



**Second Session - Thirty-Sixth Legislature**

**of the**

**Legislative Assembly of Manitoba**

**Standing Committee**

**on**

**Public Utilities**

**and**

**Natural Resources**

*Chairperson*  
*Mr. Frank Pitura*  
*Constituency of Morris*



**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Sixth Legislature**

**Members, Constituencies and Political Affiliation**

<u>Name</u>	<u>Constituency</u>	<u>Party</u>
ASHTON, Steve	Thompson	N.D.P.
BARRETT, Becky	Wellington	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave	Kildonan	N.D.P.
CUMMINGS, Glen, Hon.	Ste. Rose	P.C.
DACQUAY, Louise, Hon.	Seine River	P.C.
DERKACH, Leonard, Hon.	Roblin-Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary	Concordia	N.D.P.
DOWNEY, James, Hon.	Arthur-Virden	P.C.
DRIEDGER, Albert, Hon.	Steinbach	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry, Hon.	Lakeside	P.C.
ERNST, Jim, Hon.	Charleswood	P.C.
EVANS, Clif	Interlake	N.D.P.
EVANS, Leonard S.	Brandon East	N.D.P.
FILMON, Gary, Hon.	Tuxedo	P.C.
FINDLAY, Glen, Hon.	Springfield	P.C.
FRIESEN, Jean	Wolseley	N.D.P.
GAUDRY, Neil	St. Boniface	Lib.
GILLESHAMMER, Harold, Hon.	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KOWALSKI, Gary	The Maples	Lib.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
MACKINTOSH, Gord	St. Johns	N.D.P.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McALPINE, Gerry	Sturgeon Creek	P.C.
McCRAE, James, Hon.	Brandon West	P.C.
McGIFFORD, Diane	Osborne	N.D.P.
McINTOSH, Linda, Hon.	Assiniboia	P.C.
MIHYCHUK, MaryAnn	St. James	N.D.P.
MITCHELSON, Bonnie, Hon.	River East	P.C.
NEWMAN, David	Riel	P.C.
PALLISTER, Brian, Hon.	Portage la Prairie	P.C.
PENNER, Jack	Emerson	P.C.
PITURA, Frank	Morris	P.C.
PRAZNIK, Darren, Hon.	Lac du Bonnet	P.C.
RADCLIFFE, Mike	River Heights	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack, Hon.	Niakwa	P.C.
RENDER, Shirley	St. Vital	P.C.
ROBINSON, Eric	Rupert's Island	N.D.P.
ROCAN, Denis	Gladstone	P.C.
SALE, Tim	Crescentwood	N.D.P.
SANTOS, Conrad	Broadway	N.D.P.
STEFANSON, Eric, Hon.	Kirkfield Park	P.C.
STRUTHERS, Stan	Dauphin	N.D.P.
SVEINSON, Ben	La Verendrye	P.C.
TOEWS, Vic, Hon.	Rossmere	P.C.
TWEED, Mervin	Turtle Mountain	P.C.
VODREY, Rosemary, Hon.	Fort Garry	P.C.
WOWCHUK, Rosann	Swan River	N.D.P.

LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON PUBLIC UTILITIES AND NATURAL RESOURCES

Wednesday, September 25, 1996

**TIME – 7 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Frank Pitura (Morris)**

**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Cummings, Reimer, Stefanson

Ms. Barrett, Messrs. Dewar, Evans (Interlake),  
Kowalski, Penner, Pitura, Sveinson, Struthers

**WITNESSES:**

Bill 16–The Charleswood Bridge Facilitation Act

Mr. Paul Moist, Local 500, Canadian Union of  
Public Employees

Bill 34–The Contaminated Sites Remediation and  
Consequential Amendments Act

Mr. John Stefaniuk, Canadian Bankers'  
Association

Mr. Bill Ryall, Union of Manitoba  
Municipalities

Mr. Lance Norman, Manitoba Chamber of  
Commerce

Bill 44–The City of Winnipeg Amendment and  
Consequential Amendments Act

Mr. John Angus, Councillor, City of Winnipeg,  
St. Norbert Ward

Bill 56–The Manitoba Investment Pool Authority  
Act

Ms. Rochelle Zimberg, Manitoba Association of  
Urban Municipalities

Mr. Jerome Mauws, Union of Manitoba  
Municipalities

**WRITTEN SUBMISSIONS:**

Bill 44–The City of Winnipeg Amendment and  
Consequential Amendments Act

The Provincial Council of Women of Manitoba  
and The Council of Women of Winnipeg

Bill 19–The Dangerous Goods Handling and  
Transportation Amendment Act

Union of Manitoba Municipalities

**MATTERS UNDER DISCUSSION:**

Bill 16–The Charleswood Bridge Facilitation Act

Bill 19–The Dangerous Goods Handling and  
Transportation Amendment Act

Bill 34–The Contaminated Sites Remediation and  
Consequential Amendments Act

Bill 44–The City of Winnipeg Amendment and  
Consequential Amendments Act

Bill 56–The Manitoba Investment Pool Authority  
Act

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**Mr. Chairperson:** Good evening. Will the Standing  
Committee on Public Utilities and Natural Resources  
please come to order.

This evening the committee will be considering a  
number of bills, those bills being Bill 16, The  
Charleswood Bridge Facilitation Act; Bill 19, The  
Dangerous Goods Handling and Transportation  
Amendment Act; Bill 34, The Contaminated Sites  
Remediation and Consequential Amendments Act; Bill  
44, The City of Winnipeg Amendment and  
Consequential Amendments Act; and Bill 56, The  
Manitoba Investment Pool Authority Act.

I should note for the benefit of presenters that these bills had been initially referred to the Standing Committee on Municipal Affairs for this evening but were changed to this committee just before 5:30 today. If there is anyone present who is here to speak on Bill 2, The Municipal Assessment Amendment and Assessment Validation Act; Bill 3, The Surface Rights Amendment Act; or Bill 43, The Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act, those presenters should go to Room 255, which is just down the hall the other way.

To date, we have had a number of presenters registered to speak to the bills referred for this evening. I will now read aloud the names of the persons who have preregistered to all the bills.

For Bill 16, The Charleswood Bridge Facilitation Act, Councillor Glen Murray, representing private citizen; and Paul Moist, Local 500, CUPE.

For Bill 34, The Contaminated Sites Remediation and Consequential Amendments Act, Bill Ryall, Union of Manitoba Municipalities; Lance Norman, Manitoba Chamber of Commerce; John Stefaniuk, Canadian Bankers' Association.

For Bill 44, The City of Winnipeg Amendment and Consequential Amendments Act, Councillor John Angus, Councillor, City of Winnipeg.

For Bill 56, The Manitoba Investment Pool Authority Act, Rochelle Zimberg, Manitoba Association of Urban Affairs; and Jerome Mauws, Union of Manitoba Municipalities.

I would just like to advise everybody that Jerome Mauws is replacing John Nicol, who is President of the Union of Manitoba Municipalities.

If there are any other persons in attendance today who would like to speak to one of the bills referred to the committee and whose name does not appear on the list of presenters, please register with the Chamber branch personnel at the table at the rear of the room and your name will be added to this list. In addition, I would like to remind those presenters wishing to hand out written copies of their brief to the committee that

15 copies are required. If assistance in making the required number of copies is needed, please contact either the Chamber branch personnel, who are around us here, or the Clerk Assistant, and the copies will be made for you.

I would like to ask the committee, in what order shall the bills be considered by the committee for the purpose of hearing presenters?

**An Honourable Member:** As your agenda is printed.

**Mr. Chairperson:** As the agenda is. Is that agreed? [agreed]

Did the committee wish to establish a time limit on presentations heard this evening?

**An Honourable Member:** Twenty minutes.

**Mr. Chairperson:** It has been suggested 20 minutes. Is that agreed that twenty minutes will be the length of time for presentation. [agreed]

At this point, did the committee wish to indicate how late it wishes to sit this evening? No indication. I would just like to inform the committee that a written submission to Bill 44 has been received from the Provincial Council of Women of Manitoba; and to Bill 19 from the Union of Manitoba Municipalities. Copies have been distributed for committee members. Is there agreement that the written submissions appear in Hansard? [agreed]

On Bill 16, The Charleswood Bridge Facilitation Act, Councillor Glen Murray, would you please come forward to make your presentation to the committee. Councillor Glen Murray?

