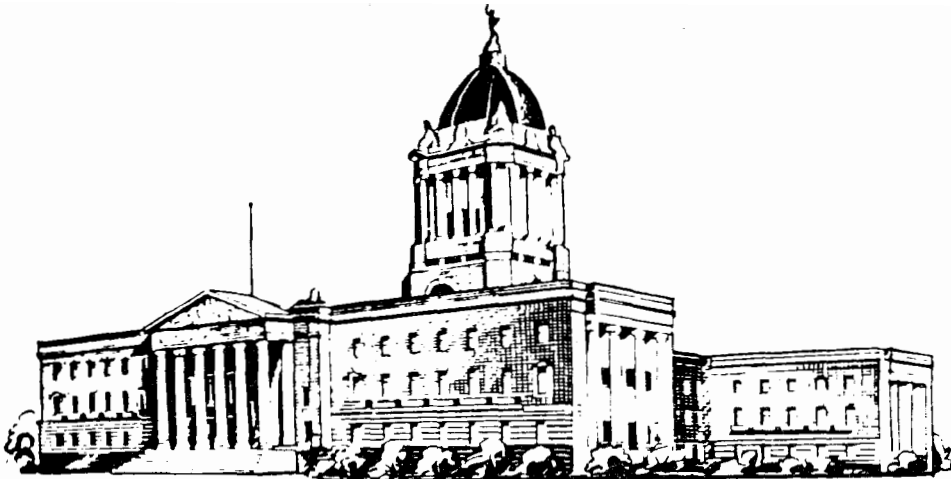




Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Chairman
Mr. John C. Gottfried, M.L.A.
Constituency of Gimli



4:30 p.m., Tuesday, June 17, 1975.

MUNICIPAL AFFAIRS COMMITTEE

4:30 p.m., Tuesday, June 17, 1975

CHAIRMAN: Mr. John C. Gottfried.

MR. CHAIRMAN: Order please. The Bills placed before the Committee at this time are:

Bill No. 44 - The Planning Act, and

Bill No. 51 - an Act respecting the Rural Municipality of Morris, the Rural Municipality of Roland, the School District of Kane No. 2007 and the Morris-Macdonald School Division No. 19.

By leave would it be possible to consider Bill 51 first for the benefit of Mr. Henderson who would like to get it through as fast as possible. (Agreed)

BILL NO. 51 - AN ACT RESPECTING THE RURAL MUNICIPALITY OF MORRIS,
THE RURAL MUNICIPALITY OF ROLAND, THE SCHOOL DISTRICT OF KANE
NO. 2007 AND THE MORRIS-MACDONALD SCHOOL DIVISION NO. 19

MR. CHAIRMAN: Bill No. 51. Page by page? Mr. Banman.

MR. BANMAN: Mr. Chairman, there are several amendments that I'd like to bring forward at this time and the first one is THAT the title to Bill 51 be amended by adding thereto, immediately after the word "Morris" therein the words "The Rural Municipality of Macdonald".

MR. CHAIRMAN: You have heard the amendment. Is there any discussion?

MR. BANMAN: Would you like all the amendments on the page or are we taking amendment by amendment?

MR. CHAIRMAN: Well we'll take them entirely. Title as amended - pass? Are there any further amendments?

MR. BANMAN: Yes. THAT the 3rd paragraph of the preamble to Bill 51 be amended by striking out the words "The Rural Municipality of Roland and the Rural Municipality of Morris" in the 3rd and 4th lines thereof and substituting therefor the words and figures "the municipalities that were wholly or partly within The School District of Kane No. 2006 or that are wholly or partly within The Morris-Macdonald School Division No. 19".

MR. CHAIRMAN: Third paragraph as amended - pass. Are there any further amendments on Page 1? Page 1 as amended - passed. Page 2 - Mr. Banman.

MR. BANMAN: Mr. Chairman, THAT section 1 of Bill 51 be amended

(a) by striking out the words and figures "The Rural Municipality of Roland or of The Rural Municipality of Morris, may, at any time prior to January 1, 1975" in the fourth, fifth and sixth lines thereof and substituting therefor the words and figures "a municipality that was wholly or partly within The School District of Kane No. 2006 or that was wholly or partly within the Morris-Macdonald School Division No. 19, may at any time prior to January 1, 1976"; and

(b) by striking out the words "The Rural Municipality of Morris and The Rural Municipality of Roland" in the last two lines thereof and substituting therefor the words and figures "the municipalities that were wholly or partly within The School District of Kane No. 2006 or that are wholly or partly within The Morris-Macdonald School Division No. 19, as the case may be".

MR. CHAIRMAN: Section 1 as amended - pass; Page 2 as amended - another one?

MR. BANMAN: THAT clause 4(a) of Bill 51 be amended by striking out the words "The Rural Municipality of Roland or the Rural Municipality of Morris, or both" in the first and second lines thereof and substituting therefor the words and figures "a municipality that was wholly or partly within the school District of Kane No. 2006, or that is wholly or partly within the Morris-Macdonald School Division No. 19".

