First Session — Thirty-Fourth Legislature

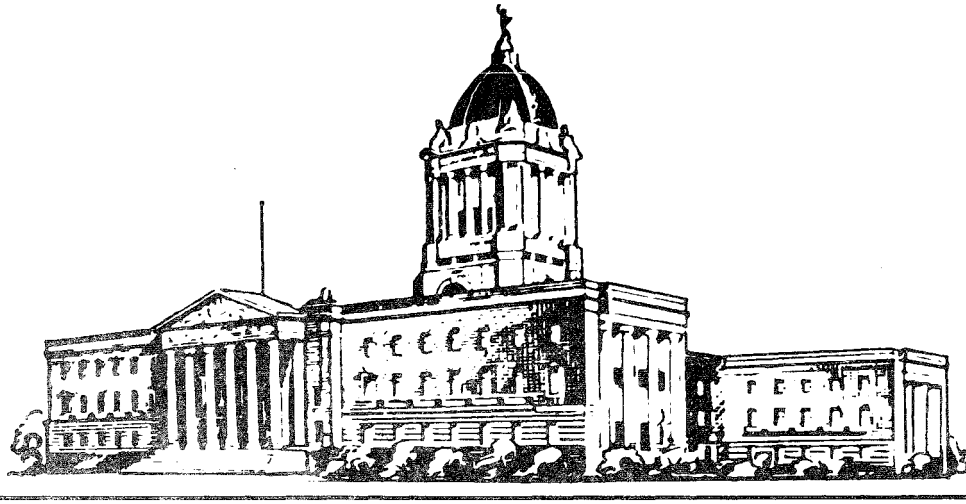
of the

Legislative Assembly of Manitoba

STANDING COMMITTEE
on
STATUTORY REGULATIONS
and
ORDERS

37 Elizabeth II

Chairman
Mr. H. Pankratz
Constituency of La Verendrye



VOL. XXXVII No. 4 - 10 a.m., MONDAY, DECEMBER 19, 1988.

MG-8048

ISSN 0713—9527

Printed by the Office of the Queens Printer, Province of Manitoba

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fourth Legislature

Members, Constituencies and Political Affiliation

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	LIBERAL
ANGUS, John	St. Norbert	LIBERAL
ASHTON, Steve	Thompson	NDP
BURRELL, Parker	Swan River	PC
CARR, James	Fort Rouge	LIBERAL
CARSTAIRS, Sharon	River Heights	LIBERAL
CHARLES, Gwen	Selkirk	LIBERAL
CHEEMA, Gulzar	Kildonan	LIBERAL
CHORNOPYSKI, William	Burrows	LIBERAL
CONNERY, Edward Hon.	Portage la Prairie	PC
COWAN, Jay	Churchill	NDP
CUMMINGS, Glen, Hon.	Ste. Rose du Lac	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DOER, Gary	Concordia	NDP
DOWNEY, James Hon.	Arthur	PC
DRIEDGER, Albert, Hon.	Emerson	PC
DRIEDGER, Herold, L.	Niakwa	LIBERAL
DUCHARME, Gerald, Hon.	Riel	PC
EDWARDS, Paul	St. James	LIBERAL
ENNS, Harry	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Laurie	Fort Garry	LIBERAL
EVANS, Leonard	Brandon East	NDP
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen Hon.	Virden	PC
GAUDRY, Neil	St. Boniface	LIBERAL
GILLESHAMMER, Harold	Minnedosa	PC
GRAY, Avis	Ellice	LIBERAL
HAMMOND, Gerrie	Kirkfield Park	PC
HARAPIAK, Harry	The Pas	NDP
HARPER, Elijah	Rupertsland	NDP
HELWER, Edward R.	Gimli	PC
HEMPHILL, Maureen	Logan	NDP
KOZAK, Richard, J.	Transcona	LIBERAL
LAMOUREUX, Kevin, M.	Inkster	LIBERAL
MALOWAY, Jim	Elmwood	NDP
MANDRAKE, Ed	Assiniboia	LIBERAL
MANNESS, Clayton, Hon.	Morris	PC
McCRAE, James Hon.	Brandon West	PC
MINENKO, Mark	Seven Oaks	LIBERAL
MITCHELSON, Bonnie, Hon.	River East	PC
NEUFELD, Harold, Hon.	Rossmere	PC
OLESON, Charlotte Hon.	Gladstone	PC
ORCHARD, Donald Hon.	Pembina	PC
PANKRATZ, Helmut	La Verendrye	PC
PATTERSON, Allan	Radisson	LIBERAL
PENNER, Jack, Hon.	Rhineland	PC
PLOHMAN, John	Dauphin	NDP
PRAZNIK, Darren	Lac du Bonnet	PC
ROCAN, Denis, Hon.	Turtle Mountain	PC
ROCH, Gilles	Springfield	LIBERAL
ROSE, Bob	St. Vital	LIBERAL
STORIE, Jerry	Flin Flon	NDP
TAYLOR, Harold	Wolseley	LIBERAL
URUSKI, Bill	Interlake	NDP
WASYLYCIA-LEIS, Judy	St. Johns	NDP
YEO, Iva	Sturgeon Creek	LIBERAL

LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON

STATUTORY REGULATIONS AND ORDERS

Monday, December 19, 1988

TIME — 10 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN: — Mr. Helmut Pankratz (La Verendrye)

ATTENDANCE — QUORUM - 6

Members of the Committee present:

Hon. Mr. Manness, Hon. Mrs. Oleson

Mr. Burrell, Mrs. Charles, Messrs. Doer, Pankratz, Rose, Taylor (Messrs. Helwer, Lamoureux, Storie, changed by unanimous consent in Committee, will report to House.)

APPEARING: Hon. Gary Filmon (Premier)

MATTERS UNDER DISCUSSION:

Bill No. 45—The Legislative Assembly and Executive Council Conflict of Interest Amendment Act; Loi modifiant la Loi sur les conflits d'intérêts au sein de l'Assemblée et du Conseil exécutif.

* * * *

Mr. Chairman: I would like to call the meeting of the committee to order. There are some committee changes.

Hon. Clayton Manness (Minister of Finance): I move, by way of unanimous consent, that Mr. Helwer replace Mr. McCrae at this sitting.

* (1005)

Mr. Chairman: Agreed? (Agreed)

Mr. Jay Cowan (Churchill): We would like Mr. Storie to replace Mr. Plohman for this sitting of the committee.

Mr. Chairman: Agreed? (Agreed)

Mr. Kevin Lamoureux (Inkster): By unanimous consent, I would like to replace Mr. Edwards myself.

Mr. Chairman: Agreed? (Agreed)

I understand that in the House this afternoon this will have to be reported. Agreed? (Agreed)

Mr. Gary Doer (Leader of the Second Opposition): I would propose an amendment in its English and French forms that The Legislative Assembly and Executive Council Conflict of Interest Amendment Act, proposed Bill No. 45, be amended by the following motion:

THAT clause (d) in the definition of "senior public servant" as proposed in section 2 of Bill 45 be struck out and clause (e) be renumbered as clause (d).

Mr. Chairman: Mr. Doer, have you got a copy of the amendment?

Mr. Doer: Yes, it is being distributed.

Mr. Chairman: Is there any discussion on the amendment?

Mr. Doer: Yes. I think we had an excellent debate last week about the problems of inclusion of technical officer and the problems of excluding special assistants and executive assistants. I think there were excellent arguments made on both sides of that issue. Certainly we had an example on Thursday with questions in the Legislature dealing with the communications officer who was a technical officer who went from the Department of Education to MAST, who technically would have been excluded from this Act, and certainly would not be a person who any of us would want to exclude from purposes of this Act in terms of insider information.

* (1010)

We had some other examples raised by the Member for Flin Flon (Mr. Storie) of the inside information that a special assistant may have, and some very good arguments back from the First Minister (Mr. Filmon) about, well, what if you worked at the Department of Labour and you could not get a job in an employee organization or whatever for one year?

I suggest that we delete this, that we may look at that together in an informal way between the Parties over the next period of time. Certainly, it is just dealing with the edges of the Bill, which is the whole idea of one year's separation for people who have major pieces of insider information and may have the conflict. I think we all agree on the principle and we should look at this specific over a period of time because I think that we all need to do a little more work on it, so that is why we would propose that amendment.

