



Second Session — Thirty-Second Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE

on

LAW AMENDMENTS

31-32 Elizabeth II

Chairman
Mr. P. Eyler
Constituency of River East



MG-8048

VOL. XXXI No. 11 - 8:00 p.m., MONDAY, 18 JULY, 1983.

MANITOBA LEGISLATIVE ASSEMBLY**Thirty-Second Legislature****Members, Constituencies and Political Affiliation**

Name	Constituency	Party
ADAM, Hon. A.R. (Pete)	Ste. Rose	NDP
ANSTETT, Andy	Springfield	NDP
ASHTON, Steve	Thompson	NDP
BANMAN, Robert (Bob)	La Verendrye	PC
BLAKE, David R. (Dave)	Minnedosa	PC
BROWN, Arnold	Rhineland	PC
BUCKLASCHUK, Hon. John M.	Gimli	NDP
CARROLL, Q.C., Henry N.	Brandon West	IND
CORRIN, Brian	Ellice	NDP
COWAN, Hon. Jay	Churchill	NDP
DESJARDINS, Hon. Laurent	St. Boniface	NDP
DODICK, Doreen	Riel	NDP
DOERN, Russell	Elmwood	NDP
DOLIN, Hon. Mary Beth	Kildonan	NDP
DOWNEY, James E.	Arthur	PC
DRIEDGER, Albert	Emerson	PC
ENNS, Harry	Lakeside	PC
EVANS, Hon. Leonard S.	Brandon East	NDP
EYLER, Phil	River East	NDP
FILMON, Gary	Tuxedo	PC
FOX, Peter	Concordia	NDP
GOURLAY, D.M. (Doug)	Swan River	PC
GRAHAM, Harry	Virden	PC
HAMMOND, Gerrie	Kirkfield Park	PC
HARAPIAK, Harry M.	The Pas	NDP
HARPER, Elijah	Rupertsland	NDP
HEMPHILL, Hon. Maureen	Logan	NDP
HYDE, Lloyd	Portage la Prairie	PC
JOHNSTON, J. Frank	Sturgeon Creek	PC
KOSTYRA, Hon. Eugene	Seven Oaks	NDP
KOVNATS, Abe	Niakwa	PC
LECUYER, Gérard	Radisson	NDP
LYON, Q.C., Hon. Sterling	Charleswood	PC
MACKLING, Q.C., Hon. Al	St. James	NDP
MALINOWSKI, Donald M.	St. Johns	NDP
MANNES, Clayton	Morris	PC
McKENZIE, J. Wally	Roblin-Russell	PC
MERCIER, Q.C., G.W.J. (Gerry)	St. Norbert	PC
NORDMAN, Rurik (Ric)	Assiniboia	PC
OLESON, Charlotte	Gladstone	PC
ORCHARD, Donald	Pembina	PC
PAWLEY, Q.C., Hon. Howard R.	Selkirk	NDP
PARASIUK, Hon. Wilson	Transcona	NDP
PENNER, Q.C., Hon. Roland	Fort Rouge	NDP
PHILLIPS, Myrna A.	Wolseley	NDP
PLOHMAN, Hon. John	Dauphin	NDP
RANSOM, A. Brian	Turtle Mountain	PC
SANTOS, Conrad	Burrows	NDP
SCHROEDER, Hon. Vic	Rossmere	NDP
SCOTT, Don	Inkster	NDP
SHERMAN, L.R. (Bud)	Fort Garry	PC
SMITH, Hon. Muriel	Osborne	NDP
STEEN, Warren	River Heights	PC
STORIE, Hon. Jerry T.	Flin Flon	NDP
URUSKI, Hon. Bill	Interlake	NDP
USKIW, Hon. Samuel	Lac du Bonnet	NDP
WALDING, Hon. D. James	St. Vital	NDP

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS

Monday, 18 July, 1983

TIME — 8:00 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. P. Eyer (River East)

ATTENDANCE — QUORUM - 10

Members of the Committee present:

Hon. Mr. Evans, Hon. Ms. Dolin, Hon. Messrs. Kostyra, Mackling, Penner, Plohman and Storie, Hon. Ms. Hemphill, Hon. Mrs. Smith, Messrs. Ashton, Corrin, Eyer, Filmon, Harapiak, Hyde, Johnston, Lecuyer, Mercier, Manness and Nordman, Mrs. Oleson, Mr. Orchard, Ms. Phillips, Messrs. Santos and Scott

APPEARING: Mr. Rae Tallin, Legislative Counsel

MATTERS UNDER DISCUSSION:

The following bills were considered:

Bill No. 20 - The Occupiers' Liability Act; Loi sur la responsabilité des occupants; passed with certain amendments.

Bill No. 46 - The Perpetuities and Accumulations Act; Loi sur les dispositions à titre perpétuel et la capitilisation; passed with certain amendments.

Bill No. 82 - The Jury Act; Loi sur les jurés; passed with certain amendments.

Bill No. 83 - An Act to amend The Builders' Liens Act; Loi modifiant la loi sur le privilège du constructeur; passed without amendment.

Bill No. 108 - An Act to amend The Criminal Injuries Compensation Act (3); passed without amendment.

Bill No. 14 - An Act to amend The Elections Act; Loi modifiant la loi électorale.

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MR. CHAIRMAN: Committee come to order. We are considering a list of about 10 or 12 bills. What is the will of the committee on how to proceed?

Mr. Penner.

HON. R. PENNER: I've had a discussion with Mr. Mercier, and have an agreement that Bill 14 will be considered last.

I have a motion with respect to 17, and then we can go clause-by-clause or whatever from 20 through, leaving 49 which is not to be considered until Bill 2 has been reached next week, and not doing 72.

MR. CHAIRMAN: Is that agreeable to the committee? (Agreed)

The first bill then would be Bill No. 17, An Act to amend The Judgments Act.

HON. R. PENNER: Mr. Chairperson, I move that Bill 17 be not reported, if that's legal.

MR. CHAIRMAN: It is moved by Mr. Penner that Bill 17 be not reported. Any discussion of the motion? Is that agreed? Agreed and so ordered.

BILL NO. 20 - THE OCCUPIERS' LIABILITY ACT

MR. CHAIRMAN: Bill No. 20, what's the will of the committee? Page by page? Page 1—pass; Page 2—pass; Page 3—pass; Page 4 - Mr. Storie.

HON. J. STORIE: Mr. Chairman, I move that Subsection 4(5) of Bill 20 be amended by striking out the words "July" therein and substituting therefor the word "October."

MR. CHAIRMAN: You've heard the motion. Any discussion?
Mr. Lecuyer.

MR. G. LECUYER: Motion:

QUE le paragraphe 4(5) du projet de loi numéro 20 soit modifié par la suppression du mot "juillet" et son remplacement par le mot "octobre."

MR. CHAIRMAN: I take it then we'll take both of these as the same motion. I don't know if we can deal with two motions at once. Any discussion on the motion?
Mr. Mercier.

MR. G. MERCIER: On a point of order, Mr. Chairman, is it necessary that an amendment be moved in both languages? It doesn't seem to me to be really necessary as long as the translation of the amendment accompanies the motion whether it's made in French or in English.

MR. CHAIRMAN: I would imagine that since we're only dealing with the English version, that we aren't doing page-by-page for the French version. Therefore we wouldn't need to do the French translation either.

HON. R. PENNER: But we are. I think that we should follow the procedure that, in fact, we are following. That is, when we have a two-language version and we move Page 4, we're moving both Page 4's. I think that if we could agree as a committee that it's understood that when we move an amendment in the English language, if the French-language version is distributed at the same time, that the one motion is effective for both.

MR. CHAIRMAN: I'd like to point out that the Page 4's don't always correspond, like the page numbers don't always correspond with a perfect text.

Okay, then with the understanding that - what is the understanding? - one language only required?

HON. R. PENNER: That a motion to amend in either language imports the second language.

MR. CHAIRMAN: Unless otherwise specifically stated, a motion in either language will be accepted as implying the same wording in the other language as well.

The motion which has been read by both Mr. Storie and Mr. Lecuyer, agreed?

Mr. Mercier, is that agreed, the motion?

HON. R. PENNER: Page 4 as amended?

MR. CHAIRMAN: Page 4 as amended—pass; Page 5—pass; Page 6 - Mr. Storie.

