity of service across this country and the economic development possibilities and jobs created, are not a function of Crown corporations. I see that as the major difference here.

* (2110)

I point that out for the Liberals who are supporting the Government in this issue without thinking through the tremendous role that such a fund could play for economic development benefits of a declining rural area in this province that desperately needs economic development. The Minister of Industry, Trade and Tourism (Mr. Ernst) knows that. He had a vehicle. He has a vehicle at his disposal that could have provided funds and he is turning his back on it. I think that is regrettable for the people of Manitoba.

Mr. Chairman: Thank you. Shall the Bill be reported? Those in favour of the Bill being reported, please raise their hand. Those opposed to the Bill being reported? The Bill will be reported. Is it the will of the committee that I report the Bill? Those who are in favour of the committee reporting the Bill, raise your hand. Carried.

We will have a short break to change the tape.

BILL NO. 84—THE WASTE REDUCTION AND PREVENTION AND CONSEQUENTIAL AMENDMENT ACT—CONT'D

* (2112)

Mr. Chairman: Call the committee back to order. We will revert back to Bill 84 and Clause 5.

MOTION:

THAT section 5 be amended by striking out "within 15 days of the beginning of the next ensuing session" and substituting:

"The Minister shall

- (a) without delay, provide a copy of the report to each member of the Legislative Assembly;
- (b) make copies of the report available to the public;
- (c) lay the report before the Legislative Assembly within 15 days of the beginning of the next ensuing session."

(French version)

Il est proposé que l'article 5 soit amendé par substitution, à "au cours des 15 premiers jours de la session suivante.", de "il doit:

- a) sans tarder, remettre une copie du rapport à chaque député à l'Assemblée législative;
- b) mettre des copies du rapport à la disposition du public;
- c) déposer le rapport devant l'Assemblée législative au cours des 15 premiers jours de la session suivante."

Shall the amendment pass—pass; clause, as amended—pass.

MOTION:

THAT subsection 20(1) be amended as follows

- (a) by striking out "more than \$1,000." and substituting "less than \$250. and not more than \$25,000."; and
- (b) by striking out "not more than \$5,000." and substituting "not less than \$25. and not more than \$250,000."—Mr. Taylor.

Mr. Harold Taylor (Wolseley): Mr. Chairperson, just to correct the reading of it. It should be in (b) "not less than \$2,500" which was read as "\$25".

Mr. Chairman: Sorry. Not less than \$2,500 and not more than \$250,000.—The Honourable Minister.

Hon. Glen Cummings (Minister of Environment): Mr. Chairman, I would like to propose a subamendment for both (a) and (b) to remove the appropriate words, effectively removing the minimum. In other words, (a) would read "by striking out and substituting not more than \$25,000" and (b) would read similarly and indicating "not more than \$250,000."

In speaking to that proposed subamendment, Mr. Chairman—

Mr. Chairman: Could I just get you to repeat that change, Mr. Minister?

Mr. Cummings: Okay.

Mr. Chairman: Is it the will of the committee that we make these changes to the amendment without going back to the translation? Agreed. I am told we have to make some corrections on the French versions. If you will bear with us for a few minutes. Mr. Minister.

Mr. Cummings: Mr. Chairman, if the committee would allow me, I will put a couple of comments on the record, and then when the amendment is here, we can vote on it quickly.

My feeling is that the amendment increases the penalties more than I am comfortable with, but I understand that the majority of the committee supports the level that is proposed here. I am, however, proposing removal of the minimums because I believe that there are situations that will arise where the judge will not have enough discretion to impose fines at the lower level and, therefore, may not impose any fine at all. That is the reason for the proposed amendment.

Mr. Taylor: If there is general agreement and the will of the committee, I would suggest we call the vote then.

Mr. Chairman: Is it the will of the committee to pass the proposed subamendment as put forth by the Minister? Agreed? Mr. Plohman.

Mr. John Plohman (Dauphin): Yes, I do not want to be technical on these things, but we always have followed the practice that the amendment with the proper wording has to be before the committee before it is passed.— (interjection)— No, it is not the same

wording. It is being translated, and we should do it, however little time it takes us to do it when the wording is here. Meanwhile, let us get on with the other presentations.

Mr. Taylor: Mr. Chairperson, there is another solution and that refers to my original motion.

Mr. Chairman: We have the amendment at this time moved by Mr. Cummings:

THAT subsection 20(1) be amended as follows:

- (a) by striking out "more than \$1,000" and substituting—

POINT OF ORDER

Mr. Chairman: On a point of order, Mr. Taylor.

Mr. Taylor: Mr. Chairperson, I think, with all due respect, that you are reverting to the original motion as I presented it, are you not? I would prefer if it were read out in that fashion.

Mr. Chairman: I would ask the Honourable Minister to withdraw the subamendment.

Mr. Cummings: Mr. Chair, to expedite this, I will withdraw the subamendment if we return to the original amendment of Mr. Taylor.

Mr. Chairman: Agreed? Agreed. I would ask Mr. Taylor to withdraw his subamendment.

Mr. Taylor: I so withdraw, Mr. Chairperson.

Mr. Chairman: Agreed? (Agreed)

Mr. Chairman: We are back to the original amendment moved by Mr. Taylor,

THAT subsection 20(1) be amended as follows:

- (a) by striking out "\$1,000." and substituting "\$25,000."; and
- (b) by striking out "\$5,000." and substituting "\$250,000."

(French version)

Il est proposé que le paragraphe 20(1) soit amendé comme suit:

- a) par substitution, à "1 000 \$", de "25 000 \$";
- b) par substitution, à "5 000 \$", de "250 000 \$".

Agreed? (Agreed) The amendment passes. Shall the clause, as amended, pass? Pass. Shall the Preamble be passed? Pass. Shall the Title be passed? Pass. Shall the Bill, as amended, be reported? Pass. Is it the will of the committee that I report the Bill, as amended? Agreed.

BILL NO. 98—THE MANITOBA DATA SERVICES DISPOSITION AND CONSEQUENTIAL AMENDMENTS ACT

Mr. Chairman: Is it the will of the committee that we proceed with Bill No. 98? Agreed. On Bill No. 98, I would recognize Mr. Angus for a committee change.