Mr. Lamoureux: Mr. Chairperson, I am a bit confused. I was here the other day when the Honourable Member for Flin Flon (Mr. Storie) was commenting on this particular clause. I am of the opinion that it should be included. I do not see why we are seeing such a dramatic change in the minds of the Party. At one point it appeared on the surface that the NDP were in support of the Honourable Member for St. James' (Mr. Edwards) amendment. I find it is unfortunate that they now want to exempt what the Honourable Member for Flin Flon (Mr. Storie) was praising so highly, and maybe the Honourable Leader of the New Democratic Party (Mr. Doer) might comment on that.

* (1015)

Mr. Jerry Storie (Flin Flon): Mr. Chairperson, not that I feel compelled to reply, however I did raise this issue along with the Member for St. James (Mr. Edwards). What I had raised was the inconsistency between including technical officer and excluding specifically special assistant and executive assistant. What we are doing here, we recognize, is trying to flesh out a conflict-of-interest Bill which will serve our purposes.

I made the argument that special and executive assistants can have knowledge. However, they are not senior personnel. I recognize that. I find the difficulty including technical officer, frankly, in the same category because we require them and they are required. We have had examples. Mr. Doer just gave us an example of where a conflict would have prevented a civil servant from transferring to a position in which he is, you know, certainly qualified.

I think what we need to do is sit down and see what we mean by technical officer. I was arguing that we should include them both under the provisions of 2(d) but, if there is an opportunity to review the whole issue of who we are including when we are talking about technical officers, maybe that makes sense. I remain of the opinion that at some point we may want to deal with executive and special assistants somewhat differently. I think it is still a good point.

Mr. Harold Taylor (Wolseley): I am a little disappointed to see the turnaround, and the NDP, I thought, was going to take a position of principle on this matter. I know they, for one, are forever referring to the Premier in terms of flip-flop, which I think now should be applied to them.

I do not see this as a principled way of dealing with the matter at all. I sat through the deliberations of this committee and for approximately an hour the Member for Flin Flon (Mr. Storie), backed up by the Member for Dauphin (Mr. Plohman) and in concert with the Member for St. James (Mr. Edwards), went after the Premier (Mr. Filmon) and asked him a lot of hard questions and put him on the spot. He defended himself, his position, and tried to make clear what he thought of the matter.

Now what we see here is, instead of dealing with the matter as it should be and eliminating the exception for the executive assistants and the special assistants, we have very much a turnaround. We have a case now where, oh well, maybe we better waive the whole thing. I do not see consistency on that matter at all.

It was interesting that the position was quite consistent between the Member for Dauphin (Mr. Plohman) and the Member for Flin Flon (Mr. Storie) in their questioning, in their attack on this matter, until such time as the Leader of the other Opposition Party arrived in the room and started making comments and now we see this turnaround.

I, for one, am rather taken aback at the thing. I think it is a matter of principle and I think the original amendment should be supported and put through in this fashion. Let us bear in mind that upon verification it was confirmed that the technical officers are not part of the regular Civil Service. They are hired on by political appointment to finish off policy development work. There may be initiatives that come out of a department saying there is a policy area problem. Occasionally officers out of the ranks of the Civil Service are seconded to a project for policy development, but that is not what we are talking about here with technical officers.

* (1020)

Technical officers is the category. It may be a euphemistic sort of a term to use, but that is the category that the Civil Service Commission recognizes as the people who are the specialists to be employed on a policy-by-policy basis or hired on a contract for a general piece of work, who are politically appointed to carry this out at the wishes and wills and whims of the Government in power at the time.

To suggest that there should be a total prohibition, a total exempting, I find rather strange indeed. I find this reversal of position of the New Democratic Party as a very unprincipled way of operating. I hope it is duly noted, and I will be supporting the original amendment. Thank you, Mr. Chairman.

Mr. Doer: It is rather interesting to get a speech on reversals from the Liberal Party of Manitoba when they have a water bill before the Chamber that allows the Minister of Natural Resources (Mr. Penner) to do what they are criticizing in the Rafferty-Alameda Dam. I am surprised the Member for Wolseley (Mr. Taylor) is not talking to his own caucus about the absolute inconsistency on the major environmental issue facing our Chamber now.

Mr. Chairperson, the—

Mr. Chairman: A point of order, Mr. Taylor?

Mr. Taylor: I believe the issue at hand is a debate on an amendment to Bill No. 45. The extraneous material, pardon the expression, red herring material, and the inaccurate material this Member is bringing forward on Rafferty-Alameda is not germane to this debate whatsoever and, as such, I would ask the Chair to point out to him to restrain himself and stay on the matter that is at hand and debate amendments to Bill No. 45.

An Honourable Member: It is not germane but embarrassing to the Liberals.

Mr. Taylor: Not embarrassing at all. We are damned consistent.

Mr. Chairman: Thank you, Mr. Taylor, that was not a point of order. It is important though that all Members stick to the Bill that is in question. Mr. Doer.

Mr. Doer: That was my preamble to the point I was trying to make, Mr. Chairperson. The discussion dealing with technical officer and special assistant is not an issue that is totally and completely clear. I would think that all committee Members must admit that. Rather

than take a definitive action which is in legislation, including a group for purposes of a one-year prohibition for employment, I believe this committee should be careful.

I think we were making the arguments about the inconsistency. The Member for Flin Flon (Mr. Storie) was making the argument, I think quite strongly, about why technical officer and not special assistant. It was developed in the arguments around the politically appointed special assistants. I do not believe there is a right or wrong answer to this issue. I believe we need some more work on this issue.

I can think of a technical officer who was hired by the City of Winnipeg who would be excluded from terms of being hired from the City of Winnipeg under this Act. I would mention one Elaine Smith who was hired by the City of Winnipeg, having worked as a technical officer, hired in the same way, to run the Workers' Compensation Program at City Council. You would not be able to hire that individual under this provision. The Member for Wolseley should realize that the hiring of that individual in a very critical area of the city's enterprise, in a very important cost-effective area, would not be allowed under this provision of the Bill.

The Premier (Mr. Filmon) did raise some good examples of people who would be disenfranchised from work with our arguments, and I think we should have the maturity in this committee to listen to the arguments and not make a mistake in legislation.

Yes, we believe that there is no consistency between treating the technical officer and the special assistant differently. Do we treat that consistency in a way of excluding everybody in a haphazard way without knowing what it means to people, or do we treat it in a way that deletes this clause, Section (d)?

I think we should look at it. We have not closed our mind to including the special assistant at a later point. We have not closed our mind to including the technical officer at a later point. We would welcome the opportunity to discuss it with all Parties to deal with the implications of it.

I mentioned one Elaine Smith as an example of a technical officer. On Thursday, the Member for Fort Rouge (Mr. Carr), in his own questions identified another example. Perhaps the Member for St. James (Mr. Edwards) was not listening to it. I think we should listen to developing information as it comes along, the example of a communications staff hired under a particular clause in this Civil Service Act not being able to go over and work as a communications staff in MAST for one year.

* (1025)

That was arising right directly out of a question the Liberals asked. In fact, I think it was the lead question they asked on the same day we discussed this that also illustrated, quite frankly, that we collectively have not thought through (d) in terms of its inconsistency well. We should delete it now. We should discuss it over the next period of time and we certainly are not closing our minds to amending it pursuant to the Member for St. James' (Mr. Edwards) amendment in the future, but I think we should know what we are doing before we do it. Clearly, the questions that have arisen and the points that have been developed illustrate that we are not 100 percent sure on this very important issue. We should, therefore, err on the side of leaving it out and deal with it in the future.

Mr. Chairman: Question on the clause of amending 1.(2)(d).

Mr. Taylor: Are we voting here on the amendment as proposed by the Member for St. James? Is that—

Mr. Chairman: Well, it is the will of the committee, but I assumed that we would be voting on the amendment of the clause that was just proposed to all the committee members which was under discussion today.

Mr. Taylor: I was not able to be in for the first 10 minutes and I apologize to the committee for that. What I want to make sure I am understanding, are we dealing here—this vote that has been called, is it on the original amendment of the Member for St. James or is it on the revised one that is on the table here?

Mr. Chairman: I would ask the rule of the committee on that one but I would assume that it was—

An Honourable Member: What vote are you calling?

Mr. Chairman: —on the one that was revised right this morning which was circulated and which was under discussion by Mr. Doer.

An Honourable Member: Okay.

Mr. Taylor: So it is on Mr. Doer's amendment that we are talking about?

Mr. Chairman: That is right.

Mr. Taylor: All right, thank you.

Mr. Chairman: All those in favour of that amendment? Against? -(Interjection)- I guess it can be recorded, Mr. Taylor. All of those in favour, raise your hands again, please.

