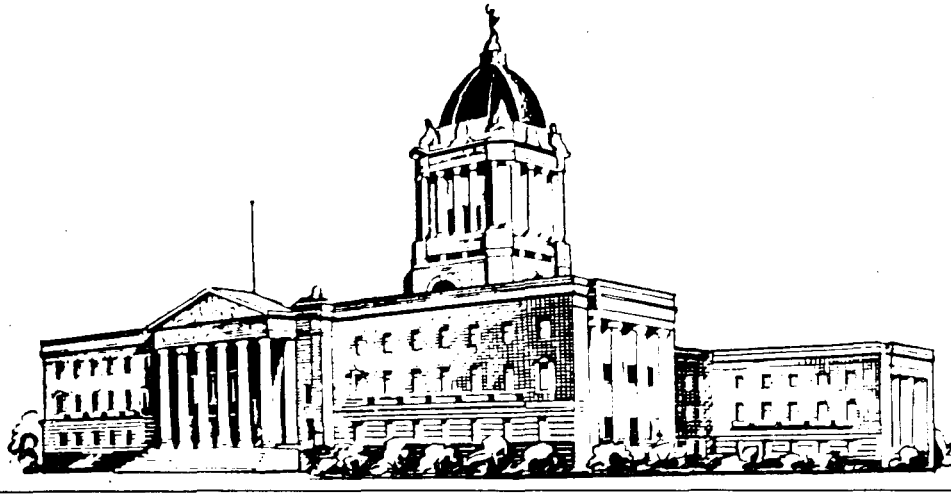
Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

STATUTORY REGULATIONS AND ORDERS

Chairman
Mr. Philip Petursson, M.L.A.
Constituency of Wellington



Monday, January 6, 1975

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SECOND MEETING OF STANDING
COMMITTEE ON STATUTORY RULES AND ORDERS
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CHAIRMAN: Mr. Petursson.

MR. CHAIRMAN: Material has been distributed I understand, I have some here that has been distributed to members, and I think in time to give some study to it.

I would probably start out by asking the Premier to enlarge on as he deems necessary, on material that we have.

MR. SCHREYER (Premier): Mr. Chairman, in the early part of December a draft bill was prepared and circulated to members of the Committee at about the same time that notice was sent out indicating that we would be meeting on this date.

The draft bill has attached to it the tentative prescribed form of disclosure of the kinds and categories of assets that would be required pursuant to the terms of the legislation to be listed or disclosed. The provisions of the draft bill are more or less in line with the kind of provisions that have been made in very recent years in other jurisdictions. I say "more or less" because there is some pattern of variation as between the several provinces that have already moved to provide for this kind of disclosure legislation.

There is also provision in the bill that is relevant to municipalities. Members of the Comittee will recall that when we last met some question was raised as to whether or not the legislation would be applicable to municipalities; at the time I indicated that we didn't have it in mind but that in the event we did proceed we would have it on an optional basis, and basically that's the way that section of the bill reads at the present time. I think that's about all the summary that I can give at this time.

MR. CHAIRMAN: Any of the members have comments? I would ask you as you speak to speak into the microphone so that there will be less difficulty in transcribing. So the meeting is open.

MR. ENNS: I may just ask one further question of the Premier to know the origin of the draft bill before us. He referred to it as being in substance drawn from similar kind of legislation that has been recently adopted in other jurisdictions. Is he in a position to identify some of the other jurisdictions, or any particular jurisdiction which he leaned on heavily, or the committee leaned on heavily that helped with the drafting of this bill?

MR. SCHREYER: Well I would say that we - in terms of leaning on, if I could use that expression, the provinces of Ontario and Newfoundland and British Columbia, perhaps more than any other jurisdiction.

MR. BILTON: Mr. Chairman, on the same subject. That having gone through the bill, I was somewhat surprised to see that the municipal councils were included in this legislation. It was my understanding that . . .

MR. SCHREYER: Only by option, Mr. . . .

MR. BILTON: I see that. I see that. But by the same token I was of the impression that this Disclosure of Interest Act had to do with MLAs and MLAs only, and it would seem to me that bringing the two together will confuse the issue insofar as municipal councils are concerned. I would rather like to see that if this is going forward toward municipal coverage that it should be a separate bill, and let the municipalities appeal to the Legislature for this kind of legislation, or otherwise, and it be dealt with in that matter. I for the life of me can't see why we should be including the municipal councils in this legislation.

MR. SCHREYER: Well, Mr. Chairman, I don't really find it possible to generate much enthusiasm and argument against the point. Mr. Bilton will recall that in the first meeting of this committee I indicated that we didn't really have any strong feeling or intention with respect to including municipalities under this legislation in the first year. Subsequent to that meeting, however ironic, or whether one regards it as ironic or not, the fact is that the City of Winnipeg municipal council intimated that they would like to see this kind of legislation being applicable to municipalities so that it would serve as a guideline or standard with respect to this problem. So that is really what motivated us to include it in this bill.

The suggestion that it be taken out here and put into a separate bill relating to the Municipal Act perhaps is something that would still preserve the substance, it would just be a change in procedure, and therefore I can't argue against it strenuously. It's something we would have to take under advisement.

MR. BILTON: Mr. Chairman, I thank the First Minister for his comments and to this

(MR. BILTON cont'd) . . . . . point I have kept the contents of this bill confidential, but I feel that as and when I am at liberty to talk this over with the councils to get their views, it would appear to me that they would want to go into it in depth and they should, in my humble opinion, decide as to whether or not they want this legislation, rather than the Legislature itself - the 57 members in the House.

MR. SCHREYER: Well, if a response is necessary, I would only indicate that as to whether this kind of disclosure requirement ought to be in this bill with an option insofar as its applicability to municipalities is concerned or whether we should take it out here and incorporate it in a bill amending the Municipal Act, I'm quite prepared to put parenthesis around those sections of this bill that would relate to municipalities and take it under advisement. But whether it's here or in another bill we now give an indication that there will be legislation brought in that would be relevant to municipalities in respect to procedure for the disclosure of assets or interests; so we shall be proceeding with it whether it's in this bill or another bill. As I said, we can leave that open for further consideration.

MR. BILTON: Thank you, Mr. Chairman.

MR. CHAIRMAN: Any further comments? Mr. Johnston.

MR. G. JOHNSTON: Mr. Chairman, one set of clauses that rather alarms is on page 3, where a member can stand up in the House, as I understand it, and make a charge that someone has improperly, or deliberately falsified his declaration of assets, and the next step is that the Speaker puts a question - not a motion, it's not debatable - he puts a question: "Shall the allegation against the Honourable Member (for constituency) be referred to the Standing Committee on Privileges and Elections?"

The next step is, automatically I presume, that the member appears before a committee of the House, which is an all party committee and naturally government have a majority, and even if it is found that the charge was mischievous or false, in other words, there was nothing wrong, that member has been tarnished by the very fact that he was charged in the Legislature and he was put before a Committee, and even if he is found completely innocent he's been done a great deal of political harm or character damage by the very fact that some other member in the Legislature publicly, in front of the whole province, questioned another member as to the truthfulness of his statement. I think that's pretty tough, that's very very hard on a person. I can't imagine a Council voluntarily accepting this for themselves yet we are going to, if the government intends to proceed, we're going to put this in for ourselves, and this is going to be pretty hard to live with. This means if a member has forgotten some little bit of information or neglected to put down some small item, he can be charged, put before a committee, found guilty and kicked out of his seat as a member. That's pretty hard. I can see what the drafters are trying to get at, but gee that's a pretty tough court to go before and the penalties extremely high.

MR. BILTON: Not really that way in jail.

MR. SCHREYER: That's,of course, Mr. Chairman, why there is provision for referral of any allegation of improper or false statement, there is provision therefore for it to be referred to a standing committee where, as with any allegation, it would be gone into, investigated, analyzed in detail.

I take it Mr. Johnston isn't objecting to the committee procedure but rather there is nothing in the draft to provide for a clear and succinct reporting back of the veracity of the allegation?

