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MANITOBA Order No. 177/99

THE PUBLIC UTILITIES BOARD ACT

THE MANITOBA PUBLIC INSURANCE ACT

THE CROWN CORPORATIONS PUBLIC REVIEW AND ACCOUNTABILITY ACT November 3, 1999

Before: G. D. Forrest, Chairman
E. Jacks, Vice-Chair
D. T. Anderson, Q.C. Member
K. Collin, Member

AN APPLICATION BY THE MANITOBA PUBLIC INSURANCE CORPORATION FOR AN ORDER APPROVING COMPULSORY DRIVER AND VEHICLE INSURANCE PREMIUMS FOR THE YEAR ENDED FEBRUARY 28, 2001

Executive Summary

The Manitoba Public Insurance Corporation ("the Corporation") filed an application with The Public Utilities Board ("the Board") on May 26, 1999 for approval of premiums to be charged for compulsory driver and vehicle insurance ("Basic insurance") for the insurance year commencing March 1, 2000 and ending February 28, 2001 ("fiscal 2001"). The Corporation sought no increase in overall motor vehicle premiums and no changes in drivers' premiums, but requested the elimination of the 4% contribution to the Rate Stabilization Reserve ("RSR").

If the application was approved as filed, total earned revenue in fiscal 2001 is forecast to be $520.5 million, and net income is forecast to be $6.5 million after an allocation of $7.4 million to the RSR.

In reviewing the application for fiscal 2001 premiums, the Board sought to balance revenue neutrality for the year of the application against the consequences for the future of a current reduction in average rate levels. The Board approved premiums incorporating a 1% reduction in vehicle premiums in addition to the elimination of the 4% RSR contribution applied for by the Corporation. These reductions are to be implemented so that all major use classifications receive the benefit of this decrease.

The Board noted that total operating, claims, regulatory/appeal and road safety expenses had increased over the past three years from $73 million to $95 million forecast for fiscal 2001. A large part of the increase is attributed to Information Technology ("I/T") expenditures largely driven by Y2K concerns. Operating expenses were forecast to decrease in fiscal 2001, primarily because of a decrease in major I/T expenditures. The Board expressed concern about the increased level of staffing, and directed the Corporation to realize efficiencies further by controlling operating costs and staffing levels.

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CARSWELL

JUDICIAL REVIEW OF ADMINISTRATIVE ACTION IN CANADA

BY

DONALD J.M. BROWN, Q.C.

AND

THE HONOURABLE JOHN M. EVANS

Public Law Counsel, Goldblatt Partners LLP
Formerly Judge of the Federal Court of Appeal and
Professor, Osgoode Hall Law School of York University

WITH THE ASSISTANCE OF

DAVID FAIRLIE

VOLUME 1

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CHAPTER 13

THE GRANT OF AUTHORITY

13:1000 GENERALLY

13:1100 The Need For a Grant of Authority

It is a fundamental principle of public law that all governmental action must be supported by a grant of legal authority.[1] With two minor qualifications, the actions and decisions of public officials and institutions that affect the rights of individuals have no legal force or effect unless authorized by a grant of statutory authority, either express or necessarily implied.[2] Neither individuals nor institutions have inherent powers by virtue of the fact that they perform governmental functions. And although it is not a requirement that the legal source of authority be specified on the face of an administrative order, if challenged, it must be possible to identify the supporting legal authorization.[3]

There are, however, two qualifications to the general proposition that administrative action must be authorized by or under legislation. First, as a common law corporation *sole*, the Crown has certain powers derived from the common law, which are now generally known as prerogative powers.[4] Second, the authority exercised by an administrative body may be derived from contract or from the

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[1] *Stemijon Investments Ltd. v. Canada (Attorney General)*, 2011 FCA 299 at para. 24, ref'g to ***Dunsmuir v. New Brunswick***, 2008 SCC 9 at paras. 24-7. **Compare** *Amin v. Saskatchewan (Ministry of the Economy)*, 2017 SKQB 142 at para. 28 (immigration plan just a minister's policy).

[2] ***ATCO Gas & Pipelines Ltd. v. Alberta (Energy Utilities Board)***, 2006 SCC 4 at para. 38. **And see** e.g. *Measor v. University of Calgary (General Faculties Council Student Academic Appeals Committee)*, 2018 ABQB 662 at paras. 12-16 (express power to grant degrees and implied power to rescind them); *Wagowsky v. Toronto (Municipality)* (1997), 103 O.A.C. 226 (Ont. Div. Ct.).

[3] *Guérin v. Canada (Attorney General)*, 2018 FC 94 at para. 40; **and see** *Gem Healthcare Group Ltd. v. Nova Scotia (Attorney General)*, 2017 NSSC 1 at para. 26. **And see e.g. *British Columbia (Milk Board) v. Grisnich,*** [1995] 2 S.C.R. 89; *Schreiber v. Canada (Attorney General)*, [2000] 1 F.C. 427 (FCTD). Specificity may be required, however, where the legal authority in question is a prerogative power: *Scarborough (City) v. Ontario (Attorney General)* (1997), 144 D.L.R. (4th) 130 at p. 134 (Ont. Gen. Div.).

[4] Historically, the term "prerogative" was limited to those common law powers that were unique to the Crown, and did not include those it exercised by virtue of being a legal person, such as the power to acquire and dispose of property and to enter into contracts.

ownership of property, although any contractual capacity and the power to acquire and own property will typically be provided for by legislation.

13:1110 *The Prerogative as a Source of Authority*

Generally speaking, the "royal prerogative" is a limited source of non-statutory administrative power. Indeed, it has recently been said that "[i]t seems to me contrary to fundamental principles of responsible government to invoke the royal prerogative without adverting to it."[5] Moreover, the prerogative does not include the power to legislate,[6] and it can be further limited or reduced by statute.[7] More specifically, it forms the basis for the issuance and refusal of passports;[8] for the award of honours such as designations of Queen's Counsel; for the signing of treaties; for the conduct of foreign affairs;[9] and for the deployment of the armed forces.

At one time, the *exercise* of such powers, as opposed to their existence or scope, may have been beyond review by the courts.[10] Today, however, that is no longer true. In England, the House of Lords has eschewed the concept that action taken in the exercise of the royal prerogative is not subject to the duty of procedural fairness.[11] And in the context of a *Charter* challenge to a treaty with the United States

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[5] *Scarborough (City) v. Ontario (Attorney General)* (1997), 144 D.L.R. (4th) 130 at p. 134 (Ont. Gen. Div.); **but see *British Columbia (Milk Board) v. Grisnich,*** [1995] 2 S.C.R. 895, where the power in question was statutory.

[6] *Reference re Anti-Inflation Act (Canada),* [1976] 2 S.C.R. 373 at p. 433; *Scarborough (City) v. Ontario (Attorney General)* (1997), 144 D.L.R. (4th) 130 (Ont. Gen. Div.).

[7] See discussion in *Conacher v. Canada (Prime Minister),* 2009 FC 920 (exercise of prerogative powers judicially reviewable to see if contrary to law, including *Charter)* at para. 29, aff'd (2010), 320 D.L.R. (4th) 530 (FCA); *Ross River Dena Council Band v. Canada,* 2002 SCC 54 (extent to which royal prerogative to create Indian reserves has been limited by statute). **And see** *Turp v. Canada (Minister of Justice),* 2012 FC 893 (no provision limiting withdrawal from Kyoto Protocol); *Delivery Drugs Ltd. v. British Columbia (Deputy Minister of Health)* (2007), 286 D.L.R. (4th) 630 (BCCA) (legislation displaced prerogative).

[8] *Khadr v. Canada (Attorney General)* (2006), 268 D.L.R. (4th) 303 (FC); **see also *Abdelrazik v. Canada (Minister of Foreign Affairs)*** (2009), 81 Imm. L.R. (3d) 1 (FC) at para. 134; *Kamel v. Canada (Attorney General)* (2008), 294 D.L.R. (4th) 708 (FC) at paras. 20*ff*, rev'd on other grounds 2009 FCA 21.

[9] E.g. *Canada (Prime Minister) v. Khadr,* 2010 SCC 3 at para. 35.

[10] E.g. ***Multi-Malls Inc. v. Ontario (Minister of Transportation & Communications)*** (1976), 73 D.L.R. (3d) 18 (Ont. C.A.); *Doctors Hospital v. Ontario (Minister of Health)* (1976), 12 O.R. (2d) 164 (Ont. Div. Ct.); **see also** *McGauley v. British Columbia (Minister of Finance & Corporate Relations)* (1988), 23 B.C.L.R. (2d) 137 (BCSC).

[11] ***Council of Civil Service Unions v. Minister for the Civil Service,*** [1985] A.C. 374 (H.L.), foll'd ***Smith v. Canada (Attorney General)*** (2009), 307 D.L.R. (4th) 395 (FC).

permitting the testing of Cruise missiles in Canada, the Supreme Court of Canada held that administrative decisions based upon the prerogative were not immune from review solely by virtue of the legal source of the power exercised.[12] Furthermore, even when judicial review of an exercise of the prerogative power is unavailable, a court can be called upon to decide whether the prerogative power exists in law, and if it does, to determine its breadth and whether the action taken fell within its scope.[13] In addition, a court determine whether the power has been abrogated or curtailed by statute,[14] or whether its exercise in the particular instance violates a provision of the Constitution, or in some circumstances, a duty imposed by the common law.[15] Nonetheless, the exercise of some prerogative powers remains beyond the purview of the courts where they involve non-justiciable issues of a political nature. For example, advice concerning the award of honours given to the government of another country are not subject to judicial review, at least when a breach of the *Charter* is not alleged.[16]

13:1120 *Contract As A Source of Authority*

In some settings, contract may be a source of a decision-maker's legal authority. For example, most grievance arbitration boards in Canada derive their authority from both a statute[17] and from the collective agreement between the parties. As well, the disciplinary powers exercised over members by non-statutory bodies such as

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[12] ***Operation Dismantle Inc. v. R.,*** [1985] 1 S.C.R. 441. **See also** *Kamel v. Canada (Attorney General)* (2008), 294 D.L.R. (4th) 708 (FC), rev'd on other grounds 2009 FCA 21; *Black v. Canada (Prime Minister)* (2001), 54 O.R. (3d) 215 (Ont. C.A.); *Veffer v. Canada (Minister of Foreign Affairs)* (2007), 283 D.L.R. (4th) 671 (FCA) (issuance of passports), foll'd ***Abdelrazik v. Canada (Minister of Foreign Affairs)*** (2009), 81 Imm. L.R. (3d) 1 (FC) at para. 135.

[13] *Vancouver Island Peace Society v. Canada* (1993), 19 Admin. L.R. 91 (FCTD), aff'd (1995), 179 N.R. 106 (FCA), leave to appeal to SCC ref'd (1995), 17 C.E.L.R. (N.S.) 298. **See also** *Chiasson v. Canada,* [2001] 4 F.C. 66 (FCTD), aff'd (2003), 226 D.L.R. (4th) 351 (FCA).

[14] E.g. *Askin v. Law Society of British Columbia*, 2013 BCCA 233 at paras. 30-31 (whether Crown prerogative to appoint cabinet members has been abrogated by statute).

[15] As to the reviewability of the exercise of prerogative powers, **see** topics 2:2422, *ante*; 15:2120, *post*.

[16] *Black v. Chrétien* (2000), 47 O.R. (3d) 532 (Ont. Sup. C.J.), aff'd (2001), 199 D.L.R. (4th) 228 (Ont. C.A.). **See also** *Copello v. Canada (Minister of Foreign Affairs),* 2001 FCT 1350, aff'd (2003), 3 Admin. L.R. (4th) 214 (FCA).

[17] Labour relations statutes typically provide that the parties shall include in the collective agreement provisions for resolving by arbitration any differences arising from the administration of the collective agreement, and for imposing one if no clause was agreed to: **e.g.** *Labour Relations Act*, S.O. 1995, c. 1, Sch. A. As to the courts' jurisdiction to review arbitration decisions, **see** topics 1:2253, 2:2230, *ante*.

Assessment Officer under the *Immigration and Refugee Protection Act*,[479] and a social assistance appeal tribunal,[480] have all been held not to have this jurisdiction.[481] It has also been held that the Canadian Human Rights Commission has no implied power to refer a complaint of discrimination alleging that a provision in the statute was contrary to section 15 of the *Charter* to the Tribunal for adjudication. This was so because the Commission was not an adjudicative body, and, it would seem, because the balance of practicalities did not clearly favour implying the power.[482]

At one time, the Federal Court held that if an administrative tribunal did not deal with a *Charter* issue because it lacked jurisdiction, it could not decide the issue on judicial review.[483] More recently, however, as a result of the statutory broadening of the court's judicial review powers,[484] it was held that the court may decide the

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[477] *Canada (Minister of Citizenship and Immigration) v. Reynolds* (1997), 139 F.T.R. 315 (FCTD). **See also** *Kroon v. Canada (Minister of Citizenship and Immigration)* (2004), 15 Admin. L.R. (4th) 315 (FC); *Raza v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 F.C. 185 (FCTD) (decision by immigration officer not to refer matter to Refugee Division of the Board). **But see** *Romans v. Canada (Minister of Citizenship and Immigration)*, [2004] 3 F.C.R. 139 (FC).

[478] *Gwala v. Canada (Minister of Citizenship and Immigration)*, [1999] 3 F.C. 404 (FCA), foll'd *Said v. Canada (Minister of Citizenship and Immigration)* (2000), 261 N.R. 384 (FCA).

[479] *Singh v. Canada (Minister of Citizenship and Immigration)*, [2004] 3 F.C.R. 323 (FC), foll'd *Covarrubias v. Canada (Minister of Citizenship and Immigration)* (2006), 354 N.R. 367 (FCA).

[480] *Fernandes v. Director of Social Services (Winnipeg Central)* (1992), 7 Admin. L.R. (2d) 153 (Man. C.A.). **But see *Falkiner v. Ontario (Ministry of Community & Social Services)*** (1996), 140 D.L.R. (4th) 115 (Ont. Div. Ct.).

[481] And see generally P. Anisman, "Jurisdiction of Administrative Tribunals to Apply the *Canadian Charter of Rights & Freedoms*" in *Administrative Law: Principles, Practice & Pluralism* (Special Lectures of the Law Society of Upper Canada) (Scarborough, Ont.: Carswell, 1992); M. Priest, "*Charter* Procedure in Administrative Cases: The Tribunal's Perspective" (1994) 7 *C.J.A.L.P.* 151.

[482] ***Cooper v. Canada (Human Rights Commn.)***, [1996] 3 S.C.R. 854, result aff'd by ***Nova Scotia (Workers' Compensation Board) v. Martin***, 2003 SCC 54 at para.47. **See also** *Ayangma v. Prince Edward Island* (1998), 29 C.P.C. (4th) 125 (PEISC) (provincial human rights commission not court of competent jurisdiction); *Ayangma v. Eastern School Board* (2000), 187 D.L.R. (4th) 304 (PEICA); *Nova Scotia (Workers' Compensation Board) v. O'Quinn* (1997), 462 A.P.R. 282 (NSCA) (board of inquiry had no jurisdiction to determine validity of other principal legislation). **Contrast** *Ermineskin Cree Nation v. Canada* (2001), 37 Admin. L.R. (3d) 88 (Alta. Q.B.) (s. 35 of *Constitution Act*); *Collins v. Abrams*, 2001 BCCA 22, aff'g (1999), 19 Admin. L.R. (3d) 269 (BCSC).

[483] *Poirier v. Canada (Minister of Veterans' Affairs)*, [1989] 3 F.C. 233 at p. 267 (FCA); **see also *Tétreault-Gadoury v. Canada (Employment and Immigration Commission)***, [1991] 2 S.C.R. 22 at paras. 26-9, as well as *Khadr v. Canada (Prime Minister)* (2010), 321 D.L.R. (4th) 413 (FC); at paras. 91*ff*, abated 2011 FCA 92.

[484] In particular, the additional ground of review contained in paragraph 18.1(4)(f) ("acted in any other way that was contrary to law").

constitutional question.[485] In addition, where a tribunal decision based on an unconstitutional statutory provision is made without jurisdiction, the Court's role is to determine whether the tribunal's decision should be set aside for lack of jurisdiction, which will require the Court to determine the constitutional question itself.[486]

13:4300 Authority to Decide Other Challenges to Validity

An administrative tribunal may be asked to rule on the validity of some provision in its constitutive documents on non-constitutional grounds as well. For example, a party may impugn the validity of subordinate legislation before the tribunal on the ground that, properly interpreted, the legislation did not contain the necessary grant of authority. And since the determination of this challenge will turn on an interpretation of the enabling statute, adjudicative tribunals will

(Continued on page 13 - 79)

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[485] *Gwala v. Canada (Minister of Citizenship and Immigration)*, [1999] 3 F.C. 404 (FCA); *Raza v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 F.C. 185 (FCTD)

[486] For some of the evidentiary difficulties of determining constitutional issues in summary proceedings in the absence of findings of fact by a tribunal, **see** Morris and Lunney, "Commencing a Charter Challenge by Way of Judicial Review in Federal Court: Tétreault-Gadoury Revisited" (2000), 13 C.J.A.L.P. 293.

normally possess the power to decide whether the subordinate legislation is valid,[487] in the absence of some clear indication in the legislation to the contrary. Similarly, labour arbitrators have been held to have the power to disregard a provision in a collective agreement on the ground that it was inconsistent with a human rights statute[488] or employment standards legislation.[489]

13:4400 Primary Authority of Administrative Decision-Maker

Where the grant of authority to an administrative decision-maker extends to the determination of constitutional challenges, a question can arise as to whether a party must first obtain a decision from that tribunal, or whether it can instead invoke the inherent jurisdiction of the superior courts. While there is no doubt that the courts may exercise this jurisdiction in the exercise of their discretion,[490] it is a general principle of administrative law that a court ought to decline to grant a discretionary remedy when an

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[487] E.g. *Chan v. Canada (Minister of Employment & Immigration)*, [1994] 2 F.C. 612 (FCTD) (immigration officer held to have authority to determine whether regulations were *ultra vires* the *Immigration Act*); **see also** *Singh (Ahmar) v. Canada (Minister of Citizenship & Immigration)* (1996), 123 F.T.R. 241 (FCTD) (Immigration Appeal Division, Immigration and Refugee Board); *Chief Adjudication Officer v. Foster*, [1993] 1 All E.R. 705 (H.L.). It has also been held that statutory authorities have an implied authority to make preliminary or contingent determinations: **e.g. *Canadian Pacific Ltd. v. Matsqui Indian Band***, [1995] 1 S.C.R. 3; *Canada Post Corp. v. Pollard* (1992), 53 F.T.R. 112 (FCTD), aff'd (1993), 69 F.T.R. 43 (FCA); *Lee-Shanok v. Banca Nazionale del Lavoro of Canada Ltd.* (1987), 26 Admin. L.R. 133 (FCA). And where it is necessary for an administrative decision-maker to resort to a common law rule or statute other than its constituent legislation in order to resolve a dispute, the courts have normally imputed the necessary jurisdiction to the tribunal: ***McLeod v. Egan***, [1975] 1 S.C.R. 517, *per* Laskin C.J.C. **Compare** *Kopyto v. Law Society of Upper Canada* (2011), 285 O.A.C. 383 (law society Hearing Panel had no jurisdiction to deal with issue of validity of bylaw); *Hydro One Networks Inc. (Re)* (2001), 146 O.A.C. 45 (Ont. Div. Ct.) (tribunal had no jurisdiction to state a case asking if regulation valid).

[488] See e.g. *O.S.S.T.F., District 53 v. Haldimand Board of Education* (1991), 5 O.R. (3d) 21 (Ont. Div. Ct.); **compare** *O.S.S.T.F., District 34 v. Essex County Board of Education* (1998), 164 D.L.R. (4th) 455 (Ont. C.A.); *MacNeill v. Canada (Attorney General)* (1994), 115 D.L.R. (4th) 9 (FCA), leave to appeal to SCC ref'd (1995), 118 D.L.R. (4th) vii(n). **See also** *Etobicoke (City) Board of Education v. C.U.P.E., Local 808*, [1973] 1 O.R. 437 (Ont. Div. Ct.) (school administration statute). Of course, when a collective agreement provides for benefits that exceed the statutorily-required minimum, the terms of the agreement will prevail: *Canadian Co-operative Implements Ltd. v. U.S.W.A., Local 3960* (1984), 29 Man. R. (2d) 198 (Man. Q.B.). **And see** D.J.M. Brown and D. Beatty, *Canadian Labour Arbitration* (Toronto, Ont.: Thomson Reuters Canada Ltd., looseleaf), topic 2:2100.

[489] ***Parry Sound (District) Social Services Administration Board v. O.P.S.E.U., Local 324*** (2001), 54 O.R. (3d) 321 (Ont. C.A.), aff'd 2003 SCC 42.

