

LAW AMENDMENTS COMMITTEE
8:00 p.m., Thursday, May 30, 1974

CHAIRMAN: Mr. D. James Walding

MR. CHAIRMAN: Order please. Having a quorum the Committee will come to order. The Bills before the Committee this evening are:

No. 7, No. 20, No. 23, No. 55, No. 65, No. 72, No. 76, No. 79, No. 80 and No. 81.

I have an indication that there is one person wishing to make presentation to the Committee. Are there any other members of the public present who wish to address the Committee this evening? If so would you come forward to the microphone please and given your name and the bill you wish to speak on.

MR. CASS BOOY: Cass Booy. I would like to speak to Bill No. 72.

MR. CHAIRMAN: Thank you. Is there anyone else wishing to speak to the Committee this evening?

MR. MEIGHEN: Mr. Chairman, Meighen from Brandon. I wish to speak to Bill No. 55.

MR. CHAIRMAN: Mr. Meighen? That's M-E-I-G-H-E-N.

MR. MEIGHEN: That's right.

MR. CHAIRMAN: And that was Bill 55.

If there is no one else I'll call on Mr. David Weiss please. Would you come forward? On Bill 72. Speak into the microphone, Mr. Weiss, please.

BILL 72

MR. WEISS: Thank you, Mr. Chairman. I seem to never miss. With one of the last letters in the alphabet I always seem to be called up first.

I just read in the paper about Bill 72 last night and I checked to see today and it wasn't until this afternoon that I heard that the Committee was going to hear representation on this before it goes to third reading. I think there's a lot of municipalities would possibly like to also give representation on this before it goes to third reading and I don't suppose a lot of them know what it's all about.

The point that I'm interested in is the part that the province is going to pay 50 percent of removing - 50 percent with the municipality for removing a plant, an industry that might be in the wrong place. I am against that. No municipality has any money. They never had money to do it when the Federal Government was paying 50 percent and the Provincial Government was paying 25 percent and they certainly have no money for removals now when they have to pay 50 percent.

I would like to have it amended if I can make such a thing that where an industry that is obnoxious, eye or to smell, is on entrances into a municipality that the government should pay the full amount. Particularly on roads entering into the municipality because no municipality can afford to pay their share.

There has been industries in Brandon that should be removed. One is a rendering plant, one - I don't believe it - but it's a scrap yard. I have known it and there's a few others. Some of these could have been moved years ago if the municipalities had any money. The rendering plant could have been moved for \$75,000 a few years back. Now it's possibly double or triple. So I think if we wait for the municipalities to put up their 50 percent none of these things on entrances will ever be done. So I think that the province should amend that to where these industries are located on an entrance into the city and they want to beautify the entrance that the province should pay all of it. Because there is no way that a municipality could pay it.

To add it on to tax for ten or twenty years - that's what we've been doing you see for years. We add two mills this year, two mills next year and pretty soon it's a pyramid of mills. I think the province is much more able to pay for improvements to entrances into municipalities than the municipality can.

As I was coming on the bus here today I was talking to a member of a rural municipality and he thought - they never got ahold of this - and he thought that in areas where people are petitioning to remove or to move an industry that these people who are petitioning should also be made to pay part of the movement as a local improvement. Maybe some of them will stand a little smell or a little odor when they have to pay a local improvement on it.

So I would like to have this Committee possibly delay this or possibly go back to the municipalities or take into consideration what I have said. I haven't had much time to prepare it, I've just taken it off the top of my head. But this is

(MR. WEISS cont'd) the main thing, that there's no municipality - the fact is I shouldn't say it but there's the solicitor from Brandon here and he knows we have no money unless we keep adding it up to the taxpayer and that's what's been going on for twenty years or more for all time and our taxes are away out of hand now. So I would like to see that municipalities the size of Brandon who have a police force, fire department and all these different things that go up every year with inflation and we just can't afford to pay 50 percent or any percentage in beautifying the entrance roads. That should be the prerogative of and the full responsibility of the province. I think that's all I have to say unless somebody wants to ask me questions.

MR. CHAIRMAN: Thank you. Mr. Bilton, you had a question? Use the microphone please.

MR. BILTON: I would like to express my appreciation to this gentleman coming to this meeting tonight. Do you feel that the people in Northern Manitoba should pay for some misdemeanor around the City of Brandon? Don't you think Brandon should clean it up if they make the mess?

MR. WEISS: I'm glad you asked that question for the simple reason aren't we all paying for misdemeanors in every part of the province in other matters?

MR. BILTON: No, we have no debris in Northern Manitoba.

MR. WEISS: No, but you've got industries possibly that the rest of us are paying for if you want to make it that way. So I think that it's to the benefit of everybody in Manitoba that all areas, particularly places like Brandon that are going to grow by leaps and bounds. You talk about Northern Manitoba. The Pas and all those places their entrances may be - I've never been there - maybe should also be cleaned up because they're going to grow. The time is past where you can tell the population of a city by looking at the elevators. If you can see two elevators maybe the population will go from 2,000 to 8,000 or 10,000.

MR. BILTON: But, sir, my thoughts were that don't you think it's too evident these days that the province should pick up the bill when the local people should be looking after their own affairs? Or do you think the province should do this in particular instances?

MR. WEISS: Yes. I didn't say on everything. I said on the entrances into the city. Where there's an obnoxious factory or industry and where there is a residential area moving in that's possibly where the municipality and the people involved should pick up the tab. I was talking about entrances into the city which is a provincewide responsibility.

MR. BILTON: Just one other question, Mr. Chairman, through you to the honourable gentleman. Do you feel that a little smell now and then is conducive towards maintaining new jobs or do you want to cut out the smell and cut out the jobs with it.

MR. WEISS: I didn't say cutting out any jobs. I just said if they want to move it. Moving doesn't cut out jobs. Moving could increase jobs perhaps but at the same time if it's on the entrance it should be done by the province. It would be done quicker and faster and cheaper.

MR. BILTON: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Sir, I take it that you are aware that at the present time there is no program for the province to pay anything.

MR. WEISS: Right.

MR. GREEN: So that it is an improvement for the province to be willing to put up 50 percent if the municipality puts up 50 percent as well.

MR. WEISS: It's an improvement but it's also improving nothing because the province hasn't any money to do it with -- I mean the municipality has no money to do it with.

MR. GREEN: Where do you think that the province gets its money?

MR. WEISS: General funds. If you think that . . .

MR. GREEN: Where do the general funds come from?

MR. WEISS: From the taxpayer.

MR. GREEN: Where does the taxpayer live?

MR. WEISS: He lives in Manitoba but you also have . . .

MR. GREEN: He lives in one of the municipalities in the Province of Manitoba.

MR. WEISS: Well I think if we're arguing that point then if you want to do that then I think you should give every municipality part of the sales tax then we

(MR. WEISS cont'd) can afford to pay that. Now the general funds I think that you can well afford to do that because out of general funds you're putting money into other things that may be not just as good as it would be to clean up entrances. Now I mentioned a while ago - I didn't say for the whole general communities, some areas where there's people moving in or a housing thing they can afford with the developer and that but on an entrance to the city. You've done that in some places, you've done that in Brandon. You took part of that to put a highway through which really wasn't necessary but it's really nice. So long as we're doing the job let's do it good.

MR. GREEN: Do you think that it would be satisfactory if the province gave the municipalities the sales tax and the municipalities gave the province the real property tax?

MR. WEISS: Not really. I didn't say that.

MR. GREEN: But you believe that it is better to receive than to give.

MR. WEISS: No. I said we should get a share of the sales tax.

MR. GREEN: Well you do get over \$10.00 per capita for your municipality out of general revenues and also other federal-provincial sharing such as the Keystone Center for instance that was partly paid for by provincial funds. You will agree that this is an improvement.

MR. WEISS: It's an improvement.

MR. GREEN: You just don't think it's revolutionary enough.

MR. WEISS: No. I just say that it's not nothing and it has to be relative. You're talking about things that are not relative to bylaw 72 and I'm talking relative to bylaw 72 on that 50 percent. So that's what I'm saying. We want to be relative to this, the clean entrance and you're being unrelative I think to this part of Bill 72 if I may be so bold to say so.

MR. GREEN: Okay. Thank you very much.

MR. CHAIRMAN: Thank you. Mr. McKenzie.

MR. MCKENZIE: Mr. Chairman, I apologize if I was late. I don't think I was but I'd like to know the honourable gentleman's name and whether he's speaking for himself or if he represents a group.

MR. CHAIRMAN: Mr. Weiss.

MR. WEISS: David S. Weiss. At the moment I'm representing myself although I have been a member of the Town Planning Board in Brandon. I'm an ex-alderman but it has to do - there's other things that has to be done and I understand this is open to anybody who is interested in municipal affairs. I think if you ask some of the people from Brandon - a Minister we have here - you'll know that I'm very much interested in Brandon affairs in a non-political or non-partisan manner you might say.

MR. CHAIRMAN: Mr. McKenzie.

MR. MCKENZIE: Mr. Chairman, may I apologize to the honourable gentleman for the way I raised the question. It was in no way to intimidate you, my friend. We are here to listen to you and I just wanted to know your name and who you were representing. You are free to represent yourself and we welcome you here in the committee.

MR. WEISS: I'm quite sure that our Thompson Member doesn't know about this and I'm quite sure that if we could arrange this for the public you'd have - if you'd come to Brandon I think we could have half of Brandon out.

MR. CHAIRMAN: Thank you, Mr. McKenzie. Mr. Dillen.

MR. DILLEN: Mr. Weiss, it's my understanding that on the entrance to Brandon at the present time, if my memory serves me correctly, I think that there is a four-lane highway that extends from below the hill at the mental hospital and goes right into the town over the Assiniboine River.

MR. WEISS: Right. From Manitoba Avenue, yes.

MR. DILLEN: I don't recall seeing anything there that would resemble an reservoir until I get over the bridge. Are you not concerned that this portion of the street may apply to a portion of the riverbank or an area of an abandoned building or whatever there happens to be adjacent to the entrance to the City of Brandon?

MR. WEISS: Yes, of course. When we're talking - now you're taking down into small funds, \$5,000, \$10,000 - I'm quite sure the municipal government can go \$10-50 on that. But when we're talking - when you went across the bridge, you're right. That's the scrapyard. I happen to own it. I also had a rendering plant there one time and now we've got another on the other entrance into the city which could be moved. Of course where we are I imagine maybe we all should be moved. There's Imperial Oil with the big tanks and there's the Gulf and this but if it is to be done to complete your entrance from Manitoba Avenue to Rosser Avenue the

(MR. WEISS cont'd) municipality just can't do that. Nor can they do that on Eighteenth Street. We just haven't got that kind of funds.

But you were talking about an abandoned house or this and that, that's only \$5,000, \$10,000 which certainly they can afford that. But when you start talking hundreds of thousands of dollars this is what it amounts to there. It just can't be done. They haven't got the funds.

Since the province takes care of these roads anyway and it's in the interests of everybody, tourism and everything, that if it's going to be done - I don't say that it should be done, to move them - but if it's going to be done the province should pay the whole shot because we just haven't got any money. Ask anybody from a municipality such as Brandon where they have their own police department, fire department and works department. When the raises go in it just can't be done. So we just go on and on until the costs will be so prohibitive that it can never be done. But the province can do it if it has to be done.

MR. CHAIRMAN: Thank you. Are there any further questions? If not, thank you for coming, Mr. Weiss.

MR. WEISS: Thank you for allowing me to speak. Thank you very much.

MR. CHAIRMAN: Professor Cass Booy, please. Bill 72.

MR. CASS BOOY: Mr. Chairman, I would like to emphasize that I am not speaking on behalf of the Commission although the fact that I am here is because I am a member of the Clean Environment Commission. I checked this with the Chairman, he didn't find it suitable to be here but this matter has been discussed in the Clean Environment Commission. Again I would emphasize that I speak on my own now and I would like to speak only to one item in the bill and that is Section 14(16) which is a new section. You do not find it in the present Act - 14(16) - it's on the second page. Do you wish me to read it?

"Commission may make an order notwithstanding exemption.

"Notwithstanding that a person operating an industry, undertaking, plant or process has been exempted by the regulations from the requirements of subsection (1) or (4) or both, the commission shall, where new evidence warrants, hold a hearing and make such order as it deems advisable prescribing limits with respect to that industry, undertaking, plant or process, as the case may be; but any such order shall be confined to matters not expressly covered by the regulations."

Now I would like to point out to you first of all the kind of deficiency in the old Act that this amendment intends to rectify and then I would like to tell you what I have against this particular amendment and finally propose something which I think is simpler and which I think is going to work.

The problem with the present Act, the deficiency that you are having is that there are only two ways in which environmental control is exercised in the province and that is either by regulation or by Commission order. These two are mutually exclusive. If any operation is regulated by regulation then the Commission can no longer put any additional restraints, limits or condition upon that particular operation. Of course if it's a matter of a Commission order then it's not something that is subject to regulation because then we do not have any regulation.

Even if the particular operation is not exempt from coming before the Commission for limits, for prescribing of limits the Commission can do nothing but find out whether the particular operation does conform to the limitations set by the regulation. If it does we have to inform the operator, if it doesn't we have to tell him to comply to the regulations. So we cannot set any additional regulation.

Now the Branch who has in the main written the regulations has found it very difficult - they have told us that it's impossible to write regulations, general regulations that will adequately control individual operations because they find that in order to adequately control an operation from an environmental viewpoint you have to be so restrictive that in individual cases it works a hardship.

At the present time we have only one general regulation. That is to livestock production operation and even there the Branch found it very difficult to work with this. The regulation describes in general what the operator has to do with the waste products, with the manure but it does not create any obligation on him to restrict odors for instance or to limit the number of cattle in the vicinity of any residential area.

Several times there have been attempts on behalf of the Branch to bring the matter back to the Commission. They have informed the operators, individual operators, that they would have to come back to the Commission and that the Commission would or might set additional limitations and we have told them, and they are aware of the fact, that we cannot do this. The present Act simply doesn't allow this. Now this then is the deficiency which this particular amendment intends to

(MR. CASS BOOY cont'd) rectify. It's an attempt at getting a co-operation between the Commission who sets orders in individual cases and the regulations which of course deal with general situations in most cases.

Now I have nothing against this attempt. I think it's probably necessary but it seems to me that the way it's done here is open to serious objection because you may have here an operation, an operator who has started an industry in full compliance with all the regulations. He may even be exempt from coming before the Commission, that's what the regulation says, that's what the Lieutenant-Governor-in-Council says, Cabinet says. Then according to this the Commission can tell this man you're not exempt, you must come before the Commission and we hold a hearing and on the basis of this hearing we may set additional limits which apply to you but which do not apply to your neighbour or to anybody else who is in the same situation. So in other words this man is singled out and the way this usually goes is because of complaints obviously or because of administrative discretion, the man is singled out and brought before the Commission and more stringent restrictions are being set upon this man than would apply to others. Now this to me seems a procedure which is open to theoretical criticism. I think that it will also be open to an awful lot of criticism on behalf of the man who is brought before the Commission because it entails a certain degree of arbitrariness.

In the second place I cannot quite see how the Commission can deal effectively with situations like that in an equitable way. It is simply not so that the Commission can only look at the environmental situation. We also have to be equitable and not ask from one man more than you would ask from another man. So I cannot see how the Commission could deal with these individual cases that might come before it not knowing how others are being treated, what the situation is for other people who might be in exactly the same situation but who simply haven't been brought before us. So that's the difficulty which the Commission faces.

There is also ambiguity in this particular section in that it puts one limitation on the Commission. It may make an order but that order shall be confined only to matters not expressly covered by the regulation and that is a very difficult thing to manage because, let's take the livestock operations. The matter of handling of manure for instance is covered in the regulations. Now one person could hold that the regulation only deals with the ultimate disposal of the manure because it says that the manure, animal waste, shall be handled in the prescribed manner. That means it must be recycled into the ground and a crop must be grown from the land on which the manure is deposited within a certain amount of time. So that is the ultimate disposal of it.

But someone else may hold or therefore you may hold that since the matter is covered under the regulations the Clean Environment Commission can no longer cover it.

Someone else may argue that the handling of the manure and the storage which may give rise to odor problems is not a matter that is covered in the regulation because the word "odor" is not mentioned anywhere. In other words the Commission would not know whether it can deal with that particular item. For instance whether we can allow an operator to spread his manure in the vicinity of a residential area which is not covered at the present time in the regulation.

But at the same time the operator doesn't know where he's at because he has to read the regulation and he has to find out what is not expressly covered in the regulation. I submit to you that this is an impossible task for most people.

In addition to that I feel that there are maybe a few things here that slip in without intention. For instance it says "the Commission shall hold a hearing when new evidence warrants". I am fairly confident that the intention is that the Commission "may" hold a hearing. That is the same Section 14, the third line. It says "the Commission shall, where new evidence warrants, hold a hearing". I do not see how one could have an obligation on the Commission that is backed up by the subsentence "where new evidence warrants" unless you make it the Commission the body that determines whether new evidence warrants or not.

In addition to that this whole subclause "where new evidence warrants" gives the impression that the matter has been before the Commission already and that there is no new evidence which is not the situation at all. Because if the matter had been before the Commission then the Commission would have made an order and then it would have been a matter of should this order be changed or not.

Well that is a matter - the changing of orders - which is adequately handled in another section of the Act, presently 14(7), which allows the Commission to vary an order. So we are not talking about that. We are really talking about the situation which comes before the Commission for the first time and I think that

(MR. CASS BOOY cont'd) the clause "where new evidence warrants" is something that will give difficulty. I know why that clause is in there because originally in earlier draft it read "where the Minister so directs" which was cut out and this was at the last moment put in there but I believe it's a very unfortunate clause.

It is my feeling, Mr. Chairman, that once an operation has been exempted by regulation that it should not be brought back before the Commission unless it's a matter of an emergency and emergencies are adequately covered in the Act.

I can still see that there is a problem associated with this interface, that there is a need for a co-operation between the Commission and the regulations. I would suggest that this can be handled much simpler by simply omitting the Section 14(16) and by adding to Section 14(3) and 14 (5)(c) of the Act. Now 14(3) and 14(5) of the Act presently read this way:

"Where at the time of receipt of the subsection (1) limits have not been prescribed by the regulation." So that is the case when the Commission can come in and set limits.

Now if that were changed so that you would add after the word "regulation", "or where the regulations expressly allow the Commission to prescribe additional limits." I believe that it is important that the Commission does not on its own decide where it can and where it cannot prescribe additional limits. I feel that the regulation should clearly set out what area of legislation is left to the Commission and which area is something that has been adequately covered by the regulations.

If that amendment were made to 14(3) and a parallel amendment to 14(5)(c) then I believe that the Commission could act in a complementary way to the regulations and that this problem could be resolved without really bringing people that are in full compliance with the regulations back to the Commission on the grounds of complaints or on the grounds of administrative discretion. Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you. Are there any questions of Professor Cass Booy? Mr. Jorgenson.

MR. JORGENSEN: Mr. Booy, significantly the two sections that are dealt with on Page 2 of the Act deal with Section 14(1) and 14(4). Oddly enough those are the two sections that are outlined in the Manitoba Regulations 3473 of February 24th, 1973, and that regulation dealing with those two sections says this:

"Livestock production operations are exempt from the requirements of subsections (1) and (4) of Section 14 as provided in The Clean Environment Act."

It was on the basis of that particular amendment to the regulations on February 24th, 1973, that the Ombudsman suggested that a refusal of a loan to Dauphin Hog Farms should be reinstated. Do you think there is - it seems to me that there's too much of a coincidence here to overlook it. Do you suppose that the reason for the amendment now before us is to justify the action that was taken by the MACC in the case of Dauphin Hog Farms?