Six in favour; three against.

An Honourable Member: Four against.

Mr. Chairman: Once again, all—yes, Bob is on the committee.

Mr. Doer: A technical amendment required pursuant to the motion that has passed that reference to—and I would move that the technical amendment to Bill No. 45 be moved in its English and French form.

THAT under the reference to clause (e) at the end of (g), the definition be amended to read as reference to clause (d).

An Honourable Member: By who?

Mr. Doer: Who? By the Member for Concordia and seconded by the Member for Flin Flon (Mr. Storie).- (Interjection)- Yes, that is what I said, at the end of the definition be amended. It is just a technical point.

Mr. Chairman: Is that the will of the committee? (Agreed)

Mr. Taylor: I would like to put forward an amendment on the table as it regards Clause (d). It is quite different than what is in the original proposal. It is also quite different to what was going to be proposed by the Member for St. James (Mr. Edwards), and I would read out that motion.

THAT clause (d) of the definition "senior public servant" in proposed section 2 be amended by striking out "other than" and substituting "including."

Here is the significant point, and "following" is added in after Section 19.1(2). The reason for this section is that the point put out by a couple of people at this table has been that there would be problems potentially for EAs and SAs in obtaining employment after the fact, and what this would permit, what I am going to read in a moment, would be exceptions for certain contracts and would be numbered 19.1(3).

It would say that those technical officers, executive assistants, and SAs who, if they did not use insider information, did not use influence, were not in the position of acting or advising, as in 19.2 now, nor were participating in employers' dealings in any way, would be permitted under a contractual arrangement to carry on work and it would read as follows:

THAT subsection (1) does not apply to a contract, as this reference suggests, what I said, entered into with the Government or a Crown agency by a special—

Mr. Chairman: Mr. Manness.

* (1030)

Mr. Manness: I have no idea where the Member is referring to.

Mr. Taylor: If the Member for Morris could just—

Mr. Manness: We were in Clause 2 and Clause 2 is amended. Are you going to be calling the question as to whether Clause 2 was passed as amended?

Mr. Taylor: That is what I was going to do—

Mr. Manness: . . . to Clause 2?

Mr. Taylor: Correct.

Mr. Chairman: Okay, which subsection?

Mr. Taylor: Could I just read it out? I think, once I read it out, it will start to fall in place because it took me a moment to grasp the significance of it as well.

Subsection 1 does not apply—now this is as saying in the future for employment for these people—to a contract entered into with the Government or a Crown agency by a special assistant or executive assistant if, in obtaining the contract, the special or executive assistant did not contravene sections 18, 19.2 and 19.3. Those are the four that in my preamble I was referring to.

In other words, they were not using insider information, they were not using influence that they had because of position, and they were not in a position of having been acting or advising on this previously, or acting as an employer's dealer in any of these matters. Therefore, they would be permitted under 19.1 as amended. You see where 19.1(1)? That would be then the exception would be added in for that.

Mr. Manness: Mr. Chairman, first of all, it is my understanding that Section (d) of Clause 2 no longer exists by way of the decision that was made. So I do not know where this applies and then, when I look at Section 19.1(1), that is way up in Clause 5. So I am having difficulty.

Mr. Taylor: The issue is complex and it refers to five other clauses in it. In other words, it is amending 19.1, one of the subsections of that, and what it is doing is, it is making reference to four other clauses in so doing this. There is a linkage in there and it is 18, 19, 19.2 and 19.3 and the reason being saying is that these people, these former political appointees could enter into contract without conflict with the Government's conflict-of-interest initiatives, if they are not using these things. In other words, that is why 18 is referenced—that 18 is 18.1 actually, insider information; 19 is 19.1, use of influence; 19.2, the no acting or advising. Have you got the main Act in front of you? Then refer to those four clauses, and the other one is 19.3 on page 4.

Mr. Chairman: Mr. Taylor, we accepted an amendment to (d), so (d) is actually no more the amendment carried. Now, I would like to ask, first of all, before we carry on to Clause 3—we are taking it clause by clause—that we would pass Clause 2, Section 1, as amended.

Mr. Taylor: Well, I am moving a motion to 2.

Hon. Gary Filmon (Premier): I might be able to help by just stating that Clause 2(d) as we have now amended it, the (d) that you are referring to is a person who is designated or who occupies a position that is designated under Section 31.1. It no longer has any reference to executive assistants or special assistants, and I think we get into grave difficulty when you sort of ad hoc changes of this nature that really are major changes, because you are now referring five other subclauses to something that has been eliminated, and I tell you we are going to have a real dog's breakfast here. I just suggest to you that this is going to cause us serious problems and, unless Legislative Counsel and others are able to look at the ramifications, the cross references and everything else, we as committee Members are certainly not going to be able to understand this. I think we are going to pass a law

that we are going to be sorry for by doing it on an ad hoc basis.

Mr. Taylor: Let me just respond to the Premier's (Mr. Filmon) comment. I think his comments are well taken and I would share those concerns of operating in an ad hoc fashion on something as important as this. I do know that from things he has said in the House and privately that he shares a very serious concern for the matter of conflict of interest, and we are seeing it in the initiatives that are coming forward.

I would just say in reply to him that this was not done on an ad hoc basis and was not done in the absence of Legislative Counsel twice. It was done as a result of deliberations last Wednesday, I guess it would have been. What we see drafted here and what I am reading from, I would say to the Premier, is drafted by the Legislative Counsel. They are saying, do not hamstring, I guess we could say, unnecessarily executive assistants and special assistants in getting employment, but do not leave a loophole big enough you can drive a Mack truck through either.

So, the idea is how to be reasoned on this and not prohibit them from employment and at the same time make sure all the conflict-of-interest possibilities are covered.

Mr. Filmon: I just want to point out that, yes, it did flow on the discussions of last Thursday and it was drafted by Legislative Counsel based on the assumption that we would not remove that Section (d). Because now it refers to a Section (d) that has been removed and replaced with another one and you are making the wrong reference. So, we are in trouble on this one.

Mr. Taylor: Well then I could, if I could, Mr. Chairperson—

Mr. Chairman: Okay, Mr. Taylor.

Mr. Taylor: The Premier (Mr. Filmon) brings out a pertinent point on that, in the way that I phrased my opening of the motion. I would amend the way I addressed that motion by saying I would move the restoration of Clause (d) of the definition of senior public servants, and by—and if you could just bear—renumbering (d) as (e) and then it would follow. As I suggested, we would then have a cover off of the protection, that there are sufficient conflict-of-interest rules applying to these people without at the same time totally hamstringing them. I think it is sound from a legal viewpoint. I think it is just; I think it is reasonable. I see the Premier shaking his head and I am sorry to see that.- (Interjection)- Yes, but I am just saying restoring Clause (d) in a new form.

Mr. Doer: I believe that the proposal from the Member for Wolseley (Mr. Taylor) is redundant in terms of the deletion of (d). And, if (d) is included again, it is redundant in terms of the provisions of the Act which already say that in terms of these are the conditions under which the one-year freeze applies. So it is doubly redundant.

The Member for Wolseley (Mr. Taylor) mentions the justice of the issue. I believe we have to look at the justice of the issue, there is no question about it. This is not a very simple issue. We have four examples that have been raised through two committee debates of real people who are going to be affected by real language in an Act.

One of them was a person I mentioned because the Member for Wolseley was working at City Hall before as an elected representative. I mentioned Elaine Smith who would not be able to be hired by City Council to deal with Workers Compensation. The other one was raised by the Member for Fort Rouge (Mr. Carr) last week.

I believe this Act goes further than any other Act in dealing with conflict of interest. I can support that, and we all can support that. I believe now we are on the edge, and I think we should be careful when we move that edge even further that we know who we are affecting.

I am perfectly prepared, and our Party is prepared to sit down with the other two Parties to deal with this issue in terms of its impact on people in terms of the point the Member for Wolseley made in terms of justice. We, in our need to try to get amendments on the table to deal with the conflict of interest—we have been proposing amendments as well—do not want to forsake the justice provisions that the Member for Wolseley was talking about, and I respect that.

I think we are going further than anywhere else. If we go a bit further than anywhere else, I want to know how much that bit is in terms of real people and what it will mean in the future. I would suggest that the way we can handle this issue is an informal committee—we do not need any more formal committees—that the Premier would strike with perhaps one of his Ministers and representatives of another Party to look at this issue, the pros and cons of going any further. That way we are dealing with it in a non-ad hoc nature. We are not just throwing amendments on the table.

