Fourth Session - Thirty-Fifth Legislature

of the

Legislative Assembly of Manitoba

STANDING COMMITTEE
on
PUBLIC UTILITIES
and
NATURAL RESOURCES

42 Elizabeth II

Chairperson
Mr. Marcel Laurendeau
Constituency of St. Norbert

VOL. XLII No. 15 - 9 a.m., MONDAY, JULY 26, 1993

MG-8048

ISSN 0713-9454

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

Members, Constituencies and Political Affiliation

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	Liberal
ASHTON, Steve	Thompson	NDP
BARRETT, Becky	Wellington	NDP
CARSTAIRS, Sharon	River Heights	Liberal
CERILLI, Marianne	Radisson	NDP
CHOMIAK, Dave	Kildonan	NDP
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	NDP
DOER, Gary	Concordia	NDP
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	Liberal
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Clif	Interlake	NDP
EVANS, Leonard S.	Brandon East	NDP
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
FRIESEN, Jean	Wolseley	NDP
GAUDRY, Neil	St. Boniface	Liberal
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
GRAY, Avis	Crescentwood	Liberal
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	NDP
LAMOUREUX, Kevin	Inkster	Liberal
LATHLIN, Oscar	The Pas	NDP
LAURENDEAU, Marcel	St. Norbert	PC
MALOWAY, Jim	Elmwood	NDP
MANNESS, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	NDP
McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda, Hon.	Assiniboia	PC
MITCHELSON, Bonnie, Hon.	River East	PC
ORCHARD, Donald, Hon.	Pembina	PC
PALLISTER, Brian	Portage la Prairie	PC
PENNER, Jack	Emerson	PC
PLOHMAN, John	Dauphin	NDP
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	NDP
REIMER, Jack	Niakwa	PC
RENDER, Shirley	St. Vital	PC
ROCAN, Denis, Hon.	Gladstone	PC
ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	NDP
STEFANSON, Eric, Hon.	Kirkfield Park	PC
STORIE, Jerry	Flin Flon	NDP
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary, Hon.	Fort Garry	PC
WASYLYCIA-LEIS, Judy	St. Johns	NDP
WOWCHUK, Rosann	Swan River	NDP
Vacant	Rossmere	
Vacant	Rupertsland	
Vacant	The Maples	

LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON

PUBLIC UTILITIES AND NATURAL RESOURCES

Monday, July 26, 1993

TIME — 9 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRPERSON — Mr. Marcel Laurendeau (St. Norbert)

ATTENDANCE - 9 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Cummings, Downey, Enns

Mrs. Dacquay, Messrs. Edwards, Laurendeau, Penner, Reimer, Ms. Wowchuk

APPEARING:

Jerrie Storie, MLA for Flin Flon

MATTER UNDER DISCUSSION:

Bill 41—The Provincial Parks and Consequential Amendments Act

* * *

Mr. Chairperson: Will the Standing Committee on Public Utilities and Natural Resources come to order. When the committee last met, it had completed public presentations on Bill 41, The Provincial Parks and Consequential Amendments Act, and heard opening statements from committee members before clause-by-clause consideration of the bill. Did any members have further comments they would like to make before we begin clause by clause?

Mr. Paul Edwards (Leader of the Second Opposition): Mr. Chairperson, this bill obviously has sparked an enormous amount of controversy in the community. This bill came forward to the Legislature with very high expectations. It was a bill that many had waited a long time for and the minister had spoken about coming forward.

As I said in my comments at second reading on this bill, we greeted this bill with a lot of disappointment after the expectations that had been built up. I do not understand why the government continues to want to reserve unto itself the level of authority on a discretionary basis as opposed to going through the House that it does.

I do not believe that this bill is either in the best interests of the parklands and the people who have property on a regular basis through their residences and cottages, or in the best interests of all Manitobans who, of course, want to preserve and protect the parklands.

I want to draw again the minister to the opening statement in the parks act: "WHEREAS provincial parks are special places that play an important role in the protection of natural lands . . . ." I believe that statement is an appropriate opening statement for a parks act. I do not believe that the rest of the act bears true to that opening statement.

I have a number of amendments which I want to propose. I have raised in the House, specifically, the concern that there is continued ability by the government to allow virtually any form of resource extraction to take place in parks, albeit with a process in place which is improved. I do acknowledge that. But the only response to that that I have heard from the Premier (Mr. Filmon), from this minister is, we have commitments through licences and through arrangements which were made prior to these lands becoming parks that we have to honour.

I accept that. There was a way to allow that to occur simply by grandfathering existing licences and existing rights which are there. What this act does is preserve for the government and for the minister the ability to grant new licences and to continue, should they wish, to allow for further extraction of resources.

This is an act which I believe could have and should have taken a new direction and said, yes, in the past, these commitments were made, so we want to honour them, and they should be grandfathered. But this act continues the view of parks which is in part the preservation and protection of these resources—I agree with that—but also, in part, views parks as open for resource extraction. I do not think that is a view of parks which Manitobans want, expect or accept.

I looked to this government to set a new direction, chart a new course on parks. However, while I was disappointed, I cannot say I was surprised given what happened with The Wildlife Act in the last session. The government seems to want to put in place a lot of window dressing about what they perceive parks and wildlife reserves and other areas to be, but in fact when it comes right down to it, they want to keep at a ministerial level, on a discretionary basis, the power to do anything in parks without coming back through this Legislature, but simply by ministerial exercise.

I do not think that this act gives anywhere near the level of security that the natural lands in parks in this province will be seen and will be kept as special places that play an important role in the protection of natural lands, which I think is what this act should be all about—what indeed it starts out by saying but just does not follow through in putting into law. Unless the minister is prepared to accept some substantial changes—and I have come forward with some amendments which I will hope to convince him to accept, and many of them flow from the presentations which we have heard. Unless he is prepared to accept those substantial amendments to this act, we will have no choice but to vote against this piece of legislation.

I really hope that he is going to be prepared to accept some changes to this act in view of the presentations which we have heard and in view, I believe, of what is clearly a representative view of Manitobans that a provincial park, in that designation, should not include the ability to extract resources as a continuing part of what it means to be a park in this province. Thank you.

* (0910)

Hon. Harry Enns (Minister of Natural Resources): Just very briefly because I really do wish to get on with the clause-by-clause consideration of the act, as I know other committee members wish to, but I thank Mr. Edwards for that opening statement this morning because it affords me the opportunity to state very clearly, unequivocally, that there is a very fundamental and serious difference of opinion and philosophy with respect to the position that he advances and that of the government. It is essentially because of this government's understanding of the historical and existing resource uses within our parks system that I believe that the system of land use categories provides a mechanism for allowing resource uses, such as forestry and mining, that we have embodied into this legislation. I make no apology for that. I have been very direct in the comments that I have made and in listening to the presentations before this committee, so I welcome that clarification of the fundamental difference between us in this committee and will proceed with the act.

I have listened carefully to all the presentations made on this bill. I am satisfied that we have heard widely reflected, different views and opinions as to how citizens view the management of our vast system of provincial parks, and I am persuaded that some clarification is in order. I will, at the appropriate occasion, be bringing in several amendments of my own. Thank you, Mr. Chairperson.

Mr. Jerry Storie (Flin Flon): My comments are going to be fairly brief, and I just wanted to add to what Mr. Edwards had said, the member for St. James, about this bill. I appreciate the minister's comments, particularly when it comes to the historical nature of much of the activity that is ongoing in our parks, and that has to do with forestry operations as well as mining. I had said during second reading that much of the activity that we are talking about and is causing concern right now of course predates the establishment of the parks system generally. That is certainly true in the Grass River area; it is also true in many other areas in the province.

That does not mean that someone who opposes this bill opposes those activities. I think that it is recognized I think that if the minister had truly been listening to what the presenters were saying, both those who were concerned from an environmental perspective and worried about endangered spaces, and from the mining community, they would understand that what is being opposed in this bill is, first, the lack of clarity in some cases in the bill, but also the confusion that this is going to cause.

The minister talked about the ongoing activity and the resource extraction in our parks, and I think one of the things that concerned, for example, the Manitoba and Saskatchewan prospectors and developers, as well as a letter I received from the prospectors' association of Canada, which expresses the concern that much of the power that is going to be wielded will be wielded by the minister. Certainly this act may, in fact, be changing

in a substantial way the review of operations in the Grass River Provincial Park, the review of mining operations in northern Manitoba which is a cause for concern.

What this bill does is establish an ongoing mechanism for review that is going to lead to uncertainty. The mining companies and the prospectors' associations talked about the nature of the reserves that the minister is now empowered to establish, and the length of time that those reserves can be in place. I guess if you read between the lines from the presentations, what you would prefer was the minister was to establish some sort of ongoing consultation process to begin with before we get the bill, that we would have looked specifically at the parks and the allocation of resources again in those parks prior to the adoption of this legislation.

It seems to me we are putting the cart before the horse again, that rather than deal with those very sensitive issues, particularly in the areas where it is a matter of jobs or no jobs or life and death, that you would have wanted that discussion to take place prior to this establishment, and it seems to me that could have been done.