MR. CASS BOOY: I have no knowledge of that, I don't know.

MR. JORGENSEN: Well your contention is that when an operation or an enterprise of any kind that has been granted a loan complying with the requirements of the Act and is in operation, that they should not then have to be called back before a hearing and have their licence disqualified after being set up in operation. That's essentially what you mean.

MR. CASS BOOY: Yes. Yes, I feel that if the regulation goes so far as to say to a man he does not have to come before the Commission then I see no reason for bringing him back because there is no obligation on the regulation at all to do that. They don't have to be exempted and if people are not exempted well then of course they have to come before the Commission. But nevertheless even if they're not exempted and they come before the Commission then all the Commission can do is ratify whether they are in compliance with the regulations. We can still not impose on him any additional limitations.

MR. JORGENSEN: You see in this amendment to the bill now is a re-imposition of additional restrictions . . .

MR. CASS BOOY: That's right. That's right.

MR. JORGENSEN: . . . that will cause a hardship to any enterprise that is already established in business.

MR. CASS BOOY: When you hear an operator it will always impose an additional hardship.

MR. CHAIRMAN: Mr. McKenzie.

MR. MCKENZIE: Mr. Chairman, I just have one question for Mr. Booy. In his remarks he mentioned that the Clean Environment Commission is operating without regulations. Would I be fair if I asked you if you had regulations approved by the Executive Council would you be able to handle a lot of the problems or would you at the same time not inhibit people. Are you boxed in where it's very narrow where you can maneuver with the Clean Environment Commission without regulations.

MR. BOOY: Obviously the reason why the present Act has been amended to include regulations is because originally there were no regulations and that meant that every single operation had to come before the Commission. This of course imposes a totally impossible task on the Commission so the idea was that many operations could be adequately dealt with by regulation and I'm sure that the first purpose of the regulations was to relieve the Commission of that enormous burden of work. That was the primary reason why the Act was changed in the first place.

Now the reason why we have only one regulation is that it has proven so difficult to write adequate regulations under the present Act because you have to cover everything from an environmental viewpoint because no one - not only the Commission but also the Minister - is in a position to set additional limits once a matter has been dealt with by regulation. So the Department has been very careful in drafting regulations and I'm sure that that is the reason why regulations have taken so long to come. But I understand that there are many in draft form right now.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, I hadn't intended to ask any questions but there's been a rathersnide suggestion that something is being brought in with respect to a particular loan.

MR. JORGENSON: I object to that suggestion. I don't think it was a snide suggestion. The coincidence is too obvious to be overlooked.

MR. GREEN: Now it is more than snide, now it is explicit. Now, Mr. Chairman, the fact is that is it not a fact Mr. Booy that prior to the regulations relating to hog ranches that the Commission made any order that it wanted with respect to any particular place.

MR. BOOY: That's correct.

MR. GREEN: And isn't it the Commission that was making orders such as the Springfield Hog Ranch - and I don't criticize this - such as the Dauphin Hog Ranch, such as the hog ranch in Carman, etc. and that it was by ministerial appeal that these orders were said to be not applicable where the farmer was carrying on in an area zoned for that purpose? Isn't that what occurred? That those orders were changed - at least at Springfield.

MR. BOOY: If you're talking about the Springfield Hog Ranch.

MR. GREEN: Yes, that's right.

MR. BOOY: I didn't know which one the honourable gentleman . . .

MR. GREEN: Well they made the Dauphin order too and then we brought in the regulations which made it okay. Is it also not a fact that when the Commission met with myself that they indicated that this blanket exemption was not a satisfactory procedure, that there should be an exemption for things which are covered in the regulations but if things are left out it should still go to the Commission. It is the Commission who suggested that.

MR. BOOY: Mr. Chairman, we have a lot of difficulty with blanket exemptions.

MR. GREEN: Exactly. And it was the Commission that said that a thing should not be exempt, there should be specified regulations and if something is not specified then the Commission should be able to deal with it if it is not included in the exemption.

MR. CASS BOOY: That's right.

MR. GREEN: And that's an issue that came from the Commission.

MR. CASS BOOY: I'm not sure whether it came from the Commission but I am sure that the Commission was in wholehearted agreement with this need for changing the procedure.

MR. GREEN: And the Commission wasn't trying to undo the loan to Dauphin hog Ranch.

MR. CASS BOOY: I wasn't even aware of it.

MR. GREEN: Thank you very much.

MR. JORGENSON: No, of course he wasn't, it was the government . . .

MR. GREEN: Well we'll get to this in debate because that is an absolutely incredible suggestion. It was the government that changed that situation, not the

(MR. GREEN cont'd) Commission.

MR. CHAIRMAN: Are there any further questions of Mr. Cass Booy? Mr. Enns.

MR. ENNS: I have only one question. It results really not so much from the representation that you have made, Mr. Booy, but moreso from the response of the Minister. Appearing before us as a Commission member I take this occasion to ask you, has the Commission been able to carry out its function reasonably well without the kind of browbeating or intervention from the Government or from the Minister responsible for the Commission as we're perhaps witnessed just a few moments ago.

MR. CASS BOOY: We have no complaints, Mr. Chairman.

MR. ENNS: That's fine. Things haven't changed.

MR. GREEN: Has the Minister ever attempted to interfere or involve himself in Commission decisions?

MR. BILTON: Mr. Chairman, I take exception to this sort of questioning.

MR. CHAIRMAN: Order please. Mr. Dillen.

MR. ENNS: Mr. Chairman, by way of comment it's just an old war that I choose to continue to fight with Mr. Booy. That's all.

MR. GREEN: Yes, it's an old war.

MR. CHAIRMAN: Thank you. Mr. Dillen please.

MR. DILLEN: Mr. Booy, I am very pleased that you have appeared here before this Committee because there are some very outstanding environmental problems in the Thompson area associated with the mining industry there. I would like to ask you whether or not this Article 14(16) that you take exception to would not correct a situation before it got out of hand and created a greater amount of environmental damage before the problem could be brought before the Commission on a regular basis. Wouldn't this speed up the process somewhat?

MR. CASS BOOY: You're talking about the mining industry.

MR. DILLEN: Yes.

MR. CASS BOOY: Well it seems to be rather unlikely that the mining industry would be exempted by regulation or that even general regulations would be made that are applicable to mining industries because these large operations usually have to be dealt with on an individual basis. I would think that for that particular operation my comments would not hold because we are dealing here with matters where regulations have been promulgated and where people are being brought back. Now I cannot see that that would happen with the mining industry.

Also I think that the matter of getting industry to the Commission is a matter of vigilance on the part of the Branch, getting the matter before the Commission, and they can do that regardless whether we have this section or whether we have it not.

MR. CHAIRMAN: Thank you. If there are no further questions, thank you, Professor Cass Booy.

BILL 55

MR. CHAIRMAN: Mr. Meighen please. Bill 55.

MR. MEIGHEN: Mr. Chairman, with respect to Bill 55 - I don't know whether the Premier is coming back or not. He was good enough to give me a few moments before this meeting and I think that he and I arrived at a pretty good understanding of what was what. I had proposed a new amendment to the Brandon Charter and I furnished that to the Premier and he had Mr. Tallin run this off and I assume that this meets with the Premier's views.

I can tell you our difficulty. In the inception the Brandon Charter provided an exemption from taxation for all purposes for the Provincial Exhibition of Manitoba. When the Keystone Center was incorporated and an agreement was entered into between the City and the Province no provision was made with respect to taxation and no provision was made for the amendment of the Brandon Charter to substitute the words "Keystone Center" and so on for the Provincial Exhibition.

When it was discovered that by reason of the transfer of all of the lands consisting of some 84 acres and all the buildings from the Exhibition to the Center taxation had to be imposed under the Act. An amendment to the Charter was thought to relieve the property of school tax but leave it taxable for other purposes. It's now been agreed by the City that the complete exemption will not be opposed.

But in Bill 55 the Keystone Center was included in the definition of centennial project and the clause that bothered us was Clause 6 which provided that where a centennial project ceases to be used for the purposes for which it was constructed the owner thereof shall transfer title thereto to the government. The

(MR. MEIGHEN cont'd) letters patent of the Keystone Agricultural and Recreational Centre Incorporated which were dated the 23rd of December, 1971 - and that was done at the time of the agreement being entered into between the City and the Province - it provided in the Charter that the affairs of the Corporation may be wound up in accordance with the provisions of The Companies Act. When the affairs of the Corporation are wound up the assets of the Corporation after the payment of all debts and liabilities shall become the property of the Provincial Exhibition of Manitoba, the City of Brandon and Her Majesty the Queen in the right of the Province of Manitoba in equal shares.

Now this proposed Bill 55 if it stood as it was would nullify that provision of the letters patent and would be contrary to the agreement that had been entered into. This causes me concern not only as the city solicitor but also in another capacity I had as Chairman of the Fund Raising Committee where we went out and raised practically a million dollars from individuals and from business for this project, among them from my friend Mr. Weiss who is here. Of that amount there is some \$400,000 still outstanding in pledges. These pledges are coming in very beautifully but I was really concerned that if this particular Section 6 remained in the bill that this would give an opportunity to people that might be inclined to renege on their pledges, to get out and say well I'm not going to pay if ultimately the province is going to take over the whole thing. To heck with it.

So the Premier I believe agreed with my argument in that respect and Mr. Tallin has produced a bill in substitution for the one that I have in order that a separate bill doesn't have to be introduced. That proposed bill says firstly that Clause 1(b) of Bill 55 be struck out. In other words the Keystone Centre would no longer be considered a centennial project for the purpose of Bill 55.

And then that Bill 55 be amended by striking out Section 9 thereof and substituting the following sections:

Section 51 is amended by deleting therefrom the words "the Provincial Exhibition of Manitoba" where they appear there in and substituting therefor "Keystone Agricultural and Recreational Centre Incorporated". That's the section of the Brandon Charter that gives the tax exemption.

(b) by deleting therefrom the words "caretaker's residence" and substituting the words "manager's log cabin residence". In the bill as it originally was or in the Charter there was provision that the building then known as the caretaker's residence would be taxable and that building has been torn down long since and there is a log cabin dwelling on the premises that was occupied by the manager for a number of years, is no longer so occupied and is rented. The Premier indicated that he felt it should be taxable but not the balance of the property.

Then at the end of that section there was provision that occupants or permittees of the property doing business during the week of the Provincial Exhibition should not be required to pay business tax and other fees and the proposal is that that be amplified to include the Royal Manitoba Winter Fair or any agricultural show or exhibition.

There's provision then that the Act comes into force on the day it receives Royal Assent but Section 9 - that's the one dealing with the exemption of taxes - is retroactive and shall be deemed to be in force from and after the first of January, 1973. That date is chosen because the property was not assessed for 1972 but was assessed commencing the first of January, 1973, so that will have to be written off from the city tax rolls.

If that proposed amendment then is satisfactory I'm authorized on behalf of the City to say that we are happy to support it and I wish to thank you for your attention.

MR. CHAIRMAN: Thank you, Mr. Meighen. Are there any questions? Mr. Marion.

MR. MARION: Mr. Meighen, I gather then that if for any reason Keystone Centre were to be dissolved the ownership would revert back to the formula that you had in the original agreement.

MR. MEIGHEN: In the letters patent, yes.

MR. MARION: In the letters patent.

MR. MEIGHEN: A third to the Province, a third to the City and a third to the Provincial Exhibition of Manitoba.

MR. MARION: Thank you.

MR. CHAIRMAN: Mr. Evans.

MR. EVANS: Mr. Meighen, I appreciate the approach that you on behalf of the City are suggesting and perhaps it is a better approach. However just to make

(MR. EVANS cont'd) certain what you're telling us that essentially we are accomplishing the same thing, the same objective of exemptions from taxes with certain provisos, as would have been achieved in The Centennial Projects Act that Bill 55 that is before us this evening.

MR. MEIGHEN: That's right.

MR. EVANS: You're also confirming that the City did not levy taxes on the property prior to January 1, 1973, so that they wouldn't be faced with any back taxes to be paid.

MR. MEIGHEN: That's right.

MR. EVANS: Just on the question of pledges and I know there are some still outstanding, there was some concern you stated expressed by perhaps by some people that if the property was not utilized as was originally intended in Bill 55 it would revert to the province. Was there much belief that the City of Brandon or the exhibition people who have run what used to be known as the Provincial Exhibition Grounds, run the exhibitions and fairs there for over 90 years, that it would ever be used for other than that for which it was originally intended?

MR. MEIGHEN: I don't believe that for a minute, Mr. Evans. I'm not worried about that aspect of it. The only thing I'm worrying about is that - you know how hard it is to collect money from people - and often when you get into one of these five-year pledges it's pretty easy to just seize on any possible excuse not to pay those pledges. That is really my main concern and that's really why I'm here tonight, because when I read the bill I asked for an audience with the City Council and it really wasn't as City Solicitor that I asked for that audience, it was as fund raiser. Because I want to see the rest of this money collected because if it isn't collected then the building is going to end up in debt. I think probably most of you - I don't like to trespass on your time but I'd like to explain this: that we had I think a very efficient building committee and they took the firm stand that unless there was money either by pledge or in cash that they weren't going to commit it for use in the complex. That has carried on right down so that there is no debt provided we can collect their money. That's my one worry here is that if they give anybody any extra excuse to avoid their pledges then we're in trouble. If we can collect all those pledges we're home free.

MR. EVANS: Mr. Chairman, as I understand it in the proposed amendment suggested by Mr. Meighen in effect the Keystone Center Incorporated would be paying local improvements, local improvement taxes as was the case with the Provincial Exhibition.

MR. MEIGHEN: No I don't think so. The only taxes they will be paying will be the taxes on the residence that is rented. I think that's fair game.

MR. EVANS: So the local improvements stays the same as it was in the original bill.

MR. MEIGHEN: And if there were any new local improvements that came along probably they wouldn't be undertaken unless there was some change made. At the present time and for the present local improvements no.

MR. EVANS: I would imagine that - well I guess I needn't dwell on this but I note that in the past there was very little paid in the way of local improvements anyway. There were very few dollars paid out. I also note that the complex is virtually surrounded by provincial highways and railways so that the provincial highways recently having been upgraded to the tune of over \$400,000 and a provincial road on the other side having been put into very good shape and the third road subject to 50-50 sharing.

Mr. Chairman, I had another couple of questions but I don't know how relevant they are inasmuch as the City seems to have taken a different position on this as Mr. Meighen has expressed.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Mr. Chairman, I had a question or two about taxes but I think that the answers that I wanted have been given by Mr. Meighen so I have no further questions.

MR. CHAIRMAN: Thank you. Hearing no further questions, than, you Mr. Meighen.

MR. MEIGHEN: Thank you very much gentlemen.

MR. CHAIRMAN: Before we get down to clause by clause are there any other members of the public wishing to address the Committee? Hearing none, the first bill before us is Bill 55.

Section 1(a)--pass - Mr. McGill.

MR. MCGILL: Mr. Chairman, on Section 1(a) it relates to the Centennial Centre as defined in The Centennial Centre Corporation Act. Is there anything in

(MR. MCGILL cont'd) this bill other than the provision requiring a nil assessment on the assessment roll that is not already provided in the Centennial Corporation Act? Perhaps the Premier could explain this.

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: Mr. Chairman, it is for purposes of clarification that it is included here. There is need to clarify with respect to the Winnipeg Art Gallery and with respect to the nil assessment aspect with respect to the Centennial Centre and the Centre Culturel and the amendment already referred to by Mr. Meighen speaks for itself.

MR. CHAIRMAN: (b)--pass - I'm sorry. Mr. McGill.

MR. MCGILL: I was just wondering, Mr. Chairman, how that - why that wouldn't have been done by straight amendment to the respective Acts rather than under this general category of Act. There must be a reason for that and I was just wondering what it was.

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: Well the reason has to do with attempting to bring together in one statute reference to those major centennial projects of which there was in one or two cases some major disagreement or lack of clarity and in the other cases on minor things such as if not local improvements then sewer and water maintenance charges etc.

MR. CHAIRMAN: (b)--pass; (c)--pass - Mr. Johnston.

MR. J. FRANK JOHNSTON: Mr. Chairman, I would just like to ask a question on (b) looking at the statutes here and I think it's a similar question. We have an Act covering, like Chapter C-45, the Franco-Manitobain Culturel Centre. Why wouldn't the description be just added to that Act in this case?

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: Well for the same reason, Mr. Chairman. We're attempting to clarify tax status with respect to the major cultural centennial projects all in one bill. It also provides on the next page of this bill clarification with respect to payment of grants in lieu and transfer of title and restriction on transfer and encumbrance of title and clarifies the means under which encumbrance of title shall and shall not take place.

MR. J. FRANK JOHNSTON: Well, Mr. Chairman, I just would mention Section 10 of that C-45 or Section 11 where it says "and no grants in lieu of taxes and any such taxes or taxation is required to be made in respect of the Corporation or businesses of the Corporation by the Corporation or by the Government."

MR. SCHREYER: To insure that the same kind of provision with respect to 6 and 7, 5 as well but 6 and 7 primarily, would be standard and uniform with respect to all of the centennial projects.

MR. CHAIRMAN: (b)--pass; (c)--pass; (d) -- Mr. Schreyer.

MR. SCHREYER: Mr. Chairman, it is with respect to (d) that this amendment that Mr. Meighen referred to would apply.

Accordingly I would move that Clause 1 . . .

MR. CHAIRMAN: Order please. I believe that a member sponsoring a bill cannot move an amendment.

MR. PAULLEY: That clause 1(d) of Bill 55 be struck out. (Agreed)

MR. CHAIRMAN: Section 1 --pass. Section 2--pass; 3 -- pass; 4 -- pass; 6 -- pass - Mr. Marion.

MR. MARION: Mr. Chairman, I'd like to direct a question to the First Minister, through you, with respect to Clause 6. In essence we now know that should the Keystone Center cease to exist then it will be vested in three parts to the province, the city and the former exhibition grounds.

The situation with respect to the Art Gallery I believe is not the same and I wonder if there shouldn't be some regularizing in that instance or any other group that comes under the centennial project status.

MR. SCHREYER: Mr. Chairman, the matter of Keystone is as Mr. Meighen said governed - if this section is not applicable then that problem is governed by a clause or provision of the agreement, the tripartite agreement that was entered into approximately two years ago between the province, city and the provincial exhibition board.

With respect to the Art Gallery there is no standing agreement and in any case I can advise the honourable member that in the drafting of a bill with respect to the Art Gallery which bill was not proceeded with because it was superseded by this bill before us now, the section having to do with the disposition of the assets of the Art Gallery in the unlikely event that that building was no longer used for the purpose for which it was built, that section was certainly discussed with the Art

(MR. SCHREYER cont'd) Gallery Board and agreed to. So I don't rule out the possibility that we would discuss it with them in the months ahead but certainly that section was known to them and there was no objection.

MR. CHAIRMAN: (Sections 6 to 8 of Bill 55 were read and passed) Section 9 Mr. Paulley.

MR. PAULLEY: Mr. Chairman, that Bill No. 55 be amended by striking out Section 9 thereof and substituting the following sections: Subsection 50(1) of the Brandon Charter amendments. Section 9 subsection 50(1) of the Brandon Charter being Chapter 95 of the Statutes of Manitoba 39 is amended:

(a) by deleting therefrom the words "Provincial Exhibition of Manitoba" where they appear there in and substituting therefor "Keystone Agricultural and Recreational Centre Incorporated",

(b) by deleting therefrom the words "caretaker's residence" substituting therefor the words "manager's log cabin residence",

(c) by deleting therefrom the word "only" where it appears in the last line thereof and substituting therefor "or of the Royal Manitoba Winter Fair or any agricultural show or exhibition."