**Hon. Jack Reimer (Minister of Urban Affairs):** Sometimes, as a matter of courtesy, out-of-town presenters are usually called first. I notice there is one indication that we have one out-of-town—

**Mr. Chairperson:** Excuse me, we have been advised that there are no out-of-town presenters for tonight.

**Mr. Reimer:** On mine it says there is one. Sorry.

**Mr. Chairperson:** As per committee procedure, when a name has been called to come forward and that person is not here, it is protocol that their name be taken to the bottom of the list and, if it is called twice and there is no one here, that the name be dropped off the list. Is that agreed? [agreed]

#### **Bill 16—The Charleswood Bridge Facilitation Act**

**Mr. Chairperson:** I would like to now call Mr. Paul Moist, Local 500, CUPE, to make a presentation on Bill 16. Do you have written copies of your brief for distribution?

**Mr. Paul Moist (Local 500, Canadian Union of Public Employees):** Yes.

**Mr. Chairperson:** Please proceed with your presentation.

**Mr. Moist:** Mr. Chairman, members of the committee, CUPE Local 500 represents about 5,500 civic employees, about half of the city's total workforce. Our purpose in appearing on this matter is not in any way associated with the technical amendment to The Real Property Act. We understand the need for this bill and support it from a legal/technical compliance perspective.

\* (1910)

We do wish to speak to this matter, though, in order to address the many commentators who have argued that the Charleswood Bridge deal was financially advantageous for the City of Winnipeg. Local 500 submits that the public-private partnership arrangement sees the city spending \$1.4 million more than would have been spent had the city financed the project through conventional means.

Local 500 has commissioned a study of this project by a U of M economics student, a graduate masters student, and this report is being finalized as we speak. Its major findings in the area of financing are as follows: The city's commitment to 30 years of lease payments sees the city for the first time departing from the norm of financing projects of this nature over 20 years. The cost of borrowing implicit in the lease arrangement appears to be slightly in excess of 11

percent per annum. The city's cost of borrowing at the time of the deal was only 9.5 percent per annum, which means that city taxpayers will pay some \$18 million more for the bridge over the 30-year lease arrangement than if they had funded the bridge construction in the conventional fashion. In today's dollars, this means that the private-public partnership deal is costing \$1.4 million more than the traditional financing option.

A couple of other relative observations associated with this deal are as follows: Firstly, council ignored the advice of civic administrators in advancing the bridge within the growing list of the city's capital priorities.

Secondly, there are many future costs associated with the real land development purposes behind the entire project which have not been accounted for, and there is an attached editorial that speaks to those from 1993.

Thirdly, the city's reduced capital budget envelope will be impacted upon negatively for 10 years longer than the norm by virtue of the 30-year time frame that the city has locked itself into.

Fourthly, the increased cost of this option is an imprudent use of scarce tax dollars. It only adds to the city's overall debt and finance charges which will continue to impact on both of the city's current and capital budgets.

Fifthly, given that the city viewed the Charleswood bridge as a priority, the city ignored the option of creating a dedicated revenue stream such as a temporary or a time-limited toll charge which would have freed the overall tax base from being shackled with the costly 30-year leaseback option.

Finally, all levels of government in Canada are being inundated with private-public partnership proposals which tout the virtues of private sector financing of public projects. We would argue that all elected officials ought to be wary of such musings, given the historical track record of some of these ventures which often see taxpayers shouldering all of the risk.

The Minister of Urban Affairs (Mr. Reimer) was not accurate in surmising in May 23 Hansard, copy as

attached, that the city saved 7.5 percent on the Charleswood Bridge project. The fact is that the city spent more than it would have had they financed the bridge through internal financing options.

Bill 16 will no doubt be passed by the House, and it should be passed. It is needed. The facts surrounding the Charleswood bridge, however, ought to serve to remind all parties of the need to critically evaluate all private-public partnership proposals from financial and other relevant perspectives.

Those are the only comments we wish to make, Mr. Chairman, unless there are any questions.

**Mr. Chairperson:** We thank you for your presentation. Do members of the committee have questions they wish to address to the presenter?

**Hon. Eric Stefanson (Minister of Finance):** I am just curious, Paul, have you provided your assessment to the City of Winnipeg for a review and analysis? If so, what were their conclusions upon reviewing it?

**Mr. Moist:** Through the Chair, the City of Winnipeg's audit committee has reviewed it internally themselves, and I do not think they would disagree with the financial numbers in this presentation. The city also advances arguments that they gained much in the area of marrying the design and build aspects of a construction project. This has been a matter of some debate behind closed doors at City Hall in terms of the 30-year life of the project. Our full presentation, a study from the university, will be ready within weeks, and we intend to present to the city, but I am aware that the city's audit committee has come to a similar financial conclusion.

I guess our purpose in coming before the Legislature is not to sort of wash City of Winnipeg business. It is to state that the province made a significant investment in this project. The project is there and Winnipeggers are enjoying it, but the city has many capital needs right now, and we do not need to stack up the city's debt load situation by 30-year lease arrangements which are completely unnecessary for a project of this size. This is a first in Winnipeg's history, taking a

relatively small project like this and really mortgaging debt over a period of three decades. It is wrong.

**Mr. Stefanson:** Mr. Chairman, but would you not agree, Paul, that to do justice to this kind of an analysis, you would have to have that element included, that you have already referred to, that the city is suggesting that they did save costs on the front end, whether it is the architectural engineering and therefore on the overall project, which had not in any way been factored into this presentation that you have given us?

**Mr. Moist:** Through the Chair, the city has obviously got to put the best spin or the best analysis on it that they can. There is nothing that was gained at the front end that could not have gained by a marrying together through the tendering process of design-build. Most of the literature that we have read on public-private partnerships does not cast any definitive conclusions on them. It is all in the art of the deal that you negotiate, and there have been good deals negotiated, P-cubed deals, and there have been bad deals negotiated which have left it all on the public side of the equation.

But much of what we have read and much of our comment in response to that front-end savings argument would be aggressive marrying together through the tendering process of design-build. Traditionally, as you know, you are well aware, the city has often separately pursued those things with a tender for design followed by a tender for construction and often overruns when the construction does not jibe up with the design. The savings the city alleges that they realized at the front end of this project could easily have been realized by doing what many other levels of government are doing, and that is marrying together those two parts of the equation through the tendering process.

It is not a situation that there is a definitive answer on, and I am not here to sort of debate whether the bridge should have been built or not. I am saying that the city has huge capital priorities and limited capital dollars, and we have taken taxpayers' money and spent over a million dollars more than we needed to on a relatively simple project, and we should not have done that, collectively as provincial and civic officials.

**Mr. Chairperson:** If there are no more questions, we thank you very much for appearing before us.

**Mr. Moist:** Thank you, Mr. Chairman.

**Mr. Chairperson:** I now call upon Councillor Glen Murray. [interjection] Okay, then his name will accordingly be dropped from the list.

### **Bill 34—The Contaminated Sites Remediation and Consequential Amendments Act**

**Mr. Chairperson:** Bill 34, The Contaminated Sites Remediation and Consequential Amendments Act. Mr. Ryall, who is representing the Union of Manitoba Municipalities, has requested to speak third on this bill. I would like to ask the committee, is that agreeable to this committee? [agreed]

I would like to now call upon Mr. Lance Norman, representing the Manitoba Chamber of Commerce, to come forward. [interjection]

I would like to call upon John Stefaniuk, representing the Canadian Bankers' Association, to come forward and make your presentation. Do you have written copies of your brief for distribution?

**Mr. John Stefaniuk (Canadian Bankers' Association):** Yes, and those have been submitted to the Clerk.

**Mr. Chairperson:** Please proceed with your presentation.

**Mr. Stefaniuk:** Thank you. Good evening, Mr. Chairman, and members of the committee. Being circulated now is an outline of the submission to be made tonight on behalf of the Canadian Bankers' Association. Before I go too much further, I think I will wait until you receive a copy of the outline.

The bill that is before the committee tonight is a very important piece of legislation. It is also a very detailed and in-depth piece of legislation that fundamentally alters the method of allocation of liability for contaminated properties in the province of Manitoba. That being the case, it has been of considerable interest

to the Canadian Bankers' Association among other individuals and agencies.

\* (1920)

As you are likely aware, the legislation, the bill that is before the committee tonight, originates out of a consultation process that has taken place over a considerable period of time and which generated a discussion document which was tabled some time last year in the House. Since then, after public consultations, the bill has been generated, which was Bill 34, which is before you.

Since the introduction of Bill 34 in the Legislature, the Canadian Bankers' Association has referred the bill to its national environmental committee and has, over the course of this summer, provided some further comment, based on the bill, to the minister and to the minister's department. Owing to the nature of those comments, the Canadian Bankers' Association is of the view that, if at all possible, it would be incumbent upon the committee and perhaps the minister to delay the introduction of the bill to enable the Bankers' Association to offer assistance in resolving some of the outstanding issues that have continued through the consultation process and which are in place in the last submission made by the Bankers' Association. In doing that, I am instructed that the Canadian Bankers' Association would be more than willing to assist with the department and with Legislative Counsel in attempting to draft amendments to the bill as it is now presented.