My colleague from St. James talked about the preamble to this bill. We have talked before about the government's commitment to set aside significant areas, 12 percent or whatever target Manitoba might want to adopt. It certainly could be less than that given our relatively measly set aside to date. We could certainly start talking about where those areas might be, and how they might be configured to align with our current parks.

It seems to me that we have a lot of work, a lot of public work to do before we proceed to allocate the powers that we are allocating to the minister. Before we start talking about the regulations that are going to govern those activities, we should be a little clearer in the first instance on what areas we might be talking about, how we might achieve the protection of endangered spaces, how we might protect some of the natural areas, or whatever they are called, in the province.

So it seems to me that we are putting the cart before the horse, that the minister in his remarks is trying to focus the debate in terms of those who are for extraction of resources and those who are opposed to it, and that is not the issue at all. The extraction of resources is ongoing. The mining companies clearly said, they have said to me privately, they have said publicly that they can live with the existing regime, that it is understandable, that there are parks and natural parks where there are already management plans that provide for multiple use, that provide some measure of protection for their activities.

Mr. Chairperson, we all recognize that every conceivable kind of economic activity, from the operation of a lodge to the operation of a store to the operation of an exploration activity to a mine to clear-cut logging, all have their impact on our natural spaces. The fact of the matter is that some are more and some are less intrusive, and certainly, for example, exploration in our parks, mineral exploration at least, is not particularly intrusive. That has been ongoing, and there is a concern that what this bill does is create an obligation on the part of all different groups in society who have different views about parks to engage in a long multiyear battle over the use of the parks.

It seems to me that rather than disrupt the current activity in parks, the government might have usefully said, let us start the public process, let us identify some of the set-aside areas that we are talking about, and let us proceed with that public consultation, the drawing of the map, so to speak, prior to any formal decision or any allocation of additional authority to the government.

So I have spent some time going over the presentations from each of the commercial presenters. From my discussions after their presentations, I am convinced that the government is proceeding on a course which is going to create many years of, in effect, confrontation between resource users, those who rely on resource extraction for their well-being in their jobs and their community's existence, with those who have a different view. It seems to me that we could have prevented that had the minister chosen a different path.

It is going to be interesting, Mr. Chairperson, to see whether the government has really listened to the presenters and whether they will come forward with some recommended changes which will pre-empt much of that discussion, much of which is going to be acrimonious, much of which will probably be not particularly useful because we do not yet know what the government has in mind in terms of additional set-aside to meet the province's

obligation to the 12 percent which is recommended in the Brundtland Commission, and which the province has adopted as a goal.

It seems to me we should have started the process by having the government sketch out, at least to begin the consultation process, where those lands might be and what areas of the province they might cover, how they might touch upon our parks, because I do not think there is any necessity, I do not see any necessity, in drawing the boundaries of parks so that they jeopardize any of the existing historical activity in the province of Manitoba.

If the minister chooses to do that, if the government chooses to do that, I guess that is its business, but it should be very clear here today that what we are doing is opening up a long and, in some cases, a divisive process by putting the cart before the horse, by saying we are going to look at every park, we are going to have this consultation process, we are going to do this all before we know where the government is really going, and I think that is probably a mistake.

We, obviously, are interested in the government's amendments. We had a number of amendments. I suspect that they are going to be probably dealt with by the government, but we are anxious to see whether in fact the government did listen to the presenters.

Mr. Chairperson: The bill will now be dealt with clause by clause.

* (0920)

Point of Order

Mr. Edwards: I wonder, Mr. Chairperson, before we get into clause by clause, the minister has mentioned his amendments. Is he able to provide copies of those amendments now to committee members simply to allow us better to deal with this in an expeditious way?

Mr. Enns: Mr. Chairperson, the amendments are clear and understandable, and they will be presented as the clauses are called.

* * *

Mr. Chairperson: The bill will now be considered clause by clause. During the consideration of a bill, the Title and Preamble are postponed until all clauses have been considered in their proper order by the committee.

Clauses 1 through 4 inclusive—pass; Clause 5—

Mr. Enns: Section 5. Mr. Chairperson, I propose an amendment for Section 5. The amendment is being passed out. I just say again that throughout the hearings and presentations, you know, we were reminded that Manitoba stands alone in the country in the origin and the breadth of its system of provincial parks. I repeat that I have no hesitation in recognizing the historical value of the existing resource uses within our park system and have noted the focus of many of the presenters on Section 5 of the act, dealing with the purposes of our parks land, in particular 5(d).

I appreciate these concerns and understand that while economic development has been and will be part of our vast park land area for some time to come, it is not the primary purpose behind the establishment of our parks. Therefore, I move

THAT Section 5 be amended

(a) by striking out the part of the section preceding clause (a) and substituting "In accordance with park classifications and land use categories, the purposes of a provincial park system include the following"; and

(b) by striking out "and" at the end of clause (c), and by striking out clause (d).

[French version]

Il est proposé que l'article 5 soit amendé:

a) par substitution, au passage introductif, de "Le réseau de parcs provinciaux a notamment pour rôle, en conformité avec la classification des parcs et les catégories d'utilisation des terres:";

b) par suppression de l'alinéa d).

Motion presented.

Hon. James Downey (Minister of Northern Affairs): Mr. Chairperson, just for clarification, it was my understanding that this will take away the ability for the resource extraction that has in fact carried on in the past and for future activity as it relates to within the classification that is identified for that purpose. Is that correct?

Mr. Enns: The minister is correct in his interpretation. The legal advice received over the weekend is that it suffices to have the clear understanding of the classification designation system within the park system. Indeed, as Mr. Storie from Flin Flon reminded us this morning, it need not, and it is not productive, quite frankly, to

place in the general purpose of the act the clause (d) as it is currently constituted.

Mr. Edwards: The question for clarification from the minister: I think it is a progressive move to delete clause (d) as a purpose of provincial parks. I do note that the preamble being changed draws in the word "include" in the sense that these purposes shall be ones which are not all inclusive. They represent some of the purposes but not necessarily all of the purposes, and that is different in the sense that the preamble to 5 was formerly: The purposes of provincial parks are—end of statement, and then we listed them. Is the minister prepared to perhaps rethink the preamble, put it back to the way it was and therefore make a real statement in favour of the primary purpose of parks being to: (a) to conserve the ecosystems; (b) preserve the unique and representative natural, cultural and heritage resources; and (c) provide outdoor recreational educational opportunities, and leave it as it is?

If he is willing to go half the mile, why do we not go the full mile and simply make a clear statement that that is what parks are about, which I think from his statements, that is what he is hoping to achieve here.

Really, by putting that word "include" into the preamble, it seriously undercuts what I think and hope he is trying to do in this amendment.

Mr. Enns: Mr. Chairperson, I placed an amendment before the committee, and I would ask the committee to consider it.

Mr. Chairperson: Shall the amendment pass?

Mr. Edwards: Accordingly, Mr. Chairperson, having that response, I would like to move an amendment to the amendment as follows:

Mr. Downey: Do you have support?

Mr. Edwards: Well, I do not know. We will have to vote and find out. Let us see if I have support, Mr. Downey.

Mr. Chairperson, I am advised that I have to write it up in both official languages, and I see a number of experts here at the back of the room. I did not, of course, have this amendment, or I could have proposed a subamendment, but having only received this amendment just now and wanting to propose a subamendment to it, I would ask the Chairperson for the opportunity and adjournment or whatever is required.

I am simply going to propose that the word "include" be deleted from the preamble in Clause 5 and would ask for the requisite period of time. I believe it would probably be a matter of minutes to put that in both of the official languages.

I draw to the minister's attention, the Chairperson's attention, that I did not have this amendment prior to this, so I could not have prepared a subamendment to the amendment.

Mr. Chairperson: I would like to remind all committee members that I cannot rule on a motion unless it has been put in writing to me. So at this time, we are dealing with the—

Point of Order

Mr. Edwards: I have simply asked for an adjournment for 10 minutes to put into place an amendment to the minister's amendment, a subamendment. That is all I have asked for. I am asking for the minister's and the committee members' indulgence to do that. I did not have this amendment prior to two minutes ago. I could not have prepared that subamendment, and if need be, I will move that we adjourn this committee for the requisite period of time, I believe it to be under 10 minutes, to do that. And I so move.

* * *

Mr. Chairperson: Is it the will of the committee that we recess for five to 10 minutes?

Mr. Downey: Mr. Chairperson, in order to try and accommodate, I think it would be appropriate if we gave the member five minutes to write out what his amendment is so it can be dealt with. Five minutes should do it.

Mr. Enns: Just on the record, it would be appropriate for the committee to, as it is empowered to do, deal with Mr. Edwards's amendment. That is the point that I am drawing on, the nonsense that we get ourselves. I have no difficulty in dealing with Mr. Edwards's amendment. We understand it. It is a straightforward amendment. It does not require translation. It does not require a great deal of writing or studying. Mr. Edwards has asked to delete a word from this amendment. Does the committee wish to deal with it?