And 10, Mr. Chairman, 9 then becomes 10 - the present 9 becomes 10 - Commencement of this Act comes into force on the day it receives the Royal Assent but Section 9 as retroactive shall be deemed to have been in force on, from and after January 1st, 1973.

MR. CHAIRMAN: Any discussion? (Agreed) Preamble--pass; Title--pass; Bill be reported.

BILL NO. 7

MR. CHAIRMAN: Bill No. 7. Mr. Paulley.

MR. PAULLEY: Mr. Chairman, on Bill No. 7 if I am correct, when we last considered Bill No. 7 we had agreed to the clauses in Bill No. 7 dealing with the matter of the number of commissioners up to Section 4(7) which dealt with the retirement of commissioners. I believe that we had agreed to the size of the Commission, the matter that they would be seven, it could be two panels of three to go along and hear matters pertaining to the Commission. We now require agreement that subsection 4(7) of the Act which provides for the retirement at age 65 unless the Lieutenant-Governor-in-Council otherwise approved. I believe that's where we stopped the other night.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: I think that's correct but I just want to know about the amendments that are now being forwarded to us. Is this just a recapitulation of the amendments that were forwarded before or are there new amendments contained in this.

MR. PAULLEY: There is a revision of the amendments that were before us in answer to Mr. Spivak, Mr. Chairman.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: I'm sorry. Mr. Balkaran.

MR. BALKARAN: You will recall the initial set of amendments that was circulated, Mr. Spivak. We had got down to motions 1,2,3 and 4. Those are disposed of so we are starting at No. 5. What I did was just renumber No. 5 as No. 1. That's the new set you've got there with some modification later on. The first four were dealt with at the last meeting so I didn't think we should repeat that.

MR. SPIVAK: I understand but are there contained in the new set new amendments?

MR. BALKARAN: Not new but some modifications.

MR. PAULLEY: Modifications to the ones that were in the previous documentation, Mr. Chairman.

MR. SPIVAK: Before we even begin I wonder if we could just have them identified as to which ones are the ones that were altered.

MR. PAULLEY: Yes. No. 1 motion, Mr. Chairman, on the new sheet . . .

MR. SPIVAK: Either new or changes.

MR. PAULLEY: Yes. That one has not been changed from the original document, suggested amendments. There is a change I believe Mr. Balkaran insofar as No. 2 is concerned. It's a clarification as to the period - nothing really substantive or basically different but a clarification of the Act as it is proposed at the present time. I believe that is also so insofar as what we now call Item No. dealing with the Clause 44(1)(a) is for clarification purposes. Is that not correct Mr. Balkaran?

That is also true of Motion No. 4, for clarification purposes.

Then in Item No. 5 motion substantially it's the same as was proposed before insofar as 44(4) is concerned, that is in the respect Mr. Spivak of the

(MR. PAULLEY cont'd)previous document that I circulated or had caused to circulate it. 44(5) is substantially the same.

Then we get to 44(6) however. I draw to your attention that there is a change suggested from the amendments that I submitted the other night and this is also true of 44(7) which is on Page 3 of the document that I have asked to be circulated this evening, Mr. Spivak. Is that okay?

MR. SPIVAK: Yes.

MR. PAULLEY: Now, Mr. Chairman, I don't know whether we may have concurrence with the proposed Section 4(7) in Bill 7 as it stands at the present time dealing with the matter of the age limit of 65. If we can have concurrence in that that would tidy up that particular section dealing with the composition of the Civil Service Commission and age of retirement. Then I would like to - Mr. Spivak had asked a question dealing with contracts, number of contracts and the likes of that. So if it's agreeable with the Committee and if the Committee would agree with Section 4(7) dealing with the age of retirement then I have some information that Mr. Spivak asked of me dealing with the numbers on contract basis.

MR. CHAIRMAN: Is the change to 4(7) agreed?

MR. PAULLEY: 4(9) would that be?

MR. CHAIRMAN: Agreed.

MR. PAULLEY: Well there is a technical change. That would be 4(9) because of the new amendments. If that's agreed, Mr. Chairman, then Mr. Spivak asked me the other day if I could give an estimate of the total number of persons on contract with the Government. At that particular time I indicated that I didn't have it at my fingertips but I would try to get the information for the Leader of the Conservative Party.

The answer I have got as of now is an estimate of between 250 and 300 people on contract at the present time and, Mr. Chairman, to the Committee, I'm informed that this is going through the computer at the present time to try and get an absolute accurate number. But it is between 250 and 300 and this of course includes the number in Northern Affairs.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: I wonder if the Minister of Labour is in a position to indicate how many people the MGEA acts for in relation to its contract, the MGEA contract.

MR. PAULLEY: The MGEA contract?

MR. SPIVAK: Yes.

MR. PAULLEY: No, I'm sorry, it's total numbers I believe that I was asked of.

MR. SPIVAK: No, I appreciate that you have given me the number of contracts but I'm now asking how many employees do the MGEA bargain for and how many employees are covered by their contract.

MR. PAULLEY: As far as I am aware, Mr. Chairman, all those on contract are not bargained for.

MR. SPIVAK: No, no, I understand. I appreciate that. I am asking how many employees are covered by the MGEA contract.

MR. PAULLEY: Oh excuse me, I'm sorry. I think it's somewhere between 8,000 and 9,000 people. That is directly and that may be increased in the departmental collective agreement by another couple of thousand possibly.

MR. CHAIRMAN: Section 3 (4) (5) (a)--pass - Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I guess it's actually (5) (4) rather than (4) (5). But on this I would like to now understand with respect to the contract employees, we are really adding here new categories of employment, regular, temporary and departmental if I'm correct.

MR. PAULLEY: Well actually, Mr. Chairman, we're conforming with the definition that we've already agreed to with the amendments that have already passed. Instead of having as I recall under the present Act "casual" and so on and so on that to describe them as "regular, temporary and departmental" and then in Section 5(5) will be the definitions precisely of what is meant by regular employment, temporary employment and departmental employment.

MR. SPIVAK: I recognize that these are categories now being defined in the new Act which will apply on the assumption that this Act is passed and becomes part of The Civil Service Act but in the 250 to 300 contract employees that you've mentioned already would that of included people who would be categorized as being regular or temporary or departmental employees? The contract employees that you're referring to, is that all-embracing to include regular, temporary, departmental or are these people in addition to the 250 to 300?

MR. PAULLEY: Mr. Chairman, I believe I'm correct when I say that these

(MR. PAULLEY cont'd) definitions are apart from those under contract and it's a recognition and this is basically what we're endeavouring to do, by delineating these categories that they are actually classifications under The Civil Service Act that are subject to collective agreements. There was a court case some time ago where reference was made to departmental employees - I believe it was Mr. Justice Tritschler if memory serves me correctly - there was some case as to whether or not departmental employees were subject to The Civil Service Act. There was a difference of opinion; it went before His Lordship and he ruled that departmental employees were actually under The Civil Service Act. The purposes of this as I understand it - subject to being corrected by legal counsel - to make sure that these types of categories are within the collective agreement and not outside of it. That as I understand it, Mr. Chairman, is basically what we are attempting to achieve and one of the reasons for this is because when the debate took place in the House and also there was certain references made by the Manitoba Government Employees' Association outside of the House that there was an endeavour to circumvent the collective agreements entered into between the Government and the representatives of the employees. The basic principle contained in these sections is to make it absolutely clear that they are covered by collective agreement.

MR. SPIVAK: But again I want to understand from the Honourable Minister that there are 250 or 300 contract employees who have been hired by way of fee, professional fee of some sort.

MR. PAULLEY: Right.

MR. SPIVAK: Now the regular, temporary or departmental employees are in addition to that 250 to 300. Is that correct?

MR. PAULLEY: That's correct.

MR. SPIVAK: Okay, I fully understand that. That's fine.

MR. CHAIRMAN: (a)--pass - Mr. Bilton.

MR. BILTON: Mr. Chairman, just one thing I would like to question the Minister on. That 5(a) regular, (b) temporary, (c) departmental. Why this "regular"? Wouldn't the better term be used "permanent"? And why "departmental"?

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, the reason for it being "regular" is there's no such thing as permanency in these days and it's presumed that the better word to use is "regular". Regular employment applies to an employee who carries out and occupies a continuing function in a departmental program and who has all the rights and privileges of a permanent status.

MR. BILTON: Why don't you say it then?

MR. PAULLEY: Because of the fact that nothing is permanent these days.

MR. BILTON: Oh we realize that.

MR. PAULLEY: Even insofar as members of the Legislative Assembly are concerned. I'm one of the more fortunate ones.

MR. BILTON: Well why "departmental"?

MR. PAULLEY: Why "departmental"? The reasons for the use of the term "departmental" is because there are two collective agreements, one with what we normally call the regular civil servants, other dealing with the departmental employees who generally mean those who are working in the Department of Highways and to some degree Public Works. They're on a different type of a contract, collective agreement between the Government and the Manitoba Government Employees' Association.

MR. BILTON: Looks to me as though the union has got it all fogged up. Thank you.

MR. PAULLEY: Well I don't know about the union, possibly the Member for Swan River.

MR. BILTON: Don't worry about that.

MR. SPIVAK: Or the Minister.

MR. CHAIRMAN: Mr. Marion.

MR. MARION: Mr. Chairman, it seemed to me that during the presentation that was made by the MGEA they mentioned that there was a section that could confuse the definitions of the regular, temporary and departmental employees. I wonder if the Minister has checked this out to make sure that there is no, in a previous section of the existing bill any chances for duplication or confusion.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, one of the objectives that the Minister has in presenting this bill for the consideration of the Committee is to eliminate possible confusion. There was confusion I'm sure with some of the members of the Legislature. Certainly there was some confusion with the Manitoba Government Employees'

(MR. PAULLEY cont'd) representatives. Our objective is to eliminate this confusion.

MR. MARION: Mr. Chairman, one last question to the Minister now that I'm sure that he's not confused. What does he do with Section 2(1)(cc) Term Employee?

MR. PAULLEY: That, Mr. Chairman, if my honourable friend will recall has been eliminated as a definition if I recall correctly.

My Legislative Counsel indicates to me it could be brought back in by regulation but for a long time we have had confusion with the use of the word "term". There was no clearcut definition of what it meant. A term of 20 years, 50 years depending on what the magistrate decided should be the proper term.

MR. CHAIRMAN: (The remainder of Section 3 was read and passed) Section 4 (9)(1.1) -- pass - Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I wonder if the Minister can indicate why this power is being given to the Cabinet.

MR. PAULLEY: That is dealing with the pay where classification is changed, Mr. Chairman? It is actually a clause that is in the present Act as I understand it, Mr. Chairman, but there was some confusion in the phraseology of the present Act and my advisers - not legal advisers in this particular case but the advisers from the Management Committee of Cabinet felt that this would clarify some of the problems that they had been having. Technically it does not change the general principle that has been in force for years but a clearing up of the language in that particular section.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, you know I don't want to get into a lengthy argument. I have the section in front of me and I don't think that the Honourable Minister is correct. Section 9(1) - and this is to follow this - says "subject to subsection (2) where a change is made in the classification of a position the appointment of the incumbent to the position terminates and the Commission shall make a new appointment."

MR. PAULLEY: Where is that, Mr. Spivak?

MR. SPIVAK: In the Act itself.

MR. PAULLEY: In the Act? In the present Act C-110?

MR. SPIVAK: No, no. Yes, I'm sorry, yes.

MR. PAULLEY: Subject to subsection (2) which is not being amended "where a change is made in the classification of a position the appointment of the incumbent in those positions terminates and the Commission shall make a new appointment." There's no change there. There is no change there.

MR. SPIVAK: No.

MR. PAULLEY: Then the old Section 9(2) which will be Section 9.1 but the old . . .

MR. SPIVAK: No, no. 9(2) is not . . .

MR. PAULLEY: Okay, I'm sorry. 9(2) stays, yes. 9(1.1) - "the pay of an employee whose classification is changed shall be determined in accordance with the classification to which he is assigned, but in no case shall the pay be higher than the maximum pay for the new assigned classification unless otherwise approved by the Lieutenant-Governor."

MR. SPIVAK: Again I ask him why the power of the Cabinet unless otherwise approved by the Lieutenant-Governor-in-Council.

MR. PAULLEY: Because it is normal in any business institution that there is certain latitude to be granted so that there is conceivably a lessening of the penalty for somebody who may be changed in their position. Otherwise they would have to conform to the absolute in the terms of the collective agreement between the employees and the Government.

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: Mr. Chairman, I think that this would also cover those cases of what is colloquially referred to as red circling or blue circling and this makes that possible.

MR. PAULLEY: That's right.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Well I have the presentation of the MGEA in front of me and I want to read on Page 4 what it states.

MR. PAULLEY: What page, Mr. Spivak?

MR. SPIVAK: Page 4. "It is respectfully submitted that the potential for favouritism by the Cabinet is a dangerous amendment to introduce into the Civil Service." Now the problem here is I appreciate what the Honourable Minister has said but the indication in the protection is that the pay of an employee whose

(MR. SPIVAK cont'd) classification is changed shall be determined in accordance with the classification to which he is assigned, but in no case shall the pay be higher than the maximum pay for the new assigned classification. The problem of "unless otherwise approved by the Lieutenant-Governor-in-Council" means that the Lieutenant-Governor-in-Council do have the authority and power to - if they so decide - to exercise a particular favouritism which the MGEA are concerned about. I wonder you know again the Government's justification for asking for that particular power.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: I think, Mr. Chairman, the Premier properly indicated there is such a procedure in industry generally where a person's salary is so-called red circled. In other words if a person is demoted from one classification to the other that rather than that individual suffer a further reduction in his salary that for the time being his salary be red circled so that he doesn't have an additional financial reduction in his salary only while he is an incumbent in that particular position. I don't think that this was clearly understood by the Government Employees' Association or their representation.

We were accused in debate that this would grant Cabinet the right to reward a favourite employee and to punish other members of the Civil Service. Quote from the brief of the Manitoba Government Employees Association. This is not the intent but if an employee say for instance, Mr. Chairman, was in a position where he was getting say \$10,000 a year and something occurred that he went into a lower category for which he would only receive \$9,500, going into that lower category or lower classification this gives the Lieutenant-Governor-in-Council to continue his salary at \$10,000 rather than the individual have a reduction of \$500.00 in a similar classification in accordance with the salaries for that group of employees.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: In the kind of situation you're describing surely that can be defined in law, in legal terms, to in fact take care of that situation. But in effect what is being asked for really for approval is the power for the Lieutenant-Governor-in-Council to exercise and not only in the kind of circumstances that you're talking about but in any other kind of circumstances.

MR. PAULLEY: No, because we've entered into a collective agreement, Mr. Chairman. We've entered into a collective agreement where there is monetary benefits within these classifications.

MR. SPIVAK: I appreciate that but I wonder if I can just make the point. I understand that there's a collective agreement but the collective agreement is not part of this legislation.

MR. PAULLEY: Oh it definitely is.

MR. SPIVAK: The collective agreement is not part of this legislation to the extent that it is not being enacted by the Legislature . . .

MR. PAULLEY: Okay go ahead. I'm sorry to interrupt you, I will though.

MR. SPIVAK: The point that I'm making is that you are talking about a particular situation and I appreciate the situation and it can arise and there should be the power to be able to deal with that so that in those situations the Cabinet can make a decision that the person is not penalized as a result of the re-classification. That you can express in legal terms very simply. But what has been given here is "unless otherwise approved by the Lieutenant-Governor-in-Council" which means that they can almost do anything. The Cabinet can almost do anything at any time, not only in that situation but in any other situation they so desire. -- (Interjection) -- Oh yes it is true.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Well, Mr. Chairman, if Mr. Spivak is finished. This is not so. What we are trying to do by this section is to protect the individual. Apparently, Mr. Spivak - and I say this in all affection to my honourable friend - is not knowledgeable of collective agreements or possibly even of The Civil Service Act because there is contained within The Civil Service Act permission for the entering into of a collective agreement between the Government and the Employees' Association and that becomes part and parcel of the regulations of The Civil Service Act and it does become gospel, basically.

Now then the reason for this particular situation is that where a person who is subject to the collective agreement goes into another category which provides for a lower schedule or lower rate of pay that rather than prejudice that individual by a reduction in real wages because he goes into a different classification which has accompanying that "X" number of dollars from the low scale to the high scale in that classification, this gives the Lieutenant-Governor-in-Council the authority to protect that man's income so that he is not prejudiced because of a change in

(MR. PAULLEY cont'd) classification. It's to the benefit of the employees.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: The section says "the pay of an employee whose classification is changed". Changed by whom? By the Commission, "shall be determined in accordance with the classification to which he is assigned". By whom? By the Commission. So all these actions are by the Commission. "But in no case shall the pay be higher than the maximum paid for the new assigned classification." So in the Minister's example if he went to \$10,000, if the maximum was \$10,000 in that new classification he would get the \$10,000.00. But the only time that the Lieutenant-Governor-in-Council could act in this section would be if it was in fact the maximum - the maximum was exceeded by the \$10,000.00.

MR. SPIVAK: Now if you would put that into legislative wording I would agree to it.

MR. BOYCE: Well it is in.

MR. SPIVAK: No it's not. No it's not.

MR. BOYCE: Mr. Chairman, I don't want to debate across the room but it is in fact in operation in the law. Because if it is an action in the first instance by the Commission. All these actions are by the Commission. The only time there's going to be any exercise of the Lieutenant-Governor-in-Council's prerogative is if it has to approve the action of the Commission. It's quite explicit to anyone who will read it.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, you know I accept the explanation given by Mr. Paulley and Mr. Boyce and I'm not quarreling with them. The Premier gave the same explanation. The only problem is that it's not expressed here in this particular section because it says "unless otherwise approved by the Lieutenant-Governor-in-Council" which means the Lieutenant-Governor can also approve whatever it wants. He can go to \$12,000, he can go to \$14,000, he can go to \$15,000.00. Now that's not the intent and all I'm saying is if you add on to that the kind of wording that will explain what Mr. Boyce has said I don't think there's any objection to it. And that's really all the MGEA was asking for.

MR. PAULLEY: Mr. Chairman, again I say in all deference to my honourable friend he's not knowledgeable apparently in collective agreements. When you enter into a collective agreement you have certain salary levels and if per chance an individual is in Class A-1 say for instance and is receiving the salary for that classification and for some reason or other there's a classification that is changed and he goes to a different classification which is lower, the Lieutenant-Governor-in-Council can give to Treasury Branch and to the Commission the authority that his salary will not be reduced below what he is receiving at the present time. That's all this says.

MR. SPIVAK: No it doesn't, Mr. Chairman.

MR. PAULLEY: Oh it does, Mr. Chairman.

MR. SPIVAK: With all due respect it does not. It says far more than that and that's the problem. Because we agree with the explanation that's given. If that's all that is intended then let's alter it to change that. But this is far more. This gives the power of the Lieutenant-Governor-in-Council to essentially do whatever it wants.

MR. PAULLEY: No it does not.

MR. SPIVAK: And in Mr. Boyce's example it can go to \$12,000, \$14,000, \$15,000 if it so desires.

MR. PAULLEY: But, Mr. Chairman, we're not talking about increases, we're talking about that there cannot be, subject to the Lieutenant-Governor-in-Council, reductions. We're not saying . . .

MR. SPIVAK: Ask the Legal Counsel whether my interpretation is correct.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, this subsection to Section 9 as far as I can recall was necessitated by an actual example of some staff that had moved from one department because they were no longer required and their positions became redundant and they were moved to another department. They carried with them certain salaries and the fear was expressed that they may not get the salaries they were getting in their existing department because they were slotted into categories or classifications which were lower, in some cases substantially lower than those they were occupying in their former position. So the purpose of this - and while it does so not in Mr. Spivak's opinion, I thought it did - was purely to protect those people so that the Lieutenant-Governor-in-Council could say to these employees, you shall not be reduced but you carry on with the salary that you were getting on your previous job.