And a further amendment, THAT clause 4(b) of Bill 51 be amended by striking out the words "The Rural Municipality of Roland and The Rural Municipality of Morris, or either of them" in the first and second lines thereof and substituting therefor the words and figures "the municipalities that were wholly or partly within The School District of Kane No. 2006 or that are wholly or partly within the Morris-Macdonald School Division No. 19, or any of them".

MR. CHAIRMAN: Section 4(a) as amended - pass; Section 4(b) as amended - pass; Page 2 as amended - pass; Page 3 - pass; Preamble - pass; Title - pass. Bill be reported.

MR. McKELLAR: Mr. Chairman, I want to just say a word on that before you report

(MR. McKELLAR cont'd) the bill. In my seventeen years in this Legislature I have always been against retroactive legislation. And I know we've passed lots of it over the years but it's not right. Eventually you'll get caught right in a trap some day by passing it. And for that very reason I'm not going to support this bill. I'm not worried about the \$5,000 of the farmer because I can name lots of instances where the same problem exists in my area. But I'm against retroactive legislation, and for that reason I think it's wrong for this Committee to report this bill and I'll vote against it.

MR. CHAIRMAN: Thank you for your concern. The Honourable Mr. Miller.

MR. SAUL MILLER: I'd like to ask a question. The point raised by the Member for Souris-Killarney is a serious one. I'd like to know whether by this legislation we are in fact correcting what may have occurred, I don't know how many years ago. The retroactive feature is something that the Member for Souris-Killarney raises and I'm wondering whether the Minister could advise whether the passage of this bill in its present form could be an invitation to numerous municipalities and individuals within school divisions that were created ten years ago to now come forward to ask for similar treatment.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Chairman, when this bill first was introduced this was a concern that we felt. I asked the department to check as to whether or not there was any possibility this bill would be creating a precedent for the presentation of other similar bills involving other municipalities. I've been assured (1) that this would not create a precedent and (2) that apparently the system that made it possible that this inequity would occur has now been eliminated and I'm assured that it would not happen in the future. Mr. McNairnay I think can confirm this Bill 51 would create no precedent to our knowledge.

MR. McNAIRNAY: No, Mr. Chairman. We recognize that the process of equalized assessment is not perfect and nor is the . . . of the balanced assessment. This was probably the first really critical example that came to our attention of what happens when you do a reassessment in a rural municipality where land values have changed drastically and therefore there's a very rapid escalation in the assessment and where you assess only one of the municipalities in a school division. This particular case in 1967 and 1968 caused us to look very closely at our assessment practices and avoid where possible assessing only part of a school division if it is going to result in the kind of situation which we experienced in the Morris-Macdonald School Division in 1967 and 1968. So we felt that this was rather a unique situation that resulted in substantial inequities and we have been very careful to watch that this kind of thing doesn't happen since. For that reason we don't consider the kind of remedy that's proposed here would present us with a precedent which would make it difficult to live with.

The solution proposed in the bill will give the Municipal Board a great deal of discretion on how they correct the inequity in respect to those landowners that are still affected. I would think that, for example, if someone has sold his land, one of the quarter sections affected, that the board would have discretion to make no award in respect to the subsequent purchasers. So to sum up what the Minister said, we don't think that this is going to present us with a precedent which would make it difficult to live with.

MR. CHAIRMAN: Mr. McKellar.

MR. McKELLAR: Maybe it has been corrected but one of the problems that has always existed, they always told us, the Assessment Branch, Mr. Reimer, you could compare assessments within a given municipality but not against another municipality. Like you can't compare land assessments from one municipality to another. I had the same problem at Glenwood and Whitehead, the same problem existed. Now the council at Glenwood took it into their own hands. They went over the heads of the Assessment Branch and they reduced assessment all along the north part of their municipality so it compared with Whitehead. But the same problem did exist there at that time until they took it into their own hands.

I don't know, maybe you're right that it won't cause further problems. But retroactive legislation is bad at any time as far as I'm concerned whether it's for \$5,000 or whether it's rectifying a thing, but when you go back seven years it does create problems. Mind you I'm not the government, I don't have to account really for anything. I'm in a fortunate position. But if I was the government I tell you I'd shake my head at something that's retroactive. I don't care if it's dealing with assessment or what it's dealing with, because my God you can get yourselves into a real kettle of worms, because the public are always watching over your shoulder. This is what happens.

MR. CHAIRMAN: Mr. Jorgenson.

MR. JORGENSEN: I think that the point raised by the Member for Souris-Killarney is a very important one and in the last few years I've noted on more and more frequent occasions where we are bringing in retroactive legislation dealing with problems that happened some years previously. I think we should look very carefully at the direction that we're heading insofar as that kind of legislation is concerned, with respect to the particular matter now before us. Admittedly the Municipality of Roland was one of the first municipalities to be assessed and without the experience to guide them the proper appeal which is provided for in the legislation was not taken. I know of several other instances subsequent to that particular one where similar occasions arose, but because of the experience in the Kane School Division the other municipalities were warned to make sure that they submitted the proper appeal and had the matter straightened out.