[490] ***Guindon v. R.***, 2015 SCC 41 at paras. 22-40 (constitutional issue heard).

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CHAPTER 11

PURPOSIVE ANALYSIS

A. INTRODUCTION

To achieve a sound interpretation of a legislative text, interpreters must identify and take into account the purpose of the legislation. This includes the purpose of the provision to be interpreted as well as larger units—parts, divisions, and the Act as a whole. Once identified, the purpose is relied on to help establish the meaning of the text. It is used as a standard against which proposed interpretations are tested: an interpretation that promotes the purpose is preferred over one that does not, while interpretations that would tend to defeat the purpose are avoided.

Purposive analysis has become a staple of modern interpretation. It is used not only when the language of a text is found to be ambiguous but in every case and at every stage of interpretation. This reliance is justified by the interaction between language and purpose that is present in all communication. The listener or reader infers the purpose from what is being said and the circumstances in which it is said, and at the same time understands what is being said in light of the purpose.

A strong emphasis on purpose is also justified by a number of legal considerations. First, a purposive approach has been mandated by the legislature. There is a provision in every Canadian Interpretation Act directing interpreters to give to every enactment "such fair, large and liberal construction and interpretation as best ensures the attainment of its objects." Second, much modern legislation is written in a form

that lends itself to purposive analysis. Provisions are often drafted in general terms and may confer a broad discretion on officials. For courts to discern the proper scope of such provisions, they must know their purpose. A third factor is the *Canadian Charter of Rights and Freedoms*, which came into force in 1982. In its earliest *Charter* decisions, the Supreme Court of Canada emphasized the need for purposive analysis both to give definite meaning to the broad language and complex ideas found in the *Charter* and to test whether legislation found to violate its provisions might be justified under section 1. In working with the *Charter*, Canadian courts have become accustomed to the techniques of purposive analysis.

B. WHAT IS MEANT BY LEGISLATIVE PURPOSE

"Legislative purpose" can refer to a number of things. First, it may refer to the primary aim or object of an enactment—that is, the effect the legislature hopes to produce through the operation of its rules or scheme. This objective could be a social or economic goal, such as job creation, reducing carbon emissions, or finding a cure for a disease. It could be the promotion of specific values or policies, such as multiculturalism or respect for privacy. Many statutes and individual provisions have two or more primary objects that may complement or conflict with one another. In analyzing multipurpose legislation, the courts often have to rank or strike a balance between competing goals.[1]

"Legislative purpose" may also refer to various secondary considerations. These are principles or policies that the legislature wishes to observe, or considerations it is obliged to take into account, in pursuing its primary goals. The legislature never pursues a goal single-mindedly, without qualification, and at all costs. There are always additional or competing factors to be taken into account.[2] These show up in legislation in a variety of ways:

- in words of restriction, qualification, or exception that limit the reach or effectiveness of the main goals
- in provisions that confer discretion on officials, permitting them to respond to a range of factors

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1 See, for example, *R v Steele*, 2014 SCC 61 at paras 25–29 and 35–36; *Merck Frosst Canada Ltd v Canada (Health)*, 2012 SCC 3 at paras 2–4; *R v Katigbak*, 2011 SCC 48 at para 38.

2 This point is made in *Sun Indalex Finance, LLC v United Steelworkers*, 2013 SCC 6 at para 174.

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MANITOBA

The REPORT of the MANITOBA AUTOMOBILE INSURANCE COMMITTEE 1970

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MANITOBA AUTOMOBILE INSURANCE COMMITTEE

D. A. Randall, Secretary
Phone 775-8123
1075 Wellington Avenue
WINNIPEG 3, MANITOBA

March 31st, 1970.

His Honour Richard S. Bowles,
Lieutenant-Governor of Manitoba,
Legislative Building,
Winnipeg 1, Manitoba.

May It Please Your Honour:

Letter of Transmittal

We have the privilege to refer to the Minute of the Executive Council dated 29th of October, A. D. 1969, which appointed the undersigned to enquire into and report upon those matters set forth in the said Minute of the Executive Council.

The duties assigned to us have been completed, and we submit our Report for your Honour's consideration.

We have the honour to be, Sir,

Your obedient servants,

Hon. Howard Pawley, Chairman
R. D. Blackburn, Member
Frank C. Pagan, Member

1950 – The Provincial Treasurer was given power to intervene and defend actions involving a potential claim against the Unsatisfied Judgment Fund.

1955 – The limits were increased to $10,000 for one person or $20,000 for two or more persons.

1962 – The limit was increased to $35,000 for one or more persons.

1965 – The provisions respecting the Fund and the procedure as to its administration were taken out of the Highway Traffic Act and a separate Act called the Unsatisfied Judgment Act was passed without making any major changes to the repealed provisions. The Act allowed claims for property damage with deductible of $200.00 except in cases involving unidentified drivers.

By an amendment, a stolen vehicle of a known owner but whose driver could not be apprehended was deemed to be an unidentified vehicle under The Unsatisfied Judgment Fund Act. Briefly, the procedure with respect to recovery of money from The Unsatisfied Judgment Fund Act is as follows:

The victim has to sue the guilty driver and owner in a court of law. If the guilty driver and owner or any one of them is unrepresented by counsel, the Attorney-General is to be notified so that he may take over the defence of the action on behalf of the unrepresented defendant.

Any settlement in that action between the claimant and the defendant has to meet with the approval of the Attorney-General. After the claimant has obtained a Judgment in this fashion, an application is made to the Court of Queen's Bench for an Order directing the Provincial Treasurer to pay out the amount of the Judgment not exceeding $35,000 exclusive of costs. Costs are allowed on party and party basis.

Before the claimant makes an application to the Court for an Order for payment out, he must satisfy the Court, inter alia, that the defendant has no assets and that at the material time he did not have insurance coverage. The Order for payment out of the Fund is conditional upon the claimant assigning the full Judgment to the Provincial Treasurer so that the latter becomes a Judgment Creditor of the guilty motorist.

In few cases indeed is this Judgment fully satisfied by the Judgment Debtor. However, in many cases, the Judgment Debtor makes arrangements through the Court for payment of the Judgment to the Provincial Treasurer by installments. By doing this, his driving privileges are restored to him because in every case, without exception, where a payment out of the Fund has been made, the guilty party is suspended from driving a motor vehicle throughout Canada.

In few cases only, settlements were made with an insurance company where liability by the insurers under the policy was denied. However, such proposals for settlements are entertained with great caution and settlements are made only in cases where the Department is satisfied that on balance of probabilities, the insurance company concerned will be able to avoid its liability under the policy of insurance.

The fact, however, remains that before a claimant can obtain payment out of the Fund, he must go through the usual court procedure and motions. This procedure is a matter of great inconvenience to claimants. Also, by reason of Court involvement, this procedure in certain cases delays the recovery of money by a claimant.

Under the Highway Traffic Act, if the owner of a motor vehicle is unable to provide proof of financial responsibility, he may pay a sum of $25 which goes into the Fund. This

has resulted in a general misunderstanding among some motorists that by paying $25 into the Unsatisfied Judgment Fund, they are participating in some sort of Government insurance scheme. Accordingly, when a person holding this view is involved in an accident and a sum of money is paid out of the Fund on his behalf, it comes to him as a complete surprise that he is liable to repay the amount paid on his behalf to the Provincial Treasurer.

A complete Financial Statement of the Fund is given in Appendix B. You will note on March 31st, 1969, the Fund had a balance of $652,397.67.

The Committee as the result of its enquiry into the condition of the Unsatisfied Judgment Fund was advised by the Department of the Attorney General in February, 1970, of 315 outstanding potential claims against the Fund having an estimated settlement value of $1,000,000.00.

CONCLUSIONS

The Committee is satisfied that the present method of insuring automobiles and compensating the victims of automobile accidents for their losses in respect of bodily injuries and damaged property is inadequate, expensive and confusing to the public. Even the insurance industry, the legal profession, and others close to the business, recognize the need for improvements, as expressed in the volume and variety of recommendations submitted by them to The Committee. Any change of substance in the present automobile insurance system will involve some degree of inconvenience and confusion for motorists, insurance agents, insurance companies, and the public generally, in its introduction. The Committee is aware of the many adjustment problems to be overcome and it is anxious to see its recommendations carried out in the most effective manner.

We therefore feel that the responsibility for, and the control of a new system should be undertaken by one government agency. We recommend a system combining "no-fault" insurance and Tort liability insurance as being the best practical and immediate remedy to overcome the deficiencies of the present system. We recommend that the government create a Crown Corporation to administer the Insurance Plan. The Plan must be compulsory for all Manitoba motor vehicle owners and operators and the benefits available to all persons suffering loss or damage in automobile accidents in Manitoba. It must also provide the conventional forms of bodily injury and property damage liability insurance on Manitoba motor vehicles travelling outside the Province so as to meet the financial responsibility requirements of other jurisdictions. The collection of premiums must be co-ordinated and integrated with payment of driver license and vehicle registration fees. The Plan would be based upon that in use in Saskatchewan but incorporating higher benefits in some areas, and allocating a higher proportion of the premium cost to drivers and less to the owners of vehicles.

An alternative or additional method of raising premium revenue would be the imposition of a gasoline tax.

The adoption of the proposed Plan will be a tremendous stride in the direction of the "no-fault" compensation principle, both for bodily injuries and vehicle damage. It will not remove entirely the Tort liability system, which will continue to be used for the determination of bodily injury claims where such claims are not satisfied by the basic accident benefits; also for property damage losses up to $200, which are not covered by the basic "no-fault" collision insurance.

In cases of dispute within the $200 deductible area of vehicle damage, The Committee recommends that legislation be introduced to permit these cases to be referred to a small claims court, obviating the need for lawyer's services and legal costs. The motorist would thus be able to present his own case in an informal atmosphere and receive the judgment of a magistrate. The Committee is aware of the growing support for a complete "no-fault" system in many areas of North America. We believe that such a system will evolve in due course. The Committee's proposed Plan will be a major step in this direction, and will also be a vehicle which lends itself readily to the introduction of further movements towards the complete "no-fault" concept, in an orderly and timely manner.

I.

The Plan will be designed to return 85% of the premiums collected from motorists in claims benefits paid to those who suffer losses. The rate structure and the proposed financial operations of the Plan will be based on this loss factor. The present rating system in use in Manitoba is based on a loss factor of 67% as representing claim costs plus allocated adjustment expenses.

On page 314 of the Report of the Royal Commission on Automobile Insurance for British Columbia, the Commission concluded that 4.2% of the premium dollar would represent allocated adjustment expenses. Thus, the present system is designed to return only 62.8% of the premium dollar to automobile accident victims. The Committee is satisfied that an 85% return can be achieved. It is supported by the fact that the Saskatchewan Compulsory Automobile Insurance Plan has been successful in operating at this ratio over the period of its existence since 1946. This is illustrated in Appendix C.

It is interesting to note that the Saskatchewan Plan at the same time has been able to build up a surplus and reserve fund together totalling in excess of four and a half million dollars, and to also support a Driver Education and Training program at a cost of $693,247.

The Report of The Superintendent of Insurance for the Province of Manitoba shows the net premiums earned by all companies writing automobile insurance for 1968 as totalling $29,320,484 for Manitoba. The net losses incurred on this business amounted to $18,365,118 or 62.63% of net premiums earned. The net losses incurred exclude adjustment expenses and so the loss ratio, representing the amount returned by way of claims paid to accident victims, corresponds very closely to the 62.8% calculated above by The Committee.

II.

All premiums under the Plan will be payable in cash in advance at the time a motor vehicle is registered or a driver is licensed. The amounts accumulated in this way will not be required immediately for use and so will be available for investments.

The operation of an automobile insurance system of necessity generates reserve funds for future liabilities in the form of earned premium reserves, provision for unpaid claims, and for other contingencies. These reserves will be available for investment purposes and the earnings from these investments will be retained within the fund to reduce premiums or to increase benefits. In the initial stages, the investment income will undoubtedly be relatively small, but will increase with the expansion of these reserves over the years. A secondary benefit to the Province of these investments will be the availability of such funds for the purchase of Provincial and Municipal bonds and debentures.

The 1968 Annual Report of the Saskatchewan Government Insurance Office indicates an investment in excess of $28,000,000 in bonds and debentures.

It is true that private automobile insurers operating in Manitoba purchase Provincial securities to some extent, but the benefits of the earnings from these investments are not returned in any way to Manitoba motorists, nor are they taken into consideration in the financial results of the present automobile insurance system.

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REPORT OF
THE AUTOPAC REVIEW COMMISSION

VOLUME II: BACKGROUND AND POSITION PAPERS

His Honour Judge Robert L. Kopstein
Provincial Court of Manitoba
Commissioner

Submitted to The Honourable Glen Cummings
Minister responsible for
The Manitoba Public Insurance Corporation

Winnipeg, Manitoba
1988

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AUTOPAC REVIEW COMMISSION

POSITION PAPER NO. 1

TOWARDS GREATER ACCOUNTABILITY FOR AUTOPAC

Submitted to: Honourable Glen Cummings

Submitted by: Judge Robert Kopstein

inter-provincial truckers who may register in other provinces and obtain insurance at lower rates.

- Higher mandatory deductibles for trucks and higher liability coverage for trucks.

- Recent exclusion of motorcycle owners from merit reduction.

- Benefit of merit points, not available to some.

It is possible that the corporation may be unable to comply with all public demand or satisfy all concerns. As a public corporation however, its thrust should be consumer oriented. It should respond to consumer demands and consumer concerns either by taking the steps necessary to accommodate the public demand, by publicly explaining any inability to do so, or by demonstrating that a demand is unreasonable or a concern unwarranted. It is not sufficient that a demand from consumers be dismissed because it is unreasonable or impractical, or that for some other reason it is not one to which the corporation can presently accede. The consumer of the products of a public corporation, which is a monopoly, is entitled to an explanation.

The management of the corporation -- through a network of communication with operating staff and through direct communication with its public relations officers -- should be aware of public dissatisfaction as it arises. It should be the function of management to transmit those concerns to the board with explanations and analyses. It should be the function of the board to direct the corporation to undertake such studies and

projects as are necessary to determine what actions may be taken to address the public concern. Moreover, it should be the function of the board on its own initiative, to consider means by which Autopac may be improved over time and to direct management to conduct such studies and projects as the board may consider appropriate for that purpose.

Recommendation No. 1.16: That the MPIC board be required by legislation to consider and appraise strategic initiatives relating to all aspects of the corporate mandate and that the board be empowered to direct such changes and alterations in the quality of automobile insurance coverage and service it considers will better meet the public need.

XIII. RATE INCREASES

Frequently during the commission's public meetings, people voiced their wish for independent public scrutiny of Autopac rate increases. Underlying that wish was a suspicion that somewhere, either within the corporation itself or within government there was serious mismanagement and suppression of facts about the corporation's 1987 $62.5 million loss until the last moment. The people felt as well that the government's eleventh hour effort to soften the impact of its 1988 rate increase through merit point reduction was clumsy and unbusinesslike, even though the reduction was helpful to many.

People saw the merit reduction program as a kind of political manipulation. They urged future public scrutiny of rate increases, not so much to challenge the increases themselves, but rather as a vehicle through which to test the corporation's efficiency in managing Autopac, and as a method through which to expose suspected weaknesses within the political or professional management of MPIC. Many advocated approval of Autopac rate increases by the Public Utilities Board (PUB).

A. THE PUBLIC UTILITIES BOARD

The Public Utilities Board is established by statute under The Public Utilities Act.[13]

At present, the PUB in my opinion lacks jurisdiction to entertain applications respecting MPIC rate increases because MPIC would not be considered a "public utility" within the meaning of that act. That difficulty, however, is not critical since acts of the legislature may be amended.

In a paper [14] prepared for the commission on the subject of regulation, the authors mention other agencies that could scrutinize Autopac rates and services. One suggestion was the establishment of a permanent Autopac Review Commission. Another suggestion was the establishment of a separate government department. Neither of those options is favoured by the authors of that report. Nor do I favour them. The Public Utilities Board has a good measure of public confidence. It has experience reviewing rates for other Crown corporations such as Manitoba Hydro and the Manitoba Telephone System, and has demonstrated the capacity to decide on technical ratemaking issues. As well, there is precedent in Canada for the utilization of public utilities boards to regulate automobile insurance rates. Insurance rates are now regulated by public utilities boards in New Brunswick and Newfoundland. In those provinces the boards regulate private insurers through the establishment of "benchmark" rates for each category of

13 The Public Utilities Board Act, RSM 1987, Chapter P280.

14 Regulation of Automobile Insurance: Theory, Practice and Alternative Approaches. Mason and Cameron, University of Manitoba Research Ltd., June 13, 1988, Page 30.

AUTOPAC REVIEW COMMISSION

POSITION PAPER NO. 3

IMPROVING AUTOPAC RATEMAKING AND COVERAGE

Submitted to: Honourable Glen Cummings

Submitted by: Judge Robert Kopstein

financial position was attributed to a sharp increase of 20 percent in claims costs and a one-time accounting adjustment to cover $5.3 million of estimated future costs for recently-legislated obligations to compensate claimants for pre-judgement interest.[8]

It was projected that a $22 million loss could occur in 1987 without remedial action. The corporation generated two rate proposals, one of which involved significant surcharging for high loss ratios. Cabinet subsequently directed ten additional proposals be evaluated -- involving combinations of general rate increases, surcharges on drivers, increase in third party liability extension costs and other adjustments. All options generated extra premiums in the $11 to $13 million range, i.e. about one half the forecast losses. Eventually an across-the-board increase of about 8.5 percent was selected, combined with very modest increases based on loss ratios.

Ratemaking for the 1988 Validation Year

1988 was an exceptional validation year because, even in the spring of 1987 -- that is nearly 12 months before the validation year started -- it was evident that anticipated losses for the current, i.e. 1987, year were escalating dramatically beyond earlier projections. Forecast losses were running as high as $68.5 million for the calendar year ending December 31, 1988. Based on an analysis of factors which the corporation believed were inflating losses, a number of

8 Up until 1986, it had been the practice of the corporation not to pay interest for the time between the accident, to which the claim might apply, and the date of judgement on the claim. Courts, in other jurisdictions, had held that interest was payable to a claimant from the date of the claim, so action was required. This change in practice required the corporation to make greater payments and hence reserve greater amounts.

diverse options were considered. This work, which went on throughout the year, culminated in a series of cabinet submissions. Very hefty surcharges for high loss ratios, a general rate increases of seven percent, and certain general caps on rate increases were adopted and announced.

Public pressure later led to MPIC adopting discounts for drivers with merit points as a means to soften increases for good drivers. The net result of these premium adjustments by rating group, as experienced by one class of vehicle owners (namely, all purpose drivers in Winnipeg) is revealed in Figures 3.5A and 3.5B.[9] (The figure, incidently, allows for a comparison to the 1986 rate increases, which were equal across groups).

Generally speaking these figures show that the rate increases were "U" shaped, ie. more severe among lower and higher priced cars and less severe for "average" cars.

Conclusions Concerning the Ratemaking Process

I adopt Coopers & Lybrand's findings that:

> "Upon review, it is evident that between 1984 and 1985, the Autopac ratemaking process changed. Prior to and including 1984, MPIC management was instrumental in developing alternative proposals and making recommendations to the board which were then forwarded on for Cabinet approval. There was little or no change between what was initially recommended and what was eventually put into place

9 Figures 3.5A and 3.5B should be read as one. Practical difficulties and legibility prevented all the rating groups appearing on one figure.

> for the validation year. From 1985 on, Cabinet appears to have become much more directly involved in the ratemaking process . . . . [This is revealed in a comparison of the] recommended overall rate increases to the actual results as [in Table 3.6]."

I also adopt Coopers & Lybrand's findings that:

> "The rate setting process in insurance companies is statistically driven. The past history of loss development is important in predicting the likely development of losses in the future. Although it is subject to fluctuation by causes such as weather patterns, automobile insurance -- by its nature -- is a relatively stable line of business. However, it would appear from a review of the facts that the appropriate statistical and financial data were either not available or not considered appropriate for use in the rate setting process for 1987 or 1988.
>
> "Our review of the information available in the corporation suggests that, in particular, information developed for the ratemaking process does not fully meet the standards required for actuarial analysis . . . . [Further], we found that the allocation of rate increases to various groups was, at times, somewhat arbitrary, and based on social and political rather than insurance considerations. We also believe that certain of the vehicle classifications warrant review, because the premiums charged for some groups do not appear to be supported by industry statistics."

The weaknesses catalogued by Coopers & Lybrand seem to me to be symptoms of a more profound problem which Coopers & Lybrand also identified:

> "The corporation should formalize the rate setting process. This would entail documenting the procedures required to be followed in order to produce the annual Rate Proposal to the board of directors. A management committee should be established to set out the roles and responsibilities of specific management positions, set deadlines for specific tasks and indicate the management and committee reviews required before the rate proposal is presented to the board."