MR. PAULLEY: While you're in that slot.

MR. CHAIRMAN: Order please. Mr. Marion.

MR. MARION: Mr. Chairman, with the explanation that was given by Mr. Balkaran I wonder why the verbiage or the content of this clause doesn't expressly say that because it really doesn't say that. It says that if a classification is changed then the person will be paid in the maximum of that classification but it doesn't say that it will protect the salary at which he was at before he was re-classified. It does open avenues where even if he were just at the same level that maximum could be increased by ministerial decree. Now I know that having said that I might acquire the wrath of the Minister of Labour but very definitely my interpretation of this clause runs parallel with that of the Leader of the Opposition.

MR. CHAIRMAN: Mr. Boyce. Mr. Boyce.

MR. BOYCE: I'm shocked to hear that your thinking parallels the Leader of the Opposition. If you read the next section, 11(6) on the next page, it takes care of your apprehension. But, Mr. Chairman, heavens to mergatroid do you have to read this - this is a part in an Act. The part deals with classification. It deals with actions of the Commission. There is nowhere in the whole part or this amendment which suggests that there's an action initiated by the Lieutenant-Governor-in-Council. That's what is being implied by the Leader of the Opposition. This is the approval, the approval of an action taken by the Civil Service Commission.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Well you know I think we perform one of the most serious functions as members of the Legislature in this Law Amendments Committee when we deal clause by clause with the legislation. Much of what we do here can save litigation and save confusion and difficulty.

Now I must say, and I think Mr. Balkaran will suggest the same thing as well, that the wording that is used is subject to other interpretation, legally subject to other interpretation because of the way it's phrased. I understand the intent and no one is quarreling with it and there's no point in recounting the situations. I know that they exist within the Civil Service; I've had experience with them. Having said that it seems to me that the wording is too wide, it should be restricted because it goes again to the general proposition in this bill and others as to how much power is to be given to Cabinet and I suggest that the Cabinet doesn't want that particular power, it's not asking for it so it's just a question of wording so that we can agree that it's not contained in it, that's all.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I wonder whether really Mr. Spivak has read the Section 9(1.1). I wonder then will you listen to me while I read it and it might penetrate.

"The pay of an employee whose classification is changed shall be determined in accordance with the classification to which he is assigned." All right. We're agreed with that. We have a collective agreement; we have pay rates according to classifications. We agree with that I think.

Then this section goes on, "but in no case shall the pay be higher" - now this is what your suspicion is and the MGEA's suspicion and I discount both of your suspicions . . .

MR. CHAIRMAN: Order please.

MR. PAULLEY: Of course I could be wrong but invariably I am correct. Now then, Mr. Chairman, the clause then goes on further to say - and I want my friend from St. Boniface to notice this too - "but in no case shall the pay be higher". Now my honourable friend is suspicious that we may reward our friends by paying higher wages. Now then may I repeat, "but in no case shall the pay be higher than the maximum pay for the new assigned classification unless approved", and surely . . .

MR. SPIVAK: Unless what?

MR. PAULLEY: "Unless otherwise approved". That means, that means exactly what the Premier said. He said if a fellow was getting \$12,000 a year in classification 9 and he was reduced to classification 8 he would be red circled or he would not be prejudiced against because of his change in classification lower. Now that's all that this means and your suspicious minds I would suggest should agree that this is for the protection of the employee and does not give, it does not give to the Lieutenant-Governor-in-Council an opportunity to boost up wages that you're suspicious of.

MR. SPIVAK: In a particular situation he could.

MR. PAULLEY: No he couldn't.

MR. SPIVAK: Ask Mr. Balkaran.

MR. PAULLEY: No it doesn't.

MR. SPIVAK: But ask him. He's the Legislative Counsel.

MR. PAULLEY: That's right. And he's the guy that worked with me.

MR. SPIVAK: I know but he'll say that they could.

MR. PAULLEY: No.

MR. SPIVAK: He's shaking his head in agreement.

MR. PAULLEY: Go ahead. Go ahead.

MR. CHAIRMAN: Mr. Balkaran.

MR. PAULLEY: If he comes from a higher classification to a lower classification now how the hell can he get more?

MR. BALKARAN: No I must concede, Mr. Chairman, in listening to the debate that has gone on that the qualification at the end of the subsection, "unless otherwise approved" could authorize Cabinet to pay a salary as high as the maximum for the new classification. I'm sure that's all.

MR. PAULLEY: Well of course, that's the whole intent of the damn thing.

MR. CHAIRMAN: Order please.

MR. PAULLEY: Only because he comes from a higher classification to a lower one.

MR. BALKARAN: What Mr. Spivak is saying I think I can see the point. It doesn't say that the amount approved is to be pegged as something he was getting before. It could exceed that amount too.

MR. CHAIRMAN: Mr. Schreyer. Order please. Mr. Schreyer.

MR. SCHREYER: Mr. Chairman, this section was referred to by Mr. Marion who expressed in a sense the opposite concern, that the section may - as it is worded here - would give some protection with respect to that employee who is being reclassified. He may be reclassified downward in terms of classification and this section here would ensure that he would be in the pay range of that classification and it cannot be higher than that classification unless it is approved by Lieutenant-Governor-in-Council.

Now you express the opposite concern. What protection is there against some sort of bottomless lower salary and that is not dealt with in this section because that is dealt with in Section 11(5) of the Act which is not being repealed or amended. It's part of the existing Civil Service Act and there is protection there against the - with respect to the lower band of the salary of a person being transferred from one position to another.

Now I regret the difference of interpretation on this section. I think that the culprit word here is the word "approved" and the interpretation being given to it. I sense although I'm not sure that Mr. Spivak is taking "approved" to connote "initiated by" or "ordered by" and that's not the way we interpret or I believe that's not the way the Minister of Labour intended. He's taking it literally. "Approved" means that it comes forward . . .

MR. PAULLEY: . . . collective bargaining.

MR. SCHREYER: Yes. So there's where the difficulty is.

MR. CHAIRMAN: Mr. Marion.

MR. MARION: Mr. Chairman, might I respond to the First Minister this way. I realize that this clause was not a demotion clause and I wonder if when you get to "unless" you would change all of the words after it and have it read something like this, "unless the previous pay classification was higher and the reason for reclassification is not demotion." -- (Interjection) -- Well no. It would be absolutely and abundantly clear to me if these were the words used that there could possibly be an opportunity whereby a man when he is reclassified would have to be paid a salary higher than the new classification he finds himself in.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: I think the intent is there. No one is disagreeing on the intent. It's a question whether the wording should be changed. I think the wording is susceptible to the interpretation I gave.

MR. PAULLEY: Would you not agree though, Mr. Spivak, if I may that what I am attempting in this is to make sure that a person's whose classification is changed to a lower salary classification will not be prejudiced because of that. And it doesn't necessarily mean a demotion, it means if the classification is changed that employee is changed. The demotion aspect suggested by the Member for St. Boniface is covered in another section.

MR. MARION: Mr. Chairman, on a point of order. I did not insinuate that 9(1.1) refers specifically to a demotion. I agree it doesn't. I said that the following clause does. I said that a reclassification because of the hypothetical case, Mr. Chairman, that was given by Mr. Balkaran is one that could readily be clarified by using a different - after the word "unless the previous pay classification

(MR. MARION cont'd) was higher and the reason for reclassification is not demotion.

MR. PAULLEY: It seems to me, Mr. Chairman, that there isn't any difference of opinion as to the intent. We might have hyphenated a word or something like that but God damn it all the intent is there. We all agree with the intent. Let's pass it and get on with it.

MR. SPIVAK: No, Mr. Chairman, I have a wording . . .

MR. CHAIRMAN: Mr. Adam.

MR. ADAM: Mr. Chairman, my interpretation of this section would be that the Commission could not pay that employee the same salary as he was receiving prior to the reclassification unless that was approved by the Lieutenant-Governor-in-Council. That is the interpretation I get. Would the words "unless authorized" be better than "approved"? It seems to me "authorized" would be okaying a decision that someone else has made, in other words the Commission.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Well I wonder if we could add the following, "but in no case should the pay be any higher than the pay classification which is being changed."

MR. PAULLEY: We say that. We say that but there's too damned many lawyers around this table.

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: Mr. Balkaran, if you can use that wording to work it into the section.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: You see, Mr. Chairman, if it was in there, approval of the Lieutenant-Governor-in-Council as to the change in the classification, as I believe has been suggested then really the Lieutenant-Governor-in-Council could be accused of juggling around. In the initial instance it's at the present time Management Committee and will eventually possibly be the Civil Service but they haven't any authority to pay a higher wage for that classification unless it's approved by the Lieutenant-Governor-in-Council for an individual in that classification. That's the intent of this whole damned thing.

MR. CHAIRMAN: Mr. Spivak. I'm sorry. Mr. Schreyer.

MR. SCHREYER: Mr. Chairman, the confusion of identity is rather . . .

MR. CHAIRMAN: It gets to you after a while.

MR. SCHREYER: Yes. It's an indication of the meeting getting strained already. I just want to indicate that the wording suggested by Mr. Spivak certainly bears the same intent, if Mr. Balkaran can use that wording to good effect to retain the intent.

I would like to take this opportunity to indicate to Mr. Spivak that if you want to really get technical about it, you use the term "from the same pay scale from which the employee was transferred." When you say "pay scale" then that connotes a range and within the range there is a step and every person is at a point in time at a step, not at a scale, he's at a step within a scale. The way your suggested wording - if it were applied without further refinement - it would mean that theoretically at least - I don't think the Commission would do it but theoretically a person could be transferred to a lower classification but conceivably could end up even one step higher than he was before. So I think what you really mean is "at the same step within the same pay scale from which he was transferred."

MR. CHAIRMAN: Mr. Bilton.

MR. BILTON: Mr. Chairman, it's not my intent to get mixed up with the mental giants on this discussion but there's one thing that strikes me . . .

MR. CHAIRMAN: Order please.

MR. BILTON: There's one thing that strikes me as rather funny. The Minister has on several occasions when explaining his case, has spoken about industry this and industry that. Now with reclassification and a civil servant is moved down a couple of notches to a job that isn't paying what he was getting, according to this the Governor-in-Council can carry his pay up to what he was getting in the previous job where he held much more responsibility. It would seem to me that if a civil servant is moved down for cause, that because he happens to be a friend of the party in office at the time he can take advantage of having his pay increased. All these factors are in there and all these factors can come to the top and when this bill is passed and this goes through in the thinking that we're listening to these things can happen and I believe it's our purpose to see that these things are avoided.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Mr. Chairman, I don't think there's any disagreement at all but

(MR. BOYCE cont'd) what we're doing in this case is we're assuming that everybody is going to be reclassified down. I'm sorry, this is true. Everybody has been talking around this table about it happens in some cases. If you put in the suggested amendment that Mr. Spivak is suggesting then we're going to penalize those who are transferred up. You read what you're suggesting into it. Nowhere in this section does it imply that there is an initiation of action by the Lieutenant-Governor-in-Council. Every action that is taken is by way of the Commission and it's assumed that all of these points are made relative to actions of the Commission. This section, when I read it, says "the pay of an employee whose classification is changed by the Commission shall be determined in accordance with the classification to which he is assigned by the Commission but in no case shall the pay be higher than the maximum pay for the new assigned classification by the Commission unless otherwise approved by the Lieutenant-Governor-in-Council." In no way does it allow for action or initiation of action by the Lieutenant-Governor-in-Council relative to that particular reclassification. Well honi soit qui mal y pense. Maybe this is the way you behaved when you were in government.

MR. BILTON: Never mind.

MR. BOYCE: Well never mind. You keep reading things into it. I wouldn't change it one iota.

MR. PAULLEY: Mr. Chairman, I think the section is absolutely clear the way it stands. I suggest the question be put.

MR. CHAIRMAN: Mr. Marion.

MR. MARION: I was just going to respond to Mr. Boyce, Mr. Chairman, by saying that it would seem to me if it's a reclassification on a promotional basis, a man goes from A to B on a salary scale and I think it's well covered by the original first two stances as he broke them down. I don't think there is any danger that a man who is reclassified up will be penalized. I think that this is a clause that applies in essence although I said in response to the First Minister that I realized it wasn't a demotion, it could be a straight reclassification because of redundancy which is not demotion.

MR. PAULLEY: Question. Question.

MR. CHAIRMAN: The question is being called for.

MR. PAULLEY: Question.

MR. CHAIRMAN: Are you ready for the question on 9(1.1)? Agreed? (Agreed) Section 4 --pass. (Sections 5 to 6(13)(7) were read and passed) Section 13(8) -- Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move the proposed new section, subsection 13(8) of the Act as set out in Section 6 of Bill 7 be struck out and the following subsection substituted therefor: "Selection Appeal. 13(8) Where an unsuccessful candidate for a position is an employee who is of the opinion that the appointment of another person to the position was based on matters other than merit, that employee may (a) in writing appeal to the Commission which shall consider and determine the appeal; and (b) if he is not satisfied with the determination of the Commission, in writing appeal to the Minister and the Minister shall appoint a person to inquire into and investigate the matter and to submit a report thereon to the Minister who after receiving the report shall decide the appeal and the Minister's decision on the appeal is final.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: The purpose for this, Mr. Chairman, is here again there was considerable debate during the consideration of Bill No. 7 and it appeared in the present wording that the Minister - and I want to point out in this instance "the Minister" refers to the Minister in charge of The Civil Service Act and not every Minister in Government - that it appeared as though the Minister or a whole flock of Ministers may have arbitrary rights to make decisions.

Now the original purpose of the appeal on the selection as contained in the present suggested Act was to the effect that the Commission who normally hears appeals should not be appealed to against a decision by itself. That was the basic fundamental contained within the originally proposed Section 13(8). After having considered the debates that took place in the House it was felt that there could be a better way of defining what was meant and the proposed amendment would clearly set out that in the first instance there was an appeal to the Commission of the appealed would be made to the Commission and then if after the Commission had considered the appeal that if the employee was still not satisfied with the decision of the Commission that instead of referring the matter back to the Commission - or incidentally I believe the Commission's decision was final or is final in the present Act -

(MR. PAULLEY cont'd) that there would be, rather than a re-appeal to the Commission, that the employee affected could ask the Minister - and again I say the Minister responsible for this Act - to further consider the matter. The Minister, not of his own volition, but would have to appoint a person to investigate into the matter and submit a report to the Minister and then after the Minister considered the report he would make an adjudication and that adjudication would be final. Basically it was to stop an appeal to the body who originally made the decision. That's the purpose of this.

MR. CHAIRMAN: Mr. Marion.

MR. MARION: Mr. Chairman, through you to the Minister. There is no doubt that he has gone part way of appeasing the kind of debate that we had on this particular subject. I think that he is first of all letting the appeal be considered by the Commission.

MR. PAULLEY: Right.

MR. MARION: It's unfortunate that he doesn't go all the way as we had suggested and make the Commission the final appeal. He's still bringing in ministerial jurisdiction here because he's saying the court of last recourse will in essence be the Minister responsible.

In speaking for the Liberal Party I would say that this has gone part way as to what we had hoped he would do - a long way, a long way. But it would have been nice to see the Commission be the final authority on adjudicating cases such as these.

MR. PAULLEY: Mr. Chairman, if I may just for clarification purposes to Mr. Marion, say that the Commission made the decision in the first instance and if the appeal is made back to the Commission and their decision is final really the person concerned is appealing to the group that made the decision. What I am trying to do is to get away from that so that -- (Interjection) -- Yes, that's right. I appreciate that, Mr. Balkaran.

Mr. Chairman, through you to the members of the Committee. This was severely criticized by Mr. Justice Hunt who said that in the present Act the appeal of a decision of the Commission is made back to the Commission and he said this is most unusual and most unfair. At least we're trying to overcome that by this suggestion. I'm taking into consideration Mr. Justice Hunt's observations in the court.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, this is really a compromise and we're not going to object to it at this point but to indicate and to put on the record that in effect the employing authority who is in fact the Minister or representing Cabinet is going to be the one who is going to be making the decision and that in terms of the principle in, you know, even in any kind of administrative law this should not be the case.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, Mr. Spivak I suggest has a very valid point because to some degree at least, Mr. Chairman, in that there is within The Civil Service Act a notation that an employee agent is a Minister. In this particular instance it would not be to the Minister of a department who is the employing agency but the Minister responsible for the Civil Service Act. I would have no objection, Mr. Chairman, if Mr. Spivak would listen just a second.

MR. SPIVAK: I'm listening.

MR. PAULLEY: I would have no objection if there was a greater delineation as to who the Minister, the Minister in charge and damn it all I don't want this responsibility, I can tell you that quite frankly. But in order to differentiate between the employing agent, a Minister, if this was to one Minister so that you don't have the departmental influx if there was a change that "the Minister responsible for the Act." Is that . . .

MR. SPIVAK: Yes, that's fine. I agree.

MR. CHAIRMAN: 13(8) as amended -- pass?

MR. PAULLEY: Mr. Chairman, that isn't contained in the amendment suggested in the paper but if it was agreed that that reference to the Minister shall be "the Minister responsible for the Act" then we'll approve it. Is that agreed?

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Mr. Chairman, if it's agreed then I would suggest that by leave we amend this amendment. Let me ask Counsel a question. Under the definitions of this Act the reference to the Minister in this Act is that not to the Minister responsible for the Act?

MR. BALKARAN: No. The Act defines "Minister" as a Minister of the Crown but might I add that every statute is administered by some Minister of the Crown or a member of the Executive Council and there is an Order-in-Council or amendments to Orders-in-Council setting out the various statutes for which each Minister is responsible. So I don't think there could be any doubt who administers this Act.

MR. PAULLEY: In all deference to my legal adviser, Mr. Chairman, I agree with him most heartily, except for the clause contained in The Civil Service Act that names "a Minister" as being the employing agency. In the original Act, an employing authority. There could conceivably be some confusion and all I'm trying to do is eliminate it.

MR. SPIVAK: He says "employing authority" means the Minister presiding over a department.

MR. BALKARAN: I suggest that this conflict won't be resolved because whoever the Minister happens to be will also be in charge of some department.

MR. PAULLEY: But not all of them.

MR. BALKARAN: He would be an employing authority no matter who the Minister is. By definition he'll have a department.

MR. SPIVAK: That's right.

MR. PAULLEY: Oh that's correct, Mr. Chairman, but I suggest though that the Minister who is responsible for this particular Act be it the Minister of Labour or any other Minister is not the Minister in regard to the other so that at least eliminates about twelve departments and brings it back to one Minister.

MR. SPIVAK: Even to the point of specifying the Minister of Labour because in most cases it will be the Minister of Labour administering this Act.

MR. PAULLEY: I hope not after the session.

MR. SPIVAK: But in any case the Minister of Labour would still be probably the logical person.

MR. PAULLEY: Well could be. Could be.

MR. SPIVAK: Yes. "The Minister of Labour" would be agreeable.

MR. CHAIRMAN: 13(8) as amended -- pass; 13(9) -- pass.

MR. PAULLEY: Did you suggest the Minister of Labour?

MR. SPIVAK: Yes.

MR. PAULLEY: Okay. He's a great arbitrator.

MR. BOYCE: . . . and the Minister of Labour shall appoint . . .

MR. PAULLEY: The Minister of Labour shall appoint the person. So that we're sure that it's not the employing Minister of which there are twelve or thirteen in government at the present time that can do this.

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: The Minister responsible for the Civil Service Commission. What's wrong with that?