An Honourable Member: Agreed.

Mr. Enns: Do we have an expression of opinion from the committee? Do we wish to deal with it?

An Honourable Member: Let us deal with it.

Mr. Chairperson: If it is the will of the committee, then we will deal with Mr. Edwards's motion in principle.

* (0930)

Mr. Edwards: Thank you, Mr. Chairperson.

I move

THAT the amendment to section 5, moved by the minister, be amended by striking out "include the following" and substituting "are".

[French version]

Il est proposé que l'amendement proposé à l'article 5 soit amendé par suppression de "notamment".

Mr. Chairperson: All those in favour of the proposed amendment, please say yea.

An Honourable Member: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it.

Mr. Edwards: Recorded vote.

Mr. Chairperson: A recorded vote being requested, I will have the Clerk do the count.

A COUNTED VOTE was taken, the result being as follows: Yeas 1, Nays 6.

Motion defeated.

Ms. Rosann Wowchuk (Swan River): I had a question before the vote was taken. I was asking for clarification on what the implications of this amendment would be. If this amendment were to pass, would that mean that all economic activity would cease in parks, or what would it mean?

Mr. Enns: It is just a little more inclusive whereas this is less inclusive.

Mr. Storie: Mr. Chairperson, obviously one of the problems we have with amendments that are introduced on the spur of the moment is that it is difficult to really get a handle on what the impact is.

If I understood the minister's previous comments, all this really does and the reason that the minister introduced this amendment was simply to strike from the preamble what, first of all, has been practised and ongoing activities; and (b) it was stricken because the minister said that the park classification system that is proposed by the bill will allow for other activity. That is my understanding.

So if that is true, then the amendment that is proposed by the member for St. James (Mr. Edwards) has absolutely no impact on ongoing activities in a park, and it still leaves open the whole question of classification. So I am not sure—I would like some clarification for why we need this.

Mr. Edwards: Mr. Chairperson, in fact, the member for Flin Flon is correct, that if you turn to Section 7 and other sections of the bill, they specifically deal with what restrictions, what will and what can and cannot be allowed in parks. What the minister is doing in his amendment to Section 5 is not just deleting that a primary purpose of a park is to provide economic opportunities. I applaud the fact that he is doing that, but that is not all he is doing.

He has changed the opening statement of Clause 5 whereas previously it said the purposes of provincial parks are—this is purposes, this is not restrictions on use, it is purposes. He has now moved that to saying that in accordance with park classifications and land use categories, in other words, he has put in the earlier statement, he is not binding himself. Then he goes on to say, the purpose of a provincial park system include the following. That leaves it, of course, open to what else they might include.

What I am saying is, if he wants to delete (d), I am all for that. Let us do that. He does not also need to broaden that opening statement as if we are going to have all kinds of other nonarticulated purposes. It does not bar the land use restrictions which he has in the rest of the act.

I am just calling him back to his original principle which was to delineate clearly an exhaustive list of the primary purposes. That was the thinking behind my subamendment. I am just concerned that by building in the word "include," there are all kinds of other nonarticulated purposes, and I do not think we want that in this bill.

Mr. Chairperson: Shall the proposed amendment by Mr. Enns pass?

Some Honourable Members: Pass.

Mr. Chairperson: Pass.

Clause 5 as amended—pass; Clause 6—pass. Clause 7.

Mr. Enns: Mr. Chairperson, I have an amendment. During the presentations there was, on different occasions, attention drawn to the fact that the use

of the word "large" in identifying wilderness areas was ambiguous and it has been suggested that we make the following amendment.

THAT clause 7(2)(a) be amended by striking out "large" and substituting "representative".

[French version]

Il est proposé que l'alinéa 7(2)a) soit amendé par substitution, à "de grands territoires", de "des territoires représentatifs".

There was criticism given of the definition of "large." Can only large areas be wilderness areas, or can we look at it in trying to capture the importance of the representative nature of areas that ought to be so designated as wilderness areas, large being difficult to identify, you know, large in acres, large in hectares, large being the wrong kind of term.

Motion presented.

Mr. Storie: Mr. Chairperson, this is an interesting change, because representative, of course, obviously does not necessarily mean large. Representative may give the minister power to reduce the size of areas. Large has a connotation; representative has a much different connotation. A square metre of tall grass prairie is maybe a representative area. I think maybe it is going to be interpreted with respect to the government's commitment to protect—I am wondering whether "large" is not a better word than representative.

If the minister really wants to make this a meaningful amendment then he might want to introduce some additional words that talk about an area large enough to ensure that a particular ecosystem can be maintained. I am not sure that this is a necessarily positive addition to this.

Mr. Enns: Mr. Chairperson, I enjoyed the church service at St. Andrew's yesterday, and we sang the hymn all things bright and beautiful and all things large and small, our good Lord made them all.

What I am trying to do here is to recognize that in certain ecosystems we, regrettably, no longer have the availability, such as tall grass prairie, to talk about large preservation of areas. There are other sensitive areas. The member for Swan River drew the attention of the committee members to some specific areas in her part of the province in the Duck Mountains, Bell River, Roaring River, the gorge, something like that. The word "large" was—and it was my attempt to listen to representations made that it was a difficult term to define.

I am moved that the word "representative" becomes a more accurate description of what it is the intention of the government and the Parks Branch to undertake by this clause, and I recommend it for the committee's consideration.

Ms. Wowchuk: Just following what my colleague had said and having listened to many of the people who were making presentations, there was concern with that word. I do not have an amendment, but I want to just make a suggestion whether we might be able to put in "large enough to represent a natural region" so that we are not having to worry about an area being too small or being restricted. If it is tall grass prairie, if it is large enough for clarification—we put those words in. That is only a suggestion. I would like to hear the minister's comments on that.

Mr. Enns: Mr. Chairperson, it is my view that "representative" is inclusive of all, large, small, large enough and really is a more acceptable word in this instance.

To answer the member for Swan River directly, that in itself becomes a good debate within the environmental community as to what constitutes being large enough to sufficiently represent an ecosystem, ecological region. To avoid that kind of debate, I do not necessarily wish to define it. I believe the word "representative" accomplishes that.

* (0940)

Mr. Edwards: Let us vote on this.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: Pass.

Mr. Chairperson: The amendment is accordingly passed.

Shall Clause 7 as amended pass?

Mr. Edwards: Mr. Chairperson, I have been advised by Legislative Counsel—as I am looking at the minister's amendments having come forward. I have been advised that there can be an indication from committee members as far as actually finding out from committee members whether or not there is support for an amendment in principle, prior to actually coming forward with it in writing in both languages and so forth. I want to simply advise members of that.

I would also like to move from that and speak to Clause 7(2)(b), specifically the words "and resource uses" at the end of Clause (b) as part of the classification and the definition of a natural park. I would like to move and will so move that those words be deleted in the event that there is a show of support from committee members in principle to that amendment.

I draw to members' attention sub (e) which gives to the minister the power to, by regulation, classify "any other type of provincial park that may be specified in the regulation." That is a catch-all. That leaves the door open, essentially, to the minister for any type of classification of a provincial park. He does not need, in addition to that, in Clause 7(2)(b), to specify resource uses as a part of the classification of that part.

I am simply saying to the minister that consistent with what he did in Clause 5, which is moving away from, in this act, defining resource extraction and resource uses as a fundamental part of a park strategy, that would be consistent, to delete those words and resource uses. This was an amendment which was as well, I note, recommended by the Canadian Parks and Wilderness Society, Manitoba chapter. It makes sense. It simply confirms the road which I sense the minister is at least amenable to going down, which is moving away from resource use and resource extraction as a fundamental part of this act.

I do not think it undercuts his ability to do what he wants to do. He has a catch-all in sub (b). I would like to propose in sub 7(2)(b) that "and resource uses" be deleted so that it would simply read: a natural park, if the main purpose of the designation is both to preserve areas of a natural region and to accommodate a diversity of recreational opportunities. That would end that clause.

I will so move—if there is an indication, Mr. Chairperson, perhaps you could find out from committee members whether or not there will be support for that amendment.

Mr. Chairperson: Is it the will of the committee to deal with Mr. Edwards's amendment in principle? Agreed?

Mr. Storie: Mr. Chairperson, it is an interesting amendment. It raises the point that I raised in my opening remarks. That is the problem, that we are dealing with legislation that really is establishing a new system of classification, goes through a whole new process for doing that, and yet we still have to recognize that we have existing parks with existing classifications and existing activities.

It seems to me that the amendment Mr. Edwards is proposing right now would simply create a good deal of havoc and uncertainty on existing users in our parks, particularly resource users. The principle that he has enunciated seems to me to be a good one, and in future, after the consultation process, it would be an appropriate amendment.

