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Second Session — Thirty-Second Legislature

of the

Legislative Assembly of Manitoba

STANDING COMMITTEE

on

LAW AMENDMENTS

31-32 Elizabeth II

Chairman
Mr. Phil Eyler
Constituency of River East

MG-8048

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Second Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON LAW AMENDMENTS

Tuesday, 16 August, 1983

TIME — 10:00 a.m.

LOCATION — Winnipeg

CHAIRMAN — Mr. Phil Eyler (River East)

ATTENDANCE — QUORUM - 10

Members of the committee present:

Hon. Messrs. Evans, Penner, Parasiuk, Mackling, Plohman, Hon. Mrs. Smith, Hon. Ms. Hemphill, Hon. Mr. Uruski

Messrs. Eyler, Fox, Harper, Mrs. Hammond, Messrs. Harapiak, Hyde, Johnston, Lecuyer, Malinowski, Manness, Mercier, Nordman, Mrs. Oleson, Ms. Phillips, Messrs. Santos and Steen

WITNESSES: Committee heard a representation with respect to Bill No. 48 as follows:

Messrs. Jim Wright and Wayne Pollen of the Winnipeg Chamber of Commerce

MATTERS UNDER DISCUSSION:

Bill No. 14 - An Act to amend The Elections Act - passed with certain amendments.

Bill No. 48 - The Elections Finances Act - passed with certain amendments, on division.

Bill No. 74 - An Act to amend The Elections Act (2) - passed without amendment.

Bill No. 112 - The Statute Law Amendment Act (1983) - passed with certain amendments, on division.

* * * *

MR. CHAIRMAN: Committee, come to order. We have a list of four bills today which we are considering, Bills 14, 48, 74 and 112. We have two presentations on Bill 48, and one on Bill 74.

What is the will of the committee, to hear the presentations first?

On Bill 48, is Mr. Charles Lomont present? No.

Messrs. Jim Wright and Wayne Pollen, are they present?

MR. J. WRIGHT: Good morning. My name is Jim Wright, I'm President of the Winnipeg Chamber of Commerce. I'm accompanied this morning by Mr. Wayne Pollen, who is a member of our Public Finance and Taxation Committee.

Our submission is addressed to the Reimbursement Provisions of the Election Finances Act, Bill 48.

The Winnipeg Chamber of Commerce opposes the "reimbursements" provisions contained in Sections 71 and 72 of the proposed Election Finances Act, Bill 48. The Chamber does not believe it to be in the best interests of the province to support any political parties or candidates by subsidies of up to 50 percent of general and by-election expenses as proposed. It should be noted that the Treasury already supports Manitoba's political parties and candidates indirectly throught the political contributions tax credit under The Income Tax Act (Manitoba).

As a minimum, should it be decided that the reimbursement provisions remain in Bill 48, the Chamber urges that they be amended to limit any such reimbursement to the actual deficit incurred by the qualifying political parties and candidates in a general or by-election. But it should be stressed that even this reduced reimbursement is opposed by the Chamber. Respectfully submitted.

Should there by any questions, Mr. Wayne Pollen or myself will be pleased to answer them.

MR. CHAIRMAN: Are there any questions for Mr. Wright?

Mr. Penner.

HON. R. PENNER: I'd just like to point out to Mr. Wright, with respect to the final paragraph, that provisions of the bill as they relate to individual candidates are of the kind suggested; that is, candidates in effect cannot make a profit on the deal. It's only with respect to an actual deficit that candidates are reimbursed.

MR. W. POLLEN: Thank you, Mr. Penner. That's correct, Sir. Individual candidates cannot profit but political parties who run 57 candidates can, Sir, quite substantially. What happens to the funds from thereon isn't contained in the bill, and it is sort of a matter of concern.

HON. R. PENNER: I appreciate you point, thank you.

MR. CHAIRMAN: Mr. Mercier.

MR. G. MERCIER: Gentlemen, I thank you for your presentation. In your review of this bill did you review Section 48 which imposes limit on - let me read what I feel from your point of view may be the appropriate section "No person or organization shall print, publish or distribute during an election period

b) any poster, leaflet, letter, card or etc.,

the purpose of which is to support or oppose a candidate or registered political party," do you not feel, if you've had an opportunity to consider that section, that is an undue restriction on the right of your organization, the Winnipeg Chamber of Commerce, to send out a letter or card with respect to an issue that may become part of the election and on which you wish to express an opinion. You will not be able to do that.

MR. W. POLLEN: Are you now referring, Sir, to when writs for the election are issued?

MR. G. MERCIER: Yes.

MR. W. POLLEN: Yes, I suppose that's sort of a political issue and I don't want to get into that, but we do our best to advise our members on all public issues prior to a provincial election. So, we've really never been in a situation where it is sort of a last-minute thing that we have to worry about publishing something during a campaign. We attempt to keep up on the public issues as the things occur. But, yes, we did notice that. But that, Sir, was not our main purpose of opposing the bill, not that section certainly.

MR. CHAIRMAN: Are there any further questions for Mr. Pollen? Seeing none, then I would like to thank you on behalf of the committee for taking the time to come here today, Mr. Pollen.

MR. W. POLLEN: Thank you very much.

MR. CHAIRMAN: Mr. John Walsh on Bill 74. Is Mr. John Walsh present? Are there any other members of the public present who wish to make presentations on Bills 14, 48, 74 or 112? Seeing none, what is the will of the committee? Proceed to the bills in order? (Agreed)

BILL NO. 14 - THE ELECTIONS ACT

MR. CHAIRMAN: Bill No. 14, my records indicate we've done several sections of this already. Sections 28 and 17 . . .

HON. R. PENNER: With respect to 17 there is an amendment.

MR. CHAIRMAN: Section 17.

HON. R. PENNER: Shall we deal with amending Section 17?

MR. CHAIRMAN: Is that agreed, Section 17, amendments.

MR. G. MERCIER: The amendment isn't to Section 17, it's a new amendment.

HON. R. PENNER: Oh, I see.

MR. G. MERCIER: 73(7)(b)?

HON. R. PENNER: What was the question?

MR. G. MERCIER: Mr. Chairman, my records indicate that the clause we had left over was with respect to Section 73(7)(b), and the issue really is over whether or not occupation of the candidate should be included on the ballot.

HON. R. PENNER: I've been looking at that further and find that, for example, in federal elections the occupation of a candidate or candidates is only permitted in those circumstances where the candidates have identical names, and is therefore permitted in order to distinguish between John Jones and John Jones; John Jones, plumber, and John Jones, lawyer, but otherwise the occupations do not appear. I think we've discussed this at some length and the position which I advanced in the previous meeting; namely, that occupation is only one of many possible distinctions, and that to elevate that to a unique role over other possible distinctions, I don't find arguments that have been advanced to this point persuasive for doing that.

For example, it's quite possible, given today's unisex names, that you could have a name that does not distinguish and cannot be distinguished as to whether the person is a male or female, and would you say Shawn so and so, female, because there can be Shawn as a female name, and Shawn as a male name. Certainly we don't distinguish on account of age. Some people's perceptions, you know, Roland Penner's almost as old as Ronald Reagan or Gerry Mercier, you're not quite as old. There's no really persuasive argument that I can see for distinguishing by means of occupation, other than the one that is used federally.

MR. G. MERCIER: Mr. Chairman, our position has been that it should be included. The government obviously has rejected that, but the Attorney-General has referred to the federal practice where there are similar names, occupations are used on the ballot. Would the Attorney-General not consider at least making provision for that. That has been one of our concerns that has been expressed.

HON. R. PENNER: Yes, I think that I'd be prepared to bring in something on report stage that will do that.

MR. CHAIRMAN: Does anyone wish to move the amendment to section 17.1?

HON. R. PENNER: 17.1 is a different amendment, but did we pass the clause that deals with — (Interjection) —

MR. G. MERCIER: No.

MR. CHAIRMAN: Clause 17?

HON. R. PENNER: Pass—17.

MR. CHAIRMAN: Clause 17—pass. Mr. Penner.

HON. R. PENNER: I would move:

THAT Bill 14 be amended by adding thereto, immmediatly after section 17 thereof, the following section: 17.1. Section 73 of the act is amended by adding thereto, immediately after subsection (11) thereof, the following subsection:

73(12) Where subsequent to the printing of the ballots for an election a candidate withdraws from the election, the returning officer shall cause the ballots for the electoral division to be reprinted omitting the name of the candidate who has withdrawn; but where it is not possible to reprint the ballots in time for the election, the returning officer shall cause every deputy returning officer to be notified forthwith of the withdrawal, and every deputy returning officer shall post notice of the withdrawal conspicuously in - I would say the polling place instead of his polling place.