The substance of those comments is, for the most part, set out in this outline which has been distributed to the committee. They can be divided into a number of different categories, and I will try to go through this as quickly as possible, being cognizant of the time limitations which the committee has placed on speakers this evening. There are a number of concerns relating to the liability of trustees which is imposed under the legislation. The Canadian Bankers' Association has requested, in its earlier comments, that there be some distinction made between two classes of trustees, and this is the case in the British Columbia legislation. There is a distinction made in the British Columbia legislation between what are commonly described as

fiduciary trustees, who hold trust property on behalf of beneficiaries, as in the case of executors, personal representatives of estates or trustees who are settled with the administration of trust during a person's life and the other class of trustees or trustees receivers and trustees in bankruptcy. That type of trustee which you can classify as an insolvency or financial trustee. It is the position of the CBA that these groups of trustees should be treated differently, owing to their different circumstances.

The definition of trustee also ought to be broadened to ensure that all those persons who act in a fiduciary relationship can be recipients of the benefits of the legislation in that they will not be personally responsible for environmental contamination where they have not personally contributed to the contamination but merely are associated with the contaminated property by virtue of their position as trustee of that property on behalf of another party.

The second point in the outline here is the personal responsibility of trustees. The bill in Section 9 lists a number of persons who can be named as persons potentially responsible who may be parties to a remediation order issued by the director under the legislation. Creditors under the bill are only named as potentially responsible persons where, in the opinion of the director, there are reasonable, probable grounds to believe that they have caused or contributed to the contamination of the property. Because of the considerable expense that can be related to simply being named as a potentially responsible person and the process that has to be gone through, through the allocation process, once a party becomes named as a potentially responsible person, it is our position that similar protection should be afforded to trustees in that they should only be named as potentially responsible persons where there are reasonable grounds for that to occur.

Municipalities are in a similar position in that they are only potentially responsible persons where they can be seen to be causing or contributing to contamination. We see that trustees should be given similar treatment in that, for the most part, they have no direct association with the property and are often thrust into the role of having the control of a contaminated

property merely by virtue of a family member dying or a settlement of an estate.

The standard of care that is prescribed for trustees, and this is the next point, in Section 28(1) of the legislation, requires trustees to exercise a standard of due diligence. The amendments in Bill C-5 to the Bankruptcy and Insolvency Act impose a standard of gross negligence or wilful misconduct on trustees in bankruptcy before environmental liability will attach.

By having the different standard under the Manitoba legislation, this is an encouragement for creditors to resort to bankruptcy as opposed to receiverships or workouts, so that they can engage the services of persons under the assurance that they will not or they will be less likely to become personally responsible for site contamination.

Part C of the outline—the way the legislation is currently drafted, an owner of a property is a potentially responsible person for purposes of the allocation of contaminated site liability. The creditor of a property is not, unless there is reasonable grounds to suspect that the creditors contributed to the contamination.

Where a creditor is going through enforcement proceedings, such as foreclosing against a property or taking title in other means, whether it takes an assignment of a tax sale certificate from a municipality, then merely by virtue of that operation of law, that legal proceeding of taking the title, the filing of a paper in a land titles office, suddenly that creditor now becomes an owner and by virtue of that paper filing is now potentially responsible as an owner of the property. It is the submission of the Canadian Bankers' Association and has been submitted earlier through the consultation process that where a creditor is realizing on security, or similar to the situation where a municipality takes title through a tax sale proceeding, just by virtue of that operation of law, there should not be an immediate increase in that party's liability. The liability should be governed by the polluter pays principle and unless the secured creditor has done something to cause or contribute to the contamination, then there should be no sudden increase in potential liability.



\* (1930)

The last two points I will go through very quickly, and I thank you for your indulgence. The legislation under Section 36(4) creates a super lien in favour of government against the contaminated property and also a general lien against the person held to be responsible for the site remediation. The Canadian Bankers' Association agrees with this principle but asks that the sections that deal with these lien rights be clarified to make it abundantly clear that the lien that attaches is attached to the property that is contaminated, to the title that contains the contaminated property. Right now the description in Section 36 is a little fuzzy on that, and it is our understanding that the intention was to restrict the application of that provision to the contaminated site and to the land contained in that title.

Section 35(4) talks about the priority of the lien over lenders who would subsequently take title and assuming the government has its lien right and files that lien right against property, we see no reason for the section in its current form.

The last point is a very important point. Section 31 of the bill provides that after you go through this allocation process, either by agreement or through the Clean Environment Commission, which the Canadian Bar Association believes is a very appropriate and workable process and for allocation of contaminated site liability, particularly the agreement in mediation provisions, all rights of redress as between parties to the courts, or otherwise, are taken away from the parties. The Canadian Bar Association sees that as a very important unnecessary and dangerous incursion into the rights of all individuals and entities in Manitoba to have full redress to the courts and full access to their civil rights.

I understand that the intention of this provision is to avoid problems which we just do not experience in Manitoba at this point. The courts in Manitoba are not congested. We have disincentives built into the system to prevent unnecessary or frivolous litigation. There are legislative—there are judicial reforms in process that are even attempting to speed things up even more, and to take away this right quickly in that fashion where there has not been a problem demonstrated yet, we

think, is premature. If it turned out that you ended up in interminable litigation and things were not getting done, well, then we could see that happening. But the fact of the matter is a remediation order is already going to be issued, and there are going to be parties who are on the hook to see that the contaminated site is cleaned up, failing which they are going to be subject to some awfully stiff penal consequences.

All of this litigation business and the parties sorting things out amongst themselves is going to be well after the fact. That site is going to be clean long before these issues are resolved, failing which there is going to be a lot of litigation in terms of the penal consequences of the legislation. Not only that, the government is in part protected to make sure that it is done by way of the lien and has lien rights. If someone does not get things in order, they can go in and do it themselves and rely upon the lien provisions.

There is also a real commercial consideration here. This section has the effect of, from the date of proclamation of the legislation, taking away a right of redress which is ordinarily assumed among parties to a commercial transaction. It affects leases that have been in place for a long time. It affects mortgages and other loan documents that have been in place for many years, many of which may or may not contain a clear provision, which is allowed for in the legislation, where there is an indemnity for other independent right-of-recovery that says we have a right to go against you to recover our expenses on this.

That kind of uncertainty is counterproductive to good commerce and is different than what is occurring in other provinces. In the effort to aid uniformity among provinces, and we all hope that the other provinces move towards an allocation system and a polluter pays principle that is proposed in Bill 34, but this provision, Section 31, is unnecessary in that it addresses mischiefs that do not exist in Manitoba.

That concludes my submission on behalf of the Canadian Bankers' Association unless there are some questions from the committee.

**Mr. Chairperson:** Thank you for your presentation. Are there any questions?

**Hon. Glen Cummings (Minister of Environment):** Mr. Chairman, I will not pursue the details of some of the issues raised. Obviously, any advice is always carefully considered. I am somewhat troubled, however, that this process has been ongoing for three years. The Canadian Bankers' Association was represented on the committee that agreed on a consensus basis to every clause that is in this bill. I wonder if you can tell me who Jim Thibodeau is and who he represents.

**Mr. Stefaniuk:** Mr. Chairman, Mr. Thibodeau is vice-president of the Toronto Dominion Bank and sat as a representative of the Manitoba branch of the Canadian Bar Association on that committee. If I may, Mr. Minister, in fairness to the committee and to the Canadian Bankers' Association and Mr. Thibodeau, I myself sat in on meetings with Mr. Thibodeau and representatives of the department following the release of the discussion document. As you are aware, in a consensus document it is prepared on the basis that there may be disagreements that are unresolved among parties, but this is as good a shot as we are going to get and here it is.

After the release of the discussion document, the Canadian Bankers' Association made additional submissions. I do not think any of the issues that are raised here are new issues that were not raised in the course of those submissions. Many of the points were not agreed upon, certainly, in the course of those further submissions, and after the last submission was made that was well before the bill itself was produced, which the bill being an amalgam of the discussion document and the additional comments that were received from various parties arising out of the discussion document. So the bill itself is different than any of the documents which preceded it and certainly includes comments that were made by the parties through the process but is something that was reviewed for a first time by the national committee after its introduction.

We gratefully appreciate the co-operation and all of the efforts made by the department staff and your office and the committee to meet with us and to discuss our comments. In fact, we found this to be a very valuable and rewarding process to all parties. It is a process that

I would encourage to be followed in relation to other bills, not only from your department, Mr. Minister, but other significant bills that come before this and other future Legislatures.