You know, this is not the New York Stock Exchange when we are out there bidding amendments. This affects lots of people, hundreds of people. I think we want to be very careful, so I would suggest that we deal with this in a more informal nature so that the next step we are making we know what we are doing and what it means to the people in terms of the justice criteria that the Member for Wolseley has outlined and which I support him on.

Mr. Chairman: On Mr. Taylor's amendment, all those in favour of the amendment; all those against. It has been defeated.

Clause 2, as amended—pass.

Clause 3—Mr. Doer.

* (1040)

Mr. Doer: I notice the Minister of Finance (Mr. Manness) is in a hurry here. I know we have other work to do.

I would move that amendment to Clause 3(1)(a) be amended by adding the following clause—and it has

been distributed to the committee—that the following clause be added and that is after Section 2:

Clause 3(1)(a) amended
2.1(1) Clause 3(1)(a) as amended by adding the following after subclause (i):

(ii.1) holds a beneficial interest valued at more than $1,000 in the capital stock or a share warrant or purchase option valued at more than $1,000 in respect of the capital stock, or;

(French version)

Il est proposé que le projet de loi 45 soit modifié par l'adjonction, après l'article 2, de ce qui suit:

Mod. de l'alinéa 3(1)(a)
2.1(1) L'alinéa 3(1)(a) est modifié par l'insertion, après le sous-alinéa (i), de ce qui suit:

(ii.1) détient un droit bénéficiaire évalué à plus de 1 000 sur les actions d'une corporation ou un droit ou une option d'achat évalué à plus de 1 000 à l'égard de ces actions.

Clause 3(4)(a) be amended, pursuant to 3(4)(a) by adding after the following subclause (i):

Clause 3(4)(1) amended
2.1(2) Clause 3(4)(a) is amended by adding the following after subclause (i):

(ii.1) holds a beneficial interest valued at more than $1,000 in the capital stock or a share warrant or purchase option valued at more than $1,000 in respect of the capital stock, or.

(French version)

Mod. de l'alinéa 3(4)(a)
2.1(2) L'alinéa 3(4)(a) est modifié par l'insertion, après le sous-alinéa (1), de ce qui suit:

(ii.1) détient un droit bénéficiare évalué à plus de 1 000 sur les actions d'une corporation ou un droit ou une option d'achat évalué à plus de 1 000 a l'égard de ces actions.

I would move that in its English and French version, and I am prepared to speak on it.

Mr. Chairman: Okay, Mr. Doer.

Mr. Doer: This is an area that has been identified by all political Parties in the past in discussion with the conflict-of-interest Act. We have raised it as our Act we passed a number of years ago. It was recognized even by the Parker Commission to be the best Act in the country on conflict of interest.

It does have weaknesses and the Premier (Mr. Filmon) is addressing some of those weaknesses today with his amendments. The Member for River Heights (Mrs. Carstairs) on previous occasions and we on previous occasions have identified the weakness of the 5 percent provision. This is for purposes of disclosure and withdrawal from meetings. It does not, obviously, prohibit somebody from holding that amount of material. One of the weaknesses of our Act, if we could be honest about it, is the fact that 5 percent of CPR is a lot of holdings; 5 percent of Bell Canada is a lot of holdings for the Minister of Telephones; 5 percent of even Rogers Communication is a lot of holdings. It is certainly something that does not affect many Members of the New Democratic caucus in terms of large holdings. It is just dealing with the weakness of the Act for purposes of the disclosure and for purposes of withdrawal from decisions.

It is something that has already happened in our legislative forum to begin with. The Member for Morris (Mr. Manness), I believe, withdrew last year from the debate on the ICG takeover with only $1,000 or so worth of shares. So it is something that has really been happening already. It has been something that is identified by all Parties. It just deals with one of the loopholes. It does not inhibit people from doing their work as legislators, but it is just dealing with one weakness of the Act.

Mr. Filmon: I know that the idea that is being put forward is in the abundance of caution.

I have to tell you that I know that my colleagues, including the Minister of Finance, operate with this abundance of caution in the course of our Cabinet and committee meetings even when they have very, very minute interests. One can imagine the effect that having $1,000 worth of stock in the Bank of Montreal will have on a deliberation that involves some change of fiscal policy or investment policy and that sort of thing. I know we do not want to be carried to the ridiculous extreme.

The concern that I have is, does the Member want both, that people have to withdraw from discussion on it, and also have that listed in your holdings? If somebody is buying and selling shares in a very minority basis on the stock market, the problem is that they have got to go and fill out new forms all the time and keep up to date on every change that is being done in terms of their list of assets that they file with the Clerk. Is it your intention that every time they buy and sell some stock that is over $1,000 that they have to go back to the Clerk's Office and change all of that, or is it just the fact that they have to ensure that they abide by the provision of excluding themselves from any discussion? It seems to me that you are making a lot of paperwork and a lot of potential for somebody to forget that they might have sold some stocks, sort of thing.

Mr. Doer: I believe the Act now requires disclosure if you buy and sell 5 percent. Now 5 percent of a small company could be less than a $1,000.00.

Secondly, Mr. Chairman, in the airing on the side of caution, I think if I can recall correctly, if you get a gift of over $250 at any time, you have to disclose it in this Legislature, within 15 days, etc. I am just trying to go by recollection of the Act.

I think, first of all, people do not want to be on the leading edge of buying and selling stock in these jobs because, at the period of time you are a legislator, you

are, particularly Cabinet Ministers, in a difficult situation. If you read the Parker Commission, you can read lots of evidence to that respect, that any transaction puts you in jeopardy. I know the Minister of Finance (Mr. Manness) is shaking his head. I wonder if he has read the Parker Commission because it is illustrative. It has got a lot of good advice for all of us, Mr. Chairperson.

I think the 5 percent and $1,000, it does not take us more than two minutes to put down a $1,000 purchase on a disclosure document at the Clerk's Office. You can amend your document within five minutes and I do not believe that is inconsistent with the 5 percent provision. It is not inconsistent with the wording on gifts and it is consistent with the very high standards that are in this Act, and the very high standards that the Premier is advancing and asserting in this Act in terms of the amendments.

Mr. Filmon: I just give one caution and that is those who have things in a blind trust will not be aware of the buying and selling of any stocks on their behalf and will, therefore, be excluded by virtue of their blind trust from all these provisions.

Mr. Manness: Mr. Chairman, I have to say that I am quite concerned with the amendment. I understand the intent and I cannot, I guess, argue with the intent per se in a theoretical sense.

Common sense tells me that there was some good reason why the 5 percent share rule was put into place originally under the Act. For instance, if I happen to own 10 shares of CPR, using the example that the Members always like to use, am I going to be deemed to be in conflict if some decision is made by Government of the Day—whether I am part of the Government or not is immaterial—that is going to somehow seem to be in the public mind at least be in support. I am thinking of a taxation situation now where the Members opposite have attacked me personally because of the fact we have an increased—because the motive fuel tax is not increased on the the CPR, indeed all railways.

Now, if it were publicly disclosed that I did not have 5 percent but indeed I had .0000 out to a 100 places of the value of the capital share value of that particular company, would the Members opposite deem that to be a conflict? Consequently, then would I have to have my name indeed run through the public viewing as one who had, therefore, had a conflict?

Mr. Chairman, that is ultimately where we come to. Ultimately, we hit the point where an individual then is going to be excluded from coming into office if that person's activity has a trading account. People in society happen to make their income, some of them, by trading stocks.

What the Member is saying is that person, by virtue of this and by an enhancement of the 5 percent rule, is saying that person should no longer, in essence, be considered as a legislator, as a future legislator of the Province of Manitoba. I think there has to be some common-sense balances between disclosure, between the common-sense offering of an individual who find themselves in a position that the Member from Concordia (Mr. Doer) has and I do presently as to rightful disclosure, and some basic human rights as to what it is we can maintain for ourselves.

Mr. Chairman, I can go to tell you that I invested in some shares that I would not want to be publicly recorded, mot because there is any conflict but because I have had an opportunity to either invest or lose an awful lot of money. I would just as soon keep those—and I do not have 5 percent—but, my goodness, do I have an opportunity to keep that to myself or not and I think that I should have that right, so I cannot accept this personally.

* (1050)

Mr. Doer: We have had Members of our caucus who did—we did not have a lot of members of the New York Stock Exchange in the previous caucus, as you would probably imagine, but we did have a few. They were quite active in trading stocks and they were not even in Cabinet, and they had to disclose and withdraw from caucus meetings. There was a Member—well, because if caucus was discussing legislation that affected potentially the pecuniary private holdings of a Member, then they had to withdraw on a few issues. Now that did not mean they had to withdraw from Government.