HON. J. STORIE: Mr. Chairman, I move:

THAT Subsection 6(6) of Bill 20 be amended by striking out the word "July" therein and substituting therefor the word "October."

MR. CHAIRMAN: You've heard the motion. Any discussion? Pass? Page 6 as amended—pass; Page 7 - Mr. Storie.

HON. J. STORIE: Mr. Chairman, I move:

THAT Section 10 of Bill 20 be amended by striking out the word "June" therein and substituting therefor the word "September."

MR. CHAIRMAN: You've heard the motion. Any discussion? Pass? Pass.
Mr. Storie.

HON. J. STORIE: Mr. Chairman, I move, THAT Section 12 of Bill 20 be amended by striking out the word "July" therein and substituting therefor the word "October."

MR. CHAIRMAN: You've heard the motion. Any discussion? Pass? Page 7 as amended—pass; Title—pass; Preamble—pass; Bill be reported.

BILL NO. 46 - THE PERPETUITIES AND ACCUMULATIONS ACT

MR. CHAIRMAN: Bill No. 46, The Perpetuities and Accumulations Act.

HON. R. PENNER: You'll be able to tell your grandchildren, you should be so lucky to have some, that you have moved amendments to The Perpetuities and Accumulations Act.

MR. CHAIRMAN: Mr. Storie, would it be your intention to move all of these amendments at once?

HON. J. STORIE: Yes. You mean (a) through to (g)?

MR. CHAIRMAN: Yes, on all the various pages.

HON. J. STORIE: Yes.

MR. CHAIRMAN: What's the will of committee, page by page, after the amendments?

Mr. Storie.

HON. J. STORIE: Mr. Chairman, I move:

THAT Bill 46, The Perpetuities and Accumulations Act, be amended by striking out the word "July" where it appears (a) in Subsection 4(6) thereof; (b) in Subsection 4(7) thereof; (c) in Subsection 4(8) thereof; (d) in Subsection 5(1) thereof; (e) in Subsection 5(2) thereof; (f) in Subsection 5(3) thereof; and (g) in Section 8 thereof; and substituting therefor, in each case, the word "October."

MR. CHAIRMAN: Is that agreed? Pass. Page No. 1—pass; Page 2—pass; Page 3, as amended—pass; Page 4, as amended—pass; Title—pass; Preamble—pass; Bill be reported.

BILL NO. 82 - THE JURY ACT

MR. CHAIRMAN: Bill No. 82, The Jury Act. With respect to Bill No. 82, I have one written brief here from Berenice Sisler, which will be distributed to members of the committee before considering the bill.

What is the will of the committee - page-by-page? Mr. Mercier are you ready?

Page 1—pass; Page 2 - Mr. Filmon.

MR. G. FILMON: Mr. Chairman, is the Minister considering the brief of Ms. Sisler or does he plan to bring any amendment forward to satisfy that concern?

HON. R. PENNER: I wonder, Mr. Filmon, whether you wouldn't mind if we left that to Page 3? That appears on Page 3 and then I would like to get an opinion from Legislative Counsel, as to any problems he sees with it.

MR. CHAIRMAN: Page 2 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, I wonder with respect to Section 3 which begins on Page 2, could the Attorney-General indicate whether they have expanded the disqualification list from the present act or followed the existing list or . . .

HON. R. PENNER: No, we have not.

MR. G. MERCIER: No change?

MR. CHAIRMAN: Page 2—pass; Page 3 . . .

A MEMBER: I didn't catch Mr. Orchard's question.

HON. R. PENNER: Well the question has been asked by Mr. Filmon about an approach to the submission of Berenice Sisler with respect to 3(n); that is, disqualifying a spouse of a person mentioned in some of the other disqualifications; that is, the spouse of a judge, magistrate. And I'm deferring to you in the first instance for a legal opinion as to what complications, if any, you would see if that particular disqualification were to be removed.

MR. CHAIRMAN: Mr. Tallin.

MR. R. TALLIN: From the knowledge that I have of the spouses of the judges that I know, I don't think that there would be any problem about the independence of the spouses. I think the problem that is attempting to be met here is not that there will actually be any influence upon a person, but that the appearance of the courts should be that there is no likelihood or possibility of any interference or preconceived ideas because of the spouses of the jurymen that are sitting.

Surprisingly enough, this kind of a recommendation is contained, I believe, in the Canada Law Reform Commission's Report on juries. They say that it's far more important to maintain the appearance of non-intervention or non-preconceived ideas among any of the jurors than it is to allow the spouses of these people to sit.

HON. R. PENNER: On this section, I think we should leave "and" in, basically for the reasons suggested by Mr. Tallin.

In my own association with the criminal justice system - this will surprise you - but it is almost always the case that people who are convicted think they were wrongly convicted. The most common complaint you get is that it was a fix, either the judge fix or the Crown Attorney fix or the police fix or the sheriff fix, or the sheriff was telling things to the juror or somebody was getting to the jurors. The question of appearance is tremendously important in this particular area of the criminal justice system where, in fact, the question of influence is very much - even those who are not themselves ever likely to face criminal prosecution, a large number of them think that it is possible to put what they call the patch in. You can put in the patch; that is, the fix; that you can reach people; that you can influence people. I would think that perhaps the better part of wisdom, at least at this stage, would be to leave that particular disqualification in.

MR. CHAIRMAN: Mrs. Smith.

HON. M. SMITH: Yes, with respect, Mr. Chairman, I would like to make the argument on the other side in that the appearance of influence could be equally strong with regard to many other relationships, a business partner, even a relative, someone that was in the same voluntary organization or one could imagine maybe went to the same school or same fraternity and on and on, at the possible links and risk of influence. I think the inclusion of spouse in today's situation is an anomaly, and I don't see why it should be changed.

MR. G. MERCIER: I just think we should have a vote, Mr. Chairman.

MR. CHAIRMAN: Ms. Phillips.

HON. R. PENNER: I got a procedural objection to that.

MS. M. PHILLIPS: Mr. Chairperson, I think the point that Ms. Sisler is making in her written brief, dealing with the difference between marital spouses and common law spouses, is the point that we should be

addressing. I am wondering in this particular bill, knowing that we have several different definitions for common law spouse, whether they are included in this particular section, or whether it's just spouses by marriage and whether common law spouses are either qualified or disqualified from serving in these certain main circumstances. Because I think if we are allowing common law spouses to serve and disqualifying marriage spouses, then I think that her point is certainly well taken, and that we should also be allowing married spouses to serve as well.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: Mr. Chairman, the Member for Wolseley just brought the point forward that I mentioned to her across the table, so I just wanted to suggest that you might want to add common law spouse to the definition of spouse, if it's not already included. — (Interjection) — Why not?

MR. CHAIRMAN: Order please. Is there any further discussion - Mr. Penner.

HON. R. PENNER: Well there is no motion, so I don't know what the question is being called for. Just with respect to the point that's been raised, the brief was just received by myself today. I have given an off-hand response to it. I would like to leave this to report stage to consider whether to bring in an amendment at report stage.

MR. CHAIRMAN: Page 3—pass; Page 4—pass; Page 5 - Mr. Lecuyer.

MR. G. LECUYER: Motion:

QUE l'article 8 du projet de loi numéro 82 soit abrogé et remplacé par ce qui suit:

Description des districts de jury

8(1) Le Shérif en chef doit décrire un district de jury pour chaque centre judiciaire de la province dans lequel des procès par jury peuvent être tenus, de manière à ce que toute partie de la province soit à l'intérieur d'un district de jury. Il peut aussi changer les descriptions.

Examen public de la description des districts de jury

8(2) Le Shérif en chef doit garder en tout temps dans son bureau la description des districts de jury valides, afin que le public puisse, sur demande, examiner ladite description.

Inapplication de la Loi sur les règlements

8(3) Les descriptions des districts de jury faites par le Shérif en chef ne sont pas des règlements au sens de la Loi sur les règlements, et cette loi ne s'applique pas à ces descriptions.

MR. CHAIRMAN: You've heard the motion. Is there any discussion?

Mr. Penner.

HON. R. PENNER: Just by way of explanation, the bill as originally drafted put the onus for doing what is essentially an administrative task on the shoulders of the Chief Justice of the Queen's Bench. The Chief

Justice of the Queen's Bench suggested that this probably was an inappropriate thing to do, and my senior officials agreed. Hence, we're bringing in the amendment to put the job where it more appropriately belongs, that is in the lap or shoulders of the Chief Sheriff.