That is why I said that this really is the cart before the horse. We should be drawing, re-drawing, redefining what we want to include in parks. We should be having the consultation, and then we should have the legislation. It seems to me the minister can do all of the consultation, all of the preplanning without this and that Mr. Edwards's amendment, right now, is going to create problems for some unless there is some sort of grandfathering or whatever. It is going to create additional uncertainty because of kind of the history of some of our park regions.

The principle that he is establishing, I think, is a good one. I think he is quite right that (e) would obviously allow other kind of designations and other sort of arrangements even within our provincial parks.

It is kind of a difficult question whether this amendment is appropriate at this time. It certainly would be if we had done our homework or if the government had done its homework.

Mr. Enns: Mr. Chairperson, I appreciate the member for Flin Flon's comments, because it affords me the opportunity of saying it is precisely in the manner in which he argues, and I agree with him. Adopting Mr. Edwards's proposal would add a lot of grayness to the legislation and a lot of opportunity for future confrontation.

To comfort Mr. Storie, it is precisely in this kind of designation where we clearly indicate the ongoing resource uses available in specified parks that we will—and I am totally confident—satisfy those continuing interests with respect to resource extraction in our parks. We put them up front. They will be in legislation, and they will have the force of law behind them.

It is also maybe appropriate—we do not remind ourselves in Manitoba often enough, but when I indicate that Manitoba is rather unique in the sense of the set aside that we have done in our provincial

parks. Therefore, we have our own Manitoba resolutions to it.

For instance, is it known to committee members that we have nine times the amount of acres set aside in provincial parks that Alberta does? We have one and a half times as many acres set aside as Saskatchewan does. We have, you will not believe this, 80 times as much land set aside proportionately as Quebec does. That is because of the historical development. That is because the resource uses of the land were there first 100 years and parks are imposed on them later on.

When we, in the early '60s and even in the mid-'70s and even in the '80s set aside these significant acres of land, we did so with the clear understanding that they were multiple use, that they would accommodate a certain amount of mining, that they would accommodate a certain amount of logging. Had we established them differently, then we would have perhaps been currently sitting with one-tenth of the acreage in provincial parks than we currently have.

I apologize to the committee. This is not the moment for editorializing, but it is my belief that it is in the strength of the sections that we are now passing that will clearly indicate to all users of parks their appropriate usage, and that, in my judgment, will lessen not increase the amount of confrontation in that regard.

Mr. Edwards: I want to respond briefly to the comments from the member for Flin Flon and the minister that this proposed amendment would create some confusion. In fact, what has created and will continue to create a substantial part of the confusion of people who present to this committee and committee members is the fact that we do not have the regulations. The guts of this thing are in the regulations. That is the document which is going to set out, and if the minister could come forward with some indication as to what he is planning to do flowing from this act. The fact is that by leaving resource extraction as one of the main purposes, which is the wording of this section, of a natural park, by doing that the minister is heading down the wrong road, I believe.

For existing resource extraction uses, existing licences which are there, I have indicated at the beginning of these hearings they should be grandfathered. We should be prepared to accept the commitments which have been made when these parks were set up. It should not continue to be a main purpose of the park system, resource extraction. What I am simply saying is that resource extraction should be the exception, not the rule, for parks. What I see here in this maintenance of resource use as a main purpose of a natural park is that there is a philosophical commitment to the continuation of resource extraction and resource use for natural parks.

I had thought from the minister's amendment to Section 5 that he had dealt with that in a way which would be recognizing that it should not be a primary purpose, and that is why I am proposing this amendment. I note that by allowing for any other type of provincial park that may be specified in the regulation, it certainly is available to grandfather, to not make incursions into existing commitments which have been made to people in parks. He has that ability. There would not be any confusion assuming the regulations were clear, and that is what I am seeking here is to clarify that a main purpose for the future will not be resource use. He obviously feels differently, but that is the purpose of this amendment. It would not create confusion. In fact, it would simply clarify that resource extraction should not be a main purpose and that it will be the exception not the rule.

* (0950)

Mr. Chairperson: On the principle of Mr. Edwards's amendment, shall it pass?

Some Honourable Members: No.

Mr. Chairperson: No, it is defeated.

Clause 7 as amended—pass; Clauses 8 to 21 inclusive—pass; Clause 22—pass; Clause 23—pass. Clause 24.

Point of Order

Mr. Edwards: Mr. Chairperson, on a point of order, that is outrageous. You put Clauses 8 through 21 inclusive as one motion. We had been going clause by clause. You went 1 through 4, 5, 6, 7. If you are going to group clauses like 8 through 21 together, this committee deserves notice as to what you are going to do. We are not going to pass Clauses 8 through 21 having grouped 1 through 4, then 5, then 6 at your whim which should be grouped and which should not be grouped.

Mr. Downey: Mr. Chairperson, on a point of order, I have sat at many committees in which we have passed blocks of bills. It has been the practice of

this committee in the past, and I see no change in practice at all.

Mr. Storie: In fairness to the committee, you, Mr. Chairperson, have lumped two different sections of the part together. This bill is essentially two pieces. The first part of it deals with amendments to the parks and park classification system. The second one is a tax-grab to park users.

There are, I am sure, a number of questions. I hope that the minister has a number of amendments with respect to Sections 12 through 17, which deals with some of the issues.

Mr. Enns: Mr. Chairperson, I am listening to committee members. We will revert to Clause 8(1) and go clause by clause.

* * *

Mr. Chairperson: Is there leave of the committee that I revert to Clause 8? [agreed]

Clause 8—pass; Clause 9—pass; Clause 10—pass; Clause 11—pass; Clause 12—pass; Clause 13—pass; Clause 14—(pass); Clause 15—pass; Clause 16—(pass). Clause 17.

Mr. Storie: Mr. Chairperson, I had a question on this particular section that I would like the minister to deal with. This deals with the construction of buildings, et cetera, for both lessees and owners in parks.

I am wondering whether the minister can indicate the current process for approval of an addition to a structure in provincial parks. What is the actual process the department uses to approve those?

Mr. Enns: Senior staff advises me, Mr. Storie, that the process is unchanged from the old act in this act. That is maybe not exactly all the information the honourable member wants.

There are guidelines provided for construction of various buildings and they have to be adhered to by any people doing any construction within a provincial park.

I am advised that this is in published form and is sent to all cottagers within the provincial park system. Certainly anybody that is contemplating or has indeed acquired property for a new cottage lease would be provided with this kind of information at the time of his application for the Crown land in question.

In addition to that, there is ongoing inspection by Parks officials, not simply with above-ground structures, but there are also various regulations that have been developed, and they vary from park to park with respect to treatment of water, the requirement of holding tanks versus septic tanks and so forth. These kinds of activities are constantly monitored by various Parks officials.

Mr. Storie: That was the purpose of the question, because it seems to me that we already have these kinds of provisions. Sometimes it appears as though they are indifferently or differently applied, depending on the area, the individuals involved.

The question was: Why is this here? I understood that this was already in place. What is this section intended to do?

Mr. Enns: I am advised it is here as a general prohibition factor. I have not checked; I suspect that at the end we are deleting the old legislation or appealing it upon this new legislation coming into effect.

This is an entire new park lands act. I cannot really give the honourable member any better answer.

Mr. Storie: The question is: Is there any change? I do not have the previous act before me. Is there any change in this section? The minister's explanation sort of jives with what the practice has been. The question is: Is this changing the practice? Does this mean there will be more or less enforcement of the regulations that will be put in place dealing with amendments to property?

Mr. Enns: I am advised there essentially is no change. There are direct transfers from the old act that are currently in this section.

There is a Section 17(2) that is being added that reads: "The application of subsection (1) to an owner or occupier of land in a provincial park shall not constitute loss or deprivation of property or a taking of property by the government for which compensation is payable." It ensures land use restrictions cannot be seen as a form of expropriation, thus protecting the department from compensation claims.

We have had a situation, and it is an ongoing situation, quite frankly—the honourable member may well be aware of it—where we apply parks planning to a given piece of land restricting a certain type of construction or a certain type of development, and the owner then has claimed that the deprivation of his being able to use that land for those purposes is, in effect, a confiscation or a

deprivation of his rights to his property and is demanding compensation. I refer specifically to a situation at Hecla Island that the honourable member may be aware of.

To avoid future claims of this kind on the general revenue on the public purse, it was deemed appropriate to put in this kind of a clause. It is a more prohibitive clause, a more restrictive clause. In other words, somebody that maybe has a great idea of doing some specific development on a piece of property within a park but which is contrary to parks planning for that region or for that particular park, that ought not to be viewed as a compensable loss of his rights.

* (1000)

Mr. Storie: Mr. Chairperson, I had assumed that was already covered. I did not recognize there is no compensation.

I know that in the past part of the problem, and the reason I raise it here is that in the recent past individuals have received verbal approval from departmental officials suggesting that an amendment or an addition or a change to their use would be acceptable, only to have that verdict overturned by the department at some future date. That is why the question was whether we were strengthening the process, because in some cases people have built assuming they had authority to do it, based on some verbal acknowledgement of their plans and so forth, and subsequently the department has said and required removal of that material or whatever.