The Minister of Finance (Mr. Manness), and I can understand his concern about not wanting all his investments to be public, I can support that. I am sure there are a lot of them over there who would not want that but, Mr. Chairperson, the principle is very simple. You disclose and withdraw in areas that you are directly involved with and it does not mean you have to legislate. Quite frankly, it means most of the time when you are assigned particularly to Cabinet, where many of these initial decisions are made, you have to take care of your private affairs in a different way than you would if you are in the normal private sector or if you are a private citizen.

Being elected and dealing with laws and taxation policies is different. There is no question of that and that is why we have conflict-of-interest laws, and I believe that the Member mentioned the CPR. I think it is important if you had 4 percent of holdings of the CPR, and you do not, but it would put you in an awful situation when John Diefenbaker is rolling over in his grave, as the Minister of Finance (Mr. Manness) is giving the tax break back to the railways. It would be useful to know that and that is where the loophole is. If you have 4 percent of the CPR, it would be about $100 million -(Interjection)-

An Honourable Member: He would be in the Grand Cayman Islands for the rest of his life.

Mr. Doer: That is right. You could afford to be the Minister of Finance if you had 4 percent of the CPR, but it is important that we would know that. I do not think this is an impossible requirement and it deals with the loophole. Quite frankly, it has been identified in the past by the Opposition Parties when we were Government. I know that the Member for River Heights

(Mrs. Carstairs) identified it before. I agree with her on this issue. I think Conservatives have mentioned this before as being one of the loopholes, I think I said. But I do not think there is anything to worry about in this provision, except that the Minister of Finance says if you have a dry hole oil company that is going on, it does not probably help your credibility with the rest of the public.

Mr. Filmon: I just want to point out that the instances the Leader of the New Democratic Party (Mr. Doer) points out to having taken place with the disclosure and the withdrawal took place under our present Act. So the Act was sufficient to cover those instances and Members of New Democratic Party, as Members of every other Party, felt sensitive to saying, look, I do not want to tread on this ground and so on. What he is asking for in this amendment does not just cover Members. It covers all your spouses and all your dependents so that if your parents happen to buy your children when they are born $1,000 worth of stock in the Bank of Montreal, then you have to be cognizant of that in all of your dealings. If your spouse carries his or her own portfolio of investments, you are going to have to be aware every time he or she phones the broker and says, sell this, buy this and they are going to have to redo all of their forms over and over and over again.

The balance that was struck was not struck without due and very, very long consideration because I believe that the New Democratic Party wanted to go as far as they could and still be reasonable to force people to put the listings of assets down, and 5 percent of holdings was struck because it implies some form of influence control or real beneficial interests. A thousand dollars worth of stock of any major company on any major exchange being held by not only you but your spouse or your dependant becomes an absurd kind of situation to keep track of and to try to assume that there is any influence on the situation.

I mean, here is really a situation in which the Member says we are trying to outbid the other, that this is an auction to see who can be more open than the other Parties here. That is not what we are trying to do. We are trying to make it as to what is reasonable and I am telling you that $1,000 is not reasonable.

Mr. Doer: No, we are not trying to outbid. I was very clear in saying this was one of the loopholes in the old Act that we brought in that we think is a mistake. It has been identified by other Parties as a mistake. I believe that $1,000 is a significant amount of money. I think most people are aware of that as transactions take place. I do not believe it is going to be an insurmountable task. It closes a loophole in the Act, and we think it is worthy of support.

Mr. Taylor: I have a problem with the first part, not the latter part of these proposed changes. This $1,000 that we are talking about here is not a huge amount of money. The problem I see in it, implications from any breach of a conflict of interest in a conflict-of-interest situation puts at risk a Member's seat. This is very serious.

If somebody is holding a small amount of stock and has the good luck that that value of stock will increase and pass the $1,000 threshold and the person is not keeping track of it that closely, my gosh, in the business that we are in, should not be, first of all, but secondly, if it comes up in casual conversation that the XYZ oil company is doing very well these days and nothing further than that, then it might trigger, oh, wait a minute, maybe it did go up. Maybe I better check this, but you are so busy on other things.

How can the Member take into account all these sorts of things and keep track of that $1,000 base, in effect, on a daily basis, and tie that in with their activities. I guess I have some sympathy to the thrust of this thing, but I think the way that it is being authored here is impractical and, as such, I am going to have a great deal of difficulty supporting the amendments as authored right now unless the mover of the motion can see a more practical way of applying some sort of a limit like this. Then I would be prepared to look at it.

Mr. Filmon: It could be a small investment in stock that somebody's aunt or uncle has provided for your children and again, you do not even realize that the value has gone up from $750 to $1,000 over the last five years, and you violate the Act and you lose your seat. It just does not make sense.

Mr. Manness: Well, Mr. Chairman, to me, this is an anti-equity motion. With due respect, and again I hearken back to a situation, I know I bought a penny stock 15 years ago. I do not have a clue today what that is worth but, all of a sudden, it may—well, you are right. I think it is worth nothing but, all of a sudden, if that went to two or three dollars a share, I would not know that. I really would not, and I would lose my seat.

I think, if that is the intent, then to me in my view, let us call the question.

Mr. Chairman: Are you ready for the question?

Mrs. Gwen Charles (Selkirk): I would just like to add to this that as a Member of the Liberal Party, we fully support the intent of this motion but the actual practical side of it I do not think we will be able to support because of the many issues that have been mentioned here today where you may come in in the morning if you are very lucky with $900 in stock and walk out at the end of the day with $1,010, find yourself in conflict of interest and supposedly able to lose your seat over one day of not paying attention to the stock market. I hope I am that lucky to have a fortune in the stock market, but not that unlucky to lose my seat over something I was not aware of during the day. I would hope that we could come back with a rewording of it at some time because I think the intent has to be clarified.

I think 5 percent in the large corporations allows us to have a great influence in stock, in companies, as we say, using the continued example of the CN, where 5 percent is a horrendous amount of money. But you could have a good pecuniary interest in the company

by having much less than 5 percent. So somewhere there has to be a compromise but I do not see this—I think this wording right here just creates a situation where a person very innocently can be held in conflict of interest. I do not think that is the intent of the law, to make those who are not purposefully in conflict have to be in potential situation of losing their seat over what they do in good will but then end up suffering for what is happening because of it.

Mr. Storie: Mr. Chairperson, I think the point is well taken that due to circumstance that you could actually be in breach of the proposed amendment without any knowledge of it. I think that probably is the substantive argument that I have heard. Some of the others are expressing concern. I do not really see much difference in the 5 percent versus the 1,000 in terms of the filing requirement. I think the 1,000 limit is a reasonable limit given that we are expected to identify gifts of over $250.00.

Mr. Filmon: The 5 percent does not change in value though.

* (1100)

Mr. Storie: Mr. Chairperson, all we need to do to correct the problem seems to me is that to amend 2.1(ii.1) to say after 1,000 at the time of filing, "interest valued at more than $1,000 at the time of filing." In other words, when you file your statement of assets, you are attesting to the fact that everything you are reporting is currently at that time a fixed rate.

Mrs. Charles: Just for clarification, that was a subamendment?

Mr. Chairman: Yes.

Mr. Taylor: Point of order, could we hear the amendment out in full please, the subamendment?

Mr. Chairman: That is the total amendment brought forward by Mr. Doer. Well, now we need a written motion by Mr. Storie.

Mr. Filmon: Mr. Chairman, while we are waiting for Mr. Storie, I can say that this is the kind of ad hockery that we were concerned about on the previous issue, and I just say that if we are going to be dealing between Sessions on an informal basis to try and make a strengthened law even stronger, then I think we consider this. I do think that at 1,000, even at the time of filing and all of the ramifications about spouses' holdings and all of those things, it is your children, it is your spouses, it is all of those people, I think that it is down at a level that many people would even be unaware of some of their spouses' holdings being—and they would not even think about it.

You are getting yourself into the point of potentially losing a seat over matters that I think imply absolutely no control or influence on a corporation. That is why the 5 percent holding ruling was put in, and this one is now getting into a level of value that jeopardizes people's seats over something that does not make sense.

An Honourable Member: Sure, it will. If you put it in, somebody is going to use it.

Mr. Chairman: Is Mr. Storie willing to withdraw his subamendment?

Mr. Storie: Just another second here, just to see what the implications are.