* (2120)

COMMITTEE CHANGE

Mr. John Angus (St. Norbert): With a committee change, Mr. Chairperson, I am going to submit Driedger of Niakwa for Taylor of Wolseley, seconded by Gwen Charles for Selkirk.

Mr. Chairman: Would you just repeat the change for the staff?

Mr. Angus: Driedger (Niakwa) for Taylor.

Mr. Chairman: On Bill 98, Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass.

Clause 5, shall the clause pass—the Honourable Minister.

Hon. Clayton Manness (Minister of Finance): Mr. Chairman, I would like to move an amendment, right after 5. I am going to move an amendment numbered 5.1. Actually there are two amendments. I will move them under one. They are numbered 5.1 and 5.2. I will read the first part of it and then I would like to be tabled. I would like to move it as read, and then we can table it possibly and give Members an opportunity to peruse it.

I move, Mr. Chairman,

THAT the following sections be added after section 5 of Bill 98:

Definitions

5.1(1) In this section,

"board" means The Civil Service Superannuation Board constituted pursuant to The Civil Service Superannuation Act; ("Régie")

"date of purchase" means the day on which a purchaser purchases all or part of the assets or shares of Manitoba Data Services; ("date d'achat")

"fund" means The Civil Service Superannuation Fund constituted pursuant to The Civil Service Superannuation Act; ("caisse")

"pension plan" means the pension plan established for persons who are employees of Manitoba Data Services on the date of purchase. ("régime de pension")

Superannuation benefits

5.1(2) For the purposes of this Act and notwithstanding The Civil Service Superannuation Act,

- (a) Manitoba Data Services and the Minister of Finance may, in any proportion as between them that may be determined by the Minister of Finance, transfer to a trust account established by the Minister of Finance, an amount equal to the share which Manitoba Data Services has of the actuarial liability for benefits accumulated under The Civil Service Superannuation Act as a result of service to the date of purchase by persons who are employees of Manitoba Data Services on the date of purchase and who continue to be employees of the purchaser or the purchaser's subsidiary for at least 60 days after the date of purchase, as that liability and each of the elements used in arriving at that liability may be determined by the board's actuary and accepted by the board, the Minister of Finance and the purchaser;
- (b) the Minister of Finance may, subject to subsection (4), transfer the amount held in the trust account mentioned in clause (a) or any part of that amount to a pension trust fund established for the purchaser's pension plan or for the pension plan of the purchaser's subsidiary, as the case may be, or to the fund;
- (c) the board may, subject to subsection (4), transfer to a pension trust fund established for the purchaser's pension plan or for the pension plan of the purchaser's subsidiary, as the case may be, an amount equal to the share which the fund has of the actuarial liability for benefits accumulated under The Civil Service Superannuation Act as a result of service to the date of purchase by persons who are employees of Manitoba Data Services on the date of purchase and who continue to be employees of the purchaser or the purchaser's subsidiary for at least 60 days after the date of purchase, as that liability and each of the elements used in arriving at that liability may be determined by the board's actuary and accepted by the board, the Minister of Finance and the purchaser.
- (d) persons who were employees of Manitoba Data Services and who are receiving a pension or are entitled to a paid-up deferred pension from the fund on the date of purchase and persons who are employees of Manitoba Data Services on the date of purchase and who cease to be employees of the purchaser or the purchaser's subsidiary on or before a date which is 60 days after the date of purchase shall continue to be entitled to benefits determined in accordance with The Civil Service Superannuation Act, and Manitoba Data Services and the Minister of Finance shall

transfer to the fund, in any proportion as between them that may be determined by the Minister of Finance, an amount equal to the share which Manitoba Data Services has of the actuarial liability for such benefits, as that liability and each of the elements used in arriving at that liability may be determined by the board's actuary and accepted by the board, the Minister of Finance and the purchaser.

Date of Determination

5.1(3) Every actuarial liability required to be determined under subsection (2) shall be determined as at the date of purchase and the amount of such liability shall be adjusted to reflect assumed investment proceeds, actual contributions received and benefits and expenses paid after the date of purchase and any amounts already transferred.

Condition of transfers

5.1(4) No transfers shall be made under clause (2)(b), (c) or (d) until

- (a) an agreement is executed between the Minister of Finance and the purchaser requiring the purchaser or a subsidiary of the purchaser to establish a pension plan for persons who are employees of Manitoba Data Services on the date of purchase that is equivalent, to the extent possible, to The Civil Service Superannuation Act; and
- (b) the purchaser's pension plan established as described in clause (a) has been accepted for registration under The Pension Benefits Act.

Definitions

5.2(1) In this section,

"board" means The Civil Service Superannuation Board constituted pursuant to The Civil Service Superannuation Act; ("Régie")

"date of purchase" means the day on which a purchaser purchases all or part of the assets or shares of Manitoba Data Services; ("date d'achat")

"group insurance plan" means the group insurance plan established for persons who are employees of Manitoba Data Services on the date of purchase. ("régime d'assurance collective")

Insurance benefits

5.2(2) For the purposes of this Act and notwithstanding The Public Servants Insurance Act,

- (a) the board may, subject to subsection (4), transfer to a separate trust fund established for the purchaser's group insurance plan or for the group insurance plan of the purchaser's subsidiary, as the case may be, an amount equal to the actuarial liability for benefits accumulated under The Public Servants Insurance Act as a result of service to the date of purchase by persons who are

employees of Manitoba Data Services on the date of purchase and who continue to be employees of the purchaser or the purchaser's subsidiary for at least 60 days after the date of purchase, as that liability and each of the elements used in arriving at that liability may be determined by the board's actuary and accepted by the board, the Minister of Finance and the purchaser;

- (b) persons who were employees of Manitoba Data Services and are entitled to benefits under The Public Servants Insurance Act and persons who are employees of Manitoba Data Services on the date of purchase and who cease to be employees of the purchaser or the purchaser's subsidiary as a result of retirement or disablement on or before a date which is at least 60 days after the date of purchase shall continue to be entitled to benefits determined in accordance with The Public Servants Insurance Act.

Date of determination

5.2(3) Every actuarial liability required to be determined under subsection (2) shall be determined as at the date of purchase and the amount of such liability shall be adjusted to reflect assumed investment proceeds, actual contributions received and benefits and expenses paid after the date of purchase and any amounts already transferred.