So I don't think, and I would agree with Mr. McNairnay, I don't think there are any other problems in this connection because the first one is the one we're dealing with right now which provided the experience for all other school divisions to insure that they didn't encounter similar problems. And maybe there is some justification for - if not legal, certainly is perhaps some moral justification for dealing with this situation since they provided the precedent that has been followed since then by other municipalities and school divisions.

MR. CHAIRMAN: Are there any further observations? Bill be reported. Agreed? Ayes and Nays being asked for?

MR. McKELLAR: I'm just against retroactive legislation. I always will be.

MR. CHAIRMAN: Bill be reported? (Agreed) We will now proceed with Bill 44, The Planning Act.

BILL NO. 44 - THE PLANNING ACT

MR. CHAIRMAN: We have a list of amendments. Mr. Johnston.

MR. J. FRANK JOHNSTON: I would like to make a statement on Bill 44 before we start. Mr. Chairman, as the Minister has stated, this is a very important piece of legislation and fully realizing that there are some areas of the province that do have fairly immediate problems; we agree that these problems are there but think that they can be overcome without passing this bill immediately at the present time. Frankly because we've had the delegations that we have had all requesting that this bill be studied more thoroughly before it becomes legislation, we would like to suggest that this bill be turned over to a committee of Municipal Affairs to be studied between sessions. We say that on the basis that we are only interested in having the best legislation possible and we believe that there are many things that should be more thoroughly discussed within the bill.

So, Mr. Chairman, therefore I would move that Bill 44 be sent to the Legislative Committee of Municipal Affairs to be studied between sessions so the best possible bill can be put forward.

MR. CHAIRMAN: Should this not be properly moved at the report stage?

MR. F. JOHNSTON: I so move.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Mr. Chairman, I'd just like to second the motion of Mr. Johnston and mention just one or two things here. I think it is most unfortunate the particular timing of this bill. I know the Minister has had a telegram from the President of the Rural Municipalities of Manitoba expressing a desire to have more explanations, and I think in fact there was a regional meeting held this morning and this afternoon in Holland at which they had 90 people in attendance and only five of them had actually had a chance to read the bill. I think they were expecting at that meeting, Mr. Chairman, that the Minister would be there to explain Bill 44 to them, and really that was one of the major parts of the meeting. The President was aware of the fact that the Minister had been somewhat surprised that they hadn't included Bill 44 on their agenda for any of these meetings but actually I'm told that they didn't have the bill at the time that the agendas were made up.

So, it's rather unfortunate, I think, to think that they're there expecting to discuss this bill and to learn about it and the Minister is really unable to be there to tell them about it because he's busy in the House passing the bill. And here we have a situation of people in the country who are having a meeting and very anxious to learn about the details of this bill from the Minister of Municipal Affairs and I quite understand why the Minister isn't at that meeting.

(MR. MCGILL cont'd) I have no doubt he intended to be there but the way the timing is he's in the House piloting through the bill which they are anxious to receive explanations on.

Mr. Chairman, they agree that they want a community planning bill but they don't feel that there is that great urgency that it needs to be put through before they really know what the bill is all about; and I certainly feel that the Minister should consider this motion to place this bill before a Committee of the Legislature to make sure these people understand it. I don't think that it will mean a great deal of difficulty. There's obviously so many changes being made to this bill now from the number of amendments in front of us and there are more amendments which the Minister I'm sure is going to consider as a result of the presentations made last night.

Mr. Chairman, we simply ask that the Minister again consider that as a reasonable step at this time with a bill that is so vitally important to all of the municipalities of Manitoba.

MR. CHAIRMAN: Members of the committee have heard the motion presented by Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I'd like to speak to the motion made by the Member from Sturgeon Creek. When the bill was first introduced the position that we took was that the principle of reorganizing and revising the planning legislation of the province was long overdue, and in fact desperately needed. We said at that time that we had some serious concerns about some of the proposals within the bill as they pertained to in particular to the organization of district boards and the power of the Minister, and the opportunity for involvement of private citizens, which I think we stated very clearly in the debate on second reading.

We also felt that a bill of such importance as this did require that proper discussion and exchange of opinions be held on it. It was for that reason, Mr. Chairman, that we did vote for the principle of the bill on second reading. We are a little surprised to see now that the Conservatives now seem to be supporting in principle, even though they voted against it in principle to carry on the third reading, but we can let that particular inconsistency pass.