Mr. Filmon: He does not know what the implications are. That is a real good amendment. That is the way to do things.

Mr. Chairman: What is the will of the committee? Is it the will of the committee to proceed without all these amendments being tabulated at the Table? I believe we are here to discuss a Bill and have amendments prepared. I would understand that if my ruling would be correct that this would be out of order that you are preparing an amendment to the amendment at this point in time.

Mr. Storie: Well, Mr. Chairperson, I do not think your ruling is correct. Committee is here to amend legislation if we see fit. I recognize that we want to be cautious when we add amendments at the last minute. But it is certainly something that has been done at committee on many, many occasions.

I understand from Legislative Counsel that this amendment would require subsequent amendment to Section 12 and, with the permission of the committee, I would like to instruct staff to prepare the necessary amendments. Then we might have a chance to discuss it. In the meantime, I would suggest we continue, if we have leave of the committee, to discuss some of the other clauses and amendments that might be forthcoming. It should not take any more than five minutes.

Mr. Chairman: Is that the will of the committee?

Mr. Filmon: I think that the committee has expressed serious concerns about dealing with the $1,000 kind of tide line and, if it is going to continue to be on the $1,000 tide line, I think that the committee has expressed serious reservations about that and that we ought to just get on with voting on the proposed amendment by the New Democratic Party and deal with it.

Mr. Chairman: Is that the will of the committee? (Agreed)

Mr. Storie: I am sorry, I do not know that there was any consensus that the $1,000 was an unacceptable tide line. I thought that there were several other concerns, including more importantly concerning the future value of any current holdings. We recognize that, the amendment is attempting to deal with that. I think that would be acceptable to the committee.

Mr. Manness: The fact that we do not have a subamendment in writing, I would deem then that you

would call the question on the amendment as proposed by Mr. Doer.

Mr. Chairman: Is that the will of the committee? (Agreed) So be it.

Mr. Taylor: Yes, Mr. Chairperson, is that on Clauses 3(1)(a) and 3(4)(a)?

Mr. Chairman: That is right.

Mr. Taylor: It is not on 9.1.

Mr. Chairman: Right. Mr. Taylor, I understand it is by the proposed amendment to be added to following after Section 2, which was introduced by Mr. Doer. All those in favour of that clause being amended? Opposed? Opposed.

Mr. Manness: I would propose a new amendment with respect to Clause 3. As you can see, there are two "ands" in there, in that particular sentence, I would move:

THAT the second "and" in Section 3 of Bill 45 be struck out.

(French version)

Il est proposé que le deuxième "and" à l'article 3 de la version anglaise du projet de loi 45 sont supprimé.

Mr. Doer: Yes, we would agree with that, and I have another amendment after that, Mr. Chairperson. I have an amendment that has been distributed to the committee dealing with the following—

Mr. Chairman: Mr. Doer, we have an amendment before us.

Mr. Doer: Where is that amendment located?

Mr. Chairman: That amendment is that in Section 18, Clause 3, one "and" is repealed, that the second "and" in Section 3 of Bill 45 be struck out.

Mr. Doer: Yes, we had distributed an amendment that deals with a clause to be amended after Section 2, and I believe that should be the order in which they are dealt with, dealing with clause by clause, because we have not passed Clause 2 yet, have we?

Mr. Chairman: Mr. Doer, your amendment was defeated.

Mr. Doer: No, there is another amendment distributed, Mr. Chairman. It is appropriate to deal with this other amendment next, before Mr. Manness' amendment in terms of the order of the Act.

Mr. Chairman: The second part is still under discussion. That is right.

Mr. Doer: Can I move—and then we will deal with Mr. Manness' amendment next because it is the order of the Bill—that the following—

Mr. Chairman: Mr. Doer, this one is before us. Let us deal with this one. We have gone before sometimes in different clauses also, so this one is before us. Let us deal with this one and then we will go back to yours, Mr. Doer.

Mr. Doer: Okay, sure.

* (1110)

Mr. Chairman: All those in favour of Mr. Manness' amendment? Clause 3, as amended—pass.

Now, Mr. Doer, I am prepared to go back to your Clause 2, Section 9.

Mr. Doer: The following is added after Section 9:

Untendered contracts
9.1(1) Every Minister shall, within one month of the awarding of a contract valued at more than $1,000, other than by public tender, by any department or agency for which he or she is responsible provide to the Minister of Finance the details of the contract including the name of the person to whom the contract was awarded and the value of the contract.

Public disclosure
9.1(2) The Minister of Finance shall immediately on receipt of information pursuant to subsection (1) make that information available to the public.

(French version)

Il est proposé que le projet de Loi 45 soit modifié par l'adjonction, après l'article 2.1, de ce qui suit:

Contrats accordés sans appel d'offres
9.1(1) Chaque ministre doit, dans le mois qui suit l'attribution, autrement que par appel d'offres, d'un contrat évalué à plus de I 000 , par an ministre ou un organisme qui relève de loi, jounir au ministre des Finances les détails du contrat, y compris le nom de personne à qui le contrat a été accordé et la valeur du contrat.

Divulgation
9.1(2) Le ministre de Finances dois, des réception des renseignements visés au paragraphe (1), rendre ces renseignements publics.

I would move that in its English and French texts.

Mr. Chairman: This is 9.1 introduced by Mr. Doer open for discussion.

Mr. Filmon: Mr. Chairman, I only point out quite honestly that the New Democratic Party, above all, should not be making this resolution, this amendment. I mean, this is so hypocritical that it is not even reasonable to discuss.

I tell you this, that since last Thursday when we were dealing with this, I just asked around a few people in the building about untendered contracts under the New Democratic administration, and some senior officials said that there were literally dozens of them. Off the

top of their head, they pointed out a few of them such as February 23 of '87, a contract to the October Partnership for $4,200, untendered; a consulting contract re preparation of the City of Winnipeg White Paper—that October Partnership being of course Michael Decter—then Consumer and Corporate Affairs in March of 1986, Costas Nicolaou, $45,454, untendered contract, preparation of report relating to retail gasoline prices; then of course in May of 1986 Andy Anstett, $55,000, consulting contract, studies relating to a rural infrastructure development fund; then of course May 13, 1986, October Partnership, Michael Decter, $45,000 consulting contract re taxation reform; then of course Coopers and Lybrand in the fall of 1986, $150,000 contract, initial investigation of MTX, untendered; then of course Doug Davison, $40,000 consulting contract re Limestone, former ADM and good friend of the Party and so on, untendered; then of course the October Partnership in December of 1986, a $9,500 untendered contract to Michael Decter to review the MHSC. So, this goes on and on.

This is just something that was out of people's memories. We have not done any research to pick them out. I am told that there are literally dozens and dozens and dozens and dozens, and that it was a standard rule within the New Democratic Government that where they were dealing with their friends—and they did so with Mr. David Gothill and Ashley Blackman, executive Members of the Party, who were given untendered contracts under Viewpoints Research to do policy research. Some of them involved contracts that amounted to, over the space of a year, over $100,000 to Viewpoints Research, untendered.

You know, the hypocrisy of the New Democrats coming up with this kind of statement to suggest that this was in some way because it had gotten out of control or that there was a lot more of it going on under the present Conservative administration is absolute nonsense, Mr. Chairman.

Mr. Doer: I believe that the Premier (Mr. Filmon) makes a good point that untendered contracts go on with all Governments and all administrations. We could look at the Liberal Party with the Lloyd Axworthy contract to David Walker. I believe that there is lots of that does go on.

I know in the second stage the Premier mentioned the Coopers and Lybrand issue. I think there were proposal calls at that point. I believe that money should have been made public and was made public so this is not an issue that deals with that proposal calls.

Mr. Chairman, I know the next two or three stages with Coopers and Lybrand dealing with the Telephone System, all the contracts were tendered and there was proposals reached and publicly tendered.

I believe that if there is from time to time that a Minister has to go to an untendered contract, and I believe you have to when there is something very urgent that you need right away, what is wrong with disclosing that? We are not saying take away the right of the Government to have untendered contracts. Certainly that will go on with any Government and any administration at any time.

What this does provide is the public with much more timely information on those untendered contracts. I think it will discourage the illegitimate use of untendered contracts, and I believe there are some legitimate uses of untendered contracts. There is no question about that, when you need something immediately, if you wanted to hire air carrying, for example, in the early Seventies to do something or other, things that are very specific to a particular expertise.