MR. CHAIRMAN: Mr. Mercier.

MR. G. MERCIER: I'd like to raise a question which could be asked at any stage of this. Could the Attorney-General indicate what consultation there has been with municipalities with respect to changing to the choosing the juries at random?

HON. R. PENNER: It's my information that many municipalities over the years have complained about the present process, wondering at the sort of archaic system where once a year they're required to meet and go over the voters lists and that's sent up to the Chief Judge of the County Court together with the High Sheriff. So that to the extent we've heard from the municipalities the message has been, change it.

MR. CHAIRMAN: Any further discussion on the motion? Is it agreed? (Agreed)

Page 5 as amended—pass; Pages 6 to 17 were each read and passed.

Page 18 - Mr. Lecuyer.

MR. G. LECUYER: Motion:

QUE le paragraphe 47(2) du projet de loi numéro 82 soit abrogé et remplacé par ce qui suit:

Permission d'être libéré de la surveillance des officiers de la Cour

47(2) Le juge qui préside un procès par jury peut accorder à tous les membres du jury ou à l'un d'entre eux la permission d'être libérés de la surveillance des officiers de la Cour, pendant toute période du procès que le juge estime convenable.

MR. CHAIRMAN: You've heard the motion. Is there any discussion?

Is that agreed?

MR. G. MERCIER: Explain the amendment.

MR. CHAIRMAN: Mr. Penner. Mr. Tallin.

MR. R. TALLIN: It was pointed out to us that the previous - this Section in the bill as printed was taken from the previous act, and it was pointed out to us by the Sheriff and, I think, two members of the bench that the supervision of the officers of the court or the sheriffs could only be forestalled during a period when the trial is adjourned. They pointed out that quite frequently a voir dire might be going on when the trial is not adjourned, but the jury can be released from the supervision of the sheriff for maybe a matter of two or three days at times. So the new provision is to take that into account that the jury can be allowed to leave the supervision of the sheriff's officers at any time during the trial with the consent of the judge.

MR. CHAIRMAN: Is that agreed? (Agreed)—Pass.

Mr. Kostyra.

HON. E. KOSTYRA: I move:

THAT Section 48 of Bill 82 be amended by striking out the words "where an order has been made" in the 1st line thereof and substituting therefor the words "where the judge presiding at a trial by jury has granted permission for all or any members of the jury to leave the supervision of the officers of the court."

HON. R. PENNER: This is the same. This is complementary. This follows from the previous amendment to 47(2).

MR. CHAIRMAN: Is that agreed. (Agreed)

Page 18 as amended—pass; Page 19—pass; Page 20—pass; Page 21—pass; Page 22 - Mr. Santos.

MR. C. SANTOS: I move:

THAT Section 57 of Bill 82 be amended by striking out the word "November" in the 4th line thereof and substituting the word "December."

MR. CHAIRMAN: Is that agreed? (Agreed) Page 22 as amended—pass; Title—pass; Preamble—pass. Bill be reported.

BILL NO. 83 - THE BUILDERS' LIENS ACT

MR. CHAIRMAN: Are there any amendments for this?

A MEMBER: No, I don't think so.

MR. CHAIRMAN: What is the will of the committee, page-by-page? Page 1—pass; Page 2—pass; Title—pass; Preamble—pass; Bill be reported.

BILL 108 - THE CRIMINAL INJURIES COMPENSATION ACT (3)

MR. CHAIRMAN: Page-by-page? Page 1—pass; Title—pass; Preamble—pass. Bill be reported.

BILL 14 - THE ELECTIONS ACT

MR. CHAIRMAN: Page-by-page? Page 1 - Mr. Mercier.

HON. R. PENNER: Section-by-section is being called

MR. CHAIRMAN: Section-by-section. Section 1 . . .

HON. R. PENNER: Just hold it for a moment, Mr. Chairperson. Let me get my copy of the act handy.

Just a general note of how we might proceed. One of the amendments of those distributed, that relating to - just let me get my numbering straight here - Section 17 of the original bill, Clause 73(7)(b) of the act, that this, as is clear, is related to and depends on The Elections Finances Act.

So the proposal would be that we don't deal with this amendment tonight; that we deal with the bill and the other amendments, and leave the bill in committee until The Elections Finances Act comes to committee

and we've dealt with Elections Finances and then, depending on what transpires, dealing with 17 and finishing both bills at the same time.

May we proceed? I think the Member for St. Norbert has suggested clause-by-clause.

MR. CHAIRMAN: Clause-by-clause. Clause 1 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, Section 1 of Bill 14 would repeal the existing section which states, "That for purposes of this act, every British subject shall be conclusively deemed to be a Canadian citizen." Under Section 29 of Bill 14, that section would come into effect on July 1, 1986.

Mr. Chairman, it is a matter of record. In 1980 I brought forward a bill which contained a similar provision and which allowed a period of time, which didn't come into effect immediately, but in committee we were convinced that was an inappropriate thing to do. We changed our bill to leave Section 3 of the present Elections Act in so that British subjects can vote. We have not changed our opinion from then and are still of the view that British subjects should be allowed to vote.

Mr. Chairman, there are good arguments that were raised in committee, particularly with respect to, for example, many wives of armed servicemen who served in World War II, who married British subjects, returned to Canada and whose wives still remain British subjects. That was, we felt, a very strong argument that was made. I'm sure there are other people who would wish to speak to this particular subject, but we are not of the view that the change should be made, certainly as of now. Perhaps the Attorney-General could explain why he wishes to proceed with this at this particular time?

HON. R. PENNER: First of all the section has caused considerable difficulty, or there is considerable difficulty in determining who qualifies as a British subject. The Chief Electoral Officer advises me that in supplying directions to enumerators, the office of the Chief Electoral Officer has instructed the enumerators to confine themselves to the 32 countries listed in the schedule of The Interpretation Act, but the list is far from exhausted. It is not really an accurate list in any event.

The list was formulated in 1974 and contains the name of five fewer countries than those listed in The Canadian Citizenship Act. Missing from the Manitoba list, for example, and contained in The Canadian Citizenship Act are Pakistan, Rhodesia - now of course Zimbabwe - South Africa, Malaya and the Bahamas. Also missing from both lists are British colonies such as Hong Kong, Bermuda and the Falkland Islands.

Since 1977, The Canadian Citizenship Act has removed the reference to British subjects and refers to them as citizens of the Commonwealth. That status has been extended to citizens of Ireland.

So just at that level, there is considerable confusion as to who constitutes a British subject. But there is a far more compelling reason, and that is, in my view, under Section 15 of the Charter of Rights and Freedoms which comes into force on the 17th of April, 1985, this

section would be open to challenge and indeed, I would think, successful challenge because Section 15 is the Equality Rights Section. There is no compelling argument, once you move off from the qualification of citizenship, of giving a preference to people who come from certain parts of the world but not others. I mean you could argue, if you wanted, that those who are not citizens to be able to vote, then everybody who is not a citizen but who is, let's say, a landed immigrant should be given the right to vote. But in very few countries - indeed I'm not aware of any - in the world is the right to vote given to anyone other than a citizen.

Somebody comes here with the intention of being a citizen. We feel in our Citizenship Act that they should wait the given number of years and take the particular test and oath before they attain that particular status. One of the things that goes with that status are certain clearly defined democratic rights now defined in the Charter. But some people come, let's say, with the intention of living here, are landed and don't stay. They decide after a short period of time that their choice was a wrong one, or it may be that they run into difficulties and they don't attain citizenship. They are deported, or likely to be deported, at some time before citizenship can be attained.

There is no compelling reason for giving people who are not citizens in this country - where it's not done in other countries - something as important as the right to vote. If you're going to do it then you have to, in my view, decide to do it for everybody, not just for a group of people who happen to come from what is admittedly a very arbitrary list in any event.

MR. G. MERCIER: Mr. Chairman, I would make a few comments. The first one is, if the list is inaccurate, then let's make it accurate and let's bring it up-to-date.