Condition of transfers

5.2(4) No transfers shall be made under this section until:

- (a) an agreement is executed between the Minister of Finance and the purchaser requiring the purchaser or a subsidiary of the purchaser to establish a group insurance plan for persons who are employees of Manitoba Data Services on the date of purchase that is equivalent, to the extent possible, to The Public Servants Insurance Act; and
- (b) the group insurance plan established as described in clause (a) has been reviewed and found to be acceptable by the board's actuary and the Minister of Finance.

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

(French version)

Il est proposé que le projet de loi 98 soit amendé par adjonction, après l'article 5, de ce qui suit:

Définitions

5.1(1) Les définitions qui suivent s'appliquent au présent article.

“caisse” La caisse de retraite de la fonction publique établie en vertu de la Loi sur la pension de la fonction publique. (“fund”)

“date d'achat” La date à laquelle un acheteur acquiert la totalité ou une partie des éléments

d'actif ou des actions de la Commission. (“date of purchase”)

“Régie” La Régie de retraite de la fonction publique constituée en vertu de la Loi sur la pension de la fonction publique. (“board”)

“régime de pension” Le régime de pension constitué pour les personnes qui sont des employés de la Commission à la date d'achat. (“pension plan”)

Prestations

5.1(2) Pour l'application de la présente loi et malgré la Loi sur la pension de la fonction publique:

- a) la Commission et le ministre des Finances peuvent, selon la proportion que fixe le ministre des Finances, transférer dans un compte en fiducie ouvert par le ministre des Finances, un montant correspondant à la partie de la dette actuarielle que la Commission a relativement aux prestations accumulés en vertu de la Loi sur la pension de la fonction publique au titre des années de service jusqu'à la date d'achat par les personnes qui sont des employés de la Commission à la date d'achat et qui demeurent les employés de l'acheteur ou de sa filiale pendant une période d'au moins 60 jours par la suite, cette dette actuarielle étant déterminée par l'actuaire de la Régie et acceptée par celle-ci, le ministre des Finances ainsi que l'acheteur;
- b) le ministre des Finances peut, sous réserve du paragraphe (4), transférer tout ou partie de montant détenu dans le compte en fiducie visé à l'alinéa a) à un fonds de pension en fiducie créé à l'égard du régime de pension de l'acheteur ou de sa filiale, selon le cas, ou à la caisse;
- c) la Régie peut, sous réserve du paragraphe (4), transférer à un fonds de pension en fiducie créé à l'égard du régime de pension de l'acheteur ou de sa filiale, selon le cas, un montant correspondant à la partie de la dette actuarielle que la caisse a relativement aux prestations accumulées en vertu de la Loi sur la pension de la fonction publique au titre des années de service jusqu'à la date d'achat par les personnes qui sont des employés de la Commission à la date d'achat et qui demeurent les employés de l'acheteur pendant une période d'au moins 60 jours par la suite, cette dette actuarielle étant déterminée par l'actuaire de la Régie et acceptée par celle-ci, le ministre des Finances ainsi que l'acheteur;
- d) les personnes qui étaient des employés de la Commission et qui reçoivent une pension ou qui ont droit à une pension différée sur la caisse à la date d'achat ainsi que les personnes qui sont des employés de la Commission à la date d'achat et qui cessent d'être les employés de l'acheteur ou de sa

filiale avant l'expiration d'une période de 60 jours suivant la date d'achat continuent à avoir droit aux prestations déterminées en conformité avec la Loi sur la pension de la fonction publique; la Commission et le ministre des Finances transfèrent à la caisse, selon la proportion que fixe le ministre des Finances, un montant correspondant à la partie de la dette actuarielle que la Commission a relativement aux prestations en question, cette dette actuarielle étant déterminée par l'actuaire de la Régie et acceptée par celle-ci, le ministre des Finances ainsi que l'acheteur.

Date de la détermination

5.1(3) La dette actuarielle visée au paragraphe (2) est déterminée à la date d'achat et le montant de cette dette est rajusté afin que soient reflétés les revenus de placement présumés, les contributions reçues, les prestations et les dépenses payées après la date d'achat ainsi que les montants déjà transférés.

Conditions des transferts

5.1(4) Les transferts prévus aux alinéas (2)b, c) ou d) ne peuvent être effectués avant:

- a) d'une part, que le ministre des Finance et l'acheteur ne passent une entente selon laquelle l'acheteur ou sa filiale est tenu de créer un régime de pension pour les personnes qui sont des employés de la Commission à la date d'achat, lequel régime doit respecter, dans la mesure du possible, les dispositions de la Loi sur la pension de la fonction publique;
- b) d'autre part, que le régime créé en vertu de l'alinéa a) ne soit accepté en vue de son enregistrement en vertu de la Loi sur les prestations de pension.

Définitions

5.2(1) Les définitions qui suivent s'appliquent au présent article.

"date d'achat" La date à laquelle un acheteur acquiert la totalité ou une partie des éléments d'actif ou des actions de la Commission. ("date of purchase")

"Régie" La Régie de retraite de la fonction publique constituée en vertu de la Loi sur la pension de la fonction publique. ("board")

"régime d'assurance collective" Le régime d'assurance collective créé pour les personnes qui sont des employés de la Commission à la date d'achat. ("group insurance plan")

Prestations

5.2(2) Pour l'application de la présente loi et malgré la Loi sur l'assurance des employés du gouvernement:

- a) la Régie peut, sous réserve du paragraphe (4), transférer à un fonds en fiducie distinct créé à l'égard du régime d'assurance collective de l'acheteur ou de sa filiale, selon

le cas, un montant correspondant à la dette actuarielle relative aux prestations accumulées en vertu de la Loi sur l'assurance des employés du gouvernement au titre des années de service jusqu'à la date d'achat par les personnes qui sont des employés de la Commission à la date d'achat et qui demeurent les employés de l'acheteur ou de sa filiale pendant une période d'au moins 60 jours par la suite, cette dette actuarielle étant déterminée par l'actuaire de la Régie et acceptée par celle-ci, le ministre des Finances ainsi que l'acheteur;

- b) les personnes qui étaient des employés de la Commission et qui ont droit à des prestations en vertu de la Loi sur l'assurance des employés du gouvernement ainsi que les personnes qui sont des employés de la Commission à la date d'achat et qui cessent d'être les employés de l'acheteur ou de sa filiale en raison de leur retraite ou d'une invalidité avant l'expiration d'une période de 60 jours suivant la date d'achat continuent à avoir droit aux prestations déterminées en conformité avec la Loi sur l'assurance des employés du gouvernement.