What I am concerned about is the question raised by the motion by the Member from Sturgeon Creek about whether in fact this bill should be delayed further. The representations that we heard last evening brought forward several questions about the bill, and it did appear however that two responses were made by the government, one was that several amendments were being offered that would take care of these objections. In fact, Mr. Chairman, looking at the amendments before us, and studying them last evening and then today, there are some very significant amendments which I think really show substantial changes in the bill in terms of responding to some of the real problems that I think we had raised in our own objections, which gives us some sense of satisfaction that there is that willingness to respond. At the same time I think there is the offer of the government as well to, as I understand it from the Minister, to hold off proclaiming the bill for a period of several months, as well as to perhaps undertake the intersessional meeting of the Municipal Affairs Committee to consider future amendments to the bill in that hearing, so the question comes down then to a vote on this that what damage is done by voting for the bill if the amendments themselves seem to indicate what was briefly stated last night. Mr. Chairman, I listened to the Member for Brandon West say that there's a number of municipalities that will be severely affected. I made a point of talking to some of the municipalities, rural municipalities I should state, who are on the fringe of Winnipeg at this point - just beyond the perimeter route - and the expression of opinion by some of the reeves of that area is that because of specific land-use decisions that are being made in the next year, the next few months - in fact I can point to one very major one in the East St. Paul-Springfield area. There's a huge subdivision proposal coming in which would quite distinctly change by the nature of the legislation if it was to go through. They feel that there is some imperative that new guidelines be established.

Therefore, Mr. Chairman, what I would request is that while we still have reservations about the specifics of the bill, we would request that a vote on this particular motion be held until we have an opportunity to consider the amendments, at which point we can then determine, and I think all members of this committee can then determine whether in fact the amendments live up to the statements made by the Minister and answer the objections raised by delegations last evening, and to what degree then the bill corrects many of the deficiencies within it. At that point in time we can then determine whether in fact a vote on tabling this bill for next session would be in order or not, and I would make that request to the Chair. That, Mr. Chairman, and I would request the agreement of the mover and seconder of the motion in

(MR. AXWORTHY cont'd)that respect.

MR. CHAIRMAN: Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, we have studied the amendments and gone over them. We feel certainly there are some changes but we agree, as we said we were agreeing with the concept of the planning, but we are not in agreement with this bill, and we believe - as it is - and we believe that it should be laid over for study.

MR. CHAIRMAN: The Honourable Mr. Pawley.

MR. PAWLEY: Mr. Chairman, I would just like to review some of the information we did receive last night.

MR. MILLER: Mr. Chairman, on a point of order. . . before the committee, and I think we have to either talk to the motion or simply dispense with the motion. I don't think we can now go into . . .

MR. PAWLEY: With all due respect to --(Interjection)--Yes, that's what I was doing.

MR. F. JOHNSTON: I hope he's addressing himself to the motion, certainly that's . . .

MR. MILLER: All right.

MR. PAWLEY: I think that in reference to the submissions that were made last night, mention was made by the Honourable Member for Sturgeon Creek that they seemed to ask for a delay in passage of the legislation. If I could just review some of the briefs last night. The City of Portage la Prairie, although they were critical of some aspects of the bill did indicate it was important to them that the legislation proceed, although they did feel there ought to be changes.

The Manitoba Urban Association of course was very strong that the bill should proceed just as quickly as possible, and I gather that their position here has in fact strengthened in the last two or three weeks from their discussions of the bill. It's true enough that the school trustees I believe did make some suggestion that the bill be delayed, but then I did get the impression as I further listened to their brief that they were really more interested in obtaining some amendments that they felt would be very important to ensure that school divisions were consulted.

The Surveyors, certainly they had a number of specific areas of concern, and that we would want to continue to take a good look at.

I know that there has been a problem so far as the Union of Manitoba Municipalities are concerned, though I think in all fairness that they were - I'm not aware that they were looking forward to discussions at the district meetings of the bill because they knew the bill was before the Legislature, and I'm sure that they were aware that the Legislature was on the verge of completing its work, and I do know that they knew that it could happen any day that the House would complete its work. So I'm sure that the Union of Manitoba Municipalities were not depending upon discussion at the district meetings insofar as their being more fully informed prior to passage of the bill in the House because I do think that most of the members of the union were pretty much aware that the House was in its final days.

Mr. Chapman has expressed by way of telegram his desire that the bill not be proceeded with until such time as its contents were more clearly understood. I gather though that there have been only - well it's reported to me - only three or four municipalities - now there could be some since the telegram was sent - that had actually expressed a concern in this regard, one of which was the R. M. of Cornwallis. I noticed last night in the proposal that was made by the President of the Community Planning Association Conference that he acknowledged that insofar as they were concerned, really no municipalities had approached them asking for delay of the legislation.

So that I would like, Mr. Chairman, emotionally I would like to be able to say, "Well, let's just put this aside and deal with it in committee before we proceed with it."

Lloyd Axworthy is correct when he says we are under considerable pressures from the municipalities around the City of Winnipeg, municipal men, to get going. In fact to tell you the truth, they're critical, I would say, of the government for not having proceeded with an updating of planning legislation earlier than this. I'm not too sure, Mr. Chairman, how they will respond if I report back to them, "Look we're putting this aside for a further study for - well it could be a year's time." I know the Winnipeg Regional Study group made a number of recommendations and they are hoping that there will be enabling legislation so that if they see fit, they can proceed with their recommendations as soon as possible.