MR. G. JOHNSTON: No, as I understand it . . .

MR. ENNS: Mr. Chairman, I wonder if I could, with the indulgence of the members, give - receive some guidance. Is it the intention to pursue the bill clause by clause, page by page, or are we . . . . . I'm sure Mr. Johnston has expressed reservations about clauses, there are others, I'm just wondering how you want to pursue the bill, do we want to just pick out bills that have alarmed us, or sections that we are expressing concern about, or do we want to proceed with the . . .

MR. CHAIRMAN: I was just calling for general comment on it and then if you so wish then we can carry out what you are suggesting and proceed either by clause by clause or section by section.

MR. ENNS: Well I just make the point because I would assume that we are not now making general comments on the bill itself but rather dealing with specific clauses that are worrying us.

MR. SCHREYER: Well, Mr. Chairman, it would be understandable to have some general comment, but if members of the committee are starting to focus in on specific provisions perhaps going in a sequential page by page fashion would be best.

MR. CHAIRMAN: If you wish to do that then we can proceed in that way, with whatever latitude there may be . . .

MR. BILTON: Mr. Chairman, in that Mr. Johnston has gone so far probably we could clear up that matter and then go page by page as you suggest. I believe he has something he wants to elaborate on what he has already said . . . . . clear up what particular item that Mr. Johnston has brought up on page 3.

MR. CHAIRMAN: Well do you wish to deal with that more thoroughly at this time or leave it until we . . .

MR. SCHREYER: I would suggest, Mr. Chairman, just as a matter of procedure, that we go through pages 1 and 2 and then pick up at page 3 if there is no other intervening comments.

MR. G. JOHNSTON: Mr. Chairman, I have just a brief remark and it's to do with the principle of making it a law by a majority vote in the Legislature that all MLAs will be under a law, but the same law will be made optional for a councillor, or a similar law will be made optional for a municipal council only if they choose to pass a bylaw. Now, if the principle is fair and equitable for the Legislative Assembly members surely it's fair and equitable for other elected people - and I am speaking now of municipal councils. So I can't see a division of principle where it applies to one elected body and not another. And I'm only talking of the elected bodies that are equal to or under the authority of the Legislative Assembly, I'm referring strictly now to municipal councils, perhaps school boards should be included, I don't know . . .

MR. BILTON: Hospital Boards.

MR. G. JOHNSTON: . . . all sorts of boards. Really my objection is that a principle is being brought into law for one group of elected officials and is made optional for others, or is completely ignored in other elected places, and I wonder what the Premier or the government's thinking is when they do propose to have a law passed affecting the MLAs but make it optional for municipal councils?

MR. SCHREYER: Well, Mr. Chairman, my comment on that would be really much along the lines that I have already indicated, and that is that in looking at the pattern across Canada one finds that this legislation to begin with is recent, the nature of the kind of provisions made in law for disclosure of assets or of interest is . . . there is quite a bit of variation. We find, further, that some provinces have not made any provision whatsoever relative to municipalities, others have - British Columbia in particular has brought in a provision of mandatory disclosure by municipally elected officials, and then has found it necessary to revise that so as to make it applicable to larger municipalities and not to smaller municipalities and to provide for a certain period of three or four years before which the bill becomes mandatory for smaller municipalities, etc.

Our thinking really has been that we should make it possible and provide for a clear procedure for municipalities to require disclosure of their own elected officials, but at the same time that we should want to leave it really to the local government's democratic or electoral process for local government to decide and for local electors to decide whether or not this is the kind of thing, the kind of procedure that they insist upon.

My personal opinion is that we have not left enough to the discretion and judgment of local government officials and we have not left enough to local government or democracy at local government level. So we regard the provision in this legislation, or in the Municipal Act, if we decide that way, to make it possible - provide for the procedure and then to leave it to local government to decide the issue for themselves.

MR. G. JOHNSTON: Can I ask a question of the Premier at this point? Would there be a possibility during a municipal election campaign that it would be a--well it would be a platform to run and get elected on to say that if you vote for me and I get in there and there's enough who think alike, we will put in the disclosure by-law to the council, so eventually every municipality will have it anyways.

MR. SCHREYER: Well assuming you're right, and you may well be right, what's the harm or damage?

MR. G. JOHNSTON: Well I suppose you'd wait for elections to see what happens, eh?

MR. GREEN: Do you think that that's such a pretty powerful program? A lot of people have advocated and not in elections.

MR. G. JOHNSTON: That's true. I'm just thinking out loud.

MR. SCHREYER: I could say, Mr. Chairman, to Mr. Johnston that my understanding is that in the City of Winnipeg if this provision is enacted that the city would then proceed - we've already indicated they would proceed to pass the necessary motion or by-law to come under the terms of the legislation. That's just one example now. Other municipalities may be slower moving on it and I think that's legitimate too. It's really been left to the judgment of local government people, but if they do decide at least then there's a clear procedure that they follow. To the present point in time they've been unclear as to just how they would go about it.

MR. BILTON: Going along with what the First Minister had to say, Mr. Chairman, if the City of Winnipeg want this type of legislation, let them get off their butts and ask for it and keep it out of this bill entirely as I said earlier. What may be good for the City of Winnipeg may not be good for the City of Flin Flon; may not be good for the Village of Benito. If we make it mandatory throughout the province . . .

MR. TOUPIN: We're not.

MR. BILTON: The signs are there, there's no question about it, don't try to fool me on that point. Get it out of this bill. Let's deal with the Legislative Assembly and be done with it.

MR. CHAIRMAN: Do you want to proceed as originally was suggested clause by clause or page by page and do you want the . . .

MR. SCHREYER: Well okay, Mr. Chairman; with respect to Page 1 there is one point at issue there. Mr. Bilton has spoken to it, Mr. Johnston as well. I've already indicated I'll put a question mark or a marginal notation there as to the point of view and we will take under advisement the relative merits of leaving it in this bill or transferring it to the Municipal Act. I don't think I can say more than that this morning.

MR. CHAIRMAN: Do you wish to comment?

MR. BALKARAN: Does that have to do, Mr. Premier, with the comment of the last speaker, that is definition of "committed municipality".

MR. CHAIRMAN: Yes.

MR. SCHREYER: Well, Mr. Chairman, Mr. Bilton's questioning the substantive point as to whether this bill should have any reference to municipalities basically. Isn't that right, Mr. Bilton?

MR. BILTON: That's right.

MR. CHAIRMAN: What do we do? Do we vote on these as we go by or . . . ?

MR. SCHREYER: Well no, no, we're just going through the substance of the bill, we're not voting or passing clauses, because that has to wait subsequent to second reading . . .

MR. CHAIRMAN: And this is Page 1 that we're dealing with. Any further comments? Mr. Sherman.

MR. SHERMAN: Mr. Chairman, in that same area of definition. Just a minor point, but it did strike me in looking at it that I am not entirely satisfied with the definition of "child" and I would hope that perhaps some further thought might be given to it; I would be interested in knowing where the definition of "child" for these purposes comes from. Is that taken from legislation in other areas or is it something that was conceived individually here?

MR. SCHREYER: Mr. Chairman, unless Mr. Balkaran can answer that more precisely, I would say that Mr. Tallin has taken a standard definition - I believe this to be a standard definition. It's legal, certainly it's a legal definition, natural or adopted.

MR. BALKARAN: I haven't had a chance to peruse this draft and I know Mr. Tallin dealt with this right from the inception. I believe that it is a combination of standard definition sort of modified to suit this particular bill, especially when you look at sub-clause (ii) "who habitually resides in the same family dwelling unit as the deponent." That I believe is a slight departure from the legal definition of a child.

MR. SCHREYER: Mr. Chairman, I wonder if I could ask Mr. Sherman whether he could specify what his concern is.