Date de la détermination

5.2(3) La dette actuarielle visée au paragraphe (2) est déterminée à la date d'achat et le montant de cette dette est rajusté afin que soient reflétés les revenus de placement présumés, les contributions reçues, les prestations et les dépenses payées après la date d'achat ainsi que les montants déjà transférés.

Conditions du transfert

5.2(4) Le transfert prévu au présent article ne peut être effectué avant:

- a) d'une part, que le ministre des Finance et l'acheteur ne passent une entente selon laquelle l'acheteur ou sa filiale est tenu de créer un régime d'assurance collective pour les personnes qui sont des employés de la Commission à la date d'achat, lequel régime doit respecter, dans la mesure du possible, les dispositions de la Loi sur l'assurance des employés du gouvernement;
- b) d'autre part, que le régime d'assurance collective créé en vertu de l'alinéa a) ne soit examiné et jugé acceptable par l'actuaire de la Régie ainsi que par le ministre des Finances.

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

Mr. Jerry Storie (Flin Flon): Could we just have some explanation, perhaps in depth? We are talking about some lengthy amendments.

Mr. Manness: Mr. Chairman, Members who have been sitting in this committee listening to presentations made

over the last number of days probably heard presenters address the question as to the safeguarding of certain benefits enjoyed now by the employees of Manitoba Data Services. The Government, at the time of drafting the Bill, had not proceeded far enough along in detailed discussions and negotiations with potential purchasers of Manitoba Data Services, such as we were in position to commit into the draft Bill a section dealing with pension benefits package and committing the Government to safeguarding the interests of the employees.

Today we believe that we are in a position to do that. In an open fashion we would like to commit this amendment to the attention and, hopefully, the support of the Members of this committee. To our point of view this amendment protects the pension benefits and all the ancillary benefits now enjoyed by the employees of the Manitoba Data Services. To that end, if there are more specific questions, I will ask, with the willingness of the committee, for Mr. Bessey to address specifically some of the specific items covered within this amendment.

Mr. Angus: Mr. Chairman, the Minister of Finance (Mr. Manness) is right when he represents that there were some serious concerns. In the beginning of putting the Manitoba Data Services on the chopping block, I did my best to make it clear that we had three serious concerns. One of them was the economic spin-off and the benefits to Manitobans. The second one was the confidentiality of information which will be dealt with later on in the confidentiality section. The third one was the protection of the employees.

Mr. Chairman, I am encouraged by the legislation that is before us, as complicated as it is, and the number of pages as it is, and there may indeed be some specific questions for me and/or from other Members of the committee. I am encouraged if this says what I think it says and I would like some confirmation on this and so my line of questioning is going to be for confirmation.

I want to ensure that the benefits that accrue to the employees are to all of the employees of MDS, all 231 or 232 of them, not just the union ones, or that are the MGEA ones; and, two, I want to be sure that the protection is legislated so that it is not part of a buy/sell agreement. Although it can be part of a buy/sell agreement in other ways for the protection of the employees, I want to make sure that the Legislature has the control to protect the employees.

I want to make sure that the range of benefits that the employees currently enjoy, i.e., their pension, their vacation pay, their dental programs if they have them, their health programs, are all protected. So with those brief comments perhaps we could ask Mr. Bessey to specify on those or yourself, Mr. Chairman, the Minister, without my having to go through the specifics of questions.

Mr. Manness: Mr. Chairman, the answer to the first question is yes. Each and every one of the present employees of Manitoba Data Services is guaranteed the application of this amendment. Specific to some of the other details, I have also sitting at the table Mr.

Duncan Jessiman, Jr., who has been actively involved in the negotiating process. Although this is necessarily complicated, because it takes into a large degree some of the actuarial sciences that none of us really understand and to a great degree I can indicate that I would ask you to maybe address those questions specifically to Mr. Jessiman.

Mr. Angus: Are all of the existing pension contributions and continued payouts—are the employees protected in that regard?

* (2130)

Mr. Duncan Jessiman, Jr.: Mr. Chairman, yes, they are, Mr. Angus, pursuant to the terms of the proposed legislation. All the benefits that are presently set forth in the superannuation fund will be contributed first to a trust account that is to be established until such time as the company has established its own pension plan and has it registered and accepted under The Pension Benefits Act, at which time they would move across. This would be similar for the funds that are required to be contributed by the Government to fund the corporation's portion of those monies on behalf of the employees. These would be set forth in a pension plan that is to be registered and set forth for the employees.

Mr. Angus: Other benefits such as their dental programs and/or programs of that nature, are they as well equally protected?

Mr. Jessiman, Jr.: Mr. Chairman, Mr. Angus, the insurance provisions relating to the benefits that the employees receive to protect the insurance payments after their retirement and during disability are protected. With respect to the other benefits, I would have to defer to the Minister with respect to indicating that. Pursuant to the terms of the MGEA contract, those benefits would flow through to the employees covered by that agreement.

Mr. Angus: That is spelled out here in this complicated language, is it?

Mr. Jessiman, Jr.: Mr. Chairman, Mr. Angus, that is under the labour legislation. It would just carry through as there is no change in the employer status. It will be the same employer. The agreement would just continue by law.

Mr. Angus: I am just not sure. Perhaps you could explain that to me in layman's terms. Do the employees—

Mr. Jessiman, Jr.: The employer is not changing. The owner of the employer is changing, but the employer will still be the same organization and therefore there is no change with respect to the contract. There is no termination of employees and no new employer.

Mr. Angus: Perhaps it is lawyers, Mr. Chairman, that are confusing me. I just want a straightforward answer as to whether or not, if I have the protection of a Government dental program today as an employee of

MDS, am I going to have that same protection tomorrow or the next day after the sale has been concluded and am I going to have it as long as I continue to work for MDS?

Mr. Jessiman, Jr.: Mr. Chairman, Mr. Angus, under the terms of the agreement as negotiated, the employees will have all the benefits that they presently enjoy.

Mr. Angus: Are they legislated in this amendment?