Secondly, you are ignoring the history and the traditions of this country, if you say that just because no other country does this, why should we do it? The right of a British subject to vote goes back a long way in the history of our country. I do point out for members of the committee that there are only three provinces who have similar legislation, as would be put into effect if this amendment were to pass. Only Quebec, Prince Edward Island and Alberta now permit only Canadian citizens to vote, of course, as well as The Canadian Elections Act. So I make those points for the committee.

MR. CHAIRMAN: Any further discussion on Section 1?

Mr. Scott.

MR. D. SCOTT: Mr. Chairman, as someone, I guess going back 150 years ago of British heritage, I feel very strongly that when people come to this country, if they want the privileges of living in the country and the highest of those privileges, of course - and it's a right actually - is the right to vote and that is accorded upon citizens of the country. I feel that if people are going to participate in the democratic process of this country, they should make the commitment to becoming citizens.

I feel it's a bit of a slap to Canada, in a form of people who refuse to become citizens of this country, yet live here and expect to vote. I can fully understand the history of it and appreciate the history of it and

when and how it has evolved. I think provinces - the country is now 117 years old. We're certainly on our own feet at this stage and, as a country, can be evolving away from some of the historic laws and intricacies that we've had in our laws. As the Attorney-General has pointed out, it could even be unconstitutional for this to take place after 1985. So I am fully in accordance with the provision that all who are going to be voting in Canadian elections be Canadian citizens.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Clause 1 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, we do not support this particular section. I am going to give the Attorney-General notice then if obviously the government is going to pass this section. This section would come into force on July 1, 1986. I would give the Attorney-General notice that when we get to Page 12 of the bill, I would move that the date be changed from July 1, 1986, until January 1, 1987, to ensure that British subjects will have the right to vote in the next election.

The way things are going with the government, the election you see, Mr. Chairman, will likely be put off until very near the end of the five-year term allowed under the Constitution. If we leave it at July 1, 1986, they may not get the right to vote in the next provincial election.

MR. CHAIRMAN: Clause 1 - Mr. Mercier.

MR. G. MERCIER: Could we have the Yeas and Nays, Mr. Chairman?

MR. CHAIRMAN: Clause 1, all those in favour, please say, aye. Those opposed? In my opinion, the ayes have it. I declare the clause passed.

Mr. Storie.

HON. J. STORIE: Mr. Chairman, I move:

THAT Section 2 of Bill 14 be amended

(a) by striking out the word "subsection" in the third line thereof and substituting therefor the word "subsections"; and

(b) by adding thereto, immediately after the proposed new subsection 10(1.1) of The Elections Act set out therein, the following subsection:

Review of report by Committee.

10(1.2) Where the report of the Chief Electoral Officer contains recommendations respecting amendments to this Act or changes in the procedures to be followed at elections, the report shall stand referred to the Standing Committee of the Assembly on Privileges and Elections for consideration of those matters.

MR. CHAIRMAN: Any discussion on the motion? Is it agreed? Clause 2 as amended—pass; Clause 3—pass; Clause 4 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, this section would fix Tuesdays for nomination days and for election days. I know from past experience that is the most convenient day for the Civil Service to have an election. It seems to me, and I simply want to place this concern on the

record, that from a government's point of view, the bureaucratic convenience should not dictate on which day there shall be an election. That should be a matter for the government to decide.

I know if you look back in history, a significant number of elections have in fact been on Tuesdays, but some have not. I think it's a matter that should remain in the hands of the government as to when an election shall be. I put that on the record, and indicate my own concern on that point.

MR. CHAIRMAN: Any further discussion of Clause 4? Pass. Clauses 5 to 9 were each read and passed. Clause 10 - Mr. Storie.

HON. J. STORIE: Mr. Chairman, I move:

THAT Section 10 of Bill 14 be amended by striking out the words "returning officer" in the 4th and 5th lines of the proposed new subsection 41(2) of The Elections Act set out therein and substituting therefor the words "revising officer."

MR. CHAIRMAN: Is there any discussion of the motion? Is that agreed? Pass?

Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, on Section 10, is the Attorney-General satisfied then with the notice that would be given to a person whose name is struck off?

HON. R. PENNER: Where are we, 41(2)? 41(3)? Would you state the question again, please?

MR. G. MERCIER: Is the Attorney-General satisfied with the notice that would be given to a person whose name is struck off the list?

HON. R. PENNER: I think basically it's about the best you can do in these circumstances. Experience generally with notice and legal matters is that you can always put some icing on the cake, but it doesn't appear to make much difference. The most effective way of giving notice, on the assumption that the person in question is at the address where enumerated, is by sending a registered letter, certified mail, with an A.R. card. It seems to work generally with respect to notice on a whole number of matters, landlord and tenant matters, and so on.

MR. CHAIRMAN: Clause 10 as amended—pass; Clause 11 - Mr. Mercier.

MR. G. MERCIER: Could the Attorney-General offer an explanation here of the reasoning behind this amendment repealing Section 47?

HON. R. PENNER: This, I believe, ties in with the new vouching system that we'll be dealing with, or the substitution for the vouching system, the provision for people to be added to the list, on oath. That's contained in 19 of the bill, on Page 7, that we'll be coming to in due course, and I expect will occasion some discussion.

MR. CHAIRMAN: Clause 11—pass; Clause 12 - Mr. Mercier.

MR. G. MERCIER: I'm just checking the wording here, Mr. Chairman. The change here is really to insert the word "immediately." That would appear to be the only new change in that section. Is that correct?

HON. R. PENNER: Yes. That's the only change in that 52(c).

MR. G. MERCIER: An amendment has been suggested to me that might be more clear, is instead of using the words "immediately prior to," to use the words "up to and including."

MR. R. TALLIN: Well, "up to and including" is not a phrase that we usually use in statutes, Mr. Mercier, but usually we talk about immediately prior, or immediately before, or something of that kind. "Up to and including" is a word I don't think that I've ever found in a statute, or had to decide whether it meant exactly the same as immediately before, or immediately prior to; but that's not necessarily an excuse for not changing it.

HON. R. PENNER: Is it your intention, Mr. Mercier, to include the day itself?

MR. G. MERCIER: Could the Attorney-General explain the reason for the amendment?

HON. R. PENNER: First of all I should point to a typo, that I hope everybody has noticed - at least in the copy of the bill I have. "He has resided in Manitoba for at least," not for at last, ". . . one year immediately prior to polling day."

Yes, the purpose of the proposed amendment is to make it clear that what we're interested in - I think we would all be interested in - is someone who has lived here a continuous year prior to the election, not someone who had nine months, five years ago, and came back for three months. We want to remove any doubt about that, by making it clear that it's the year immediately prior to election, which gives the qualification.

MR. CHAIRMAN: Clause 12—pass; Clause 13 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, could there be some consideration given to - in fact perhaps the Attorney-General could indicate this. What would happen to the ballot after a candidate has withdrawn? Does it stay the same?

HON. R. PENNER: I'm sorry, would you repeat the question?

MR. G. MERCIER: Does the candidate's name stay on the ballot?

HON. R. PENNER: If it's not possible, administratively, to get it off the ballot before polling day, then it stays on and any votes cast for that person becomes spoiled ballots.

MR. G. MERCIER: Well, I wonder should that be written into the legislation? You know, if that is the practice

- I'm not aware of it happening anywhere - but if that is to be the practice, that where it's done in sufficient time, a new ballot should be prepared.

HON. R. PENNER: I have no objection. I could find the words to putting it in, but that's certainly the intention of the Chief Electoral Officer, administratively, to do his or her - well at the moment his damndest to get the name off - but if it's not administratively possible, then direction would have to go out to count the ballots as spoiled.

MR. G. MERCIER: Perhaps the Attorney-General could undertake to give that some consideration and perhaps . . .

HON. R. PENNER: Okay.

MR. G. MERCIER: . . . at report stage consider an amendment.

HON. R. PENNER: All right, we're making note of that, and we'll look at it at report stage.

MR. CHAIRMAN: Clause 13—pass; Clause 14 - Mr. Storie.

HON. J. STORIE: Mr. Chairman, I move:
THAT Bill 14 be further amended by adding thereto, immediately after Section 13 thereof, the following section:

Subsec. 58(1) amended
13.1 Subsection 58(1) of the Act is amended by striking out the first line thereof and substituting therefor the words "Where after the close of nominations."

MR. CHAIRMAN: Any discussion of the motion? I guess this really changes the one we just passed.