Mr. Chairperson, I think there are also those that are just given away in a way, and I am not saying no political Party has any lock up on credibility on this issue. I really believe none of us can sit around this room with any partisan stripe and be proud of the history of when we have been in Government whether it is federal or provincial. All this does, it does not stop the Government's ability to have untendered contracts and it cannot stop the Government's ability. If you have to hire an expert to deal with the lead problem tomorrow, you cannot fool around with a 10-week tendering process. The public has a right to know and, Mr. Chairperson, the public gets the information now and the Public Accounts a year and a half later.

All this does is it moves that information up in a much more timely basis, and I think it will discourage some of the tendering that has gone on that is, I would consider, closer to a patronage-type of untendered contract. I do not believe anybody can sit around this table with any lock up on this issue in terms of that issue.

I would be less than honest if I did not say that there are some of those contracts I do not support personally and I was only a new Member of Government. But there are times that I know a Minister has to get in. I think when I look through my files in four portfolios, I can only think of one untendered contract to try to get something developed, and I made it public in my Estimates. I think they should be made public. We are not asking the Government to stop their untendering if they have to do it. Sometimes in Government they have to do it. What we are asking them to do is to make them public on a timely basis. I think it is a good exercise, it is a positive exercise, and all we are talking about is producing information. We are not talking about stopping the process of Governments proceeding with untendered contracts when the public good deems it necessary.

Mr. Filmon: I just want to inform committee I will be out for about 10 minutes, and Mr. Manness will be speaking to this issue on my behalf.

Mr. Manness: Mr. Chairman, I understand what is wanted here, and what is being moved by the Leader of the NDP (Mr. Doer). Let me say that on the surface I see reason for some greater disclosure with respect to contracts that are let. I have no problem with that.

I guess I would make the first point though that this is not the Bill to do it. This should be done under The Financial Administration Act. Mr. Chairman, it should not be done under this so-called conflict of interest indeed, or some people may want to name it as the Disclosure of Assets Bill. Let me say that this is the

wrong place to make this type of consideration. I requested Treasury Board in July to find out what are the practices in place in other provinces. I would like to read and put it on the record because I think Members of the committee may find it of interest.

It says, in the other nine provinces, as in Manitoba, the only consistent form of public disclosure on contracts awarded by the Government is the information contained in Public Accounts at the end of the fiscal year. And as all Members are aware, that seems to come a long time after the fact. Next year, we will certainly have improved that. We will have them coming forward much more quickly then they have over the past. But still, that is still going to be some five or six months after fiscal year-end, that being March 31.

Continuing, some provinces have tendered capital contracts awarded following a public opening of the tenders, an example—those provinces, British Columbia, Saskatchewan, New Brunswick, Alberta and Newfoundland. However, the amount of information made public, successful bidder and bid, unsuccessful bidders and bids, etc., varies from province to province, both for those which have public tender opening and those, such as Nova Scotia, which do not. Published information, over and above Public Accounts on awarded contracts as provided by New Brunswick and the federal Government as follows: New Brunswick publishes tender results in a private paper titled, "Business Information Data Services" to which anyone can subscribe. The federal Government, and I am sure Mr. Doer knows this, the federal Government, Supply and Services Canada, publishes the Bulletin of Business Opportunities Weekly, copy attached. I have a copy if anybody wishes to look at it which lists contracts awarded during the week and can be subscribed to by anyone.

* (1120)

To continue, and then I will move back to the points that I want to make, Nova Scotia has a legislative requirement to report to the Auditor-General on contracts over $1,000 which were not tendered and on cases where the lowest bid was not accepted. The final point I want to make, Mr. Chairman, I will reiterate what I said to start off. I think that this should not be made an issue under this particular Act. It is more properly part of The Financial Administration Act.

I think I am prepared, on behalf of the Premier, to make an undertaking to Members of this committee that we will consider this in, first of all, greater debate once we call Public Accounts Committee intersessionally; secondly, beyond that, in the next Session to bring forward that Act and to enact any consensual agreement that we may reach between the various Parties. Let me say, having been on the inside now, that there are good reasons, as the Member says, for having some untendered contracts.

Just recently, the MLA for Flin Flon (Mr. Storie) took issue, liked to make an issue of the fact that I put forward a contract untendered with respect to the first phase of looking into the finances of the provinces. The Member indicated, by way at least of commentary to one Free Press reporter, there was a $500,000 contract to Thorne Ernst and Whinney. Well he is wrong on two accounts. It was not $500,000, it was $197,000, and it was not to Thorne Ernst and Whinney, it was to Stevenson Kellogg Ernst and Whinney. That is certainly the way it was reported. There are reasons why Government of the Day cannot go through the tendering process. I am sure we would like to, but there are reasons. In this case, we could not go through it—we could have, but we would have taken an additional month, which we made the political decision not to take by way of calling contracts.

I think, everybody seems to think that if you do call for contracts that you have got the best of both systems. I can tell you on Phase 2, when we called for tenders that we had great difficulty deciding as to who and on what basis one firm would be awarded a contract over another. One just cannot look at price when you are seeking certain expertise and certain manners in which an audit may be done in our case. So that is not the guarantee that you are going to get the firm either if you just look on the basis of price. This is not a very pure science, to put it very mildly. Yet, with respect to disclosure in a manner which is more frequent, which is more up to date than is presently available through either The Freedom of Information Act or indeed through Public Accounts, I think there can be evoked a better system.

To that end, Mr. Chairman, I would ask whether or not the New Democratic Party would consider this in terms of again working around, through Public Accounts Committee, where indeed the Opposition and the Government combined may be prepared to bring forward this type of greater disclosure—I would argue that the $1,000 is too low, that $5,000 is a better number—by way of The Financial Administration Act.

Hon. Charlotte Oleson (Minister of Community Services): I just wanted to concur with the statements made by the Minister of Finance (Mr. Manness), but I would want to remind the Members that information is available through Freedom of Information. It may be a slower process than what is being suggested, and also with Public Accounts which, granted, are well after the fact, but I do concur with Mr. Manness, especially also with the $5,000 prerequisite.

Mr. Doer: We have all agreed that all political Parties when they are in office, if we are to be honest, have to admit that there are two types of untendered contracts. One of them, unfortunately, has been of a patronage nature. As generations change in public life, the standards are getting higher, I believe, and we must continue to get higher in public life in terms of dealing with more things on merit and less on patronage. I think we are all, as we come into politics, trying to change the standards that were before us, admit that they were wrong and change the standards to be greater in the future. I think that is what we are dealing with today in this conflict-of-interest Act.

I personally believe that we should be dealing with as many things as possible on a tendered basis and the odd program that has to be untendered—I agree with the Minister of Finance, if you have a health

emergency or if you have an environmental emergency or if you have an emergency to get a policy paper forwarded on The City of Winnipeg Act, you have to move quickly to get that technical expertise if you do not have it within your public service.

Quite frankly, if you were not able to get some expertise from outside, you would have a situation where you would have too many public employees in certain situations where because you are always having a contingency of staff that you may not need. In some ways, there is no question that you have to get expertise outside. The study that was conducted for the City of Winnipeg and the province on the effluents in the river system was done by an outside engineering firm, etc. I do not disagree that sometimes you have to go outside, and I do not disagree that from time to time the Government must go to an untendered contract.

In the case of the Northern and Native Affairs, we phoned 14 companies and none of them were contacted by the Minister of Northern and Native Affairs (Mr. Downey). When we checked back with the company that was going to be hired, it was the same company that on August 2 the Minister of Northern and Native Affairs (Mr. Downey) said yes, they are friends of the Tory Party. That is why we give them work. It is right in Hansard. Check August 2, check Hansard—friends of the Tory Party. Right there.

This Bill will provide disclosure of untendered contracts. It will not stop the Government. I believe it will be a preventative tool. When you disclose something, automatically there will be less of the untendered contracts of a patronage nature by definition, and I think that is healthy for our changing society and the changing standards we are working under.

The Minister of Finance (Mr. Manness) reads out the other provinces. I think Mr. Filmon (Premier) has already said that this is the leading Bill dealing with conflict of interest, the leading Act in the country.

The Minister of Finance (Mr. Manness) mentions this is the wrong Bill. Mr. Chairperson, it was the Premier who mentioned this is the Desjardins Bill and we are bringing in the Downey amendments. If it is the wrong Bill, at least it will be in law in the most appropriate place we can see. If the Minister of Finance wants to bring in an Act next round with The Financial Administration Act to amend it consistent with this clause and, after we have passed that Act, we can repeal this section so that it is there, then I think that is fine.