Mr. Enns: Mr. Chairperson, I acknowledge that the situation the member describes, regrettably, has occurred and does occur. I suppose to some extent it has been my experience that in some instances, I say this without prejudice or not in a negative way, that a party takes some verbal advice given at a certain field level as being equivalent to a permit that is required, and that is not always the case. Certainly, my Parks director is present here. He is listening to the honourable member for Flin Flon and will take under advisement the kind of situation that the honourable member describes. I think it is regrettable when it happens. It is an inconvenience.

Certainly, if any action taken by any member of the department that encourages or leaves the impression with a member of the general public, a park user, that he is in fact in compliance with the department regulations, and then only to find out later on that is not the case, that is not a situation that I would like to see continue in the park. I am taking this opportunity to so indicate to the Parks administration.

Mr. Chairperson: Clause 17—pass. Clause 18.

Mr. Edwards: Mr. Chairperson, we are now into the park district service fees and then we will be into the chief place of residency levy. I wanted to start by these sections and simply ask the minister, firstly, a question on the consultation with owners and occupiers clause, Section 18(2), pretty much window dressing, a statement that the people in those, occupiers and owners, will be able to review the level and the cost of providing services but ultimately will have no control or power or input other than simply by way of consultation into that.

I wonder if the minister can indicate whether or not he has received any specific legal opinion dedicated to the question of whether or not that is a fair and, in fact, allowable way to, in effect, tax people without direct representation. Acknowledged that they have the ability to vote for or against a provincial government that does it, but the truth is, the reality of the rest of the province is that people have a direct vote on their local government which imposes those same property taxes.

Does the minister have some specific document that he can table for us to give us any indication as to whether or not he has explored the legality of that, in effect, taxation without representation, which, after all, is what the American Civil War was fought over? It is a fairly important principle for people to know that they have a direct link with the people who tax them.

Mr. Enns: I appreciate the history. I was always under the opinion that the American Civil War was fought because of some tea that was being dumped in some bay of water or something like that. I stand corrected.

This section has troubled me and this section drew a lot of, as committee members will appreciate, those who sat through the hearings, a lot of concern and comment from the affected people. I want to say to committee members that the various parks districts will be as formal or informal as they wish them to be.

One of the problems is that we have very widely different categories of what we will call park districts. In some cases, it is a cluster of eight, nine,

or 12 or 15 cottages in a fairly remote part of a park that have very limited services. I suspect that they do not wish to formally organize, elect councillors, sit every week to determine parks budgets. They come to the parks and to their cottages to enjoy themselves. For them, a meeting with the park manager on a twice-annual basis, perhaps before we set budgets in the fall and in the spring, or something like that will suffice. On the other hand, a community like the Falcon Lake townsite, which has a much more sophisticated organization, may well wish to formally elect, i.e., council members or representatives to a board that will set fairly formal sessions and meetings with Parks staff to discuss park services and the appropriate fees to be collected.

Now the honourable member may say, and he is correct, fine, that is still all window-dressing. In the final analysis, the authority rests with the Parks Branch, with the minister.

There was an option. The option was in fact to impose a full kind of LGD or municipal status government on them. That would require, I am advised, to first of all do an assessment of the 5,000-, 6,000-odd properties in the park system which I am advised would cost about $200,000 to $250,000 a year and would take four years to complete.

Certainly, honourable members who were there one evening when I suggested to some of the users, who expressed continuing dissatisfaction about being included in the Parks administration, whether they wished to perhaps join the neighbouring LGD or the neighbouring rural council of Lac du Bonnet, for instance, there was a quick rejection of any part of that because they knew full well that if that were the case, they would be paying triple and quadruple what they are now paying, and some of them not wanting to pay the relatively modest service fees.

So to answer Mr. Edwards, we view this not as a tax. We honestly view this as a service fee, and we will insist on considering that as a service fee because to properly tax we have not made an assessment of the property. If we are talking about taxation, then surely we should be differentiating between the party that has a $150,000-cottage and somebody who has a very modest little cabin that he threw together 20, 30 years ago, perhaps to the value of $5,000 or $10,000, yet they both require the same level of service fee.

* (1010)

I reject the rather narrow concept of service fee that the private landowners presented to us in the committee. Service fee means accessing the park—period—not just the 20 feet of gravel in front of their particular home. Service fee means my providing the necessary other services to the park that go along with the privileges of being within the park.

Now I am given to understand, in fact, I have had words with my senior Parks people here—and I am laying my arm on my director here. I and committee members could not have escaped the fact that there is a problem that my Parks people are not always as hospitable or courteous to the private landowners and cottagers as they might be. I take that seriously. I think that in some instances my Parks people felt that, well, because they are not really an integral part of the park that they are in fact intruders in the park, that they sometimes felt like—oh, Harry, you had better be careful. I was just going to say something that would likely trouble me in future on the record—but not always welcome. I think we felt that, as the presentations were made to us by committee members—and I am challenging and I am asking my park people, my department, to take this opportunity to change that, to rectify that.

We are having, currently I am told, as we speak, meetings with these owners. It is an issue that I would like to resolve and time will tell. Certainly a year into the process will tell whether or not I may have to come back next year or a year from now and modify this section.

All I do know is it was an unacceptable situation to have growing numbers of people enjoying cottaging privileges within the park not paying any service, anything at all. It was creating an unacceptable situation for me. The provincial auditors commented on it. People who were quite happy and prepared to pay their service fee up to now were, understandably, beginning to demand that, look it, if somebody is not paying, then I do not have to pay, and demanding refunds.

So I had to move to clear up this situation. It is my best shot at it. Thank you.

Mr. Edwards: I appreciate that it is the minister's best shot, and I appreciate his comments. But the best way I would think to rebuild a relationship between his park staff and the cottagers and

owners would have been to put some guts into the process whereby they would participate in determining fee structures and service levels, and that has not been done. What is here—and in practice let us all hope it is, but that is not an assuredness, that is not a legislative step which makes a commitment corner to corner in the province on behalf of the minister.

Saying that you are going to review something with these people really does not give much guarantee of anything. The worst case scenario—I am not saying it will happen—is you do the review when you get the bill. The fact is that there has to be a process in legislation to ensure a certain level of review and participation.

What I would propose to the minister—and I believe that there were ways around this to have accommodated both sides. I appreciate that some parks have one or two individuals, that some have many hundreds perhaps, but there are ways to structure participatory boards where the principles of democracy are respected.

Whether you bring four or five of those smaller parks together into one and have those individuals elect representatives, how you do it, by reason, by otherwise, there has to be a democratic process whereby people are elected and then have some—not just ability to review and consult—authority to deal directly with the Parks Branch.

I would ask the minister if in principle he is prepared and the committee members are prepared to rewrite these sections on the issue of consultation and review by individuals and put some meat into this. Whether it be by regional elected boards around the province, I will leave that open to the minister. I am sure he is capable of that.

There must be some direct representation that these people have to deal with the Parks Branch in a meaningful way. A simple statement that the owners and occupiers of land will be able to review the levies which are imposed upon them is not enough.

I would ask the minister if in principle, based on what he has said, he has explored the idea of elected bodies, whether by region where the parks are smaller, putting a few together, or by dedicated boards where there are enough individuals to comprise an electorate. Has he reviewed that and is he prepared to accept in principle a move toward that democratic way of giving these people some active participation in the level of what is, in effect, taxation?

You can call it fees for service; you can call it anything. It is a tax. They will be obliged to pay. You are simply saying, well, it is linked in some way to the level of services that people are provided. Well that is what taxes are. Tax bills that go out to people federally and provincially are justified by saying: Well, the government provided you these services. There is no difference. It is mincing words. This is a tax.

These people are going to have to pay it. It is a tax.

Mr. Enns: Mr. Chairperson, I repeat it is my view that Section 18(2) is a process in legislation that provides for the participation that the member speaks about. He may not think it is strong enough. I refer to him a little further in the act; Section 29 specifically enables me to establish advisory boards in legislation. This is not just at the whim of the minister, but legislation enables me to establish the very kind of advisory boards that he speaks of. Section 20 of the act calls upon the department to open its books to discuss the budgets.

Let me correct a little earlier statement. It is not just a question of reviewing a bill that we will be sending the cottage owners. No, we will be discussing, we will be setting the budgets. They will be participating in setting the budgets for the coming year to determine the appropriate level of service and determine the appropriate service fee to be collected.

So I present these to the committee as being reasonable efforts to meet these concerns that were so eloquently and heartfully expressed on many occasions by the cottagers involved.

Mr. Storie: Mr. Chairperson, my comments deal with all of the sections under park district service fees, so I will not raise individual questions. I guess I share some of the concerns mentioned by the member for St. James (Mr. Edwards) when it comes to the process here. Certainly in my area I represent literally hundreds of cottage owners, some of whom are in parks and some of whom are not. I will get to the former first.