In other words, the corporation lacked a formal internal process for ratemaking and premium pricing, with suitable checks and balances. In my opinion, these weaknesses may also stem from lack of a single senior individual being responsible for ratemaking. Under the current organization of MPIC, appearing as Figure 3.6, that single responsibility should be vested in the chief underwriter, who should possess sufficient professional and actuarial knowledge to ensure that ratemaking is sound.

Recommendation No. 3.11: That management and the board of directors be granted the authority publicly by government to finalize rates, subject only to review by the Public Utilities Board.

Recommendation No. 3.12: That, effective not later than insurance year 1991, MPIC develop an actuarially-sound and statistically-driven ratemaking system.

Recommendation No. 3.13: That, effective not later than insurance year 1990, MPIC management assign rate-making responsibility to a new senior management position with such assistance, including actuarial assistance, as may be required for managing the internal ratemaking system.

C. PRICING OF PREMIUMS

There is an important distinction between determining the rates that should apply for various classes of vehicles and actually pricing the related premiums. It is accepted practice that the pricing of premiums among private insurers will not depend simply on the profitability of a particular coverage but will reflect also the insurance marketplace.

For example, some highly competitive or new lines of business might be priced at less than cost while others may be priced above cost.

There is scope for unjustified premium pricing in Manitoba as no market place for basic vehicle insurance is allowed by law. The only competitive sectors are in extension coverages. Even this competition may be more apparent than real: for example, MPIC has a natural advantage because its administrative structure is widely and conveniently dispersed throughout the province, including claims services. It is also not convenient for a claimant to be obliged to approach MPIC for basic reimbursement and a private insurer for reimbursement on supplementary coverages. The situation is similar to that in British Columbia, where ICBC is in competition with all private insurers with respect to collision insurance. Because ICBC -- as a monopolistic supplier of bodily injury and third party insurance -- is able to maintain a string of claim centres around the province, it is positioned to discourage private insurers from competing. Thus, about 98 percent of the so-called competitive collision insurance is provided by ICBC.

Indeed, MPIC's natural advantage is so secure in the extension marketplace that it is able to charge more than it needs to. It was reported to me that the special risk extension (SRE) business for commercial vehicles is profitable, generating $1.7 million a year in operating income. Moreover, the extension coverages for automobiles, accounted for as part of the basic Autopac, are also quite profitable overall (although some components, such as the buy-up to $2 million in public liability, may not be). Profits may exceed $1 million. MPIC, as a public monopoly, has a special responsibility to ensure that premiums for extension coverages are not overpriced, even though any excessive profits are, in effect, returned to other

AUTOPAC REVIEW COMMISSION

POSITION PAPER NO. 7

NEED FOR NEW FINANCIAL POLICIES AND IMPROVED FINANCIAL MANAGEMENT

Submitted to: Honourable Glen Cummings

Submitted by: Judge Robert Kopstein, Commissioner

- Based on the actuary's recommendations, MPIC decided to take a one-time loss of $21 million.

I am persuaded that this is an accurate and reasonable accounting of the loss. In my opinion, however:

- The corporation should not budget for a loss. Unforeseen and unbudgeted losses, when added to a budgeted loss, can dramatically magnify the total loss (In section C, below, I return to this matter.)

- Unusual weather conditions and certain other occurences are unpredictable by their nature. The resulting losses are an inherent part of what the insurance business must expect on occasion and they must be anticipated.

- It was an unfortunate coincidence that the actuary's recommended corrections arose in a year of otherwise heavy operating losses. Had MPIC employed an actuary sooner, the recommended corrective actions could have been taken in earlier years when surpluses were available to cushion their impact. Phasing-in of rate increases would have been possible. If, as I recommend, MPIC employs an annual actuarial review in the future, I believe corrections of such magnitude should not recur.

B. INSURANCE INDUSTRY COMPARISONS

MPIC does not conduct regular detailed comparisons with private insurers, the consultants found. Therefore, at the commission's direction, Deloitte Haskins & Sells prepared a comparison of summary financial statistics for MPIC, State Farm Mutual Automobile Insurance Company, Allstate Insurance

Company of Canada, the Cooperators General Insurance Company and the Wawanesa Mutual Insurance Company, as well as for the entire Canadian insurance industry. There are important differences in the operations of these companies, such as their size and the proportion of their business related to vehicle insurance. This hinders direct and detailed comparisons, although such comparisons are still informative in general.

I include and adopt Table 7.3 from Deloitte Haskins and Sells, who observed:

> ". . . MPIC's increase in earned premiums (46.3%), while higher than the other two government insurance plans, has been moderate in relation to the industry. The increase in incurred losses (101.7%) has been significantly higher than the other government insurance plans and somewhat in excess of the industry."

Tables 7.4A and 7.4B, also adopted from Deloitte Haskins & Sells, contain some common financial ratios often used for analysis of insurance companies.

I find, based on the data presented in Tables 7.3, 7.4A, and 7.4B, that:

i) For every $100 in premiums earned from 1983 to 1986, MPIC returned about $101.90 to claimants either directly or through associated claims expenses. The industry average for Canada was $83.90. During those four years, MPIC was returning about $18.00 per $100.00 more than the industry. This generous level of return was, perhaps, too high since MPIC's financial situation was beginning to deteriorate in 1986.

ii) One of the reasons for this greater return to claimants was that the administrative and commission expense of

the corporation totalled nine percent,[5] while for the industry in Canada it totalled 22.3 percent. MPIC is proud of its control of administrative expenses.[6] As Figure 7.3 reveals, the growth in administrative expenses over the past four years has paralleled but not exceeded growth in the claims volume.

MPIC has low administrative expenses for three reasons:

- As a monopoly, it enjoys economies of scale in administration and service.
- It can offer lower commission rates than private insurers who use higher commissions to induce agents to select good business, namely business with lower and more predictable risks.
- It need not pay a return to its owner.

These remain advantages for a monopoly, government-owned supplier of insurance.

iii) MPIC pays premium tax at a rate slightly exceeding the industry average for Canada (3.1 percent versus three percent).

The preceding tables contain selected information highlighting differences in financial ratios among ICBC, SGI and MPIC. Regrettably, these differences cannot be understood

5 Deloitte Haskins and Sells observe that MPIC nets time payment fees against administrative expenses; it this were not done, then MPIC's expense percentage would rise to 10%.

6 For instance, the 1986 Annual Report states: "At 4.5% of premium's earned, the corporation's administrative expense ratio is the lowest of any major insurer in Canada."

Coopers & Lybrand advised the commission:

> "Using the insurance risk ratio as a basis to evaluate reserve levels, MPIC falls far short of acceptable standards for private insurance companies. . . . The insurance risk ratio is a measure of a company's ability to absorb financial shock given the strength of its reserves. The ratio is calculated by dividing the value of premiums written during a period by the amount of surplus on hand at the end. The Canadian insurance . . . solvency test sets the maximum insurance risk ratio at 3.5. To meet this requirement, MPIC would need reserves for the MPIC Automobile Division [Autopac] of approximately $70 Million. Most Canadian property and casualty insurance companies maintain surpluses equal to about one-half the value of the premiums they write. Should MPIC seek this higher reserve level, approximately $125 million would be required."

The level of contributed capital and surpluses dictated by solvency consideration is not required, in my opinion. Among publicly-owned insurance companies, it has not been the practice to provide capital to assure this protection, since:

- The company is a monopoly -- that is, premiums can be raised as much as necessary in future years to offset losses without eroding the customer base.

- The government implicitly stands behind the financial position of the company.

Deloitte Haskins & Sells write:

> "In regard to the theory that government should inject . . . capital, it should be noted that the investor [i.e. government] would expect a return on this investment as is the case in private insurance. This means that if government put in $80 million and this was in turn invested by Autopac at 12%, generating $9.6 million in interest, Autopac would then need to pay this out by way of return and investment to the government. Autopac would not benefit, and would be in

> the same net position. The policy holders would have an extra measure of protection against potential future losses of Autopac, although this is not a major concern under the present arrangement whereby operations are implicitly guaranteed by the Provincial Government . . . . [H]owever, it is good management practice that government insurance companies should accumulate a surplus in good years in order to dampen extremes of rate increases that would normally happen during the normal business fluctuations of the insurance market. It would be prudent for the company to accumulate a surplus in order to protect against unexpected claim cost increases . . . . "

I concur that capitalization, in the form of an injection of equity capital, by the Manitoba government would not be of net benefit to MPIC or the government.

Recommendation 7.10: I recommend that the government of Manitoba not provide equity capital to MPIC.

I also accept the advice that MPIC should accumulate a surplus in order to provide a cushion against massive rate shocks occasioned by unforeseen losses.

Several options are available for establishing the level of surplus:

Option 1: Table 7.4B shows that MPIC has erred by 3.5 percent annually over a five year period in estimating "claims incurred". If this level of excess loss were experienced annually over a three year period, without remedial action being taken, then the overall loss would exceed expectations by ten or 11 percent. The surplus to offset this accumulating unexpected loss would amount to ten percent of premiums. Today this would mean a surplus of ten percent of $300 million or $30 million.

Option 2: As Figure 7.4A shows, over the past ten years the corporation has never shown a loss of more than 13 percent of its premiums written in any one year.[8] Here I use loss to be the difference between all claims and expenses. Thus a 13 percent level of reserves would protect against one year of extreme losses (out of ten). Alternatively, the Public Utilities Board has taken a position with respect to Manitoba Hydro that its financial reserves ought to be enough to offset the financial effects of two years of drought. If one applied a similar requirement to MPIC, then the reserves should be enough to offset two years of relatively extreme losses. Two years should give MPIC time to adjust rates to forestall further losses or to begin to rebuild surpluses. Over any two year period since 1975, the cumulative losses have never exceeded 20 percent of premiums. Accordingly, a 20 percent level of reserves would protect against two successive loss years. If applied today, this approach would mean reserve levels of about $60 million.

Option 3: Coopers & Lybrand observe that:

> "In the United Kingdom, a common requirement is that a company's unimpaired surplus be equal to or exceed 16 percent of net premiums written, that is, the difference between total premiums written and premiums remitted to insurers on ceded risks. If this test were applied to Autopac, MPIC would [have] required a surplus of [about] $39 million

8 This figure does not count these parts of the 1987 loss which were the one-time actuarial adjustments.

> in October 31, 1987. . . . We favour [this] minimum solvency requirement . . . . To give the Corporation some flexibility, we recommend that MPIC adopt a policy of maintaining an unimpaired surplus of between 16 percent to 20 percent of the value of net premiums written."

Option 4: Coopers & Lybrand also note another approach:

> ". . . the loss reserves to surplus test. This is used to determine whether the value of unpaid claims and adjustment reserves is no greater than two and one-half times the value of an insurance company's surplus. To satisfy this requirement, MPIC would have had to have had a surplus of at least $100 million on October 31, 1987."

Option 5: Deloitte Haskins & Sells recommend a surplus of 25 percent of premiums written. Applied against $300 million of premiums in 1988, this amounts to establishing a surplus of about $75 million.

Option 6: The standard insurance insolvency guidelines would suggest a ratio of about 30 percent of premiums, or roughly $100 million today. As I mentioned above, I do not believe it is necessary for MPIC to meet the exacting standards applied to privately-owned insurance companies in order to guarantee claims will be paid. Unlike other companies, MPIC is a monopoly backed implicitly by the government of Manitoba.

I also note that when Autopac's accumulated surpluses were about $71 million in 1984/85 there was public debate about the wisdom of the policy which directed such a high reserve. This led to the corporation's policy of gradually reducing reserves to lower levels, through planned losses, although the MPIC board had not approved a precise reserve target or reduction policy.

Based on these options and observations, I find that reserves of between $30 and $60 million would be reasonable with a target level between $40 and $50 million.

Recommendation 7.11: That the government of Manitoba issue a public directive to the corporation setting an Autopac retained surplus target of about 15 percent of premiums. (This would amount to $40 to $50 million at prevailing premium levels.) The government directive should indicate that, if the Autopac surplus falls below ten percent or exceeds 20 percent of premiums, the corporation should and would be expected to take remedial action.

As I remarked above, the corporation budgeted for losses in 1986 in order to reduce surpluses. When losses occurred beyond those anticipated, the corporation's accumulated surpluses were suddenly eliminated in a single year. This is unacceptable. To prevent a recurrence, I suggest the following approach:

- When Autopac surpluses exceed target levels, the corporation should budget to break even; if a loss materializes then surpluses should be run down accordingly.

- When the corporation is operating below surplus target levels, offsetting rate increases should be phased in over a period of up to five years (depending upon the reserve deficit) in order to minimize rate shocks.

This approach will allow a more stable financial operation at Autopac.

Recommendation 7.12: That the corporation not budget deliberately for losses in any year, but budget for surpluses where reserves have been reduced below target

levels, and that budgeting for surpluses should be such as to result in depleted reserves being returned to the target range over a period of not more than five years, depending on the degree of depletion.

D. INVESTMENTS

I adopt the findings of Deloitte Haskins & Sells with respect to MPIC investments:

> "[MPIC] is required under Section 12(1) The Manitoba Public Insurance Corporation Act to pay funds available for investment to the Minister of Finance. The types of long term investments in which the Minister of Finance may invest are set out under Section 19(1) of The Financial Administration Act and are, in summary, limited to:
>
> - Securities issued or guaranteed by the Federal Government, any provincial government, the Government of the United Kingdom and the Government of the United States of America.
> - Securities issued by any Manitoba government agency or corporation. . . .
> - Securities issued by Manitoba municipalities, schools or hospitals.
> - Guaranteed trust certificates issued by trust companies entitled to transact business in Manitoba.
>
> In addition, the corporation/Department of Finance have in practice the policy of investing wherever possible within the Province of Manitoba."

The actual values of invested assets since 1983 are displayed in Figure 7.6 according to whether they are in long-term or short-term investments. About 70 percent of assets are in MPIC's long-term portfolio, although this varies year by year. As indicated in Table 7.5, the corporation's total long term portfolio is entirely invested in fixed income securities, of which approximately 89 percent are invested in Manitoba and 37 percent are securities issued by Manitoba municipalities, schools or

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Principles of Public Utility Rates

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Principles of Public Utility Rates

JAMES C. BONBRIGHT
ALBERT L. DANIELSEN
DAVID R. KAMERSCHEN

Public Utilities Reports, Inc.

Principles of Public Utility Rates

Second Edition

by
JAMES C. BONBRIGHT
ALBERT L. DANIELSEN
DAVID R. KAMERSCHEN

with assistance of
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policymakers recognized the incompatibility of competition and cross subsidization. In Docket 78-72, the Federal Communications Commission (FCC) began the move towards cost-based pricing and to phase out cross subsidies. However, since rural companies were faced with large rate increases the FCC established a plan designed to protect these companies. Under this plan, the FCC established the Universal Service Fund, allowing high cost companies to assign part of their costs to toll service and thereby partially continue the subsidy from urban areas.

Complexity of the Issues

In this chapter we mostly emphasize a normative theory about what should be done as opposed to positive theory about how the world is. One of the paramount normative issues is rate structure. Rate-structure problems are far more complex than problems of a fair return, even though the latter are by no means elementary; and they are even less amenable to solution by reference to definite principles or rules of ratemaking. In part, the complexity is due to the mass of technical detail, including the technology of metering, involved in the design and administration of workable rate schedules for different types of utility enterprises. In part it is due to the inability of the ratemaker to predict the effects of rate changes on demand and hence on costs of supply — due, in short, to ignorance of demand functions and cost functions. But in part — and this is the theoretical difficulty — it is due to the necessity, faced alike by public utility managements and by regulating agencies, of taking into account numerous conflicting standards of fairness and functional efficiency in the choice of a rate structure. The nature of some of these conflicts will be revealed as this discussion proceeds. But, by way of illustration, we may note the conflict between the desirable attribute of simplicity and the otherwise desirable attribute of close conformity to the principle of service at cost. Here, as with other clashes among various desiderata of ratemaking policy, the wise choice must be that of wise compromise; and in reaching this compromise, the practical rate expert would look in vain to any general theory of public utility rates for a scientific method of reaching the socially optimum solution. An economically rational approach would involve comparing the benefits with the costs, but this is not always easy or even feasible. For instance, measuring the intangible costs of time-of-use metering cannot be readily assessed. Needless to say, no one has supplied a formula by which to draw the line between too much and too little simplicity.

A recurring theme of this book is that there are conflicts among

the competing objectives of ratemaking that are difficult to resolve, thus making the climb to the peak of Mount Pareto slippery. While our preference as economists is to make greater use of the criterion of service at cost as the standard by which alternative rate structures are compared, we realize that to expect this bias of others would be hopelessly naïve. We do believe, however, that the ratemaker should utilize the cost standard as a benchmark, with assessments of the efficiency advantages (or disadvantages) of particular rate structures playing a subsidiary role; social and fairness standards also may be appropriate within the limits of authority that a regulating body may be able to exercise. As the French thinker Blaise Pascal noted: "We know the truth not only by reason, but also by the heart."

CRITERIA OF A DESIRABLE RATE STRUCTURE

Throughout this study we have stressed the point that, while the ultimate purpose of rate theory is that of suggesting criteria of reasonable rates and rate relationships, an intelligent choice of these depends primarily on the accepted *objectives* of ratemaking policy and secondarily on the need to minimize undesirable side effects of rates otherwise best designed to attain these objectives. However, no rational discussion of the relative merits of cost of service and value of service, for example, as standards of desirable rates or rate relationships is possible without reference to the question of what desirable results the ratemaker hopes to secure, and what undesirable results are to be minimized, by a choice between or mixture of the two standards. This was recognized explicitly in the Electric Utility Rate Design Study sponsored by the National Association of Regulatory Utility Commissioners (NARUC) and undertaken by the Electric Power Research Institute (EPRI) (See Malko, Smith and Uhler, 1981, p. 1-6). Not only this: the very *meaning* to be attached to ambiguous, proposed standards such as those of "cost" and "value" — an ambiguity not completely removed by the addition of familiar adjuncts, such as out-of-pocket costs, or marginal costs, or average costs — must be determined in the light of the purposes to be served by the public utility rates as instruments of economic policy. This is a commonplace; but it is a commonplace which, so far from being taken for granted, needs repeated emphasis.

In this section we first outline a set of attributes to be sought in the development of a sound rate structure. While we know that regulation will not guarantee good economic performance, we should at least like it to arrest or curb egregiously bad performance. For

instance, regulation should allow a fair rate of return, but not guarantee or protect a regulatee against mismanagement or adverse business conditions. Sound rate relationships are essential to the attainment of these desirable ends, but criteria are required to judge whether, and to what extent, these objectives have been attained. In our attempt to put the competing criteria into an explicit form we recognize that we are violating the sage advice of Charlie Brown that: "No problem is so big that it can't be run away from."

Attributes of a Sound Rate Structure

What are the attributes to be sought in the development of a sound rate structure? Many different answers have been suggested in the technical economics literature and in the reported opinions by courts and commissions. A number of writers have summarized their answers in the form of a list of desirable attributes of a rate structure, comparable to the canons of taxation found in Adam Smith's *Wealth of Nations* (1937 — originally 1776) and subsequent treatises on public finance. In very general terms (see e.g., Federal Energy Regulatory Commission, Order No. 436, October 9, 1985) optimal rates: should provide clear, efficient, effective, informative, and cost-effective market signals about the present and the future cost of service to buyers and sellers, (which requires that prices track costs); should embody strong incentives for optimal present and future cost and service quality configuations; should give buyers and sellers optimal flexibility in selecting sellers and buyers respectively; should allow utilities to serve as agents of progress; should maintain or improve distributive equity, and should allow for the attainment and maintenance of a flexible (non *ad hoc*) regulatory framework with a modicum of necessary delay and obfuscation (and even a willingness of a commission to dissolve itself under the appropriate competitive or contestable conditions!). But this is a pretty general menu, and more specific direction is needed when applying them to an empirical world. As someone once said, "the real world is only a special case of the theoretical world, and not a very interesting one at that." But many practical-minded people would disagree, so let us push on to greater specificity.

The list that follows is fairly typical, although we have derived it from a variety of sources, instead of relying on any one presentation. Of the ten proposed attributes enumerated in this section, the first three relate to the provision of adequate stable and predictable revenues and rates; the next five are based on cost, efficiency, and equity considerations, and the remaining two deal with matters of practicality

and acceptability. However, the sequence in which the ten attributes are presented is not meant to suggest any order of importance. Moreover, there is, perforce, some inconsistency and redundancy in any such listing. We are simply trying to identify the desirable characteristics of utility performance that regulators should seek to compel through edict.