MR. SHERMAN: Well my concern is that the status and condition of children living in the homes of their parents from time to time changes - it changes from time to time depending on the particular future that they might be pursuing; depending on conditions of employment at certain times; depending on whether they are full-time students, part-time students, full-time

(MR. SHERMAN cont'd) . . . . . workers, part-time workers, for one thing; depending on whether single or married.

But secondly, the age of majority in the province having been established for most purposes now at 18, it seems to me that in the context of the legislation we're looking at here that perhaps this definition of child isn't explicit enough.

MR. SCHREYER: Mr. Chairman, Mr. Sherman's point being what? That this should be limited to age 18 in effect?

MR. SHERMAN: Well I propose that for consideration. I recognize that this definition or part of this definition has stood up and sufficed in many legal situations and for many legal situations, but in the context of this particular legislation which we're looking at, proposed legislation, that I think the definition may not be specific enough and it may not be fair enough, and it may not be fair enough to the deponent, and perhaps we should be looking at the age of 18, or under 18.

I was interested mainly in where the definition came from and whether this is the definition of child used in this type of legislation in the other jurisdictions studied.

MR. SCHREYER: Well, Mr. Chairman, it would not be sort of a definitive answer in itself, but I suspect that this definition is the same as under the student aid and Canada student loan and provincial bursary definition of child or dependent.

MR. BALKARAN: I wonder, Mr. Chairman, if I could just point out, I don't know from Mr. Sherman's point if his concern about "child" could possibly refer to a person above the age of majority, and I don't think there's any possibility of that occuring under other legislation we have. You may have a problem I say under clause (ii) when you say a child means a person who habitually resides in the same family. Maybe that ought to be qualified to say not only who habitually resides but with respect to whom the deponent is in loco parentis; you know, that would put him in a situation where he is now responsible for a child.

MR. SCHREYER: But in loco parentis and dependency as such in (i) would be the same thing, wouldn't it?

MR. BALKARAN: Well, yes, the dependency may be one of permanence but in (ii) may be, you know, a temporary dependency. In other words, during that period of time he stands in place of that parent where the parent who is really responsible for the total means of the child if you like may be somewhat remote - in another province for that matter.

MR. HANUSCHAK: Well you're concerned that (ii) - well either (i) or (ii) would include a child over the age of majority?

MR. SHERMAN: That's right, yes.

MR. HANUSCHAK: And you would not wish to include a child who although may habitually reside in the same family dwelling but not necessarily be a dependent of the deponent.

MR. SHERMAN: That's right. And that status is a flexible one for let's say a university student who takes a year off and works for a year or two and then goes back to university for a year or two. I recognize that this legislation proposes that the statement be filed at the beginning of every session so presumably it covers each year individually, but I still think there's an area that isn't very clearly determined there as to whether a child is a dependent or not in a given period of time; and if the child has attained the age of majority, has passed the age of majority he or she is no longer a child.

MR. SCHREYER: Yes, well all I can say, Mr. Chairman, is that we'll try to refine that definition, although there is the problem of those who are over 18 but still in domicile with parent and who are by all other tests of independency not really independent. We have that problem in the student aid field and Canada student loan field, and the kind of questions you're raising now are precisely the kind of questions that are and could be raised under that program - under the student-aid program the age group 18 to 25, if not married or in proven separate domicile and independent you see. So admittedly it's a grey zone.

MR. SHERMAN: Well as I say, Mr. Chairman, it's a minor point really I just wondered whether . . .

MR. SCHREYER: All right, I've made a note, we'll see if we can get alternative definition. I'm not optimistic but we can see.

MR. CHAIRMAN: Anything further on this page? Page 2, definitions there and so on down the page.

MR. SCHREYER: Page 3 is where Mr. Johnston's point arises.

MR. CHAIRMAN: We'll move on to Page 3. Mr. Johnston.

MR. G. JOHNSTON: Well that's one point that I think should be covered so that there would not be a mischievious charge. If a member is found not to have filed improperly the matter is dropped in committee but the committee reports back to the House. Now the accuser - and I suppose that's the only term you could use for the MLA that made the charge - the point I'm making is that there is no penalty, if that's the word, for making a false accusation. In other words, anybody can stand up with no evidence whatsoever and make a charge. If the committee has found that the charge was not backed by any evidence then that's the end of the matter. Is that the intention of the drafters of the bill?

MR. SCHREYER: No, it's not the intention, Mr. Chairman. I think Mr. Johnston has raised a valid concern, I'm curious as to what he thinks the remedy should be.

MR. G. JOHNSTON: I would think that it would be required when one member is going to charge another that he have some evidence.

MR. CHAIRMAN: Mr. Enns.

MR. ENNS: Mr. Chairman, I think that's the concern that has immediately come to the attention of anybody reading this bill; it's the strength of the allegation, where it is alleged in the Assembly that the statement of assets or interest filed by a member is false - I'm now reading from paragraph 6 - that that in itself is sufficient to have the Speaker then pursue the following course of action already outlined by Mr. Johnston, namely putting the question. That is a rather, you know, frightening and strong piece of legislation. And I recognize, and I don't want to go against my own admonition of going through this in some order but, the Premier mentioned it, that--I'm well aware that on Page 8, section 15 there is a further, you know, course of action open to the person that has been so charged, this wrong-doing, where a judge of a county can go to a judge of a county court, determines that he is satisfied beyond reasonable doubt that a member has filed a statement of assets or an interest that was false or misleading, the member forfeits his seat on the council, I presume in the Legislature, in all respects as though he had resigned from his seat. I think - the question that we're raising here is what happens where the allegation has been proven false or malicious or just mischievious; is there any recompense, you know, to the injured member? So it just comes back again - we come back to where it is that the strength of the allegation is pretty powerful in this act.

MR. CHAIRMAN: Your suggestion is that it's a little too precipitous then?

MR. ENNS: Yes, I think there should be some consideration given to future revisions in the bill that would modify, would soften the strength of the allegation, the immediate course of action after the allegation is made. It's been known to happen. As a matter of fact I can recall even having fallen in those pitfalls myself from time to time in the Legislature, having made allegations in the House that are latterly proven not entirely within the realm of fact. I know it happens very seldom in my case but . . . it is, seriously I think when we're dealing with a very serious matter in terms of a man's character, in terms of his future, you know, successful political career or just his personal character, the allegation is very strong, the results of a mere allegation are very strong and I think kind of fly in the face of what we accept as fair treatment in our courts or in our judicial process in any matter; the allegation in itself should in my judgment not carry that kind of overriding weight.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Well, Mr. Chairman, Mr. Enns has made reference to a similar problem which is devastating to a lot of people in the court system equally. The alternative in my own mind would be to make an allegation, if there is an allegation to be made, that it be made in confidence to the Speaker and that it be referred to the Standing Committee, not by name but by code, and that the allegation be studied and not made public until and if the individual is found guilty.

MR. ENNS: Well now hold it. You want us to be stamped like the Aylmer soup cans now pretty soon . . .

MR. TOUPIN: Well what is the alternative? We're wanting to get to a possible problem so if there is an allegation of mistrust to be had with an elected member of the House and if we don't want a name to be made public before he has been proven guilty, that is the alternative.

MR. SCHREYER: Well, Mr. Chairman, I can think of a procedure that would go a long way, perhaps all of the way towards meeting the concern expressed, and that is that

(MR. SCHREYER cont'd) . . . . . Section 6 instead of providing that where it is alleged in the Assembly that a statement has been false or misleading, the Speaker puts the question, that instead of that that wording provides something as follows: that where it is alleged in the Assembly, as from time to time this may happen, I mean a verbal allegation in the Assembly, whereupon the Speaker shall direct the member to state in writing to him along with elaboration and prima facie evidence of his allegation shall be submitted to the Speaker who shall then refer it to the Standing Committee on Privileges and Elections. I think that that goes part of the way towards dealing with the problem. And that in the next section where the committee has pursued the allegation along with the prima facie evidence comes to the conclusion that there was no substance to the allegation, the committee - and here is maybe where the deficiency is - not only shall the allegation be regarded but the committee shall report back to the Speaker exonerating said member. Is that your point, Mr. Johnston, there should be a specific exoneration where there is . . . ?