**Mr. Cummings:** Well, Mr. Chairman, I simply want to put on the record that I think Mr. Thibodeau was a strong, active and valuable participant in the process, and the light that this puts him in is absolutely reprehensible.

**Mr. Chairperson:** Do you care to comment, Mr. Stefaniuk?

**Mr. Stefaniuk:** I cannot comment for Mr. Thibodeau other than to say that Mr. Thibodeau and I participated together in the discussions with the department, and the issues that are presented today are issues that were not resolved during those discussions. Were Mr. Thibodeau here, I would think he would agree with that. The Canadian Bankers' Association also appreciates the contribution that was made by Mr. Thibodeau in the discussions. He devoted a lot of personal time to the committee and its functions. Thank you very much.

**Mr. Chairperson:** Are there no further questions? Thank you for your presentation.

I would like to now call upon Bill Ryall, representing the Union of Manitoba Municipalities, to come forward. Do you have written copies of your brief?

\* (1940)

**Mr. Bill Ryall (Union of Manitoba Municipalities):** No, I do not have a brief and I will be very, very brief.

With your permission, the Union of Manitoba Municipalities supports the legislation and participated, along with the Canadian Bankers' Association, in the advisory committee that was established and wants to thank Manitoba Environment for the method in which they handled this legislation in all of the meetings that they had to discuss all aspects of the legislation.

When the Union of Manitoba Municipalities was involved, one of their main concerns was that they not

become liable as potentially responsible parties in situations where they had no control, and through various meetings that occurred I think the committee and Manitoba Environment sought the wisdom of that position. There are two exemptions in the legislation, specifically those exemptions contained in Section 9(2)(b) and 9(2)(c), that is, exempting the municipality where they become an owner simply because they acquire property by a tax sale or they become an owner in certain types of expropriation.

That is where they might be expropriating a drainage ditch or an edge of a highway and they all of a sudden, through a series of land, come across, let us say, an old service station with a leaking tank or something and they acquire three or four feet. They could become a potentially responsible party under the legislation without that exemption. So those were the concerns that the Union of Manitoba Municipalities wanted to bring to the committee. The committee accepted those and they are now in the legislation.

In all other respects, a municipality is a person and if a municipality contaminates they are subject to the same laws as anyone else under the legislation. So the only matter that I do have to take on some faith is that the regulations that are supposed to be passed in accordance with Section 9(2)(c), that is, the regulations that define those types of expropriations that are subject to the exemption be passed—well, of course, those regulations would have to be passed or Section 9(2)(c) would have no effect.

Those are the only comments that I wish to make, and I did want to again thank Manitoba Environment's officers and directors who were of tremendous assistance to both myself, who participated in a number of the meetings, and to all members of the Union of Manitoba Municipalities. Thank you, Mr. Chairman. I am available for any questions, if anyone has any.

**Mr. Chairperson:** Thank you for your presentation. Are there any questions?

**Mr. Cummings:** Well, simply to express the view that it is appreciated that a number of the participants in arriving at agreement on this bill took the time. It was a three-year process, and there were a couple of issues

that municipal authorities and others had concerns with, but the amount of time that was put in has produced a consensus document that hopefully will function to service the municipalities and the rest of the public in the way that it is intended to.

I should take the opportunity, given my previous comments, to express to not only municipalities but all of the participants the amount of work that went into this.

**Mr. Chairperson:** No further questions? Thank you very much for your presentation.

I now call Lance Norman, Manitoba Chamber of Commerce. Mr. Norman, do you have written copies of your brief for distribution?

**Mr. Lance Norman (Manitoba Chamber of Commerce):** I do not have copies, I just have some speaking notes and I, too, will be brief.

Good evening, ladies and gentlemen. The Manitoba Chamber of Commerce counts over 260 leading corporations in Manitoba as direct corporate members and represents 63 local Chambers of Commerce from all over Manitoba. As such, it is the single largest business organization in Manitoba representing the interests of business in the debates that determine public policy. Central beliefs of the Manitoba Chamber of Commerce are that competitive enterprise system is responsible for the social and living standards that we currently enjoy and that there is a need for greater understanding of the nature of the competitive enterprise system, both the necessity for profits and the constant risk of losses.

One of the longstanding policies in the Manitoba Chamber of Commerce is with respect to the importance of maintaining the quality of our environment, and that point cannot be overemphasized. In general, the Manitoba Chamber of Commerce supports any government program that seeks to foster a better balance between human activities and the preservation of our natural environment. The application of environmental standards must be practical, economically sound, and must allow for a reasonable time for compliance. Consultation with all

affected parties should take place before environmental protection regulations are adopted. In that paragraph, I quote from our policy manual that in fact forms part of the longstanding policy of the Manitoba Chamber of Commerce.

For its part industry should recognize it has responsibility and do everything practical to control, eliminate and remediate any adverse effects of its operation on the environment. Therefore, the Manitoba Chamber of Commerce endorses the polluter pays principle. However, public policy must take into consideration the practical and economic realities while at the same time ensuring that no differential in environmental controls exists from region to region. Manitoba Chamber of Commerce had occasion to discuss those very principles at its latest annual meeting in considering this proposed legislation as it then read. Reference has been made earlier to the discussion document.

The Manitoba Chamber of Commerce adopted a brief resolution, and I will not, in the interest of time, read through the preamble, but the resolution portion is fairly brief. That is: That the provincial government amend the proposed contaminated site remediation legislation to (1) show leniency in proportion to the size and ability to pay for businesses and individuals that have exercised due diligence with respect to contaminants of the site, have followed accepted standards and practices of the industry at the time, and have complied with all environmental laws and regulations in the past; (2) limit the liability of creditors to those who had control over the debtor's management of the contaminants, and then only to the extent of their security in the contaminated site; and (3) allow the Clean Environment Commission to apportion all or only some of the responsibility or cost for the remediation of that site.

That resolution was brought forward by the Boissevain Chamber of Commerce, and it was accepted unanimously at our last annual meeting. Subsequent to that resolution we have had discussions with the department, and the Manitoba Chamber of Commerce is satisfied that the content of the present bill satisfactorily addresses the concerns that we raised at that point, and the Manitoba Chamber of Commerce,

therefore, endorses this bill. The board of directors has ordered me to express the appreciation of it for a job well done. Thank you very much.

**Mr. Chairperson:** Thank you very much for your presentation. Are there any questions?

**Mr. Cummings:** Could I just get you to expand briefly on the second point. I understand the first one, according to size, but your second point regarding limitations, I believe it was.

**Mr. Norman:** The limitation of the liability of creditors to those who had control over the debtor's management of the contaminants, and then only to the extent of their security in the contaminated site. I understand that there has been a change with respect to the proposed legislation which sets forth a more direct approach in terms of limiting a creditor's liability situation where the creditor actually caused or aggravated the contamination, and I understand that there would be no limitation to a creditor's liability in those cases, which is one and the same really. So it is either limit the creditors to those who have actual control and then only to the extent of the security, but the change to the proposed legislation seems to be more appropriate and more direct. So we certainly support that.

**Mr. Cummings:** Thank you. I appreciate that.

**Mr. Chairperson:** Thank you very much for your presentation.

#### **Bill 44—The City of Winnipeg Amendment and Consequential Amendments Act**

**Mr. Chairperson:** I would like to now turn to Bill 44, The City of Winnipeg Amendment and Consequential Amendments Act. I would like to call Councillor John Angus to come forward, representing the City of Winnipeg.

Councillor Angus, you have copies for distribution?

**Mr. John Angus (Councillor, City of Winnipeg, St. Norbert Ward):** Mr. Chairman, I do. This is actually a copy—I am here on two things, one that is out of

scope. The first issue has to do with the act as it is presented. I am very supportive of the act. I worked very hard with our administration and your administration to try and bring this type of legislation together, and you have seen the wisdom of it. There was one thing that I was concerned about.

\* (1950)

The City of Winnipeg councillors individually and sometimes collectively are petitioned by individuals that have residential houses beside transportation corridors and/or roadways in the city of Winnipeg that due to the volume of traffic has created considerable noise and difficulties for the quality of life that they enjoy. Council has been reluctant to get into the slippery slope of paying for sound attenuation barriers for individual residents on such streets as Portage or Corydon or Waverley or Pembina Highway or any of those. As you can well appreciate, it would be a very slippery slope.

Nonetheless, there are some individual residents that do want to be able to have these amenities. Council approved and passed a position that allowed for changes to the local improvement legislation, which would include sound attenuation barriers in the traditional local improvement levies. I was concerned and wanted to make sure that we were going to be able to do that if possible. I communicated with the honourable Jack Reimer on this issue, and he has provided the letter, which I have circulated, which indicates to everybody that, with the amendments you are proposing, we will be able to do that.