I guess the concerns that I have deal with, No. 1, the establishment of areas within parks, the establishment of park districts. It seems to me that the minister is creating probably a nightmare for his

department in that in all likelihood groups of cottagers are going to be demanding that their area within the park be treated as independent areas and that what you are going to find is that even within very small parks, one area is going to see themselves as underserviced, some of them may see themselves as adequately serviced, and some of them are going to have unique needs so that the minister is going to be called upon in this legislation, I think, to establish numerous park areas, and I think that might be a cause for concern.

Secondly, I think that the minister perhaps should have done some initial groundwork with the cottaging associations. I know some of that work has gone on, but I think it is fair to say that, if the department proceeds to assign individual park district costs based on the department's evaluation of how those costs should be apportioned, the fees in our parks are going to double or triple quite easily.

I recall a conversation not that long ago with one of your Parks officials from The Pas who said that they believed currently that the park was recovering approximately 30 percent of their costs. Now I do not know whether that was a fair assessment, but certainly if you use that figure you can understand why lessees and cottagers in our parks are concerned about where their fees may be going.

I have two other specific concerns with the way the costs are going to be apportioned. No. 1 deals with emergency services. One of the explanations that the Parks Branch has always given to those paying service fees was that part of the cost was that unknown, the cost for maintaining fire equipment, fire protection—not necessarily fighting fires, but simply fire protection readiness. It seems to me that those are the kinds of intangibles that people are going to be very concerned about when you sit down at the table and start assessing costs.

The second one deals with the administrative costs. Are people living in parks, those who are going to be paying these fees, now going to pay, for example, for part of the deputy minister's salary? Obviously, the deputy minister also spends part of his time worrying about parks and doing park planning. Assigning administrative costs and certainly leaving that at the discretion of the government may be cause for concern.

I expect, as the minister suggests, that in most cases the people involved will have an opportunity to review costs and there will be dialogue, and in most cases, or in some cases, at least, there will be a consensus on what services are being provided and what is a fair fee. But, clearly, that is not always going to be the case. The question then is, who decides? Is there an appeal mechanism? How are we going to resolve cases where there is a group of cottagers who are adamant that the fees being charged are not reasonable?

* (1020)

The third issue is the question of deficit or surplus. I ask the minister: If in a given area there was a small fire in a park area, cottaging area, and the department spent $40,000 or $50,000 or $100,000 fighting that fire—the way the bill reads, that would be an emergency service, and that bill would then fall directly on the shoulders of cottagers in the area, and it would leave the budget for that park district in a deficit—does that mean that cottagers' fees could sort of fluctuate dramatically? Could they be paying $250 or $400, and because of an emergency $500 or $800 the next year? How are those issues going to be dealt with? Does this not leave cottagers in a situation where their fees may be changing pretty dramatically from year to year, leaving it difficult to plan and to budget?

My final question is, since this only deals with cottagers in parks, I have to suspect, although the minister has not said, and no one in the department has commented yet, that the department is planning at least, and the government is planning to do the same, provide the same kind of a fee service structure on Crown land, the Crown land cottaging subdivisions. It does not seem to me that the government intends this to only apply to those in parks. Where does the authority lie for the government to apply this kind of a process on Crown lands? Has the government done any consultation, for example, with the Big Island-Schist Lake Cottagers Association in Flin Flon that is on Crown land? Is the other shoe about to fall on cottagers? That is the question.

Mr. Enns: Well, I appreciate the comments raised by Mr. Storie—just try to recapture some of the ones. Yes, it will be an additional challenge to the department to administer work with the different park districts.

I am advised that it is, in their opinion, not an unmanageable one. They estimate, for instance, that they have been looking at the situation. They are probably talking about 20 individual park districts in the system, which Mr. Prouse feels is manageable.

The issue that I know was uppermost in the minds of some of the presenters and expressed by Mr. Storie is one that I really believe the direct consultations with the cottagers that are commencing now will lay to rest. The act specifically speaks about the fees being applicable to the services to the cottagers, not attempting to recover the costs of the parks system.

I really cannot answer that question any better other than that the consultation process, which, in fact, will be the greater burden on the department, because they will have to take that time, and they will have to, on a park district by park district basis, arrive at what constitutes reasonable services, what is the demand for kinds of services, and what constitutes a reasonable fee.

It was never the intention, and I know perhaps the quick reading of the act or some of its advance PR, that all-inclusive general park services would be attempted to be recovered by the branch by this means. Again, the proof will be in the pudding in terms of how the consultative purpose works.

The honourable member makes final comment with respect to broader application to cottaging on Crown lands. The member is, of course, very much aware that in most of those instances these are administered in a not unsimilar fashion by Northern Affairs. We, in effect, cede the land over to Northern Affairs, and they administer it in various different ways. In communities they have councils; they have LGDs. They have advisory groups in some of the northern communities that are sitting on Crown land. It is not unlike—and in fact we are moving to tailor some form of an even playing field, because it is difficult to explain to a Manitoban who lives on this side of the line that delineates the jurisdiction of Northern Affairs and lives on our side or lives in an LGD and finds the relative costs being substantially differing.

The honourable member is correct in saying that there is an attempt here to bring the two systems closer together.

Mr. Storie: Allocation of emergency costs?

Mr. Enns: My advice is that those would be considered to be part of general parks administration, not to be applied to any individual park district or group of cottagers.

Mr. Storie: Then maybe I can provide a more specific example. This spring there was considerable flooding in the Bakers Narrows Provincial Park. Some cottages were affected. I believe it was inside the park. Obviously, if the department responds and provides emergency drainage, something like that, would that be an emergency service that might be assigned?

Mr. Enns: I do not want to comment too directly on a specific issue, but certainly having some experience of the kind of flooding that can occur, just as the honourable member for Swan River (Ms. Wowchuk) has experienced. Her immediate friends and neighbours and constituents will not be faced with tripling of tax bills because of the severe damage to the infrastructure done. The province will be looking after it. The Department of Highways will be, hopefully, putting back the bridges and repairs, and, hopefully, we will get some recovery perhaps from Ottawa to help us in the overall emergency situation. We would view that kind of structural emergency as being part of our capital budgets which we would budget for over a period of two or three years within the system, and again not applicable.

I think that for the first time and, understandably, these would be—on the other hand, the kind of questions as to how often and what kind of garbage pickup, or is there a demand, is there a need—and it varies from district to district. Is there a need for a more sophisticated treated water system, or will a well or something like that suffice? These are the kind of questions that will impact on the service fee to be charged.

Mr. Chairperson: Clause 18—pass; Clause 19—pass; Clause 20—pass. Clause 21.

Mr. Storie: Mr. Chairperson, this is another area where I think we have some concerns. Obviously, the attachment of a levy is of concern, not only the process the government has chosen to apply it. I guess it is the discretion that is part of the concern that cottagers have.

Section 21(3) specifically says: "A levy prescribed by regulation under this section need not be related to the cost to the government of

providing services or defraying expenses." So this is going to be truly arbitrary.

I guess, having said that, the larger concern is the fact that the government does not make it clear where this levy will be going. One of the issues that is ongoing in parts of the province—it is more of a problem in some parts than others—but certainly in northern Manitoba, the Town of The Pas and the City of Flin Flon have both argued with this government and argued previously that because of the significant growth in the number of people who are choosing to have their permanent residence in parks, in an unorganized territory, outside the boundaries of the municipalities, the government should, if it chooses to apply a levy to permanent residents, be transferring that levy to the municipality.

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

I know that I have spoken to the mayor of Flin Flon, that I have spoken in the past to the mayors in The Pas who have expressed the view that any levy that is applied should actually be transferred to the municipality where that individual gets the majority of its municipal services. This is the part of the bill that appears to be just a tax grab, a way of the government increasing general revenue without a recognition that this is, in fact, the application of a municipal tax. In most cases—not in most cases, in many cases—these people pay no education tax; they pay no property tax. So the municipality and the school division are left begging other property owners to pay for the costs of services to these individuals.

* (1030)

My discussion with the cottaging associations over the years leads me to believe that they are certainly prepared to pay a reasonable levy, if they are permanent residents, in lieu of taxes, a levy in lieu of taxes, but they are certainly concerned if that levy is going to be completely arbitrary, if they are not going to have any say in it and if the money that is raised is going to go to the government as opposed to the municipality.

What I would like the minister to do—and this is a serious sticking point with me in terms of this overall bill—is that the government amend this to ensure that we put in place a process to ensure that money is transferred to the appropriate municipality, where it is appropriate to transfer it to a municipality. I think it is pretty clear that the people who live at Bakers Narrows or the people who live at Big Island-Schist Lake in the Crown land subdivision there get their municipal services from the City of Flin Flon. They get their educational services from Flin Flon. The same is true in some cottaging areas around The Pas, and I am sure of other areas in the province.

It is simply, I think, going to irritate, and rightly so, a lot of people who are going to pay this levy, saying: Why is this going to the government of Manitoba? We do not get our municipal services from the government; we get no municipal services from the government.

I am asking the minister to amend this now, to make it very clear that this is a levy for municipal services, for educational services, and that it will go to the municipality and not to government. It seems to me that in all of the discussions that preceded the introduction of this section over 10 years—and the minister will be very familiar with the Clarkson report and other reports of its kind. Why do we not do the right thing and protect the municipalities in this, protect the City of Flin Flon?