Mr. Jessiman, Jr.: To the extent that legislation is required to transfer the benefits, they are legislated.

Mr. Angus: Mr. Chairman, I will pass that portion—I am not going to pass it, but I might come back to it subsequently. I notice in here that 60 days comes up on these amendments. It is 60 days after the purchase they shall continue to be entitled to the benefits. Could I get an explanation? I was interested in having the employees having some time to make up their mind as to whether or not they want to stay with the company and/or whether they would like to move into other Government departments. I am hoping that this 60 days allows the employees that leeway to make that decision. Perhaps I could get some explanation because there does not appear to be, but 60 days appears throughout this document.

Mr. Manness: Mr. Chairman, the reluctance of an easy forthcoming answer is only because we have tried to mirror within the legislation certain aspects of a deal that may be signed. It is not signed. To the extent it is not signed, I guess we have difficulty being as open as the Member would like. Let me say, though, that 60 days in the generic form is not set as a hard, solid 60 days. That is the time when employees will have an opportunity, if a closing comes about, if this deal is made. After the date of closing, employees will have 60 days to determine whether or not they want to continue in the employ of Manitoba Data Services.

Mr. Angus: Mr. Chairperson, the closing as distinguished from the signing is a subsequent time generally. What I hear the Minister saying is that if we sign an agreement with a potential buyer in the next week and the closing is dated a month from that, the employees would have 60 days from the closing. Is that accurate?

Mr. Manness: Mr. Chairman, that is completely accurate.

Mr. Angus: One of the difficulties that I have with the permissive legislation is the fact that we do not have a deal and so as much as possible we want to try and protect those things that concern us in the permissive legislation.

I am looking for assurances and security in the actual agreement subsequently and would ask the Minister, without breaching his confidentiality of the negotiations of signing the agreement to close: Are the employees going to be given a reasonable length of time to find out how this sale affects them so that they can make

a decision with a degree of comfort, with an opportunity to discuss it with their family, with an opportunity to discuss it with their neighbours and friends or their children, with an opportunity to be apprised of the cause and effect by professional people, Mr. Chairman? Is there a reasonable length of time for the employees to be dealt with in a fair fashion so that they can make an informed choice?

Mr. Manness: Mr. Chairman, the question is fair. I guess we have tried to provide as much leeway as possible for employees by way of the amendment that is being introduced now, so that they will have far beyond 60 days. If the Member were to ask me, how long will it be before this ultimately is closed, if we are to sign an agreement sometime within the next number of days, I would say, given all of the work that has to be done on specific contracts, as between departments and other users that do not exist today, that it will be a minimum of two months before closing can be attained and then the 60-day clock begins after that. So if the Member would like me to guesstimate how much time we are talking about, in my view I would have to say roughly four months. In my view and the Government's view that is a reasonable and fair time.

Mr. Angus: I do not want to hog the floor on this, but I would like to serve notice that I am not a labour lawyer, I am not familiar with a lot of the terms and the references, and that it is my intention to propose to the committee, not unnecessarily to delay the proceedings—if there are other amendments we can certainly consider them—but to delay the final decision on at least this amendment that is being proposed, so that I can have a reasonable time to digest it. I am thinking that tomorrow morning would be a reasonable time; nine o'clock in the morning is a suggested time that would give me an opportunity to look at it tonight, digest it and discuss it with people. If there are other questions on the other side of the table, I will certainly pass it out.

Ms. Avis Gray (Ellice): Mr. Chairperson, for clarification, these employees currently, are they covered by the MGEA?

Mr. Manness: Mr. Chairman, it is my understanding that roughly 50 out of the 230 employees and total staff are presently covered by the MGEA.

* (2140)

Ms. Gray: Can the Minister tell me, will these employees still be covered by the MGEA once the MDS is sold, once the Bill is through, and if so, is that for an indefinite period of time or is there a time limit on that?

Mr. Manness: Mr. Chairman, yes, successor rights will stay with MGEA for the term of the MGEA contract, and after that time, of course, the employees are free to do what they wish. That is their right as I understand in the labour legislation of this province.

Ms. Gray: Mr. Chairperson, for clarification, is the Minister saying that once this particular contract is up,

the MGEA, then those employees would no longer be covered under a new one?

Mr. Manness: Mr. Chairman, first of all this amendment does not deal with a contract. The present contract that exists in place will continue because, as was said to Mr. Angus, MDS remains as an entity. Once that contract runs its course, as all negotiated contracts do, then of course it will be up for renegotiation.

Ms. Gray: Are the employees allowed to keep the same vacation rights that they now have, i.e., the length of service is what I am referring to? Is that something that will remain in regards to these employees?

Mr. Manness: Mr. Chairman, that is covered under an existing contract and that will stay in place. There is nothing that will violate that and so that will be—the short answer is, yes.

Ms. Gray: My concern with these questions is only in reference to a similar situation which happened a number of years ago when Child Welfare workers were moved to private Child and Family Services agencies and the difficulty that occurred over that where employees made every effort possible to try to transfer back into Government positions because of the loss of benefits. That is why I am asking these questions and I am hoping this Government is able to do a better job of assuring and ensuring rights of employees than what happened to the Child Welfare workers a couple of years ago under the previous administration.

Mr. Manness: Mr. Chairman, I am going to give an answer that is probably not going to satisfy the Member. I can indicate that ultimately the agreement with whomever we sign it will determine the guarantee of those benefits. I can assure this Member and all others, though, that we would prefer to sign with somebody who is going to absolutely guarantee the benefits in the fashion the Member has indicated. That is why, of course, we bring forward this amendment at this time to show the Members and to show the Legislature that we are sincere in those attempts.

Mr. Leonard Evans (Brandon East): Mr. Chairman, I appreciate the fact that the Minister brings this forward with good intentions, and he wants to demonstrate his concern about the employees particularly with regard to superannuation.

There are a lot of questions. As Mr. Angus said, many of us are not lawyers and we are not accountants. There is a great deal of detail in here and a lot of implications that may be very difficult for any Member of the committee, even if they were a lawyer or an accountant, to digest and understand in a matter of virtually minutes. So I do not think it is unreasonable, therefore, for the committee to have the evening and the morning perhaps, for Members of the committee to have time to digest this and see whether they have any additional questions or whether they are satisfied with it.