MR. G. JOHNSTON: Well my point is that as we all know a member of the Assembly or a member of parliament has immunity when he speaks in the House. As I understand it, if a council were to adopt this through a by-law . . .

MR. SCHREYER: But, Gordon, I mean, Mr. Chairman, please, with respect to municipalities we're coming to--that's a separate section.

MR. G. JOHNSTON: No, but I want to relate. The councillor or the person on the council is brought before a court and I would presume he has all the protection of a court and the privileges, in other words, the right of appeal, and I would guess, although I'm not legally qualified to speak on this, that - I would guess that if a person has been maliciously charged he have recourse to the libel laws of the country if it had been found in court that he had been falsely charged, whereas in the Assembly all a member needs to do is stand up and make the allegation, he has complete immunity from the libel laws of a country. If it's found later that it was a mischievious accusation and the person is found not guilty, that's the end of the matter, somebody's reputation has been damaged, the person who did the damage is completely covered by parliamentary immunity. So I can't feature an honourable member standing up in the Legislature and making a charge without being very very careful and without having supporting evidence, but the way the draft is here that could happen.

MR. BILTON: And it will happen too.

MR. SCHREYER: Except, Mr. Chairman, theoretically we have that problem right now and have had for a hundred years. I mean, notwithstanding this legislation one member could rise under immunity provisions, customs of the Assembly and malign another member and, you know, on rare occasions that happens.

MR. BILTON: Has been done in our time.

MR. SCHREYER: Yes, so then what? I mean nothing . . .

MR. G. JOHNSTON: Well usually the Speaker would require the member to retract.

MR. SCHREYER: Yes, yes.

MR. JOHNSTON: On the assumption that all members are honourable. But under this procedure that wouldn't happen, because once the charge is made the Speaker is required by this, if this were the law, is required to put a question, a majority vote of the House refers it to a committee.

MR. ENNS: It's one way of keeping a minority government alive at times.

MR. SCHREYER: I'm just trying to follow it through, and so . . .

MR. ENNS: I'm just thinking out loud in that . . .

MR. SCHREYER: It's then referred to the committee and the committee then investigates and in the event that the allegation is without substance the committee - and we should make that clear in the draft - the committee would report back exonerating the member and then you're really back to the current rules and conventions of the Assembly and the allegation would, you know, assuming we're continuing to proceed by parliamentary rules and decorum, there would have to be an apology, a retraction. I mean that's basically the way it is now.

MR. CHAIRMAN: Is the proposal being made that a statement in writing be passed on to the Speaker or . . .

MR. BILTON: Mr. Chairman, if I may make a brief comment.--(Interjection)--

MR. ENNS: Well I'll defer to my . . .

MR. BILTON: Well, Mr. Chairman, so far as I'm concerned, the word "alleged" and

(MR. BILTON cont'd) . . . . . allegation is repugnant to me. I would suggest there if we're going to go ahead with this sort of thing that where it is proved, not alleged, but proved in the Assembly, would go some way to satisfy me, but I certainly cannot see this matter of "alleged". That a man can get up in his place and make an allegation is to me, in this particular respect where a persons character and outlook and political future and what have you is concerned, is treading on very very thin ice and I don't think that it's going to do anything to encourage people to run for this Legislature with material of this kind facing him. And the same with councils too. Let it be proved . . .

MR. CHAIRMAN: Mr. Hanuschak.

MR. HANUSCHAK: . . . proof becomes necessary in the Legislative Assembly then referring the matter to the Committee of the House becomes unnecessary and redundant.

MR. BILTON: Well give the man the shadow of a doubt.

MR. HANUSCHAK: . . . go through the exercise of proving an attempt.

MR. BILTON: A man's character is at stake here.

MR. HANUSCHAK: But if the proof that's going to occur is in the House then why refer the man to a committee?

MR. BILTON: Better than an allegation.

MR. CHAIRMAN: Mr. Enns.

MR. ENNS: I am trying to, you know, look through the bill. I admit I haven't pursued it as diligently as I should but I think in discussing this area, you know, there's kind of a major flaw that I detect. This section implies that once the member has, you know, qualified, reacted to the law properly in making a full disclosure that that full disclosure becomes very public knowledge to be used by anyone and any person. In other words, I see nothing in the bill here that places some form of regulations, restrictions on the Clerk or on the Premier or whoever will be the custodian of the disclosure files.

You see this whole section kind of leaves the implication that, you know, once the member has made his disclosure in accordance to the proposed law, that thereafter it will be a very simple thing for a member to have that file in front of him and if he then knows that there has been some inadvertent or wilful misleading statement in that disclosure file, that he is in a position to make the kind of allegations that we're now concerned with. And just in a fast perusal through the bill, Mr. Chairman, I see no particular section dealing with the bill that deals with the confidentiality of the disclosure so made by honourable members. --(Interjections)--Well, I'm just wondering whether or not, you know, whether or not in dealing with the problem that's I think a serious one that's represented by the sections that we're now dealing with, questions of allegations and so forth, whether or not they wouldn't become somewhat more acceptable if we dealt with the other matter that I raise. I see it in two lights.

I think that a person running for public office, standing up for public office, has a responsibility in terms of being prepared to state very frankly his assets and his interests, but I also think that there is a tremendous responsibility that this not be used irresponsibly, out of context in election campaigns, in allegations thrown at each other across the floor of the House, you know a whole range of situations that can develop. The kind of thing that we're talking about now seems to, you know, imply a situation developing where each of us along with the rules of the House at the beginning of the Session that we get as to what we can call each other and what we can't call each other and what's parliamentary and what's not parliamentary, will also include a list of everybody's assets in that House and the minute that the honourable member from that constituency rises and speaks vehemently on a particular subject matter, we'll check our lists and see well is he a director of CPR or is he a leader of this labour organization and holler an allegation across at him because I don't see him listed as such and I know for a fact that he is. And I don't think that that's what we want to get ourselves into, Mr. Premier.

MR. CHAIRMAN: Mr. Premier.

MR. SCHREYER: Well, Mr. Chairman, I suppose it all depends on whether one thinks that having a more formal and systematic disclosure of assets, or at least certain categories of assets, is likely to help or worsen the problem. I really can't answer that. All I know is that now and historically if any honourable member wanted to go on the basis of rumour or on the basis of his own suspicions as to some other honourable member's assets, holdings or possible conflict of interest, he was always free to do so. So I don't think that disclosure is

(MR. SCHREYER cont'd) . . . . . going to worsen that problem. It may tend to remove some of the suspicions and rumour.

Having said that, I do quite agree that there is a dilemma here and I don't know that there's any solution to it, not only not an easy solution but any solution. If it is desired to have legislation requiring disclosure then there has to be some machinery for those who are certainly elected, but I would think anyone in the general public to have access to those disclosures otherwise we'll always run the accusation of keeping the disclosure under lock and key and what good does that serve. It is admittedly a dilemma.

MR. CHAIRMAN: Mr. Hanuschak.

MR. HANUSCHAK: Mr. Chairman, I wanted to return to the point raised by Mr. Bilton . . .

MR. SCHREYER: I'm sorry, Mr. Hanuschak, there's one point I didn't make today but I did at our first meeting of this committee. There is a determined effort in this legislation to avoid personal crimes and I feel that we have succeeded in avoiding that problem by virtue of the fact that some categories of assets which in no way could be deemed to be lending themselves to conflict of interest are specifically not required to be disclosed by the member.

MR. BILTON: That's only government bonds though.

MR. SCHREYER: And bank accounts and - yes government bonds and bank accounts. But you see, Mr. Chairman, that's important both psychologically and substantively, because if something less than one hundred percent of the assets of any honourable member are not required to be disclosed, then by definition no one, no one can pry and invade privacy in order to ascertain what an honourable member's net worth is. It becomes impossible to establish that. And I regard that as an important safety feature here, to avoid needless invasion of privacy. There is some invasion of privacy by definition but the worst features of it are avoided by virtue of the fact that the disclosure required is less than total. It concerns itself only with such assets as lend themselves to possible difficulties, and no way can bonds by any Crown jurisdiction in Canada or bank accounts be regarded as lending themselves to any possible conflict of interest.