HON. R. PENNER: Yes, it flows from that.

MR. CHAIRMAN: Any discussion? Is that agreed? (Agreed) Clause 14—pass; Clause 15 - Mr. Mercier.

MR. G. MERCIER: Clause 15, Mr. Chairman, with respect to the hours, 12:00 till 6:00 is not a convenient hour for a lot of people. I wonder if somehow there could be at least an amendment that for half of the time, the office was open until 8 o'clock or 9 o'clock.

HON. R. PENNER: Sorry, Mr. Mercier. We're looking at 65.1(3)?

MR. G. MERCIER: Yes.

HON. R. PENNER: And what was the proposal?

MR. G. MERCIER: A suggestion that - the hours are set out as 12:00 to 6:00, and 12:00 to 6:00 is not convenient for a lot of people. Twelve to 8:00 at least for half of the time or all of the time . . .

A MEMBER: Make it as easy as you possibly can.

HON. R. PENNER: This is not the formal advance poll which runs on the usual hours until 8 o'clock in the

evening. This is the, if I may call it, the informal advance poll which is conducted in the returning officer's office. The thought there was, of course, it gives an extra opportunity for people to vote in an advance poll. We wanted to keep it, in this particular instance, confined to the normal working hours of those who will be employed in the advance poll. If someone, in fact, is in a position where they won't be able to vote on election day, they've got a number of opportunities both here and at the formal advance poll, and it seemed that this was a good compromise.

MR. CHAIRMAN: Mr. Nordman.

MR. R. NORDMAN: Just to the Attorney-General, you're talking about two advance polls, the formal advance poll and a preliminary - what did you just say there?

HON. R. PENNER: Well, I just used the term loosely, Mr. Nordman, of the informal advance poll in the sense that it's . . .

MR. R. NORDMAN: Will there be two advance polls, or just the one advance poll for so many, five days?

HON. R. PENNER: This is brand new.

MR. R. NORDMAN: This is brand new?

HON. R. PENNER: There will be five days, plus these days that are mentioned in 65.1. There are those that are presently mentioned in 65 of the Act as is, and then to those - yes, 65(3) as is, "An advance poll shall be open in the electoral division on 5 days fixed by the Chief Electoral Officer, one of which shall . . . " wherever practical, " . . . be the Saturday immediately following the day fixed for the close of nominations."

To that, we are riding in 65.1. In addition to those five days, " . . . an advance poll in the office of the returning officer . . . " again, " . . . in which voters who have reason to believe that they will be absent from their polling . . . " division on polling day can go in and vote. It seemed appropriate to limit this to the office hours.

MR. CHAIRMAN: Clause 15—pass; Clause 16—pass; Clause 17 - Mr. Mercier.

MR. G. MERCIER: The effect of Clause 17, Mr. Chairman, is to delete the listing of the candidate's occupation. The Chief Electoral Officer's report certainly did not recommend this, and I would refer to a problem related to occupation but it certainly did not recommend that a candidate's occupation be listed. I would ask the Attorney-General to confirm that, and to advise the committee of the reasons for taking that position.

HON. R. PENNER: I would ask the Member for St. Norbert if we couldn't leave discussion of this particular clause to the next committee meeting. This is the one that there is a proposed amendment that is based on some assumptions with respect to The Elections Finances Act. I think we might more usefully discuss this particular one at that time, so we would leave this one undealt with.

MR. G. MERCIER: Oh, no, not 17.

HON. R. PENNER: Yes.

MR. G. MERCIER: That's related to the . . .

HON. R. PENNER: It's 17. The proposed amendment on Page 2 of the circulated amendments calls for the repeal of 73(7)(b), and the substitution of, well whatever it is that you see. I won't read it all. So we could deal with that perhaps at the time.

MR. G. MERCIER: With all due respect, Mr. Chairman, if you read what the substituted clause is and compare it with the act, the only thing that's really been left out is the occupation of the candidate.

HON. R. PENNER: Yes, that's right.

MR. G. MERCIER: I see no reason why we can't deal with it.

HON. R. PENNER: Well, because in the proposed amendment to the amending bill, there are specific references to registered political party, and reference to a clause in The Elections Finances Act. I just thought it perhaps would be more efficient for us to deal, since it was my proposal . . .

MR. G. MERCIER: Mr. Chairman, the only change between this section and the existing section is leaving out the words, "the occupation of the candidate." So I think we can deal with it unrelated to The Elections Finances Act.

MR. CHAIRMAN: Are you looking at the page of amendments as well, Mr. Mercier?

MR. G. MERCIER: Well, if that's . . .

HON. R. PENNER: Yes, the same point can be discussed when we discuss the amendment to the amending bill, when next we discuss it in committee.

MR. G. MERCIER: Well, I suppose we can. Mr. Chairman, I would like to deal with the bill, and deal with this particular issue and . . .

HON. R. PENNER: I've no objection. Go ahead.

MR. G. MERCIER: Perhaps, could the Attorney-General explain why, unrelated to The Elections Finances Act, the government has chosen to leave out the occupation of the candidate on the ballot? The Chief Electoral Officer has not recommended that. He's not recommended against it, but he hasn't dealt with it.

HON. R. PENNER: It simply occurred to us, in bringing forth this particular amendment, that the question of putting in the occupation raised a number of considerations; that is, if it is deemed that is a relevant consideration for those who are called upon to vote, then surely there are other considerations having to do with the person of a like character that aren't really relevant to the political decision to be made. What is

relevant to the political decision to be made is, of course, the question of the party or whether the person, in fact, is an independent. That's a relevant political consideration.

Other considerations that will no doubt be addressed during the course of the election campaign include those of occupation, in which every candidate, in distributing some piece of literature or another, or in speaking to meetings, or appearing on the media, will stress what that particular candidate believes to be important to him or her in conveying some kind of a message to the voters. Some may stress occupation, some may not; some may stress the fact that they have - at last count - 17 children, some may not; thinking perhaps that is more indicative of indiscretion than valour. Some may stress that they're friendly to dogs - things of that sort.

The question of a particular occupation as being the thing that in addition to political party is placed on a ballot, seem to us to be - in those terms - no more relevant than the other and can be raised by the candidate during the course of an election campaign.

MR. CHAIRMAN: Mr. Manness.

MR. C. MANNES: Well, Mr. Chairman, I'd like to ask the Attorney-General - and I don't have the answer to the question - but I'd like to know specifically why occupations were listed in the first place, a way back when whenever it was started, because am I not correct in saying that on the enumerated voters list that people, occupations of the voters, are still listed and surely there's some rational reason why this was done originally?

I think each and every one of us that have spoke to this bill, on our side, were concerned about this particular aspect. I really believe it needs further clarification, as to what the history of it is, because just to say that it's one of many pieces of information that could or could not be accompanying the ballot, I don't think is sufficient in this part.

HON. R. PENNER: Well, I can only speculate as to the history of this particular section, I have no immediate knowledge. No doubt that in earlier, less progressive times, the question of status and class rank much higher in those less democratic days than they do today, when we don't believe that simply because someone is a lawyer - dare I use the example - qualifies them for public office; anymore than someone who is an artisan, working with his or her hands in the building of useful things.

But seriously I think that probably was under consideration where what you did, in a sense, was more important than how you thought. In these days when it's how you think and how you relate and what your political views are, are the things that are important.

MR. C. MANNES: Well, Mr. Chairman, I don't disagree with some of the comments made by the Attorney-General, but I still say that during this so-called enlightened age, when we all have communication sources at our disposal, it's still a large percentage of the voting public goes to the polls on that particular day, not knowing a great deal about the candidates,

even though they may have been bombarded with flyers and everything else.

I still question whether a large percentage do not know the background or the history or what one does, and therefore it is still an essential piece of information that should be on the ballot.

HON. R. PENNER: Well, I'm just wondering what scenario Mr. Manness envisages. We have someone coming down who, somehow or other, has missed the paper war or more likely has taken all of those pieces of paper which come shoved under the door and consigned them to the garbage can, and nevertheless decides on election day to walk down to the poll and there is the list: Brown, lawyer; Smerchansky, mining engineer; Smith, teacher; and of course the name of the party or independent, because then both would have to be on. How is that person now going to be a better qualified voter or make a more intelligent choice?