Indeed, I think it would be fairer also to the MGEA to give them an opportunity, to their president or their

representatives, the chance to take a look at it in case they raise some serious questions with Members of the committee. I do not think that is an unreasonable offer at all.

Having said that, we have a lot of questions; some have been raised by Mr. Angus, some by Ms. Gray. But really I want to make it clear that in spite of the good intentions of the Minister in this respect we still and we can support a move to do this. We can support such an amendment providing we do not see anything in it overnight or in the early morning that makes us change our mind because there is some quirk in here or some flaw, but in reality we continue to oppose the Bill on principle.

The best protection for the employees from our point of view is to leave MDS as a Crown corporation. It is an excellent organization. It is a profitable organization. It has been profitable over the years while reducing the rates of service, the cost to the users. It has been a credit to the people of Manitoba, to the Government of Manitoba.

Certainly, Mr. Chairman, we have concerns about it being sold. We made this point many a time in the past, but I want to take this opportunity to say we are still concerned about a possibility of a rip-off rate situation because the Government will be giving a monopoly to one company for a period of years. We unfortunately do not know what will be in that agreement. We have not seen it. We do not know what the conditions are or what protection if any will be provided

What we are being asked in this Bill is to provide a private company virtually with the opportunity to have a monopoly situation and we simply do not know whether the taxpayers in Manitoba will be virtually ripped off in the future. We also, of course, have great concerns about confidentiality. We raised this a number of times, health records, agricultural credit records, other personal documentation. One of the delegates this afternoon raised this matter very concerned about confidentiality being protected. In spite of the good intentions of the Minister, in spite of even an agreement, who knows what would happen in a year or two from now with regard to confidentiality.

I wanted to take this opportunity to state again our opposition in principle to this Bill. It is not in the public interest to sell the Manitoba Data Services. Having said that, Mr. Chairman, I do think that without taking the time this evening about asking a lot of detailed questions which we could, we could be here for the next two hours asking detailed questions, line by line, but rather than do that it may be more practical to just accept this for now and hold it until tomorrow morning at which time perhaps more expeditiously the committee might deal with it.

Mr. Chairman: Mr. Evans, do you want to just repeat the last part of that, we had some trouble hearing it.

Mr. Leonard Evans: As I stated, Mr. Chairman, we could spend the next two hours on this asking the Minister on specific words, phrases, expressions and

contradictions if we see any, but rather than doing that it may be more productive if the committee did consider it overnight and in the morning and at that time deal with it more expeditiously and as I said give the MGEA an opportunity to have input as far as we are concerned give us their quick view of this so that we might be appraised of it.

Mr. Manness: Mr. Chairman, before the committee makes its decision on that, could I just ask the committee to set this aside for a period of time and move on to some of the other clauses and then maybe we could revisit this before we make a final disposition on the Bill?

* (2150)

Mr. Chairman: Okay, is it agreed then that we will leave Clause 5 for the moment and proceed with the next clause? Agreed.

Clause 6—pass; Clause 7—pass; Clause 8—pass; Clause 9—pass.

Clause 10—Mr. Angus.

Mr. Angus: Before you go into Clause 10, you have to go into Clauses 15.1 and 15.1-2.

Mr. Chairman: That would be the clause we just passed.

Mr. Angus: But it is part of 9, I do not think—

Mr. Chairman: By agreement we will revert back to clause 9? Agreed.

Mr. Angus: This is the second major concern I had in relation to confidentiality. There is a great deal of concern about the possibility of information being magically, erroneously, maliciously, or in any other way transferred from a person's private file to the world stage if you like.

Mr. Chairman, through you to the Minister, I am perhaps more familiar with the security that can be put into computer systems than a number of people. Nonetheless, a number of people have serious concerns about the storage and processing and the confidentiality required.

Mr. Chairman, I want to introduce an amendment. The amendment is going to make it an offence and a penalty for any individual, his or her boss, every officer, director, employee or agent of the corporation who authorizes the commission is guilty of an offence, and the corporation itself will be guilty of an offence, punishable by fines as indicated in the amendment. This by no stretch of the imagination is going to provide guarantees that confidentiality will be maintained. It will bring to the attention of anybody that desires to manipulate with information that is not theirs the seriousness of concerns about confidentiality.

Mr. Chairman, having said that, I recognize by the reading of this clause that the Government is going to require whoever purchases this company by sales

agreement to maintain some confidentiality code. Again, perhaps because I am familiar with this, I can ask some questions and I would like to ask the Minister if he is prepared to answer portions or questions about the confidentiality aspect of the impending sales agreement to give me a degree of comfort that confidentiality of records is going to be provided in the best possible fashion.

Mr. Manness: Mr. Chairman, this is a difficult area. Certainly the amendment that the Member brings forward is one that is of interest to us and on the surface one that I think we could support. Let me say that I cannot indicate to the Member, I cannot show him or other Members of the committee the confidentiality section which is very extensive that we are contemplating within the buy-sell agreement. I wish I could. It covers many processes of potential in breach and remedies of the Government and indeed solutions to the Government if a breach of confidentiality is to occur. I can only indicate to the Member that again, Mr. Chairman, I am not at liberty to disclose that. We do not, as I sit here today, have a signed agreement and that is why in lieu of that I see in this amendment, it carries an awful lot of statutory impact to it. I guess I am prepared to indicate to him that I am prepared to accept it.

Mr. Angus: I am pleased that the Minister has indicated a degree of comfort with the proposed amendment, and I hope that the third Party will also find some comfort in it and be prepared to support it.

Having said that, one of the difficulties I have with this particular arrangement is that you are asking for permissive legislation, and you are dealing with an impending agreement. It is an agreement that can be altered or can be changed. While I would very much like to take the word of the Minister that there is ample protection, and without breaching the Cabinet confidentiality of the negotiations, I think, Mr. Minister, it is very important that you be able to exercise random security checks by qualified individuals, perhaps from the auditor's department, that have a familiarity and a knowledge of computer and computer security and can virtually, at will and or unannounced, show up at the offices of not only MDS, but anybody else that is charged with the responsibility of storing personal and private information and may ensure that the security measures that are in place are secure and are in place and are being executed.