MR. CHAIRMAN: Mr. Hanuschak.

MR. HANUSCHAK: Does any of the procedure, Mr. Chairman, described in Section 5(1), would that apply under Section 6? That is if there is an allegation made in the Assembly of filing a false statement, will the member against whom the allegation is made, before the Speaker puts the question to the House, will he have an opportunity to speak in his own defence as he does under 5(1) where the Speaker reports that a statement had not been filed within a prescribed time?--(Interjection)--I'm sorry.

MR. BALKARAN: . . . giving an opportunity to . . .

MR. HANUSCHAK: I'm sorry, yes. Very well then. Then the question is put.

Perhaps to answer Mr. Bilton, Mr. Bilton's concern, the committee should report back to the House and let the House make the decision under Section 7 (a) or (b); the committee may make a recommendation or report back that it is satisfied the member knowingly filed a statement of a spouse, or under (b) satisfied he did not file a statement and then let the House make the final decision.

I'm just wondering, Mr. Chairman - what I am suggesting is that's not the way in which all other committees function, because I don't know if there's any committee of the House that has the power to make final decisions on its own.

MR. BALKARAN: That the report of the committee be received and then a vote be taken whether to adopt or reject. It's the same thing - your recommendation?

MR. HANUSCHAK: Yes. Right.

MR. BALKARAN: Rather than the House making the decision which may be in conflict with what the committee has recommended. In other words, you have the recommendations either substantiating the allegation or saying that they have not been proven and the House merely concurs or not with those recommendations?

MR. HANUSCHAK: Right, right.

MR. SCHREYER: Mr. Chairman, there is now and has been for many many years a certain very standard procedure with respect to dealing with any case where some honourable member questions the right of another member to sit. Now those cases are referred to the committee on privileges and elections or equivalent committee in any other jurisdiction, and really that's what's involved here.

MR. HANUSCHAK: Yes, but does that committee make the final decision or does it merely report back . . .

MR. SCHREYER: It reports back to the House.

MR. HANUSCHAK: It reports back to the House. Well perhaps that can be clarified in here.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, the point that Mr. Johnston is most deeply concerned with I believe, is the question of the recourse of an individual member who has been slandered or libelled, accused unfairly and unjustly and possible protection against that. I think that's a point that bothers all of us, it certainly has been a subject of discussion in our own group on this proposed legislation and I don't think it's one that can be ignored or treated lightly, although I think we could hope that that kind of situation among responsible members of an elected body would not arise, but the possibility is there that it could arise, so I think we do have to consider seriously the point that Mr. Johnston has raised and I wonder if the search for protection for a member against that kind of irresponsibility, or that kind of unfairness, might not be broadened to look at procedures outside the Legislature as well as in it.

The way the legislation is worded, the allegation would be made in the Assembly and then as Mr. Johnston correctly points out, there is no recourse on the part of a member against possible libel or slander should he have been exonerated. But if that allegation had to be made outside the Chamber, technically outside the Assembly as well as inside it, then I submit or I ask would that not provide some substantial protection against a frivolous or an irresponsible accusation or allegation. That is to say if the accuser had to make the allegation let us say to the Speaker or to the Clerk or to some officer of the House outside the House as well as making it in the Chamber or even only--perhaps he should only have to make it outside the House then the Speaker brings it into the House as an allegation that's been made and can be discussed in the Assembly at that point. But having been made outside the House then it is liable to recourse on the part of the accused member should it prove to be false, irresponsible or frivolous. Maybe in that area there might be some protection discovered.

MR. SCHREYER: Well, Mr. Chairman, I'm certainly quite prepared to incorporate that into Sections 6 and 7, but I just point out to Mr. Sherman that even if we do under the rules nothing precludes an honourable member from making those kind of accusations in any case. I mean, you know, it's always been possible. So what are the standard rules then. Well then the Speaker has to exercise his good judgment as to whether or not an honourable member has been maligned or motives have been imputed, etc. and there we have the standard pre-existing rules and forms and decorum of the House. We'll still have to fall back on that.

MR. SHERMAN: Don't you think that the member has some legal recourse.

MR. CHAIRMAN: Mr. Hanuschak.

MR. HANUSCHAK: Mr. Chairman, I just wanted to add that at the point in time when an allegation against a member may be made under this section, and surely that point of the House procedure is under the jurisdiction of the House rules and there are ways and means for the House, for the Speaker to deal with frivolous and vexatious statements that may be made. As there always has been.

MR. CHAIRMAN: Mr. Johnston.

MR. G. JOHNSTON: Mr. Chairman, I'd like to ask a question. Would it not be a better idea to have whoever was going to make the charge to make it in writing and present it to the Speaker. A verbal charge in the House with the penalties here that are very very severe if they're found to be true, but if they're found not to be true it's damaged a reputation, there's no question about that. A serious matter like this should be done in a formal way in my opinion.

MR. SCHREYER: Well, Mr. Chairman, certainly we can make provision in Sections 6 and 7 for a procedure that requires the submitting in writing to the Speaker of the allegation along with whatever supporting evidence the person making the allegation may have and then provide for the Speaker to refer this to the Committee on Privileges and Elections.

MR. G. JOHNSTON: That is the proof I was referring to.

MR. SCHREYER: Yes. Now we can do all that. I just ask honourable members though, the committee to understand that clearly that will not preclude someone from making whatever allegation in the House he wishes to. I mean . . .

MR. ASPER: Unless there is a penalty. Unless we impose a penalty of default . . .

MR. CHAIRMAN: Mr. Boyce has the floor.

MR. BOYCE: Mr. Chairman, I have been running through here and looking for chapter and verse on this, but the Premier's point is well taken and it comes under, you know, committees of privileges, and one of the cautions in reading, you know, such things as May and Beauchesne and the rest of it is the danger of trying to codify too strictly in this area. The point made by Mr. Sherman, I know, the laws of libel and slander still apply to someone outside of the House and if it's done outside of the House by a member, he is still subject to the rules of the House and can be brought before Committee on Privileges and Elections by a member of the House. That safeguard is in there. 114 of Beauchesne, for example. Under our own rules we're rather silent on this I would suggest, Mr. Premier, but I think that rather than trying to set it down too finally that we still have to work on the assumption that all members of the Legislature are honourable members and they will behave responsibly.

A MEMBER: Always have.

MR. BOYCE: Always have, and I think that we still have to rely on that fundamental assumption as we do in other areas albeit we question it sometimes.

MR. SCHREYER: Well, Mr. Chairman, I would have to ask perhaps somewhat rhetorically that, you know, what is the protection now under the rules, and the rules do provide protection for false accusations against honourable members. If someone makes an allegation then under the rules the one being accused has the right to ask for protection of the rules. The Speaker eventually has to rule whether the rules of the House have been broken and there has to then be a retraction by the person making the said charge. There is no penalty other than that, but if he fails to retract then of course he can be expelled, and in the final analysis that's what you still come back to.

MR. BOYCE: And if I may, Mr. Chairman, the severity is up to the members of the House be it for one day or the Session or for that Legislature. That's under the control of the House.

MR. CHAIRMAN: Mr. Johnston.

MR. G. JOHNSTON: Well the basic objection I have to this procedure is that the Assembly is a law-making body and now it's being turned into a court as well to judge a person. I would think it would be a better idea to have a formal way of making a charge, then the charge would be considered by a court of law and not by a group of politicians, because you've recognized that fact when you set down a procedure for a council that passes the enabling by-law so they have the same disclosure of interest principles apply to them. One of them would go before a court of law, he wouldn't be judged by his political peers.

A MEMBER: That's right.