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

There is one other section, Section 28, Clause 28 on Page 11.

HON. R. PENNER: If you'll just bear with me for a moment, there was a question that the Member for St. Norbert raised. If I recollect the concern raised by the Member for St. Norbert, I am advised that the term "ballot" and "ballot papers" are used interchangeably throughout the act, and that nothing really is gained by the change that he proposed in 124(4).

MR. CHAIRMAN: Clause 28—pass; Title—pass; Preamble—pass; Bill be Reported.

The French version equally valid, is that agreed as printed—pass.

BILL NO. 48 - THE ELECTION FINANCES ACT

MR. CHAIRMAN: What's the will of the committee? Page-by-page?

HON. R. PENNER: Bill-by-bill.

MR. G. MERCIER: Page-by-page.

MR. CHAIRMAN: Page-by-page. Page 1—pass; Page 2 - Mr. Mercier.

MR. G. MERCIER: I want to ask a question that's appropriate, I think, here. My understanding from a reading of this act is that the limitations on expenses come into effect from the time a candidate is nominated. I wonder if the Attorney-General or Legislative Counsel could clarify that.

HON. R. PENNER: But it is officially nominated, that is nominated in accordance with The Election Act, or at a nomination meeting. Once the person is the declared candidate of that party or is an independent, then from that time on the provisions run.

If the provisions were to run from the time only of the official nomination, then it would be possible, given the fact that - it would be possible to actually select the candidate - and there might be a month, two months before the writs, and the whole purpose of the limitation could be defeated by tremendous expenditures just prior to the writs being issued.

May I expand on that answer with the assistance of Legislative Counsel? It is not an absolute prohibition against expenditures prior to formal nomination. It's not a prohibition, it's a question of what gets accounted. It's only with respect to those things for which expenses are incurred prior to the formal nomination for material, etc., which is actually to be used in the election period.

If there are expenses, let's say, for the holding of the nomination meeting, or other expenses associated with teas and meetings that may be held prior to formal nomination, those don't come within the - if you look at 45(1) those don't come within the accounting provisions.

It's those things in which you might buy all your sign material prior to the actual nomination. That would have to be accounted because that's an expenditure for material to be used in the election itself, whereas an expenditure for teas, cookies, cakes and whatever.

45(1) - "election expenses" means

(a) money spent or liabilities incurred; and

(b) the value of donations in kind accepted;

prior to or during an election period in respect of goods used or services provided during the election period for the purpose of supporting or opposing a candidate, etc.

MR. G. MERCIER: Mr. Chairman, just to clarify then, if a candidate is nominated one year prior to the election, and distributes a brochure announcing that he is the candidate for X political party, setting out his positions on the issues, etc., would he have to account for that brochure?

HON. R. PENNER: Only if he used the same brochure in the election period, he or she. You see, practically speaking, although that may happen by the very eager, it would have to be the very eager, and the very inexperienced because you can blow a lot of money too far in advance of an election period that will not influence anything. But if they want to do it to try and extend the expenditure control too far retrospectively is administratively, I think, almost impossible, and is not really what we're concerned with, and I think all parties are concerned with, and that is making sure that there's this kind of control effectively in the election period.

MR. G. MERCIER: Mr. Chairman, my concern is that this act not be a device to protect incumbents. You could have in that situation a sitting MLA distributing material on a regular basis and if a new candidate is to be accountable for all of those similar expenses for distributing information prior to the actual election period then the act would favor incumbents.

HON. R. PENNER: You run into something of a grey area or an overlap situation where a member of the Legislature issues his or her annual report, regular report to the constituents of what that person has done, advocated, spoken about, etc., and I don't think we want to inhibit that. That is why, reasonably, the only thing that we can or ought to do is to say that if you expend money prior to the election period for material that is going to be used in the election period, that becomes accountable.

MR. CHAIRMAN: Pages 2 to 6 were each read and passed.

Mr. Penner.

HON. R. PENNER: I just want to check where we're at with amendments. No, we're not at the amendments yet, until about Page 8 or 9.

MR. CHAIRMAN: Mr. Mercier. Page 7?

MR. G. MERCIER: No, Page 6, Mr. Chairman, Section 4(1). Can the Attorney-General confirm that on the Advisory Committee, obviously any political party who becomes a registered political party under the act and

it is very easy to become a registered political party, each one will have a representative on this Advisory Committee to the Chief Electoral Officer?

HON. R. PENNER: Yes. But, let me point out, and indeed I'm sure the Member for St. Norbert is aware because it's spelled out very particularly. First of all, the committee is advisory only. "The Chief Electoral Officer" under 4(2), "may from time to time call meetings of the committee for the purpose of seeking the advice . . . "

"Advisory status only.

"4(3) No decision or recommendation of the advisory committee is binding on the Chief Electoral Officer, and the Chief Electoral Officer may at all times make such decisions or take such actions as the Chief Electoral Officer sees fit for the proper administration of this Act."

To attempt in some way to exclude a representative of any registered political party would, I am quite sure, infringe the Charter. You know, we've heard it suggested in a kind of a doomsday scenario that you are going to have the Rhinoceros - or is it the Rhinoceri? - and parties of that kind, some of which sometimes play a useful role in at least adding humour to otherwise dull affairs. They are going to be on this committee, and horror of horrors. But what is the horror of horrors? I mean, they're there with others to consider advice that the Chief Electoral Officer may or may not ask for and, if asked for, may or may not use.

MR. G. MERCIER: Which political parties would have been on this advisory committee if it had been in effect in the last election?

HON. R. PENNER: In order of importance, the NDP, the Progressive Conservatives, the Progressives, the Liberals and the Communist Party of Canada, I think. Those would have been the ones.

MR. CHAIRMAN: Page 6 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, we have been on record before during debate on this bill, and I want to do it again. The Electoral Commission we introduced, and is in effect until this act is passed, has done a good job. Is the Attorney-General aware of any complaints with respect to the operations of the Electoral Commission as it currently exists that would justify this change?

HON. R. PENNER: The thing that, I think, we all want to achieve in terms of the actual management of the election and the administration of the act is political independence, but not free from some political input. I think the Chief Electoral Officer in our system occupies a unique role analogous to the Ombudsman. The way in which a Chief Electoral Officer is chosen, the way in which the Ombudsman is chosen makes that person, in a sense, answerable to the Legislature and to the people at large.

The system presently in place smacks too much of the management of the election by the political establishment. I don't think that is necessary or desirable.

MR. CHAIRMAN: Mr. Anstett.

MR. A. ANSTETT: Further to what the Attorney-General has said and the question asked by the Member for St. Norbert, I think it is fair comment to say, there have not been any complaints and that the Commission has done its job well and has done it in exactly the way the Member for St. Nobert intended when he, as Attorney-General, brought in the legislation.

I think there is, however, an important difference between - and I'm sure the Member for St. Norbert is aware of this - the proposed bill and the current statute in that the proposed bill will allow the participation in the advisory capacity of other parties other than the two major parties in the province. That was prevented under his legislation for Liberals, Progressives and any other party. They could not serve on the Commission.

So, in effect, the two status quo or establishment parties - despite the fact that New Democrats don't like being referred to as the establishment, the fact of the matter is, in Manitoba's electoral system, both the Conservatives and New Democrats are - to offer places on a Commission which had statutory authority and decision-making power would then have given these third parties, if you will, the kind of power that opposition members during debate on this bill said was improper to give them.

So, in effect, by abolishing the Commission, we are providing an advisory vehicle that allows them input without decision-making power. I think that's an important distinction. If you want them to have some input into the system as registered parties and be able to make the case for their interests, which often are trod upon because the established interests are going to, of necessity, come first, whether they be the opposition's or the government's, then this is the vehicle to do it. But I certainly agree with members opposite when they say that influence should not be of a decision-making character, but rather of an advisory character.

So the Chief Electoral Officer in his wisdom and in his authority under the act can give what weight he chooses to give to the opinions of all of the parties that are offering advice, rather than being forced into a situation where they all cast votes and decisions are made that are then binding on him.

So I think the decision to abolish the Commission is in no way a reflection on the current Commission or on the way it was set up. It's a reflection of the desire of the government to give some voice, however small it is, in an advisory capacity to the other parties that are an important part of the system, despite the fact that they may not show up in terms of voter approval in the Legislature.

MR. CHAIRMAN: Page 6—pass; Page 7—pass; Page 8 - Mr. Penner.

HON. R. PENNER: Proposed amendments that - no, actually it should be on Page 9.

MR. CHAIRMAN: Page 8—pass; Page 9 - Mr. Penner.