I cannot, without seeing the agreement and/or perhaps even being on the negotiating team, suggest how you do that; but there are a number of methods that can be done. I want a stronger commitment from the Government that those types of securities are in place so that a qualified individual, totally unannounced can go to any terminal, any work station, any main CPU, investigate the back-up systems, investigate the off-site storage systems and ensure and satisfy themselves that there has been no breach of confidentiality, that they can review the printed log-outs, that they can be absolutely sure that there has been no breach, so that these penalties in fact can then come into play.

Mr. Chairman, can the Minister give me some degree of comfort in that?

Mr. Manness: Again the Member brings up good points. I can indicate to him that members of the divestiture committee have been wrestling with each and every one of the points that he has addressed. I can assure the Member, although I cannot show him the agreement that may be entered into, I can assure him that each and everyone of those points is addressed and that the confidential records of Manitobans are safeguarded. To that end, the agreement that may be entered into will also ensure that there is potential for outside audit, whether it is the Provincial Auditor or indeed some other outside auditor, just to ensure that the safeguards that the Member is hoping is in place, indeed are in place.

* (2200)

Mr. Angus: Again on this subject, the degree of comfort that I get must include very severe penalties, virtually beyond what the legislation is providing for, for a company. Given what the Minister has said, given that at some point there comes a desire or a need for individuals in Opposition who are as interested in good Government, and again, I have to remind myself on a regular basis, now I am here for good Government, not just to beat up the other side, that we want good Government, and knowing that they can provide the security that will give me the comfort, I am only assuming that they will do it and hope that they will do it.

I will serve them notice right now that once I see the share purchase agreement, if that section on confidentiality is not in the broadest sense providing the security that I want to see there, then quite frankly, Mr. Chairman, the Minister will have an awful lot of difficulty dealing with me in the future.

Mr. Manness: Mr. Chairman, I can assure there is nothing I fear more than that. That is why I have been very, very careful; indeed, the divestiture group have been very, very careful within this area.

When I gave second reading in the House the other day, I indicated to Members that we have a golden share—not chair, for Hansard—provision built in which was the strictest and the most imposing in any jurisdiction anywhere that we could research. I can indicate to the Member that if there is a material breach in any fashion, that golden share will be invoked. What that golden share allows of course is for the Government to take over MDS under its new configuration.

Furthermore, and I am not going to give an awful lot of detail to this, but I am prepared to indicate that if there is a material breach, again, before the heavy-handedness of using a golden share, if the Government at the time so wishes, there is a potential for significant revenue loss. I am talking significant in the terms of millions of dollars far beyond the fines imposed under the amendment proposed by Mr. Angus and are written into the agreement.

Mr. Angus: I am pleased to hear about the golden handshake, golden share. I am not unfamiliar with the

concept and it is an excellent shotgun clause that provides protection for both people. That is the intent of the company to provide the security that the Government wants and the whip hand if the company does not, for the Government to exercise if in fact there is a breach.

One of the things that I want to be assured about again is that some form of an independent or autonomous or outside agency, such as through the Auditor General's office or the Provincial Auditor's office, be empowered to bring the evidence of breach forward to a body that can deal with it effectively. It is one thing to have the company do a breach, and it is another thing for the Government to be able to invoke heavy cost penalties. I am hoping that there might be some mechanism of reporting the severity of the breach and the reprimand that has been taking place.

Mr. Manness: Well, Mr. Chairman, I cannot think of a more open way that we would apply to the courts for a ruling or arbitration or something. If the company is in breach of the confidentiality section, and I would understand that would be completely open.

Mr. Angus: Hence back to my amendment which would be, I suspect, charges would be laid by the Attorney General's department, and the consequences would be pursued through the courts. Is that accurate?

Mr. Manness: That is correct.

Mr. Angus: Having said that and with that degree of comfort, I am prepared to move the amendment that is on the Table and ask that it be accepted as an amendment to this clause.

Mr. Storie: First of all, I appreciate some of the clarification offered by the Minister. I want to say at the outset that this entire matter in our opinion, in this Bill, is unnecessary, and we put on the record again that Manitoba Data Services should not be sold. It is a Crown corporation that has served us well.

Recognizing that the Liberals and Conservatives seem prepared to sacrifice MDS, I think that we are prepared to support both of these amendments, because the issue of confidentiality—well we have had some assurances from the Minister, it will be dealt with in the harshest way possible in the share purchase agreement. In the agreement, that does not deter us from believing that something in this Act should also set out some clear penalties, and I hope the Minister will support these as well and make it unanimous.

In terms of the Minister's own amendments, obviously any additional security that can be provided to the employees of Manitoba Data Services is also welcome. We believe that the security they currently have, as being part of a successful Crown corporation, is the best security they could ever have. We believe that Manitoba Data Services has served Manitobans well, and we certainly will in the final analysis be opposing this legislation and opposing the sale of Manitoba Data Services.

Having said that, we would like to know whether there is additional information that the Minister can

provide us at this time with respect to the value Manitobans are going to receive from this sale, whether there is additional information the Minister can provide us with respect to why we should be changing our mind and supporting this particular legislation giving the Minister the power and the authority to sell Manitoba Data Services. I think that the whole direction is wrong headed. I think if the Minister and Liberals had been listening to the presentations by representatives of MGEA and those who have a vested interest and otherwise in MDS, we would have stopped this, but we will leave it at that, Mr. Chairperson. I would like the Minister to address the question of the additional information.

Mr. Manness: Mr. Chairman, I cannot disclose an awful lot more of the information than I did on second reading of the Bill, plus some of my comments with respect to the amendments.

I can indicate to the Member opposite I listened carefully to most of the presenters, and I am well aware of the uncertainty that always goes with the prospect of change. Yet I think it will become abundantly clear to Manitobans in due course and not too many days forward that this represents an incredible economic development opportunity for the City of Winnipeg and the Province of Manitoba and, beyond that, an incredible career opportunity for present employees within Manitoba Data Services.

It is one of the reasons why we are hoping and we are leaving such a long period of time for the employees to be able to make up their minds as to whether they want to stay with the operation or not, because we sense that once they fully understand who it is that may be now managing the company and the opportunities they have to expand far beyond the Government, that very few of them will make the choice to abandon Manitoba Data Services.

Mr. Chairman, as much as I would love to this evening provide greater detail, I want to assure everybody around this Table that a deal is not struck as of this point in time, and therefore I cannot provide any more information.

