



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

STANDING COMMITTEE

on

MUNICIPAL AFFAIRS

31-32 Elizabeth II

Chairman
Mr. A. Anstett
Constituency of Springfield



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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
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CARROLL, Q.C., Henry N.	Brandon West	IND
CORRIN, Brian	Ellice	NDP
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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	Virten	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
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MERCIER, Q.C., G.W.J. (Gerry)	St. Norbert	PC
NORDMAN, Rurik (Ric)	Assiniboia	PC
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PAWLEY, Q.C., Hon. Howard R.	Selkirk	NDP
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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Tuesday, 19 July, 1983

TIME — 10:00 a.m.

LOCATION — Legislative Building, Winnipeg

CHAIRMAN — Mr. Andy Anstett (Springfield)

ATTENDANCE — QUORUM - 6

Members of the committee present:

Hon. Messrs. Adam, Bucklaschuk and Kostyra; Messrs. Anstett, Ashton, Banman, Gourlay and Mercier; Mrs. Oleson; Mr. Scott

WITNESSES:

Representations were made to the committee as follows:

Bill No. 56 - An Act to amend The Brandon Charter

Mr. Fred Anderson, Deputy Mayor of Brandon
Bill No. 92 - An Act to amend The City of Winnipeg Act

Mr. Frank Steele, City Solicitor, and Councillor Jim Ernst of The City of Winnipeg

Mr. Paul R. Moist, Vice-President of the Winnipeg Labour Council

Mr. Kent Gerecke, President, Winnipeg Municipal New Democratic Party

Mr. Peter Regey, Amalgamated Transit Union, Local 1505

Mr. Ed Blackman, President, Canadian Union of Public Employees, Local 500

MATTERS UNDER DISCUSSION:

Bill No. 56 - An Act to amend The Brandon Charter, passed with certain amendments

Bill No. 92 - An Act to amend The City of Winnipeg Act

Bill No. 21 - An Act to amend The Municipal Act, passed with certain amendments

Bill No. 51 - An Act to amend The Local Authorities Election Act, passed with certain amendments

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MR. CHAIRMAN: Committee come to order. Ladies and gentlemen, the purpose of this meeting of the Standing Committee on Municipal Affairs is to consider Bills No. 21, 39, 47, 51, 56, and 92.

I have a list of individuals who wish to make representations to the committee. They are as follows:
On Bill No. 21, His Worship Mayor Penner of the Town of Altona.

Bills No. 47 and 92, Mr. Frank Steele and Councillor Jim Ernst, City of Winnipeg.

On Bill No. 92, Mr. Paul Moist, Winnipeg Labour Council; Mr. Ken Gerecke, President, Winnipeg Municipal New Democratic Party; Mr. Peter Regey, Amalgamated Transit Union, Local 1505; Mr. Ed Blackman, President, CUPE Local 500.

Is there anyone else in the audience who wishes to make a representation on any of these bills whose name I did not call?

Mr. Gourlay.

MR. D. GOURLAY: Mr. Chairman, yesterday I had a call from Mr. Rusk of the Union of Manitoba Municipalities indicating that their solicitor or someone from their association wanted to make a presentation, but they were all tied up today and couldn't be here. I suggested that they contact the Clerk and record that information with the Clerk of the House.

MR. CHAIRMAN: Mr. Adam.

HON. A. ADAM: Mr. Gourlay has indicated that the Union of Manitoba Municipalities wanted to make a presentation. They phoned my office and advised me that had not expected that the bill would come up so soon after second reading in the House. They indicated that they would like to have more time to prepare presentations, and I agreed to that.

MR. CHAIRMAN: Is the Minister speaking with respect to Bill No. 47?

HON. A. ADAM: Yes.

MR. CHAIRMAN: Is the Minister then suggesting that we will be holding an additional meeting after this meeting for further representations on Bill 47?

HON. A. ADAM: Yes.

MR. CHAIRMAN: Seeing no one else in the audience wishing to make representation on the bills before the committee - Mr. Adam.

HON. A. ADAM: Yes, as well, the City of Winnipeg has also made a request. They wanted to make a presentation on Bill 47 and they were not able to do it today.

MR. CHAIRMAN: The Clerk has a letter from the City of Winnipeg on that subject indicating that they would appreciate more time as well for both council review of their position and a chance to prepare their representation.

Is it agreeable to members of the committee, we'll hear from those members who are from out of town first, those being Mayor Penner and Deputy Mayor Anderson. Is that agreed? (Agreed)

Therefore, Your Worship, Mayor Penner from the Town of Altona, please come forward. Mr. Adam.

HON. A. ADAM: I'm not sure whether His Worship is here. I don't think he is. I did receive a call from him this morning indicating that he had expressed willingness to make a presentation on Bill 21, and was unable to make it here this morning. He indicated to me that he personally was opposed to amendments to Section 92 of The Municipal Act. However, he did add and that his council had passed the resolution authorizing a referendum for this fall. I don't know what the issue was that they were trying to get public opinion on. — (Interjection) — Mayor Penner from Altona. Is Mayor Penner here?

BILL NO. 56 - AN ACT TO AMEND THE BRANDON CHARTER

MR. CHAIRMAN: Deputy Mayor Anderson from the City of Brandon then, please come forward.

MR. F. ANDERSON: Mr. Chairman, members of the committee, I'm here with respect to the amendment to the Charter which was asking for a member of a service club to be included in the committee of management of the library arts complex. The letter the city has received, through the Honourable Mr. Evans, indicated that the motion that was passed asking the Legislature to amend the act to include a member of the Kinsmen was rather irregular and was not being looked upon favourably.

I'm here to answer any questions concerning this suggestion from the City Council. I'm caught between a rock and a hard place, as the expression goes, because riding on this motion, and on the decision that's going to be made by the Legislature, is \$150,000 which we urgently need to complete the second stage of this complex. That cost is in the neighborhood of 350,000 of which we have raised voluntarily 200,000, and this 150,000 was put up by the Kinsmen Club. They have already contributed 100,000 to the first stage.

Now we've been informed that unless this amendment to our charter to allow them to have a member of their club sitting on this board of management is approved that they are withdrawing this \$150,000.00.

I'm here to suggest to the committee, Sir, that consideration be given to enact an amendment to the Brandon Charter to allow only one member of the Kinsmen Club of Brandon to sit on the Library Arts Board of Management, and that the Kinsmen Club member be elected by the club membership annually. Now this is a suggestion, I don't know what the legality of this is going to be, or if it's going to be legally possible to do.

Now my reasons, and perhaps I should explain that - presently we have three members sitting on City Council elected, who are members of the Kinsmen Club, and let's conceive that this could happen again after this election. The Board of Management is going to be made up of three members from City Council, one member from the library people, one member from the arts people, one member at large, and conceivably one member from the Kinsmen Club. Now you can see if the three members from council were elected to this board, and the member at large that the Kinsmen Club literally would have control of this board of management.

That's the only concern that is now prevailing by other organizations in the city as to why the city would allow this to happen. So I'm suggesting if it's legally possible that the amendment be written so that they only can have one member irregardless of who he is sitting on that club. Now I'm not sure that that's legally possible.

I'm prepared to answer any questions, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Anderson.
Mr. Kostyra.

HON. E. KOSTYRA: Thank you, Mr. Chairman, and I thank Mr. Anderson for coming forward with respect to Bill No. 56.

The concern, Mr. Anderson, I think that's been expressed in regard to Bill 56 is that it specifically designates onto the Board of Management of the Western Manitoba Regional Library, combined Brandon Allied Arts Centre Management Board, that it specifically allows for appointment from a service club onto that board, and to our knowledge that does not exist with respect to any other such facility, be it in the cultural, library, arts, recreation area in the province. We're concerned with respect to the precedent that might set.

I ask you, that if the act as it's proposed right now was amended to allow for two representatives, two residents of the city, to be appointed by City Council, would the Brandon City Council appoint - that would leave Brandon City Council with the prerogative to appoint whoever it wished onto the management board provided they were residents of the City of Brandon - would that not be acceptable to the City of Brandon and therein you could appoint a member of the Kinsmen Club onto the board?

MR. CHAIRMAN: Thank you, Mr. Kostyra.
Mr. Anderson.

MR. F. ANDERSON: I followed that yesterday and I was lobbied very strenuously by the club yesterday. No, that is not acceptable to them.

If I might, just as an aside to what you have said, the Kinsmen Club historically - and they've been a terrific developer for cultural and recreational facilities in the city by putting up many many dollars - as a matter of fact it's over the million dollar fact right now. They have always tried to put themselves onto committees that control whatever cultural group or whatever recreational group, namely, the recent trial they made was to get onto the Sportsplex. Of course, it's easy to turn them down because those are departments of the city and are only operated by elected people and city staff, but this now is bringing in a board of management or a commission, whatever you want to call it, this is bringing in the public and they argue that they want representation on this. What you have suggested, Mr. Kostyra, they say a change of council could exclude them altogether from this and they would have no say in what happens to the Library Arts Complex?