HON. R. PENNER: I move:

THAT Bill 48 be amended by adding thereto, immediately after section 10 thereof, the following section:

Financial officers of constituency associations.
10.1(1) Within 30 days of a request therefor by the Chief Electoral Officer, the chief financial officer of a registered political party shall provide the Chief Electoral Officer with a list showing the name and address of the person responsible for the finances of each constituency association of the registered political party; and where at any subsequent time there is any change in the particulars disclosed in the list, the chief financial officer of the registered political party shall in writing notify the Chief Electoral Officer of the change within 5 days of the change.

Notice of nomination.
10.1(2) Forthwith after the nomination of a candidate by any constituency association of a registered political party, the chief financial officer of the registered political party shall in writing notify the Chief Electoral Officer of the name of the candidate and constituency association and the date of the nomination.

MR. CHAIRMAN: Any discussion?

MR. G. MERCIER: Why? Particularly the first part.

HON. R. PENNER: These come from the recommendation of the present CEO, who recommends these changes as making it easier to administer the act.

MR. G. MERCIER: Why is it necessary to supply in 10.1(1) "the name and address of the person responsible for the finances of each constituency association"? What we are concerned about are election finances. Is there not sufficient provision in the act that requires the recording of that information? This could be an entirely different person, in responsibility, concerned only with the operation of the constituency association. What is the necessity for requiring this information? It doesn't appear that it's necessary.

HON. R. PENNER: Well, contributions, for example, may be made immediately before or immediately after an election period, and in such cases, would more likely go through the regular financial apparatus of the registered political party than through the person specifically designated as having the responsibility for the purposes of the election.

MR. A. ANSTETT: Mr. Chairman, just to expand briefly on the Attorney-General's answer to the Member for St. Norbert, if the member refers to Pages roughly 39 through 41, he'll see that the constituency association is specifically involved in having some responsibility for reporting transfers and accounting for the acquisition of their funds.

In this particular instance, the Chief Electoral Officer, on review of the bill, recommended that for administrative purposes having the name and address of the responsible constituency officer would assist him in the enforcement of those specific provisions. I believe the Attorney-General in introducing the bill said that we'd gone to some lengths to try and avoid directly involving constituency associations in the process, and this is the extent of the involvement of associations. Most of the other requirements are imposed directly on candidates or registered parties.

MR. CHAIRMAN: Any further discussion on the motion? Is it agreed? On division?

MR. G. MERCIER: On division.

MR. CHAIRMAN: Page 9 as amended—pass; Page 10—pass. Page 11 - Mr. Penner.

HON. R. PENNER: I move:
THAT subsection 13(4) and 13(5) of Bill 48 be struck out and the following subsections substituted therefor:

Effect of reserved name.
13(4) Where the Chief Electoral Officer has reserved a name for the 6 month period referred to in subsection (2) or any extensions thereof under subsection (3), no other political party shall during that time circulate a petition for registration which contains either
(a) the reserved name; or
(b) a name which, or the abbreviation of which, so nearly resembles the reserved name or the abbreviation thereof as to be likely to cause confusion.

Failure to meet registration requirements.
13(5) Where a political party on behalf of which a name has been reserved fails to file a complete and accurate application for registration, financial statement and petition for registration within the 6 month time period referred to in subsection (2) or any extensions thereof under subsection (3), the Chief Electoral Officer may reserve the same name or a similar name for another political party in accordance with this section.

MR. CHAIRMAN: Discussion? Mr. Mercier. Is that agreed? (Agreed)
Page 11 as amended—pass; Page 12 - Mr. Penner.

HON. R. PENNER: I move:
THAT subsection 14(1) of Bill 48 be amended by adding thereto, immediately after the word "prior" in the 2nd line thereof, the word "to."

MR. CHAIRMAN: Any discussion? Pass.
Page 12 as amended—pass; Page 13—pass; Page 14—pass. Page 15 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, can the Attorney-General confirm that these sections with respect to deregistration of political parties are new?

HON. R. PENNER: Yes, they are.

MR. G. MERCIER: Why are they in?

HON. R. PENNER: They're in on the recommendations of the old Commission. The old Commission raised the problem, and it's perhaps not a major problem, but a problem nevertheless, is that you have all of these fairly strict conditions for the registration of a political party and it's implied that, but not expressed, that if parties don't fulfill the strict requirements of being a registered

party something may happen. This, in fact, spells out, gives a power or a remedy which ought to exist in those circumstances.

MR. CHAIRMAN: Amendments - Mr. Penner.

HON. R. PENNER: I move:

THAT section 18 of Bill 48 be amended by striking out the words "the registered political party shall notify the Chief Electoral Officer in writing" in the 3rd and 4th lines thereof and substituting therefor the words "the registered political party shall in writing notify the Chief Electoral Officer of the change."

MR. CHAIRMAN: Any discussion? Pass - Mr. Penner.

HON. R. PENNER: I move:

THAT subsection 19(2) of Bill 48 be amended by striking out the word "proclamation" in the 3rd line of clause (e) thereof and substituting therefor the words "coming into force."

MR. CHAIRMAN: Discussion? Pass.

Page 15 as amended—pass; Page 16—pass; Page 17—pass. Page 18 - Mr. Penner.

HON. R. PENNER: Mr. Chairman, I move:

THAT subsection 24(1) of Bill 48 be amended by striking out the word "proclamation" in the 2nd line thereof and substituting therefor the words "coming into force."

MR. CHAIRMAN: Any discussion? Pass.

Page 18 as amended—pass. Page 19 - Mr. Penner.

HON. R. PENNER: I move:

THAT section 28 of Bill 48 be amended by striking out the words "the candidate shall notify the Chief Electoral Officer in writing" in the 3rd and 4th lines thereof and substituting therefor the words "the candidate shall in writing notify the Chief Electoral Officer of the change."

MR. CHAIRMAN: Any discussion? Pass.

Page 19 as amended—pass; Page 20—pass. Page 21 - Mr. Mercier.

MR. G. MERCIER: Is there any limitation in Section 37 or exemption?

HON. R. PENNER: No limitation.

MR. G. MERCIER: No matter how small the contribution, if a hat is passed, the person passing the hat is going to have to have a paper and pencil with him to take down the name and address of each contributor. Is that correct?

HON. R. PENNER: Yes.

MR. A. ANSTETT: Mr. Chairman, this is a very similar provision to one that was contained in the Bill 96 introduced by the Member for St. Norbert in 1980, and eventually withdrawn. But it also proposed that all donations made at functions of this type be recorded as to identity and that receipts would be issued only for donations of $10 or more, but that all funds donated had to be accounted for, as I recall. Now, that provision was withdrawn but the basis of it was the difficulty in accounting for how funds are raised, if you don't make a provision that all funds shall be accounted for in that way. As soon as you set a limit, then it's quite simple for dollars and donations of very substantial amounts to enter the hat or the ice-cream bucket or whatever is passed at the meeting and to avoid the disclosure requirements thereby.

It's not a question of saying, you must account for every - and we're strictly talking cash because cheques are obviously accountable in terms of identifying the donor. But if you're talking cash, if you say you have to account for every donation of $100 or more or $20 or more, it's just a question of using lower denomination bills to avoid the disclosure requirement. Large sums of money could be donated undisclosed that way.

I realize it's certainly an inconvenience of some proportion to political parties. I'm sure that people in the New Democratic Party will be just as concerned about the inconvenience. It's a question of how do you close the loophole or how large a loophole are you prepared to allow in the disclosure provisions or the diclosure principle that's provided for in this act.

MR. CHAIRMAN: Mrs. Hammond.

MRS. G. HAMMOND: By trying to close every single door, you're putting such obstacles in the way of constituency associations. These are all volunteers at this level and we're not talking about laundering money. Surely to heavens when you're passing the hat at a meeting that we don't have to record every single penny and every single person who puts some money in a hat. I just feel that trying to close every every door, this act is going to be almost impossible for the ordinary person to get actively involved without being worried about contravening the act in some way or another. I think that this particular one is a frivolous section to be in there and I really think there should be, if it has to be in, there should be some upper limit on it, because this just makes it absolutely impossible and what is going to happen is people are not going to do it. Then they are always going to be in contravention of the act. Let's have common sense prevail sometime in this act, where I'm not seeing very much of it, I must say.

HON. R. PENNER: But for that last phrase, an appeal to common sense, always gets me in the kishke as they say in the North End. There's a good point there and it has troubled me. I just want to say parenthetically that there was some reference made during the course of debate to having to make note of the person who bakes a cake, but that's excluded by the definition section in any event, but I would be willing to look at bringing in at report stage some limitation there so that it doesn't have this appearance of pettiness, nor does it become administratively very difficult, nor do we cut out the small-time donors who put in the $5 or $10 or something of that kind.