MR. C. MANNES: Well, if I'm allowed to answer, I don't whether it's . . .

HON. R. PENNER: Well, no this isn't question period. Sure it's . . .

MR. C. MANNES: Well, I would make the point that just like that was deemed, at one time in our past, to be an important item of information on the ballot for whatever reason; times haven't changed that drastically that the voting public are that much more in tune with the people for whom they're voting, that it isn't still an important element to have it on the ballot.

MR. G. FILMON: Mr. Chairman, it seems to me that oftentimes, as the point has been made, people come to the polling station relatively uninformed about the candidates, not necessarily, although I suppose in the majority of cases . . .

A MEMBER: Are you thinking about yourself?

MR. G. FILMON: No, I'm thinking of the voters in Seven Oaks actually but, not necessarily, but I assume most of the time being prepared to vote for a party, as opposed to a candidate. But let's assume that even in the minority of times they are prepared to vote for whom they assume is the best candidate, regardless of party, and in those cases there is often confusion - and I think we all know of cases in which two people with similar or even the same surnames are on the ballot - but they happen to know the difference between the two of them, because they know the background of one in terms of his or her occupation. As a consequence, if there is a way of enhancing, or the ability to identify or distinguish between these people, then I think it should be there and I see nothing offensive with having it remain there.

MR. G. MERCIER: Mr. Chairman, the Member for Tuxedo raises a point I was going to raise. There can be similar names on a ballot where it is by the use of listing an occupation that a voter can determine which one he wants to vote. I would ask the Attorney-General if he could advise us of the practice in other jurisdictions.

What other jurisdictions in Canada don't require the listing of the occupation of the candidates?

HON. R. PENNER: I can only assume that the enlightened ones don't require it and the unenlightened ones still require it, but that's not an answer and I'll attempt to get an answer for the Member for St. Norbert.

With respect to the occupation, in a way, in terms of people deciding, I just wonder whether more people these days, for example, wouldn't consider - to the extent that they would consider factors other than the party and what they know about the person already - as a more relevant factor, age — (Interjection) — well exactly, so I'm a little worried about that. That's the next thing you're going to put in is age, you know, of these young turks who are biting at the seat of my pants and want to displace me . . .

A MEMBER: Blue eyes, blond hair.

HON. R. PENNER: Blue eyes and blond hair, plays the accordion.

A MEMBER: Mouth organ.

MR. CHAIRMAN: Order please. I wonder if we could stick to the true essence of this particular clause.

Mr. Lecuyer.

MR. G. LECUYER: Well, one of the points I was going to make was the one the Attorney-General just made. You know, surely, in this day and age where I think we have to recognize that we're bombarded by communications or media of all sorts, and I don't think anybody that goes to the trouble of going to the poll doesn't know the person he's going to vote for at the time. To suggest that you have to put the occupation of the person to enable the voter to make an enlightened choice, I was going to suggest maybe just like the Attorney-General did, that you might add other details as well in that case, such as age and other characteristics of the person. But surely if the occupation of the person is going to be one of the factors by which the voters are going to identify him versus another person on the ballot, I might suggest, to leave the occupation in might just lead the voter in making the wrong choice. So, I think it's a frivolous detail, that in this day and age, should be removed. I don't see any reason or valid reasons for leaving it on.

HON. J. STORIE: Mr. Lecuyer has said much of what I intended to say. Basically, I think that the rationale for not including it, is that it is a piece of information that invites prejudices to operate, rather than a knowledge of the policies of the particular individual. It's quite true that we could include lots of other pieces of information that would help us to overcome the concern mentioned by the Member for Tuxedo. We could put down his address or her address, we could put down his or her age. Those kinds of pieces of information would help us to identify the person. Clearly the occupation does not help us to identify the person. It does, however, allow us to play out some our prejudices with respect to various occupations and

whether we feel that they are good or would make good or effective representatives. I think it's quite extraneous and unnecessary.

MR. CHAIRMAN: Mr. Santos.

MR. C. SANTOS: Thank you, Mr. Chairman. The issue here is what does occupation imply? Sociologically there are some occupations that are considered in our society as high status occupation like lawyers, medical doctors, and there are occupations that are considered low status occupation like salesmen of second-hand cars, or something. Such distinctions between high and low, of course, operate in favour of those in the high occupation, which means that the voter in general will defer to them; they will assume they have knowledge; and that they have achievement; and that biases the choice, rather than on the basis of political commitment and issues in the election, which is implied by the identification through party application.

MS. M. PHILLIPS: I think the fact that we're having this conversation implies that people do put some stock into whether their occupation is important or not, and I think what we're saying, by removing that from the ballot, is that it shouldn't be important and that is a political decision that we're making in this legislation. The thing that is important is the person either belongs to a certain political party or is running as an independent, because this is a political process and by leaving off occupation and by the members of the opposition suggesting that should be left on does give, I think, a legitimate backup to the reason why we should take it off.

MR. G. FILMON: Mr. Chairman, I think, quite frankly, in response to the argument of the Member for Burrows, that the various backgrounds of the people who are here in this Legislature, or indeed on City Council at the present time, is testimony to the fact that people don't discriminate against various occupations in choosing their representatives.

MR. CHAIRMAN: Ms. Dolin.

HON. M.B. DOLIN: I would like to use a little example I think and I heard it being tossed back and forth across the table back here. The rural teacher farmer - there are many of them - many teachers who also farm, many farmers who also teach. That person decides to run for public office. They look at what they're going to have put down, what is their major occupation. Well, if they are smart, politically, they will list their occupation as farmer, because it is a not too unknown fact in many rural communities, that teachers with what are considered to be higher salaries and easier lives, and so on, are not as popular as our farmers and anyone who travels any rural part of this country or any other knows that.

Aside from the political expertise that would certainly cause that person to list farmer, is in fact that person's major occupation, or are they, in fact supporting their desire to be a farmer by the salary they earn as a teacher and therefore are they mainly a teacher? It becomes a very confusing issue then. A lot of people

have two occupations. The whole thing, as far as I'm concerned, is irrelevant.

If the person has not made themselves known to their electorate or they are not being elected blindly by someone on the basis of party affiliation, then they really do not deserve to put in little footnotes as to what section of society or the workforce or whatever they belong to, any more than they would put in the colour of their eyes or their hair, the church they go to or their family background or any other piece of information. I think that to choose that particular kind of information and to list it on the ballot is not appropriate.

MR. C. SANTOS: Question.

HON. R. PENNER: Question.

MR. CHAIRMAN: The question has been called. Could I point out that we're dealing - I'm not sure what we're dealing with. We have an amendment to 17.

MR. C. SANTOS: We have nothing to lose, Mr. Chairman.

SOME HONOURABLE MEMBERS: Oh, oh!

HON. R. PENNER: That's right. There will be further opportunity to debate it when the amendment is brought in.

A MEMBER: Don't get surprised after you voted. I didn't know it was . . .

MR. CHAIRMAN: Therefore, what is the will of the committee?

HON. R. PENNER: Move to 18.

MR. CHAIRMAN: Move to 18. Leave 17 in abeyance.

HON. R. PENNER: Right.

MR. CHAIRMAN: Is that agreed? (Agreed)
Mr. Mercier.

MR. G. MERCIER: What we will do I take it, Mr. Chairman, is leave the amendment that has been distributed in abeyance, I take it?

HON. R. PENNER: Yes.

MR. G. MERCIER: Until we deal with The Elections Financing Act.

MR. CHAIRMAN: We can't very well leave . . .

A MEMBER: The bill will stay in committee, I take it.

HON. R. PENNER: It'll stay in committee. The bill will stay in committee, or when we come to report the bill.

MR. CHAIRMAN: The understanding is, and we'll deal with this amendment at that time.

HON. R. PENNER: Yes.

MR. G. MERCIER: Okay.

MR. CHAIRMAN: Clause 18—pass; Clause 19 - Mr. Mercier.

MR. G. MERCIER: Well, an amendment has been distributed, Mr. Chairman.

HON. R. PENNER: Yes, there is an amendment to 19.

A MEMBER: There is?

HON. R. PENNER: Yes. Would you move that please.

MR. CHAIRMAN: Mr. Santos.