I hope that whatever levy is devised, it will have been done through some sort of consultation. I think it is clear that most people who are going to pay this would prefer that the money go to the municipality and not to the government.

The Acting Chairperson (Mr. Penner): Shall Clause 21 pass?

Mr. Enns: Mr. Acting Chairperson, I recognize in the honourable member for Flin Flon's comments that we are really not in any difficulty with respect to the clause as such, that is, that it is appropriate for recognizing that persons who have established their cottages as chief places of residence, that it is not unfair of the general public to ask for them to contribute in a like manner that all other citizens contribute.

I do not have a real disagreement with the honourable member as to whether or not the appropriateness of some of these monies should go directly to the municipality or to the school division. I say to you directly, with respect to education taxes—and all of us know that while it varies, different municipalities, different regions—fully 60, 65, 70 percent of our tax levy is the province's education costs with respect to the contribution that we make to the foundation levy.

So it can be argued with some considerable integrity that this money going directly to the province, in effect, is a contribution on the part of these cottage owners to the education costs of the province of Manitoba.

I put forward to the honourable member and consideration of the committee that it is more up to, quite frankly, the Ministry of Education or indeed the Ministry of Rural Development or Municipal Affairs to make appropriate arrangements. I view this levy as being applied as a contribution on their part for education purposes primarily, because we are heavily involved out of the consolidated revenue fund where this money is going into. A lot of that money is flowing back out to the education, particularly in the North in the Frontier School Division, where the provincial share—I do not have to remind the honourable member—is very substantial, relative to those shares raised by local municipal taxes.

(Mr. Chairperson in the Chair)

But the honourable member is correct. The provincial government does not provide municipal services to the communities of The Pas and Flin Flon, but that is a case that I leave open for the communities to negotiate through their Rural Development, Municipal Affairs minister. I am making the provision in the act for some contribution to be made by these cottagers, and I am asking the committee to accept it.

Mr. Storie: Mr. Chairperson, the minister certainly has an argument that the government does collect property taxes on all property owners in the province through the education support levy. The difficulty is that, of course, the same property owners also pay education taxes to municipalities through the special levy or the special requirement, whatever it is called currently.

What I am saying is, if the minister wants to talk about a trade-off, then perhaps the fee should be distributed based on the proportion of cost that comes from property that goes to the special levy versus the education support levy, that in some divisions, as the minister suggests, Frontier, perhaps 85 percent, 90 percent, even higher, of Frontier's revenue comes from the Province of Manitoba. Clearly, that is not the case in other municipalities, where they share a much larger portion of the property tax revenue. The difficulty is that the minister appears to be abandoning those municipalities who have been seeking help. Certainly the communities of The Pas and Flin Flon—because the permanent residents get their services entirely from the school divisions in those communities and the municipalities—are looking for some relief.

I know that the minister will have had correspondence with the mayors of Flin Flon for the past many years expressing concern over the fact that residents are moving out to cottaging areas, whether they are in Crown land or in the parks, and that is a process that has been escalating for the past decade. It becomes a serious problem and if the minister is going to go ahead and tax those people, if those people are going to pay more because the minister feels it is worthwhile and fair, then I think he has an obligation to be fair to the municipalities who have raised the issue consistently and for whom this is a serious problem.

I can tell him without fear of contradiction that the vast majority of cottage owners would prefer to have this money, their share, go to the municipality. If this is not simply a revenue grab, if it is not a matter of fairness, in other words having these people pay their share which they are willing to do, then I would ask the minister to make the amendment to allow that portion of this levy that is due the municipalities to go to the municipalities.

Mr. Enns: Mr. Chairperson, the member makes a convincing case and I am suggesting that is something that certainly can transpire, but he will acknowledge that I have to get the money in the first instance before I can distribute it. It is that simple and that is what this act does.

I have considerable empathy for the case of the municipal governments of The Pas, particularly, and Flin Flon, and, quite frankly, will encourage examination of some equitable distribution of this revenue coming in to the consolidated revenue, but it is difficult to put all of that into legislation at this point in time. In essence, it was to correct an inequity that was occurring and we are doing it by this legislation.

I would ask the committee, with those good assurances, and besides, the member for Flin Flon wants to have something to fight with me over for the next year or two or three years that I will be privileged to be his minister and will carry on.

* (1040)

Mr. Storie: Well, notwithstanding my unlimited confidence in the minister to do the right thing, I and a lot of the people who live in Flin Flon would feel more secure if under Section 21(2), the minister could find a way to ensure that the transfer of revenue where it was appropriate—and we can leave that up to the minister and his officials to discuss with the municipalities—was required. It seems to me that should be possible by a small amendment in Section 21(2).

Mr. Chairperson: Clause 21—pass; Clause 22—pass; Clause 23—pass. Clause 24.

Mr. Enns: Mr. Chairperson, I have a very short amendment to the clause. It has been suggested to me by some of the legal people who write this kind of legislation

THAT clause 24(1)(c) be amended by striking out "in the opinion of the officer".

[French version]

Il est proposé que l'alinéa 24(1)c) du projet de loi soit amendé par suppression de ", de l'avis de l'agent,".

Motion presented.

Mr. Enns: A brief explanation. The Manitoba Association for Rights and Liberties expressed concern that Section 24 of Bill 41 may contravene the Canadian Charter of Rights and Freedoms. The Constitutional Law branch reviewed the concern and recommended that the above change take place.

Honourable committee members recognize an old freedom fighter in the person of this minister and he would not want to do anything that contravenes the Charter of Rights and Freedoms.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: Pass.

Clause 24 as amended—pass; Clause 25—pass; Clause 26—pass. Clause 27.

Mr. Storie: Mr. Chairperson, I just want some clarification on Section 27. As the minister knows, many of the roads that are used by fishermen, hunters and recreational boaters, et cetera, in northern Manitoba access roads in parks and in park areas. I am wondering whether this means a change in policy. Is this giving the department additional authority to close roads that it does not currently have? Maybe we could have an explanation for why that is necessary, if it is actually increasing the authority of the park staff.

Mr. Enns: Yes, Mr. Chairperson, it does and it goes back to some of the philosophical differences that we have with respect to allowing certain parklands and other lands to be used for resource extraction. My environmentalist friends and others have always argued that the trouble with allowing or opening up any portion of land for resource extraction such as logging, putting in a logging road, that that forever and a day destroys that area and opens it to unwelcome accessibility.

What this section does is enables the parks act to allow an extraction access road to be built in certain areas and to be closed, and to be closed in a permanent fashion—culverts removed if they were there, to be seeded over and to effectively deny ongoing access to a particular region once the reason for that access is no longer there, namely, perhaps the harvesting of some timber. This is viewed, particularly by my wildlife people in the Wildlife Branch as being a progressive move. It means that we have a better control of unwanted and unwelcome access into those sections of some of the hinterland in different parts of our forest reserves and indeed parklands where the opening of a resource road invites that kind of travel.

It is quite a difference, I might comment, on where we were 30, 40, 50 years ago, indeed 70, 80 years ago. At that time, it was resource companies that were building roads very often—and that is how a lot of our park systems got started—and then there was the demand on government, but these were company roads and they often prohibited public access to these roads. It was demand on government in those years through their municipal officials and others that made us pass legislation saying that once these roads were there, the public had the right to use them.

There is, of course, the other feature and this is an extremely important one in an ever more litigious age that we live in—Mr. Edwards will be aware of that—is the fact of the safety aspect of some of these roads. If we maintain roads and indicate that they are open to the general public, but have not maintained them and know that there are structures, bridges or culverts out of repair, we invite serious litigation on safety factors for allowing the general public to use these roads. So there are the two reasons for us wishing to have the authority, and, by the way, this authority was put in the act two years ago, I think. It is an enabling

regulation in the forestry legislation that echoes this regulation.

Mr. Storie: I am quite surprised if the parks act did not already have this power, because I am aware that Natural Resources has closed, attempted to close other resource roads to public access and in virtually every case, because of the pressure, those roads have been opened. I use as an example—you mentioned resource extraction. I mean, there would not be a road to Sherridon right now had it not been for resource extraction. This is through the '70s and '80s. Now, it was not in a park, so the question is, this covers only roads within parks and I think that is well accepted. I think the example is the Grass River Provincial Park where roads are closed, have been closed, with no expression of concern on the part of the public.

I was asking the question whether this was not already in the parks act, this power. It seems to me Natural Resources is doing it and has been doing it for years.

Mr. Enns: I am advised, and the honourable member will appreciate this as a former minister, that it was in fact available to us under regulation, but we wish to profile it a little higher in the act now that the act is up for public discussion.

Ms. Wowchuk: Just on that, if the minister remembers when he was at a meeting in Swan River, this was one of the concerns when Natural Resources attempted to close roads, they had difficulty with it. My question is that by putting it in the act, does this give it more strength? Will they have a better ability to close those roads that they feel necessary to close?