I would like perhaps to receive a suggestion from the opposition on that. I think, if I'm not mistaken, although the Member for Springfield mentioned $10

and the original proposal of the Member for St. Norbert, as he now is, that $25 was the amount. Perhaps something like that could be considered and will be considered and it we'll bring something in at report stage.

MR. CHAIRMAN: Page 21 is presently under consideration. Pass. Page 22 - Mr. Mercier.

MR. G. MERCIER: Section 40(1)(b) "the cost to the employer of the salary or wages of the employee whose services are provided." That is a very significant section. This is a new section, is it not?

HON. R. PENNER: I'm just rereading it in order to get the grammatical sense. It's almost a definition section isn't it, it states that "Where the donation in kind is accepted by or on behalf of a candidate . . . the value of the donation in kind is." This is just a method of valuing. "the market value of goods or services," I think that's helpful, or you're dealing with a different class of donation in kind, "the cost to the employer of the salary or wages of the employee whose services are provided." It seems to make sense to me. I wonder if the Member for St. Norbert has a specific objection? I think it is new and it makes it administratively, I think a little easier if you have it touched on of how to value.

MR. G. MERCIER: Obviously, if a person takes vacation to work on an election, it wouldn't be included, would it?

HON. R. PENNER: I'm sorry, I missed that point.

MR. G. MERCIER: If a person takes a vaction to work on an election, it would not be included?

HON. R. PENNER: No, it would not be included.

MR. G. MERCIER: Okay.

MR. CHAIRMAN: Mr. Manness.

MR. C. MANNESS: I'd like a clarification on 38(2) at the top of that page. "1/4 of the charge" is that meaning one-quarter of the total revenue that comes in by way of ticket sales will be considered as the cost? I'd like a further clarification of that?

HON. R. PENNER: Yes, that's what it means and it duplicates the current provision in the current act passed by the previous administration.

MR. C. MANNESS: Well, I guess I'm wondering if a fund-raising event is conducted and if indeed only 25 percent of the total revenue represents profit, why that would not be deemed the contribution for the purposes of this act?

HON. R. PENNER: In effect, as Legislative Counsel points out, otherwise people would be getting tax credits for example for the things that they paid for, including, let's say, meals and refreshments.

MR. A. ANSTETT: Mr. Chairman, with respect to the question asked by Mr. Manness. The floor of $15 addresses to some extent Mr. Manness' concern. I would also point out that the greater advantage goes to the higher price social functions because the 25 percent charge in terms of expenses allows a larger tax credit in those situations in relation to the expenses that are incurred.

MR. CHAIRMAN: Pages 22 through 27 were each read and passed. Page 28 - Mr. Penner.

HON. R. PENNER: I move:

THAT subsection 45(3) of Bill 48 be amended by adding thereto, immediately after the word "division" in clause (e) thereof, the word "and", and further by adding thereto, immediately after clause (e) therof, the following clause:

(f) a commentary, letter to the editor or similar expression of opinion of a kind normally published without charge in a newspaper, magazine or other periodical publication or normally broadcast without charge on radio or television.

That would not be included.

MR. CHAIRMAN: Any discussion?
Mr. Mercier.

MR. G. MERCIER: Just to pause for a moment, Mr. Chairman.

HON. R. PENNER: What we're saying to explain, is that for the purpose of this Act, election expenses do not include (a), (b), (c), (d), (e), and we've broadened the category things not included as an election expense to include this kind of expression of opinion or whatever.

MR. G. MERCIER: Well, does that mean, Mr. Chairman, that - just looking ahead to Section 48 then - that type of letter to the editor, etc., would be allowed under Section 48 without authorization of a political party?

HON. R. PENNER: Yes.

MR. CHAIRMAN: Any further discussion? Does the proposed motion pass? Pass. Page 28, as amended—pass; Page 29—pass. Page 30 - Mr. Penner.

HON. R. PENNER: I move:

THAT section 48 of Bill 48 be amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

Exception for expressions of opinion.
48(1.1) Clause 1(b) does not include a commentary, letter to the editor or similar expression of opinion of a kind normally published without charge in a newspaper, magazine or other periodical publication.

MR. CHAIRMAN: Any discussion?
Mr. Mercier.

MR. G. MERCIER: Well, Mr. Chairman, that is a small step in the right direction, but this section still, in my view, unduly limits the right of individuals to express their opinion during an election.

HON. R. PENNER: Well, there's a problem that we're seeking to address, and we're trying to be as nonrestrictive as possible, and that's why the particular amendment is introduced.

It's the so-called dirty tricks problem, for example, where things that would normally, first of all that a party would not normally be at least seen as saying about the opposition or a particular candidate, or a notion, might nevertheless be circulated and play some role. We're simply saying that when you're in this election period and things are being printed or circulated, other than the letters to the editor kind of thing, and newspapers there exercise their own method of control, that there has to be, to the extent that it is specifically political in the election sense, there has to be accountability.

MR. A. ANSTETT: Mr. Chairman, specifically to the question or concern raised by Mr. Mercier. I would draw to his attention the experience of which he may be aware from the 1975 by-election in Wolseley, in which a so-called - and I say it so-called because they were self described, and certainly described themselves inappropriately, as a group of concerned independent citizens who went at great lengths to attack the personal character of the candidate who was his party's candidate in that election, in the form of personal letters mail-dropped by individual door-to-door dropping by this group, throughout the Wolseley constituency. The material was not authorized by any political party. It was an expression of opinion soley by individuals, who as it turned out were members of a political organization not represented in this House at the present time. But nonetheless it was a dirty tricks intervention in the campaign of the type that Section 48 specifically prohibits through the authorization mechanism.

The exemption that's proposed in the amendment addresses the fair expression, legitimate expression of public opinion, which I think members opposite were concerned about when they spoke to the bill on second reading. The amendment attempts to address that concern, but not go so far as to allow specifically that dirty trick example, or any that the Attorney-General might choose to describe, as part of the thing that's controlled by the authorization mechanism.

The other major thing that's controlled is the unauthorized endorsation. The old story about the Texas republican, who was told he would be run against, or he would be campaigned against by a very pink tainted New York Congressman, and laughed at it and said he'd be happy to have him come to Texas to run against him. He was told in reply that he wasn't thinking of running against him, he was thinking only of endorsing him.

It's those kinds of threats, and those kinds of dirty tricks, that get involved and that's why the authorization mechanism has been in most provincial election expense and election campaign control mechanisms for many years.

HON. R. PENNER: And indeed in the current act, in Sections 177 of the current Elections Act.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: Mr. Chairman, what this Section 48 is doing, in effect, is saying that it's an offence for anyone to publish material without the authorization of a candidate - it doesn't matter what candidate - if that material is designed to either support or oppose anyone running in that election.

MR. A. ANSTETT: The caveat that is proposed in the amendment, which addressed the concerns raised, we think, by opposition members in second reading debate that this was too limiting and that the free expression of opinion of individuals was being infringed upon. The amendment attempts to address that without, at the same time, allowing individuals to go to great expense to support or oppose in the form of circulars or other material; in other words, getting actively involved in the campaign by the expenditure of funds.

MR. G. FILMON: So we're limiting it by this amendment to not include letters to the editor, but it does limit anybody putting out leaflets, either for or against any candidate in an election without authorization by a candidate.

MR. A. ANSTETT: That's certainly true in that, but the current exclusion of that activity in terms of leaflets or pamphlets or signs exists in the current statute passed in 1980 and existed in the previous statutes in The Election Act — (Interjection) — no, in the Election Act. The new Election Act passed in 1980 contained the prohibition.

It has been expanded here slightly, and mainly "letter, card" is the expansion, I would suggest. As soon as the word "letter" was used, that then caused the infringement that opposition members recognized. It is just that specific one that the amendment addresses. The balance has been there since before - I believe, 1970, that amendment was first inserted in the original Elections Act. It may have been there even before that.

MR. G. FILMON: So what the government is saying, in effect, is that there is no such thing as a lobby group, such as the group of concerned citizens. How does that affect, for instance, the equivalent of the Moral Majority publishing, printing, sending out information with respect to their evaluation of candidates? They would not be authorized by any political party or candidate to do that. Does that mean that they can no longer do this?

HON. R. PENNER: The Moral Majority, to use that example, is not prohibited from making general statements of issues it sees as being important in the election. It cannot, however, specifically support a party or a candidate without the authorization and the revealed authorization of the party of candidate. But it can say, the wages of sin is death. Stupendium picate mores est. Be careful. Look before you leap. There are instruments of the devil amongst you.