HON. E. KOSTYRA: My question was not whether it was acceptable to the Kinsmen Club, my question was

whether or not it was acceptable to you as deputy mayor and the City Council of Brandon.

MR. F. ANDERSON: Yes, all I could do is go back and try and sell this to my fellow colleagues on City Council. I'm sure that they would have to accept the decision of the Legislature, whatever that is, but my concern is the loss of \$150,000 here today, and I'm wondering if there's legally a way that the city and the citizens can be protected by allowing only one member onto this committee.

HON. E. KOSTYRA: Mr. Anderson, is it not true that the reason that the Brandon Kinsmen Club are of the opinion that this should be enshrined in the legislation is a lack of trust with the Brandon City Council arising out of the situation when the Kinsmen Club were involved in fund raising from the Sportsplex on the North Hill at which time there was apparent commitment made by the council at that time that the Kinsmen Club would be allowed use of that building, once a year, for fund raising purposes for the Kinsmen Club and that commitment was never followed through by the City Council, and as a result of this, the Kinsmen Club do not have trust with City Council to ensure if the appointment was left to City Council that they would not receive the appointment as indicated?

MR. F. ANDERSON: I think that's quite true, Mr. Kostyra, since the whole council was changed at that particular time, including the Mayor.

MR. CHAIRMAN: Mr. Mercier.

MR. G. MERCIER: Mr. Anderson, what is the difference between having someone appointed by the Western Manitoba Regional Library Board or the Brandon Allied Arts Council and by the Kinsmen Club of Brandon?

MR. F. ANDERSON: That question has been asked and I find that difficult to answer. I think that those people are part of an organization and they have a representative, naturally, on the board because it's primarily their first interest; whereas this is another project which the Kinsmen have taken on. Now I don't know if the Legislature is enacted to include them on this, or if this requires that they stay on this board, or that they be financially responsible in any way for the management of this complex - I don't know. You're talking about legal matters which I'm not prepared to enter into.

MR. G. MERCIER: Mr. Anderson, does the Brandon City Council support what is in this bill?

MR. F. ANDERSON: By motion of - I better not quote figures - but by a majority motion, yes.

MR. G. MERCIER: You support . . .

MR. F. ANDERSON: We supported what was forwarded to the committee.

MR. G. MERCIER: That's fine.

MR. CHAIRMAN: Further questions for Mr. Anderson from members of the committee? Seeing none, Mr. Anderson, thank you very much for attending here today.

MR. F. ANDERSON: Thank you.

BILL NO. 92 - AN ACT TO AMEND THE CITY OF WINNIPEG ACT

MR. CHAIRMAN: Next on the list is Mr. Frank Steele and Councillor Jim Ernst of the City of Winnipeg appearing with respect to Bill 92.

Messrs. Steele and Ernst, please.

MR. F. STEELE: Good morning, Mr. Chairman. I'm Frank Steele, the City Solicitor for the City of Winnipeg, speaking to Bill 92, the amendments to The City of Winnipeg Act.

Essentially this bill contains three categories of amendments, the first of which deal with those requests that were authorized by the City Council. With respect to those matters the bill really needs no further comment from me. I have met with your Legislative Counsel to go over a few matters, which I consider to be of technical or mechanical concerns, and I understand that there may be some amendments to the bill forthcoming.

The second category really relates to changes to The City of Winnipeg Act that deal with conflict of interest and disqualification. The only thing I wish to point out to you in regard to those sections is that you will have to be mindful of what happens with Bill 47, that is to say The Municipal Council Conflict of Interest Act, because depending on what happens with that bill, the sections in Bill 92 may or may not be proceeded with. They are interrelated.

The third category of amendments is really relative to the ability of employees of the city to run for election to government, that is municipal, provincial, or federal office, and obviously those are matters of policy, and I would have to turn the microphone over to Councillor Ernst on behalf of the City of Winnipeg to deal with those issues.

MR. CHAIRMAN: Councillor Ernst.

MR. J. ERNST: Thank you very much, Mr. Chairman, and members of the committee.

Firstly, may I thank you very much for the delay in the conflict of interest legislation giving us an opportunity to review it, and to comment officially on behalf of the City Council. We have not yet had that opportunity and we understand that we're going to be given a week or so in order to do that.

Mr. Steele has commented with respect to those sections of the City of Winnipeg Act presently that deal with conflict and which are being repealed by this bill and need no further comment.

The City Council, whom I represent today, has some concerns with respect to some of the sections of the bill, and if I can refer to each of them just briefly.

In the first case, Section 88, Subsections 1, 3, 4, 6, 7, 8, and 10, all of which refer to, "or an agency of the city". We need to have clarification as to what an agency of the city means. And what is to be defined

as an agency of the city is the Winnipeg Convention Centre; a corporation to be an agency of the city is the Winnipeg Enterprises Corporation to be an agency of the city, those kinds of things. We need to know that in order to determine proper application of this legislation. So we would hope that we can have that clarified in the bill in order to make it a lot easier to enforce in the future.

Subsection 88(9), Application of Unbroken Service. This deals with employees running for public office at any level of government. Unbroken services is not clear in the bill. We need to know and we have recommendations that are as follows.

1. There is no accumulation of benefits unless paid for as provided in collective agreements.

2. There is no accumulation of seniority, therefore, on return the employee would have the same seniority he would have at the date leave commenced in order to run for public office.

3. That any benefits due on return would be based on the seniority attained as of the date leave commenced. And an employee on full-time leave of absence as an elected representative be not able to apply for promotion.

4. That an employee on intermittent leave of absence as an elected representative, must apply for full leave of absence, without pay, and accordingly that the proposed Section 88(10) dealing with intermittent leave be deleted.

With respect to the intermittent leave provision, it is the opinion of our senior management people of the city, and of the City Council that intermittent leave - well, first of all, intermittent leave could not apply with respect to a civic employee running for City Council obviously. It's impractical from a point of view of a Member of Parliament due to the long sittings of the Sessions and other work that's required as a Member of Parliament, so that leaves the Member of the Legislative Assembly, and considering the marathon that you people have been involved in over the last little while, and the seemingly lengthier and lengthier sessions that take place, we find that to have a civic employee, particularly in some kind of a management position, back and forth, or being absent from his position with a great length of time would be very difficult to administer and almost impossible as a matter fact, and accordingly council has directed that we request that this intermittent leave provision be deleted.

With respect to the question of without pay, in Section 88(6) it's noted that it is without pay, and in Section 88(7) it's not noted. So we'd prefer to have them concurrent in that the wording "without pay" also be included there.

With that, Mr. Chairman, I really have no further comment. I should say that with respect to the rest of the amendments as proposed, by and large the council either has no objection, no serious objection, or is in support. I'm not going to go through every one of them and let you know which ones we're going to comment on.

I might also point out that the suggestion, or the changes rather, with respect to the advertising and posting provisions under the zoning section dealing with conditional uses and variances, that has been the position of the city for some time, and we thank you for bringing that matter forward.

MR. CHAIRMAN: Thank you, Mr. Ernst.
Mr. Kostyra.

HON. E. KOSTYRA: Thank you, Mr. Chairman, and I thank Mr. Deputy Mayor Ernst.

MR. J. ERNST: Former Deputy Mayor.

HON. E. KOSTYRA: Chairman of the Executive Policy Committee.

MR. J. ERNST: You had to rub it in, didn't you?

HON. E. KOSTYRA: You know, I wouldn't do that, Jim.

With respect to the amendments that you're suggesting in Section 88, you're suggesting that there be no accumulation of seniority for the time that the person is on leave, whether they're elected for council or Parliament and, with your further suggestion, to provincial Legislature, can you tell me what presently exists with respect to this same issue when employees are on leave of absence for other purposes?

MR. J. ERNST: We have a wording of one of the sections where our collective agreements - and I'm sure the unions he represented will be able to clarify it further - but Mr. Steele points out that the WAPSO Agreement, upon which most of them are based, employees who are on an authorized leave of absence without pay will be allowed on request to pay the premiums for the fringe benefits as provided in this agreement within the policies and regulations governing the said benefits. So that's with respect to the benefit packages they are able to pay.

Now, with respect to the seniority, I just have to check with Mr. Steele if I could.

Sir, we're not clear exactly, but perhaps one of the union representatives appearing later could comment, Mr. Kostyra.

HON. E. KOSTYRA: I have no further questions.

MR. CHAIRMAN: Further questions for Messrs. Steele or Ernst?

Seeing none, gentlemen, thank you very much for appearing today.

Further on Bill No. 92, Mr. Paul Moist, Winnipeg Labour Council. Mr. Moist, please.

MR. P. MOIST: Thank you, Mr. Chairman, I'd like to thank on behalf of the Labour Council, the committee for allowing us to appear today on this matter, and while Bill 92 involves a number of minor of amendments to The City of Winnipeg Act, our presentation today will deal with Section 88(1) of the act which details the "Rights of employees respecting elections."