MR. SCHREYER: But the reason for that, Mr. Johnston, is very deliberate. There is no tradition of municipalities having a parliamentary form of procedure which provides for someone being called before the bar of the House, there is no House and there is no bar. Municipal councils have never functioned in this sort of self-disciplining way which has been a feature of parliament for hundreds of years.

There's always been an element of being sort of a quasi judicial process in the House of Commons. The action by any member or members that are deemed to be in violation of House rules the Speaker then insists upon them setting it straight or setting it right and if they don't do so they are expelled. Allegations about the right to sit traditionally have been referrable to Committee on Privileges and Elections or committees equivalent thereto; members have been subject to discipline by the House; even strangers have been summonable before the bar of the House of Commons, so that the tradition is very old, very strong and frankly I wouldn't want to be party to departing from it. That in terms of internal procedures and right to sit and so on, that this be handled by Parliament or the Legislature and not sort of transfer it or delegate it to the courts. But unfortunately we can't do that vis-a-vis municipalities and that's why we made provision for a county court and for the sort of regular judicial procedure.

MR. CHAIRMAN: Mr. Bilton.

MR. BILTON: I pass this one, Mr. Chairman.

MR. CHAIRMAN: I think this has been pretty well thrashed over and with the discussion that has taken place in mind, there will be certain redrafting for later submission to the same committee. Is that right?

MR. SCHREYER: Yes, I'll undertake to get some redrafting which would make provision for a written procedure. I take it it would meet some of the objection or concern. But

(MR. SCHREYER cont'd) . . . . . in giving that undertaking I must point out again that it is difficult to make provision that is so airtight that it somehow would preclude the right of an honourable member to make a statement in the House itself. Of course he will know that in making a statement he is under some obligation - he's under full obligation to back up his statement and that in the event he is unable to do so he knows that he will have to follow the Speaker's dictate that he must retract or withdraw the statement eventually or else he will have to be dealt with. And in doing that we're really falling back ultimately on the traditional procedure of the House.

MR. BALKARAN: Mr. Chairman, I think maybe part of the problem here lies in if you should relate this to a criminal trial where counsel might ask a question and counsel for the opposite side objects and there is subsequent withdrawal. Nonetheless the jury has already had the benefit of the question, sometimes even the benefit of an answer, and I suppose the question in Mr. Johnston's mind . . . surely there has been an exoneration and a withdrawal but the public already has some idea that this man's image has been tarnished.

MR. SCHREYER: Oh well, that kind of problem is present every time a charge is laid and are we saying that even in the event that a verdict of innocent is returned that there is some damage. Well on that basis then everyone who ever is a defendent in a criminal or civil litigation is well, you see, that becomes an impasse in logic. Anyway we will undertake to try and provide a more clear written procedure.

MR. CHAIRMAN: Do you want to proceed with the next page 4? Item, clause 7. Mr. Sherman.

MR. SHERMAN: On 4, Mr. Chairman, 7(b) I think that the discussion of the subject just concluded arose in large part from viewing the point at issue in the whole context of the proposed legislation and part of the difficulty I think probably was created, in at least my mind, by 7(b), the last clause in 7(b) which says "and the allegation should therefor be disregarded." I understand what is meant by that and as the First Minister has pointed out, normal recourse is available in the basis of the traditional practises of the House but perhaps that should be reworded to state that the allegations should therefor be formally retracted or something of that nature, not just disregarded.

MR. CHAIRMAN: That suggestion has been noted. Any further . . .

MR. ENNS: Well again on Section 8, the bottom of the page, the kind of ease with which a member can be thrown out of the Legislature bothers me. I'm not suggesting that it should be as hard to throw a member out as it is to maybe impeach an American president which takes a long time, but on the other hand, you know, the member is given no opportunity to correct what may well be a simple inadvertent error. You know, if the Standing Committee of the House Privileges disqualifies the member because he has knowingly filed a statement of assets and interests that was false or misleading and the Assembly concurs in the report . . .

A MEMBER: But he has the right to appeal . . .

MR. ENNS: It depends on the tenor of the House as to whether or not, you know, his peers are going to let him sit in the House, and quite frankly . . . so what's wrong with having a scoundrel sitting in the House if he's so properly identified. And so what's wrong with letting the people throw him out at the next election. You know, we're codifying, to use Minister Boyce's terms, a great deal here.

I'm sure that if a member wilfully, you know, puts himself in that position he will find it a most uncomfortable Assembly to be in and a most vulnerable position to be in, most highly embarrassing and a constant liability to his group or his party and that there would be all kinds of common sense, you know, pressures on him to possibly resign as members have resigned for, you know, many lesser reasons in the past.

MR. CHAIRMAN: Is Mr. Enns suggesting that there should be some form of an appeal or that this be . . . ?

MR. ENNS: Well, you know, the people put him in that seat and we're taking him out of that seat very quickly.

MR. GREEN: The interesting thing - I'm not a member of the committee but I have a great deal of sympathy for what Mr. Enns is saying. The interesting thing about the bill which I've just perused this morning is that it's as if he resigns and there is none of this business of two years that he can't run for office again. In other words, he could go right back to those constituents, as I read the bill, and say those other guys are full of hot air, I am right and I should be . . .

(MR. GREEN cont'd)

Now I'm not even suggesting that that answers your position but it's because I think that your position has a lot of merit, but at least this particular provision doesn't do what some legislation that I've seen does which I think is horrendous. That says that somehow a judge can throw you out and then for four years you are prohibited from going back to the people and asking them to tell the judge that he is wrong, which I think you should have the right. I think that the man in the last analysis has the right to go back to his electors and say that everybody who says that I am dishonest is wrong, I am right and I'm asking you to confirm it, and in the last analysis the electors have the right to do that.

I think that that is in this bill because it says - and I think that the MLAs have got a problem. The MLAs who are going to vote a guy out of office if they think that they have a strong position to do so are looking for that guy going back to his constituents, coming back and he'll be in a much stronger position than the day before he was thrown out. Now I don't think that that is a total answer to your position but I think it's better than what I have seen of some other legislation.

MR. ENNS: I'm just wondering whether or not we're not getting a little too far down the road here. You know, having filed a misleading statement in itself doesn't necessarily mean that the member has participated in any wrongdoing or has used undue influence in the House or voted in any particular manner, he may have intended to, but the mere filing, the mere filing of a misstatement is already cause enough, you know, if if was unknowingly and the committee so finds, is cause enough to reject him out of the House. Do we want to be that severe?

MR. SCHREYER: Mr. Chairman, that's why the word "knowingly" is rather crucial here because it's acknowledged and so the burden of proof or satisfaction of proof on the committee is really on those making the allegation. It has to be deliberate or knowingly.

MR. ENNS: Well then, Mr. Premier, let me pursue it just a little further, you know, the anomaly in the law. Having made a proper statement and having acted outrageously in a self-vested interest in a conflict of interest case, there is no penalty provision for that at all in the law. The law does not prevent any serious and direct conflict of interest as I read it, and there's no penalties considered for that.

MR. SCHREYER: Well Rule 12 of our existing rules then takes over. Rule 12, you see, and this disclosure at least has the one--look I have to confess to a certain apprehension about codifying things to the extent we are but there seems to be a general desire to do so, as we sense it, in terms of the public and we see that it also has gained some momentum in other jurisdictions; we feel that if we don't go overboard with this that it serves some useful purpose.

Requiring a disclosure of assets to the extent that it is required under this bill would then make it possible for Rule No. 12 to be more meaningfully enforced and if a member in his statement of disclosure inadvertently is in error then of course he's required to correct it. If he deliberately and knowingly makes a false statement then of course that is indeed a serious matter but the burden of proof is on those making the allegation. And in any case, to the specific of your question, Rule 12 simply says, "a member shall not vote on any question in which he has a direct pecuniary interest and the vote of any member so interested shall be disallowed." So I think that takes care of the other part of it.