I would repeat that I would not wish to proclaim this legislation till we had much fuller

(MR. PAWLEY cont'd) discussion with the municipal people not to proclaim it, to look forward to amendments, and I want to also say that I think it's true that we often learn best the weaknesses of our legislation by actually trying to put it to work. And from that working process we tend to find out what the weaknesses of the legislation are, and then we can proceed to make amendments therefrom. But I would certainly wish to have further discussions, to avoid proclaiming the legislation until those discussions do take place, and I'm worried about a delay of one year in view of the fact that I do know that a number of municipal men are hopeful we will be proceeding with this.

MR. CHAIRMAN: Mr. Banman.

MR. BANMAN: Mr. Chairman, I'd like to speak to the proposed motion also. I would just like to point out at this time, I have a copy of a letter which was sent to the Honourable Minister from municipalities in my area. As a matter of fact it includes, I think, all the municipalities in my area, some overlapping to the Honourable Member from Emerson's area, and some over into the Member from Springfield's. They expressed a concern that I think that more or less I've been expressing in speaking to the bill and I, just for the record, would like to read the resolution that they did forward to the Minister. And may I add this meeting was together with some of the planning people from Beausejour, and I think in the letter they mentioned that it was a very fruitful discussion on the proposed Act, but they feel that this piece of legislation which when enacted will be longstanding, and the 27 members that were at this particular meeting from the R. M. of Hanover, the Hanover and Niverville Advisory Planning Commission, the Town of Steinbach, the R. M. of Ste. Anne, the Village of Ste. Anne, the Village of Niverville, the R. M. of Tache, and some of the people from the Beausejour Planning Branch, and the resolution reads very simply:

"Whereas a joint meeting of the representatives of the council and municipalities of Hanover, Ste. Anne, Village of Ste. Anne, R. M. of Tache, Town of Steinbach, Village of Niverville, was held June 9, 1975 to discuss and debate Bill No. 44, the Planning Act; and

Whereas the meeting feels that there has been insufficient time allowed for the study of the bill by the municipal representatives; and

Whereas the timing of the introduction of the bill in the Legislature conflicts with the busy agricultural season in which rural representatives are involved;

Therefore be it resolved that this meeting kindly requests of the Honourable Howard Pawley, Minister of Municipal Affairs to withhold Bill No. 44, the Planning Act until the next session of the Manitoba Legislature."

So all I want to point out here, Mr. Chairman, is that we're not echoing things which . . . I should say we're echoing certain concerns that the municipalities have at this time, and I think they're legitimate concerns. I feel, as the municipalities do, that this is a far-reaching bill, and the Minister has mentioned that himself, and I can't see right now, the municipalities that are affected here, what a difference six or seven months will make, and I think many of the people are asking why the hurry for this particular piece of legislation, because out there we've managed to get along till now. I know there are certain problems we are faced with, but I think eight months' delay in this particular thing where we could go around and solicit input from people that it will affect, I think is a good thing.

And further, I'd just like to mention that a lot of these people have been calling me, the people that have been appointed to the local planning boards, asking for copies of the bill and I've sent out a number of bills and I'm slowly getting some correspondence back from them. But it's been slow in coming. Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Johnston, Portage la Prairie.

MR. G. JOHNSTON: Thank you, Mr. Chairman. I feel that the government is receiving some valid criticism for introducing such an important bill at a late stage in the proceedings of the Legislature, and it's true that many of the rural councils - some of them have been enumerated by the Member for La Verendrye - haven't had a chance to look at the bill. But going by what was said by delegations last night, and by the Minister when he introduced the bill, by and large the municipalities have had a chance for input into this. They may now know the exact wording of the bill, they may not know all of the ramifications but it's my understanding that there was general agreement last night that the principle of planning, by grouping municipalities together, was acceptable. There was some concern and worry shown about how it would be financed and how it would work, and this is not unusual. But referring now to the motion made a few moments ago, I'm really at a loss to understand the position put forward by

(MR. G. JOHNSTON cont'd) the Member for Sturgeon Creek when his group voted against the whole principle of the bill in second reading. Now he wishes to have a motion passed that would stall the bill in a committee, as it is. Now the government has about 60 amendments to make, some of them are rather simple, some are rather complicated and will require some debate and study, and I think the suggestion made by my colleague that the government should be allowed to make their amendments and then after consideration and debate if the amendments haven't gone far enough, another vote might be proposed and held as to the possibility of holding it in committee for a short while. But taking into account the problems that are pressing on some of the municipalities right around Winnipeg, and if we try to be fair about this, I don't see how we're helping the municipalities with the pressing problems by holding up the bill. If it's a bad bill, then we should vote against it in committee, but I say let the government make their amendments. Don't just say, no, we won't allow them to make their amendments, we want this bill to stay in committee, because all you're doing is saying, well now we're really going to criticize it in committee and ignore the input of the delegations last night, ignore the attempts by the government to make their proposals into law in the bill. And you know it's a dog in the manger attitude. You're against the principle of the bill; you're against making any improvements in the bill but you want it to go to a committee I suppose so you can criticize it. But if we're going to be constructive let us have the amendments made, debated and put in or voted down and then decide. But not the dog in the manger attitude as proposed by the Member for Sturgeon Creek.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Mr. Chairman, the previous speaker indicated that the Manitoba municipalities had had an adequate chance to look at this bill.