Mr. Storie: Mr. Chairperson, just as a final note, the Minister has tabled some amendments and lengthy—some would say convoluted—amendments, but perhaps it was necessary in terms of the superannuation and the insurance available to current employees of Manitoba Data Services. I simply remind the Minister that when this committee concludes its work that the work of the Legislature has not concluded, and that we will be offered another opportunity subsequently after the employees have had a chance, after the MGEA and MGEA representatives have had a chance to look at these amendments. We will have a further chance to debate this, and obviously, while we oppose the sale, we certainly want to ensure that the employees have every security that is possible if the Government is determined to force this issue.

So having said we support the amendments that are presented, we leave on the Table, give the Minister notice, that this fight may not be over, that third reading is yet to be heard.

* (2210)

Mr. Manness: I am not going to, in any way, take issue with the Member. I am just going to say, when he calls down the lawyers that have drafted it, I can indicate to him, he used the word convoluted. I took that as some criticism. Let me say, and I will say to him, so he may want to take this to the MGEA, and I hope the MGEA has a opportunity to see this as quickly as possible, that actuaries who are more convoluted than anybody I know, were very much involved in the meat of it.

Mr. Chairman: Shall the amendment pass? Shall the clause as amended pass?—pass; Clause 10—pass; Clause 11—pass. Mr. Angus on Clause 10.

Mr. Angus: An explanation as to why it is necessary to repeal any portion of The Municipal Act. What is this subsection?

Mr. Manness: Mr. Chairman, I understand presently Manitoba Data Services is exempt from property taxes, and of course when we sell it to an outside profit company, we expect them to pay the full, and I repeat the full, property tax assessment.

Mr. Chairman: Clause 10—pass; Clause 11—pass.

At this time we will revert back to Clause 5(1), the amendment proposed by Mr. Manness. Shall the amendment pass? Pass. Mr. Angus.

Mr. Angus: Mr. Chairperson, this is the Minister of Finance's (Mr. Manness) amendment, which I believe goes an awful long way to provide security and a large safety net or comfort zone for the employees of MDS. One question further that I had on this was, is there any assurance that the company and/or the employees at least will remain in Winnipeg?

Mr. Manness: Mr. Chairman, all of the employees who are presently in the employ of Manitoba Data Services plus, hopefully, many more, hopefully all Manitobans, will have an opportunity to stay working within the City of Winnipeg. To the extent that others choose a career path that involves other opportunities within a larger company, that is obviously their choice to do so.

Mr. Angus: Just a very quick summary. The employees are going to be given between two months and four months to decide whether they want to stay with the new company or not. All of their existing MGEA benefits and/or negotiated contracts are going to be continued for them. Their pensions are going to be continued for as long as they continue to work for MDS. The company is designed to stay with a strong Manitoba presence and they are not to be transferred.

Okay, Mr. Chairman, I had originally suggested that I wanted to lay this over and scrutinize it. We have had other discussions and it has gone on and some of my colleagues have gone out and looked at the Bill and come back. I hate to say this in the Hansard, but I have this sort of sensitive area of trust in my system for the Opposition in this particular case.

An Honourable Member: Is that the Government or the NDP?

Mr. Angus: That is both of them. That is both of them. I do not want to get sandbagged by either team, but I am interested in expediting this. So what I am going to suggest is that I am prepared to pass this amendment at this particular stage, but again I will serve notice that if there is anything that comes to my attention between now and the third reading, then I reserve the right to introduce amendments on the floor and serve them.- (interjection)- Well, that is right.

With that, Mr. Chairperson, I will reiterate the remarks. The items that I had included in my private agenda from the time that the Minister first indicated his terms of reference for the sale, with the couple of exceptions as I have said in terms of actually seeing the deal when it is signed, are reasonably satisfied. I think it is an excellent opportunity. I have my fingers crossed in terms of the need for Manitoba and Winnipeg to have this type of a springboard into this type of a technological advancement. It is an excellent opportunity if it is played right.

I am going to assume that my business Tory colleagues have been able to negotiate their pound of flesh in terms of economic spinoffs and cash and all of that sort of thing. I am sure that as I look at the deal I will find some faults with it or some areas where I think they might have been able to do better, but having said that with those provisos, Mr. Chairperson, I am prepared to support these amendments that the Minister of Finance (Mr. Manness) has indicated.

Mr. Chairman: Shall the amendment pass—Mr. Evans.

Mr. Leonard Evans: Very briefly

An Honourable Member: Do not be too brief.

Mr. Leonard Evans: Okay, not so briefly. I have supported Mr. Angus's position on -(inaudible)- on consideration that we would have an opportunity to make amendments at third reading, so on that basis we are prepared to let it go and if necessary to find some -(inaudible)-

Mr. Chairman: Shall the amendment pass—pass; Clause 5 as amended—pass; Preamble—pass.

An Honourable Member: No.

Mr. Chairman: Title—pass.

An Honourable Member: No.

Mr. Harry Harapiak (The Pas): Mr. Chairman, I think it has been stated on many occasions by our membership that there is a lot of opportunities for advancement in this industry, and Manitoba Data Services is in a position to take advantage of those advantages, and we have stated very clearly that we are opposed to the sale of Manitoba Data Services.

We feel it is a profitable corporation that is serving Manitobans well, and it is serving it at a much better rate than private corporations are. They have shown that they have been able to reduce the rate of producing the services and I think it should be continued. We want it on record that we are opposed to the sale of Manitoba Data Services.

Mr. Chairman: Shall the Title be passed?

An Honourable Member: Yeas and Nays.

Mr. Chairman: Those in favour of the Title passing, please signify. Those opposed? The Title passes. Shall the Bill be reported? Those in favour of the Bill being reported please signify.

Madam Clerk: One, two, three, four, five, six.

Mr. Chairman: Those opposed?

Madam Clerk: One, two, three.

Mr. Chairman: It shall be reported. Is it the will of the committee that I report the Bill? Agreed.

An Honourable Member: Same division.

Mr. Chairman: Same division? Agreed. Before we proceed with further deliberations, particularly with the Standing Committee on Law Amendments, I would suggest that this committee rise, and there will be approximately fifteen minutes before the start of the committee on Law Amendments.

Committee rise.

COMMITTEE ROSE AT: 10:19 p.m.