MR. C. SANTOS: I move:

THAT Section 19 of Bill 14 be amended by striking out the proposed Subsection 85(2) of The Election Act set up therein and substituting therefor the following subsection:

Vote of Applicant

85(2) The name of a person applying under Subsection 1 to have his name added to the voters' list for a polling subdivision shall not be added to the voters' list unless the person:

(a) takes and signs an oath in the prescribed form that he is eligible to have his name placed on the voters' list for the polling subdivision; and

(b) produces two documents which provide evidence of the person's identity satisfactory to the deputy returning officer.

MR. CHAIRMAN: Is there any discussion on that?
Mr. Penner.

HON. R. PENNER: I just point out that this amendment originated with a suggestion made by the Member for River Heights.

MR. R. NORDMAN: I was just wondering, Mr. Chairman, with these two identifying documents that they have to be signed documents.

HON. R. PENNER: We considered various possibilities and the best idea seemed to be the one that we have here, ". . . satisfactory to the deputy returning officer." I suppose that probably what might well happen is that in any particular election, the Chief Electoral Officer will, as he or she usually does, instruct the deputies as to a whole number of problems they might encounter, and they might agree on examples of the kinds of identification which are then current and acceptable.

MR. R. NORDMAN: Just one more thing, on this deputy returning officer, should we not be using the deputy revising officer, or will there be a revising officer and a deputy returning officer? Just a technicality.

HON. R. PENNER: This is deputy returning officer, because it's not revising. It's at the poll itself.

MR. R. NORDMAN: All right, fine.

MR. G. FILMON: It seems to me that one of the keys here is that the people who are taking an oath and asking to be added to the voters' list have to sign a document. So I would say that's it's key that (b) should say, produces two documents, etc., satisfactory to the deputy returning officer, at least one of which has the person's signature.

HON. R. PENNER: I can think of at least two pieces of identification which I think are fairly common and fairly good that don't have a signature on them, and it may be the only two that someone has. It may be that someone who comes in that position doesn't have a driver's licence or doesn't have a visa, but will have the Manitoba Health Services Commission and the Social Insurance.

MR. G. FILMON: That has a signature.

HON. R. PENNER: And even their birth certificates.

MR. G. FILMON: Oh, that's my old one. I'm sorry, the new ones don't have it. That shows how old I am.

HON. R. PENNER: . . . than which nothing better, because at the time they were born they couldn't write.

MR. CHAIRMAN: Any further discussion of the motion? Is that agreed? (Agreed) Clause 19 as amended - Mr. Filmon.

MR. G. FILMON: Mr. Chairman, just by way of question to the Attorney-General, would there be any objection on the part of the deputy returning officer, or could there be any objection on the part of a deputy returning officer to scrutineers taking polaroid photographs of all those who swear an oath and are added to the voters' list?

HON. R. PENNER: I take it the question was serious?

MR. G. FILMON: Yes, it was indeed. It may not be taken as serious, but I'm asking you in all seriousness.

HON. R. PENNER: I have no answer to that question. I would certainly object to a procedure of that kind.

MR. CHAIRMAN: Clause 19 as amended . . .

MR. G. MERCIER: Mr. Chairman, we still have . . . for the record, we are still very much concerned with the doing away of the vouching, and we will want to reconsider with the party our position in the light of the proposed amendment.

HON. R. PENNER: Understood.

MR. C. MANNES: No. Mr. Chairman, I'm waiting for you to call a vote, because I'd like to register my opposition to the removal of vouching.

MR. CHAIRMAN: Are you calling for a vote on Clause 19?

HON. R. PENNER: Question.

MR. CHAIRMAN: All those in favour of Clause 19, please say, aye.

HON. R. PENNER: Clause 19 as amended, aye.

MR. CHAIRMAN: All those opposed to Clause 19 as amended, say nay.

In my opinion, the ayes have it. I declare the clause passed.

Clause 20—pass; Clause 21 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, two points. In the previous Section 20 which we just passed, there was the requirement to take an oath. In this section, there does not appear to be any requirement to take an oath. I wonder if the Attorney-General could comment on that first, and then I have another concern.

HON. R. PENNER: We are dealing with 21?

MR. CHAIRMAN: Twenty-one.

HON. R. PENNER: The incapacitated voter? In this case, we are already dealing with a registered voter, so presumably that person has been enumerated in the usual way and stands with the same rights and privileges of any other voter. The identity is presumed unless challenged by one of the scrutineers or whatever the process is for challenging at the time of the polling. We're dealing here with then a voter and that is a person who's registered to vote, who is incapacitated. He may have been incapacitated, incidentally, at the time of enumeration and the incapacity might have arisen since and might be temporary and simply brings his or her friend with him to do the actual mechanical business of marking the ballot. I don't think that the same need for an oath arises in this case as in the case of the person who was never enumerated to begin with.

MR. G. MERCIER: Mr. Chairman, the existing Section 101 did require the voter to take an oath, at least with respect to incapacity or inability to vote without assistance.

HON. R. PENNER: See the concern with the person not enumerated who comes in and says, that I am so and so and live within his constituency and want to vote is that that may not be so, and we don't want to close the opportunity of a bonafide voter from voting, but nevertheless we want to make sure that person is who that person says that he or she is, so we require an oath. The force of the oath is such with most people that I think they realize the penalties that may exist for lying under oath. So that's what we're trying to prevent, people who ought not to be voting from voting. Here we have someone who ought to vote. The fact that they want to vote with the assistance of someone doesn't add a vote which may be a fraudulent vote to the votes cast.

MR. G. MERCIER: Mr. Chairman, did the Chief Electoral Officer recommend a change in the wording of the existing 100(1), that whereby which provided that the Deputy Returning Officer shall require the voter to take an oath in the prescribed form as to his incapacity or inability to vote without assistance?

HON. R. PENNER: Would you repeat that please?

MR. G. MERCIER: Did the Chief Electoral Officer recommend a change in the existing wording which required the oath to be taken?

HON. R. PENNER: Let me just check on that.

Yes, that is a recommendation of the Chief Electoral Officer.

MR. G. MERCIER: What page of his report?

HON. R. PENNER: 26.

MR. G. MERCIER: Okay.

MR. CHAIRMAN: Clause 21—pass.

Before proceeding to 22 we have two amendments to . . .

Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, I wasn't completed on that section. The Chief Electoral Officer also . . .

MR. CHAIRMAN: Are you on Clause 21?

I have two amendments to the French version only from Pages 4 and 5.

Mr. Lecuyer, with reference to 56(1) and 56(2).

MR. G. MERCIER: Which page are we? Aren't we passed that?

MR. CHAIRMAN: Well, this is amendments to the French version.

MR. G. MERCIER: Oh, I see to the French version.

HON. R. PENNER: They're correcting amendments.

MR. CHAIRMAN: To 56(1) and 56(2).

Do you have that Mr. Lecuyer?

MR. G. LECUYER: Motion:

QUE le paragraphe 56(1) de la version française de la Loi électorale, figurant à l'article 13 du Projet de loi 14, soit amendé par la suppression des mots "se désister" et leur remplacement par les mots "retirer sa candidature."

MR. CHAIRMAN: Is there any discussion?

Mr. Penner.

HON. R. PENNER: Expliquez, s'il vous plait.

MR. G. LECUYER: Vous avez de question?

HON. R. PENNER: No, it's a technical correction.

MR. CHAIRMAN: Is that agreed? Pass.

Mr. Lecuyer.

MR. G. LECUYER: Motion:

QUE le paragraphe 56(2) de la version française de la Loi électorale, figurant à l'article 13 du Projet de loi 14, soit amendé par la suppression, à la deuxième ligne,

de même qu'à la cinquième, du mot "désistement" et son remplacement, dans chaque cas, par les mots "retrait de candidature."

HON. R. PENNER: That's better. Yes, that's better.

MR. CHAIRMAN: That's better. Is that agreed?

Clause 22, English version - Mr. Mercier.

MR. G. MERCIER: Pass.

MR. CHAIRMAN: Pass; Clause 23 - Mr. Mercier.

MR. G. MERCIER: Pass.

MR. CHAIRMAN: Pass; Clause 24 - Mr. Mercier.

MR. G. MERCIER: Pass.

MR. CHAIRMAN: Pass; Clause 25 - Mr. Mercier.

MR. G. MERCIER: Pass.

MR. CHAIRMAN: Pass.

MR. G. MERCIER: How is someone to determine and predict as set out in 2(f), an intent to vote?