MR. PAULLEY: Well that's what I suggested but then Mr. Spivak has such great confidence in the Minister of Labour no matter who he be . . .

MR. SPIVAK: No, no, this came really as a result of . . . Let's get this settled.

MR. PAULLEY: I had to get that one in.

MR. SPIVAK: You can attach whatever importance you want to to your position at this particular time but I think that it has to do with the definition section of The Civil Service Act where a Minister under employing authority is the Minister of the department and it was a question of specifying "a" particular Minister rather than the Minister of . . .

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: Well I just have two points to that. The Minister responsible for the Civil Service Commission is by Order-in-Council. It is not necessarily the same person as the Minister of Labour. Mr. Spivak knows that full well.

The second point is that in any case whatever is stated here in terms of designation of Minister is changeable under The Executive Government Organization Act and if it's felt helpful to specify or designate the Minister it should be "Minister responsible for the Civil Service Commission".

MR. CHAIRMAN: Is that agreed? (Agreed) Section 6 as amended--pass. Section 7 . . .

MR. PAULLEY: We have passed 13(8) now as amended. Now we go to 13(9). Is that not correct?

MR. CHAIRMAN: We passed that and we passed Section 6 too as amended. (Sections 7 to 10 were read and passed) Section 11 - Mr. Bilton.

MR. BILTON: Mr. Chairman, we have the amendments of the Minister before

(MR. BILTON cont'd) us and I have one or two amendments here and I wonder if I could have the indulgence of the Committee to go through those amendments and possibly they could be dealt with in conjunction with the amendments we have from the Minister. May I have the indulgence of the Committee?

MR. PAULLEY: Well just a minute now. Where are they?

MR. BILTON: Eleven.

MR. PAULLEY: Yes but where are your amendments?

MR. SPIVAK: He's got the amendments.

MR. PAULLEY: I'd like to take a look at them.

MR. CHAIRMAN: We're on 11 (44)(1).

MR. BILTON: I have a few copies here, Mr. Chairman.

MR. PAULLEY: Well that's good. You keep them.

MR. BILTON: May I proceed?

MR. PAULLEY: Well let's have a look at it.

MR. SPIVAK: Well then let him proceed.

MR. CHAIRMAN: Do you have an amendment coming up before 44(1)(a)?

MR. SPIVAK: Mr. Chairman, just on a point of order. This is to follow the procedure we followed at the last meeting and I think this is the way in which to deal with the problem of amendments which - we've got notice of the amendments of the government - and that was to put ourselves in the position of presenting our amendment and if it's accepted then there's no need for the Government to proceed with its amendment. If it's rejected then the Government presents theirs. This would be rather than sub-amendments to the amendments. We followed that procedure last time and it worked fairly well. I would hope that we can persuade the Government to accept this amendment, I don't know. If we do not the vote will take place then obviously we will deal with the Government's amendment.

MR. PAULLEY: Well the only reason - I wasn't being facetious, Mr. Chairman, when I asked for a copy of the proposed amendment from the opposition but it's easier to follow them when you have them before you to read and inwardly digest to see whether or not there is a basic conflict. I don't want to be picayune or the likes of that.

MR. BILTON: Mr. Chairman . . .

MR. CHAIRMAN: Do you have a copy for the Chairman, Mr. Bilton?

MR. BILTON: Yes. Do I have the Committee's permission to proceed dealing with Bill 7?

MR. CHAIRMAN: Proceed.

MR. BILTON: With regards to Section 11, Sir, I wonder if that could be deleted after the word "therefor" and amended as follows. And I will proceed to relate my amendments to you.

44(1) An employee of the Civil Service or any employee under any agency of the Government other than a Deputy Minister or such other classes or groups of employees as may be designated or set out in the regulations, may be a candidate for election in any elective municipal office including a member or trustee of an elementary or secondary school board, a trustee of an improved district, or may serve in such office or actively work in support of a candidate for such office if,

(i) the candidacy, service or activity does not interfere with the performance of his duties as a Civil Service employee;

(ii) the candidacy, service or activity does not conflict with the interests of the Government; and

(iii) the candidacy, service or activity is not in affiliation with or sponsored by a provincial or federal political party.

44(2) A. Except during the leave of absence granted under subsection B, a Civil Service employee shall not,

(i) be a candidate in a provincial or federal election or serve as an elected representative in the Legislature of any province or in the Parliament of Canada;

(ii) solicit funds for a provincial or federal political party or candidate; or

(iii) associate his position in the service of the Government with any political activity.

B. Any Civil Service employee or any employee under any agency of government other than a Deputy Minister or such other classes or groups of employees as may be designated or set out in the regulations, who declares his intentions in writing to his Minister to become a candidate in a provincial or federal election shall apply through his Minister to the Lieutenant-Governor-in-Council for leave of absence without pay for a period,

(MR. BILTON cont'd)

(i) not longer than commencing on the day which the writ for the election is issued and ending on polling day; and

(ii) not shorter than commencing on the day provided by statute for the nomination of candidates and ending on polling day, and every such application shall be granted.

C. In the case of any person who has applied under 44(2) B above and has not been successful in obtaining the official candidacy of the political party in the constituency from which he has declared his intention as in 44(2) B above, the leave of absence granted in 44(2) B above shall be deemed to have terminated one day after the date the official candidate has been declared.

D. Where a Civil Service employee who is a candidate in the provincial or federal election is elected, he shall forthwith resign his position as a Civil Servant.

E. Where a Civil Service employee has been granted leave of absence under subsection B and was not elected, or resigned his position under subsection D, the period of the leave of absence or resignation shall be computed in determining the length of his service for any purpose, and the service before and after such period shall be deemed to be continuous for all purposes.

F. Any person who has taken leave of absence under Section 44(2) B and who has not been successful as a candidate, shall be reinstated to his former position if he applies for such reinstatement within ten days of the election.

44(3) A. A civil servant shall not during a provincial or federal election canvass on behalf of a candidate in the election.

B. A Deputy Minister or any other employee under any agency of the Government in a position or classification designated in the regulations shall not at any time canvass on behalf of or otherwise actively work in support of a provincial or federal political party or candidate.

44(4) Except during the leave of absence granted under subsection B of Section 44(2), a civil servant shall not at any time speak in public or express views in writing for distribution to the public on any matter that forms part of the platform of the provincial or federal political party.

44(5) A Civil Service employee shall not during working hours engage in any activity for or on behalf of a provincial or federal political party.

44(6) A contravention of Section 44 shall be deemed to be sufficient cause for dismissal.

44(7) No person acting on behalf of himself or on behalf of any other person shall seek

- (a) by intimation; or
- (b) by coercion; or
- (c) by threat of dismissal or loss of employment or any kind of threat; or
- (d) by the imposition of a pecuniary or other penalties; or
- (e) by undue influence; or
- (f) by any other means;

to compel an employee in the Civil Service or under any agency of the Government to become or refrain from becoming or cease to be, a candidate for, or a member of the Legislative Assembly or Parliament.

Thank you, Mr. Chairman and Committee, for your indulgence.

MR. CHAIRMAN: Just for a point of clarification, Mr. Bilton. Are you moving that as one amendment?

MR. BILTON: Yes. That's 44(1), yes.

MR. CHAIRMAN: So you want to delete everything after the word "therefor" in the second line of Section 11 . . .

MR. BILTON: Everything deleted after the word "therefor" and amended as follows. Yes, as I have said.

MR. CHAIRMAN: I see. Right. The amendment is accepted. Mr. Paulley.

MR. PAULLEY: Not accepted. It's up for debate. It's quite different.

MR. CHAIRMAN: Yes.

MR. PAULLEY: Mr. Chairman, I can appreciate that in the amendments

(MR. PAULLEY cont'd) suggested by the Member for Swan River there are some areas where we may give possible consideration because in some instances they do follow the suggested amendments proposed by the Government both in the previous document and the one that we have before us this evening.

I do find however that in many respects - and as I understand it we're taking by and large the suggested amendments as a sort of a blanket resolution - I do find that there are many failures or deficiencies in the amendment as proposed or amendments as proposed by the Honourable the Member for Swan River. It does seem to me in many respects the amendments proposed by the Member for Swan River are no better than the present Section 44 in The Civil Service Act that we are endeavouring to overcome.

I note the restrictions that are placed still on our Civil Service by the amendments proposed by the Member for Swan River. If we were to adopt the basic concept of the amendments that are under consideration we would still not give to our civil servants at large opportunity for political involvement because the concept of the amendments as I read them and I do confess that we haven't had a real opportunity of inwardly digesting, but there's an indication here that unless a leave of absence is granted, a civil servant shall not be able to participate in the democratic process, democratic political process, unless he actually is a candidate.

Now under the suggestions that were forthcoming from the Government all civil servants would have the right of political involvement with certain restraints, those restraints being basically during his hours of work or the possibility of that particular individual being able to use his place of employment on behalf of a candidate or a political party.

What really Mr. Bilton is saying that unless you are a candidate, unless you are a candidate . . .

MR. BILTON: He means it too.

MR. PAULLEY: Yes, I know and I'm not surprised, Mr. Chairman, that Mr. Bilton means it and I say affectionately to my honourable friend he's still in the dark ages. I say that affectionately . . .

MR. BILTON: Don't worry about me with him.

MR. PAULLEY: But this is the intent and he confirms, Mr. Chairman, the Member for Swan River confirms this, that that is his intent. In other words we have, we have about - what is it, thirteen seats at the federal level now, thirteen or fourteen at the federal level, we have 57 at the provincial level but Mr. Bilton basically is saying that if 60 individuals or 180 if you want to multiply it by three major parties who happen to be employees in the Civil Service ask for leave of absence to become engaged in political activity at the federal and provincial levels that would be okay. But where we have a total of some 12,000 or 14,000 employees only those 120 in accordance with this proposal would be able to become involved in the political process in the Province of Manitoba. -- (Interjection) --

MR. CHAIRMAN: Order please.

MR. PAULLEY: Yes I do. I do. I do want them involved. I want them to have the opportunity - I shouldn't say, Mr. Chairman, that I want them to be involved, that is erroneous. I want them to have the opportunity of being involved. There is the difference. There is the difference between the archaic concept of the proposition that we have contained in the proposals of the Member for Swan River and really, Mr. Chairman, even at first glance, even at first glance when we look at the suggested amendment we find for instance "the candidate shall apply through his Minister to the Lieutenant-Governor-in-Council for leave of absence without pay and such application shall be granted." Now how idiotic. How idiotic, Mr. Chairman, is a suggestion of that nature, that a . . .

MR. CHAIRMAN: Order please.

MR. PAULLEY: Well yes I know. I know it's a matter of opinion and I accept your opinion as being somewhat different than mine. I'm being polite I would suggest, Mr. Chairman, to my honourable friend from Swan River when I describe this that way.

Now then in other words what we're saying here in that particular section that the Lieutenant-Governor-in-Council will be ruled as to the leave of absence whether the Lieutenant-Governor-in-Council is of the opinion that such leave shall be granted or not. Under the proposals that we have presented for the consideration of all members of the Committee is that the approval will be given by the Minister of the employee concerned or the agency of the employee concerned.

But there are so many others. For instance, Mr. Chairman, I suggest to you - again on a superficial glance at the proposal - "where a Civil Service employee

(MR. PAULLEY cont'd) . . . who is a candidate in a provincial or federal election is elected he shall forthwith resign his position as a civil servant." There appears to be, Mr. Chairman, no provision in the proposals of the Member for Swan River of protection for the employee to come back into the Civil Service at the termination of the period of his election and the way elections are being held and coming upon us these days you don't know from day to day when you're elected in a provincial or federal election whether your term of office is going to be for a day, a couple of months or a year. The pattern is set but there's no provision, Mr. Chairman, in the proposals of the Member for Swan River for a return following a period of elective office be it long or be it short. These provisions were contained for the protection of the civil servant and an employee of a government agency under the propositions that were forwarded for the consideration of the Committee.

I would suggest, Mr. Chairman, and we did agree - the Honourable the Leader of the Opposition made the suggestion that we should consider the amendments and then consider as to whether or not we should adopt them and then get along with some other amendments that are proposed. I don't disagree with that. All I'm trying to say, Mr. Chairman, is that we now have a list of amendments and it was agreed that we should take them in total for consideration. I highly recommend to this Committee that the proposals of the Honourable the Member for Swan River be rejected so we can get down to some really basic fundamental amendments to The Civil Service Act which will provide for protection for the civil servant; it will provide - and when I say civil servants I also include agencies of the Government, Crown corporations, etc. - I suggest that what we should do is to reject these propositions of the Member for Swan River and get down to detailed consideration of the points which were raised in the paper submitted to the Committee for its consideration.

. . . continued next page

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Well, Mr. Chairman, these series of amendments present our position with respect to the political involvement of civil servants very different than the government's position, we think it's a much more reasonable position having in mind certain positions in which there is essentially a difference between ourselves and the government.

To begin with, Mr. Chairman, we do not believe that the government is a normal employer nor can it be classified as a normal employer nor can it be expected to operate as a normal employer. And I think that's understood by everyone. Our concern, Mr. Chairman, is as much in the protection of the Civil Service in its non partisanship in executing the administrative functions it has with respect to policy matters decided by a Cabinet and a caucus elected by the people whose legislation is approved by the members of the Legislature elected by the people and whose policy matters can be redefined as a result of the people voting a government out. The object of the civil servants is to execute policy determined by the Legislature and by the House of Commons in the case of the Parliament of Canada.

Our concern as well, Mr. Chairman, and I think this is important, is that what the government is doing is opening up for the full politicization of the Civil Service and for the involvement of the Civil Service within the political process and for the destroying of what has been probably the most significant factor in helping government deal with the many problems it has had over the years. As a matter of fact, I think, Mr. Chairman, if one was to examine W. L. Morton's book on The History of Manitoba, the credit that he has given for the growth in this province in dealing with the administrations of the past, has been the recognition that the Civil Service in its non partisan way has worked for whatever government undertook the responsibilities of government and had carried out and executed the policy determinations that have been given.

Mr. Chairman, from our point of view we have seen what the government is attempting to do, an error, an error which I think is recognized by many within the Civil Service who I think would want the ability which is expressed in the amendments brought forward to be able to run for public office and to have that right and not be penalized because they've run for public office. But who are and will be very concerned about the involvement in the political process and the dangers that are inherent to them as to whether they are involved or not involved.

Now, Mr. Chairman, if we were to go back to the last election and we were to identify certain constituencies, I think that we could point out fairly accurately the number of civil servants who were actively campaigning on behalf of government members, who were campaigning I must say almost the full-time of the election, who left their responsibilities within the government and were not carrying on those responsibilities and if it's necessary, Mr. Chairman, we will name them, we can spell them out. I think we could name the number of civil servants who were assisting the Premier's campaign in Rossmere and I say that very directly, it would be surprising to the people in this province. Now they did this out of conviction because they wanted to support the Premier - I'm not suggesting that - they did this out of conviction but at the same time they did this to the detriment of the responsibilities that were theirs within the Civil Service.

A MEMBER: . . . name them, I'd like to know who they are.

MR. SPIVAK: Well, Mr. Chairman, I think that this can be done.

A MEMBER: Well do it.

MR. SPIVAK: Look, I think that this is, you know, this is something, we're telling you it's something that the members of the government know as fully well as I do. -- (Interjection) -- Oh, well--I'm sorry, Mr. Chairman, I say that very directly. And I say that from my point of view I cannot nor do I. . .

MR. CHAIRMAN: Order please.

MR. SPIVAK: Mr. Chairman, I cannot nor will I. . .

A MEMBER: Childish.

MR. SPIVAK: I'm not childish, I'm not childish whatsoever.

MR. CHAIRMAN: Order please. Can we just have one at a time.

MR. SPIVAK: Mr. Chairman, I'm not . . . the whole Civil Service knows this, the civil servants know this. -- (Interjection) -- Well, Mr. Chairman, I'd like to finish my remarks if I may.

A MEMBER: Garbage.

MR. SPIVAK: It's not garbage, Mr. Chairman, our fear is a real fear. Our fear is a fear that many people in this province have. And the problem we have is what is being proposed and with what's been proposed in the additional amendments that have been brought forward will give an opportunity in our opinion, for the

(MR. SPIVAK cont'd)destruction of the Civil Service will then not give the rights to the civil servant to put him in the same position as everyone else but will really give the Government a power that is unwise and further will have in our opinion, and I said this to the Attorney-General when he was sitting next to me before, the ability for the Civil Service at any given time to be able to rise against the Government that does not deal and negotiate with it, in a way that they deem to be fair; the civil servants have access to confidential information and documentation - we all know that - they are part of the policy decision-making to this extent that they're involved in the research and in the planning stage and much of the information that's furnished to the Government is confidential in nature and while one may say that they take an oath, the reality of politics is such and there isn't anyone who has not been involved in politics to know where the intensity of feeling, the intensity of feeling that exists, not to understand or sense that in an election time and in support of candidates, situations which will arise which will breach the kind of confidentiality we have talked about and will destroy the effectiveness. And, Mr. Chairman, we already have had this in the last election when documents and letters and correspondence between members of the Legislature and departments were referred to in specific and detailed cases by people who should have had no authority whatsoever to have known about this information nor to have had the right to be able to stand up and refer to it.

And so I say, Mr. Chairman, and I come back again, the Government is not a normal employer. The right for the civil servant to be able to run for office, to be able to have a leave of absence, to be in a position not to have lost his position or his job, as a result of running, and not to be penalized with respect to pension arrangements and other arrangements that exist, is something that in this day and age has to be recognized by all. But at the same time to allow what is considered the full opportunity for political development can and in my belief will lead to the politicization of the Civil Service, to its destruction and will prevent effectively a government in certain situations to be able to carry out its policy and will in another situation lead to the kind of confusion, mistrust and coercion and I say coercion within the Civil Service that I believe will have a cancerous effect and will destroy its ability to function and function properly.

The amendments we propose in the main are taken from the Ontario Act as is some of the amendments that the Honourable Minister has proposed again today in his amendments. We have had the opportunity of examining what has taken place there, we find that there is no reason to believe that the proposals which we have put forward would not operate as successfully as they have there in allowing involvement to the extent of the ability to be able to run but at the same time retaining the non partisanship of the Civil Service and the ability to have an instrument that is capable of executing policy decisions to be made by an executive and by a caucus who have a majority and who have formed a government, whose policy decisions should be and must be executed by the civil servants who have the administrative responsibility.

The kind of conflict that can and will exist between those when they are supposed to leave at 5:00 o'clock or whatever the MGEA agreement will provide, and will start the campaign immediately against the very government who are their employers and who will start to organize against the very Minister who is their Minister and will start to organize and work against the very policy that they're supposed to execute, makes the most intolerable and stupid suggestion that could possibly be brought forth.

Now this debate will go on, it's not going to be finished just tonight. But I suggest to you that the Honourable Minister of Labour who is not here now but I recognize he has a right to leave, should examine these clauses very seriously and before he makes a decision that his position is right, recognize that there is substantial merit to the position that we've taken.

MR. CHAIRMAN: Mr. Marion.

MR. MARION: Well, Mr. Chairman, at the outset let me say that the Liberal Party has also some amendments to bring forth to this section - Section 11 of Bill 7. I think that if we follow the same procedure that we did at our last session, we will wait until these first amendments are dispensed with - these are accepted or rejected - and then we will put forth our point. From the outset let me say that after having just obtained the amendments that were presented this evening by the Official Opposition, it would seem that some of the points that we stressed in the debate that took place on Bill 7 are more or less incorporated and it would seem to me that as they are incorporated they revise or streamline the sections that the Leader of the Liberal Party mentioned had to be revised to become acceptable to the Liberal Party. I think that the point to make here now is that, and I certainly don't

(MR. MARION cont'd) want to raise any acrimony whatever but it seems to me that we must admit that this section presently is one that can be, to say the least, a very dangerous one. I think that if we really are intent on allowing and giving as much freedom to the Civil Service as can be found in all other walks of life, this is great as an intention but we don't think that the entire section does that and does it well. We feel that it tends to destroy the neutrality of the Civil Service and I think that that is not said without having first of all weighed all of the sections contained in that part of the bill and if it in essence destroys the neutrality of the Civil Service, what really have you left?