The only concern I have is that I have been told many, many times over the years by lawyers in the city of Winnipeg that if it is not specifically in The City of Winnipeg Act you cannot do it. So I really am not here to dissuade you from passing the bill, and I am not necessarily here to persuade you to include it, but I would like it to show on the record that the minister has said that this particular bill will allow us to petition particular neighbourhoods under certain circumstances to allow them to pay, through a local improvement, sound attenuation barriers.

The second issue, Mr. Chairman, has to do with my position as speaker and an anomaly that I believe I have

found. The City of Winnipeg Act allows for council, allows for community committee and allows for standing committees to create subcommittees of those committees, or to allow for ad hoc committees. The only committee on council that is not allowed to do that is the Executive Policy Committee. It is not allowed to do it simply by an omission in The City of Winnipeg Act, in my opinion. It makes sense that The City of Winnipeg Act be amended to simply allow Executive Policy Committee to establish these ad hoc committees if they want. Executive Policy Committee in the City of Winnipeg has certain specific responsibilities as are laid out, and sometimes they would like to be able to get the input from council members who are not necessarily part of Executive Policy Committee to work on those difficulties or those problems. It seems to me a fairly innocent opportunity that council by by-law could be able to do that.

I have noticed a real difference with a 15-member council in trying to make sure that we give everything the proper airing and hearing that it can, and my submission as an Executive Policy Committee has a huge amount of stuff on its plate. If they can get additional members to help them with the legwork on an ad hoc committee to create good legislation for the consideration of council, it is probably a pretty reasonable position. As I say, it is out of scope, and I know how the Legislature, unless it has changed, sort of gets really chagrined about dealing with out-of-scope legislation, but I hope that it is a simple enough proposal amendment that committee can give pretty serious consideration to. That is my submission, Mr. Chairman. I would be pleased to answer questions if there are any.

**Hon. Jack Reimer (Minister of Urban Affairs):** Thank you, John, for the presentation. You are right in the first part of your presentation regarding the local improvement. It is covered in the proposed new legislation. As you pointed out, I guess with lawyers if you get two in the room you are going to get three opinions, and I guess this will always happen. We feel in the legislation that that is covered to the extent that you are questioning. In regard to the amendment or the resolution that you brought forth, I think that this is something that can be brought forth this fall as we are going into our legislative package and we are

formulating our legislative package for the springtime. With the City of Winnipeg coming forth with a proposal at this time, it can be brought forth for consideration, and we can do it. I should point out, though, that usually it is brought forth as a resolution by council under the mayor's signature, and then it is into the formal structure of consideration.

**Mr. Angus:** I realize that, and I appreciate that. It was an anomaly that I found when I was trying to create some structure to do some work at City Hall. The law department advised me that I could not do that. I could not form an ad hoc committee out of cabinet, and I said, well, this is crazy. In my opinion, it was a bit of an oversight when they rewrote the legislation and reduced the number of councillors. However, I will leave it with your wisdom and for your consideration.

**Ms. Becky Barrett (Wellington):** Just a question to the councillor, did this resolution come from you individually?

**Mr. Angus:** Yes.

**Ms. Barrett:** So it has not gone through the channels.

**Mr. Angus:** It is not something that I took to the full council and said here it is, for two or three reasons. The first reason is that it came up this week when I was trying to create some things. I knew this legislation was on, and you were opening The City of Winnipeg Act. I know how long it takes to do things, and I thought that if you were considering The City of Winnipeg Act, you may give some consideration to this. We are doing it by-law. By-laws require the approval of council to do it, and if council was of the opinion to not do it, they would simply defeat the by-law. So it just seemed that somebody should be the messenger. In this case, I was going to bring a message down and say here is some common-sense legislation.

Thank you very much, Mr. Chairman. I appreciate the opportunity to revisit old friends.

**Mr. Chairperson:** Thank you very much for your presentation, Councillor Angus.

### **Bill 56—The Manitoba Investment Pool Authority Act**

**Mr. Chairperson:** We now move on to Bill 56, The Manitoba Investment Pool Authority Act. I would like to call Rochelle Zimberg, representing the Manitoba Association of Urban Affairs, to come forward.

**Ms. Rochelle Zimberg (Manitoba Association of Urban Municipalities):** Thank you, Mr. Chairman. If I may correct you, it is Manitoba Association of Urban Municipalities.

**Mr. Chairperson:** Oh.

**Ms. Zimberg:** We are not part of the department.

**Mr. Chairperson:** Sorry about that. Please proceed.

**Ms. Zimberg:** Mr. Chairman, while my brief is being passed out, I wonder if I could take a moment and direct some remarks to Mr. Cummings regarding the contaminated sites legislation, just words of appreciation.

**Hon. Glen Cummings (Minister of Environment):** Oh, sure, anytime. Unlimited time, Mr. Chair?

**Ms. Zimberg:** Unfortunately, Mr. Chairman, our staff is sort of small, and we did not realize that we would be in the same room giving a brief as the contaminated sites legislation would be on as Bill 56.

Certainly our association is very appreciative of the process that the Department of Environment went through on the contaminated sites legislation. On behalf of Mayor Mike Maksymyk, who is our representative on that committee, we think the department did an excellent job on that, and we are certainly appreciative of what went through.

**Mr. Chairperson:** Please proceed with your presentation.

**Ms. Zimberg:** Thank you, Mr. Chairman. The Manitoba Association of Urban Municipalities represents urban municipalities throughout the province of Manitoba, representing about 80 percent of the population of Manitoba. On behalf of our association,

I would like to thank members of the committee for the opportunity to make this presentation regarding Bill 56.

The MAUM has been actively working on trying to establish a municipal investment pool for many, many years. I would like to take this opportunity on behalf of President Glenn Carlson, the executive members of MAUM, to thank the Ministers of Finance (Mr. Stefanson) and Rural Development (Mr. Derkach) and their departments for their invaluable assistance in the creation of this bill.

Bill 56 is of critical importance to municipalities, hospital boards, school boards and other public institutions in Manitoba. By being able to pool their investment dollars, public institutions in Manitoba will be able to earn thousands of dollars in additional interest. The additional interest will mean that many public institutions will have more money and more flexibility in how they spend and allocate their financial resources. We are very pleased that the government has seen fit to amend Bill 56 so that this bill can come into force by Royal Assent rather than awaiting proclamation, which may not be until January of '97.

At the end of October, the majority of municipal and school taxes will be collected in Manitoba. In order to ensure that municipalities are able to invest their tax dollars at the highest rates possible and at the earliest time possible, after collection, we would urge members of the committee and the Legislature to pass Bill 56 without delay. In these days of low interest rates, it is imperative for public institutions to ensure that they are able to achieve the highest rates possible for the tax dollars that they receive. The Municipal Investment Pool Authority is the vehicle to ensure those higher rates of return.

We are grateful for the support of the Manitoba Health Organizations and to the Union of Manitoba Municipalities for their support and joint sponsorship of this program. The MIPA, we believe, is good for Manitoba. Thank you.

\* (2000)

**Mr. Chairperson:** Thank you very much for your presentation.

**Hon. Eric Stefanson (Minister of Finance):** Rochelle, thanks for your presentation and your input on this bill and this initiative. I see in your presentation you have included a pamphlet, Manitoba Investment Pool. I take it you are ready to go. Have you actually been out there talking to some municipalities and discussing this initiative?

**Ms. Zimberg:** Through the Chairman to the minister, yes, we have. We have begun. Our area meetings have started. In summer, in August, was our first one. We are going to our second one next Monday. We have taken out these brochures to that first area meeting. We have hired Great-West Life investment management as our short-term money market managers, and Great-West Life Assurance Company as our custodians along with Bank of Montreal to begin the program.

So, as soon as the bill is passed, all the forms, everything is ready to go, and we can start the day after the bill is passed.

**Mr. Stefanson:** Can you share with us, Rochelle, what the reaction has been from the municipalities to date?

**Ms. Zimberg:** To the minister, the municipalities want us to start tomorrow. The sooner it starts, the better. They are all really anxious to get this going.

**Mr. Chairperson:** No further questions? Thank you very much for your presentation.

I would like to now call forward Mr. Jerome Mauws, representing the Union of Manitoba Municipalities. Do you have written copies of your brief?

**Mr. Jerome Mauws (Union of Manitoba Municipalities):** Yes, I do.

**Mr. Chairperson:** Please proceed.

**Mr. Mauws:** Mr. Chairman, members of the committee, the Union of Manitoba Municipalities is pleased to speak in support of Bill 56, The Manitoba Investment Pool Act.