The Winnipeg Labour Council would like to congratulate the Provincial Government for taking steps to enshrine the fundamental and constitutional right of civic employees to fully participate in the democratic process.

The Labour Council has over the years adopted resolutions and lobbied the Provincial Government to amend The City of Winnipeg Act, to allow civic employees to run for civic office. Most recently, at our

founding policy conference, delegates representing over 30,000 trade unionists in the city endorsed the following resolutions:

"WHEREAS under the present City of Winnipeg Act, a civic employee cannot run for City Council or school board trustee without first terminating employment with the city;

THEREFORE BE IT RESOLVED that an employee of the city, choosing to run for election shall be granted a leave of absence to do the required duties of the office to which he/she is elected."

Labour Council delegates have without exception supported similar resolutions at NDP and Manitoba Federation of Labour conventions.

The stance the Labour Council has taken on this matter is not solely the result of concerns raised by the many delegates we have who represent civic employees. On a larger scale, the Labour Council views the current provisions in Section 88(1)(a) and (b), as representative of an injustice affecting not only civic employees, but the whole electorate as well.

Civic employees have been denied the ultimate right of being unable to stand up for what they believe in and take responsibilities for their ideas and political philosophies. A civic employee who decides to run for City Council under these proposed amendments to The City of Winnipeg Act will be prepared to trade a full-time occupation for a part-time occupation as a city councillor.

A civic employee who chooses to run for elected office will be a person who has made a very important choice to participate fully in the democratic process. The voting public, I submit, is properly charged with the task of determining which candidate in any election is suitable and which is not. In the case of civic employees seeking office, the decision should rest with the electorate and not, I would respectfully suggest, with the elected members of this House.

Since the introduction of Bill 92, a number of concerns have been raised in regard to potential conflict of interest situations.

The City of Winnipeg Act has provisions dealing with such situations and the government is further proposing amendments to this section of the act. There are many examples of councillors abstaining from votes by reason of their private dealings and/or occupations.

Certainly a civic employee should abstain from voting on contracts involving the employee group he/she came from. There may be some other matters which could impact on that person's former civic position. But these instances will be dealt with when they arise, and to predetermine that the council itself and The City of Winnipeg Act can't cope with such situations is at best a questionable stance.

Another concern raised by opponents to this amendment is the alleged politicization of the civic service. I note with interest from the Legislature Debates and Proceedings of July 5th of this year, an opposition member stating his concerns on this matter, and I quote:

"I think that this government is doing what it is doing in the Provincial Civil Service. They are essentially encouraging and, in fact, politicizing the civil service of the province and wanting to extend that now to get political activism going in the civic service of the City of Winnipeg."

This stance is not unlike that taken by opposition members of the Legislature in 1974 when the House

considered Bill No. 7 which dealt with the right for provincial civil servants to seek elected office. In answering similar concerns, the then Minister of Labour responded as follows, and I quote from the 1974 Debates:

"Mr. Speaker, I refer to these papers to indicate that the government is not attempting to force out employees to become active in politics but to give them the choice so to do if they want it. No one has said, and I have never said, the bill doesn't say to our civil servants that you must become involved in politics. All we're attempting to say: If you so desire, you are not going to be under the present constraints as contained in The Civil Service Act of the Province of Manitoba. In removing the present sections in The Civil Service Act, Mr. Speaker, we would allow our employees the same right as enjoyed by most citizens of the province; that is, to participate or not to participate in active politics."

The concerns raised over the present Bill 92, Section 88(1) are similar to those raised in 1974. One opposition member in that previous debate some years ago made known his opinion that allowing civil servants the right to seek election would be a decision that would come back to haunt the Legislature, and I quote from his speech:

"I think we are taking a backward step insofar as the civil service is concerned. I think the day will come that many people in Manitoba, and most important those who serve the people of Manitoba through the offices of the public service will live to regret the passage of this act."

Mr. Chairman, I would submit that the concerns raised in the 1974 debates have not materialized. I have heard little, if any, protest on this issue since it was dealt with some years ago. In fact, I have heard little or no concern with members currently sitting in the Legislature who formerly were civil servants on both sides of the House.

In short, Mr. Chairman, I suggest that some of the no doubt well-intentioned concerns raised on this matter of Section 88(1) of Bill 92 are without foundation.

In closing, Mr. Chairman, I would briefly note that there exists today a growing trend in private industry and other areas to include worker representatives on boards of directors or management committees.

The value of worker representatives in dealing with the day-to-day workings of an organization cannot be overrated. Allowing civic employees to run for civic office would simply affirm what a large part of society has already accepted, that workers can be effective as part of a management team. It will, of course, be for the electorate of the City of Winnipeg to decide whether or not they wish to have workers sit on city council, and up to individual workers whether or not they want to run, but there is nothing wrong with providing the opportunity for both the individual and the electorate to have that choice.

I'm prepared to answer any questions, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Moist. Any questions for Mr. Moist from members of the committee - Mr. Kostyra.

HON. E. KOSTYRA: Mr. Chairman, I thank Mr. Moist and the Winnipeg Labour Council for their brief.

Mr. Moist, I believe you were here when the presentation was made by the City of Winnipeg just a few moments ago with respect to this same bill, when they raised a couple of concerns dealing with the same sections that you referred to in your brief, in particular a concern over someone who is on leave of absence collecting or accumulating seniority. I wonder if you would care to comment on that concern of the city's.

MR. P. MOIST: Well, through the Chair, I have some knowledge of that, but perhaps not to the extent of the President of the largest bargaining unit in the City of Winnipeg who will be following me up to this platform. I know from my own experience with the City of Winnipeg that in terms of seniority, there are certain aspects of seniority you carry on with when on leave of absence without pay, and there are other matters that you don't.

Some of the comments that the speaker before me found in sort of a gray area, are a gray area. I don't know, they are subject to interpretation or challenge under the collective bargaining system. I would leave that question for Mr. Blackman.

HON. E. KOSTYRA: The other area that was raised in the brief of the City of Winnipeg was with respect to the intermittent leave provision that exists with respect to an employee who may be elected to the Provincial Legislative Assembly as an MLA. The way the act is at present, it allows for a full-time or a permanent leave of absence if one is elected as a city councillor, or as a Member of Parliament, but does vary that with respect to a member of the Legislature of Assembly. The city was proposing that be made consistent with what is in the act with respect to City Council and a Member of Parliament, I was wondering if you, on behalf of the Labour Council, had any comment on that suggestion.

MR. P. MOIST: Through the Chair, I have had a chance to meet with and speak to the employee groups of the City of Winnipeg and I find there are different provisions in every collective agreement.

I know one collective agreement intimately and it would provide for full leave for any and all levels of government for that person taking leave of absence. There is no mention of intermittent leave and I would suggest perhaps that's a matter for collective bargaining and it's a matter for the city if they have concerns.

They have that type of problem sewn up with one employee group of the City of Winnipeg. I can't comment that intimately on the employee groups, but it is a matter for collective bargaining negotiations that exists within present collective agreements while not having the right. I'm not convinced it's a matter for this forum and perhaps a matter for collective bargaining, because issues like this are contained in collective agreements today. I'm sure if the city has concerns, they'll address those concerns through the process of collective bargaining.

HON. E. KOSTYRA: Thank you. No further questions.

MR. CHAIRMAN: Mr. Mercier.

MR. G. MERCIER: Mr. Moist, do you believe that employees of the City of Winnipeg should be judged

solely on the basis of merit in connection with promotions or increases in classifications?

MR. P. MOIST: Through the Chair, I firmly disbelieve in that notion.

MR. G. MERCIER: You disbelieve in that?

MR. P. MOIST: I believe that promotability within the civic service should be based on seniority and qualifications and that the opportunity for job promotion should increase with the amount of time served, providing that employee is qualified for the position. I don't think individual education or merit should be the sole consideration. Your question was talking about promotions in the civic service?

MR. G. MERCIER: Yes, yes.

MR. P. MOIST: That relates to our topic today?

MR. G. MERCIER: Yes.

MR. P. MOIST: Well, speaking on promotions in the civic service, I firmly am committed to the belief that senior qualified applicants should be considered ahead of just qualified applicants. I don't look at it as most qualified or least qualified. It's qualified or not. When both are qualified, I think the recognition of the length of civic service has to be applied.

MR. G. MERCIER: I take it, to paraphrase you, you believe in a system of seniority plus merit?

MR. P. MOIST: The system that exists within the City of Winnipeg is seniority and merit.

MR. G. MERCIER: Mr. Moist, do you not believe that principle may very well be put in jeopardy if you have, for example, an employee who - just to use a hypothetical example - has been involved, it could be in any party, say in the Progressive Conservative Party, has been an active promoter of the Progressive Conservative Party by virtue of these sections and has applied for a promotion, improvement in classification, and the person who is to make the decision as to whether or not that person is to be promoted, has been an active supporter of the New Democratic Party and it could be the other way? The employee could have been an active member of the New Democratic Party under these amendments and the superior could be an active supporter of the Conservative Party under these amendments. Do you not feel or worry about the fact that political involvement by those people could very well become a factor in whether or not promotions are approved, or any other improvement in the employee's position might be averted?