I think that it's a point to recall that during the debate in the House on Bill 7, it was agreed by the Minister that there were areas in the Civil Service that were more sensitive than others. I think that there was--the Minister of Mines and Natural Resources mentioned in an example he gave, a typewriter clerk, I believe, where there was absolutely no - he could see no conflict and I suppose that this is so. But the bill itself recognizes the fact that a Deputy Minister is a very very sensitive position and one where that freedom, that latitude that we're looking to give cannot be given to. I humbly suggest that there are many many more positions in the 9,000-odd that we have in the Civil Service that are highly sensitive and that with the intent and I say with the intent of this Bill 7 to give the freedom of action where really not giving any freedom but really destroying one of the very very viable things that we have in our province, namely our Civil Service. I think that in the House a number of the members who spoke in the debate mentioned how we should be pleased and happy to have the kind of quality in our Civil Service that we have. Are we intent on destroying it because we want to give what we refer to as freedom of option where a man can become completely involved. It would seem to me from what I have seen of the P.C. amendment that a great deal of latitude is given along the same lines as the one that I probably will have to present and it would seem to me that that civil servant becomes surely a resident of Manitoba on an equal base with any other kind of resident of the province. He can do almost all of the things and I say almost because certainly there are restrictions, it calls for a resignation, it calls for permission if one wants to run for the Provincial Government or provincial office or federal office.

I think that in all walks of life, and this is again is something that each and every one of us can pause and reflect on, in all walks of life there are inhibitions there are things that we are precluded from doing either because of the society in which we find ourselves because of its regimentation or because of the offence that could be brought about to other people that we don't seek to offend. I think that what is really done by Section 11 is nothing more or less but under the guise of freedom making it a boon for patronage whether the intent is there or not. And I don't for a moment want to stress - and I want to stress this - I don't for a moment feel that that is at all the intent, and I mean that very sincerely. But surely, the more you look at it, the more you can see that the things that could develop were this to become incorporated in the Civil Service Act, the more you can't help but realize the kinds of actions that could follow. For that reason we cannot, the Liberal Party cannot support Section 11 in its entirety and we'll be forced to support the amendment that's been presented by the Progressive Conservatives.

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: Well, Mr. Chairman, the amendment that was moved by Mr. Bilton is an omnibus amendment and I will speak to it in its totality therefore and we will vote on it also in its totality as one motion. And that's fair enough because while I can admit that there are some sections in the proposed amendment that are compatible with the intent and desire of the bill, nevertheless for the most part that amendment is directly contrary to the whole spirit and intent of what we are proposing to do here.

Because, and Mr. Marion I listened very carefully to his remarks and I don't believe that he could have read the proposed amendment because if he had, he could surely not say that there is scope in these amendments for civil servants to exercise any significant degree of freedom and of citizen rights. Because this amendment while it may superficially appear rather appealing it is confined and restrained to a grand total of the very theoretical utmost of 57 people in the whole province. And in practical fact in reality, it wouldn't apply to 57, it would apply to 1, perhaps 3, 6, at the very most in the order of 10 and even that is stretching the point. But in the mathematical absolute it could apply to 57 people and for that reason alone it is an absurdity. Because what we are proposing in this bill is to extend the parameter of freedom and choice and exercise of citizen rights to the maximum number rather than to a minimum number of persons.

(MR. SCHREYER cont'd)

Now it is said that the Government is not a normal employer and that has been the pretext upon which for many long years, I would think every since the 18th century, that there have been restrictions, restraints with respect to persons who are in the public service from exercising what would normally be regarded as rights of participation in the democratic process and therefore rights of citizenship in that regard. It is true that there are some positions of a senior administrative nature, of a primarily administrative nature which do not lend themselves to the kind of political activity exercised that normally we would like to see and that is the reason for Section 44, subsection 2. But there is nothing in the proposed amendments that would make it possible for the exercise of common sense that persons who are in clerical, stenographic, in mechanical, in technical, in scientific positions, non-administrative in nature and yet they are precluded and the amendment does nothing in their case or cases, they would be precluded from the normal citizenship rights of participation in the democratic process.

And as a consequence of that we have been forced to live with the hypocrisy for many long years. I can recall the first few elections that I was a candidate, you would knock on someone's door, the person would be a public servant; they'd say, "Shhhh, quiet, I can't say but I think I'll support you." What manner of nonsense is that? And repeated time and again. So let the intent of this bill be clear. It is to maximize to the furthest extent that prudence will allow. The pull, yes, the full normal rights of citizen participation in the democratic process, to the maximum extent that prudence will allow not to the minimum extent. And this proposed amendment really doesn't take us any further -- (Interjection) -- Yes, the Province of Ontario's been mentioned, it doesn't take us any further than what the Province of Ontario and Saskatchewan were prepared to do many years ago. The right of leave of absence to run for office - is that such a breathtaking, worthwhile concept that we should spend more than a minute's time on it. That should be commonplace. But that in itself has really very little meaning, it applies to such an extremely limited number of persons that it does nothing for the concept that we are trying to advance which is that a person away from his place of work in hours that are aside from his hours of work, at his fireside, at his hearth and his home, in his yard and in his neighbourhood should be free, like any citizen, to participate.

Now there's some mention about confidentiality, leaked documents, that too is a matter of great cynicism because oaths are taken and if a person is prepared to leak documents, a person is prepared to break oaths - is there any doubt about that. And if a person felt strongly enough that he is prepared to break oaths and therefore leak documents or to leak documents therefore break oaths, they would be prepared to have done it in 1920, 1940, 1960, 1980, it doesn't matter. But I say this that the kind of artificial restraints that have been imposed over the decades has caused more sub rosa activity than we should want as conscientious lawmakers to continence unless some of course get comfort from forcing people into sub rosa activity. And in any case this is merely opening up the opportunity for the exercise of a right of participation. A person who feels strongly and some do and I certainly respect them for it, that they wish to maintain an aloofness from the political process and I know some who do, some of them civil servants of longstanding, I don't fault them for a split second. But there is nothing and I have not as yet heard a convincing argument to make me believe that if a person is in the public service, in the kind of work or activity that has nothing to do with senior administration or sensitive confidential budgetary information or related information that because that person happens to be in the public service therefore away from their place of work, in their home, apart from their working hours, in their home and neighbourhood and across the picket fence from their neighbour that they are afraid to speak. Nonsense, we don't have to tolerate it any longer.

MR. CHAIRMAN: Mr. Bilton, did you indicate you wished to speak on this?

MR. BILTON: Well, Mr. Chairman, I appreciate the comments made thus far but many of the things that the First Minister has just brought out, that goes along in the private sector too. Just as an example, I couldn't put a poster of mine in any store window on Main Street in Swan River nor would any businessman suggest that he would give me his support. And one goes right along, one makes sacrifices. I know of men that have lost their entire business, neglected their family and everything because they got imbued in political life. Darn good men - they've made sacrifices and this amendment that we put forward doesn't deny the civil servant the right to run for office but if he wants to run for office, I believe he's entitled to make the same sacrifices that the man does on civvy street. And I know the First Minister must know dozens of people as I do that make sacrifices in their own personal way

(MR. BILTON cont'd) and why do we have to bend over backwards for a civil servant if he wants to run for public office. He should take the chance with the rest of us and there's nothing in these amendments that I put forward that denies anyone to run for office. And this talking over the fence or through your back door and knocking on the door and say, "Oh, I'm a civil servant, I'll vote for you." Personally, I don't bother those people, I leave them to their own discretion and I've never had any trouble in that respect and I was a civil servant for 22 years myself, under the strictest of discipline. And so far as what my political thinking was or what my political activities were, that was my business. But at the same time, what I am trying to do is paraphrase or at least bring into conclusion that a civil servant if he is inclined toward the political life and doing something for his fellow man, he'd better go through the ropes like the rest of us.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, I'd like to ask Premier Schreyer a question. If we're going to apply common-sense to the senior administration and who will be excluded from having the rights that you are now going to give to all the civil servants, can you tell me where we draw the line because I'm not sure. We know about Deputy Ministers, do you go down to directors, to the secretary of directors, do you include assistant directors, where is this common-sense line going to be drawn.

MR. SCHREYER: I would say as a rough and ready rule that it certainly applies to deputies and ADMs, it applies to the upper echelon of the senior officer series, generally speaking that's a rule of thumb. Now I would go further and say that if there is a concern about that part of the echelon of the responsibility in the public service, okay, I accept that as valid and then I want to put the other side. It's also common-sense consideration to be borne in mind and that is with respect to a person who is a biologist or who is a meteorologist or who is a senior mechanic or a heavy equipment operator, etc. etc., common-sense rebels at the thought that that person somehow has to be either denied the opportunity to participate or in a sense driven underground and to sub rosa activity in terms of speaking his mind.

MR. SPIVAK: So that in effect what we're really talking about is there'll be a substantial number of people who will be included in that and that's the point I want to make. -- (Interjection) -- Well by the regulations which will be left to the Cabinet of the day to make that decision.

MR. SCHREYER: Well I offered the idea of senior officer series of being a rule of thumb.

MR. SPIVAK: Well how many do we have in that number?

MR. SCHREYER: Senior officer series?

MR. PAULLEY: It could be about six or seven hundred.

MR. SCHREYER: I would think Mr. Paulley's figure is about -- (Interjection) Mr. Paulley's figure is a good approximation.

MR. SPIVAK: Six or seven hundred. So there are a few exceptions - then that would be six or seven hundred - that's fairly substantial I would think.

Now the problem that I see in what the Premier has said and I want to make three points and leave it from my point of view and that would be this. That while I accept the fact that people have an oath and that the problem of whether documentation is allowed to be leaked or information presented, I would suggest to you that in the intensity of an election campaign and the intensity of the preparation for an election campaign, there is a blurring of roles and a confusion and I would suggest that what is confidential and what is not becomes a matter of interpretation and with all the good-will in the world that there will be no way in which in election campaigns, the civil servant will recognize or understand the obligation that he has and that's one problem that I see.

The second thing is that the opportunity for sub rosa activity I think will arise more significantly with the proposal that you have because I think the sub rosa activity will come as a result of the recognition by the civil servants that they can overthrow the regime under which they are involved. And I think that one of the enthusiastic response of the MGEA is the recognition that they're going to be able to do that and I think that's been expressed in writing and I think that that's one thing a government has to fear and I think that that is a problem area.

With respect to the ability of the civil servant to maintain the aloofness from the political life, I would suggest to you that if a politicizing occurs as I believe it will because of this - and this would be caused by any government that did it, not necessarily the NDP but it's the NDP that are going to be doing it - that in effect the ability to remain aloof will be very difficult and while you have a proposal as we have with respect to the question about coercion and intimidation, I would raise

(MR. SPIVAK cont'd) . . . the flag now . . .

MR. SCHREYER: We have that section too.

MR. SPIVAK: Yes, I know you have that section but I think it's a meaningless section from a point in reality -- (Interjection) -- a meaningless section. We proposed it in ours because there's a recognition that they cannot be involved in the main within the Civil Service, that is to say they cannot campaign. But I would suggest that if they are given the right to participate by campaigning and by soliciting for funds and becoming bagmen for candidates or for a party that . . .

A MEMBER: After hours.

MR. SPIVAK: After hours, who are you kidding? That with respect -- (Interjection) -- well who are you kidding? With respect to the ability to remain aloof that that is going to be very difficult. And that in effect the kind of relationship that should exist within the Civil Service in the, you know, the common determination to get the job done, whatever the job is within the Civil Service, will become a political battle in many cases between those who are aloof and who can be coerced, those who are prepared to become active and to declare their positions and who at any given time may be favorites of the government because of that position because of the political position, because of their known political position, because of the declared political position, because of their involved political position, and that it will be impossible to have the kind of cooperation that exists within the Civil Service to carry out the functions that they are to undertake.

MR. CHAIRMAN: Are you ready for the question? Do we require a recorded vote on this?

MR. SPIVAK: Yes.

MR. CHAIRMAN: Those in favor of the amendment, raise your right hand please.

MR. CLERK: 1, 2, 3, 4, 5, 6, 7, 8, 9.

MR. CHAIRMAN: Those opposed, raise their left hand.

MR. CLERK: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.

MR. SCHREYER: I'm sorry, I'm not a member.

MR. PAULLEY: So that will make it a dozen. I don't know if the same is -- with those that put up their right hands.

MR. SCHREYER: Subtract one.

MR. PAULLEY: The majority in favor of opposition.

MR. CHAIRMAN: The amendment is lost.

MR. PAULLEY: That's right.

MR. CHAIRMAN: Mr. Marion.

MR. MARION: Mr. Chairman, with the committee's indulgence, I would like to -- and I have some copies here -- move an amendment. I don't need a seconder, thank God, I could be embarrassed.

MR. CHAIRMAN: Proceed, Mr. Marion.

MR. MARION: Our amendment suggests deleting the entire section and reads as follows:

1. No person in the public service shall

(a) be in any manner compelled to take part in any political undertaking or to make any contribution to any political party or be in any manner threatened or discriminated against for refusing to take part in any political undertaking or;

(b) directly or indirectly use or seek to use the authority or official influence of his position to control or modify the political action of any other person or;

(c) during his hours of duty engage in any form of political activity or;

(d) at any time take such part in political activities as to impair his usefulness in the position in which he is employed.

2. A person in the public service who desired to become a candidate for public office shall be entitled to leave of absence from the date the election writ is issued to the date of the election.

3. Notwithstanding anything in this Act or any other Act where a civil servant is declared elected a member of the Legislative Assembly

(a) he shall be deemed to have resigned his office or place of profit under the government or his employment in the public service of the province on the day immediately prior to the day on which he was elected unless

(i) as a result of a recount upheld or an appeal therefrom under the Elections Act -- we're covering, Mr. Chairman, all of the eventualities -- the Returning Officer declares to be elected a candidate not being that person or;

(ii) the election is set aside or;

(iii) as a result of a trial under the Controverted Elections Act

(MR. MARION cont'd) . . . or an appeal for the determination of the judge at the trial, the judge certifies in his report to the Chief Electoral Officer that a candidate not being that person is entitled to the seat in the Assembly in which event he shall be deemed to have been on leave of absence without pay from the day immediately prior to the day on which he was elected until the day on which the other candidate is declared to be elected; or on which the election is set aside; or on which the other candidate is certified to be entitled to the seat in the Assembly as the case may be, and

(b) his election shall not be invalid nor shall his seat to vacant nor shall any action be taken to have his election declared invalid or to have his seat declared vacant by reason only of the fact that he is a civil servant.

Now in very short, the other is Section 47 - doesn't deal with Section 44, Mr. Chairman. I think that one of the points that was stressed by the Honourable the Minister of Labour was the fact that in the previous amendment permission from the Lieutenant Governor in Council had to be obtained for the civil servants to run for office, this is not the case . . .

MR. CHAIRMAN: Please, just one moment while we get something straightened here, if you would.

MR. MARION: Have you the matter straightened away? Well I was merely pointing out, Mr. Chairman, that the right of a civil servant to leave of absence to run for office is ipso facto, there is no permission to be had and I think that as the previous amendment was one taken from legislation now in force in the Province of Ontario, this amendment is legislation in force presently in the Province of Saskatchewan. And of all of the legislation that was reviewed by our caucus, we deemed it to be the most appropriate to follow-up the intent of freedom of action for civil servants as it is implied that all of the other citizens of this province enjoy in other areas of occupation or in other positions--in any position that they occupy.

I think, Mr. Chairman, that the amendment itself is not at all complicated and self-explanatory. I don't feel that I should have anything further to add other than my intervention when the previous amendment was introduced.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, it seems to me that the Honourable Member for St. Boniface is introducing an amendment to our proposals or to the proposals contained within Bill 7 and also that the suggested amendments that are being proposed to Bill 7, it seems to me that my honourable friend and I appreciate his concern but it seems to me that in the amendments that he is suggesting only partially deal with the matters that are before the committee. My honourable friend, the Member for St. Boniface, suggests that the deletion of everything that is contained, almost everything contained in Bill No. 7 and then brings in some extraneous matters dealing with such matters as may be before the courts in respect of the Election Act of the province and other ancillary matters - Controverted Elections Act - I think this is a matter that is adequately contained in The Election Act, in the Controverted Elections Act; I don't think that the Civil Service Act needs to be cluttered up by the suggestions of the Honourable Member for St. Boniface.

He does raise one or two points that -- (Interjection) -- Pardon?

MR. MARION: I'm aggrieved, I'm aggrieved.

MR. PAULLEY: No, Mr. Chairman, or maybe I should. It might be that my honourable friend could conceivably be affected only he isn't a civil servant. But I don't think in all due respect to my honourable friend that we need clutter up the Civil Service Act with matters which are in legislation at the present time dealing with The Election Act, the Chief Electoral Officer, the Controverted Elections Act. So I think, in all due respect to my honourable friend the Member for St. Boniface, while I do appreciate some of his observations as to what is desired in the amendments that he proposed, I think the strong parts indeed of his proposal are contained within the amendments that have been proposed and will be proposed by the Honourable Member for Winnipeg Centre and I suggest, Mr. Chairman, that we should without any real prolonged debate reject the amendments as suggested by my honourable friend.

MR. CHAIRMAN: Are you ready for the question? Those in favor raise a hand.

MR. CLERK: 1, 2, 3, 4, 5, 6.

MR. CHAIRMAN: Those opposed.

MR. CLERK: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14.

MR. CHAIRMAN: The amendment is defeated. Mr. Boyce.

MR. BOYCE: I would move that Section 11 of Bill 7 be amended by striking out the word "under" in the second line of the proposed new subsection 41(1) to the Act and substituting therefore the words "a person employed by".

MR. CHAIRMAN: Agreed?

MR. PAULLEY: That's a clarification, Mr. Chairman, to make sure that the person is an employee.

MR. BOYCE: I would further move . . .

MR. CHAIRMAN: 41(a)---44 (1)(a).

MR. BOYCE: I would further move that the proposed new clause 41(a) to the Act as set out in Section 11 of Bill 7 be struck out and the following clause substituted therefor:

(a) from seeking nomination as or being a candidate or supporting a candidate or political party in a provincial or federal general election or by-election and. . .

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Well I want to make the point again that I made before, I don't expect the government to accept it but I must say we will look forward to the first by-election that will be called after this Act has been passed to recognize that we are going to have an army of civil servants knocking at doors for the government, and an army of civil servants knocking on doors against the government and against the pretty good candidates. -- (Interjection) -- Well then you'll change the Act.

MR. CHAIRMAN: Order please.

MR. SPIVAK: This is the first time a by-election has appeared in the description and I'm sorry that the Honourable Member for Churchill is here, he can go asleep and make his contribution that way. But I must say that the word by-election is almost anticipatory of what will happen in the . . .

A MEMBER: Wolseley.

MR. SPIVAK: Not necessarily in Wolseley.

MR. PAULLEY: Anywhere.

MR. SPIVAK: Anywhere, right, including Rossmere.

MR. PAULLEY: And Transcona.

MR. SPIVAK: And I suggest, Mr. Chairman, that the objection that we had right from the beginning applies in this particular section and I again suggest that there is no way that we can support a position which will allow them to support a candidate, a political party in a provincial, federal general election or by-election. And I'm not sure necessarily whether this by-election would apply federal or provincial, I'm not sure -- in both.