You can say that, but once it says that the instruments of the devil are to be found in the ranks of the X Party, it's got a problem.

MR. G. FILMON: Just one further question. My understanding therefore is that if they did a survey, such as has been done in the past, of the positions of candidates or parties on certain issues and then utilized

that to either support or oppose a party, they could do that through the public media, assuming the media would give coverage to their survey if they made it public, but they could not send copies of that survey out to electors as a means of either supporting or opposing particular candidates or particular parties under this act.

MR. A. ANSTETT: If the material that they propose to distribute, rather than have published as a news story, contained endorsations or opposition to political parties or candidates, the member would be correct. But if it was, as the member suggests, a factual presentation of the results of the survey on issues of public concern, that would not be limited as I understand the proposal.

MR. G. FILMON: Could we have that clarified, because that is, in fact, the technique that they use?

MR. A. ANSTETT: I would suggest to the member to turn the page to Section 49, which specifically provides the kinds of expenditures with relation to issues of public policy.

In other words, the Teachers' Society could encourage greater expenditures in certain types of educational policy, which might happen to conform with the position of one of the parties in the election, but without making reference to or endorsing that party.

The Insurance Bureau of Canada could publish their ads reminiscent of the '77 campaign with the seagulls, etc., and that would not limit their right to do that.

Section 49 specifically provides for that freedom of expression. That applies to an individual or an organization. So there is that specific protection for freedom of speech.

MR. G. FILMON: As I read it, that specific protection is for the expenses not to be included as election expenses, but it doesn't clarify the position on whether or not people can do that if it's intended to influence a voter.

MR. A. ANSTETT: Mr. Chairman, my understanding, and Counsel could advise further, is that where an expenditure is deemed not to be an election expenditure, then it's not subject to the prohibitions that are contained in the act. The only types of expenditures that are controlled are those that are defined as election expenditures. If it's not defined as an election expenditure, it is then a legitimate activity that can be carried on on an ongoing basis, whether or not it is between the writ and polling day or not.

MR. G. FILMON: Could we have that clarified that by either the Attorney-General or the Legislative Counsel?

HON. R. PENNER: Legislative Counsel.

MR. CHAIRMAN: Mr. Szach.

MR. E. SZACH: In Section 48, it is true there is no specific reference to the incurring of expenses. However, the reference contained therein is to supporting or opposing candidates. In effect, there is considerable overlap between that exercise and the incurring of expenses, but it is true that, in the example the member gives, a survey result could be published through the media. If it's published privately and distributed, there is virtually no way it can be done without incurring expenses, and that would require authorization. So as a matter of terminology, there is not necessarily overlap, but in fact there would be.

Just to clarify the scope of Section 48, indeed if it's not published in the form of a letter to the editor or otherwise through the media, the intention was to require the authorization.

MR. G. FILMON: Then that means that we now have the situation where the Moral Majority or their Canadian equivalent could not publish their surveys. I assume as well that the MGEA could not publish their surveys, as they did during the last election campaign, and the Manitoba Teachers' Society could not publish their surveys of the stands on issues by election parties as they did during the last election campaign and others.

HON. R. PENNER: I don't know if we are meeting the same issue, but it seems to me that the operative words that really control the issue are, "the purpose of which is to support or oppose a candidate or registered political party." If an organization takes a survey on an issue and - well there are two different kinds of surveys, at least, which might bear on the issue. If it's a survey of public opinion, there is nothing that prevents it, I presume, from publishing at its expense or having published through the media the results of that survey. But if it is taking what purports to be a survey of the opinions of particular candidates and publishes that in a form - that is, in a form of an advertisement - the purpose of which is to support or oppose a candidate in the form of an advertisement is that then comes within the prohibition.

MR. G. FILMON: Just to continue on that line of questioning, I can recall that, for instance, the pro-life people have in the past, by virtue of their surveys, then come out and published information without any authorization from candidates. They have specifically selected candidates of all parties saying that they recommend opposition to those candidates because of their stand on the abortion issue, for instance.

They have listed, I can recall, from all parties, those who are pro abortion, and that they recommend that people not support it. They're prohibited now from doing that obviously.

MR. A. ANSTETT: Yes, Mr. Chairman, clearly they would be prohibited from doing what the member suggests. The provisions in Section 48 though, combined with 49, would provide that that organization could list responses to the particular issue that they were concerned about, and as long as those responses did not indicate a lobby to the public to either support or oppose particular individual candidates, because then it's a vehicle, in effect, for election advertising.

Now, the difficulty in Section 49 - when we come to it I'd like to discuss it in more detail - is that there is a diffuculty in 49(b) that we might have a look at in terms of addressing the specific concern the member

has, because I don't think that an ad publishing the views of 25 or 30 candidates, who an organization happened to survey, and just quotes their position and then suggests to the public that they consider these above positions in making their decision on election day would be something we'd want to prohibit. It would be the recommendation of that organization which is then the direct intervention by supporting or opposing a party or a candidate that creates a loophole to the whole expense process when outside or other organizations are allowed to expend dollars on election advertising. You have to draw the line at where direct support or endorsation is limited.

MR. G. FILMON: Well, I can recall very clearly in recent elections, for instance, the Manitoba Teachers' Society publishing on the eve of the election what in essence amounted to an endorsation of a party because of its position on certain issues and certain union groupings as well. — (Interjection)—

MR. A. ANSTETT: That would be prohibited.

MR. G. FILMON: You're saying it's prohibited. Okay, as long as I understand it.

MR. G. MERCIER: Mr. Chairman, when I spoke to this section on second reading, I indicated it offended I think the principle of freedom of speech, and I think it even goes further. It suppresses information, Mr. Chairman, because the wording, "No person or organization shall print, publish, or distribute any promotional material; the purpose of which is to support or oppose a candidate," means that the newspapers in this province will not be even be able to report on a survey or on a position taken by an interested group, and there are many throughout the province that have almost traditionally taken positions on issues with respect to candidates and parties during elections. It could almost be interpreted to mean that the editorial columns of newspapers could not, as they usually do at the end of an election, take an editorial position with respect to which party they recommend to the electorate. "No person or organization shall print, publish, or distribute any promotional material; the purpose of which is to support or oppose a candidate or a party," the wording is extremely broad and dangerous, Mr. Chairman.

The Member for Springfield refers to an incident that took place in the 1975 by-election in Wolseley, of which I have no knowledge, and cites that as a reason why we should not allow these comments to be made.

In a democracy, Mr. Chairman, you have to take a risk in allowing freedom, and the incidences where I think the principle of freedom of speech in elections has been abused is really not that many. I suggest this is dangerous legislation. Individuals, for example, on an issue that might come up that they feel is important are not going to be allowed to distribute a letter in their neighbourhood, for example, on something that they feel is important. This wording can be used to suppress information in the newspapers and editorial comment, and it is simply not justified.

HON. R. PENNER: Well, that is absolutely wrong. I would draw the member's attention to the amendment, which in fact is I believe now been passed, that Clause 1(b) does not include a commentary, and that would be an editorial or a column by Arlene Billinkoff, a Letter to the Editor, or a similar expression of opinion of a kind normally published without charge in a newspaper, magazine, or other periodical publication.

Secondly, we all know - the Member for St. Norbert knows - that there is no such a thing as absolute freedom of any kind, including absolute freedom of speech. The Charter does in Section 1 talk about reasonable limitations. It's clear that there is a problem that has to be addressed. It's not, indeed, anything that is addressed by us for the first time; it's presently contained in The Election Act passed by the previous administration. So to try to raise the specter of squelching freedom of expression I think is unfair and misses the point.

I would say this, that if the members - St. Norbert, Tuxedo - feel that there's something that might be done to improve the clause that by all means we're prepare to look at it between now and report stage, but just this blanket kind of assertion about squelching freedom, in view (a), of the amendment proposed; and (b), of their own legislation, just doesn't wash.

There is a problem. I think that is recognized by the members who have spoken. We do address it substantively in the same language that they have used to address it. Indeed, we go further with the amendment in terms of protecting freedom of expression. If there's something else that might be done to make sure that we, at one and the same time, prevent the phenomenon of dirty tricks and it is not an isolated thing. It is not unknown in Canada; it is not an American phenomenon. It is not something confined to the Haldeman days in California, or to the Watergate type of scenario. It has been known in other provinces, perhaps we live in some pure backwash here, I'm not so sure.

Let's work constructively. If you have a suggestion I would certainly be willing to look at that between now and report stage.

MR. G. MERCIER: Mr. Chairman, the proposed amendment is very vague. It does not, for example, clearly and explicitly allow normal editorial comment. It refers to a commentary letter to the opinion, or similar expression of the kind normally published without charge and leaves me with the distinct impression that they're all in the category of a citizen's opinion sent to a newspaper in one form or the other.