MR. P. MOIST: Through the Chair, I guess a two-part answer. First of all, in my experience with the City of Winnipeg is that I have enough faith in the management of the City of Winnipeg and in the employees to divorce their political leanings from their day-to-day operations on the job.

Secondly, I don't think those decisions rest with individuals. I think they rest with contractual agreements

that the city enters into with their employees groups and there's a rule of law, so to speak, that governs promotability and that type of personal nature and that type of personal biases, although I don't think they'd arise in any event, cannot arise because of the contractual nature of the city's relationship with its employees groups. I honestly don't share your concerns in that.

MR. G. MERCIER: You recognize, of course, that not all employees of the city belong to unions.

MR. P. MOIST: Through the Chair, I recognize that completely and I still would go back to the first part of my answer, in that my experience with the City of Winnipeg is I have faith in the management and the employees of the City of Winnipeg to be able to divorce their political leanings from their day-to-day activities on the job, no question about it.

MR. G. MERCIER: No further questions.

MR. CHAIRMAN: Further questions from members of the committee for Mr. Moist? Seeing none, on behalf of the committee, Mr. Moist, thank you for appearing here today.

Next on our list is Mr. Kent Gerecke, President, Winnipeg Municipal New Democratic Party.
Mr. Gerecke please.

MR. K. GERECKE: Thank you, Mr. Chairman. I'm pleased to be here to submit this brief from the Winnipeg Municipal New Democratic Party.

My party has asked me to convey our support of the proposed amendment to The City of Winnipeg Act which allows civic employees to seek political office (Bill 92, Section 88(1)). While this topic can suggest far-ranging discussion, we would like to draw four salient points to your attention.

First, since the formalization of the Winnipeg Municipal New Democratic Party in 1980, there has been widespread concern for the right of civic employees to run for political office which has been unanimously supported at convention. I can say, from my experience, that this support is not only within the party, but has been conveyed to me and others in general political discussions in the community.

Second, the amendment before you brings rights to civic employees, as have been given to federal and provincial employees consistent with the Charter of Rights and Freedoms. This amendment, in effect, brings municipal law in line with the general political culture of this country.

Third, while the conflict of interest issue could occur with civic employees, as it can with lawyers, developers and others, conflict of interest is a separate issue. We see opportunity primary, and safeguards secondly and complementary.

Fourth, many civic employees have a civic dedication and understanding which should, if anything, be encouraged to take a political form rather than be legislated against.

I am pleased to see the amendment before you in The City of Winnipeg Act which deals with people, not just the structures of government and allows people the opportunity to contribute to our civic politics.

We strongly support this mainstream legislation. We use the word "mainstream" in that the proposal before you is not radical. It does not go as far in dealing with civic politics as we would like in the area of the mayor being selected in a parliamentary form, or in party labels being on the ballots, which we would consider to be a more drastic change. We consider this to be in the mainstream, and we ask your support.

MR. CHAIRMAN: Thank you, Mr. Gerecke. Any questions?

Mr. Mercier.

MR. G. MERCIER: Mr. Gerecke, how many candidates do you expect to have in the fall civic election from the civil service of the City of Winnipeg?

MR. K. GERECKE: I don't know of any candidates, and I don't know whether that is relevant to my presentation.

MR. G. MERCIER: Well, you're appearing on behalf of a so-called municipal wing of the New Democratic Party, preparing for the civic election this fall. I would expect that you would have some knowledge as to the number of candidates that you're going to have running for the NDP in the civic election, given the plea you're making today for passage of this legislation in preparation for the fall.

MR. K. GERECKE: Mr. Chairman, through you, although I have heard interest expressed by many people who are civic employees to run for political office over the last few years, I have not been in touch with anybody, to my knowledge, that is running at this time. This presentation is made on principle, not on expediency of the time.

MR. CHAIRMAN: Any further questions?

Seeing none, Mr. Gerecke, thank you very much for coming today.

Next on our list is Mr. Peter Regey, Amalgamated Transit Unit, Local 1505.

MR. P. REGEY: Mr. Chairman, members of the committee, most of what I was going to say, Mr. Moist spoke on, so I won't be repetitious.

We of the Amalgamated Transit Unit are very happy with Bill 92, letting city employees run for City Council. We feel there are many qualified people working for the city that, as city councillors, would be beneficial both to the city and to the public because of their vast experience working for the city in many departments, thus helping and making proper decision in council and committee.

I kept it short and sweet.

MR. CHAIRMAN: Any questions?

Mr. Kostyra.

HON. E. KOSTYRA: Thank you for that short and sweet presentation.

I would ask you the same question that I asked one of the previous presenters of a brief. What is the position of your union with respect to the issue of intermittent

leave for persons who are elected as members of the Manitoba Legislature?

MR. P. REGEY: We've discussed this on a number of occasions, and we feel that because of the sitting, like for example MLAs, that it wouldn't be beneficial for the person to try and work on the job, plus to try and be an MLA and still do a proper job in either capacity. We at Transit have such a system where it would be very very hard and some if you were, say, a bus operator, then it wouldn't be that hard because they can put him on a spare board and whenever he's available for work, he can be used. But in the Maintenance Department that would be very difficult, because you need X number of people on a daily basis and they haven't got a spare board.

HON. E. KOSTYRA: Thank you. No further questions.

MR. CHAIRMAN: Further questions?
Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, I simply wish to make it clear to this gentleman and the other people who have spoken before the committee, the issue is not whether members of the civil service of the City of Winnipeg are qualified or not. Having been associated with the City of Winnipeg for a number of years, I can certainly attest to the quality of the civil service of the City of Winnipeg. That is not the issue.

The issue is whether or not, as a result of this legislation, the civil service of the City of Winnipeg might become politicized and that issue goes on and on, but the issue is not whether or not the civil service of the City of Winnipeg is qualified or not. I am satisfied that the City of Winnipeg have an extremely well-qualified civil service.

MR. P. REGEY: Well, what I meant by that is that we wouldn't pick up somebody that wasn't interested in politics or just saying, hey, I want to be a city councillor and, you know, I've got a name for myself and that's what I'm going to run for. We had a number of people in Amalgamated Transit Union that specified they were interested in possibly running for city council, and we sat down and discussed with them what their views were, whether they were just, like I say, trying to be a city councillor for the name of it, or they are actually really truthfully interested in bettering the City of Winnipeg as a whole.

MR. CHAIRMAN: Further questions?
Hearing none, Mr. Regey, thank you very much for appearing today.

The next person on our list is Mr. Ed Blackman, President, CUPE, Local 500.

Mr. Blackman, please.

MR. E. BLACKMAN: Thank you, Mr. Chairman. I perhaps won't be as brief, but I'll try to get through this as quickly as possible.

We would like to express our appreciation for the opportunity to appear before the Municipal Affairs Committee today on behalf of the membership of the Canadian Union of Public Employees, Local 500.

Of particular interest to our membership are the proposed amendments in Bill 92 that would give civic employees the right under section 88(1)(a) and (b), and I quote: "To seek nomination as or be a candidate of a political party in a municipal, federal or provincial election, and, if elected, serve as an elected representative on the council of a municipality in the Legislative Assembly or the House of Commons."

We would like to congratulate this Provincial Government on introducing these particular amendments to The City of Winnipeg Act, which have been long overdue. We know that the city will be well served by these changes, specifically in the area of civic employees running for and being elected to city council.

Under existing legislation, the rights and responsibilities of 12,000 civic employees in a democratic society were limited by virtue of the fact that they could not run for city council. As well, a valuable resource was kept from the council chambers; new insights into the decision-making process based on civic employees' experiences of dealing with the public, and their knowledge of the inner workings of the city can greatly enhance the decision-making at City Hall.

The Charter of Rights and Freedoms gives to all persons in Canada the right to be a member of the House of Commons or of a Legislative Assembly. It does not speak directly of the rights of persons to be members of a municipal body. The spirit of the Charter, however, is clear that the participation in the democratic process is of the essence of being a citizen of Canada.

We submit that it is a basic human right, as well as a right guaranteed by the Canadian Charter of Rights and Freedoms for a civic employee to be able to run for elected office. The essence of discrimination is to form an opinion about a person not as a result of looking at the individual, but looking at a group that he or she may belong to, and prejudging that person on the basis of membership in that group. We suggest that is what the argument against civic employees running for civic office boils down to.

We would like to address the concern of alleged possible conflict of interest that would arise when civic employees serve as city councillors. It is our belief that civic employees are responsible people and, as such, are capable of handling conflicts of interest in the same manner that other councillors do by removing themselves from those specific issues. There are many incumbent councillors whose personal business interests, be it land speculation, insurance or land development, who are faced with matters that come before council that could either benefit or hinder their business interests and they remove themselves from those decisions.