Well, Mr. Chairman, again I make the point but I also point out that the by-election being mentioned now I think is fairly significant and almost is a prelude to what I think will be a fight among not only the political parties but the civil servants who will be able to support the position and I really wonder whether we want the Civil Service to come down to that level.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: Mr. Chairman, might I say to Mr. Spivak, Mr. Paulley did not know at the time when the word "by-election" was inserted. It came as a result of a letter I received from Mr. Ron Cantlie who is a member of the Bar Association and he thought that by-election should be included.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: And further to that, Mr. Chairman, for a point of clarification you will note that in the proposed amendment contained within Bill No. 7, it refers to a person, prohibits an employee from being a candidate. Now this really is an expansion of that to include seeking nomination. At the present time there may be a prohibition from seeking nomination and that is another reason for the . . .

MR. SPIVAK: . . . I think that I recognize that part. Well in any case I think the honourable or the counsel for the explanation but I would think that there is some significance to this particular item.

MR. CHAIRMAN: The amendment as proposed---pass?

MR. SPIVAK: No, Mr. Chairman, I would like the division recorded against this?

MR. CHAIRMAN: Pass on division? 44(1)(b)---pass: (c)---

MR. SPIVAK: No, Mr. Chairman, I'd like that recorded on division as well.

MR. PAULLEY: Okay, acceptable.

MR. CHAIRMAN: (c) pass on division. 44(2)---

MR. SPIVAK: No, Mr. Chairman, I wonder why do we have to have government by regulation in these particular matters as well as in some of the others. You see and the Premier says, you know it should apply to senior officers and he made that maybe in a judgment that was well thought out, and it may have been a consideration that's been determined by Cabinet when they finally approved the bill, if they ever saw the bill before it got into the House, and I make that point because I . . .

(MR. SPIVAK cont'd)but I think it's probably true. I am not prepared and I don't think that we should be prepared in this Legislature to simply accept that it has to be designated or set out in regulations. I would rather see it specified and if it's senior officers that are to be excluded then let it be expressed in the bill so that we know where we stand.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I wonder whether the Honourable the Leader of the Opposition consulted with his colleague from Swan River because the Member for Swan River. . .

MR. SPIVAK: Yes, I know.

MR. PAULLEY: . . proposed amendments to our proposition which reads as follows: In 44 . . .

MR. CHAIRMAN: Mr. Bilton, on a point of order.

MR. BILTON: He'd be the first to say so, too.

MR. PAULLEY: What's that?

MR. SPIVAK: I know what he's going to say, let him say it.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I wonder, my question posed to the Honourable the Leader of the Opposition is as follows: I wonder whether he consulted with the Honourable Member for Swan River who proposed an amendment which said: "Any Civil Service employee or any employee under any agency of Government other than a deputy minister or such other classes or groups of employees as may be designated or set out in the regulations, who declares his intent."

Now this is exactly in my opinion what we are proposing that because of the fact we cannot really delineate in legislation precise occupations when I saw this I thought to myself, well by Jimmy Christmas, the Honourable Member for Swan River has at least in part seen the light of day and agrees with our contention. And I might say I believe also that this was the stance taken by the Leader of the Liberal Party that we can't designate precisely area.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Well it sounds like a reasonable argument and I think the Honourable Minister of Labour would like to pat himself on the back on having achieved a brownie point. But the reality is that the proposals the Honourable Member for Swan River brought forward were based on the assumption that the civil servants would have no political involvement other than the ability to be able to run for political office. The proposals that the government are presenting are that there will be full political rights including the involvement in elections which we are against and we say therefore for that reason, that if in fact there is by common-sense senior administration people to be excluded that that should not be left to regulation but should be spelled out in the Act and that by the way was also I think the position of the MGEA in this. So I think that the essential difference between our positions is the fact that we were not prepared to allow the full political rights in the sense that the government is proposing, we were going to simply allow the ability for them to be able to run for political office. Having said that I think that explains our position and explains the reason why the necessity of regulations spelling this out in detail and until they are, Mr. Chairman, I don't think we should be asked to approve it.

MR. CHAIRMAN: 44(2)--pass. On division?

MR. BOYCE: I would move, Mr. Chairman, that the proposed new subsection 44(3) to the Act as set out in Section 11 of Bill 7 be amended:

(a) by adding thereto immediately after the letter "a" in the fourth line thereof the words "where he is nominated as a candidate" and

(b) by adding thereto immediately after the letter "b" in the seventh line thereof the words "where he is nominated as a candidate".

MR. PAULLEY: The purpose of this, Mr. Chairman, I believe Mr. Balkaran will explain, it's to tidy it up a little bit so that a fellow doesn't have to be on a limb for a period of time that if he is not nominated well then he can come back to Civil Service rather than to have wait. Is that not correct, Mr. Balkaran?

MR. BALKARAN: Basically, Mr. Chairman, again this was an observation made by Mr. Ron Cantlie to me. He said that the subsection as it now reads would almost require a civil servant to come twice or make two applications for leave.

MR. PAULLEY: Yes, it's clarification.

MR. CHAIRMAN: The amendment as proposed--pass. 44(3) as amended--pass.

MR. BOYCE: I would move, Mr. Chairman . . .

MR. CHAIRMAN: 44(4)-- Mr. Boyce.

MR. BOYCE: I would move, Mr. Chairman, that proposed new subsections 44(4), (5) and (6) to the Act as set out in Section 11 of Bill 7 be struck out and

(MR. BOYCE cont'd) . . . the following subsections be substituted therefor:

Soliciting of funds 44(4). An employee in the Civil Service or a person employed by any agency of the government may, outside his normal or regular working hours, solicit funds for a provincial or federal political party or candidate.

Reinstatement of unsuccessful candidate. -- (Interjections) -- You want it clause by clause to move these amendments.

MR. SPIVAK: Yes. Now I wonder if the government's going to indicate to us what happens to an employee in the Civil Service or a person employed by an agency of the Government who in his normal or regular working hours solicits funds for a provincial or federal political party or candidate?

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: I would suggest, Mr. Chairman, if he does that he will have to suffer the consequences of his violation of a principle established and . . .

MR. SPIVAK: What principle?

MR. PAULLEY: The principle is that an employee only may, this is the transverse of this, only may solicit funds outside of his normal and regular working hours, solicit funds for a political or federal party or candidate. Now then in accordance with the basic concept contained within the Civil Service Act he would be subject to dismissal.

MR. SPIVAK: I think that's just hogwash.

MR. PAULLEY: Pardon?

MR. SPIVAK: I think that's a bunch of hogwash.

MR. PAULLEY: Well you might think it's a bunch of hogwash, Mr. Chairman.

MR. SPIVAK: I mean you just stand up and make a statement and then we have to assume that that statement's correct. Now let's understand what you're saying. The basic principles that are implied in this Act that override everything that happens. There is no -- as I would understand it, there is nothing in the Act that would suggest that an employee can suffer as a result of his -- in the normal regular working hours soliciting funds for provincial, federal political parties. And there's no prohibition, there is a permission to do it outside of his normal regular working hours but I do not believe that that necessarily applies a prohibition that during his normal regular working hours that he can. And I wonder what prohibition you have that an employee is in a position to solicit funds for a provincial, federal political party or candidate from people with whom he does business on behalf of the government.

MR. PAULLEY: 24(2) I believe or 24 in the present Act, the prime Act. Regulations re conduct of members, the commission shall by regulation establish standards of conduct for the members of the Civil Service for the purpose of maintaining discipline within the Civil Service.

24(2) The commission shall by regulation establish penalties to be imposed by the commission or employing authorities for breach of discipline by a member of the Civil Service and such penalties shall be imposed fairly and uniformly throughout the Civil Service.

I think, Mr. Chairman, that is ample coverage for this particular section where there is a penalty clause contained in the prime Act as we have it at the present time. If it's not severe enough or sufficient enough, I'm open to suggestions but I do believe, Mr. Chairman, that there . . .

MR. SPIVAK: Still hogwash.

MR. PAULLEY: . . . Well it might be hogwash, it . . .

MR. SPIVAK: . . . the commission, not the government, it's the commission.

MR. PAULLEY: Ah, but wait a minute, Mr. Chairman, I would suggest in all deference to my learned friend in law which of course is obvious that I am not, when we adopt these amendments as I suggest it may be, that when we adopt these amendments then the onus and responsibility for carrying through the intent of the Civil Service Act rests with the commission and they are charged with the responsibility of so doing.

Now we have been criticized, may I suggest, Mr. Chairman, that the government is interfering, we have agreed that we are going to have an expanded commission and I would suggest that the responsibility for the conduct of the employees will be vested in that commission insofar as discipline for non-compliance with the law.

MR. CHAIRMAN: Mr. Jorgenson.

MR. JORGENSON: Mr. Chairman, the Minister has suggested or the amendment says that an employee in the Civil Service or a person employed by any agency of the government may outside his normal or regular working hours solicit funds for a provincial, federal political party or a candidate. Outside of his normal or regular working hours -- does that mean that if he is working overtime and getting time and a

(MR. JORGENSON cont'd) half for that that he is then free to solicit funds

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Well I would suggest, Mr. Chairman, that the Honourable Member for Morris may have a good technical point but I would suggest, I would suggest common-sense would be the applicator that if he's working overtime that judgment would be that he's still working normal hours even though he's getting time and a half for that involvement.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Well, Mr. Chairman, I would suggest that if there is--if this provision is put in which specifically allows an employee to solicit funds that if an employee did solicit funds outside of his normal regular--if he did solicit funds in his normal regular working hours that there is really no penalty that can be expected to be enacted by the commission, you know, there's no prohibition against him soliciting funds and it's not put in a negative way, it's implied from what the Minister--or from the positive words that are put here and from the implication that the Minister suggests.

And I want to know bring up the next point and I think this is one of the most atrocious parts of this proposal. The government is not a normal employer; the people who work for government are not in a position, are not necessarily in many cases in the same position as normal employees. They are involved in government programs in which substantial sums of money will be passed through their hands on the basis of discretion to be exercised by them. The discretion that's exercised by them deals with the interpretations of a myriad of government programs and what you are now suggesting is that the employee or the civil servant involved in handling moneys, exercising discretion with respect to the agencies in government, can outside of the normal regular working hours solicit money from the very people whose discretion-- from the very people with whom the Civil Service and they exercise the discretion will have provided sums of money to.

And I wonder, Mr. Chairman, whether you really want this to arise and let's try and look through all the kinds of examples that can arise. And, you know, these are all hypothetical but, you know, they involve every department. And the Department of Industry and Commerce there are now basic grants that are given to a whole series of industries for TAG grants and for a variety of other programs. The individuals who make those decisions are now in a position to go to those corporations after the working hours and to suggest to them that it's in their interest to support the political party for whom they're soliciting funds or the candidate.

MR. PAULLEY: They do that anyway and always have.

MR. SPIVAK: They do that anyway.

MR. PAULLEY: And always have.

MR. SPIVAK: I would suggest to you that they have not. I would suggest to you they have not. . .

MR. PAULLEY: I suggest they have.

MR. SPIVAK: . . . and I would like the examples to be brought forward by the Government that says that they have. Because I would suggest that they have not. I would suggest to you that in the main the civil servants have not solicited; I would suggest to you that what has happened in certain situations and I mean we've had examples of that, there are people on behalf of a political party who may have solicited funds but I would suggest to you that the civil servants have not gone out to solicit the funds that they have themselves, in their discretion, disbursed.

Now let's go into, you know, we can go into the whole myriad of programs of the Health and Social Development Department and the discretion that's exercised by the social worker when they have to disburse money and the ability that they have in those situations where the kind of influence that they have over the lives of so many people to suggest that money should be given. Now you know you may say well that's ridiculous, it won't happen. Well I suggest to you that it can happen and it can happen when there is a positive statement that suggests that a civil servant can outside of his normal regular hours solicit funds for a provincial or federal election and there's no prohibition preventing them from soliciting funds from the very people with whom they're involved.

Now, you know, you want to go through all the programs - shall we go through the Agricultural Credit Corporation? Shall we go to the situation where the civil servant who has to make the discretion as to whether a land lease will be allowed or whether funds will be allowed shall be in the position to go ahead and then after the working hours to come back and ask for support for a candidate? And do you want to suggest to me that that's been happening now. Are you going to suggest that that's really happening now? No, well I don't think it has been. But I . . .

MR. PAULLEY: No more now and no more in the future and it did in the past.

MR. SPIVAK: In the future it's positive, they can do it. They have the right now to do that; they have the right to solicit money and there's nothing improper in soliciting money from the very people with whom they will have dealt and with whom they have made a discretion. Now, you know, we can go on and on and on.

Let's take a look at the Student Employment Program. Wouldn't it be very easy for someone who is exercising the discretion as to whether a student will be given employment under a STEP program or what have you to suggest that it will be in the interests of the individual to support the candidate who's running in this constituency or that. There's nothing wrong in this particular provision, they can do it and you think that that's right. Well I suggest to you and I said before that government is in a very different position than business and the kind of programs that we're talking about, you're asking now by this particular position and because you're not prepared to restrict it at this stage, to limit it. You're asking now for the creation of problems that will be so severe that you're not going to be able to police or correct. If your intent is to say I want to give to the civil servant the full political right like everyone else, then you have to recognize that there has to be some kind of prohibition on him basically going to the very people that he deals with in the exercise of his discretion dealing with the hundreds and thousands and in some case millions of dollars that he will have the right to disperse and not allowing him the opportunity to exercise what will in effect be blackmail in the solicitation of funds and that will happen. It has not happened so far and I would like to know the examples that the Honourable Minister of Labour says they have been, to be able to cite -- (Interjection) -- Yes, to be able to cite that. I want them to be able to cite those examples. -- (Interjection) -- Well I want him to cite the examples in the Department of Industry and Commerce and I want them to cite the examples in the Department of Health and Social Development; I want them to cite in the Department of Agriculture or in the Agricultural Credit Corporation. For what you're saying in this particular provision is that they should have the right to do that. And in doing this, you're going to destroy, you know, I think in my opinion, destroy a relationship that has existed with government which in the main have, in the dealings with people, have felt that at least there is the non partisanship and the impartiality in the way in which discretion is exercised and you are going to allow for something which I suggest will be a cancerous kind of growth with respect to the proper function of the civil servant.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: You know, Mr. Chairman, it sometimes amazes me, maybe it's because of the hour of the evening, either I'm getting a little foggy-brained, if I have a brain, or whether my honourable friend is likewise because actually, you know, and I would have no objection, Mr. Chairman, if the Honourable the Leader of the Opposition would suggest that there be a slight changing in the wording of this section, a more direct prohibition during working hours, the way the section is suggested at the present time may outside his normal working or regular working hours. If he would agree to a change, I'm amenable to it, that no employee shall during his working hours solicit funds that which would achieve the same result.

Now actually though if we really analyzed the argument of the Honourable the Leader of the Conservative Party, the Leader of the Opposition, if we really analyzed what he has said, he said, can you show by way of example, this that or the other what has happened in the past? And I said very loosely, I think that it has been done. And I would suggest that notwithstanding this clause that civil servants if they were wont - no matter what their connection was - if they were wont to go to the architects referred to by my honourable friend from Winnipeg Centre, if they wanted to go to the respective automobile dealer with whom the Department of Public Works have an association for the purchase of cars, I can't be convinced that in the past that some civil servants or some politicians because of their influence in government and they could conceivably have been Ministers of Industry and Commerce or Ministers of Labour who technically of course are not civil servants but really are tarred with the same brush or feather have obtained funds from private industry because of their connection with government.

Now really what my honourable friend has said in my opinion, Mr. Chairman, is derogatory of our civil servants. He's imputing that by virtue of this particular clause that our civil servants are going to start out - I believe it was the Member for Roblin with the moneybags satchel under his arm to deliberately solicit funds. I have more faith.

MR. SPIVAK: But they are entitled to do it . . .

MR. PAULLEY: I say, Mr. Chairman, that by this particular section we

(MR. PAULLEY cont'd) recognize a full participation of the civil servants outside of their normal working hour. Why should the Honourable the Leader of the Conservative Party who is engaged and does receive a pittance, I would imagine, as Leader of the Opposition be in a more privileged position simply because of that involvement. And I suggest, Mr. Chairman, that if my honourable friend wants to make this in reverse that an employee of the Civil Service or a person engaged shall not during his working hours - and that would cover the point raised by the Member for Morris, that is dealing with the overtime hours - solicit funds, I'm prepared to accept that but I'm not prepared to accept the arguments of the Leader of the Opposition.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Mr. Chairman, the Honourable Minister of Labour in his usual way made the case for us, I mean he presented it as strongly as anyone could suggest. -- (Interjection) -- He's basically saying that in respect the civil servant can now solicit funds from the very people with whom he's dealt with, with whom he has had to exercise a discretion in carrying out a government program and that there will be a perfect right on his part to solicit funds.

MR. PAULLEY: No, I'm not saying that, I didn't say that. You're misconstruing my words.

MR. SPIVAK: Well that's what this clause says.

MR. PAULLEY: No, it doesn't.

MR. SPIVAK: Oh yes it does. It provides that. That's exactly what it says.

MR. PAULLEY: All in the eyes of the beholder.

MR. SPIVAK: No, no, no, it says . . .

MR. PAULLEY: Damn right it is.

MR. SPIVAK: . . . a perfect right to do this, that there is nothing wrong with it and I suggest that if you want to talk about the basic understanding of civil servants and sort of the unwritten rule and the way in which they played the game and I would admit that there are problems, there probably are some people who ignored that unwritten rule. Civil servants did not solicit money, they recognized that this was not a function that they should be undertaken; they recognized that that would be in error; they recognized the impropriety of it and what you are now doing is permitting an opportunity and legitimizing something which will allow people without any compunction, without feeling in any way that they are being improper or even unscrupulous to solicit money from people who have received the benefits of the government program as a result of the exercise of the discretion of the civil servants and I suggest to you that that's wrong.

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: Mr. Chairman, you know of course it is relatively easy to be bothered by the implications of this section.

MR. SPIVAK: Yes.

MR. SCHREYER: Yes, but before you answer too quickly I would say that it is possible in all conscience to be bothered with every aspect of fund raising and the political process of our democratic system as it now exists. If you want again to single out civil servants why stop there? Because if a person is ethical and whether he be Civil Service or politician or neither, then you have a problem. If they have a sense of ethics then it doesn't matter whether they be civil servant, politician or neither. And so that's really the question. Why should one now drag in the probability of coercion. Is coercion any the more acceptable if it's exercised by a politician and a politician's in a position to exercise coercion if he has no sense of ethics. And if he has a sense of ethics, he will not and so will a civil servant not. And, Mr. Chairman, let no one pretend that under the system as it now obtains and has for a long time and I in despair accept the fact that it will continue indefinitely into the future. We have a hit and miss again behind-the-scenes type of fund raising system for the political process.

MR. PAULLEY: We changed our Election Act, disclosure of contributions . . .

MR. SCHREYER: Yes, but still the manner in which contributions are sought it is such that people will not make contributions - some people will - but many will not make contributions if they are engaged in any kind of activity, commerce or whatever. They do not like to make contributions unless they can make it in a way in which it becomes known to those who are engaged in political activity. Most people resist the idea of making anonymous contributions, do we insist on being naive and hypocritical about it. If a firm X whether it be headquartered in Toronto, Montreal or Winnipeg, they make a contribution they usually want it to be very much known by those who really don't want to know about it. They want it to be known. And those who go about collecting funds, they have to be guided in the final analysis

(MR. SCHREYER cont'd) by their sense of ethics and that the necessity of them being guided by ethics is as great for a politician as it is for a civil servant or for a citizen who is neither and that's the main point.