The legislation being considered by the committee is the result of considerable consultation and co-operation

between the UMM, the Manitoba Association of Urban Municipalities, the Department of Finance and the Department of Rural Development. The UMM is, therefore, glad that the legislation is being introduced and is moving through the legislative process during this session.

Bill 56 creates an investment program which allows municipalities and other members of the public sector to pool investments in a large fund which will be managed by a professional investment manager.

An increased pool of funds, professionally managed, will ensure that municipalities, universities, school divisions and health facilities receive greater financial returns than they would otherwise receive if they invested on an individual basis. The Manitoba Investment Pool Authority represents an important investment option and will provide greater flexibility for the management of public sector finances. The MIPA will have a board of directors controlled by the UMM and MAUM and one representative of MHO. Additional directors may be added from other public sector groups in the future.

Initially, the first investment pool created under the legislation will be a short-term pool managed by Great-West Life, and intermediate and long-term pools will eventually be created.

Before the concept of investment authority reaches the stage it is at today, extensive background information was sought on various aspects of the program, including its operation in other jurisdictions.

In British Columbia, for example, a similar investment authority has provided significant increases in financial returns for a variety of municipalities, ranging from the city of Vancouver to small rural municipalities. The experience in B.C. also helped to address concern of Manitoba municipalities that local financial institutions would be harmed or forced to close because of the investment authority. No local branches have closed down in B.C. due to the use of the Investment Pool.

Municipalities in Manitoba will continue to use their local financial institutions for their day-to-day banking

requirements, and the MIPA will deal with the funds that are available for investment purposes.

UMM believes that the MIPA has strong support from municipalities throughout Manitoba, and we encourage the committee members to lend their support to Bill 56 and the implementation of the Manitoba Investment Pool. Thank you.

**Mr. Chairperson:** Thank you very much for your presentation. Questions?

**Mr. Stefanson:** Jerome, I want to thank you, as well, for your presentation and your input and the input of UMM on this bill and this initiative.

You refer to the strong support from municipalities. Have you had the opportunity to be discussing this at any of your regional meetings with municipalities and sharing information, and, if so, what really has been that response?

**Mr. Mauws:** Yes, we have had the opportunity to discuss this at our series of district meetings in June of this year. I think the majority of our members are quite interested in this program, mainly because we represent a lot of smaller municipalities that do not have a lot of clout when they go to do their investments. A lot of them are fairly small with a smaller amount of money to invest. By pooling it together, they are going to be able to take advantage of the larger pool of money and the greater rates of return. Therefore, it appears that the majority of our members will become part of the pool and participate on a regular basis.

**Mr. Clif Evans (Interlake):** Thank you, Jerome, for your presentation and, Michelle, yours, and I know that we have worked together on occasions to have the MIPA put in place and passed through legislation as you had so wished, both your organizations, and strong lobbying that you had done. We just, on our side of the House, want to say that we are pleased to have had some participation with you, both you and MAUM, in making this happen, and we certainly wish you luck, both UMM and MAUM, and all the investors that this bill will now be possible for those to make such investments and hopefully increase their viability. So thank you.



**Mr. Chairperson:** If there are no further questions, thank you very much for your presentation.

I will now canvass the audience one last time to see if there are any other persons in attendance wishing to speak to one of the bills that are before the committee this evening. Are there any persons wishing to do so? Seeing as there are none, did the committee wish to proceed with the clause-by-clause consideration of the bills? Is it agreed that we will move into the bills clause by clause? [agreed]

How does the committee wish to proceed with the bills, in numerical order or otherwise? Numerical Order? [agreed]

#### **Bill 16—The Charleswood Bridge Facilitation Act**

**Mr. Chairperson:** On Bill 16, The Charleswood Bridge Facilitation Act, does the minister responsible have a brief opening statement? [interjection] No statement. We thank the minister. Does the critic from the official opposition party have an opening statement? If not, we will proceed.

The bill will be considered clause by clause. During the consideration of a bill, the title and the preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass; Preamble—pass; Title—pass. Bill be reported.

#### **Bill 19—The Dangerous Goods Handling and Transportation Amendment Act**

**Mr. Chairperson:** On Bill 19, The Dangerous Goods Handling and Transportation Amendment Act, does the minister responsible have a brief opening statement?

**Hon. Glen Cummings (Minister of Environment):** No.

**Mr. Chairperson:** I thank the minister. Does the critic from the official opposition have an opening statement?

**Mr. Gregory Dewar (Selkirk):** Mr. Chairman, we addressed some of our concerns on second reading. I

do have an amendment I would like to table as we proceed with the clause by clause.

\* (2010)

**Mr. Chairperson:** We thank the member. Does the committee wish to consider the bill in blocks of clauses? Agreed? No? So we will consider the bill clause by clause?

**Mr. Jack Penner (Emerson):** He is amending 10(1).

**Mr. Chairperson:** What is the wish of the committee? Just clause by clause?

During the consideration of the bill, the title and the preamble are postponed until all other clauses have been considered in the proper order by the committee. Clause 1 pass—pass.

Shall Clause 2 pass?

**Mr. Dewar:** Mr. Chairman, I move, seconded by the member for the Interlake (Mr. Clif Evans),

THAT Section 2 of this bill be amended by adding the following after the proposed subsection 10(2).

Referral for hearing 10(3). The director may refer an application for a licence to operate a hazardous waste disposal facility to the Clean Environment Commission to hold public hearings and to provide advice and recommendations and in deciding whether or not to make such a referral, the director shall consider the following criteria:

- (a) whether the proposed facility is approximate to a residential area;
- (b) the toxicity of the hazardous waste that will be disposed of at the facility;
- (c) the proposed capacity of the facility; and
- (d) the type of facility.

**Motion presented.**

**Mr. Chairperson:** The amendment is in order.

**Mr. Cummings:** Can we see that in writing? Has it been distributed? Here we go, sorry.

Mr. Chairman, there are elements of this that can be agreed with. A good deal of this is covered in the intent and what is already in front of us. If you give me a minute to confer with the authors of these amendments in the first place, I might be able to give you an appropriate answer.

**Mr. Chairperson:** Would it be the will of the committee to have a brief recess while the minister confers with his staff? Agreed? [agreed]

*The committee recessed at 8:14 p.m.*

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**After Recess**

*The committee resumed at 8:19 p.m.*

**Mr. Chairperson:** The committee will now come to order. On the proposed amendment by Mr. Dewar—Mr. Dewar would you like to make a few comments? Mr. Cummings.

**Mr. Cummings:** Mr. Chairman, I want to put it on record that the essence of the amendment that is being offered we agree with, but we would agree if the mover would agree to a report stage amendment because we have to translate, and we have to spend some time getting it ready to accept tonight. If the four elements that are being proposed can be mutually agreed upon, can we have an amendment at report stage? If we agree to the principles that are being proposed, we can agree to hear it at that stage unless you are getting other advice.

**Mr. Dewar:** I would agree with that suggestion, yes.

**Mr. Chairperson:** So you agree to withdraw your amendment tonight?

\* (2020)

**Mr. Cummings:** You have me on the record. I agree with it.

**Mr. Dewar:** I will withdraw this amendment.

**Mr. Chairperson:** The amendment has been withdrawn. Proceeding.

Clause 2—pass; Clause 3—pass; Clause 4—pass; Clause 5—pass; Clause 6—pass; Clause 7—pass; Clause 8—pass; Clause 9(1)—pass; Clause 9(2)—pass; Preamble—pass; Title—pass. Bill be reported.

**Bill 34—The Contaminated Sites Remediation and Consequential Amendments Act**

**Mr. Chairperson:** Bill 34, The Contaminated Sites Remediation and Consequential Amendments Act, does the minister responsible have a brief opening statement?

**Hon. Glen Cummings (Minister of Environment):** Mr. Chairman, briefly just to indicate that this has been a long and consultative process, and there is considerable detail enclosed in this that will result in a unique approach in the province of Manitoba as compared to other jurisdictions.

I would only put one other comment on the record as to why something of this nature is needed. In a debate at the national table about whether or not there should be joint, several liability used, or whether or not there should be a process of mediation with recognition of potential need for orphan sites to be included in any kind of a program to deal with contaminated sites, comments made from some circles and from the federal authorities were that there is always somebody to sue, so do not let them off the hook.

My view, and the principle of this bill, is that we can spend all the time we want and all the money we have in the courts and may still not be able to settle a lot of the contaminated-sites issues that we have out there because all we will do is spend our time litigating each other and possibly not having any money left to actually do the cleanup.