It would be foolish to suggest that the electorate is so unwise as to re-elect anyone who blatantly abused their position as a city councillor to further their own personal interests, whether they were from the public or private sector. Provincial Government employees have the right to run and be elected as members of the Legislative Assembly and, over the years, several have exercised this right. To date, no concern has been raised regarding their performance in the Legislature as it relates to their position as government employees.

In addition, the electorate in a particular constituency should be the group of people who decides whether

or not an individual is fit to represent them. A civic employee may or may not be, by the fact of his or her occupation, fit for elected office. That decision, however, can only be made by the people who vote. It should not, with the greatest of respect, be made by other elected persons in this House. Any person running for elected office puts his or her experience, knowledge and political philosophy on the line and asks the electorate to judge the fitness of that person for public office. That decision is one which is the essence of democracy and to say that the electorate is not capable of making that decision is to insult the electorate.

One city councillor has been quoted as saying that no civic employee has approached him about running for council and therefore he has not felt that there is any expressed concern for such a provision in the legislation. It may be that no one has approached him - but over the years a number of members of our Union, CUPE 500, have indicated that they would like to seek election as city councillors, but in order to run they would have to resign their position with the city. To take a leave of absence to serve as a councillor requires a very serious commitment to civic politics on behalf of civic employees without the added burden of severing all ties with your employer.

Over the years CUPE 500 has submitted resolutions to the Manitoba Division of CUPE and Manitoba Federation of Labour Conventions asking for the proposed change to the City of Winnipeg Act that would give civic employees the right to run. In MFL's legislative submission back in 1974 this position was first articulated to the Government of Manitoba.

While we want to congratulate the government over the proposal to provide civic employees with the right to run for and sit as city councillors we have some serious concerns about the provisions for the leave of absence and the City of Winnipeg's expressed concern for legislation governing benefits, seniority and promotions. It has not been the practice of this government to interfere in the collective bargaining process and we would not expect you to establish such a precedent now. We believe that these matters are the exclusive jurisdiction of the City of Winnipeg and its employee groups. All of these issues can effectively be handled through negotiations or through personnel practices where no bargaining agent is involved. It would be an affront to the integrity of the city and its employee groups to legislate away those collective bargaining rights.

CUPE 500 has successfully bargained with the City of Winnipeg for 64 years without a serious dispute and included in those negotiations have been the provisions contained in the following articles:

This is the one that addresses the question that has been raised about seniority.

Clause 36.2 of our collective agreement - Leave For Public Duties.

The city recognizes the rights of employees to participate in public affairs. Therefore, upon written request, the city will grant leave of absence without loss of seniority but without pay so that employees, where eligible, may be candidates in a federal, provincial, or municipal election.

Any employee who is elected to public office shall be granted by the city leave of absence without loss of seniority, but without pay, for a period of up to one

year. Such leave shall be renewed each year, on request, during his term of office.

Clause 36.8 says - Benefits While On Leave Without Pay.

Employees who are on an authorized leave of absence, without pay, will be allowed, on request, to pay the fringe benefits as provided in this agreement within the policies and regulations governing said benefits.

Those are the two important clauses, we believe, in our agreement.

The city has never approached CUPE 500 about altering these articles which they agreed to in the collective bargaining process. We are certain that the city and its other bargaining groups have, or could have, agreement on similar provisions. Therefore, we suggest that sections of Bill 92 dealing with the specifics of the leave of absence be removed from the bill and the issues of benefits, seniority and pensions remain the responsibility of the City of Winnipeg to negotiate with its bargaining groups.

In conclusion, we support the provision giving civic employees the right to seek and hold public office; but we do not want to see this government take any steps that would legislate away any collective bargaining rights contained in the present labour legislation.

That's respectfully submitted by myself, Ed Blackman, President, Local 500.

MR. CHAIRMAN: Thank you, Mr. Blackman.
Mr. Mercier.

MR. G. MERCIER: Mr. Blackman, there is a section in this Bill 88(1) - No person who is in a supervisory capacity over an employee of the city, or of an agency of the city, or is authorized to employ, promote, or reclassify a person in the employment of the city or an agency of the city shall coerce, or intimidate that employee, or person into supporting, or not supporting a candidate or political party.

Are you aware of any instances where such acts have taken place?

MR. E. BLACKMAN: Coercion on supervisory people?

MR. G. MERCIER: Yes, into supporting, or not supporting, a candidate or political party.

MR. E. BLACKMAN: No, I'm not aware of anything that has been of that nature.

MR. G. MERCIER: Do you think that kind of a section is required?

MR. E. BLACKMAN: Well, it may be in that at present under The City of Winnipeg Act you can't run but if you do run, and this is opened up, there should be some guidelines and some specifics dealing with people that may, or may not, want to be discriminatory.

MR. G. MERCIER: So you are saying then, Mr. Blackman, that with the introduction of these amendments that there very well may be some politicization of the civil service that people's openly expressed political view may very well come into play in terms of promotions or reclassifications?

MR. E. BLACKMAN: Well I'm not concerned about that, and if you're trying to get me to . . .

MR. G. MERCIER: No I'm not trying to get you . . .

MR. E. BLACKMAN: . . . no, well, I have confidence in our collective agreement, and in the process that it provides and I'm really not concerned about what happens in the management area. If we're not happy with what happens there, there is the collective bargaining process and the right to appeal through the proper steps up to the Board of Commissioners, and Finance Committee, and so on, and finally to arbitration, so the wording there is neither here nor there to me.

MR. G. MERCIER: But have you not, Mr. Blackman, indicated a concern that with the passage of these sections, and people openly expressing their political views, and supporting various political parties, that may become not an open - it probably wouldn't be an open, but would be a silent or a hidden reason perhaps for some personnel decisions that are made?

MR. E. BLACKMAN: I was making an assumption on behalf of those outside of the bargaining process.

Let me backtrack and say - that may be some concern that you may want to put in, or you find that's a needed protection. Again I have to go back and say that there has been historically no problem in that regard, and if the act is passed we are suggesting that we do not want the wording to be dressed up for us, or our collective bargaining rights interfered with.

We have successfully worked with the city in making determinations about problems that come up from time to time and I'm sure that the political process will be no different. I'm sure that if we have personally some differences with them in that regard I think the proper forum for that to be aired and cleared, and resolved in some manner would be with the city fathers, or the administration.

MR. CHAIRMAN: Mr. Mercier.

MR. G. MERCIER: Mr. Blackman, you say you believe you're protected by your collective agreement. What about the situation where people apply for positions that are outside of the collective agreement? Would you be concerned that this may become a hidden factor?

MR. E. BLACKMAN: Well, we can express concern and we have done that on occasion, but we can only deal with things that affect our collective agreement. If it's something in the supervisory area, we keep fairly close tabs with the other bargaining groups and the mid-management group if they have some concern in that regard, they'll deal with it. We have the utmost respect for that group and the way they've handled themselves.

HON. E. KOSTYRA: Mr. Chairman, just further on the line of questioning by Mr. Mercier on the so-called politicization of the civic service of the City of Winnipeg, and concerns raised with respect to what may or may not happen with respect to promotions or other

personnel practices if someone decided to run for office, and presumably was under some kind of political label.

Mr. Blackman, can you comment on whether or not there are, since you represent five or six thousand civic employees, could you comment on the fact as to whether or not there are civic employees right now that may be active members of the Progressive Conservative Party, the Liberal Party, the NDP, or have in the past actively worked on behalf of candidates in civic elections in a high-profile way, whether they be candidates for the New Democratic Party, the ICEC, or the Labour Election Committee?

MR. E. BLACKMAN: Mr. Chairman, yes, we have in a group of five or six thousand people - closer to 6,000 - we have active people with I think probably all parties. Is that the question? That has historically been the case. That's kind of something that we wrestle with as trade unionists, looking at the political process in the different variety of opinions that exist out there.

HON. E. KOSTYRA: In the exercise of that democratic right by civic employees to participate in the election and political process, have any employees to your knowledge been discriminated against, because in the cases of promotion or other matters relating to personnel practices of the City of Winnipeg as a result of their active participation in the democratic process to that level that they were allowed at the present time, insofar as there is no restriction on civic employees being active in the political process at any level, or with any party except that they do not have the right to run for civic office?

MR. E. BLACKMAN: There hasn't been any discrimination that I'm aware of. In fact, with an organization, the City of Winnipeg having some 12,000 people, certainly there are going to be different political stripes, and certainly I'm aware that people have been active for different parties at different levels, be it at the top administration level down to people on the shovel. Then, we have people on the shovel that have a variety of opinions about what political party will benefit them most, but to my knowledge there's been no discrimination to date in that regard.

That's why I say in our presentation here that we're concerned about this government getting into the area of what we feel is collective bargaining. We've always been able to work out something with the city. We've come close to deep differences of opinion, but I say 64 years of working co-operation speaks for itself I believe.