Revenue-related Attributes:

1. Effectiveness in yielding total revenue requirements under the fair-return standard without any socially undesirable expansion of the rate base or socially undesirable level of product quality and safety.

2. Revenue stability and predictability, with a minimum of unexpected changes seriously adverse to utility companies.

3. Stability and predictability of the rates themselves, with a minimum of unexpected changes seriously adverse to ratepayers and with a sense of historical continuity. (Compare "The best tax is an old tax.")

Cost-related Attributes:

4. Static efficiency of the rate classes and rate blocks in discouraging wasteful use of service while promoting all justified types and amounts of use:

   (a) in the control of the total amounts of service supplied by the company;

   (b) in the control of the relative uses of alternative types of service by ratepayers (on-peak versus off-peak service or higher quality versus lower quality service).

5. Reflection of all of the present and future private and social costs and benefits occasioned by a service's provision (i.e., all internalities and externalities).

6. Fairness of the specific rates in the apportionment of total costs of service among the different ratepayers so as to avoid arbitrariness and capriciousness and to attain equity in three

dimensions: (1) *horizontal* (i.e., equals treated equally); (2) *vertical* (i.e., unequals treated unequally); and (3) *anonymous* (i.e., no ratepayer's demands can be diverted away uneconomically from an incumbent by a potential entrant).

7. Avoidance of undue discrimination in rate relationships so as to be, if possible, compensatory (i.e., subsidy free with no intercustomer burdens).

8. Dynamic efficiency in promoting innovation and responding economically to changing demand and supply patterns.

Practical-related Attributes:

9. The related, practical attributes of simplicity, certainty, convenience of payment, economy in collection, understandability, public acceptability, and feasibility of application.

10. Freedom from controversies as to proper interpretation.

Lists of this nature are useful in reminding the ratemaker of considerations that might otherwise be neglected, and also useful in suggesting important reasons why problems of practical rate design do not yield readily to scientific principles of optimum pricing. But they are unqualified to serve as a base on which to build these principles because of their ambiguities (how, for example, does one define "undue discrimination"?), their overlapping character, their inconsistencies, and their failure to offer any basis for establishing priorities in the event of a conflict. For such a basis, we must start with a simpler and more fundamental classification of ratemaking functions and objectives.

Some of these attributes in the aforementioned list are based directly on the primary functions of public utility rates first presented in Chapter 4, and the related objectives to be sought in the establishment of a cost-based standard of ratemaking (Chapter 5). These objectives provided the basis for development of the criteria of a fair return (Chapter 10). These same objectives, derived from the four primary functions, can now be used to specify the criteria of a sound rate structure discussed in the following section.

The Primary Criteria Are Based on the Objectives of Regulation

General principles of public utility rates and rate differentials are necessarily based on simplified assumptions both as to the objectives

of ratemaking policy and as to the factual circumstances under which these objectives are sought to be attained. Attempts to make these stated principles subserve all special objectives and cover all specific conditions would be hopeless. Writers on the theory of rates are therefore at liberty to base their analyses on the acceptance of those objectives which are of wide application and the attainment of which may be aided by whatever tests or measures of sound rate structure the analyses suggest.

Among these objectives, the following three may be called primary, not only because of their widespread acceptance, but also because most of the more detailed objectives discussed in the literature are ancillary thereto: (1) the revenue-requirement, production-motivation, or financial-need objective; (2) the optimum-use, demand control, or consumer-rationing objective; and (3) the compensatory income transfer function or fair-cost-apportionment objective. Based on these objectives we propose the following three primary criteria by which to judge the soundness and desirability of a rate structure for public utility enterprises. As outlined below, these objectives are related closely to five of the ten attributes specified above.

Criterion 1 - Capital Attraction
(Attribute 1): based on the revenue-requirement objective, with due regard to potential problems of socially undesirable levels of rate base, product quality, and safety; it takes the form of a fair-return standard with respect to private utility companies;

Criterion 2 - Consumer Rationing
(Attributes 4 and 5): based on the consumer-rationing objective, under which the rates are designed to discourage the wasteful use of public utility services while promoting all use that is economically justified in view of the relationships between the private and social costs incurred and benefits received;

Criterion 3 - Fairness to Ratepayers
(Attributes 6 and 7): fair-cost-apportionment objective, which invokes the principle that the burden of meeting total revenue requirements must be distributed *fairly* and without arbitrariness, capriciousness, and inequities among the beneficiaries of the service and so as, if possible, to avoid undue discrimination.

The objectives specified above correspond to three of the four primary functions of utility rates set forth in Chapter 4. The efficiency-incentive function, or that of encouraging managerial efficiency, is

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CED Statutes III.3.(n).(ii)

Canadian Encyclopedic Digest

Statutes
III — Interpretation of Statutes
3 — Common Law Rules
(n) — Statutes In Pari Materia
(ii) — Conflict

For print citation information and the currency of the title, please click here.

III.3.(n).(ii)

See Canadian Abridgment: STS.II.5.d Statutes — Interpretation — Extrinsic aids — Statutes on same subject [in pari materia]

§161 In a conflict between statutes in pari materia, the statute that is later in date or, if the statutes are of the same date, the one that received royal assent last should prevail. [1]

Footnotes

1 *Vancouver (City) v. British Columbia Telephone Co.* (1905), 1 W.L.R. 461 (B.C. S.C.); **see also** *Nova Scotia (Minister of Community Services) v. A. (F.)* (1997), 159 N.S.R. (2d) 230 (N.S. Fam. Ct.).

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THE LEGISLATIVE ASSEMBLY OF MANITOBA
8:00 o'clock, Tuesday, May 12, 1970

INTRODUCTION OF GUESTS

MR. SPEAKER: Before we proceed I should like to direct the attention of the honourable members to the gallery where we have 30 Wolf Cubs of the 93rd Cub Pack. They are under the direction of Mrs. Kiesman. The members of this pack are from the constituencies of the Honourable the First Minister and the Honourable Member for Kildonan. On behalf of all the honourable members of the Legislative Assembly, I welcome you here this evening.

The Honourable Member for St. Boniface.

MR. LAURENT L. DESJARDINS (St. Boniface): Mr. Speaker, I wonder if I could have leave to make a non-partisan political announcement. I just want to remind the honourable members that the Pea Soup Night is tomorrow at 7:00 o'clock at the Juniorat at the corner of Provencher and Des Meurons.

GOVERNMENT BILLS

MR. PAULLEY: I wonder, Mr. Speaker, if we could go into second readings of government Bills, starting with Bill No. 15.

MR. SPEAKER: The proposed motion of the Honourable the Attorney-General, Bill 15. The Honourable Member for Fort Garry.

MR. WEIR: Could we have leave to have the matter stand? (Agreed.)

MR. SPEAKER: The proposed motion of the Honourable Minister of Mines and Natural Resources, Bill No. 38. The Honourable Member for Riel.

MR. CRAIK: Well, Mr. Speaker, in the absence of the Minister, I think I'd ask this matter to stand. (Agreed).

MR. SPEAKER: The proposed motion of the Honourable Minister of Agriculture, Bill No. 31. The Honourable Member for La Verendrye.

MR. BARKMAN: Mr. Speaker, I think this Bill is important enough that I don't want to be guilty of holding it up any more so I will say a few words on it.

I think it is a very important step in the right direction because we all know that the shortage, the lack of veterinarians in our province is becoming a rather critical condition in the Province of Manitoba. It's not very often in my short life that I side with professional people, but I think this is a case where more concern has to be given to our veterinarians still remaining in the Province of Manitoba. There's no doubt in anybody's mind in this Legislature I'm sure, and I'm especially referring to the rural MLA's, many of them are working 14 and 16 hours a day, many are still only half finished by the time they quit working after a lengthy day, and I wonder if we realize, other than perhaps the rural members, the number of miles that many of these veterinarians engage or travel during a day's work. I just happened to ask a veterinarian the other day and he told me that he drove as many as 300 miles a day, although he did say that this was not an average mileage per day, but he said he had to do this at times and I think this alone is very time-consuming.

So I'm very happy, Mr. Speaker, to see Bill 31 coming up. I believe it's something that we've been waiting for. The first steps were perhaps made by the former government, and now the completion of this Act. So I think the fact remains that as this situation is becoming worse, we are not only maintaining our present veterinarians but we are losing those that have been in training. We're losing our present veterinarians to other provinces, and in fact I think to other countries. While we fully realize that this Bill will only help the situation to some extent, at least it will show the farmer or show the livestock producer - in fact we could include the dairy farmer and the poultry farmer - at least it will show these people that finally some relief is on the way. I think we could point out here that it will certainly need the full cooperation of every livestock owner operating in Manitoba. I feel that this cooperation is going to be badly needed because, after all, the Act is not a perfect one but it is a step in the right direction.

I understand also, Mr. Speaker, that some of the municipal people are somewhat reluctant to accept one of the three basic plans, the three plans being basically the cash assistance to the veterinarian in lieu of pay for transportation; and the second one, of course, that the government provide a clinic and pay out a subsidy. In fact I'm beginning to think that while at first I thought that the third plan, the Manitoba Municipal Plan - and the second one is called the Manitoba Plan - I'm beginning to think that that might be one of the more popular plans that

(MR. CHERNIACK cont'd.) . . . . . to be made to effect a proper settlement where both parties can be on more or less equal terms in negotiation, and where one party is not jeopardized by the fact that he is in need of money.

Then there is a feature, which I think has to be studied a little more carefully and I feel will be studied in the committee after second reading, which would make it a breach of the policy for the insured to drive the insured vehicle while his driver's license is suspended. If his driver's license has been suspended and he is in an accident, then the insurance company is not required to protect that driver, and there is a broadening of that provision which makes it a breach of the policy for the insured to permit the insured vehicle, which he owns, to be driven by any person who is a member of his household while that person has had his driver's license suspended, and this of course would arouse certain fears on the part of the members to be concerned as to whether or not this would in any way affect an innocent party who has been injured from being able to collect unde the insurance policy, which of course you know, Mr. Speaker, is mandatory in effect and which, of course, the insurance companies would like to make compulsory, and yet with this provision in, there might be the fear that the innocent party might be adversely affected by this provision .

So, Mr. Speaker, I hasten to point out that while these amendments would take away the insurance protection from the driver whilst he is suspended, and of course from the owner of the vehicle who drives the vehicle whilst his license is suspended, or permits it to be driven by a person whose license is suspended, then the rights of the third party victims are protected under the "absolute liability provisions" which honourable members will find if they care to look in section 234 of the Act. So that it is clear that a person who himself drives while his license is suspended, or permits his vehicle to be driven by a member of his household whose license is suspended, is therefore in the position where the insurance company may claim that this is a breach of the policy and may then have a right of action against the insured, even though that insurance company is liable and must pay and protect the rights of third party victims.

I have tried, Mr. Speaker, in a cursory and summary manner, to review the effects of this bill. I commend it to members of this House and I would make every effort to see to it that if it passes second reading and proceeds to the committee stage, then it will be reviewed, I hope, in the presence of the Superintendent of Insurance, who will be able to clarify or amplify.

May I say in closing, Mr. Speaker, that these amendments that are contained in this bill are all recommended by the Association of Superintendents of Insurance of all the provinces of Canada for enactment in all the provinces, so it is a further effort to have uniformity of provisions across Canada, and the bill is designed to be brought into effect on proclamation for these important changes and the proclamation date is expected to be again uniform, a uniform date across Canada, so that all provinces will have similar coverage in all the provinces on the same terms of protection.

MR. SPEAKER: The Honourable Member for St. Vital.

MR. JACK HARDY (St. Vital): Mr. Speaker, I beg to move, seconded by the Honourable Member for Charleswood, that the debate be adjourned.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried.

MR. PAULLEY: Mr. Speaker, I trust it will not be criticized, instead of going on to Bill 67, that you now call Bill No. 56.

MR. SPEAKER: The Honourable Minister -- I'm sorry, 65?

MR. PAULLEY: No, I'm sorry, Mr. Speaker. If I said 65 it was by inadvertence, and a transfer of the numbers. Bill No. 56.

MR. SPEAKER: My apologies. The two are listed in sequence.

MR. PAULLEY: I'm the most relaxed man in the House. If my honourable friend was as relaxed as I am, he would be comfortable.

MR. SPEAKER: Bill No. 56. The Honourable Minister of Municipal Affairs.

HON. HOWARD R. PAWLEY (Minister of Municipal Affairs) (Selkirk) presented Bill. No. 56, The Automobile Insurance Act, for second reading.

MR. SPEAKER presented the motion.

MR. WEIR: Mr. Speaker, on a point of order, does the Minister have a message from His Honour?

MR. PAULLEY: Mr. Speaker, the Clerk of the Assembly has now informed me this was

(MR. PAULLEY cont'd.) . . . . . done on first reading of the bill.

MR. PAWLEY: Mr. Speaker, the bill that we have before us this evening, Bill No. 56, is an extremely important one. One has only to read the newspapers of the province or to listen to the broadcast media to know that the question of automobile insurance is one of great public interest, so the bill that we are now beginnin g to debate takes on twofold importance. First, it is a major political issue, an issue which has motivated the people of Manitoba to become more involved with the political process. The discussion that is going on on both sides of this issue now is, in itself, a very healthy thing because it involves people. The second reason this bill is of extreme importance is that it represents a major step forward in social progress for the people of Manitoba. It is more than just another bill; it is a major piece of social legislation that will benefit the citizens of this province. When one views the bill in that light, it helps to put into perspective some of the debate that has taken place so far.

Every major piece of social legislation that has been proposed in the last 200 years has always been opposed by certain segments of society who had a vested interest in maintaining the status quo. This was the case with Medicare when it was first introduced, and with the Canada Pension Plan and with hospital insurance. Always, the opponents of such social legislation claimed that dire consequences would result from the proposed advance, and always their predictions of gloom and doom have proved exaggerated.

Let me give you an example. Most of the following assertions have been made at one time or another by those who are opposed to the principle of public auto insurance.

1. It should be left to private enterprise since public coverage would remove the enterprise and competition of individuals.

2. If public funds are utilized, political bureaucracy will b e rampant.

3. A scheme of universal coverage by the state is Socialism.

4. A universal coverage will destroy initiative and ambition, and there will thus be a premium for comparative idleness to be taken out of the pockets of the laborious and the conscientious.

MR. G. JOHNSTON: On a point of privilege, I understand that on second reading of a bill the Minister should explain the principle of the bill and not make a political speech, and I ask you, Sir, to assert the rules of this House.

MR. SCHREYER: What's your authority?

MR. G. JOHNSTON: My authority is the well-known parliamentary authority; on second reading of a bill, the principle of the bill is explained, not a highly political speech. Well, Mr. Speaker, I ask you to make a ruling on this question .

MR. SCHREYER: Mr. Speaker, I'd ask you, Sir, not to be bullied into making any kind of ruling that is clearly unnecessary at this time. My honourable friend can go, if he wishes to, and make reference to speeches made on second reading of bills such as Medicare, Hospitalization, Canada Pension Plan, and he will find that it is very much in the same tenor as the speech being made now. Quite frankly, Sir, I think that the point raised by my honourable friend goes beyond being ridiculous.

MR. G. JOHNSTON: Well, Mr. Speaker, is it not customary when a bill is introduced on second reading, that whoever member or the Minister introducing the bill speaks on the principle of the bill? And he doesn't drag in arguments about Medicare or pension plans or whatever. He speaks to the bill and the principles which he hopes are embodied in the bill, and Mr. Speaker, I would like you to make a ruling at this time.

MR. SCHREYER: Mr. Speaker, it's precisely on the point. The Honourable Member for Portage mentions Medicare and the Canada Pension Plan and the principles lying behind the introduction of precisely those two pieces of legislation are the very same principle that lies behind this one. Therefore, there can be no question about the propriety.

MR. SPEAKER: I do not feel that the Honourable Minister at this point is in breach of any rules of this House. The Honourable Minister may proceed.

MR. PAWLEY: 5. Suggested that standards would be lowered.

6. Governments should only concern themselves with coverage for the needy and the creating or sustaining of such coverage for all classes is beyond the province and the power of government.

7. Governments cannot provide for the necessities of people.

8. Universal coverage is foreign to our country.

9. Requiring people to pay under universal coverage is dangerous and there is no confidence in compulsory equalization.

(MR. PAWLEY cont'd.)

All the foregoing are taken from statements made in the United States 140 years ago, in 1830, by opponents of tax-supported education for all children within the population. At that time, the battle against universal public education was fought as bitterly as is the current battle against universal public auto insurance. The statements I have read are from an article published in the Philadelphia National Gazette in 1830. Many of the great social institutions on which we pride ourselves today were criticized bitterly when they were introduced. Many were called Socialism, as if the mere mention of the word was a substitute for meaningful debate and discussion .

Mr. Speaker, this government is introducing this bill at this time not for dogmatic reasons, not because of ideology, not because we believe that the system we are proposing is the most practical way to solve the auto insurance problem. Now some of the honourable members opposite might try to argue that there is no problem, that everything is quite all right in the auto insurance field, but I think that most honourable members of whatever party, will concede that all is not right in auto insurance under the present private system.

Most recently, just last week in fact, the New York Times carried the following report: "Study finds auto victims regain only half of loss," by John D. Morris, special to the New York Times, Washington, April 28th. "The Department of Transportation said today that a survey showed that victims of serious traffic crashes and their dependents recovered in 1967 only an average of one-fith of their losses from automobile insurance companies. Compensation from all sources, including life insurance, hospital and medical insurance, social security and disability pay, covered less than half of the 5.1 billion in estimated losses, the survey showed. Transportation Department officials said that these and other findings from an 18-month national survey constituted a startling and shocking picture. The study was part of a $2 million auto insurance investigation commissioned by Congress in 1968. A total of 1,435 victims and relatives were interviewed. The losses included medical and hospital expenses, property damage, wages not received, transportation and funeral costs, expected future losses of earnings, and expected future medical costs. Only accidents involving death or serious injury were investigated. Serious injury was defined as one requiring one of the following: Two weeks of hospitalization; $500.00 for other medical costs; three weeks of lost work or six weeks loss of normal activity for non-workers. Richard J. Barbour, Deputy Assistant Secretary of Transportation for Policy, said the study showed the way the automobile accident compensation system is working or, perhaps more precisely, the way it is not working. It is a system that is working very poorly, very inadequately, Mr. Barbour said at the news conference. It is indeed startling and indeed terribly disturbing from both an economic and a human standpoint."

The special committee set up by this government found many cases of inadequate or unfair compensation for accident victims, as did the Wootton Commission report study in British Columbia, studies in California, Alberta, and many other jurisdictions. And, to add insult to injury, the New Canadian Underwriters Manual for Auto Insurance came out this week. The rates for private insurance are up again, from 10 to 20 percent, and many vehicles have been drastically re-classified, so I hope we can dispense with the argument that all is right with things as they are now.

What we should be discussing now, indeed what we have an obligation to the people of this province to be discussing now, is what is the best way of solving this problem? The government believes that part of the solution to the problem is to make auto insurance compulsory for all motorists and to ensure that a number of key benefits under such insurance are payable without regard to who was at fault. We further believe that if we require all motorists to purchase such insurance as a condition of driving, then the government has an equal obligation to provide that insurance is the most efficient sold in the most efficient manner possible. There is no question in my mind that a public auto insurance plan run by an independent publicly-owned Crown corporation is the best way to do it. The figures from the Saskatchewan Insurance plan show quite clearly that on the basic coverage sold by that plan, 85 cents of the premium dollar is returned in benefits to the province's motorists. The corresponding figure for private insurance is about 63 cents. These figures have been confirmed by the Wootton Royal Commission in British Columbia. The savings come from a reduction in the cost of advertising, legal fees, agents' commissions, etc. The Saskatchewan experience with public insurance has also shown that even when the basic coverage is augmented by an additional package policy, the motorists in that province are still substantially better off than if they had to

(MR. PAWLEY cont'd.) . . . . . purchase all of their insurance from one private insurer.

I would like to deal, if I may, with two of the points that the private insurance industry has raised about government-operated insurance. First, it has been claimed that the Saskatchewan public plan is the only public auto insurance plan in the western world. In fact, the Saskatchewan plan is one of a number - Saskatchewan, Puerto Rico, New Zealand and New South Wales, the most populous state in Australia. The Government Insurance Office of New South Wales, for example, has been in existence since 1927 and has handled compulsory auto liability insurance since 1942.

But much has been made of the fact that other jurisdictions have not adopted a public plan. I think it is instructive in this regard to quote from an article on auto insurance in Consumer Reports Magazine. Consumer Reports, as many of you know, is a publication of the highly respected Consumers Union in the United States. It is widely known for its impartial assessment of consumer goods and services. In 1962, Consumer Reports called the public auto insurance plan in Saskatchewan the most economical insurance buy in North America. In January 1968, they returned to the subject of auto insurance and I quote: "Perhaps even the most avid Socialist would be foolhardy to think any state in the United States, let alone the Federal Government, is about to go into the auto insurance business. Even the Social Security system must tiptoe gingerly around the edges of the insurance industry interests. The present Congress voted down the modest proposal to extend Medicare benefits to totally disabled persons under age 65, yet the possibility is real that private insurance companies, by refusing to cover larger and larger segments of the population, who abandon at least a large part of their private enterprise position, then government would have to take over."