HON. R. PENNER: I don't suppose that it's particularly easy but it requires, in a sense, something of a judgment call. Where the mark is in the space provided and is not susceptible of any other interpretation and the indication of that being the name selected by the person marking the ballot. Some people might have intended, for example, a check mark and being somewhat palsied of hand it comes out in more or less in the form of a dash rather than a check, but that's the only mark. It's clearly a mark in the space. Intention here, as elsewhere in the laws to be gathered from the circumstances, it usually is something inferred rather than explicitly known.

MR. G. MERCIER: Was this a recommendation of the Chief Electoral Officer?

HON. R. PENNER: I'm not sure on that. I don't think so.

MR. FILMON: Mr. Chairman

HON. R. PENNER: I'll check on that.

MR. G. FILMON: . . . I'm a little curious as to why this is being made so broad in terms of the discretion that can be used in counting a ballot. Having gone through a judicial recount as a candidate in the Civic Election, I know that the major concerns of the judges in reviewing potentially spoiled or controversial ballots is that if you're too broad in the kinds of symbols that you use, and it becomes a definite intent of the voter to identify his, or herself, and that seems here to be given approval by this broadening of the types of marks and the types of identification. In fact, it says, has marked his vote out of or partly out of its proper space and the Attorney-General in referring to that said, as

long as it's within the given space. But here, it's broadened to include marks that are outside the given space, but presumably opposite the name of a candidate. I'm just wondering why this would have been made so completely broad.

HON. R. PENNER: Perhaps I'm answering both questions at once. On Page 12 of the report of the Chief Electoral Officer, they refer to some decisions of the Court of Appeal where ballots were rejected, and the statement is made as follows. Indeed, it's pictorially represented. In our opinion, the voter's intention in both cases is clear, and the vote should be counted.

Stemming from that observation of the Chief Electoral Officer, the implication that where the intention of the voter is clear, the vote should be counted and, in reviewing various possibilities, it occurred to us that nothing could be more persuasive in terms of counting a ballot than where the intention of the voter is clear, rather than disenfranchise that person.

MS. M. PHILLIPS: Mr. Chairperson, I think this section is very important. I don't know about the members opposite, but I have scrutineered at many, many elections throughout this province and in other provinces. Where a voter takes his or her responsibility to participate in the democratic process very seriously but, either through ignorance or through inability to read the instructions well enough or to hear the instructions or because they happen to have a shaky hand or whatever, takes time to come down and mark their ballot and participate only to have it thrown out when the ballots are counted because they didn't put a specific mark, be it an X or a check mark or whatever is called for in that particular election; where in the preamble of this section it talks about, in the proper space and the mark clearly identifying the candidate that they want to vote for and not giving any intention of identifying themselves; where it's very clear that person chose to vote for that particular individual, I think in all responsibility we should take that into account, and that person's vote should be registered and should not be thrown in the spoiled ballot pile. I think that's a rather important addition to this piece of legislation.

MR. G. FILMON: Mr. Chairman, I showed the Member for Wolseley a mark that was, for instance, on one of the ballots that we were counting, and the judge disqualified it because he said it was clearly an attempt to identify the voter. This is a check mark with a couple of strokes through it and it would, I would think, be very unusual for that ever to be duplicated in the course of - and that becomes the point in question as to whether or not we should go to such an extent that it's not just an accidental kind of mark with an extra stroke through it, or a circle rather than an X, or a 1 rather than an X.

I believe that all of those I can understand the validity of, but when somebody makes a very unusual symbolic sign, then there becomes a question as to whether or not they were attempting to identify themselves. That has always been accepted to be a reason not to accept the ballot.

MR. CHAIRMAN: Clause 25—pass.

Before proceeding, we have one amendment to the French version to 116(1)(h) - Mr. Lecuyer.

MR. G. LECUYER: Motion:

QUE l'alinéa 116(1)(h) de la version française de la Loi électorale, figurant à l'article 24 du Projet de loi 14, soit amendé par la suppression des mots "s'est désisté" et leur remplacement par les mots "a retiré sa candidature".

HON. R. PENNER: Pass.

MR. CHAIRMAN: Is that agreed? (Agreed)

Section 26, Clause 26—pass; Clause 27—pass; Clause 28 - Mr. Mercier.

MR. G. MERCIER: On this one, a subsequent Section 125 refers to hospital ballots as special blank ballots cast and thereafter as special blank ballots. I wonder whether the same terminology should be used in this section.

HON. R. PENNER: Reference is made by the Member for St. Norbert to existing 125?

MR. G. MERCIER: Yes.

HON. R. PENNER: I must be missing something - 125, is that in the existing act? Oh yes, "if present shall separate the ballots cast at the moving poll by use of the special blank ballots and envelopes in which they are contained from the remaining ballots and shall with respect to those special blank ballots . . ." etc. And you're suggesting that some similar provision be made in 124(4)?

MR. G. MERCIER: Or wording.

HON. R. PENNER: Let me take that under consideration and come back, since we've got to come back in any event. We're leaving this in committee. I'd like to think about that.

MR. CHAIRMAN: Does that mean that Clause 28 will be held in abeyance along with the other clause?

HON. R. PENNER: Yes, hold 28.

MR. CHAIRMAN: Clause 29 - Mr. Mercier.

MR. G. MERCIER: I move that the words "July 1, 1986" be deleted, and the words "January 1, 1987" be substituted therefor.

MR. CHAIRMAN: Do you have a written motion to that effect?

HON. R. PENNER: We'll let it go by leave.

MR. CHAIRMAN: By leave, no written motion will be necessary. Is that agreed? Is there any discussion?

HON. R. PENNER: The motion isn't . . . yes, we're agreeing to have the motion presented, but I just state without debate that we will be opposing that

amendment. I'm ready for the question any time the Member for St. Norbert is.

MR. G. MERCIER: Mr. Chairman, to review the rationale briefly, this is with respect to taking away the right of British subjects to vote in Manitoba. This section would come into effect July 1, 1986. Now I was assuming that at least at the time the government was thinking of this that they inserted the date July 1, 1986, because they thought they would have had an election by July 1, 1986. The way things are going, they're not going well, Mr. Chairman. They may very well hang on to the end of the term which would be into the fall of 1986 before their five-year constitutional term of office is up before they're thrown out of office, Mr. Chairman. To be sure that British subjects will have the right to vote in the next election, I'm moving that the date be changed to January 1, 1987.

HON. R. PENNER: The Member for Kildonan had her hand up before I did.

HON. M.B. DOLIN: We don't want to close debate, right, before I speak?

HON. R. PENNER: No, I just want to hear what you say, so I know which side of the question I'm on.

HON. M.B. DOLIN: Thank you for deferring to me. I was simply going to point out that it seemed to me the timing was chosen because that is the amount of time it takes to become a citizen of this country, as some of us well know. To assume that British citizens are somehow going to vote in a certain way is incredibly egotistical and I find quite amazing.

HON. R. PENNER: Well the Member for Kildonan made my point.

MR. CHAIRMAN: Order please. Are you ready for the question? Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, just so that it is clear, I'm not suggesting they're going to be voting anyway.

I'm just suggesting that they should have the right to vote in the next election.

HON. M.B. DOLIN: They do, they will.

HON. R. PENNER: We're giving them all the time.

MR. CHAIRMAN: Are you ready for the question? All those in favour of the motion please say aye. All those opposed say nay. In my opinion the nays have it. — (Interjection) — I asked all those opposed say nay - I heard some nays once before. In my opinion the nays have it. I declare the motion lost.

Mr. Storie.

HON. J. STORIE: I would move that . . .

MR. CHAIRMAN: Maybe we'll finish Clause 29 first.

HON. J. STORIE: Sorry.

MR. CHAIRMAN: Clause 29 as not amended—pass. Mr. Storie.

HON. J. STORIE: Mr. Chairman, I move that Legislative Counsel be authorized to renumber the provisions of Bill 14, in order to eliminate decimal points.

MR. CHAIRMAN: Is that agreed?
Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, just for the record then, Bill 14 is held in committee to consider the one amendment that is still on the table.

HON. R. PENNER: Two, the one amendment to 17, to consider the possibility raised by you with respect to 124(4). Okay?

MR. CHAIRMAN: That concludes the business on the agenda for tonight.
Committee rise.