MR. ENNS: Yes, it does. I forgot about that.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Pursuing Mr. Enns' point. What is the parliamentary penalty that is imposed on a member who has deliberately misled the House? Let's forget the conflict of interest statements for the moment, see how this . . . A member gets up - conflict of interest you know, may be a problem. I am a shareholder let us say of the Royal Bank; we are now going to do business in a certain area, let's say Autopac, and decide the Royal Bank is our bank. Because I am a shareholder in the Royal Bank must I insist that it be done at the Bank of Nova Scotia? In other words, to show that I have no conflict of interest otherwise there is--I can see that there are all kinds of problems as to when my interest conflicts and it could be subject of argument. But let's say that a member has deliberately misled the House, that he has said on the vote on an issue that so many acres of land are under cultivation and the fact is that three times as many are or have been, and he knew it, and in order to get the position he made that misleading statement. What is the penalty insofar as that member is concerned? If one deliberately misleads the House I guess one can move a motion asking that the member

(MR. GREEN cont'd) . . . . . be named for deliberately misleading the House. I mean, anybody know what the penalty is?

MR. SCHREYER: There is no penalty.

MR. ENNS: Of course the Speaker - he can be named, something like that. The answer I'm not aware of is when a person is so named does he automatically, for instance, begin to lose certain privileges like his indemnity, things like that which are set out in this bill?

MR. GREEN: No, no. No, when you name somebody all you're doing . . .

MR. ENNS: You can be named and if the member refuses to repent and make his peace with the Speaker or the special committee that he is in trouble with and decides to sit out a month, two months, you know, and take his case to the people and say they're not letting me speak in here. But you get your full indemnity.

MR. GREEN: That's right.

MR. ENNS: And you have your full member's privileges. Whereas we're moving away from here. Where we used to--in fact coming back here when that allegation is made and the Speaker puts the question, from that day on, 1/70th I believe of his indemnity starts getting knocked off, and so there, you know, just in answer to that question . . .

MR. GREEN: No, exactly, the naming of a member merely means that he can be suspended for a particular period of time - from the sitting, not as a member but from the sitting - and then he can do it again. Then like you say, he can do it indefinitely.

MR. ENNS: Well I raise this question, Mr. Chairman. I feel that, you know, that perhaps on reflection there may be some consideration by the government to want to look at some of these punitive clauses of the bill in light of, you know, how they relate to other actions open to the Speaker or to the special committees currently.

I would in general support the concept which I think we're trying to leave with you, Mr. Chairman, and the members of the government that we are concerned about, you know, unnecessarily curtailing certain longstanding privileges and rights of honourable members of the Assembly.

MR. CHAIRMAN: Do you wish to continue on then, or go over the page. Mr. Bilton.

MR. BILTON: Mr. Chairman, on that same subject just by way of an opinion. Why couldn't it be written into this bill that the same situation, a man is named in the House and he's out for five days, four days, three days, but he doesn't lose the privileges of being a sitting member, why couldn't that be written into this bill until such time as the whole matter is cleared up rather than penalizing him as is already set forth?

MR. SCHREYER: You're suggesting, Mr. Bilton, that the penalty sections of this bill be rewritten to provide that where a member has been found to have violated the provisions of this bill that he shall be in the same status as though he were named?

MR. BILTON: That's right. Suspended until the matter is cleared up but he doesn't lose any privileges.

MR. GREEN: All he can do is say that I apologize for having made a misleading statement. Then I guess the House eventually has to let him sit and then he has to make a speech with his specifics which is I think Mr. Enns' position.

We've got something before us for discussion. I think that there is lots of ramifications to it and I think that that is a position that is well worthy of consideration. I'm not saying that we should adopt it or otherwise but it should at least be thought about. That in the last analysis can we not trust the electors of a constituency to say that their MLA, to use Mr. Enns' words, is a scoundrel, which may cause them to elect him rather than to defeat him . . . But that is the process isn't it?

MR. BILTON: Well as far as I'm concerned I've come down here four times and I like to feel that the people know me like an open book.

MR. SCHREYER: That is to say warts and all.

MR. BILTON: I didn't have the warts in here.

MR. GREEN: The one additional factor that the man would have to face in an election campaign is that he made a statement, which the public will now know of, that the Committee of Elections and Privileges considered it and they found him guilty of having misled the House with regard to his interest statement. Now somebody may be able to handle that, they may not be able to handle that, but it will be the public who will say rather than the majority in the House. That's the point, you know, that is being made, and, you know, it's a point worthy of consideration.

MR. SCHREYER: Still there is a basic choice here which I would like some further indication from the committee. We can proceed by way of making provision for monetary penalties and for the disqualification from sitting.

Mr. Green is right, implicit in Section 8 is that he then--then there is a de facto, a resignation and a by-election; the individual is free to run again, the people will decide, that's one alternative. The other is to make provision here in the penalty section - that's acknowledging some kind of penalty provision. The alternative would be that a person found to be in violation of this act by the committee, it's reported back to the House, the member then is in the same status as a named member and he then, as in any circumstance where a member is named, he must make remedy that satisfies the Speaker in the House, and in this case it would be that he would be required to refile a corrected version, and then that meeting the requirements of the Speaker in the House he is then allowed to take his seat. That's the alternative, . . . to alternatives which is felt to be . . .

MR. GREEN: There is some interesting historical things that we can look at as to how this thing could work. Let us say that the man did resign, according to this bill . . .

MR. SCHREYER: That option's always open.

MR. GREEN: Right. Oh, no let's say that the bill requires resignation, which is the way it's written now. And he resigned. He went back, ran in the by-election, was elected and filed the same statement. Then of course he's knocked out again, goes back and files the same statement, the people insisting that he be elected. Now you think that that sort of has the tone of amusement about it. It happened in England, that you used to have to swear a Christian oath to sit in parliament and I think Rothschild was elected and refused to swear the oath, was not permitted to sit, went back, was elected again, refused to swear the oath, went back and was elected again. Finally they changed the oath. So that ultimately the people . . .

MR. SHERMAN: You're suggesting we finally accept his statement.

MR. GREEN: . . . that the people are the ultimate ones to say whether you are going to sit, not your fellow members.

MR. ENNS: . . . . argue that way of course brings the whole question to the surface, which I'm sure isn't too far beneath the surface of many of us, as a necessity of the bill.

MR. GREEN: Oh, that question. Well that's something also that the committee is considering. The government has indicated that they would like to bring in a bill. Many of the opposition people were screaming for a bill. I think it was the Leader of the Liberal Party who was pushing very hard for a bill. But that's all right, the government wants to try to deal with this question. I think that that is a conscientious desire. As to how it works out, we'll find out.

MR. SCHREYER: Do I sense a preference for the second alternative which is admittedly non-monetary, less punitive, but which nevertheless has a very clear - and I think that's what we should want - a very clear procedure for the House to deal with any false statements and providing the course of action required to put it straight, to put it right.

The intent of this bill is not punitive, it is to provide for a clear and systematic way of providing for disclosure.

MR. ENNS: . . . . . disclosure, eh, and disclosing to the public of what is alleged after adoption of a bill is wrongdoing, not necessarily punitive.

MR. G. JOHNSTON: Mr. Chairman, talking about this as it now stands, I think there's a feeling that the severity of the penalty applies whether it was a small misdemeanour or a major act of concealment in disclosing assets. For example, in the attached schedule of what's considered to be assets, I see on page 30 "debts owing". Supposing a member "knowingly" - doesn't want anyone to know that he owes a thousand dollars to someone and neglects to put that down and he did it knowingly but because he didn't want that known, then he is kicked out of the Assembly and everything. Like there's no such thing as a degree of guilt, a severe case of misrepresentation or a minor item, the penalty's the same, the penalty is paying doesn't matter what it is.

MR. ENNS: . . . which under the second alternative leaves a little bit more flexibility, the naming of the member, the length of the naming of the member, the House has time to consider the degree of concealment.

MR. SCHREYER: Well, all right, we can make that kind of change. I'll make a marginal note of that. Can we go on.

MR. CHAIRMAN: That concludes the first part.