Let me repeat and stress one key phrase in that paragraph, "must tiptoe gingerly around the edges of the insurance industry interests." So Consumer Report hit the nail on the head. The question is not what is right in many jurisdictions, but rather, are governments willing to stand up to the insurance interests?

Well, Mr. Speaker, this government thinks that a public auto insurance plan is right. We think it will benefit the vast majority of the people of Manitoba, and this government is not afraid to stand up for what it thinks is right even if it means opposing the powerful insurance lobby. Furthermore, we think the people of this province, once they see the public plan in operation, will agree with us, and they, not a special lobby, should be our main concern here today.

Let us return for a moment to the Saskatchewan plan. The plan was established under a CCF government in 1946. The Liberals took over in Saskatchewan in 1964, but the Automobile Insurance Plan has not been changed, and let's be frank about this. I believe that the Liberal Government that took over in Saskatchewan in 1964 wanted to change the plan. They were committed to private ownership. On November 7, 1967, the Wall Street Journal carried a Page 1 story on the Public Auto Insurance Plan in Saskatchewan. Their reporter interviewed the Premier. This is what he wrote: "Government auto insurance has given us a lot of headaches, says Saskatchewan Liberal Party Premier Ross Thatcher. 'There have been plenty of times when I wanted to throw the plan into the Pacific Ocean, but," he adds, "I would have to admit that the plan is working'."

The same Wall Street Journal article also quotes a Liberal Party campaign worker in Regina: "The politicians, whether they're Liberal, Socialist or Conservative, will never change the auto insurance plan, because it has such firm support among the people."

On March 7th of this year, the Honourable D. Bolt, who was then the Minister in charge of the Saskatchewan Public Insurance Office, and a Liberal, had the following comment on the auto insurance question, and again I quote: "It is obvious that motorists in this province would have had to pay an additional $5 million for the same coverage had we used the system in effect in other provinces. Ladies and gentlemen, I'm an advocate of private enterprise, but I can't ignore that fact. I would suggest to the auto insurance industry that in their continued attack on the Saskatchewan plan, they are taking the wrong approach. They are simply not on valid grounds in their criticism of the Act and of its administration."

In other words, Mr. Speaker, a government committed to changing public auto insurance in Saskatchewan has now come round full circle to the vigorous defence of the plan once they have seen its operation first-hand. The Liberal Government of Saskatchewan, perhaps reluctantly, have come to realize that there is a place for some publicly-operated services in our society. This is in marked contrast to some of the honourable members opposite. They are

(MR. PAWLEY cont'd.) . . . . . the dogmatic ones in this debate. They are the ones who cry private enterprise for the sake of private enterprise, even when it has been demonstrated beyond a shadow of a doubt that in this specific case the overwhelming weight of evidence supports a public plan.

The second question I would like to deal with is the question of competition. It has been suggested that a government insurance plan should compete with private enterprise. It has also been suggested that competition keeps rates down, and a government monopoly would in fact charge more. But let's look at the facts. In the auto insurance business today, real price competition is a myth. The Wootton Royal Commission, which took the most exhaustive look into auto insurance ever undertaken in North America, decided that there was no real competition in British Columbia's auto insurance rates. In fact, it concluded the auto insurance companies existed in a price-fixing cartel, and while there is little real competition on price for auto insurance, there is a great deal of wasteful duplication of money in advertising and administrative costs, and in commissions.

Auto insurance is one case where elimination of competition on the basic coverage will cut rates drastically, because all the wasteful duplication can be eliminated, and because it is a public plan its first obligation would be to pass those savings along to the public. In addition, experience in other jurisdictions, such as British Columbia, New York and Massachusetts, has shown that it is almost impossible to enforce compulsory auto insurance regulations unless the insurance is sold together with the license plates.

Mr. Speaker, with respect to the bill before us, it has two principal objectives:

1. To create a Crown corporation which will have responsibility for the administration of the automobile insurance plan; and

2. To enable the Crown corporation, with the approval of the Lieutenant-Governor-in-Council, to establish the specific terms, conditions, and announce of the insurance plan to be adopted the premium rate schedule, and many other of the administrative details of the program.

Members will appreciate the fact that many of the details of the proposed plan will have to wait for the publication of regulations. The items of most immediate interest, I know, will be the premium rates and the coverage. Inasmuch as the Crown corporation has yet to be established, and this should take some time, it can't recommend to the Lieutenant-Governor-in-Council what the rates should be. Furthermore, when members realize that the automobile insurance companies have only set their 1970 rates very recently, it is much too early to start determining what the rates should be in 1971. However, I would like to make some statements respecting premium rates and coverages.

First of all, our proposed plan will not perpetuate the existing proliferation of complex rating classifications, but we are convinced that the flat rating process used in Saskatchewan would not be acceptable to Manitoba. We intend to have a rate differential that reflects, on an area basis, the record of accident rates and claim costs in the province. This means that the two higher cost areas, which are Greater Winnipeg and roughly that part of the province north of the 53rd Parallel, will require one premium schedule and there will be a separate schedule for the lower cost areas which comprise the rest of the province. Therefore, while we have to await further studies in the filing of regulations before the actual rates are known, we can look forward with some certainty to a more simplified and reasonable rating system. An exact comparison between public and private rates in Manitoba will have to wait until those rates are established and the corporation is set up.

In the meantime, however, there has been a tendency in some quarters to pick examples from Saskatchewan's public plan and to compare them with the private coverage in Manitoba. Here are some examples I have chosen, which I believe are fairly typical. I will use, for comparison's sake, rates for 200,000 liability, $100.00 deductible and all-peril; $200 medical; 3(d) accident for a motorist who has had no accidents in the last three years. The rates in all cases are for 1969 and members will find an even more striking differential for 1970. The Saskatchewan rates are based on basic coverage from the public plan plus package policy, plus driver's license surcharge for under-25 drivers. The Manitoba rates have been taken from the Canadian Underwriters Association Manual.

First, an 18-year-old male owner, single, 1958 Chev. Belaire, private, Manitoba, Winnipeg, $352.00; public, Saskatchewan, Regina, $86.00.

Twenty-three -year-old male owner, single, 1963 Volkswagen, Custom, private, Manitoba,

(MR. PAWLEY cont'd.) . . . . . Winnipeg, $236.00; public, Saskatchewan, Saskatoon, $90.00.

Twenty-Four-year-old owner, married, 1969 Pontiac, Parisienne, private, Manitoba, Thompson, $178.00; public, Saskatchewan, Prince Albert, $102.00.

Forty-seven-year-old owner, married, son 20 years of age, daughter 17, 1967 Ford Fairlane V8 - this might be considered as a typical family man - private, Manitoba $206.70, Winnipeg, public, Saskatchewan, Regina, $100.00.

Fifty-year-old owner, married, occasional under-25 driver, 1969 Pontiac V8, private, Manitoba, Portage la Prairie, $190.00; public, Saskatchewan, Prince Albert, $103.00.

Thirty-year-old-owner, 1969 Pontiac V8, business purposes, private, Manitoba, Brandon, $144.00; public, Saskatchewan, Prince Albert, $100.00.

Now all that those examples prove is that it is possible to pick examples that will prove almost anything in this debate. I could have chosen examples that were even more drastically in favour of public insurance. I'm equally sure that a private company could pick examples that would seem to prove their point, but I think that people of Manitoba will be convinced of the benefits of the public plan once the actual premium and benefit schedule is set and I feel confident that their reaction will be one of overwhelming approval. It is our intention to develop a simplied rating classification to distrib ute premium costs on a fair and equitable basis. We intend to spread the cost of automobile insurance more appropriately between owners and drivers of motor vehicles by assessing a larger portion of the premium load on the drivers. We have in this province a demerit point system for drivers. There are some probable improvements that can be made in its structure and this then can be used to help determine drivers' premiums based on their driving records.

Now I would like to make some statements respecting coverage and these statements should be taken as a firm commitment on the part of this government. It is our intention to accept the recommended limit of $50,000 for third party liability. However, we do want to take a much closer look at the $200 deductible clause. We will be investigating this in considerable detail, taking into account various representations that have been made to us. Certainly, the deductible will not be more than $200, and likely will not be less than $100; so we can expect that the deductible should be somewhere between $100 and $200.00. I should add as an aside that there continues to be some confusion respecting the deductible clause, be it $200 or something less. It is this: under our proposals for a comprehensive no-fault insurance plan, all motor vehicles registered in the province will be insured against collision, in all other accidental loss or damage not exceeding cash value regardless of fault. In the case of a collision involving two vehicles the driver of the car that was not at fault will not have to pay any cost to repair his collision damage.

Another recommendation of the Manitoba Automobile Insurance Committee will also be the subject of further investigation. This deals with a recommended $50 per week indemnity for a 2-year period excluding the first year. For loss of income to a gainfully employed person certainly would not be less than $50 a week. In all these matters of premiums and benefits and in other areas as well, the Crown corporation to be incorporated by the bill will be responsible for conducting further cost studies. Each area of improved coverage and benefit must be assessed against the cost that it will impose upon the motorist. One of the many features of a government operated compulsory auto insurance plan is a great saving to the administrative costs and commissions through the integration of the insurance program with the existing licensing procedures of the Motor Vehicles Branch.

There has been public discussion in which concern has been expressed that the payment of full premium at the time of licensing may cause hardship for motorists. We intend to study this matter further to determine what arrangements can be made for instalment payments. Whatever decisions are made in these areas they will not be permitted to interfere with the basic advantages that this bill will bring to the motorists of Manitoba, which are as follows:

(1) A basic plan designed to return approximately 85 percent of the premiums collected from motorists in claim benefits. This would represent a savings of one-half of the administrative costs presently incurred under private plans.

(2) Earnings from the investments of the fund of the basic plan will be used to reduce premiums or to increase benefits.

(3) Uniformity in the coverages and the administration for all Manitoba motorists by the creation of one public agency, an agency which will be sensitive and responsive to public needs.

(MR. PAWLEY cont'd.)

(4) A compulsory auto insurance plan comparable to a public utility.

(5) The establishment of claims service centres throughout the province to facilitate economical and efficient claims adjusting service.

(6) A reasonable limit, a basic protection for all Manitobans without interfering with the rights of motorists to obtain additional or supplementary coverage. In addition I point out that the bill also allows the Crown corporation to provide supplementary competitive insurance coverage.

Now, the changes we are proposing in the auto insurance field are major ones. Their effect will be far reaching. So I would like to point out that this government will give every consideration to those citizens of this province who are adversely affected by the change in auto insurance system. That party that forms this government, Mr. Speaker, has long been concerned about the effects of changes such as this on people's livelihoods. Many of those who cry the loudest now about dislocation of jobs have been silent in the past when industry would move or merge or introduce technological changes and leave its employees without any compensation at all. The party that forms this government has shown its concern for the effects of dislocation in the past and will continue to do so in the future, whether that dislocation affects wage earners or those who earn their living in some other way. We are willing to discuss some fair compensation where it can be shown that basic livelihooods are affected, but this must be based on proven figures not on wild exaggerations of jobs that might be lost.

Mr. Speaker, I have only touched on some of the highlights of the bill before us. I hope that the coming debate on this bill will allow both sides to discuss all the relevant points at issue here. But I would like to make one final point. The very fact that such things as auto insurance rates and benefits are now a matter of public debate represents a major step forward, because with public auto insurance the coverage that Manitoba motorists will have can now be decided by their elected representatives and not in some board rooms in eastern Canada.

The regulations set under the public plan can be influenced by the people they will affect directly. This I believe is of prime importance. When the bill is passed the people of Manitoba will be the masters. This is their plan, they will benefit from it, and they will control it.

MR. SPEAKER: The Honourable Leader of the Official Opposition.

MR. WEIR: Mr. Speaker, in the few minutes that are left - and I would hope that if I come within a couple of minutes of finishing my remarks, that I might be allowed leave of the House to complete them; I think I will be that close, within a minute or two of 10:00 o'clock, Mr. Speaker.

Mr. Speaker, I'm happy that the Minister got around to discussing the bill about Page 10 or 11 of the comments that he made. It is interesting to note, Sir, that tonight, Manitoba's 100th anniversary, 100th anniversary of the time when Manitoba truly became a democratic province, that this Legislature is requested to give second reading to a bill, Sir, which assaults the basic principles of responsible government.

The Premier indicated just over a week ago, Mr. Speaker, on the steps of this building, when addressing the thousands of individuals who were exercising their democratic right, that there were really two issues facing Manitobans. They were, he said, the implementation of government automobile insurance and provision for those individuals who suffer loss of livelihood when the government plan is implemented. He said that the economic changes such as compulsory insurance often result in some dislocation for people that are involved. Mr. Speaker, considering the Premier's statement and the report from that kangaroo court that presented recommendations to the government that would bring - we believed that they'd bring recommendations that would parallel the Saskatchewan plan - considering, Mr. Speaker, that the principle advisors were drawn from Saskatchewan, you add all these things together, I think it could be expected that we might have had a plan similar and that we might have found it implemented in the same way. In Saskatchewan they have two statutes, one for the operating and the managing of the scheme and another which spells out the details.

You can imagine my shock, Mr. Speaker, when I realized that far greater principles, far greater causes for concern are created by the government's demands for dictatorial power as portrayed in Bill No. 56. Let's have a look at the bill. Let's have a look at it. Instead of setting out in black and white the actual provisions of the scheme these are reserved for the regulatory sections of the Act to be legislated by the NDP, by the Cabinet in secret session.

(MR. WEIR cont'd.) . . . . . In so doing the NDP government has wantonly and needlessly converted the straight forward consideration of an important insurance scheme into a callous assault on the basic principles of responsible government.

Let's look at just some of the regulatory powers that are in the bill. Regulations having the force of law, establishing such plans of automobile insurance and plans of a universally compulsory automobile insurance -- a monopoly, Mr. Speaker -- as they may designate. The bill provides that the NDP Cabinet or any successor, or any successor of theirs, Mr. Speaker, may amend and revoke such plans as they see fit at any time. It provides that a quorum of the Cabinet can dictate what damages, what losses, what injuries, what deaths, and what risks shall be covered in such a plan and they can dictate what the terms and conditions of these plans shall be.

The Bill gives the Cabinet power to dictate what different classes the drivers of Manitoba are to be divided into and to dictate what differences in premiums each class shall pay; to dictate who can be and who shall not be insured in the scheme without restriction; what benefits are to be paid; how much and under what circumstances; to dictate how long the coverage shall be; to dictate whether or not an extra premium or surcharge is to be imposed, the circumstances in which it can be imposed, the mode of its calculation and the amount and the manner of its collection.

While there is a right of appeal, while there is a right of appeal, it is completely illusory, Mr. Speaker, because such appeal has to determine the question on the basis not of the bill but of those very rules that the NDP cabinet itself dictates or amends as they see fit. The bill gives authority to the NDP cabinet to dictate what an owner or a driver in Manitoba can claim against non-resident drivers or against uninsured drivers or owners and the terms and conditions of the amounts he can claim or be paid.

The only limitation imposed on the scope of the regulations that are to have the force of law is that it is to concern the matters that the Cabinet itself designates. A self-imposed limitation, Mr. Speaker, can hardly be regarded as an onerous one. This authorization of dictatorial power does not even contain the limitation that is imposed in time of war respecting regulations made under the War Measures Act, to the effect that anything done under a regulation thereafter amended or revoked, shall remain valid.

So much for the provisions that reserve dictatorial power for the NDP cabinet to enact the laws in secrecy of the Cabinet chamber without discussion or explanation. Let's now review the matters of the Bill that deal with unprecedented invasion of privacy; at the same time, Mr. Speaker, at the same time as this House is considering a bill for the protection of privacy, The Bill requires all police officers to submit copies of all reports, statements and particulars, such as required under Sections 149 and 151 of the Highway Traffic Act, to the Insurance Corporation. The Bill requires every physician or surgeon who attends a person injured in an automobile accident to report respecting his patient those facts the corporation itself may prescribe.

The Bill requires an employer of a person who claims benefits under the scheme to supply such information about the earnings of his employee as the corporation itself may prescribe. The Bill provides that notwithstanding anything to the contrary, or any statute or any law, the corporation shall have access to all documents, all books, all reports, all records and other things and to all facilities of, belonging or available to any department, any board, any commission, any corporation, of or carried on on behalf of the government as the corporation itself, the corporation itself may deem necessary. -- (Interjection) -- as desirable. Well, Mr. Speaker, I haven't much time and I don't want to keep the members longer and I'm doing my best to finish in the time that is available to me -- on behalf of the government as the corporation itself may deem necessary or desirable for the better carrying out of this bill or the regulations. Such provisions, Mr. Speaker, would open up hospital records, social welfare records, tax records and police records. It is even broad enough, I believe, to authorize the tapping of a private telephone.

Never in the history of this province has such power to invade privacy been sought to be conferred on officers of a Crown corporation; nor are these officers required to give any undertaking to protect the confidentiality of these reports. As a matter of fact, Mr. Speaker, the bill provides that the corporation may make available any report received pursuant to the mandatory sections of the bill for inspection by any person or insurance company who pays or may be liable to pay for damages resulting. The Bill does not require the corporation to report

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DEBATES and PROCEEDINGS (HANSARD)

37 Elizabeth II

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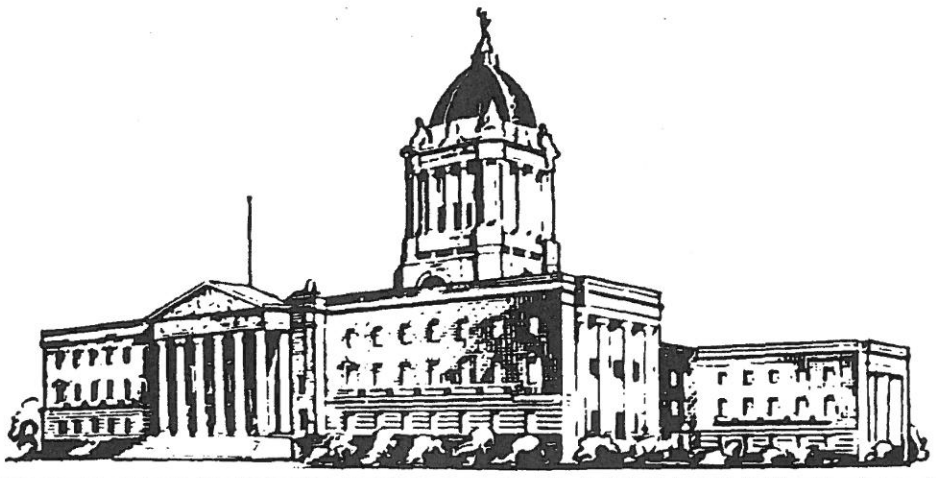

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good for Manitoba, and that is the total good for Manitoba, jobs created and the economic benefit that comes from that. We must decide whether or not the rates that are demanded, that are asked for, are for the total good of Manitobans, and not for the good of Manitobans with respect to the trade agreement.

Ambulance Services Funding

Hon. Donald Orchard (Minister of Health): Mr. Speaker, yesterday in Question Period the Member for Selkirk (Mrs. Charles) posed certain questions about ambulance funding and has indicated that, "This is an issue that we have brought up in the Legislature many, many times. Perhaps we are beginning to see some action. I just wish we had been told about this three months ago," referring to the study into ambulance service.

I wish to refer my honourable friend to an answer I gave to her on Wednesday, August 17, 1988. The answer was: "Secondly, and more importantly, we are now in the process of a complete review of the ambulance funding system and its organization in the Province of Manitoba, a review which I am hopeful will provide us with the guidance as to how we can enhance the ambulance services in the Province of Manitoba to the betterment of the people of Manitoba."

I wish to table this answer of 11 weeks ago so that my honourable friend is aware of answers given to questions she posed about reviews in ambulance service.

Mr. Speaker: Order, please.

PCB Storage Sites Manitoba Total

Mr. Harold Taylor (Wolseley): Mr. Speaker, my question is to the Minister of Labour and the Environment (Mr. Connery). The role of the Opposition is to keep the Government honest, make certain that there is a direction, leadership, a rational approach, consistency, openness, and sensitivity. On an issue very serious to Manitobans, there has been a lack of direction in leadership, an irrational approach, inconsistency, closed mindedness and insensitivity.