I know my colleague across the way agrees with this because I have discussed it with him briefly before, but let me put it on the record that the ultimate criterion of how well we look after the environment is not how well we litigate each other, but whether or not we get some cleanup actually done. The example to the south of us is that 80 percent of the money set aside for cleanup of orphan sites is spent on legal costs, and notwithstanding that we heard earlier tonight that the

courts are not congested in this province, congestion is not the only issue; the issue is putting the money where it will do the most good. This bill goes some way in addressing that, and I would commend it to you for that.

**Mr. Chairperson:** I thank the minister. Does the critic from the official opposition party have an opening statement?

**Mr. Gregory Dewar (Selkirk):** No.

**Mr. Chairperson:** I thank the member. Does the committee wish to consider the clauses in blocks of sections that conform to the parts as drafted in the bill? [agreed]

The bill will be considered in blocks of clauses. During consideration of the bill, the title and the preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clauses 1 through 2—pass.

Clause 3—

**Mr. Cummings:** Mr. Chairman, I have an amendment for—are we on Section 3, I am sorry?

**Mr. Chairperson:** Yes.

**Mr. Cummings:** I have an amendment I would like to present. I move

THAT section 3 be amended

(a) in subsection (1), by striking out “This Act” and substituting “Subject to subsection (3), this Act”; and

(b) by renumbering subsection (3) as subsection (5) and adding the following after subsection (2):

**Application to sites under Oil and Gas Act and Mines and Minerals Act**

**3(3)** Except as otherwise provided in the regulations, this Act does not apply to a site to which the provisions of The Oil and Gas Act or The Mines and Minerals Act respecting the rehabilitation of land apply.

**Obligations under Oil and Gas Act and Mines and Minerals Act**

**3(4)** Where this Act applies to a site because of a regulation referred to in subsection (3), a person who satisfies all of his or her obligations under this Act and the regulations in respect of the site is deemed to have satisfied every obligation he or she has in respect of the rehabilitation of the site under The Oil and Gas Act, The Mines and Minerals Act and the regulations under those Acts.

**[French version]**

Il est proposé que l'article 3 soit amendé:

a) dans le paragraphe (1), par substitution, à “La présente loi”, de “Sous réserve du paragraphe (3), la présente loi”;

b) par substitution, au numéro de paragraphe (3), du numéro de paragraphe (5) et par adjonction, après le paragraphe (2), de ce qui suit:

**Lieux visés par certaines lois**

**3(3)** Sauf disposition contraire des règlements, la présente loi ne s'applique pas aux lieux que visent les dispositions de la Loi sur le pétrole et le gaz naturel ou de la Loi sur les mines et les minéraux concernant la remise en état de biens-fonds.

**Obligations prévues par certaines lois**

**3(4)** Si la présente loi s'applique à un lieu du fait de la prise d'un règlement visé au paragraphe (3), la personne qui s'acquitte de toutes les obligations que lui imposent la présente loi et les règlements à l'égard du lieu est réputée s'être acquittée de toutes les obligations qui lui incombent à l'égard de la remise en état du lieu sous le régime de la Loi sur le pétrole et le gaz naturel, de la Loi sur les mines et les minéraux et des règlements d'application de ces lois.

By way of explanation, Mr. Chairman, these amendments are presented at this time to be sure that we have not circumvented The Oil and Gas Act and The Mines and Minerals Act, but that in fact this legislation works in conjunction with those.

**Mr. Chairperson:** Thank you. The motion is in order. Are there any comments?

**Motion presented.**

**Mr. Chairperson:** All those in favour of the amendment. Agreed? [agreed]

Clause 3 as amended—pass; Clauses 4(1) to 8—pass.

Clauses 9(1) to 14(2)—

**Mr. Gary Kowalski (The Maples):** I just have a comment about Section 9(2), subsection (a). It uses the term due diligence with respect to this site: the person who was a director or officer of a potentially responsible person in respect of the site and exercised due diligence. Is there any—I do not know if this is a common legal term or if it is in the definition section, due diligence. I wonder if the minister could clarify what are the criteria for due diligence and who is to be the adjudicator of what due diligence was. Is it the minister? How do we decide that due diligence was exercised?

**Mr. Cummings:** A good question, one which probably the answer is less than clear. I am advised that this is a common legal term and can vary with the circumstances.

**Mr. Kowalski:** That scares me.

**Mr. Cummings:** But it is commonly used in defence of whether or not you have taken appropriate care.

**Mr. Kowalski:** It concerns me that, you know, there is so much discretion in that, even though it is a common legal term. This was an opportunity to maybe define what due diligence was or what would be the standard acceptable in Manitoba. So it does concern me that we are using that term, due diligence, in this section.

\* (2030)

**Mr. Cummings:** I am certainly not trained to make the arguments, but this is in the section that says those persons not responsible. Therefore, this provides—if one were to attempt to narrowly define this you might in fact limit the ability of people to be not responsible after exercising what would be shown to be due

diligence. If you try to put precise wording on what due diligence means, I think we might in fact limit the ability of people to be considered not responsible, and I suppose then inadvertently make them responsible.

**Mr. Kowalski:** The other side of the coin, though, is that it leaves potential for abuse. So there are two sides to that coin there, to allow people to escape responsibility, convincing the minister that they exercised due diligence. I feel it leaves the minister in a difficult position. It opens him up to possible criticisms from myself and other critics that his interpretation of that due diligence for certain companies may be incorrect, and so, yes, it does limit to those people who will be able to escape responsibility. It also leaves it to abuse and could cause a problem for the minister in the future.

**Mr. Cummings:** It should provide some comfort that in this case there would be an appeal to any decision to the Clean Environment Commission. So there would be a second opinion about whether or not due diligence had been exercised.

**Mr. Chairperson:** Clauses 9(1) to 14(2)—pass; Clauses 15(1) to 16(5)—pass; Clauses 17(1) to 20—pass; Clause 21—pass; Clauses 22(1) to 22(4)—pass; Clauses 23(1) to 27(2)—pass; Clauses 28(1) to 31—pass; Clauses 32 to 38—pass; Clauses 39(1) to 44—pass; Clauses 45(1) to 46(3)—pass; Clauses 47(1) to 52—pass; Clauses 53(1) to 53(5)—pass.

Clauses 54 to 65—

**Mr. Cummings:** Mr. Chairman, I move

THAT subsection 60(1) be amended by adding the following after clause (j):

(j.1) respecting the application of this Act or the regulations to one or more sites or classes of sites to which The Oil and Gas Act or The Mines and Minerals Act applies;

**[French version]**

Il est proposé que le paragraphe 60(1) soit amendé par adjonction, après l'alinéa j), de ce qui suit:

j.1) régir l'application de la présente loi ou des règlements à un ou des lieux ou catégories de lieux que vise la Loi sur le pétrole et le gaz naturel ou la Loi sur les mines et les minéraux;

By way of explanation, this allows for the regulation-making authority related to our previous amendment, so we can in fact do it.

**Mr. Chairperson:** Are there any comments? Amendment—pass; Clause 60 as amended—pass; Clauses 54 to 59—pass.

**Mr. Cummings:** I thought one amendment was all I needed. Apparently there are two more amendments to 60.

**Mr. Chairperson:** Is there agreement from the committee that Clause 60 as previously amended be upheld until the final amendments are in place in order to amend the entire Clause 60? Agreed? [agreed]

**Mr. Cummings:** My apologies, Mr. Chairman.

I move

THAT clause 60(2)(b) be amended by striking out “, and the fee payable for,”.

**[French version]**

Il est proposé que l'alinéa 60(2)(b) soit amendé par suppression de “et les droits à payer pour l'obtention de tels certificats”.

The explanation is that we had—apparently there was duplication that this corrects.

**Mr. Chairperson:** Are there any comments? Amendment—pass.

**Mr. Cummings:** I also have a third amendment. I move

THAT clause 60(2)(d) be amended by striking out “on other potentially responsible persons” and substituting “or 12(1)”.

**[French version]**

Il est proposé que l'alinéa 60(2)d) soit amendé par substitution, à “aux autres personnes potentiellement responsables”, de “ou 12(1)”.

**Mr. Chairman,** I am advised that this corrects a missing cross reference so that everything is aligned in this.

**Mr. Chairperson:** Are there any comments? Amendment—pass.

Clause 60 as amended, amended, amended—pass; Clauses 61 to 65—pass; Clauses 66(1) to 71—pass; Preamble—pass.

**Mr. Cummings:** I believe this is the right location at the end of the bill before you pass the preamble that I move

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

**[French version]**

Il est proposé que le conseiller législatif soit autorisé à modifier les numéros d'article et les renvois internes de façon à donner effet aux amendements adoptés par le Comité.