MR. G. JOHNSTON: No. I didn't say that.

MR. MCGILL: They're now having their first meetings, their regional meetings at which they could consider this . . .

MR. G. JOHNSTON: Mr. Chairman, on a point of order. I didn't say that at all. I said that the municipalities had a chance to discuss and make input, I didn't say they had a chance to look at the bill before.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Well the Liberal members have difficulty being on both sides of this argument but, Mr. Chairman, I put it to you that these regional meetings of the Manitoba municipalities are going on now. This is the first opportunity that they have had to look at the printed legislation, first chance they've had to have explanations and to decide whether or not this is an adequate bill. We have stated from the beginning that we agree with the concept of regional planning. We do not like the way this bill as it's written presents that concept so we have voted against the bill at second reading and we are asking now that the Minister - we're asking him again to consider placing the bill before the committee in order that it can be fully explained to all of the Manitoba municipalities. That's all they're asking. There is eight months possibly that will go by, at the start of the next session, presumably in February or March, this bill could be in complete state, repaired and ready to go and I think that any emergent situations that now exist could be handled in the interim period.

MR. CHAIRMAN: Honourable Mr. Miller.

MR. MILLER: Mr. Chairman, we could discuss this interminably but really what we have before us is permissive legislation. There are some areas that can act very quickly and need to act very quickly and take advantage of it; others that will move much more slowly, they won't apply, and nothing will happen in their areas perhaps for a year or two or even three years. So that I really don't see any need to hold it indefinitely and go through another year of hearings. I don't think hearings will resolve anything. There will always be people who will be frightened of any change, of any suggested change, for whatever reasons. You know the status quo is always something - the devil you live with is easier to contend with than some unknown. So I would suggest that we, having heard the discussion, we now put this question to the vote and proceed with the business.

SOME MEMBERS: Question. Question.

MR. CHAIRMAN: The motion before you gentlemen is this: Moved by Mr. Johnston, Sturgeon Creek, seconded by Mr. McGill, that this Committee recommends to the House that Bill No. 44, The Planning Act be not now reported but be referred to the Standing Committee on Municipal Affairs during the intersessional period. You have heard the motion.

A COUNTED VOTE was taken the results being as follows:

Yeas 4; Nays 7.

MR. CHAIRMAN: Declare the motion lost.

Going on to Bill 44, Section 1(a) - pass; (b) - pass. Shall we proceed page by page?

MR. MCGILL: What about typographical errors in the Table of Contents. Are you going to correct those?

MR. BALKARAN: On Page . . . Mr. Chairman, I was going to ask, there are a number of typographical errors and spelling errors that are not particularly mentioned in these motions for changes, otherwise it would get fairly lengthy. I wonder when we get to them if I could draw the Committee's attention to them and with the Committee's permission make those changes.

One such appears on the first page in clause (c). That "section 15" should be "14".

MR. CHAIRMAN: 1(c) as corrected -

MR. MCGILL: What about the one on the Contents, on the second page of the contents of the bill, under Variation Board. "Conditions" is spelled wrongly in the third line.

MR. BALKARAN: Page 1 you say?

MR. MCGILL: Page ii. Under Variation Board, the third line.

MR. CHAIRMAN: Okay. Back to the main bill. 1(c) as corrected - pass; Page 1 as corrected - pass - Mr. Johnston.

MR. F. JOHNSTON: On Page 1 Section 1(d), I brought this up I believe last night to somebody, the definition of "buildings" in this section is very broad. It was brought to my attention last night that this was lifted from the Metro Act which to me is very disturbing. Quite frankly this Act is not a Metro Act, it deals with rural Manitoba. If I were to go to Section 41 of this bill where it says "prohibiting the erection or use of buildings or structures except for such purposes as may be set out in the by-law" - well that little section with the definition of "buildings" includes any well, pipe line, excavation, cuts, fills, transmission lines, structures or part thereof and also includes any addition to or extension of buildings, any chattel that is attached to any structure or land. This just doesn't apply in the rural area, and as far as I can see, Mr. Chairman, to even try to give you an amendment that would apply to rural areas and farms under the definition of "buildings" in this bill would be quite a study. So therefore, Mr. Chairman, in this case I say that Section 1(d) is very broad in this bill when it refers to the rural areas.

MR. PAWLEY: Mr. Chairman, I wonder if Mr. Pelletier could speak to that. It's very technical.

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Mr. Chairman, that definition is required because of its ramifications throughout the Act. The term "building" as commonly understood is not sufficient in terms of land use control when you deal with zoning by-laws, and is required for various aspects of the land use control measure. If you try to define a building as we understand it, a structure with walls and including four walls and a roof we are going to be left behind in any number of things. We could add the word "structure", that doesn't cover all aspects. We might leave behind telephone poles, telephone lines. We might say oh we've covered the signs and so on. This definition is the result of many years of experience in litigation to cover fully all aspects of it, and there's no impairment of anyone's rights at all to use a definition of that nature.