I am referring to the dealing by the Honourable Minister of the Environment on PCBs. Last week at the National Waste Management Conference which I attended, which was sponsored by his department and at which he was the speaker at the opening luncheon, that Minister made a statement on PCBs that is at odds with information that we have had from him and his department. That is on the numbers of sites. We have had all sorts of catcalls from the other side of the House on the issue. The question I am asking is, what is the right answer?

We had the first ones, and I am going to lead to it, 42, then through the 50s, the 60s, then 72, now at this statement. Which is the right statement, the statement made in his speech last week of over 100 sites? Is it the 72 on the report that was waved around by the Minister? What is the right number and when will we have the final answer?

Hon. Edward Connery (Minister of Environment and Workplace Safety and Health): Mr. Speaker, I wonder if he wants me to segregate out those that are in boxcars or just buildings.

Mr. Speaker: Order, please. The Honourable Member for Wolseley, on a point of order.

Mr. Taylor: Mr. Speaker, on a point of order, that sort of a comment I think takes from the office that the Honourable Member for Portage la Prairie (Mr. Connery) holds. I would ask him to kindly withdraw, please.

Mr. Speaker: Order, please. The Honourable Member does not have a point of order. Order, please. Order. It seems to me that the Honourable Minister was referring to two different subjects here in his answer. The Honourable Minister of Environment, to kindly finish his answer.

Mr. Connery: I see the Member is very sensitive to his previous actions. But, Mr. Speaker, I was just talking to our department this morning about our PCB sites and as to what progress we were making. They have identified now 32 provincial sites that have been inspected. They estimate that there are 20 federal sites in the province.

Every week there are calls from people who have a few PCBs and, at the same time, we are consolidating small amounts of PCBs to eliminate sites. So out of the 32 provincial sites that have been inspected, our department has found that three need some significant improvement, and those three sites are in the process of being improved.

We know that PCBs are not a hazard if they are stored properly in the proper conditions and flagged so people do not accidentally trip on them, that they have to have the fire alarms and the water system and everything else to protect them, and there is no concern with PCBs.

Mr. Speaker: The time for oral questions has expired.

INTRODUCTION OF GUESTS

Mr. Speaker: Prior to Orders of the Day, may I draw Honourable Members' attention to the gallery where we have with us today from the Grant Park High School 12 students under the direction of Mr. Ed Lenzmann This school is located in the constituency of the Honourable Member for Fort Garry (Mr. Laurie Evans)

On behalf of all Honourable Members, I welcome you here this morning.

ORDERS OF THE DAY

Hon. James McCrae (Government House Leader) Mr. Speaker, will you be so kind as to call Bill No. 37 The Crown Corporations Public Review and

Accountability and Consequential Amendments Act, followed by the Bills in the order they are listed on the Order Paper?

HOUSE BUSINESS

Mr. Jay Cowan (Second Opposition House Leader): On a matter of House Business, some time ago, about a week ago, I had asked the Government House Leader (Mr. McCrae) if he could indicate how many more Bills will be forthcoming in this Session. I would ask him, if he has had an opportunity to review that questions if he can provide an answer at this time?

Hon. James McCrae (Government House Leader): I am not in a position today to provide the Honourable Member with that information. As I recall saying last week, the Bills will be coming forward as they come forward but, to the extent that I am able to provide the Honourable Member with information, I will do so as soon as possible, hopefully Monday.

Mr. Cowan: I appreciate that answer and, just to clarify, we are not asking for a specific number nor will we hold the Government House Leader to a specific number, but we would like some general idea.

Mr. McCrae: On that understanding, I will be happy to speak with the Honourable Member on Monday.

SECOND READING

BILL NO. 37—THE CROWN CORPORATIONS PUBLIC REVIEW AND ACCOUNTABILITY AND CONSEQUENTIAL AMENDMENTS ACT

Hon. Clayton Manness (Minister responsible for Crown Corporations) presented Bill No. 37, The Crown Corporations Public Review and Accountability and Consequential Amendments Act; Loi sur l'examen public des activités des corporations de la Couronne, l'obligation redditionnelle de celles-ci et certaines modifications corrélatives, for second reading. (Recommended by His Honour the Lieutenant-Governor.)

MOTION presented.

* (1050)

Mr. Manness: Let me begin my saying I am delighted to present Bill No. 37, our legislative action in support of one of our major election platforms, namely, that dealing with Crown corporation accountability and the depoliticization of Crowns.

The history of our Crowns in this province over the last six years in particular has been a sordid affair, in many respects almost outrageous. For the record, and I am not going to dwell overly on this particular point, but I think it is important that I recount the following financial losses in a combined fashion of these particular Crowns: Hydro, Manfor, MTS, MPIC, the Manitoba Development Corporation. In 1982, the combined loss of those Crowns in millions of dollars was $13 million. In 1983, that number increased to approximately $90 million. In 1984, it dropped to $29 million. In 1985, it jumped back to $35.7 million. Then the last two years, 1986, the loss combined across the Crowns, $108 million, and then the big year, 1987, $210 million. When I talk about a sordid history of Crowns in six short years in the Province of Manitoba, total losses in the Crowns I have just announced in detail, in six years, $486 million, incredible financial losses.

Manitobans saw other things with respect to their Crowns. They saw Crowns outside their mandates. They saw MTX involved in Saudi Arabia. They saw Manitoba Hydro becoming involved in activities that I think were questionable. Indeed, if you listen to the question put forward by the MLA for Flin Flon (Mr. Storie) this morning, again he seemed to be indicating that Manitoba Hydro has no mandate, that indeed all that should be cared about is creating jobs in Manitoba. That is the mandate that he would ascribe to Manitoba Hydro. That is what Manitobans saw with respect to their Crowns.

They saw Crowns using unethical business practices, again MTX officials and personnel involved in a situation where those employees found themselves flogged. They saw discriminating hiring practices involved with that particular corporation and they came to learn that there were kickbacks involved in activities involving one of our treasured Crowns.

Manitobans saw that Crowns were subject to horrible political interference. MPIC boards were stacked with political friends, also at MPIC, deliberately hid reinsurance losses, and we just again have to refer to some of the comments made by Mr. Kopstein in his report, deliberately hid some of the reinsurance losses, indeed admitted to in committee by the former MLA for Gimli who said he took a political decision with respect to some of the financial disclosures associated with MPIC.

What else did Manitobans see with respect to MPIC? They saw massive losses. They saw reserves depleted in the space of two years, ones that had been built up over some 15 years, in the space of two years totally wiped out.

Again, they saw horrible political interference with respect to Hydro, a reign of terror by a career bureaucrat who ruled the Manitoba Energy Authority and Hydro with an iron fist. They saw also within Hydro deception as regarding the true expected profits of Limestone, and still today we do not know really the true profit associated with the Northern States Power Agreement, Mr. Speaker.

They also saw again, with respect to Hydro, no discussion of rate shocks that we can all expect once the capital cost of Limestone hits the system.

Manfor saw a change of year-end, deliberately changed so it would not impact on the 1986 election, so that it would not have to disclose publicly $20 million lost just before that '86 election. They saw also with Manfor—or they will, I am sure, in time—still the site

of untold stories of political interference. There is a story yet to be told with respect to that particular Crown.

Mr. Speaker, I can also talk about Flyer Bus paying someone, some company, millions of dollars to take that Crown corporation off our hands, and still liabilities associated with warranty claims that are still hanging around our necks collectively as Manitobans.

Again within the area of the Communities Economic Development Fund, and I am not going to move into this because that is an issue that is being taken up now by the Provincial Auditor in the sense of a special audit.

The list goes on and on. It just is not financial concerns. Manitobans now over the last three years in particular, but specifically over the last six years, have a litany of events which has caused them, in my view, to lose confidence completely in their Crowns. As I said, the list could go on and on, but it is a sordid, sorry story. It is a horror story, and it is one that hopefully can be put behind us after Bill 37 receives support from the House.

Again I ask the question, Mr. Speaker, is there any wonder why Manitobans have lost confidence in their Crowns? Throughout this entire process, on three occasions, the former Government said that they had a way to ensure better Crown accountability and Crown management. I think it is important that we review these models.

First of all, they were going to set up a Department of Crown Investments. I can remember the former MLA for Rossmere, the Minister of Finance at the time, also then the Minister in charge of the Department of Crown Investments, when he introduced that legislation saying that Act would ensure accountability and better review.

Mr. Speaker, that department of Government began to be wound down in 1986 because it had failed and indeed, in 1988, one of the first actions that I had on my desk as a Minister was to make the final payments with respect to that department of Government, the Department of Crown Investments. It was a failure.

From there, the former Government moved to the next model, and that was to have a committee of Cabinet called the Economic Resources Investment Committee, ERIC for short. It was going to be a subcommittee made up of the most senior Cabinet Ministers. That was presented to the people of Manitoba as being the watchdog of the Crowns to ensure that it stayed within its mandates. That was a failure too, abject in every respect, because it was after the implementation of that committee of the Cabinet that the most significant losses were presented to the people of Manitoba.

Finally that led to 1987 and the presentation by Crown accountability legislation, hosted at that time by the present Leader of the N.D. Party (Mr. Doer), and of course it had as its main thrust the development of a public investment corporation management, PICM for short, a body of bureaucracy. By the fact that it had five senior Cabinet Ministers, it was going to guarantee once and for all that Crowns were going to stay within their mandates, that they would not in any way be taken off to spend millions of dollars either in a foolish sense or continue these horrible losses. Mr. Speaker, that bureaucracy was going to consume $2.5 million a year once it was fully staffed. It was, of course, trying to cause greater consistency across the Crowns and that was probably one of the best features with respect to that particular legislation.

Mr. Speaker, this is where we found ourselves. We recognized the problems basically to be these: (1) that Crown boards need good people, they need competent people to be appointed to them; (2) that Ministers could not be part of the boards for which they are responsible; (3) that the rate-setting mechanism had to be shared with the public in an open forum; (4) that Ministers responsible have to be truly responsible.

* (1100)

If parliamentary responsibility is to mean anything, Ministers who are responsible have to understand not only their responsibility but their requirements to enact that responsibility.

Mr. Speaker, Crown corporations, we also felt it was important that Crown corporations must report to the public more frequently. We also felt that employees must have access to someone to report if there are flagrant breaches of mandates or procedures within the Crowns. We felt it would also help restore public confidence in Crowns if community people sat somewhere as an advisory group or a management resources group, aside from Government, and we felt that Crowns must be required to stay within their legislated mandates.

The fourth item that we tried to weave into this legislation, we felt that within the public view that management of Crowns must be divorced from Crown accountability in an open fashion. That is what we have attempted to do. We have tried to somehow, in the public view, separate Crown accountability, the reporting, and the open and frequent reporting of the activities of Crown from the sheer responsibility of the management functions.

Mr. Speaker, these became then the building blocks of our legislation. We included some aspects of the former legislation that were deemed to be good. For the edification particularly of Members of the NDP, we felt that the conflict-of-interest provisions that had been included in the former Act, indeed are included in other Acts across Canada, were worthy and that we would maintain them.

Also, there were former provisions dealing with the Audit Committee of the boards as being mandatory. We felt that they should be maintained. The levy against the Crowns for the costs of this particular advisory Crown corporation should continue, and also we felt that the provision of a labour-management committee, the continuation of that was a wise feature that had been contained in the former Act and one that we wanted to maintain.

We acknowledge these contributions, but they are a far cry from the Leader of the NDP (Mr. Doer) yesterday saying in Question Period that 90 percent

of the former Act had been incorporated in this new Act. Mr. Speaker, there can be nothing further from the truth.

We developed our model of Crown accountability. It is enshrined in Bill No. 37. In my view, it is the most progressive, it is the most open, it is the most accountable, and the most efficient Crown accountability legislation anywhere in this land. I am proud on behalf of this Government to be able to present it to the people of Manitoba by way of this forum.

We propose a Crown Corporation Council, seven eminent Manitobans from the community, people who first of all, hopefully, can read balance sheets; people who understand risk, business trends and accountability; people who understand mandates; people who understand strategic plans. Not all of these people will be politically appointed. People who have read the Bill will indicate that there will be an individual who will be named by the Chartered Accountants Group of Manitoba, also a person who is the head of the Faculty of Management at the University of Manitoba. This council will report through a Minister to Government.

Probably the most important feature of the council will be that it will expect and require the boards, the Crown corporations to stay within their mandates. It will act as a repository of business talent and expertise for corporate boards to draw upon for orientation, coordination and advisement with respect to matters such as strategic planning, performance measurement, capital expenditure consideration and financial reporting.

It will also force boards to, whenever any Crown corporations is considering a new endeavour, a new market endeavour, a new service endeavour, be fully insured that never falls within the legislative mandate is given to the Crown corporation by the elected people of this province. This council will also report frequently to the public. This council will act as a mechanism for consistency in respect of matters of Crown policy and, as suggested by the Provincial Auditors, matters of administration.

I can think of one item specifically. The Leader of the NDP Party (Mr. Doer) indicated, as was requested by the Provincial Auditor, there be some consistency with respect to the remuneration paid to the chief executive officers of the Crowns. This now will allow for that type of guideline, that consistent guideline.

This Crown Corporation Council will provide a last resort, a whistle-blowing mechanism, as we want to call it, or you can call it the Ian Ferguson clause, a place where individuals and employees particularly of Crown corporation who have a legitimate story to tell, it will allow them to present that if indeed senior management has turned a deaf ear to it or if the Minister the day has turned a deaf ear to it. This Council now will have an opportunity to listen to that legitimate concern and report publicly.

This Council will provide public accountability incremental to the public utility process through requests of corporate CEOs and auditors, and quarterly reporting of council's requests to the Minister. This Council will provide for meaningful involvement, as I said earlier, of experienced community leaders and respected professionals. In my view, this council will also reinforce the application of Ministerial responsibility.

The general provisions of the Act will do this. It will remove Cabinet Ministers from boards. It will more clearly vest corporate boards with proper management responsibility and authority. It will establish chairpersons' responsibilities and obligations to Ministers. It will establish a meaningful reporting process between the internal auditor, audit committee of boards, and the Provincial Auditor. It will provide early public warning of significant financial problems developing in Crowns. It will provide greater public access to relevant information on Crown performance. Again, I refer to the quarterly reporting and annual registries of public complaints. It will also provide for the establishment of Crown CEOs as ex-officio non-voting members of corporate boards. It will provide for constructive labour-management committees.

Mr. Speaker, I will go into all these areas in a little bit more depth, but I think it was important that we highlight at the beginning a summary of all the provisions that we anticipate that this Act will provide for. I will leave the Public Utility Board approval of rates, I will leave that as a separate item towards the end.

Let me begin with a little bit more detail. We feel it is very important that the Crowns be depoliticized and that there be a revesting of management authority and responsibility. To this end, this Act provides the duties of the board. They must prepare a strategic plan every five years. They must lay out specifically and fall specifically within the mandates that are provided within this strategic plan.

In other words, if a Crown corporation has decided that it wants to follow a new marketing course, a new service-oriented course, they have to present that strategic plan not only to Council, not only to the Cabinet of the day but of course, if it requires an increase in rates, it must be presented to the Public Utilities Board. To this end, to the removal of the politicization, there will be no Ministers on boards. Again, I will quote what Mr. Kopstein said in his summary and I can tell the Members opposite we use where possible, even though our legislation for the most part was drawn and drafted long before Mr. Kopstein reported, we felt very delighted in some respects that some of his recommendations fell specifically in with our feelings on some of these issues.

Again, I read for the record what Judge Kopstein said with respect to Ministers: "It is appropriate the Government be empowered as it presently is to appoint an MLA to the MPIC Board of Directors. The practice of appointing the Minister responsible as chairperson of its board of directors is inappropriate."

Mr. Speaker, I think I have covered off two points by reading that recommendation. In our viewpoint, there is nothing wrong with an MLA still on the board because there has to be some connection because indeed the

Crown is responsible to the people of Manitoba. Through the legislative process, they are responsible. There should be a representative of the 57 of us on that board and maybe, in due course, an Opposition Member. Maybe that will happen some day. But remember, Crowns are created by those of us who represent the people. Those are our views with respect to Ministers, and that is the most important point, that there should be no Ministers on boards.

* (1110)

Powers of the board, boards in our view must be in control of its own activities as long as they are within the mandates, as indeed had been given to them by the people of Manitoba through us, the elected officials. Therefore, they have to still have the powers to pass their own by-laws. They have been given that. But again, it has to be done within the narrow frames of the mandates. The council that we are proposing will ensure that they stay within those narrow guidelines.

The revesting of Ministerial responsibility, because it has become apparent to us and to all Manitobans through many of the problems associated with Crowns that Ministers of the Day were sort of abdicating in a major respect there ministerial authority and responsibility. We are going to try and again make that point. The powers of the council, Mr. Speaker, we are doing away with PICM. The council that we are putting in place will go through a Minister.

Council's reports will be forced to be made quarterly, just as Crown corporations will be expected now to report quarterly. The council itself will have to report quarterly, openly, publicly. But beyond that, the Crown of the various boards and the boards are going to be expected to report to their Minister after every meeting so that their Minister knows what is going on, so that their Minister will be in a position to report publicly what is going on. That will be the same case with respect to the council. The Minister in charge of the Crown Corporation Council will also be expected to be in close contact with the council after the fact, not sitting in a day-to-day presence whenever they meet, not being there, but to be fully informed as to what activities, what concerns the council may have. In our view, it is important that Ministerial responsibility be reestablished.

This council, as I have indicated before, will be called upon to help orientate new board members. Indeed it will have a wide spectrum of resource ability. Hopefully, that will be drawn upon by new members of Crown corporation boards because the council, again, will reflect the community values in this respect.

I have indicated before how the members of the council will be established, and I have reviewed before the duties of that particular council. Without doubt, and I cannot say this often enough, one of the most important responsibilities of the Crown Corporation Council will be to ensure that Crown corporations continue their activities, maintain their activities within their mandates. We have heard the MLA from Lakeside (Mr. Enns) on several occasions address this particular point, having been a Minister of Crowns, having sat as an MLA on Crown boards. Mr. Speaker, it is just imperative that occur, and of course that will be the No. 1 responsibility of those appointed people to the Crown council.

Let us talk, for a moment, Mr. Speaker, with respect to the public rate approval process. Manitoba Telephone System, Manitoba Hydro, and MPIC will be expected to appear or mandated to appear before Public Utility Boards at any consideration of a rate change. That is just not only a rate increase, that is a rate change.

Factors to be considered, Mr. Speaker, we have given the Public Utilities Board some direction as to what factors are to be considered. Not only are they to look at financial considerations but, if there are compelling social factors that can be presented in an argument, we have mandated the Public Utilities Board to look at those, to take those into account before they reach their decision.

We have indicated that a process for multiyear approval should be there, that it may not be necessary that every Crown go before the Public Utilities Board every year. Let us put it a different way. If a Crown corporation decides that it wants to present to the Public Utilities Board a plan for rate increases covering three years, and that is the maximum years that we have allowed—three years, let us say 5 percent, 5 percent, 5 percent. If the Public Utilities Board in its wisdom says that that is an acceptable plan to them, then it would be obvious that the Crown corporation would not have to come to the Public Utilities Board in the second or third year, because their plan covering three years would have been acceptable at that point in time. To us, that is an important element of the approval process.

The Public Utilities Board can order refunds, and this has been an important issue with the Canadian Consumers' Association. It is one of three that we have included within this particular Act as brought forward by Mr. Peltz in all his roles. We believe that the Public Utilities Board should be able to seek opinion of either the Court of Appeal or ask the court to render an opinion. It is important in our viewpoint that the Public Utilities Board be able to seek an opinion from the court with respect to matters that just are not financial in matter, and we have allowed for this within this Bill.

Bill No. 37 of course, through the Public Utilities Board process, will provide for independent third-party approval and the regulation of Hydro, Telephone and Autopac rates. It will provide for consideration by the Public Utilities Board, as I have indicated, of compelling social policy considerations. It will provide for multiyear reviews and approvals. It will make explicit Public Utilities Board powers with respect to orders for refund or compensation to be paid by the corporation, and will make explicit the Public Utilities Board's right to make application for and to receive opinion from the Court of Appeal.

We feel there are tremendous powers of this Act to require the named Crown corporations to go before the Public Utilities Board, but we think it is very important, for instance, in the case of Manitoba Hydro that the decision by the Public Utilities Board to allow

or to deny rate increases, that those decisions be based not only on the operating cost of Manitoba Hydro but maybe more importantly the capital plan because, when you have a corporation like Manitoba Hydro that has a debt-to-equity ratio of some 98 percent, it is obvious that if the Government of the Day indicates to Manitoba Hydro, for instance, given the mandates of that corporation, given the financial plan that shows there is some benefit to additional building of a power plant, by that process of events, rates are automatically down the road going to be impacted.

* (1120)

It would seem to me, in the context of Manitoba Hydro, it might be better then that once the Public Utilities Board is considering rate increases they obviously then have to consider the capital development plans of Manitoba Hydro because, of course, rate increases will flow from there. We have allowed for that within this Bill.