HON. E. KOSTYRA: One further question. On Page 5 of your brief, you quote a section of your collective agreement dealing with leave of absence for public duties. As I understand that section, it provides for full-time leave of absence for federal, provincial, or municipal election, is that correct always been able to work out something with the city. We've come close to deep differences of opinion, but I say 64 years of working co-operation speaks for itself I believe.

HON. E. KOSTYRA: One further question. On Page 5 of your brief, you quote a section of your collective

agreement dealing with leave of absence for public duties. As I understand that section, it provides for full-time leave of absence for federal, provincial, or municipal election, is that correct?

MR. E. BLACKMAN: That's correct.

HON. E. KOSTYRA: Then, a further question. You're not opposed to the position advanced by the city with respect to intermittent leave running for being successfully elected as a member of the Legislative Assembly?

MR. E. BLACKMAN: Mr. Chairman, to the Minister, no, we have no concerns. We see some problems intermittent. The city is working continuously, and it would be from our point of view impractical to have intermittent leave of absences.

MR. CHAIRMAN: Further questions for Mr. Blackman? Mr. Adam.

HON. A. ADAM: Mr. Blackman, I would like to refer you to the bottom of Page 2 where you deal with conflict of interest. You've made some general assumptions now. I just want to perhaps get an elaboration of your views on conflict of interest. Now, this is dealing with people who would be running for office, civic employees. On Page 3, you indicated that the electorate - well, it starts at the bottom of Page 2 - "It would be foolish to suggest that the electorate is so unwise to re-elect anyone who blatantly abuse their position as a city councillor to further their own personal interests, whether they were from the public or private sector."

I just want to advise that we are introducing a Conflict of Interest Bill, No. 47, which deals with this issue and which the previous speaker indicated was a separate issue. Conflict of interest was not an issue that should be dealt with under this bill, but you do pass on it.

My question would be what happens if there is no conflict of interest legislation? What happens during the term of office that a person may become in a conflict-of-interest position unless there is some legislation to deal with that? I'm not sure I'm making myself clear.

You are saying here that if an elected person is in a conflict-of-interest position, that the electorate will deal with him at a certain time, but what happens in the interval, that's what I'm saying.

MR. E. BLACKMAN: Mr. Chairman, in the meantime, the democratic process goes to work and people become quickly aware that someone is working in a conflict-of-interest situation. To my knowledge, I know of one instance here just recently and it affected us. We didn't like it very much, but on a matter of pensions. One of the councillors declined to vote on it, because he said his father was a pensioner, and we were dealing with elderly people and so on. I don't know whether that was the inarticulate major premise or not.

My knowledge of the system is that where these situations arise, people of integrity - I hope I speak for all - remove themselves from those situations. Sometimes I've been told that people have brought to the attention to individuals that a conflict of interest

situation is developing, and they had perhaps better bow out. Now, that's not a perfect process and doesn't always work, and perhaps it needs to be looked up and tidied up but that's not my mission here today. My mission here today is to say that the city has a policy on conflict of interest and we, as employees, deal under that conflict of interest policy, and so on, and we say leave that to the city and ourselves and we'll work that kind of thing out.

Now, the larger question of people getting into conflict of interest situations - I know you're working with that and it has been brought to our attention that this may well apply to Bill 92 and I leave that to you people, in your wisdom, to sort that out. We're primarily here to make sure that this goes through with the kinds of amendments that we would like to see to it.

I don't know whether I've answered the question, Mr. Chairman.

HON. A. ADAM: I appreciate the difficulty that this presents for us, this brief, however the inference is there that the electorate would be dealing with anyone who's in a conflict of interest. The only question that I have is how would the general public or the general electorate know that there was a conflict-of-interest position, unless there was some sort of mechanism there to facilitate that the electorate would have access to some information. Otherwise in the City of Winnipeg, 60 percent of the population reside in Winnipeg and it would be almost difficult, unless there's some mechanism there for the general public to know how they could approach this. I don't want to pursue it, Mr. Chairman.

MR. CHAIRMAN: Order please. I have some reservations about questioning someone who's come here to make a presentation on Bill 92, on the intricacies of Bill 47. I realize there is some relationship because there are certain provisions in Bill 92, but I think the questions are now going beyond that.

Are there any further questions on Bill 92 for Mr. Blackman? Mr. Adam.

HON. A. ADAM: Mr. Chairman, just on your point that you raised. The only reason I raised it - it was in the brief, that's why.

MR. E. BLACKMAN: Mr. Chairman, through you, just in answer to that. That's going to be one of the difficulties of those people that work for the city that choose to run for political office. They're going to be under closer scrutiny, I would say, than most and they would have to be very, very careful because everyone would be aware of their background.

MR. CHAIRMAN: Further questions for Mr. Blackman? Seeing none, Mr. Blackman, on behalf of the committee, thank you very much for appearing today.

MR. E. BLACKMAN: Thank you, Mr. Chairman.

MR. CHAIRMAN: Is there anyone else who wishes to make representations on any of the bills before the committee today who has not been called, or who was not on the list? Is Mayor Penner from Altona here now?

That then concludes, ladies and gentlemen, our public representations on the bills before us. I would propose to call the bills with the exception of Bill No. 47, in numerical order, unless there's a motion to consider bills in some other order. Seeing no motion - Mr. Kostyra.

HON. E. KOSTYRA: Not specifically on your point, but just to inform the committee that it would be my intention to hold Bill 92 for clause-by-clause study at a subsequent sitting of the committee, as I would be intending to bring some amendments for it and I will be circulating them prior to the next sitting.

MR. CHAIRMAN: Thank you, Mr. Kostyra.

BILL NO. 21 - AN ACT TO AMEND THE MUNICIPAL ACT

MR. CHAIRMAN: Bill No. 21, An Act to Amend The Municipal Act. What is your will and pleasure? Page by page?

HON. E. KOSTYRA: Page by page.

MR. CHAIRMAN: Mr. Mercier.

MR. G. MERCIER: Mr. Chairman, I apologize. I didn't hear all of the comments from the Minister of Municipal Affairs. Did he indicate whether or not the Union of Manitoba Municipalities wish to make any representations on Bill 21? I understand they're not available today.

HON. A. ADAM: They indicated yesterday that they would like to have more time to prepare a presentation, a brief, on Bill 47.

MR. G. MERCIER: And Bill 21 is okay with them?

HON. A. ADAM: Yes, as far as I know. As far as I am aware, Mr. Chairman.

MR. CHAIRMAN: For the benefit of members, I'd point out that on Page 1 of Bill 21, the reference to the 33rd Legislature should be corrected to read 32nd Legislature.

Page 1—pass; Page 2—pass; Page 3—pass; Page 4 - I'll return to Page 3. I understand there's an amendment on Page 3? Mr. Kostyra.

HON. E. KOSTYRA: I would move that Section 19 of Bill 21 . . .

A MEMBER: That's the other one.

MR. CHAIRMAN: Mr. Scott, do you have an amendment to Section 15 of Bill 21?

MR. D. SCOTT: No, I have an amendment to Section 19 and Section 21.

A MEMBER: No, Bill 21 - the one that starts off Bill 21 be amended.

MR. D. SCOTT: Oh yes, I'm sorry. Yes, I do.

MR. CHAIRMAN: Page 3, any amendments please? Mr. Scott.

MR. D. SCOTT: Mr. Chairman, I move:

THAT Bill 21 be amended by renumbering Sections 15 to 20 thereof as Sections 16 to 21 respectively and by adding thereto, immediately after Section 14 thereof, the following section:

Section 521 am.

15 Section 521 of the act is amended by striking out the word "first" in the 2nd line thereof and substituting therefor the word "thirtieth."

MR. CHAIRMAN: Is there any discussion? Could you explain the amendment please, Mr. Adam.

HON. A. ADAM: The amendment is to facilitate - No. 92 of the act - has a section in it dealing with the changing of the word from the first to the thirtieth and that is to do with reporting to the Minister of Urban Affairs.

MR. D. GOURLAY: The first and substituting therefor the word thirtieth. Is that referring to a date, or day of the month?

HON. E. KOSTYRA: Yes. June.

MR. CHAIRMAN: Any further explanation of this amendment? Is there any further discussion of the amendment? Seeing none, is it agreed? (Agreed) Page 3, as amended—pass; Page 4, as amended - the amendment was just the renumbering of Section 16 through 20—pass; Page 5, as amended - Mrs. Oleson.

MRS. C. OLESON: In Section 707.1 at the bottom of Page 5, where it says: "No person shall promote, organize or conduct an event within a municipality", etc., could you explain that please, Mr. Minister?

HON. A. ADAM: That section is to allow a municipality to pass a by-law to have some control over the staging of an event where a large number of people are participating, such as a music festival. That will allow the municipality to have some control on health and facilities where you have a large number of people gathering together. I understand that there are some groups who purport to be able to have up to 7,000 people under one tent to put on an event. It's certainly evident that there should be some kind of a control to provide for health and other activities.

MRS. C. OLESON: So, I understand then that is strictly within the prerogative of each separate council?

HON. A. ADAM: That's right.

MRS. C. OLESON: Thank you.