Has the Attorney-General, the words - no person or organization shall print, publish, or distribute any promotional material, the purpose of which is to support, or oppose, a candidate or registered political party. Does that not mean where a group - whatever group it is - say it's MGEA, who've done a survey of candidates, and parties, and hold a press conference to announce the results and on the basis of their survey they announce support for X political party. Could that not be interpreted to come within promotional material, the purpose of which is to support or oppose a candidate or registered political party, and therefore the press couldn't print it?

HON. R. PENNER: I don't think that is what this - well certainly it's not what this is intended to do. I don't think that it does.

So that, for example, if the MGEA, to that particular example, was the renaissance international in the last election, attempt a survey a of candidates and if the candidate, in at least one instance, is dumb enough to answer then they have to bear responsibilty for their answer just as much as if they gave an interview to the press and said that my position on this particular question is this. Then, if they'd said that, and it's being reported, then there's nothing that prohibits the reporting of that. It comes within the amendment as intended.

MR. A. ANSTETT: Mr. Chairman, clearly Sections 48(1) and 48(2) relate to those things that would normally cost the organization, or individual, that's involved in doing this, dollars to do an advertisement, prepare posters, promotional materials, signs, or banners. Definitely not talking about news stories, or news broadcasts, which is what the member is alleging. To suggest that it can be interpreted that way really stretches any possible interpretation.

The emphasis particularly in 48(2) is on advertisement. If the member looks at advertisement it's very clear that what we're talking about is paid space, we're not talking about news, we're talking about paid space. I think the member knows that.

Now when we talk about freedom of speech, which seems to be the member's primary concern. This seems to be a volte face on his part because just three years ago last month he was proposing a truth squad which if someone in an election campaign was found not telling the truth, as to be determined by I know not whom, that person could be fined and go to jail.

Now the member's concerned that the newspapers might in some way not be able to print news stories about things that go on during the election campaign. Now the prohibition is on the MGEA, for example, publishing on their own promotional material. Not upon newspapers publishing a news story reporting on a survey or anything like that. I think that comes out very clearly in the legislation.

MR. G. MERCIER: Mr. Chairman, perhaps Legislative Counsel would like to advise the committee that the section to which the member referred was inserted in the act completely without my knowledge.

HON. R. PENNER: I'll accept that if the member says so.

MR. C. MANNESS: Well, Mr. Chairman, listening to the discussion here, my interpretation of the situation would be such that I, as an individual, or a high profile individual, let's say, in my riding who was non-aligned to a political party, but who wanted to take a view, and wanted to put out a pamphlet that included let's say, word for word, the same comments that an editorial, that a newspaper might be putting out four days before the election, that person, if he did so on his own without authorization, completely independent from anybody, would be subject to a $1,000 fine expressing his total freedom of speech. But a newspaper, again using the same words, four days before the election, putting it in an editorial page supporting, or opposing any political party would be treated in a completely different light. Now I'd like some clarification as to whether my interpretation is correct.

HON. R. PENNER: Well, if you look at the amendment that is proposed it talks about this kind of commentary letter, etc., published without charge in a newspaper, magazine, or other periodical publication. So that if the publication referred to by the member, in his example, is not a newspaper magazine, or other periodical publication, then he is correct. But nevertheless the piece, the leaflet, pamphlet, whatever it is, would have to be distributed during an election period for the purpose of supporting, or opposing a candidate, or registered political party before it came within the strictures of the section, or to be within the operative words of 48(2) dealing with advertisements. I think that answers the question.

MR. G. FILMON: Mr. Chairman, it seems to me that any information that's put out by an organization, that presents views of parties upon issues to do with the election, is either supporting or opposing those people — (Interjection) — because, no, there's no such think as presenting facts. They're presenting facts in order to arrive at an interpretation, and they have to be either supportive, or opposed, either way, even if they're just presenting the responses in . . .

MR. A. ANSTETT: All the people behind you are biased.

MR. C. MANNESS: Nobody just puts facts out for the sake of putting out facts.

MR. G. FILMON: That's the position that has to be interpreted from this in that otherwise there's no point in publishing that information if it isn't designed to arrive at a conclusion on behalf of the person either supportive or opposed. So therefore none of that could be done by any organization as I interpret it.

HON. R. PENNER: Well, Mr. Chairman, we're spinning our wheels. I've made a suggestion to the members who are raising some concerns that if they have specific suggestions for changes which might be made to 48(1) or 48(2) I'm certainly prepared to look at those.

MR. CHAIRMAN: Is there any further discussion on the proposed motion?

Mr. Johnston.

MR. F. JOHNSTON: Just one, I know the Attorney General has mentioned that there be some suggestions put forward to him but to clarify something else, in the 1969 election, the Teachers' Association in St. James-Assiniboia and several other associations throughout the city published a survey to all their members giving the position of everybody that was running on a particular Green Paper that had been presented before the election. Are they able to do this now?

HON. R. PENNER: I don't know. I was too young in 1969?

MR. F. JOHNSTON: That's very obvious.

MR. CHAIRMAN: Is there any further discussion on the proposed motion for amendment? Mrs. Hammond.

MRS. G. HAMMOND: Just one comment on the dirty tricks. Here again, I think that we have something that it's just impossible to outlaw because if someone is going to do that kind of thing, no doubt, it'll be done anonymously under the guise of concerned citizens or under the guise of whatever you like. So, I don't think that that's a door that you're going to close. By trying to put all these things in to close that door, I don't think that this amendment or any amendment is going to manage that.

MR. CHAIRMAN: On the proposed motion of the Honourable Attorney-General an amendment amending Section 48(1). Is it agreed? (Agreed) Pass.

Page 30, as amended—pass on division; Page 31—pass; Page 32—pass; Page 33 - excuse me. You didn't have the motion for amendment for Section 48(2), Page 30.

HON. R. PENNER: 48(2), Page 30:

THAT subsection 48(2) of Bill 48 be amended by striking out the word "advertisment" in the second line of clause (b) thereof, and substituting therefor the word "advertisement", with an "e."

MR. CHAIRMAN: Any discussion? Page 30 as amended again—pass.

Page 31 - Mr. Anstett.

MR. A. ANSTETT: Mr. Chairman, on 49, I would like to ask the Attorney-General to consider an amendment in 49 which will address - and I think this can be done at report stage - the concerns raised by the Member for Tuxedo and also the Member for Sturgeon Creek.

I'm particularly concerned about the phrase "without naming or otherwise identifying." I think perhaps the operative language could relate to an extension of the "without supporting or opposing" candidate or political party. I just offer that as a suggestion so that the opportunities to publish survey results and to provide information, which may well influence the public, but at the same time is not an endorsation or opposition, but the right to provide the information would be obtained, but still maintaining the prohibition on direct support or opposition. I think that might be worth looking at for report stage.

HON. R. PENNER: Would you just run that by me again?

MR. A. ANSTETT: Concern about 49(b), the right to distribute information which provides the positions of candidates or parties on particular issues without supporting or endorsing those parties is limited by the phrase without naming or otherwise identifying the party or candidate. I think perhaps the use of the words "supporting or opposing" that are used elsewhere in the act might be better used in 49(b) to eliminate some of the problems both the Member for Tuxedo and the Member for Sturgeon Creek are referring to.

HON. R. PENNER: Yes, we're certainly prepared to look at that.

MR. C. MANNESS: Mr. Chairman, on that point, does that then give me the right as an individual to take a survey in the coffee shop in my small hamlet in my constituency; the right now then to prepare a leaflet and send out those same survey results on the issues, in effect, endorsing a candidate?

MR. A. ANSTETT: Well, the suggestion I have made to the Attorney-General is that the direct opposition or support of a candidate, and I take it endorsation is support, would still be prohibited. It would be strictly the provision of the information. If a newspaper, or if you wanted to go to the expense yourself to publish the results of your survey, there is a certain obvious line as to how much you can put into that material before it becomes an obvious case of supporting or opposing a political party. Obviously the line to be drawn is the one between information and advocacy, and as members opposite have said and I agree, that's a fine line to draw. Usually in these cases it's clearly one or the other.

HON. R. PENNER: Really, we're not after the coffee shop poll or the hamburger poll or the toothpick poll. We're really going along the lines already chartered by the opposition when they recognized in The Election Act the problem associated with these unauthorized kinds of supports and so on, which in fact can be a not-so-hidden dagger. I'm really prepared to look at anything that might be done to strengthen the provisions of the act with respect to not unduly restricting freedom of speech.