MR. CHAIRMAN: Mr. Jorgenson. Mr. Jorgenson I wonder if you'd hold it for a moment while we have a tape change. (We don't delete the expletives either.) Would you proceed Mr. Jorgenson please.

MR. JORGENSEN: Mr. Chairman, the Minister of Labour suggested that when he last spoke that the lateness of the hour is beginning to confuse him somewhat and then he proceeded to over demonstrate that very point when he suggested that the amendment that is now before the committee was there to provide an opportunity for civil servants to solicit funds for a political party. But then on the heels of that remark he suggested no civil servant with any ethics at all would even think of doing such a thing.

MR. PAULLEY: I didn't say that.

MR. JORGENSEN: Well if that's the case then why is the amendment before us in the first place.

MR. PAULLEY: I said they had some ethics which is disputed by your leader. I have more faith in the civil servants than your leader has.

MR. JORGENSEN: What you're suggesting then is that you have more faith in the Civil Service than to carry on what is provided for in this amendment. Why then do you propose it?

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Mr. Chairman, Mr. Jorgenson's point is just the point that was going through my mind. We have had some great faith expressed in the ethics of the people who may be affected by this clause but in the same, almost in the same voice, we by applying this amendment issue an invitation almost to challenge that ethic, you know, it's almost an inspiration; if we have faith in people's ethics that the employee who is charged with distributing public funds or public contracts that he will not go back at some future date and say, well now we've done something for you perhaps you'd be prepared to do something for us. We realize that's a bad thing, why do we almost have an invitation in the Act here to engage in such activities. It seems to me there's an invitation almost implied here and it's in contradiction to the high ethics that we all feel and hope do exist among the civil servants.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: You know, Mr. Chairman, I'm somewhat surprised at listening to the Member for Brandon because one of the very reasons that we are proposing this amendment is because of some of the speeches that were made by the members of the Conservative Party particularly during consideration of Bill No. 7. I well recall and I believe my honourable friend from Brandon West made this remark that - and also the Member for Roblin in a very emotional outburst during the debate on No. 7 figured, visualized a civil servant who would have a bag for the receipt of dues or at least license fees on one hand, side of the wicket, and another carpet-bag for the receipt of political funds. And the argument at that particular time that this would run beyond all due control and one of the reasons was, Mr. Chairman, and I can't understand my honourable friends that one of the reasons for this is that in this particular instance, we did listen I believe to the Member for Brandon West, the Member for Roblin to prevent soliciting during working hours and this was their major thrust at that particular time, Mr. Chairman, and that is why this is here.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, the Minister usually starts out by saying, I'm surprised and I'm surprised also. I'm surprised that the beating around the bush and the lack of frankness on the discussion from the side of the government, I'm looking at Bill 73 which is brought in by Building and Mobile Homes Act which has building inspectors which have powers by the Minister but the building inspector has powers, the road inspector has powers, the liquor inspector has powers and for this man to go around collecting for a political party after hours with no malice in his mind at all saying to the man he calls on: "Would you like to donate something to a political party?" What position does that put the person he's asking in? Now let's not just beat around the bush and have some of this quiet, nice garbage talk that the Minister keeps wandering around with. Those are the facts and if you don't believe it, read your own Bill 73.

MR. PAULLEY: I'm listening to garbage now too.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Mr. Chairman, notwithstanding what is printed here, I would suggest that Mr. Johnston asked for candor. If the case could be made that some

(MR. BOYCE cont'd)civil servant was involved in receiving a \$350,000 contribution so that the milk producers in Manitoba could get \$5 million increase in the price of their milk, if the case could be made that a civil servant in the Province of Manitoba was instrumental in getting the Auditor-General--the Provincial Auditor to back off and a contribution was made, I would suggest that the government would fall. You know, if the opposition can make the case that this doesn't in fact occur and the public agrees that what you're suggesting will occur, does occur, that this is a control that is built into the total system. And I see you shaking your head. Now, I said in the House, I said in the House that no matter what you pass in this bill, it's going to come down to a matter of the integrity of the people that are involved and if the opposition can make the case in anything, the government is becoming liable and the public will either believe it or they will not. Because there is other nuances in this that you could drag in, it is just soliciting and that is a legal concept in itself. What does soliciting mean? It's a matter of semantics and syntax what soliciting means. It means that somebody pursues something, actively solicits. The word itself solicit means to become involved in a type of conversation with somebody that you're going to convince them that they should do what you want. -- (Interjection) -- The law is silent on somebody going down the highway as a grader and somebody stops them on the street and says, 'here's a five dollar contribution. It doesn't say anything about receiving contributions: it says soliciting contributions.

But nevertheless if the opposition at some future point in time can make the case that there is a relationship between unreasonable government action and these contributions, then I would suggest the government is liable. But you're not going to change it by, you know, changing the words of this Act - where the working hours or something else, you're not going to change anything. So, Mr. Chairman, we could sit here all night and I suggest we call for the question on this section.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Well I think the . . . case which was referred to by the member brings up the point and I think we'll make it and then -- No, no, let's make that point because it's exactly what you're saying. You're saying that the public would not buy that proposition but what you're now by law saying is that it will be legal. You're saying it's going to be legal by law -- (Interjection) -- yes, what I'm saying. I'm saying that your case which you've just cited by this particular section by law would be legal if it was solicited by a civil servant whether it was \$350,000, whether it was a million or whether it was 5 million. It may be that the public four years after the event may decide to throw the government out but the fact is that there cannot be any court proceedings on it because the Act would be legal if the solicitation was by a civil servant under the same conditions and terms that you mentioned but was after working hours and that's how ridiculous and stupid this section is.

MR. CHAIRMAN: Mr. Jorgenson.

MR. BOYCE: Mr. Chairman, the Leader of the Opposition's argument is totally fallacious because if they had a parliamentary system in the United States that government would have fallen a long time ago and you know it and I know it.

MR. SPIVAK: But the difference, Mr. Chairman, is that there will be a prosecution not just an action . . .

MR. BOYCE: The prosecution is by the people.

MR. SPIVAK: The prosecution will be under the law. The fact is what you are now suggesting is that the Act itself will be legal although the political implications of it may be such the government would fall. But I'm suggesting to you that what you are now doing by this particular section is allowing exactly what happened in that particular situation to be done and enacted for by a government employee who after working hours would be with full authority because you specifically say can solicit funds for provincial or federal political party. And that in fact . . .

MR. BOYCE: That isn't what you're saying, soliciting funds for that. You're saying that they're coercing people into contributing and that certainly isn't covered in the damn law.

MR. SPIVAK: If the person who has the discretion to exercise basically . . .

MR. BOYCE: And you're saying a betrayal of that discretion, it comes under the Act.

MR. SPIVAK: The betrayal of that discretion will be legal.

MR. BOYCE: . . . shall prove that he betrayed his discretion.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, I'll be very brief because I want to clear

(MR. F. JOHNSTON cont'd) . . . up a point, and I appreciate the Member from Winnipeg Centre's comments. They are much more refreshing than the Minister's. I said an employee, a civil servant who is making those calls with no malice, no coercion in his mind whatsoever calling on a person, the person that he is calling on if he is in the position of being some of the things I mentioned, that person he is calling on starts to feel that he maybe should donate and I don't think that I would want anybody calling on people on my behalf in that position and I don't know whether you do or not.

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: Mr. Chairman, we are governed under the rule of law and it doesn't matter if the person is a citizen, or politician or a civil servant, if they are proceeding in a way that is improper under the law that has the slightest trace elements of quasi intimidation, then that just doesn't go, there is redress at law, there is recourse to the courts, there is appeals. And it doesn't matter one iota whether a person is of one status or another if he is acting in a way that is improper. That is the governing point not his particular occupation. And I don't know to what extent it's relevant but since some reference has been made to some big scandal in the United States with respect to the soliciting, improper soliciting of funds, my understanding of the matter it was done by politicians in an improper way. Point 1, it was by politicians; point 2, it was improper. And if it's improper it doesn't matter who was carrying out the impropriety.

MR. CHAIRMAN: Are you ready for the question?

MR. JORGENSEN: Then we'll call for an inquiry into what is happening under the Artificial Insemination Program where there is intimidation of the worst kind going on right now.

MR. SCHREYER: And even if you're right, there's no funds involved. So even if you're right, it's irrelevant.

MR. CHAIRMAN: Are you ready for the question?

MR. BILTON: Before you put the question, I move that 44(4) be eliminated and considered six months hence.

MR. PAULLEY: Mr. Chairman, may I, on a point of order, the same can be achieved by voting against the proposed amendment.

MR. CHAIRMAN: I am informed that it is out of order in any case. 44(4) the amendment as proposed--pass. On division. 44(5)--Mr. Boyce.

MR. BOYCE: Mr. Chairman, Reinstatement of unsuccessful candidates. 44(5) Where, pursuant to the authority under this section, a person contests an election and is unsuccessful in being elected, if within 90 days from the date on which results of the election are officially declared, he applies to the government or government agency, as the case may be, he shall be reinstated to the position he held immediately prior to the date of his leave of absence granted under subsection (3) in which case his service shall be deemed to be unbroken for all purposes.

MR. CHAIRMAN: 44(5)--pass.

MR. BOYCE: Leave of absence for member of House of Commons, etc. 44(6) Where an employee in the Civil Service or a person employed by any agency of the government is elected to the House of Commons or as a member of the Legislative Assembly or is appointed as a member of the Executive Council, upon application therefor, that employee or person shall be granted leave of absence without pay

(a) for a period not exceeding 5 years from the date of his election or appointment, or

(b) if prior to the expiration of the 5 year period

(i) he resigns as a member of the House of Commons, or

(ii) he resigns as a member of the Executive Council, or

(iii) he resigns as a member of the Legislative Assembly, or

(iv) his appointment to the Executive Council is terminated, or

(v) the term of office for which he is elected expires or is

terminated, then for such period that coincides with his resignation or termination of appointment, as the case may be.

MR. CHAIRMAN: Proposed 44(6). Mr. Spivak.

MR. SPIVAK: How are you going to deal with-- in reality that the position may very well have been filled by someone else who now is in the same position as the individual who received the leave and who has been in the House of Commons or Legislature for a period of time. You know, how are you going to deal with that point, it's not even expressed here.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Well I think, Mr. Chairman, and I appreciate the validity of the point raised, I think this is a matter that would have to be dealt with in the

(MR. PAULLEY cont'd) . . . regulations and I know that having said that some honourable members may think there's too damned much left to regulation instead of legislation. But it's rather difficult and I'm sure my honourable friend will appreciate the difficulty . . . counsel, Mr. Balkaran and I never thought of it, if a job is given leave of absence from a position, that job is left open. Now that's the legal advice that I have here.

MR. SPIVAK: Well I know but let's be frank. If a person is a director of a department is given leave of absence and runs and becomes elected in the House of Commons and is there for four years, surely it is not intended to leave the director position open until he comes back. -- (Interjection) -- Well I think that if I'm correct this section in the main was taken from the Ontario section but it's minus one very important part which essentially gives the person coming back the availability of the job if it's available or basically first priority or priority for the equivalent job as it comes up within the Civil Service. And I think that you have got to be practical about what you're proposing here.

MR. PAULLEY: Mr. Chairman, might I ask Mr. Spivak would he agree that it might be subject to the regulations in order that he's not prejudiced. Again I hesitate even to make this suggestion knowing the aversions of some people to regulations.

MR. SPIVAK: No I would prefer seeing that this is redraft--or an amendment brought in on this particular section.

MR. PAULLEY: Could you suggest one, Mr. Spivak.

MR. SPIVAK: Well no I can't now but it's possible the Legislative Counsel can if there's an understanding of what's intended and bring it in when we deal with this in the House. It would seem to me that, you know, the obvious situation is that if someone is elected and sits in the Legislature or the House of Commons he can't be expected to come back to the same job nor can the government be expected to leave it open. I mean what you're trying to do is give him the rights of being able to come in within the agency or the Civil Service but certainly recognizing the change that can occur and certainly recognizing someone may be filling that job.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Mr. Chairman, there is a precedent in law of longstanding in this area and also the regulations and experience gleaned from it was the Act that was passed federally relative to the positions vacated by people serving in the armed forces and the mechanics, you know, of putting people back into the system, the experience is there and from their experience it was done by regulation.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: I would just make one further comment, Mr. Chairman, if I may. One of the reasons for the different limitations, Mr. Spivak, is to narrow the time element. There's reference there to a period not exceeding five years. We realize that some people are elected, may be elected time after time after time and we realize that they couldn't be given an absolute assurance - that's what the reason for that five years in the original section (a). And then the limitation too as to that length of time is contained in (b). And for that reason--it's rather hard now--it could be that a suggestion that if he returns, if he returns to employment within the periods suggested in 44(6), it would be without prejudice to the position from which he left or the equivalence or something along that line now. I don't know if that would be satisfactory or practical. My Premier.

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: As I understand Mr. Spivak, his interpretation is that the leave of absence connotes that the very specific and self-same job is what is required to be there, open, all the time. The intent of the legislation as I understand it is that the job equivalence, the classification equivalence be that which leave of absence is from. And if wording to that effect -- (Interjection) -- Beg your pardon? And classification equivalence.

MR. PAULLEY: Classification equivalence? Would that be acceptable, Mr. Spivak? Because I have no objections to that at all.

MR. CHAIRMAN: Mr. Marion.

MR. MARION: Mr. Chairman, I don't really see a problem in this area inasmuch as we've a civil service force of some 9,000 we were told or 10,000 and we're going to probably end up - we're talking about ones or twos or threes as the Minister mentioned awhile ago to re-integrate a man even in a senior position after a five-year absence should not be that kind of an overbearing problem. So it would seem to me that if the Minister feels that regulation can handle this re-integration back into the services. I don't see that this becomes a major problem.

MR. PAULLEY: No, I don't think really, Mr. Chairman, it is a major

(MR. PAULLEY cont'd)problem, I wonder whether we could have concurrence from the committee this evening that there be a provision made in our report to the House that will accommodate the point raised by the Honourable the Leader.

MR. CHAIRMAN: Agreed?

MR. SCHREYER: Job and classification . . .

MR. PAULLEY: Job equivalence, yes.

MR. CHAIRMAN: Agreed? (Agreed). 44(6)--pass; 44(7)--Mr. Boyce.

MR. BOYCE: Notwithstanding subsection (6), an agency of the government that is engaged in a commercial enterprise may grant to a person employed by it and who is elected to the Legislative Assembly, leave of absence without pay for the duration of each session during which he sits as a member of the Legislative Assembly; and this subsection shall be deemed to have always been the law.

MR. CHAIRMAN: 44(7)--pass.

MR. BOYCE: Coercion or intimidation prohibited. 44(8) No person who

(a) is in a supervisory capacity over an employee in the Civil Service of over a person employed by an agency of the government; or

(b) is authorized to employ, promote or reclassify a person in the Civil Service or in an agency of the government; shall coerce or intimidate that employee or person into supporting or not supporting a candidate or a political party.

MR. CHAIRMAN: 44(8)--pass. Mr. Spivak.

MR. SPIVAK: Going back to our own amendment with respect to the coercion or intimidation, there's another portion to be placed in there. -- (Interjection) -- Well I tell you what I think we will do then, I think that our clause is possibly better worded than this suggestion; what I would like to do and I'll bring this in on the resolution stage as an amendment, on the report stage.

MR. PAULLEY: Is that possible under our rules? -- (Interjection) -- Oh, not on third reading but on the report stage. Okay.

MR. CHAIRMAN: Mr. Jorgenson.

MR. JORGENSEN: Mr. Chairman, in the light of the number of amendments that have been made to this bill if we could get a reprint of this bill before we deal with it in report stage.

MR. PAULLEY: I think so, Mr. Chairman, I have no objection then.

Mr. Chairman, the motion then would be that the bill be reported and reprinted. Would that be the proper motion. -- (Interjection) -- As amended, yes.

MR. CHAIRMAN: 44(8), as amended--pass; section 11, as amended--pass. Section 12 47(5)--pass?

MR. SPIVAK: No, Mr. Chairman, I would like to know why the government or the Cabinet has to be given this power.

MR. CHAIRMAN: Mr. Schreyer.

MR. SCHREYER: Mr. Chairman, while the Minister is perusing that, I take it Mr. Spivak's referring to 12 47(5).

A MEMBER: Right.

MR. SCHREYER: I frankly find that as completely redundant because it's governed by the Executive Government Organization Act but the Minister of Labour probably has some specific reason. Nothing in this Act affects the right of the Executive Council to determine the organization, to assign duties, classify the Civil Service. That is the Executive Council by virtue of the authority vested in it by the Executive Government Organization Act can organize, reorganize, etc.

MR. BALKARAN: I think, Mr. Premier, that dealt with the reorganization of the whole department but the assignment of duties to employees, the Director of Personnel wanted this because there was some doubt as to whether Cabinet could do that.

MR. CHAIRMAN: Mr. Marion.

MR. MARION: Well, Mr. Chairman, this 47(5) has me a bit perplexed and I wonder if while we're getting some explanations we might get one to my query. I can understand and agree and support the fact that the Executive Council should have the right to determine the organization of the Civil Service. I think that no one denies that, that's a prime right of the government. But to assign duties to employees and classify or reclassify positions is in my point of view a responsibility that should be vested with the Civil Service Commission. I think structuring the Civil Service is one thing but then making up every notch within that structure is another role altogether and perhaps the Minister could explain why those two responsibilities are vested with the Lieutenant Governor in Council. I would then finish my request by saying, what would there be left for the Civil Service Commission to do?

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I've studied some of the notes that I have with me that were supplied by the members of the personnel section and there had been some consideration for the reorganization of bargaining within the Civil Service and their bargaining rights which haven't been materialized. I would have no objections, Mr. Chairman, at this time for the deletion of 47(5) or just a sec maybe the whole-- yes, the Section 12, I'd have no objections to the deletion of Section 12 at this stage in the game if that's acceptable to the committee.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Section 12 be repealed--deleted.

MR. CHAIRMAN: Agreed? (Agreed).

MR. PAULLEY: And then we'll have the renumbering.

MR. BOYCE: Mr. Chairman, may I move that sections 13, 14 and 15 be renumbered 12, 13 and 14.

MR. CHAIRMAN: Agreed?

MR. BOYCE: Section 12 is deleted and 13, 14 and 15 become 12, 13 and 14. So the next clause for consideration is new section 12.

MR. CHAIRMAN: New section 12. (n)--pass; (o)--pass; (a)--pass; (b)--pass; 12 as renumbered--pass. New 13 (a)--pass; section 13--pass. Section 14--pass.

MR. PAULLEY: Which is the Commencement of the Act.

MR. CHAIRMAN: Preamble--pass; title--pass; Bill be Reported . . .

MR. PAULLEY: And reprinted.

MR. SPIVAK: I'd like a vote on the bill. . .

MR. CHAIRMAN: Bill be recorded.

MR. SPIVAK: No I want a recorded vote if I can.

MR. CHAIRMAN: Those in favour of the bill being reported.

MR. CLERK: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.

MR. CHAIRMAN: Those opposed.

MR. CLERK: 1, 2, 3, 4, 5, 6, 7, 8.

MR. PAULLEY: I move the committee rise, Mr. Chairman.

MR. CHAIRMAN: Motion carried.

MR. SPIVAK: Mr. Chairman, I assume that it will be reprinted before we have it in the report stage in the House. Am I correct?

MR. PAULLEY: I think that's normal practice, Mr. Spivak.

MR. SPIVAK: No, I don't think it is normal practise but I am assuming it's agreed because we can't deal with the amendments until we know we've seen the printed . . .

MR. PAULLEY: Oh I see what you mean. I'll give that undertaking as the sponsor of the bill.

MR. CHAIRMAN: Committee rise.