MR. CHAIRMAN: Mr. Mercier.

MR. G. MERCIER: Is event defined in The Municipal Act at the present time?

HON. A. ADAM: No, I don't think so.

MR. G. MERCIER: Mr. Chairman, perhaps I'm in a problem then. In the Minister's notes, which he passed out, on Page 8 of his notes, he described as an event: That is an activity at which more than 1,000 persons attend or are expected to attend where such an event is not held in a public building, public park, or will not extend for more than four hours. But, if an event is not defined - but it is defined - so the answer to the first question is wrong which rules out my objection.

MR. CHAIRMAN: Thank you, Mr. Mercier. Thank you, Mr. Adam.

HON. A. ADAM: We stand both corrected.

MR. G. MERCIER: . . . he told me it was defined in the first place, then I wouldn't have had to . . .

HON. A. ADAM: He should have known that it was.

MR. CHAIRMAN: Unkind cut, Mr. Minister. Pass on Page 5—pass.

Page 6, I believe there is an amendment - Mr. Scott.

MR. D. SCOTT: I move:

THAT Section 19 of Bill 21 - watch this one, Gerry - be amended by striking out the words and figures "703 or 704" where they appear in the last line and substituting therefor the words and figures "704 or 705."

MR. CHAIRMAN: You've heard the amendment.
Mr. Adam.

HON. A. ADAM: That motion is to correct a reference in Section 19 of Bill 21, and this is only a typographical error. The bill presently refers to the deletion of references to Sections 703 or 704 and the proper references should be Sections 704 or 705. This does not in any way change the nature of the amendment but merely corrects the reference to the existing sections of The Municipal Act.

MR. CHAIRMAN: You've heard the amendment and the explanation, is there any discussion?

Is it agreed? (Agreed)

Section 19, as amended—pass; Page 6, as amended—pass; Title—pass; Preamble—pass. Bill be reported.

BILL 39 - AN ACT TO VALIDATE BY-LAW NO. 1311 OF THE TOWN OF MELITA

MR. CHAIRMAN: Page by page, or bill by bill? Bill—pass; Title—pass; Preamble—pass. Bill be reported.

BILL 51 - AN ACT TO AMEND THE LOCAL AUTHORITIES ELECTION ACT

MR. CHAIRMAN: Page 1. I believe there may be an amendment. On the second page, Page 1—pass.

There's an amendment coming to Section 7. It's just being distributed. In the meantime, can we pass Page 1? Page 1—pass.

Page 2 - Mr. Scott.

MR. D. SCOTT: Mr. Chairman, I move:

THAT Section 7 of Bill 51 be struck out and replaced with the following section:

Commencement of Act.

7 This Act comes into force on the day it receives the Royal Assent but is retroactive and shall be deemed to have been in force from on and after June 1, 1983.

MR. CHAIRMAN: Thank you, Mr. Scott.

Is there any explanation to the amendment?

Mr. Adam.

HON. A. ADAM: Well, this amendment, Mr. Chairman, makes the operation of the bill retroactive, and this amendment is necessary in order to ensure that certain work carried out in preparing lists of electors for municipal elections would be validated. The nature of the bill was to provide end dates for preparation of these lists, rather than commencement dates. Because municipalities have proceeded with these proposed amendments in mind, it is necessary to have this act commence on a retroactive basis. Again, this does not change the nature of the amendments which are designed to facilitate voter list preparation. It's a minor . . .

MR. CHAIRMAN: You've heard the amendment, is there any discussion?

The question on the amendment to Section 7—pass; Page 2—pass; Title—pass; Preamble—pass. Bill be reported.

BILL 56 - AN ACT TO AMEND THE BRANDON CHARTER (Cont'd)

MR. CHAIRMAN: Page 1—pass.

I understand there's an amendment on Page 2. We'll wait for that to be distributed.

Page 2 - Mr. Scott.

MR. D. SCOTT: How about Mr. Ashton?

MR. CHAIRMAN: Mr. Ashton.

MR. S. ASHTON: I move:

THAT the proposed Clause 49W(b) of The Brandon Charter, as set out in Section 3 of Bill 56, be amended by adding thereto, at the end of sub-clause (iii) thereof, the word "and" and by striking out sub-clauses (iv) and (v) thereof and substituting therefor the following sub-clause:

(iv) 2 of whom shall be residents of the city appointed by the city council.

MR. CHAIRMAN: Mr. Kostyra.

HON. E. KOSTYRA: Speaking to the amendment, Mr. Chairperson, the amendment allows for the City Council

of the City of Brandon to appoint two residents of the city onto the combined Library Arts Centre Management Board. The bill, as presented, provided for one to be appointed on behalf of the residents of the city, and one to be appointed by the Kinsmen Club of Brandon, or one of the Kinsmen Club of Brandon. This amendment will give the opportunity for the City Council of Brandon to appoint two representatives as representatives of the residents of the city, wherein City Council, if it deems it appropriate, can meet the commitment that apparently City Council has made to the Kinsmen Club, and appoint one of those residents as from the Kinsmen Club of Brandon.

I believe it's important, Mr. Chairperson, that this amendment do pass. In looking at the original bill and viewing other such situations that could exist throughout the province, I find no other situation with respect to a library, an art centre, a recreation complex that allows for the permanent fixed designation of a representative from a particular service club.

I believe that it would be a bad precedent to be set by the province, by the Provincial Legislature to have specific appointment from a particular service club. I believe that there should be flexibility on appointments left with the local government, and that local government should be free to appoint who it feels is desirable to the board of public facilities such as this.

We have situations throughout the province where community organizations, service clubs have worked hard and long to help assist in the formation of libraries, of art centres, of recreation complexes, but in no case has the right of representation been put on two of those organizations from a specific service club.

In fact, if one was to take this precedent to an extreme, you could have situations whereby there are a number of service organizations that were collectively fund raising for facilities in their communities, and each one of them could then suggest that they be allowed to have representation on those boards. It could be two, it could be three, it could be ten community organizations that work on fund raising for specific facilities in their communities.

I suggest to you that most facilities, as I'm sure all members appreciate, throughout the province have been built with involvement of service clubs, of community organizations, but in no other case with respect to these kind of facilities has a specific commitment been enshrined in legislation with respect to appointment.

I know the Lions Clubs in some communities have been involved with fund raising for libraries, for arts councils, for arenas; the Kinsmen Club in other communities and Knights of Columbus, Shriners, Masons, what have you, have been active in providing fund raising techniques to help community facilities develop, but in no case that I'm aware of for these kind of facilities there has been an enshrining in legislation of that appointment.

This amendment leaves the right of that determination resting with the City Council, City of Brandon, where I believe it should rest, and that the City Council ought to make that appointment if it feels it is necessary. The sole reason for this amendment before us, Mr. Chairman, is the fact that there is a lack of trust, a lack of co-operation between the Brandon City Council and the Kinsmen Club of Brandon.

Last Saturday, I went to Brandon; I met with the president of the Kinsmen Club to see if there was some way of resolving the situation whereby they're threatening to withhold \$150,000 of monies that were raised publicly for use in the combined Library Arts Centre because they would not have enshrined in legislation any representative on the board.

I asked the president if the resolve of having two residents of the city being put in legislation and thereby leaving the decision to City Council, I was told emphatically by the president of the Kinsmen Club they do not trust the Brandon City Council because of a previous situation with respect to the development of the Sportsplex in Brandon, whereby that particular Kinsmen Club was involved in fund raising and apparently had some guarantee of use of that building in the future and that commitment apparently was not kept. Because of that lack of understanding between the Kinsmen and the City Council, they want this enshrined in legislation and have, by motion, indicated that they will not forward the funds that were raised publicly for the stated purposes of the combined Library Arts Centre to that facility unless this amendment is carried.

I do not believe, Mr. Chairman, that we ought to act as Provincial Legislatures under that kind of situation and make a determination because of a withholding of funds. I believe that if we believe, and I do, that this amendment is appropriate and that guaranteeing specific representation onto the board is not correct, that we ought not to act because of the withholding of funds to this facility.

I would hope that this amendment would carry, that the Brandon City Council will indeed appoint a representative from the Kinsmen Club to the board if council of the City of Brandon believes that is the right decision and that the facility will be completed with the funds that were raised publicly on behalf of the facility from the residents and businesses of Brandon.

So I believe that this amendment is entirely appropriate and one that ought to be passed.

MR. CHAIRMAN: Mr. Mercier.

MR. G. MERCIER: Well, Mr. Chairman, there are a number of weaknesses, I think, in the Minister's arguments.

One, the provisions of the bill that we have before us were approved by motion of Brandon City Council, so that they have approved what is before us prior to the amendment proposed by the Minister.

The second weakness in his argument is that there are provisions in the bill as it stands for appointment of a person recommended by the Western Manitoba Regional Library Board and for a person recommended by the Brandon Allied Arts Council. So there are two other positions on the committee who are recommended by other organizations.