MR. CHAIRMAN: Thank you for your suggestion on Page 31, Mr. Anstett. Page 33.

HON. R. PENNER: Page 32.

MR. CHAIRMAN: We passed 32.

HON. R. PENNER: Did we?

MR. CHAIRMAN: Mr. Manness on 32.

MR. C. MANNESS: Mr. Chairman, I'd like to ask the Attorney-General the rationale used under 50(2) for breaking out (a) and (b) as far as the levels of support based on square miles?

MR. A. ANSTETT: Mr. Chairman, if I may very briefly, there are only two constituencies at the present time in the Province of Manitoba that have in excess of 30,000 square miles. There are only two that even approach that total and those would be Rupertsland and Churchill. Clearly the costs of running a campaign, since all the travel and other expenses included are much higher in those two constituencies, and the difficulty with naming the constituencies in the act is then the act has to be changed if there is a redistribution that changes the names.

Then, of course, if a redistribution changed the size to a much more reasonable size, in either of those two cases some other constituency might become large. So, it's to accommodate the special expenses, mainly travel expenses, associated with campaigning in very large constituencies like that. If members were to peruse the expenses of candidates of all parties running in

those two constituencies in the last election, they'd see the merits of that amendment or that special provision.

MR. C. MANNESS: Just one further question. Do the figures $1.25 and $2.00, do they reflect the actual experience of costs over several elections by all parties?

HON. R. PENNER: I can't answer that question; I believe it does. It really is only an estimate, but there is another factor that forms part of the rationale for 50(2); that is, in these large remote kinds of areas, they are larger and more difficult to get around and also have fewer voters. So even though on the one hand it's more expensive to campaign, but there is - actually you get less of a subsidy.

MR. A. ANSTETT: Even at $2 a head, they'll end up with less money. Mr. Chairman, to Mr. Manness's question on (b), certainly at $2 a head, a Northern constituency, such as Churchill or Rupertsland, will end up with far less money than he might in Morris or I might in Springfield. The city, of course, would even have more.

The other question he asked with regard to the amounts, these amounts do reasonably reflect costs incurred in the last election campaign, as reported. As well, there is later on in the act a provision where the Chief Electoral Officer in application of the formula - I believe it's by regulation, we'll come to it later - can increase that to reflect increases in the CPI.

MR. CHAIRMAN: Page 32—pass; Page 33 - Mr. Penner.

HON. R. PENNER: I move:

THAT Section 52 of Bill 48 be amended by striking out the word "proclamation" in the 2nd line thereof and substituting therefor the words "coming into force."

MR. CHAIRMAN: Any discussion? Pass. Page 33 as amended—pass; Page 34 - Mr. Penner.

HON. R. PENNER: I move:

THAT Section 54 of Bill 48 be amended by striking out the words "revised voters' lists in the electoral division" in the 1st and 2nd lines of clause (a) thereof and substituting therefor the words and figures "voters' lists in the electoral division as revised up to the end of the 4th day after the day fixed for the close of nominations of candidates in the election."

MR. CHAIRMAN: Any discussion? Pass. Page 34 as amended—pass; Page 35 - Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, Section 56(1) which carries onto the following page is supposedly a restriction on government advertising, except in (c) "in continuation of earlier publications or advertisements concerning ongoing programs of the department or Crown agency," we have witnessed the Jobs Fund advertisements going on for some period of time with no other purpose other than to prop up the image of the government.

For the Attorney-General to suggest that we're going to have this great restriction on government advertising and then to include the words, "in continuation of earlier publications or advertisements concerning ongoing programs of the department or Crown agency," when we have seen what the government is doing with the advertising of the Jobs Fund, it somewhat makes a mockery of the Attorney-General's statement.

MR. A. ANSTETT: Mr. Chairman, if I understand the member's concern, it is that the continuation - and I would like him to correct me if I'm misinterpreting - provided for in (c), which for certain programs may be necessary, could be used by a government to then expand dramatically the advertising on that program to elicit the support of the public for that program and thereby that party in its re-election campaign?

I don't think he is suggesting that the normal continuation at the same level of expenditure should not be done, if it is an ongoing program.

HON. R. PENNER: I would think that the Member for St. Norbert should first note that this restriction on government advertising is entirely new; that it is - and I would hope that he would say so - a commendable initiative. We have had experiences all too recently in some jurisdictions - I name them not - where the suggestion has been made, perhaps by mean-spirited people, that all of a sudden that there is advertising that really is not related to a particular ongoing program that needs to be advertised from time to time.

You suddenly have a bulge in the period immediately preceding an election that talks not so much about the particulars of a program or how you apply for it or anything of that kind, but seems to suggest the wonders that have been and the rosy future that will be. It's this kind of thing; it is a commendable departure.

Now, if the Member for St. Norbert has a suggestion as to how it might be strengthened, we are prepared to look at it.

MR. G. MERCIER: Mr. Chairman, what I am saying to the Attorney-General is that the government's performance in advertising the Jobs Fund at great cost to the taxpayer of Manitoba for no real justification, other than to improve the image of the government, gives us little reason to think that the government's actions with this exemption will be commendable.

MR. CHAIRMAN: Amendments to 56(1) - Mr. Penner.

HON. R. PENNER: I move:

THAT subsection 56(1) - we should deal with Page 35. The amendment is to 56(1), but it's on Page 36.

MR. CHAIRMAN: Page 35—pass; Page 36 - Mr. Penner.

HON. R. PENNER: I move:

THAT subsection 56(1) of Bill 48 be amended by adding thereto, immediately after the word "law" in the 2nd line of Clause (e) thereof, the word "or," and further by adding thereto, immediately after Clause (e) thereof, the following clause:

(f) where the publication or advertisement is deemed necessary by the Chief Electoral Officer for the administration of an election.

MR. CHAIRMAN: Any discussion of the amendment? Pass. Page 36 as amended - Mr. Anstett.

MR. A. ANSTETT: Mr. Chairman, on Page 36, Section (c) then of 56(1), a question for the Member for St. Norbert in anticipation of possibly suggesting an amendment to the Attorney-General. Would the concerns of the Member for St. Norbert . . . ?

HON. R. PENNER: Are you guys ganging up on me?

MR. A. ANSTETT: No, I'm looking to address the member's concerns.

In Section (c), for the Member for St. Norbert, Mr. Chairman, if Section (c) were to provide that there be no bulge - as I think someone used the word - in expenditure, in other words, no increase in the level of expenditure for these ongoing programs, would that address the concern, so that ongoing programs would not suddenly bulge at or during an election campaign? If that wouldn't address the member's concern, then I won't suggest that an amendment be looked at to accommodate that but, if it will, well, we can consider it.

MR. G. MERCIER: It wouldn't satisfy our concerns, Mr. Chairman, because we are concerned with the current level of advertising that is going on.

MR. A. ANSTETT: Obviously, we're planning an election.

MR. CHAIRMAN: Order please.

Page 36 as amended—pass; Pages 37 to 47 were each read and passed.

Page 48 - Mr. Manness.

MR. C. MANNESS: No, just hold it for a second if you could, we'd like to collect some thoughts.

MR. CHAIRMAN: Page 48 through Page 51 were each read and passed.

Mr. Mercier on 52.

MR. G. MERCIER: Sorry, I'm just wondering about the wording of Section 94. I can understand with the results of the attempted prosecutions following the last election that there has to be an amendment to extend the period of time. I'm just wondering about the wording "may within six months prosecute, but no prosecution shall be initiated more than two years." Would it not be preferable to establish a specific limitation period?

MR. G. MERCIER: Excuse me, Mr. Chairman, would one year not satisfy the requirement?

HON. R. PENNER: I might just explain the reasoning.

Some of the reports which are required to be filed don't have to be filed until, say, three months after the end of the election period. Some of the information, which is required to be filed, might go back before an election, say six months, so you're already at nine months. You may be pressing the limitation period. That's why the two years is there, but certainly I'm prepared to consider one year, we'll look at it.

MR. CHAIRMAN: Page 52—pass; Page 53 - Mr. Penner.

HON. R. PENNER: I move:

THAT subsection 96(1) of Bill 48 be amended by striking out the words and figures "or 56(1)" in the second line thereof.

MR. CHAIRMAN: Any discussion? Pass.

Page 53 as amended—pass; Page 54 - Mr. Penner.

HON. R. PENNER: I move:

THAT Bill 48 be further amended by adding thereto, immediately after section 96 thereof, the following section:

96.1(1) Any person who alleges a violation of subsection 56(1) may apply to a judge of the Court of Queen's Bench for a declaration that subsection 56(1) has been violated.

MR. CHAIRMAN: Any discussion?