* (1050)

Mr. Enns: Mr. Chairperson, my advice is yes, that is one of the principal reasons why it is being put right in the act. Regulations can and are a challenge from time to time.

Mr. Chairperson: Clause 27—pass; Clause 28—pass; Clause 29—pass; Clause 30—pass. Clause 31.

Mr. Edwards: Mr. Chairperson, just this and, I believe, Clause 32, are the—sorry, I am ahead of myself. Maybe I will ask it now that we have stopped anyway.

Clauses 32 and 33 deal with the regulations in this area. Can the minister indicate whether the regulations are well on their way? When does he anticipate he will be in a position to come forward with the regulations and proclaim this bill? In particular, I would be interested to know the regulations dealing with the classification and use of parklands.

Mr. Enns: I am advised, Mr. Chairperson, through you to Mr. Edwards, that it is our opinion that we will have draft regulations available within a five-to-six-month period.

Mr. Edwards: One other question, Section 32 deals with Lieutenant-Governor-in-Council and regulation Section 33 with ministerial regulations. Why the distinction between Lieutenant-Governor and minister? It strikes me that Lieutenant-Governor-in-Council is in effect ministerial regulations. I do not understand why the minister would want to take unto himself further specific powers called ministerial regulations. In my experience that is—I have never seen it before. Perhaps it is common. I am not aware of that.

Mr. Enns: It is fairly common and this is very similar to what is in the current act. In a department like Natural Resources, and my colleague from Emerson would appreciate, there are a hundred and one regulatory provisions in the Fisheries Branch, in the Wildlife Branch, in the Forestry Branch. Those of purely practical nature are viewed to be appropriate to be in the domain of the minister. Those of substance with respect to fundamentally impacting on the policy of the day are moved up to Order-in-Council. What the member may not appreciate, there are so many individual small regulations that are called for under the administration of this act, that simply with the cost and time in bringing them all forward to an O/C level, it has not been the practice in the past, it has not been the practice in the current act, and this is being reflected in this amendment here.

Mr. Edwards: I guess labelling them does not cause a particular problem to me. What would is if there is any difference in the promulgation process, in the notice and the gazetting of these regulations. The Lieutenant-Governor-in-Council regulations and the ministerial regulations, do they go through the same notice and promulgation procedures?

Mr. Enns: They are all gazetted, all equally provided the same notification provision. But more specifically to the members earlier question, I think he will be interested, the regulation-making authority has been clarified between the

Lieutenant-Governor-in-Council regulations and ministerial regulations.

The O/C's regulations addressed the important issues like park designations, strategic directions and ecosystem protections, occupation of land and any financial matters, while the ministerial direction and regulations address the day-to-day management activities, such as public safety, unruly behaviour, use of roads, trails, issuance of permits, fire management, cottage divisions.

I think that gives a little further flavour to the division of the types of regulations that are enacted by this department.

Mr. Edwards: I could go through and read some of the ministerial regulation provisions, and they certainly have the potential, if they do not articulate it specifically, to be far more than daily regulatory activities, and I am still concerned about the distinction.

But let me just ask the minister, first of all, is there any subservience in terms of if there is a conflict, if there is an area where these regulations, one ministerial, one L.G.-in-Council, do not mesh? Which one rules? Is there any subservience of one type of regulation to the other in law? Can he indicate the answer to that?

Mr. Enns: I am advised by counsel that these regulations are not subservient to each other. They stand alone.

Mr. Edwards: Finally, Mr. Chairperson, we receive, and the public receives, the Orders-in-Council in the normal course. What assuredness do we have that ministerial regulations will receive the same notice whether to the public or to members of this Legislature?

Mr. Enns: There is, of course, the mandatory gazetting provision for all regulations, and I am assuming that members and the general public have the same access to the public Gazette as they would to any other documentation.

Mr. Edwards: So other than being gazetted, these ministerial regulations are not produced for the benefit of members of this Legislature under the normal Order-in-Council sheets that the Lieutenant-Governor-in-Council regulations are?

Mr. Enns: No, they are not.

Mr. Edwards: Well, I just want to end. I do not like to—and I do not see the need. If there is some question of efficiency that the minister or the government is not able to produce Lieutenant-Governor-in-Council regulations with the same speed or with the same ability to amend them, I do not understand that to be a problem. I never heard of it before, and I do not like dividing these up into two types of regulations. I think it creates confusion. I think that there is no particular reason to have it continued, if it was a tradition to have continued. I think for the purpose of simplicity in the system the minister would be better off simply maintaining the normal Order-in-Council routine, which has a well-established notice and publication procedures not just to the public, but to members of this House.

It is not a big issue, but I simply draw that to the minister's attention.

I note Ministerial regulations, Section 33(s) "prohibiting or regulating commercial activities." That is a fairly broad statement to be in a ministerial regulation. I do not know that that is some lesser day-to-day type activity that the minister has to have the same tightness of control over. We all know that an Order-in-Council is essentially a ministerial or a cabinet decision.

I do not understand the distinction, but, in any event, I would hope that the notice provisions would be identical, and I would appreciate, as one legislator in this Chamber, that if the same notice which goes with Orders-in-Council that members of the Legislature receive was followed with—that we receive copies, at least the critics of ministerial regulations as well, and not just in the Gazette.

Mr. Chairperson: Clause 31—pass; Clause 32—pass; Clause 33—pass; Clause 34—pass; Clause 35—pass; Clause 36—pass; Clause 37—pass; Clause 38—pass; Clause 39—pass; Clause 40—pass; Clause 41—pass; Clause 42—pass; Clause 43—pass.

Shall the Preamble pass?

Mr. Enns: Mr. Chairperson, I would like to propose this amendment to the Preamble.

THAT the Preamble be amended

(a) by striking out "AND WHEREAS" and substituting "WHEREAS" and

(b) by adding the following at the end of the Preamble:

AND WHEREAS a system of provincial parks will contribute to the province's goal of protecting 12% of its natural regions;

[French version]

Il est proposé que le préambule soit amendé:

a) par substitution, dans la version anglaise, à "AND WHEREAS", de "WHEREAS";

b) par adjonction, après le dernier attendu, de ce qui suit:

ATTENDU QU'un réseau de parcs provinciaux contribuera à al réalisation de l'objectif que s'est fixé la province et qui consiste à protéger 12 % de ses régions naturelles;

Motion presented.

Mr. Enns: Mr. Chairperson, honourable members will recall that again a number of presenters indicated that it should be stated in The Parks Land Act that one of the goals of the provincial parks system is that it indeed helps us to meet the government's stated commitment to the Endangered Spaces Program, and this simply reflects what I have indicated on several occasions during the course of these hearings that it is indeed the intention of this department and this minister to ensure that, once the classification and once the system's plan are in place, I look to a substantial contribution from the Manitoba provincial park lands to contribute to the Endangered Spaces Program.

* (1100)

Mr. Storie: The minister pre-empted, I guess, an amendment that we had intended to introduce. I just want to ask the minister to consider whether our wording that we were proposing as an amendment to the Preamble would be considered as stronger and more representative of the feeling that was expressed by a number of people who are concerned about the province's plans to set aside natural places or spaces.

Our amendment was:

AND WHEREAS the province plans to protect the minimum of 12% of natural lands by the year 2000 as recommended in the United Nations report, Our Common Future, and parts of the provincial parks system will offer that protection.

The strengthening, I think—and I appreciate the minister's amendment—gives us a goal of the year 2000. This is, I think, an achievable goal. This says "by the year 2000"; it does not say "in the year 2000."

What I think Manitobans are looking for is not simply a preamble with fine-sounding words, but a goal, something that is achievable and I do not think overly optimistic. So I think that I would ask the minister to consider perhaps adopting our wording or, at a minimum, adopting a target year for the province to have this area set aside—perhaps even sooner than the year 2000, but the 2000 as a outside date for the province to achieve this.

That is the proposed amendment. I consider it a friendly amendment to the minister's amendment and would ask committee's consideration of the establishment in the WHEREAS of a target for the completion of this 12 percent set-aside.

Mr. Enns: Mr. Chairperson, I believe the stated policy by the First Minister (Mr. Filmon) of this province and endorsed and fully supported by the government with respect to our commitment to the Endangered Spaces Program encompasses all of that. In accepting and endorsing and supporting the Endangered Spaces Program, we accept that the target year is the year 2000.

I have difficulty in—not really difficulty—but I want to remind honourable committee members that the parks system, we consider ourselves as only contributors to that program, unlike some presentations or some suggestions that the park system should be inclusive of the 12 percent. We do not view it that way at all. We expect to be a major contributor to the Endangered Spaces Program, but that is all.

So I would like to think that the honourable member will nonetheless find it capable of supporting what he called a friendly amendment and ask the question to be put.

Mr. Chairperson: Amendment—pass; Preamble as amended—pass; Title—pass. Bill as amended be reported.

Committee rise.

COMMITTEE ROSE AT: 11:03 a.m.