The other issue that has been raised is The Freedom of Information Act. You have to know what you are looking for before you can find it under The Freedom of Information Act. The money you have to spend to go after The Freedom of Information Act, just even when you know what you are going after, is very costly. We put that in, so I am not being critical of the Government, but this will give automatic and mandatory disclosure. I believe it will prevent the patronage types of tendering that have gone on when the Liberals were formerly in federal Government, when the New Democrats were in Government, and when the Conservatives were in Government. I think we have to be honest about that.

We have to take the standards and take it to another step and I think we can do that today. I think that is healthy. We should admit that the political process does not work well always in this area and this will be an improvement. It will not solve all the problems but will be an improvement.

Mr. Manness: Mr. Chairman, I just wish to indicate again that this is not the proper Bill in which to do it. Mr. Doer may like to make the point that disclosure, of course, covers the waterfront, the spectrum, and he can bring in everything, but I think we have a wonderful opportunity in Public Accounts, probably to be called in late January or in February some time, in which to give us a full airing, not only for that committee to give direction to the Government in the next Session, to bring in The Financial Administration Act and to include provisions that will cause this disclosure as the committee may wish at that point in time.

I think that to go beyond that at this point in time is really rendering a disservice to this particular piece of legislation, to the existing Act, and also to the amending Bill that we have before us. So, Mr. Chairman, I would hope that the NDP would see the wisdom in withdrawing this but bringing back the whole discussion when we again consider Public Accounts.

Mr. Taylor: Mr. Chairperson, speaking on behalf of the Official Opposition, I would like to say that the Liberals are in support of the general thrust of this initiative here. We are a little surprised at the conversion that we have seen on the part of the other Opposition Party, but this is the season of seeing the light and maybe they have seen the light. The Member for Gladstone (Mrs. Oleson) is offering assistance here in my discourse, but I think we have heard a litany of accesses under the previous administration. There is probably many more out there that have not even been uncovered yet.

I think though, notwithstanding the offer by the Minister of Finance (Mr. Manness) for an inter-Session series of meetings of the Public Accounts Committee on this matter relating to potential amendments of The Financial Administration Act, I think that is fine. I think, however, we are dealing with this Act today and amendments to it, and I think our inclination will be to support those amendments.

I must mention that Freedom of Information, while we went forward and finally saw a proclaiming of this Act at the end of September this year, there are limitations. What information do you have? What is it you are looking for? To what degree are Cabinet and Treasury Board decisions available for disclosure? I think those are real-life limitations and in fact are practical things that do have to be there, that certain deliberations of those two bodies cannot be made public and should not necessarily be so.

But in the matter of the contracts awarded, I think it is time that this is out in the open. We have a method that has been suggested of publications as done in New Brunswick and by the federal Government. That

is something that we might want to consider when we look at The Financial Administration Act, but that is work into the future. I look forward, and I am sure my Party does, in working with the Minister of Finance on that in '89, so that we might in the following Session see amendments, probably needed updatings of The Financial Administration Act, but at the moment we will be supporting the amendment as proposed.

* (1130)

Mr. Manness: Mr. Chairman, I think we are doing a tremendous disservice to the legislative process at this point by bringing in an amendment which really has nothing to do with the intent or the purport of the Bill.

This Bill brought forward by the Premier was to deal with situations where individuals had gained certain knowledge in having been part of Government or working for Government, and then use that information, so to speak, on the street for their potential pecuniary gain. That was the intent of this Bill.

Mr. Chairman, for Members of the committee to interject a whole new issue, that associated with the tendering of contracts, to me, is abuse of the legislative process. That in itself should be a Bill of its own which should have second reading given to it and third reading. When we talk about trying to develop good and honest laws, this is not the way to do it in this context. In my view, the Leader of the NDP (Mr. Doer), realizes that fully well, that we are frustrating the legislative process here, that we are not giving sufficient reading and due diligence to the whole area of contracting, and it should not be part of this Bill. It should have come in on its own Bill is what I am saying, because the intent of the Premier, the host of this Bill, is obviously somewhat different than this. When we talk about conflict of interest—I mean, we could bring in a thousand different items and really be completely, in my view, frustrating the whole procedure of producing laws.

Mr. Storie: Question—

Mr. Taylor: That is what—my point was going to be called a question, Mr. Chairperson.

Mr. Chairman: We have an amendment before us. Clause 2, Section 2, the following is added, and it has been duly discussed. Is it the will of the committee to pass that amendment, or that introduction that will be included before Section 3. Shall that be included? Anybody opposed?

Mr. Manness: It is very much disagreeing with the process by which we have brought law into place here today.

Mr. McCrae: Mr. Chairman, I would like to go on record as well as saying that what is being done here is irrelevant to the principle of the conflict-of-interest Bill, and that would be my position as well.

Mr. Chairman: I take it then that this is passed in English and in French. Is that the will of the committee? (Agreed) The clause, as amended—pass.

We will now go to 9.1(2).

An Honourable Member: 9.1(1) and 9.1(2) must be together.

Mr. Chairman: Well, I will call them separate. I called early 9.1(1) and I would like to then call 9.1(2). Is it the will of the committee to pass that amendment? (Agreed) Again, in English and in French. The clause as amended.

Public disclosure
9.1(2) The Minister of Finance shall immediately on receipt of information pursuant to subsection (1) make that information available to the public.

(French version)

Divulgation
9.1(2) Le ministre des Finances doit, dès réception des renseignements visés au paragraphe (1), rendre ces renseignements publics.

Then we will go to Section 2.3.

Mr. Doer: I believe the initial Sections of 2.1(1) and 2.1(2) and 2.1 were defeated by the committee, and therefore 2.3 would be inappropriate. I will not be moving that, just so the committee Chair can know. It has already been defeated so there is no sense moving.

Mr. Chairman: Okay, so then, just for clarification, 2.3 is then withdrawn.

Mr. Doer: I just will not be moving it. It is not on the Table until it is moved. It is distributed but it is not—I am just letting the Chair know. It is not withdrawn; I am just not moving it.

Mr. Chairman: Okay, it will not be moved. So it will be just deleted. Can we then go to Clause 3?

Clause 3—pass; Clause 4—pass; Clause 5—pass; Clause 6—pass; Clause 7—pass; Clause 8—pass; Clause 9—pass.

Mr. Storie: Excuse me, you are moving rather quickly, Mr. Chairperson. On Clause 9, 9.31(a), when the Lieutenant-Governor-in-Council decides by regulation to designate a position or a class of positions to Government as being applicable, are those gazetted? This is perhaps for the Minister of Finance (Mr. Manness), are those gazetted so that they will be public?

Mr. Manness: My understanding is that all regulations are gazetted.

Mr. Storie: Thank you, Mr. Chairman.

Mr. Chairman: Clause 10—pass; Clause 11—pass.

Shall the preamble of the Bill—Mr. Lamoureux.

Mr. Lamoureux: Just before we go on to the Preamble, I just wanted to get something for clarification. While we are voting, we had a vote on Clause 2.(d). We had requested a recorded vote. The First Minister (Mr. Filmon) had implied that the Honourable Member for

St. Vital (Mr. Rose) was not on the committee. In fact, the Honourable Member for St. Vital was on the committee, and I just want to get the vote total that you received from that vote.

Mr. Chairman: Yes, Mr. Rose is on the committee, but I believe that I did not see his hand rise, either for or against. So I would understand that and, according to that vote, he has abstained from voting.

Mr. Lamoureux: On a point of order, Mr. Chairperson, I would, if at all possible for clarification, suggest that the vote should have been, from my count, six to four.

Mr. Chairman: Is it the will of the committee to accept Mr. Rose as—

An Honourable Member: Six to four.

Mr. Chairman: Six to four, as having voted? (Agreed)

Preamble—pass; Title—pass.

Bill to be reported—Mr. Storie.

Mr. Storie: I remind Members of the committee that there were amendments to Section 3 which were proposed and, because of the timing and because of the difficulty in getting the appropriate amendments drafted, the committee decided to proceed without those amendments. I presume we reserve the right to bring in amendments at Report Stage if we can find, with the assistance of Legislative Counsel, that we can draft the appropriate amendments to make it clear that an individual is only responsible for their assets at time of filing and anything that happens subsequent to that as a result of other activities or the activities of a blind trust have no bearing on their breach of an Act.

Mr. Chairman: We will take that as clarification, Mr. Storie.

Mr. Storie: Thank you.

Mr. Chairman: Bill, as amended—pass.

Bill be reported, as amended—pass.

COMMITTEE ROSE AT: 11:34 a.m.