The representative of the Kinsmen Club of Brandon, as pursuant to this wording, need not be a Kinsman in fact. It may very well be some person who is not associated with the Kinsmen Club, but someone whom they recommend to serve on the committee. In any event, that one person is only one out of seven, so that Brandon City Council, by appointing three members

of council and another citizen, retain majority control over the decisions of the committee.

We have here, Mr. Chairman, a Kinsmen Club which is contributing a significant amount of money towards this facility. I'm not impressed by threats to withdraw the money, but I say that the government should not be acting in any way which discourages service clubs like the Kinsmen Club of Brandon who obviously must have done a heck of a lot of work to raise that kind of money to contribute towards this facility, and they should be encouraged in their activities rather than discouraged.

As I say, the Brandon Council approves the terms of this bill and I'm opposed to the amendment. I would say that this bill as it is can be passed, and I had a moment to discuss the matter with the Deputy Mayor Anderson. If there's a problem in the future, that can be dealt with later on, but I think as the situation stands and in view of the decision of the Brandon City Council and the significant contribution by the Kinsmen Club and the fact that there are, on this committee, going to be other people recommended by other groups, that we should pass the bill as it stands.

HON. E. KOSTYRA: Just to deal with two of the issues that were raised by Mr. Mercier. First of all, I would make it clear that it is not the intention by virtue of the fact that this amendment is being moved that we do not recognize the efforts of the Kinsmen Club in Brandon in raising publicly the funds for this facility. It's not our intention to discourage the Kinsmen Club of Brandon, nor any other community organization that exists throughout the province from raising funds to assist in much-needed community endeavours.

In fact, the situation is, Mr. Chairman, that in no other case that I'm aware of where community organizations have worked to raise funds publicly for the building of libraries, for the building of community centres, that they have specifically said that as a condition of giving the money to the facility, we need to have enshrined in legislation the position on the board. So, this is not a situation that has arisen with respect to all of the other community organizations in other communities throughout Manitoba that have raised funds, and we certainly recognize and encourage that kind of community commitment and involvement in facilities for those communities. We are certainly not discouraging that and, indeed, recognize the efforts of the Kinsmen Club and thank them for that.

To suggest the analogy between the representative of the Kinsmen to the board and the representatives from the Brandon Allied Art Centre and the WesMan Regional Library Board, I think, are not appropriate. The appointments from those two organizations, that building is being built or renovated for the use of those two groups. The whole reason behind the efforts of the City of Brandon in providing funds, the Province of Manitoba wherein we have given \$800,000 to that facility, and the fund raising of the Kinsmen is for the use of those two groups of that building. It is entirely inappropriate that they should have representation on the board of directors to manage the facility, wherein they will be operating it. To have others on a board - it's important to have some balance, but the major user groups who that building is intended for ought to be on the board.

I know that other members, Mrs. Oleson knows with respect to library boards that they are in control of their own buildings throughout rural Manitoba, that the library boards are the ones that control the building that they are housed in. Surely, you cannot have control of buildings lying outside or without any involvement of the major user groups. The Kinsmen Club is not a major user group of that building. That building was renovated, funds were raised, solicited from the city and the Provincial Government for the expressed purposes of a combined Library Art Centre. To suggest that those two groups as being the main users, are no different than the Kinsmen is not correct.

I think the amendment is entirely appropriate and I reject categorically any suggestion that we are discouraging community involvement in facilities. Indeed, the opposite is true, we certainly encourage that and welcome the involvement of organizations. The whole development of libraries throughout rural Manitoba was because of the effort of local community groups, in particular, the Women's Institute, who took the lead on getting interest and recognition of the need for library services, and there has been a whole range of community organizations that are involved. Indeed, on Saturday past I was in the community of Minnedosa during their centennial celebrations, and found out that the Lions Club in that community raised considerable funds for the new building that the Minnedosa Library is in, and has provided ongoing assistance for additional capital requirements of the library without demanding a specific representative on the Minnedosa Library Board.

MR. D. GOURLAY: I have some concerns with the amendment that is proposed by the Minister of Urban Affairs. I think that we heard a representative, the Deputy Mayor of Brandon tell us this morning that if this doesn't pass as is worded here now, that there definitely will be some concerns expressed by the Deputy Mayor in that this would not be acceptable to the Kinsmen Club of Brandon, and at the same time, indicated that the Kinsmen Club are donating a very substantial sum of money. If this doesn't go through as worded here now, quite conceivably this Library Arts Centre could short a considerable amount of money.

I'm just wondering if the Minister can indicate who will make up this shortfall if this amendment is passed and goes through, because obviously the Deputy Mayor said that the Kinsmen Club would not participate under those arrangements.

I don't see anything wrong. I concur with the remarks of my colleague, the Member for St. Norbert in that there's people being appointed by the regional library and the Brandon Allied Arts Council, and I don't see anything wrong with a member from the Kinsmen Club. As was pointed out, he doesn't have a majority say on the management board, and I think that I don't see a problem establishing a precedent by appointing a Kinsman because of the fact that they raise a lot of money for the City of Brandon earmarked for the Library Arts Centre.

I would think that we would be discouraging participation by a very important contributor in the Brandon area. Certainly, I'm just concerned as to who is going to make up the shortfall if this amendment is allowed to pass.

HON. E. KOSTYRA: In answer to the question raised, I would hope that the Kinsmen Club of Brandon will reconsider. I'm not aware of the particulars of the fund-raising efforts of the Kinsmen, but I would presume that the money was raised by the hard work and efforts of the Kinsmen, but raised from the public through whatever activities the Kinsmen were involved in.

Since the funds were raised publicly for the intended purpose of assisting in the renovation of a building, and purchase of a building for the use of the Library Arts Centre, that the Kinsmen will still provide those funds for that purpose, and also that the City Council of Brandon will deal with the issue of representation on the combined board when this bill is passed and the responsibility for appointing some of the representatives to that board rests with the City Council. I would expect that since they feel, that it is important to have a representative of the Kinsmen on the board, that they will exercise their right to appoint one of the residents of the city.

I am concerned by the suggestion that was made by the member, because of the threat by the Kinsmen that we ought to pass legislation, that we may believe may not be in keeping of the public interest. I repeat, this has not been the situation that I'm aware of with any other community organization. Members opposite know full well of the kind of involvement and effort of community organizations that work in their communities. I'm not aware of any of them that come forward and say we'll give you our money provided you put us on the board.

MR. CHAIRMAN: Further discussion? Mr. Scott.

MR. D. SCOTT: I don't want to delay the questioning length of time, but I think - I'll just take a couple of minutes - they are a public service organization, and as a public service organization, I think they certainly have almost an unchallenged record across the country as a service organization. I have never heard of them in the past demanding that their participation be tied to representation on the boards. I think that is up to the city councillors, the people that are closest to the organization and the works of that organization to determine whether or not they wish to have representation by this particular service organization on the board.

They have now two positions with this amendment to put on the board. They can exercise and appoint both members if they so desire from the Brandon Kinsmen, or they can put one on, or they can put none on, but that's a decision that should be a local decision, and is not something I don't think that we should be writing into provincial statutes and charters of cities or municipalities. It's taken the role of the Provincial

Government, I think, one step too far and that we should be leaving the discretion up to the local council, to the people who are closest to the projects, as to who the representation on those councils should be.

Another question, I wonder, is whether or not if these organizations started doing this across country whether they would maintain their tax exempt status under Revenue Canada. If they are saying that they are raising funds, but that it's tied aid, that they must have representation for the funds that they raise, I question very strongly whether or not the Government of Canada would take it under their consideration to review the status of those organizations as tax deductible for their donations. Because the allowances of getting into those things are really quite tight and no new organization applied, who part of their purpose was that if they raise money and give to public functions, that they in turn would have positions tied to their aid that they would not be qualified if they were applying in 1983 for tax exempt status. But I think that the wishes of the opposition here can be certainly taken care of by the Brandon City Council itself.

MR. CHAIRMAN: Are you ready for the question? All those in favour of the amendment, please say aye. All those opposed, please say nay. In my opinion, the amendment is carried. Record the amendment as passed on division.

Page 2, as amended - Mr. Gourlay.

MR. D. GOURLAY: There's a spelling mistake in the name of Kinsmen. It's spelled with an "e" rather than an "a."

MR. CHAIRMAN: Mr. Gourlay, would you repeat that, please?

MR. D. GOURLAY: Kinsmen Club of Brandon.

MR. CHAIRMAN: In 49W(b)(iv)?

MR. D. GOURLAY: Yes.

MR. CHAIRMAN: That has been struck out by the amendment, so even if it's not spelled correctly it's now irrelevant, I believe. Further discussion on Page 2? Page 2—pass; Page 3—pass; Title—pass; Preamble—pass. Bill is reported.

Gentlemen, that concludes the business before the committee today. I understand that Bills 47 and 92 will be held over for a subsequent meeting of the committee. In that case, unless there's further business from members of the committee, I'll accept a motion for committee to adjourn.

Committee is adjourned.