MR. CHAIRMAN: Does that satisfy your question? Page 1 as corrected - pass - Mr. Banman.

MR. BANMAN: Could I just ask a question. Then under this particular section if a farmer were to move a granery from one place to another he would have to apply for a building permit, would that be right?

MR. PELLETIER: Right. Mr. Chairman, the word "building" as used in the Act has a certain meaning within the Act. When a rural municipality let us say was to pass a zoning by-law it in turn would define "building" within that zoning by-law for its specific application and it could exclude for instance a farmer's building from the requirement of building permits and so on. The Building Codes Act which is to be proclaimed this year I understand does exclude by its regulation certain farm buildings. But the Act itself should really spell out the word "building" so that everyone understands it, and then you make use of whatever portion you need as you go along in whatever by-law. The zoning by-law of the municipality could

(MR. PELLETIER cont'd) exclude certain types of buildings as they are contained within this definition, but I think the planning act itself should have the all-encompassing definition. You should not have to go back somewhere else for that definition.

MR. BANMAN: So if I understand correctly, that the regional boards set up, or the planning authority in that particular area could by by-law then make changes with regards to a thing like a well even. Is that right?

MR. PELLETIER: Yes. If the municipality through its by-law decided that it wanted to exclude from their definition of "building" certain wells and other facilities they could do so. That is their prerogative, to use the permissive aspects of the Act as they desire.

MR. CHAIRMAN: Page 1 as corrected - pass; Page 2 - there's a correction on Page 2.

MR. BALKARAN: Clause (m), Mr. Chairman, first line, second last word has the word "nay". That should be "any".

MR. CHAIRMAN: Page 2 as corrected - pass. - Page 3 . . .

MR. BALKARAN: Clause (s), Mr. Chairman. Definition of "owner". Second line, the third word "office" is misspelled.

MR. CHAIRMAN: Page 2 as corrected - pass. Page 3 . . .

MR. BALKARAN: Page 3, definition (bb)(ii), "the name of the Water Resources Protection Branch" is incorrect. It's simply "Water Resources Branch". Delete the word "Protection".

MR. CHAIRMAN: Page 3 as corrected - pass; Page 4 - we have an amendment for Page 4.

MR. PAWLEY: THAT clause 1(ff) of Bill 44 be amended by striking out the word "or" in the 6th line thereof and substituting therefor the words "telephone, hydro or".

MR. CHAIRMAN: We'll have someone else move the amendment to Page 4.

MR. MILLER: Mr. Chairman, I'll move that Clause 1(ff) of Bill 44 be amended by striking out the word "or" in the 6th line thereof and substituting therefor the words "telephone, hydro or".

MR. CHAIRMAN: Is there any further amendment on Page 4? There is also a spelling correction. "Wharfs" should be "wharves". Page 4 as amended and corrected . . .

MR. MILLER: Mr. Chairman, there's another amendment here. THAT Clause 1(gg) of Bill 44 be struck out and the following clause substituted therefor: (gg) "zoning by-law" means a by-law passed by the council of a municipality under Part V."

MR. CHAIRMAN: Clause (ff) as amended - pass; Clause (gg) as amended - pass; Page 4 as amended and corrected - passed. Page 5 - pass; Page 6 - we have an amendment?

MR. MILLER: Yes. Mr. Chairman, I move that Clause 7(e) of Bill 44 be amended by striking out the words "or initiate" in the second line thereof.

MR. CHAIRMAN: Clause 7(e) as amended - pass; Page 6 as amended - pass; Page 7 - we have an amendment? Spelling correction.

MR. BALKARAN: The last word in Clause (a) should be "expended".

MR. CHAIRMAN: 12(1)(a) as corrected - pass - Mr. Johnston.

MR. F. JOHNSTON: Mr. Chairman, in Section 11(c), the Duties of the Board. The duties of the board seem to be in (c) and (d) to make recommendations only and (e) "perform any other duties assigned to it under this Act or any other Act or by the Lieutenant-Governor-in-Council". It seems to me in that area that the board is strictly just making recommendations and they are to perform the duties they are told to perform.

In Section 12 at the bottom of the page, (j) - well we have Recommendations of the special planning areas by the Minister and we have a long list here and then when we get to (j) and it says "any other thing that may be considered necessary for the purpose of preventing damage or the destruction of lands, sites or buildings, or of preventing interference with the use of lands, sites or buildings." You know really this particular page we're speaking of in Sections 11 and 12 makes the boards - they make recommendations but that's all. The Minister has the power to just change anything he likes almost at any time.

MR. PAWLEY: Mr. Chairman, I think that there is a danger that we can confuse the different boards. The board referred to under 11 is a technical board made up of civil servants representing the various departments of government. The responsibility of those civil servants to make recommendations to the Minister - the board referred to under 11 is that board referred to in Section 9: "The Lieutenant-Governor-in-Council may appoint an Inter-departmental Planning Board consisting of such number of members, not less than 3." So

(MR. PAWLEY cont'd) that's a Civil Service board, and one of the objects of this legislation is to insure that the Civil Service recommendations are just that and the decision-making will take place at the political level rather than at the Civil Service level.