Within the area of MPIC, the Minister of MPIC (Mr. Cummings) leads me to believe that within the Autopac area there are 25,000 rates, rate classifications, rate areas. No one can expect the Public Utilities Board to rule on 25,000 rates. That is why, through this legislation, there will be a direction that the compulsory levels in the broadest rate areas, hopefully some 25 or however many those numbers are, will be passed judgment by the Public Utilities Board.

With respect to Manitoba Telephone System, that process is well in hand and there is no anticipation of change there. We have called and we have allowed for enhanced audit functions. This is one of the prime objectives and one of the prime responsibilities of the council, because we are drawing from the community those people who should be able and, hopefully, understand financial statements, balance sheets.

Those people who feel that there is something wrong, they now have the powers not only to report their concerns to the public, but have the powers to call on the specific Crowns to investigate some of their financial matters, to call upon the auditors, the Crown corporation auditors, to call upon the Provincial Auditor, if they so choose, to do a special investigation of the finances of the Crown.

So we have used some of the best material from the existing Crown Accountability Act introduced by the former Government in 1987, but we have enhanced them. We have done it through special audits and reports. We have done it again through the Audit Committee. The duties have been spelled out. They are spelled out into the Act because we take that function so seriously. It is so important that every Crown corporation board has developed a subcommittee of that board that will deal specifically with an audit of the finances.

This was something we believe was suggested in the last election by the Leader of the Liberal Party (Mrs. Carstairs), who felt that there should be greater beef-up with respect to the auditing function of the boards. We have provided that within this Bill.

Mr. Speaker, there is one area that we are particularly proud of and one may want to call this the "whistle blower" provision, they may want to call it the "Ian Ferguson" clause, but we feel for once that there has been an opportunity, there is a full opportunity now, I should say, for individuals working for Crown corporations who know of something going wrong, they now have an opportunity. If that word has not been listened to by either senior management or the Minister responsible, they now have a body to which to take that complaint or that concern.

This is not for frivolous matters; this is for legitimate complaints. They now have a group of people who will listen. The council, upon listening, will be obliged to report that publicly on a quarterly basis. Mr. Ferguson—one can remember the MTX episode—desperately tried to explain some of the problems and the concerns he had to senior management. They refused to listen to him. Nobody would listen to him. There is now in place a group that not only have to listen but has to report publicly.

In our view, this provides for a light-year leap with respect to that openness and accountability. Council will also be expected to look for early warning indicators as to maybe something going wrong with respect to a Crown. Not only will they have access to the audit reports that have to be done on the boards but, if they sense something, they will be able to demand special investigations.

There will be quarterly financial statements that will be made public now by the boards. There will be a registry of complaints. That is built into this particular Bill, again as recommended by Judge Kopstein. The Public Utilities Board will again now be meeting on a timely basis with respect to rates. There will be another opportunity at that particular point in time for the Crown corporations' activities to come under scrutiny.

So I think we have done all we could to present, in an open way, early warning indicators to the people of Manitoba that possibly something is amiss, something is going wrong in their Crowns. One of the areas which we are most proud, Mr. Speaker, is the enhanced public information. Crown Corporations Council will receive submissions again from any legitimate employee. Their reports, all reports will be available for inspection. Reports referred to committee will be available for inspection, quarterly financial statements, not only of the Crowns but of the Crown Corporation Council itself will be made available to the public.

The registry of complaints by boards, that will be made available to the public. The registry will be accessible—pardon me, I have to withdraw one thing—the registry will be accessible by the council, not by the public as a whole, but there will have to be a registry in place. It will be accessible by the council. Mr. Speaker, in my view, this Act, Bill No. 37, provides for tremendous enhanced openness.

In the last few moments I have left, I want to address some of the early criticism I have heard from some Members opposite. It seems to me at this early date most of the criticism of the legislation is directed toward the service committees and the undoing of it. I must say when we drafted this Bill, I had a pretty open mind with respect to service committees. To me it was not

a big issue whether they were in or whether they were out. I read very carefully Judge Kopstein's remarks within this area. It seemed to me—and I gave them very great weight, Judge Kopstein's remarks—I did because of course we had never commissioned his investigation of MPIC. It was the former Government. He made some very strong, profound statements within this area. I want to repeat again what he said with respect to service committees.

"Present legislation requires senior management of the corporation to hold annual public meetings to explain the objectives of the corporations to receive suggestions from members of the public regarding the improvement of service and to receive and investigate complaints. That process would be a time-consuming and often unproductive exercise."

Mr. Speaker, it seems to me that if the process of service committees are good that boards will see that goodness and will, on their own volition, go to the community as it happened. Indeed, the Telephone System right today is holding public meetings, and I am led to believe that 50 to 100 people have been turning out. Most of them are not there to complain, are not there to have the objectives of the corporation explained, but are there mainly with respect to finding out more regarding the long, the new telephone service plan.

It seems to me that boards ultimately will do the right thing in a public sense, that they will go to the public indeed if they think that there is a benefit in doing so. Mr. Speaker, nothing in this Bill prevents Crown corporations from going to the public in any fashion and holding such meetings.

In our view, to mandate the Crowns to go to the public in this fashion is not productive in the sense that it is going to cause another set of meetings, people who for the most part are going to come there with complaints that probably should be addressed more specifically by either their representatives that should be addressed more specifically at the Public Utilities Board hearing.

Mr. Speaker, the Members opposite are saying that they may like to still reintroduce this. Again, I say we do not have a strong feeling on this, but again in our view, more legislation for the sake of legislation proves nothing. It is obvious though to us from this point of view that this is a very good Bill, because the early criticisms that have come from the main Opposition have dealt in one very narrow specific area.

* (1130)

Let me conclude by saying this Bill, in essence, places Crown corporations at arm's length from Government by separating management from accountability. Board members and management of the Crowns will be expected to work within the mandate and the strategic plans of their respective Crown corporations. The Minister is responsible and the Crown Corporation Council will be expected to report in an open and frequent fashion to the public, restoring ministerial authority and responsibility, and I underline the word "responsibility."

Mr. Speaker, the Government believes, through this progressive legislation, that public confidence can once again be re-established in our Crown corporation. The Government considers this a fulfillment of a major election commitment. It is proud at this time to be able to lay before the people of Manitoba Bill No. 37, and it hopes it can expect the combined support of the House on this particular, important area of Crown accountability. Thank you very much.

Mr. Speaker: I would like to inform Honourable Members that I have some difficulty with the document which was tabled by the Honourable Member for Flin Flon (Mr. Storie). It is a document which seems—it is unsigned and does not seem to be directed to anybody. Therefore, I am going to follow precedent and I am going to take it under advisement, and I will come back to the House. The Honourable Member for St. Johns (Ms. Wasylycia-Leis), I am sorry, not Flin Flon.

Mr. Reg. Alcock (Osborne): Mr. Speaker, I move, seconded by the Member for Fort Rouge (Mr. Carr), that debate on this Bill be adjourned.

MOTION presented and carried.

DEBATE ON THIRD READING AMENDED BILL

BILL NO. 10—THE COURT OF QUEEN'S BENCH ACT

Mr. Speaker: Bill No. 10, The Court of Queen's Bench Act; Loi sur la Cour du Banc de la Reine, standing the name of the Honourable Member for Flin Flon (Mr. Storie). (Stand)

DEBATE ON SECOND READINGS

BILL NO. 8—THE COURT OF QUEEN'S BENCH SMALL CLAIMS PRACTICES AMENDMENT ACT

Mr. Speaker: On the proposed motion of the Honourable Attorney-General (Mr. McCrae), Bill No. 8, The Court of Queen's Bench Small Claims Practices Amendment Act; Loi modifiant la Loi sur le recouvrement des petites créances à la Cour du Banc de la Reine, standing in the name of the Honourable Member for Wolseley (Mr. Taylor). Pass? (Agreed) Is the House ready for the question?

The question before the House is second reading of Bill No. 8, The Court of Queen's Bench Small Claims Practices Amendment Act.

Mr. Jay Cowan (Second Opposition House Leader): My understanding is the Bill was standing in the name of the Member for Wolseley (Mr. Taylor). Has he indicated that he does not wish to speak on the Bill?

Mr. Speaker: Exactly.

Mr. Cowan: Then I move, seconded by the Member for The Pas (Mr. Harapiak), that debate be adjourned.

MOTION presented and carried.

Mr. Cowan: We have no right to do that when the Minister is not here for his own Bill.

Some Honourable Members: Oh, oh!

Mr. Speaker: Order, please; order, please.

BILL NO. 9—STATUTE LAW AMENDMENT (RE-ENACTED STATUTES) ACT

Mr. Speaker: On the proposed motion of the Honourable Attorney-General (Mr. McCrae), Bill No. 9, Statute Law Amendment (Re-enacted Statutes) Act; Loi modifiant diverses dispositions législatives (Lois réadoptées), standing in the name of the Honourable Member of The Pas (Mr. Harapiak). (Stand)

BILL NO. 11—THE CHILD CUSTODY ENFORCEMENT AMENDMENT ACT

Mr. Speaker: On the proposed motion of the Honourable Attorney-General (Mr. McCrae) Bill No. 11, The Child Custody Enforcement Amendment Act; Loi modifiant la Loi sur l'exécution des ordonnances de garde, standing in the name of the Honourable Member for Elmwood (Mr. Maloway). (Stand)

BILL NO. 15—THE COOPERATIVE PROMOTION TRUST ACT

Mr. Speaker: On the proposed motion of the Honourable Attorney-General (Mr. McCrae), Bill No. 15, The Cooperative Promotion Trust Act; Loi sur le fonds en fiducie de promotion de la coopération, standing in the name of the Honourable Member for the Interlake (Mr. Uruski). (Stand)

BILL NO. 21—THE HIGHWAY TRAFFIC AMENDMENT ACT

Mr. Speaker: On the proposed motion of the Honourable Minister of Highways and Transportation (Mr. Albert Driedger), Bill No. 21, The Highway Traffic Amendment Act; Loi modifiant le Code de la route, standing in the name of the Honourable Member for Assiniboia (Mr. Mandrake). (Stand)

BILL NO. 27—THE PRIVATE ACTS REPEAL ACT

Mr. Speaker: On the proposed motion of the Honourable Attorney-General (Mr. McCrae), Bill No. 27, The Private Acts Repeal Act; Loi abrogeant certaines lois d'intérêt privé, standing in the name of the Honourable Member for Inkster (Mr. Lamoureux). (Stand)

BILL NO. 28—THE AGRICULTURE PRODUCERS' ORGANIZATION FUNDING ACT

Mr. Speaker: On the proposed motion of the Honourable Minister of Agriculture (Mr. Findlay), Bill No. 28, The Agricultural Producers' Organization Funding Act; Loi sur le financement d'organismes de producteurs agricoles, standing in the name of the Honourable Member for The Pas (Mr. Harapiak).

Mr. Harry Harapiak (The Pas): Mr. Speaker, I am pleased to stand and speak on Bill No. 28, a Bill dealing with the agricultural producers in the Province of Manitoba. I think it is extremely important that the agricultural community have a strong voice in those matters that affect them today. We all know that agriculture is going through a very trying time and we understand that just as there are organizations that speak for other interest groups throughout society, that there is a strong desire for the agricultural community to also have a strong voice to speak on behalf of producers so that they can influence some of the issues that are facing the agricultural community, the farmers. I know that there are many issues in the whole area of agriculture that farmers do not have control over what happens to their industry.

I am speaking about the whole area of whether—it was demonstrated this past summer of how really we are at the mercy of the weatherman when the production is dependent to such a great degree on the amount of moisture and the amount of sunshine that we do receive, and also the international markets which really are very critical to farmers.

We know that there are many areas where there are many subsidies that are paid to the agricultural producers, subsidies that are much greater than what we receive for subsidies in Canada. I think that quite often the people who live in the urban parts of the province are not aware of what a contribution the agricultural community makes to the entire population of Canada. I think if you took time to read and see what it costs us for our food production, that we are in a much more favourable position in Canada. Really, it is a credit to the farmers, who are very efficient producers, that we as Canadians enjoy much cheaper food -(Interjection)- The Member for Arthur (Mr. Downey) seems to want to put some comments on the record. If he wants, I can sit down and he can put those comments on the record right now.

(Mr. Deputy Speaker, Mark Minenko, in the Chair.)

Hon. James Downey (Minister of Northern Affairs): Mr. Deputy Speaker, if the Honourable Member would submit to a question.

Mr. Harapiak: I will have no problem submitting to a question once I complete commenting on this Bill.

It has been recognized that farmers in Manitoba are a very diverse industry. There is considerable diversity among the produces themselves, and there are presently several organizations that are speaking out on issues in rural communities. We can look at the National Farmers' Union who are a strong voice in speaking up for the agricultural producers in Manitoba. I know that the Minister of Northern and Native Affairs (Mr. Downey) has some difficulty accepting some of the membership in the National Farmers' Union, but if he takes the time to see the contribution that they

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LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, March 9, 2017

The House met at 1:30 p.m.

Madam Speaker: Good afternoon. Please be seated.

ROUTINE PROCEEDINGS

INTRODUCTION OF BILLS

Bill 19–The Efficiency Manitoba Act

Hon. Ron Schuler (Minister of Crown Services): Madam Speaker, I move, seconded by the Minister of Sustainable Development (Mrs. Cox), that Bill 19, The Efficiency Manitoba Act, be now read a first time.

Motion presented.

Mr. Schuler: Madam Speaker, I am pleased to introduce Bill 19, The Efficiency Manitoba Act, which will provide the authority to establish a stand-alone Crown corporation for demand-side management, DSM, in the province of Manitoba.

Demand-side management in this context refers to initiatives that encourage energy conservation and efficiency both for electricity and natural gas.

The overall objectives of this bill are to reduce the impact of future rate increases, the further need for expensive new energy construction, can create new employment and business opportunities, and improve the competitiveness of Manitoba business.

Thank you, Madam Speaker.

Madam Speaker: Is it the pleasure of the House to adopt the motion? *[Agreed]*

Bill 20–The Crown Corporations Governance and Accountability Act

Hon. Ron Schuler (Minister of Crown Services): Madam Speaker, I move, seconded by the Minister of Finance (Mr. Friesen), that Bill 20, The Crown Corporations Governance and Accountability Act, be now read a first time.

Motion presented.

Mr. Schuler: Madam Speaker, as part of our government's commitment to improving the province of Manitoba, restoring prudent fiscal management and increasing openness and transparency of our Crown corporations, I am pleased to introduce Bill 20, The Crown Corporations Governance and Accountability Act.

This bill will strengthen the oversight of these entities while respecting the responsibility of the boards and professionals to govern and manage. The new act will improve transparency and clearly define a governance model that will clarify the accountability relationship and understanding of the respective roles of minister, boards, executive offices and officials of our Crown corporations.

This new legislation furthers our government's pledge to eliminate overlap and duplication within government, find efficiencies and savings and allow our Crown corporations to deliver effective essential services to all Manitobans.

Madam Speaker: Is it the pleasure of the House to adopt the motion? *[Agreed]*

Bill 213–The Gift of Life Act (Human Tissue Gift Act Amended)

Hon. Steven Fletcher (Assiniboia): I move, seconded by the member from Kewatinook, that Bill 213, The Gift of Life Act (Human Tissue Gift Act Amended); Loi sur le don de la vie (modification de la Loi sur les dons de tissus humains), be now read a first time.

Motion presented.

Mr. Fletcher: Thank you to the member from Kewatinook.

The bill amends The Human Tissue Gift Act. This bill–at present, the direction for organ donation is assumed only after someone puts their name on the list. This bill changes that so you are assumed to be on the list until your name is removed. It's very easy to remove the name off the list of organ donations, and there is no assumption when it comes to scientific research. This only applies to organs that can be available for donation.

And I'd like to just mention the bipartisan support for this bill and recognize the Manitobans, like the presumed consent association who is with us today in the gallery, for their hard work on this very important issue.

Madam Speaker: Is it the pleasure of the House to adopt the motion? *[Agreed]*

Bill 214–The Missing Persons Amendment Act (Silver Alert)

Mr. Len Isleifson (Brandon East): I move, seconded by the member for Gimli (Mr. Wharton), that Bill 214, The Missing Persons Amendment Act (Silver Alert), be read a first time.

Motion presented.

Mr. Isleifson: It is truly an honour to rise in the House today and prevent my first private member's bill.

It is a fact that thousands of Manitobans live with Alzheimer's disease, other forms of dementia and cognitive impairment. Bill 214 will provide additional tools that will strengthen and enhance The Missing Persons Act by permitting the police in our province to work with broadcasters and others in alerting the public when a vulnerable person or another adult with a cognitive impairment goes missing.

Thank you, Madam Speaker.

Madam Speaker: Is it the pleasure of the House to adopt the motion? *[Agreed]*

Committee reports? Tabling of reports?

MINISTERIAL STATEMENTS

Madam Speaker: The honourable First Minister–the required 90 minutes' notice prior to routine proceedings was provided in accordance with rule 26(2).

Would the honourable First Minister please proceed with his statement.

Response to Refugee Claimants

Hon. Brian Pallister (Premier): Madam Speaker, I rise today on behalf of all Manitobans to express our appreciation for the incredible manner in which so many of our fellow citizens have responded to the recent influx of people coming to Canada in search of hope.

We have all seen a dramatic rise in the number of individuals who have crossed into Canada from the United States at the Manitoba border. Since January 1st of this year, more than 200 individuals have made this irregular journey, travelling great distances in harrowing conditions and at great personal risk to themselves in order to come to Canada. Manitoba has seen the largest influx of any province on a per capita basis, and Manitobans have, as we have always done, welcomed these newcomers with open arms and with open hearts.

Our province has been the home of hope for more than two centuries, and those on the front lines deserve our appreciation and our respect for their compassion and their generosity. I'm standing today to thank local communities, front-line workers and the organizations that are ensuring the safety and well-being of those individuals seeking refuge in our province. Communities along the border, like Emerson, are–and the reeve, I believe, is here today, and council members as well. The public safety personnel and emergency providers have been working non-stop, since this trend began, to ensure the safety and security of both those coming to Canada and also of those living in their communities.

* (13:40)

And organizations like Manitoba Interfaith and Immigration partnership, the Welcome Place, Manitoba Association of Newcomer Serving Organizations members, Immigration Partnership Winnipeg, Manitoba Start, Red River College, Opportunities for Employment, Manitoba Institute of Trades and Technology, Paramedic Association of Canada, the Salvation Army–representatives of many of those organizations are here with us today in the gallery. We thank them and we thank all their associates for everything they are doing to assist these people.

Madam Speaker, Manitobans have responded generously and compassionately to this crisis, so has our government. We recognize that there are significant pressures on front-line services. We have added transitional funding supports including health-care coverage, temporary housing, employment income assistance, direct employment and labour market support, legal-aid assistance and child protection placement for legal minors crossing on their own without family.

I must emphasize that the challenges associated with this current situation are significant and they continue to grow, particularly as asylum seekers demonstrate a willingness to seek the safety of Canada at great risk to themselves and their families.

As we approach a potential spring flood, and on the heels of 19 border crossings during an almost-unprecedented blizzard in its duration just two days ago, we must again call for a truly national response to this issue in order to address the

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Once registered, these agreements run with the land and bind future property owners. Registrations cannot be discharged without the consent of the building permit issuer.

Amendments to The City of Winnipeg Charter, The Planning Act and the The Real Property Act formally provide for these agreements and their registration.

And I would also note that the member for St. Boniface (Mr. Selinger) did attend the briefing with the minister and certainly had his–I believe his questions were satisfied–received proper answers.

And, with that, Madam Speaker, unless there are further speakers on this bill, I would propose that we pass it to committee.

Hon. Jon Gerrard (River Heights): Yes, Madam Speaker, I want to put a few comments on the record with regard to this bill.

We are ready to support this legislation. I think that the formal registering of these agreements is a positive step forward–the conforming construction agreements or spatial separation agreements. It will facilitate better planning for people, for municipalities. It will ensure that the municipalities are actually in the picture in terms of any agreements that are made so that they can ensure that the agreements will conform with municipal plans, short-term and long-term.

The minister left it up in the air as to whether these would apply to local government districts or not. And I look forward to hearing from the minister at some point in the future, between now and when we have this back for a third reading, exactly what the situation is. I think it's important to know the extent to which the Province is covered by such agreements. I think there are a variety of agreements in some rural areas which might be quite different from agreements in the city of Winnipeg. Agreements might relate to the use of tile drainage, for example, which is much more of an issue in rural Manitoba than it is–and I would be interested in the minister's comments at some point about how broad these agreements are in terms of land use and to what extent they would cover drainage and various other aspects.