**Mr. Chairperson:** The amendment is in order. Is it agreed? [agreed]

Table of Contents—pass; Title—pass; Bill as amended be reported.

#### **Bill 44—The City of Winnipeg Amendment and Consequential Amendments Act**

**Mr. Chairperson:** On Bill 44, The City of Winnipeg Amendment and Consequential Amendments Act, does the minister responsible have a brief opening statement?

**Hon. Jack Reimer (Minister of Urban Affairs):** No.

**Mr. Chairperson:** Does the critic from the official opposition party have an opening statement?

**An Honourable Member:** No, we do not.

**Mr. Chairperson:** Did the committee wish to consider the bill in blocks or clauses?

**Some Honourable Members:** Blocks.

**Mr. Chairperson:** Blocks. Agreed? [agreed]

During the consideration of a bill, the title and the preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clauses 1 to 4—pass; Clauses 5 to 6—pass; Clauses 7 to 10—pass; Preamble—pass; Title—pass. Bill be reported.

\* (2040)

#### **Bill 56—The Manitoba Investment Pool Authority Act**

**Mr. Chairperson:** Bill 56, The Manitoba Investment Pool Authority Act. Does the minister responsible have a brief opening statement?

**Hon. Eric Stefanson (Minister of Finance):** Mr. Chairman, very briefly, we heard tonight from two of the major municipal organizations in Manitoba, the Union of Manitoba Municipalities and the Manitoba Association of Urban Municipalities, the strong support of those organizations and municipalities throughout Manitoba.

With that in mind, I will be introducing one minor amendment to this bill. It will come when we get to Section 22, the coming into force. When we introduced this legislation into the House, we had the coming into force being on proclamation, and that was so that the Departments of Finance and Rural Development could assure themselves that an appropriate business plan was in place and that procedures for the operation of the investment pools were adequate.

We subsequently received that information, and we are certainly satisfied with that information. In light of

that, when we get to this section, we will be moving an amendment that this act come into force on the day it receives Royal Assent.

We heard from the two organizations. They are anxious to get on with this organization, with allowing municipalities to utilize it as an investment vehicle to generate greater returns on their money, and, therefore, I would hope all members would support this bill and that amendment.

**Mr. Chairperson:** I thank the minister. Does the critic from the official opposition party have an opening statement?

**An Honourable Member:** No.

**Mr. Chairperson:** Did the committee wish to consider the bill in blocks of clauses? Agreed? [agreed]

During the consideration of the bill, the title and the preamble are postponed until all other clauses have been considered in their proper order by the committee.

Clauses 1 to 8—pass.

**Mr. Gary Kowalski (The Maples):** I may be out of order, but I just have a question for the minister. I never had an opportunity to speak to this bill on second reading. One of the concerns is, we will have all the municipalities and many other organizations investing in this. It seems it is very popular, and I have heard the strong support for it.

What about the concern about putting all your eggs in one basket in that we have so much going into one investment pool, if one of their investments, which are supposed to be low risk, but there is always potential, that it could have a rippling effect of giving a very low return to a number of municipalities? Is there any protection in this to prevent a bad investment by the managers to affect so many public institutions in Manitoba?

**Mr. Stefanson:** A good question. First of all, as the member knows, this is optional for members to participate, but what the pool can ultimately invest in is somewhat limited in terms of the definition of

securities. In fact, we are not including shares in the definition of securities, so there will be more fixed income pools, therefore, virtually very little risk and reasonable return.

**Mr. Chairperson:** Clauses 9 to 15—pass; Clauses 16 to 17(4)—pass; Clauses 18 to 21—pass.

Shall Clause 22 pass?

**Mr. Stefanson:** Mr. Chairman, I have an amendment that is being handed out right now, and it is,

THAT section 22 be struck out and the following substituted:

**Coming into force**

2.) This Act comes into force on the day it receives royal assent.

**[French version]**

Il est proposé que l'article 22 soit remplacé par ce qui suit:

**Entrée en vigueur**

22 La présente loi entre en vigueur le jour de sa sanction.

My response to the member for The Maples (Mr. Kowalski), they will be fixed income pools. Shares are not permissible. Now, through the regulations, that could be amended, but we would only do that at a point in time that we had a high level of comfort in terms of the overall performance of the investment managers, the pool managers and so on, so initially shares are precluded, but they could become an investment vehicle, depending on the overall performance of this entity.

**Motion presented.**

**Mr. Chairperson:** Are there any comments on the amendment?

Amendment—pass; Clause 22 as amended—pass; Preamble—pass; Title—pass. Bill be reported.

This concludes the business before the committee. What is the will of the committee?

**An Honourable Member:** Committee rise.

**Mr. Chairperson:** Committee rise.

**COMMITTEE ROSE AT:** 8:45 p.m.

**WRITTEN SUBMISSIONS PRESENTED  
BUT NOT READ**

Presentation to the Standing Committee on Municipal Affairs regarding Bill 44, The City of Winnipeg Amendment and Consequential Amendments Act

September 25, 1996

We wish to draw your attention to the following:

Item 4: Local Improvement Districts Objection re 392.1 (1b). We have a word of caution with regard to the process outlined here. In some cases where a handful of landowners own more than 50 percent of the land, this requirement would make it impossible for the majority of landowners to raise an objection, if the large landowners disagreed.

Item 5: Repeal of Section 409 re the establishment of a Civic Charities Endorsement Bureau. We would like to have this section retained in the legislation. The removal of this section would be one more way of limiting citizen participation and public accountability, which we believe is essential. If the city has a problem with the size of the board, the present board of 11 members could be cut to six with one representative, or alternate, from each community committee plus the manager of the Better Business Bureau. Apart from the cost of a lunch, this committee receives no remuneration. The claim of the city that the cost of overhead and the salary of the clerk is \$45,000, as it was quoted to us, is, we believe, grossly exaggerated. The responsibilities of the clerk could not occupy more than a quarter of his or her time, at the most. Moreover, there are offsetting fees. This cost is a small price to pay for public accountability. We believe this bureau should handle all authorizations, regardless of size. Applications should not be routinely rubber-

stamped by an office clerk with no public accountability.

Item 7: Repeal of Sections 567(1) and (2) re elimination of consultation with the public, interested parties, stakeholders, et cetera, before first reading of a Plan Winnipeg by-law. We strongly urge this committee not to repeal these sections. The elimination would put citizens in a confrontational, adversarial role after the by-law is drafted. As an organization that seems to be increasingly expected to act as a public watchdog, we object to this change. Those who are consulted are usually those most closely involved in a particular area. They express a variety of opinions—from those most self-interested to those who have a primary concern for the public good. A visible process and full participation at the early stages will make far better legislation.

Item 8: The Charities Endorsement Act. Is it clear whether the minister has or should have the power to override municipal decisions re authorizations? Apparently there have been problems with organizations seeking authorization doing “an end run” around the City Endorsement Bureau by including one rural municipality in their applications. We do not believe that the province has a publicly accountable process and suggest that the Standing Committee on Municipal Affairs refer this broader issue back to the cabinet. The province has a responsibility to ensure that gifted dollars are legitimately collected.

Presented by the Council of Women Committee on Urban and Regional Issues, a joint committee of The Provincial Council of Women of Manitoba and The Council of Women of Winnipeg

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Response to Bill 19—The Dangerous Goods Handling and Transportation Amendment Act

September 25, 1996

The Union of Manitoba Municipalities would like to provide comments on Bill 19, The Dangerous Goods Handling and Transportation Amendment Act. We are supportive of the amendments contained in the legislation, insofar as they will facilitate the collection and management of used oil, filters and containers.

We note that Section 40 of Bill 19 allows the province to make regulations regarding the designation and handling of “special wastes,” the handling of petroleum products and the operation of storage facilities for petroleum products. During second reading, the Minister of Environment indicated that “special wastes” could include used oil and other materials which require more care than conventional waste, but may not need to be handled the same way as hazardous wastes. Amendments also provide for greater flexibility in regard to the requirements for hazardous waste facilities to undergo environmental assessments and public hearings.

By allowing for more discretion and creating a special classification for used oil, the UMM hopes that these amendments will assist in the implementation of a used oil program in the near future. The absence of such a program has been a concern to our membership for some time. Although a resolution asking that municipalities be permitted to spread used oil for dust control was defeated by the UMM membership, the resolution is representative of the frustration felt by many municipalities over the lack of a program.

Since February 1995 the UMM has had representation on the province's Used Oil Management Committee, which is currently designing a program to manage used oil, filters and containers.

Our member municipalities hope that with the work of the committee and the amendments in Bill 19, a used oil program can be implemented as soon as possible.

Union of Manitoba Municipalities