MR. F. JOHNSTON: Well then these words "special planning areas", Mr. Chairman - I fully realize Section 9 as you mentioned and the board making recommendations but the "special planning areas". Now obviously that's in an area of the province somewhere which will have councils, etc. and it seems to me that the Minister has the power to just go into those areas after some discussion but not too many hearings or anything with wherever it may be. Or in the area wherever it may be. Let's put it that way.

MR. PAWLEY: Mr. Chairman, the "special planning areas" would be areas that would be under 12(2), "areas of special provincial or regional significance". There would have to be a provincial or regional significance. For instance, it could be that - and it's being considered - the designation of an area along the Red River that would be designated historic park because of the very nature of the various sites and buildings, etc. along the river that that should be designated a historic park. There might very well be other areas that, because of provincial significance, importance to the province or the region as a whole we would want to insure protection of, but it would have to be of a provincial or regional significance, not just a local significance before this type of action could be undertaken. Mr. Axworthy from time to time has referred to the need for a designation area of one type or another, and this is what is foreseen with respect to the 2(12)(1).

MR. CHAIRMAN: Page 7, as corrected - Mr. McGill.

MR. MCGILL: One of the submissions made last night included a suggestion about some different wording for 12(1)(a) and the suggestion was, as I have it noted here, that we include the words "post-secondary institutions." Has the Minister considered the suggestion, and the reason for it is not apparent to me but it may be to the Minister.

MR. PAWLEY: I'm a little worried about it because we refer now to educational and it would have to be educational of a regional or provincial nature. Certainly it couldn't be a high school or elementary school, that would not be of a provincial or a regional nature, it would be purely a local high school or elementary school. So I don't know whether we would be boxing ourselves in by making it that restrictive.

MR. MCGILL: Well, Mr. Chairman, evidently the proposal or the suggestion has been considered and the Minister considers this wording is . . .

MR. PAWLEY: Right.

MR. CHAIRMAN: Page 7 as corrected - passed; Page 8, we have an amendment.

MR. MILLER: I move that subsection 12(3) of Bill 44 be amended by adding thereto immediately after the word "municipalities" in the second and third lines thereof the words "or the board of a district."

MR. CHAIRMAN: 12(3), as amended - passed. Page 8, Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, I'd like some clarification from the Minister on the procedures set forward in this particular area designating special planning districts. Could he describe first, what could be the order of procedure in relation to the consultation with the municipalities, then followed by consultation with the municipal board and when they would hold hearings. What kind of order of sequence does that take place in? How does the sequence go forward?

MR. PAWLEY: I would ask Mr. Pelletier to deal with that. I think he would more specifically . . .

MR. CHAIRMAN: Mr. Pelletier.

MR. PELLETIER: Well, Mr. Chairman, the legislation in terms of what it intends to do is rather specific, but the basic background to this would be that the Minister would be convening a meeting of the municipal people, and if there happens to be a district board in the area it would meet with those people and suggest that there appears to be a provincial or regional problem, and as a result it is intended to establish a special planning area. This would be, as I see it, an initial meeting merely to advise them and perhaps get consensus that there is a problem of that significance sufficiently important that something should be done, and more than likely it is because the municipalities themselves are unable to take an active step to protect the interest, and this is the reason that there is the input from the provincial level. Following that they would then proceed to declare by Order in Council the special planning area. Then there would be advertising, as indicated in here, and the Municipal

(MR. PELLETIER cont'd) Board here would follow after the interested persons have objections or representations to be made through the development of a special area plan. That is the sequence of events as I foresee them following the sequence of the actions set out in the Act.

MR. AXWORTHY: Mr. Chairman, I'd like to clarify. Do you mean that the public hearings sponsored by the municipal board would be held after an area had been designated, or would there be notice given of intention to establish a special area, at which time the hearings would be held so that representations could be made as to the wisdom of such a course or problems with it. Which happens first and which happens second?

MR. PELLETIER: Well, Mr. Axworthy, under 12(6), it refers back to 7(d) which sets out that prior to a recommendation for a special planning area consultation the Minister shall direct the board to hold a hearing as well. So there are really two steps. Because an initial consultation in the municipalities, and then there is advertising procedures go on, advises persons that there is an intent to do something and the municipal board would hold hearings. There's two sets of hearings though. There are hearings on the establishment of a planning area, and there are hearings when you are actually proposing a development plan. Perhaps it is not clear, there are two separate steps which combine them under 12(6).

MR. CHAIRMAN: It is now 5:30. Is it the wish that the Committee rise.

MR. AXWORTHY: When do we resume, Mr. Chairman?

MR. CHAIRMAN: That will be left to the discretion of the House Leader.

MR. PAWLEY: I'm just wondering, is there any . . . There is no inclination to continue then I guess, eh?

MR. CHAIRMAN: Committee rise.