HON. R. PENNER: It goes on 96.1(2), Subsection 96(2) applies with necessary modifications to an application for a declaration under subsection (1) - remember the good old days when we used to say mutatis mutandis. 96.1(3) Upon hearing an application under subsection (1), the judge may

(a) declare or refuse to declare that subsection 56(1) has been violated; and

(b) award costs for or against any party to the hearing; and the decision is final and binding and there is no appeal therefrom.

MR. CHAIRMAN: Any discussion of the motion? Pass.

Page 54 as amended—pass; Page 55 - Mr. Penner.

HON. R. PENNER: After we pass 55, I think I can make the motion.

MR. CHAIRMAN: Page 55—pass.

Mr. Penner.

HON. R. PENNER: I move:

THAT Legislative Counsel be authorized to renumber the provisions of this act in order to eliminate decimal points.

MR. CHAIRMAN: Any discussion—pass; Title—pass; Preamble—pass. Bill be Reported.

BILL NO. 74 - THE ELECTIONS ACT (2)

MR. CHAIRMAN: Bill No. 74, what's the will of the committee? Page-by page?

Page 1 through 6 were each read and passed; Title—pass; Preamble—pass. Bill be Reported.

MR. CHAIRMAN: Bill No. 112, Statute Law Amendment Act.

BILL NO. 14 - THE ELECTIONS ACT

HON. R. PENNER: Before we do The Statute Law Amendment, and perhaps in order to save something

being brought in at report stage, Legislative Counsel has prepared an amendment to Bill 14 dealing with the suggestion made by the Member for St. Norbert about the federal provision with respect to occupations. If I can just read it. I'll get my copy of the act, Bill 14. I move:

THAT subsection 73(7) of this act is amended by striking out the word "and" in the last line of clause (a) thereof, and by striking out clause (b) thereof, and substituting therefor the following clauses.

(b) in the same space as the name of each candidate

(i) in the case of a candidate endorsed by a registered political party, including a political party which becomes registered during the election under clause 12(b) of The Elections Finances Act, the name of the registered political party; and

(ii) in the case of a candidate not endorsed by a registered political party, the word "Independent;" and

(c) where the name of two or more candidates on the ballot paper are the same or so similar that in the opinion of the deputy returning officer confusion may arise as to the identity of the candidates, in the same space as the name of each candidate the occupation of that candidate, as reported to the deputy returning officer by the candidate, on request of the deputy returning officer.

MR. CHAIRMAN: Is it the will of the committee to return to Bill 14 and consider that amendment? (Agreed) Any discussion of the motion? Mr. Anstett.

MR. A. ANSTETT: Just a question, Mr. Chairman, for Mr. Mercier. I take it that the occupation would be used to distinguish between two independent candidates who had similar names or between any candidates? In other words, it's felt that the distinction between Joe Smith, Independent, and Joe Smith, Liberal, is not sufficient without that additional identification but only where the names are identical.

MR. G. MERCIER: That's not as far as we would like to go, but that is as far as the government . . .

HON. R. PENNER: And that's the federal provision.

MR. CHAIRMAN: Any further discussion of the motion? Is that agreed? (Agreed) Does the Attorney-General have that in writing? The translation will be forthcoming.

BILL NO. 112 - THE STATUTE LAW AMENDMENT ACT

MR. CHAIRMAN: Bill 112, The Statute Law Amendment Act. Page by page? Page 1—pass; Page 2—pass; Page 3—pass; Page 4? Mr. Mercier, Page 3 or Page 4?

MR. G. MERCIER: Page 3, the definition in Section 9, "a person employed in a private family home and paid by a member of that family where the person is employed as a sitter to attend primarily to the needs of a child who is a member . . .

HON. R. PENNER: Mr. Mercier, I was just temporarily absent from the table here, you're dealing with Section . . .

MR. G. MERCIER: 9, Page 3.

HON. R. PENNER: Page 3, yes, forgive me, go over your point again.

MR. G. MERCIER: Mr. Chairman, I'm just wondering whether this definition is too restrictive because it seems to confine the definition of babysitter to a person who babysits a child in a home where the child would be in that child's home. I can envision circumstances where the babysitting - and it would be pure babysitting - will take place in the babysitter's home. I think all you have to do is look at the ads in the newspapers and you see that situation occuring very regularly where people indicate they are prepared to babysit a child in their home. In fact, I think the difficulty is to get a babysitter to come to your home to do the babysitting because it's not done for a lot of money, and I think that's what perhaps keeps the cost down in most cases to single parent mothers who want to find a place to have their child looked after while they work and this definition seems to be very confining.

HON. R. PENNER: There's a problem here, I'm going to ask the Member for Wolseley to comment on it. That is, there is the problem of a possible overlap between the kind of situation referred to by the Member for St. Norbert, and I'm familiar with it where the children are in fact babysat in another home and the day care centre situation where, in fact, let's take a situation where the person with whom the child is placed for babysitting has more than the one child and has already in a sense more of a commercial enterprise. I don't know if we can meet the concern raised by the Member for St. Norbert without doing violence in a sense or an injustice to the day care control provisions. I wonder if the Member for Wolseley would like to comment on that.

MR. CHAIRMAN: Ms. Phillips.

MS. M. PHILLIPS: Thank you, Mr. Chairperson. The situation the Member for St. Norbert refers to in terms of someone advertising to take a child into their home, usually where they term that to be babysitting and where they have less than the number of people required under the day care legislation - or number of children - that would mean they would need a licence and they would become a private family day care home. If they had one or two, for instance, they would then be able to do that which would separate them from the situation where someone comes into another person's home and is expected then to do other kinds of domestic chores and would be a domestic versus a babysitter. If they had four children, for instance, including their own and above, they would have to be licensed as a family day care home. If they have under that, if they have three and under, they don't have to have a licence. They can choose to have a licence, but they are not required to have a licence. It's based on the numbers.

MR. G. MERCIER: Mr. Chairman, I don't believe there is any intention on the part of the government to affect

that situation where a parent takes a child to another home purely for the purpose of babysitting. Could I suggest to the committee that if you struck out the words in the 1st line, "in a private family home," and then in the 2nd line struck out "and paid by a member of that family," and further on in the 5th line struck out "who is a member of the household," so that it would read: where a person employed as a sitter to attend primarily to the needs of a child or as a companion, etc., would that not adequately cover the situation and not exclude this other situation where the child is taken to another home for babysitting?

HON. R. PENNER: I see no problem with that, but I'd rather than doing it now, do it at report stage. I would like to touch base with the Minister.

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

MR. G. MERCIER: Mr. Chairman, with respect to Section 16, I think we on this side want to clearly go on record as opposing the amendments to The Labour Relations Act which take away completely the discretion of the Labour Board with respect to whether or not they can impose a first contract. We have, I think, argued that for a long period of time and our position is clear. I guess we'll have to oppose this page on division because of that reason.

MR. CHAIRMAN: Page 5, on division; Page 6—pass; Page 7—pass; Page 8 - Mr. Penner.

HON. R. PENNER: Yes, there's an amendment. I'm sure there is an amendment, I've been told there's an amendment. I don't have the amendment; somebody's got the amendment.

I move:

THAT the proposed new subsection 32(16) of The Planning Act as set out in subsection 23(2) of Bill 112 be amended by striking out the words "jurisdiction of" in the 4th line thereof and substituting therefor the words "area affected by".

MR. CHAIRMAN: Any discussion of the motion? Pass. Page 8, as amended—pass; Page 9—pass; Page 10—pass; Page 11 - Mr. Mercier.

MR. G. MERCIER: I presume, Mr. Chairman, in taking my suggestion with respect to The Labour Standards Act, the same suggestion would apply to Section 31?

HON. R. PENNER: Yes.

MR. CHAIRMAN: Page 11, on division—pass; Page 12 - Mr. Mercier.

MR. G. MERCIER: Does the effect of this amendment to The City of Winnipeg Act continue indefinitely the freeze on assessment?

HON. R. PENNER: No. I'll ask Legislative Counsel to explain directly.

MR. R. TALLIN: You recall that a few years ago an act was passed to provide that the failure of an assessor to make a triennial assessment or perhaps - I forget which one, in The Municipal Act and The Winnipeg Act there were two periods, one was five years and the other was three years - that the failure to make a triennial or consensual - or whatever it's called - quinquennial assessment would not be a grounds for invalidating an assessment roll. At that time, when that bill was passed, it was a failure to complete those before December 31st, 1983. This is removing that time limit, so that grounds for invalidating the assessment roll will be wiped out until the whole section is changed.

MR. CHAIRMAN: Page 12—pass; Page 13—pass; Title—pass; Preamble—pass. Bill be Reported.

Committee rise.