So, with those comments, I look forward to the comments at the committee stage and any input that we will get from the citizens of Manitoba.

Mr. Andrew Smith (Southdale): I do rise in the House today to put some comments on the record with respect to Bill 5.

I think I'd be remiss if I didn't acknowledge, of course, that here we are one day after the 100th anniversary of Vimy Ridge and want to honour the many men and women who've sacrificed so much to defend the freedoms that we so often take for granted in this country.

Mr. Doyle Piwniuk, Deputy Speaker, in the Chair

Of course, what happened yesterday in Egypt offers a stark reminder that not everybody around the world enjoys such freedoms, especially when it comes to practising their faith–the Coptic Christians who were attacked in a vicious terrorist attack in Egypt yesterday. I would like to, on behalf of, I think, our government and all members of this Legislature, remind everybody how precious our freedoms and religious freedoms are in this country and, of course, our hearts and prayers do go out to the men and women who have suffered from those attacks.

With respect to Bill 5, you know, I would like to put some comments on the record here in saying that this is a recommendation that came from the City of Winnipeg. The City of Winnipeg has, in fact, asked us to propose this type of legislation. And our government is making sure that provincial rules and regulations are smart, practical and foster environment for our businesses and communities to grow.

Right in my own community of Southdale, we are seeing tremendous growth with Sage Creek and parts of Island Lakes, now called Bonavista, that is growing at tremendous pace. I think that this legislation would be very helpful in providing a smooth transition and smooth growth and rate of growth to parts of the city that are experiencing high volumes of growth.

Bill 5 would enable City of Winnipeg and other Manitoba municipalities to register conforming to construction standards agreements on titles of properties as a means of enforcing building code setbacks and zoning bylaw requirements. Basically, this legislation would provide the building permit issuer, the municipality, to become a party to these agreements, enabling the municipality to register the agreements against the titles of affected properties.

This legislation provides Winnipeg and all municipalities with another tool to facilitate and

expedite construction and development proposals. This is just another example of the government's commitment to working in partnership with our municipal partners and to deliver on the needs of their priorities.

Building codes and zoning bylaws require that buildings set back from the property line so that they are separated from surrounding buildings by certain distances. The codes and bylaws also require that people in the buildings have immediate access to sidewalks and streets.

This bill allows these requirements to be met through an agreement between the property owners and the building permit issuer that places restrictions and controls on the property. For example, the agreement might be that an undeveloped portion of one property must remain that way, or the agreement might be that the occupants of the building may gain the required access by passing through the neighbouring property.

Once registered, these agreements run with the land and bind future property owners. Registrations cannot be discharged without the consult of the building permit issuer.

Amendments to The City of Winnipeg Charter, The Planning Act and The Real Property Act formally provide for these agreements and their registration.

This legislation would enable the City of Winnipeg and other Manitoba municipalities to register their agreements on titles of properties as a means of enforcing building code setbacks and zoning bylaw requirements. When adjacent landowners enter into agreement that places controls and restrictions on one of the properties, this legislation will provide for the building permit issuer to become party to those agreements.

* (15:20)

This simplification, of course, this standardization of codes for the municipality provides a much smoother transition for the growth of Winnipeg, especially in affected areas around some parts of northern Winnipeg and particularly in southern Winnipeg, so I believe and I am encouraged by the fact that members opposite seem to be supportive of this legislation, and I do encourage everybody to help get this important piece of legislation passed through.

So I again thank you so much for your time, and I do appreciate the opportunity to speak to this important legislation.

Mr. Deputy Speaker: Is the House ready for the question?

Some Honourable Members: Question.

Mr. Deputy Speaker: The question before the House is a second reading of bill numbered 5, The City of Winnipeg Charter Amendment, Planning Amendment and Real Property Amendment Act.

Is it the pleasure of the House to adopt the motion? *[Agreed]*

Bill 20–The Crown Corporations Governance and Accountability Act

Mr. Deputy Speaker: So we'll go on to Bill 20, The Crown Corporation Governance and Accountability Act.

Hon. Ron Schuler (Minister of Crown Services): I move, seconded by the Minister for Indigenous and Municipal Relations, that Bill 20, The Crown Corporations Governance and Accountability Act, be now read a second time and referred to a committee of this House.

Motion presented.

Mr. Schuler: Always great to be standing in the Legislature and speaking to legislation, particularly in this case, Bill 20, The Crown Corporations Governance and Accountability Act.

During Election 2016, our government committed to changing the way Crown corporations do business, including specific steps to improve transparency and accountability.

An integral aspect of this commitment was to assess the current government's framework relating to Crown corporations and to implement the necessary forms so as to enhance the outcome-based performance of Crown corporations. Included in this legislation are new reporting requirements that will closely monitor the performance and outcomes of Crown corporations, fulfilling this commitment.

Mr. Deputy Speaker, this new legislation is aimed at furthering our government's commitment of separating and clearly defining the respective roles of government and the boards of directors of Manitoba's major Crown corporations. The legislation will establish a clear governance model to ensure boards are accountable for governing and overseeing the

management of the corporation within the parameters provided by government.

Our government is committed to making Manitoba the most improved province and we'll do all that by eliminating overlap and duplication within government and find efficiencies and savings.

Mr. Deputy Speaker, an important aspect of this new legislation is the abolishment of the Crown Corporations Council which will bring a net saving to government and remove duplication. Crown corporations play a vital role in the Manitoba economy, and Manitobans trust that our government will undertake this stewardship role seriously. That's why this new legislation will clearly define the lines of communication between the Crown corporations and the government. This legislation will increase the transparency of the stewardship role by introducing ministerial directives to ensure that standards and compliance are met between Crown corporations and the reporting standards of the new legislation.

Maintaining the status quo would leave Crown corporations vulnerable to interference which can unduly influence the work of a board.

I know The Crown Corporations Governance and Accountability Act will strengthen the oversight of these organizations while respecting the responsibility of their boards and management to govern their work on behalf of all Manitobans.

I'd like to conclude by thanking all of those that were involved in the process of this legislation. I'd like to thank civil servants who worked very hard on this, whether it was within the department, those at Legal Services, those at Translation Services and so on, I'd like to thank all of them for the work they've put into this. And, Madam Speaker, I would recommend this legislation to the House.

Questions

Mr. Deputy Speaker: A question period up to 15 minutes will be held.

Questions may be addressed to the minister of any–by any member in the following sequence: first question be the official opposition critic or designate, subsequent questions asked by each independent member, remaining questions asked by the opposition member, and no question or answer shall exceed 45 seconds.

Time for–the honourable member for Tyndall Park.

Mr. Ted Marcelino (Tyndall Park): My first question relates to the consultation done by the minister prior to the introduction of this bill. Who did he consult?

Hon. Ron Schuler (Minister of Crown Services): And one of the difficulties when legislation is being written, that although consultation did take place and we did have a robust consultation with all of the Crown corporations and other organizations, I believe, like AMM, were consulted.

But, again, we have to be very careful because the legislation itself may not be presented to individuals. It's just the spirit of the legislation that you can consult on, so I want to be very clear on that. However, the first round of consultations were with the Crown corporations to get their feedback.

Mr. Deputy Speaker: The honourable member's time is up.

Mr. Marcelino: The second question that I have is regarding the conflict-of-interest disclosure that's on section 20(3), and it's the timing. Let me understand this. What is this all about?

Mr. Schuler: Well–and we see, not just throughout Manitoba, but throughout Canada and throughout the world, individuals get themselves onto boards and do not appropriately disclose if they have a conflict of interest. What we have done here is made sure that it is similar to existing legislation; and, as it is in other, similar jurisdictions, it's important that individuals have a clear guideline how they're supposed to view their conflict, and if they feel they have one, who they're supposed to disclose it to. And that's laid out in legislation.

Mr. Marcelino: Does that mean that if a person who has a contract with, let's say Manitoba Public Insurance, does that mean that he could still enter into a management contract with MPI even if he were a member of this organization that is like the secretariat, is it?

Mr. Schuler: First of all, we–I think we want to be very careful that we don't start taking the role of deciding what a conflict is and what a conflict isn't. I can assure members, staff within the secretariat will not be placed on the boards of the Crown corporations, nor should they have anything to do with the Crown corporations.

I would point out to the member that as minister, for instance, responsible for Manitoba Liquor & Lotteries, I do not participate in any gaming and any

lottery and anything of any kind. In fact, I don't even participate in silent auctions, just so that there's an avoidance of any conflict of interest, and we would like to see that kind of a standard applied to all of those that work for government.

* (15:30)

Mr. Marcelino: With this conflict–thank you, Mr. Deputy Speaker–of interest disclosure rule, it makes exception that the member of the board may still have a contract for as long as he stays away from voting on any matter that involves his contract.

Is that the way that it should be read?

Mr. Schuler: Well, thank you very much, and we do have Crown corporations that are multi-faceted, so an individual might have a contract–advertising contract or something with a Crown corporation or might have shares in a corporation that has a contract with a Crown corporation and is appointed to a board. But it's laid out very clearly that that conflict must be declared and it must be declared publicly. It must be declared openly, and if it is deemed that there is a conflict, they must then recuse themselves when those kinds of issues do come from a board–come up to a board.

This is standard–

Mr. Deputy Speaker: The honourable minister's time is up.

Mr. Marcelino: So will the minister agree that perhaps there should be an amount where–an amount involved in a contract that should be used as a determinant of whether there might be a conflict or not? Is that something that could be seen being implemented with this bill?

Mr. Schuler: Well, in the 45 seconds that I have–so I'll speak faster–I would suggest to the member that we be very careful we stay away from an amount, but rather if you're in a conflict, because you're in a conflict if it involves $500, you're in a conflict if it involves $50,000. If you're in a conflict with a Crown corporation, you must declare it. And, in fact, before individuals are appointed to boards of directors that question is asked are you in a conflict. Even if you go on the ABC site, I mean, they–you can declare there if there is a conflict with one board or the other.

So I would suggest to the member that rather than making an amount, make it–if you have a conflict you better declare it.

Mr. Marcelino: So, from my understanding, will the minister agree that there are some members of the board who might be precluded from acting as a member of the board if the business that he's in might be something that the Crown corporation is engaging in? Or is that clear enough, my question I mean?

Mr. Schuler: Yes, what the member has just put forward as a hypothesis is exactly what's laid out in the legislation. If you have an area in which you have a conflict, you must recuse yourself from that discussion absolutely, and it's exactly the way the member from Tyndall Park laid it out.

Mr. Marcelino: Just one last question from me. Will diversity be taken into account when choosing individuals to sit on the secretariat?

Mr. Schuler: One of the things that our government has been very clear on is that we want to appoint Manitobans, Manitobans from all walks of life who bring forward a skill set. And we are very pleased with the makeup and, for instance, we've got the new chair of Manitoba Liquor & Lotteries, Ms. Polly Craik, a dynamic and outstanding businesswoman here in Manitoba, and we want to encourage all Manitobans.

And we encourage all Manitobans from all walks of life go to the ABC–boards and commissions–site at the–at government of Manitoba and put your name forward. That's a first step in getting yourself appointed to a board.

Mr. Deputy Speaker: Any further questions?

Hon. Jon Gerrard (River Heights): Yes, I note that the minister has put in this act, sections 22(1) and (2), which deal with the liability of directors and officers, and it says specifically that the director of a corporation is not liable.

And I'm concerned that this would be inconsistent with most corporations–that there is some liability of directors, people who are serving on the board–and I would wonder just why the minister is proceeding in this fashion, to remove liability from people who will be making critical decisions for all Manitobans.

Mr. Schuler: Yes, I would suggest to the member–minister to–I would suggest to the member for River Heights–he was once a minister but that was in the big house in Ottawa–and I would suggest to him that he look at it, and basically what the liability does discuss is that it's liability of debt of the corporation.

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it's–it does not work well for any Crown corporation to have that sword of Damocles hanging over their head.

* (19:10)

What should be recommended would be to improve efficiencies as they call it, but within the framework of Manitoba Hydro which is a billion-dollar corporation.

And, if this is an attempt on the part of the minister to procure the privatization of that side of Manitoba Hydro, slowly doing what he was mandated to do, I don't think so. Efficiency Manitoba does not show–or this bill does not show that there is a need for it.

The money that will be coming from Manitoba Hydro to finance this agency–or this Crown corporation will be taken from where? It will be taken from–I don't know. It does not say in the bill. And the personnel–who will be transferred from Manitoba Hydro to Efficiency Manitoba? Where are they coming from? Your lineup of friends?

I worry about those types of approaches.

And it's amazing how sometimes, you know, I fear for the demoralization of the civil service every time. My wife worked for the civil service–outstanding civil servant. She's still in hospital now. But she worked hard and most of those who were working with her work hard for their money. And for us to take the rug from under them is–can I say stupid?–does not bode well for the morale of our civil service.

It does not make sense and we will vote against this.

Ms. Judy Klassen (Kewatinook): It is my duty to put forth a balanced voice of the public. The Liberals of Manitoba only agree to legislation and resolutions that are in the best interests of Manitobans. This is not the case for Bill 19.

I'd like to quote my colleague, the honourable member for Assiniboia (Mr. Fletcher): In the election, we were not–we did not campaign on a new Crown corporation. We campaigned on a better economy, a stronger Manitoba, a stronger–this bill does not do that.

The–that member even called upon his team to be open to comments, reflection, and consultation and not once one of his team step up.

During the second meeting, there were Manitobans in the audience who wanted to speak to this bill. The member for Assiniboia and both of us opposition critics respectfully asked for these voices to be heard, and we were all denied by the government.

Thus, Manitoban voices were silenced. How undemocratic.

I saw again, for the Progressive Conservatives, party stripe comes before good legislation and that is shameful. I always hear that word from the government side of the House–shame. Well, shame on this minister for being so undemocratic.

The Manitoba Liberals will not support this bill.

And on behalf of the taxpayers, not the ratepayers, I ask again: Minister, please retract this bill until our Province's credit rating has a chance to recover.

Thank you, Madam Speaker.

Madam Speaker: Is the House ready for the question?

Some Honourable Members: Question.

Madam Speaker: The question before the House is concurrence and third reading of Bill 19, The Efficiency Manitoba Act.

Is it the pleasure of the House to adopt the motion?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Voice Vote

Madam Speaker: All those in favour of the motion, please say yea.

Some Honourable Members: Yea.

Madam Speaker: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Speaker: In my opinion, the Yeas have it.

Recorded Vote

Mr. Jim Maloway (Official Opposition House Leader): Madam Speaker, I request a recorded vote.

Madam Speaker: A recorded vote having been called, call in the members.

The question before the House is concurrence and third reading of Bill 19, The Efficiency Manitoba Act.

Division

A RECORDED VOTE *was taken, the result being as follows:*

Yeas

Bindle, Cox, Cullen, Curry, Eichler, Ewasko, Fielding, Friesen, Goertzen, Graydon, Guillemard, Helwer, Isleifson, Johnson, Johnston, Lagassé, Lagimodiere, Martin, Mayer, Michaleski, Micklefield, Morley-Lecomte, Nesbitt, Pallister, Pedersen, Piwniuk, Reyes, Schuler, Smith, Smook, Squires, Stefanson, Teitsma, Wharton, Wishart, Wowchuk.

Nays

Allum, Altemeyer, Fontaine, Gerrard, Kinew, Klassen, Lamoureux, Lathlin, Lindsey, Maloway, Marcelino (Logan), Marcelino (Tyndall Park), Saran, Selinger, Swan, Wiebe.

Clerk (Ms. Patricia Chaychuk): Yeas 36, Nays 16.

Madam Speaker: I declare the motion carried.

Bill 20–The Crown Corporations Governance and Accountability Act

Madam Speaker: We will now move to concurrence and third reading of Bill 20, The Crown Corporations Governance and Accountability Act.

Hon. Ron Schuler (Minister of Crown Services): Madam Speaker, I move, seconded by the Minister of Finance (Mr. Friesen), that The Crown Corporations Governance and Accountability Act, reported from the Standing Committee on Legislative Affairs, be concurred in and be now read for a third time and passed.

Madam Speaker: It has been moved by the honourable Minister of Crown Services, seconded by the honourable Minister of Finance, that Bill 20, The Crown Corporations Governance and Accountability Act, reported from the Standing Committee on Legislative Affairs, be concurred in and be now read for a third time and passed.

Mr. Schuler: During the election of 2016 our government committed to changing the way Crown corporations do business, including specific steps to improve transparency and accountability. An integral aspect of this commitment was to assess the current governance framework relating to Crown corporations and to implement the necessary reforms so as to enhance the outcome-based performance of Crown corporations. Included in this legislation are new reporting requirements that will closely monitor the performance and outcomes of Crown corporations, fulfilling this commitment.

* (20:20)

Madam Speaker, this new legislation is aimed at furthering our government's commitment of separating and clearly defining the respective roles of government and the boards of directors of major–Manitoba's major Crown corporations. The legislation will establish a clear governance model to ensure boards are accountable for governing and overseeing the management of the corporation within the perimeters provided by government. Our government is committed to making Manitoba the most improved province, and we'll do that by eliminating overlap and duplication within government and finding efficiencies and savings.

Madam Speaker, an important aspect of the new legislation is the abolishment of the Crown Corporations Council, which will bring a net saving to government and remove duplication. Crown corporations play a vital role in the Manitoba economy, and Manitobans trust that our government will undertake this stewardship role seriously. That's why this new legislation will clearly define the lines of communication between the Crown corporations and government.

This legislation will also increase the transparency of the stewardship role by introducing ministerial directives to ensure that standards and compliance are met between Crown corporations and the reporting standards of the new legislation. Maintaining the status quo would leave Crown corporations vulnerable to interference, which can unduly influence the work of a board.

I know The Crown Corporations Governance and Accountability Act will strengthen the oversight of these organizations while respecting the responsibility of their boards and management to govern their work on behalf of all Manitobans.

Thank you, Madam Speaker.

Mr. James Allum (Fort Garry-Riverview): I want to begin just by acknowledging the wedding anniversary from my friend from Fort Richmond. For those of us who have forgotten more anniversaries than I care to admit, I want to say this is unbelievable and fantastic and–he was just there–

but anyway, on behalf of the NDP caucus, happy anniversary.

Madam Speaker, it goes without saying that we won't be supporting this bill. If your interest, if your objective, if your aim, if your goal is for openness, if it's for transparency, if it's for accountability, then the thing to do was to stay with the Crown Corporations Council that was already in place, that was already at arm's-length, that was already composed of independent members and whose primary role was to oversee good governance for all of our Crown corporations. This bill quite clearly takes all of those things away. Instead of having non-partisan appointees who are responsible for the oversight and accountability of Crown corporations, it's replaced merely with a secretariat.

The bill also allows the minister to run and direct affairs of Crown corporations in a way that would never happen under the existing legislation.

Madam Speaker, you've heard of many Batman villains that are out there. There's the Joker, there's the Riddler. This legislation creates a new character: it's called the Meddler, and we oppose this bill.

Ms. Judy Klassen (Kewatinook): Government accountability is a cornerstone of democratic societies. We have not seen such from this new government. It's completely ironic that this government enacts this type of legislation for its Crown corporation when they don't even govern or–responsibly or act accountably in their own actions.

As public entities, Crown corps. have a duty to act in the best interests of the public. The activities of Crown corporations must remain within the view of the public and continue to have proper oversight. Ensuring that Crown corporations are meeting their goals and responsibilities reduces waste and increases efficiency.

Manitobans deserve the best from the Crown corporations that serve them. They also deserve this from their government.

To act in the best interests of our people, our Crown corps. must have the same flexibility to meet the changing demands of our people and the market. Working toward this end, Crown corps. need the autonomy to make decisions in a fast and productive manner.

Madam Speaker, for a Crown corp. to act in the best interest of all Manitobans, some separations from the government must be allowed, and it is in the best interests of all Manitobans that while the government is not being accountable to the public, that our Crown corps must stay accountable. This enables protection from this–for themselves from this government.

We're not here to politicize the Crown corporations. The Liberals trust the hardworking Manitoban professionals that work for these organizations. The Liberals support accountability, even if it's only for the Crown corps. at this point in time.

Madam Speaker: Is the House ready for the question?

Some Honourable Members: Question.

Madam Speaker: The question before the House is concurrence and third reading of Bill 20, The Crown Corporations Governance and Accountability Act.

Is it the pleasure of the House to adopt the motion? Agreed?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Voice Vote

Madam Speaker: All those in favour of the motion, please say yea.

Some Honourable Members: Yea.

Madam Speaker: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Speaker: In my opinion, the Yeas have it.

Recorded Vote

Mr. Jim Maloway (Official Opposition House Leader): Madam Speaker, I request a recorded vote.

Madam Speaker: A recorded vote having been called, call in the members.

Order, please. Order.

The question before the House is third reading–concurrence and third reading of Bill 20, The Crown Corporations Governance and Accountability Act.