MR. HANUSCHAK: Of course insofar as that is the concern mentioned by Gordon, if it arises from a report made by the Speaker to the House then there's no problem because the whole matter is in the hands of the Assembly and the Assembly may by resolution authorize him to sit and vote in accordance with any terms and conditions expressed in the resolution. So, you know, then the House would take into account the severity or the gravity of the omission or erroneous statement or whatever.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Well just a question, Mr. Chairman, perhaps somebody can advise me. In this whole area what we're talking about is the qualifications of somebody to sit in the Legislature. Of course after somebody has been elected one of the requirements before he takes his seat is he has to take an oath, as pointed out by Mr. Green relative to another case. Even today we still have to go through a process of taking an oath. So this is one of the requirements. Even having been elected . . .

MR. GREEN: You don't have to take an oath if you don't wish to.

MR. BOYCE: All right. What is there in general--I read in the papers such things as an individual was charged and prosecuted for issuing and uttering. Now, where a person has a benefit or gains a benefit by issuing false information, he is subject to the penalties of law, is he not, you know generally speaking? If a person, you know, I'm not . . .

MR. GREEN: I'm not sure what law you're referring to. The uttering law has to do with forging and uttering. Forging is to sign somebody else's name, uttering is to then pass this document to somebody else.

MR. BOYCE: Well, you know, when a person . . . you know, I'm not a lawyer. We have such things as Commissioners of Oaths and everything else and people sign documents. What are the penalties that a person is subject to for perjury?

MR. GREEN: Then the man can be prosecuted, and I suppose he could be prosecuted under this Act for the taking of a false oath. I suppose, Mr. Chairman, I think . . . would it not?

MR. SCHREYER: There is no such provision in this bill.

MR. GREEN: I know but this would be a general law. If this is a Statutory Declaration then the general law vis-a-vis Statutory Declarations would apply.

MR. BOYCE: You know my personal premise is the government's indication that I have to express my apprehensions about putting things like this too definitively into statute because, you know, all the books that I've read, which aren't that extensive, are such that, you know, it should be done by the rules of the House rather than by statute law perhaps, so that when we get down to making it any more definitive then perhaps the suggestion the bill as it is presented . . .

MR. SCHREYER: Well certainly the intent is to have this apply internally to the House and within the House and dealt with by the House and such general law would not apply. We have to make specific provision for that, you know.

MR. CHAIRMAN: The discussion and comments that have been made up to this point will all be taken into consideration and there will be a certain rewording and redrafting to be submitted again to this committee. That completes Part I of this document and we're into Part II. Now it's ten minutes after twelve, I think we should make a decision as to when we break off for lunch.

MR. SCHREYER: Well, Mr. Chairman, if there is some possibility of facing that question at 12:30, instead of now.

MR. CHAIRMAN: You mean the question of lunch?

MR. SCHREYER: Yes, about adjournment.

MR. CHAIRMAN: So we can proceed with Part II, page 5, definitions again. This has to deal with council's . . .

MR. SCHREYER: Mr. Chairman, to save time, hopefully, I would suggest that we proceed through Part II leaving open the question that's been raised by Mr. Bilton earlier, whether we would retain it in this bill or whether we would have a separate bill relating to the Municipal Act, leaving that question open, the substance is still important that we go through, so we may do that now.

MR. CHAIRMAN: Okay. So this Part II is before us and deals with definitions to begin with (a), (b) and (c) and on down the page. Any comments? Mr. Johnston.

MR. G. JOHNSTON: Only for clarification. On Page 6 at the bottom of the page, the paragraph "referral to court".

MR. CHAIRMAN: On which page is that?

MR. G. JOHNSTON: Page 6. When a vote on a question put to the council under subsection (1) is in the affirmative, the Clerk shall forthwith cause an application to be made to the County Court and so on. Is the judge required to receive that sort of a charge under the existing law?

MR. SCHREYER: Under existing law?

MR. G. JOHNSTON: Yes.

MR. SCHREYER: Well I'm not sure, Mr. Johnston, I understand exactly what you mean.

MR. G. JOHNSTON: Well it goes to court but how does it go to the court? Does the Clerk of the Council make a charge against the . . .

MR. CHAIRMAN: This is dealing with statements that are false or misleading in (a)?

MR. G. JOHNSTON: To get before the court a charge has to be laid, is that correct?

MR. SCHREYER: Yes, and this procedure would be tantamount to the filing of a charge.

MR. G. JOHNSTON: And who makes the charge or lays the charge?

MR. SCHREYER: Well how is a charge laid now in the case of an alleged violation of the Municipal Act say - in exactly the same fashion.

MR. G. JOHNSTON: How is that? I don't know.

MR. SCHREYER: Who are the lawyers here on this committee? In the event now that there is a violation, let us say, by some member of a municipal council of some section of the Municipal Act, how does the matter then come to court? There is a Statement of Claim or is there a filing of a charge by a law officer of the Crown or by whom?

MR. GREEN: . . . , Mr. Chairman, I am - one such case which was started by one of the other councillors . . .

A MEMBER: Who commenced it?

MR. GREEN: I imagine theoretically that the Attorney-General can move to prosecute any violation of an act. Mr. Balkaran . . .

MR. BALKARAN: The Clerk shall forthwith . . .

MR. SCHREYER: Yes, well that's section 13(2). The procedure is that in the event that the matter is raised and if the council votes in the majority that . . .

MR. GREEN: Would that be under municipal? The question the Premier asked "under existing municipal legislation" and I said that the Attorney-General probably would have a residual power to prosecute any violation of a provincial statute. However the Attorney-General need not pursue the administration of this, he need not pursue some things, the question then would be whether somebody could commence a private prosecution, another councillor could, a corporate body could, there's no such thing as - you know, they're now talking about these class action things which I don't believe exist. But the fact that I don't believe they exist doesn't mean that they do not exist. Anyway there are new forms of actions emerging but they would have to be started by some individual. The one that I was involved in involved a trustee in Transcona. The move to disqualify was made by another councillor.

MR. SCHREYER: Yes, well in any case whatever the procedure is now, whether it is carried out by a law officer of the Crown or by a private person, insofar as this particular bill is concerned the procedure is clearly provided for; the Clerk shall cause an application to be made to County Court and they shall hear the evidence and render a decision.

MR. BALKARAN: One question may I ask, Mr. Tallin's not here. I notice that the phrase "Presiding Officer" is used in a number of places here and there's no definition. Is that supposed to be the mayor or the deputy mayor or somebody else?

MR. SCHREYER: Well, Mr. Chairman, I didn't think that would pose a problem. Presiding Officer of a council would be the mayor or deputy mayor, reeve or deputy reeve.

MR. G. JOHNSTON: What if the charge that's been laid involved the two of them? Does it go down the ranks to deputy mayor, then to . . . ?

MR. SCHREYER: Well maybe we can get a tightened-up definition there, in the event of the allegation being made against a presiding officer . . .

MR. BALKARAN: The presiding officer shall be appointed.

MR. SCHREYER: All right, we'll take note of that.

MR. CHAIRMAN: We're on page 6.

MR. BILTON: Mr. Chairman, I just want to reiterate what I have already said, that I

(MR. BILTON cont'd) . . . . . would like to see this eliminated from this material that we're dealing with and let the municipal bodies petition the government to set this up if they so desire.

MR. SCHREYER: Supposing some do and some don't.

MR. BILTON: Let the majority rule, in council. Let them fight it out.

MR. CHAIRMAN: This is permissive, is it?

MR. SCHREYER: It's permissive.

MR. BALKARAN: This is permissive right now.

MR. BILTON: This is an observation. I can see the local hardware man quitting council right away because he can't deal with the council.

MR. SCHREYER: Very well. Can we go on, Mr. Chairman.

MR. CHAIRMAN: Page 7. Anything there?

MR. G. JOHNSTON: I notice there's a difference in the application of the proposed law to the Assembly and to a council. As I understand some of the wording of the part dealing with members of the Assembly, a charge can only be made while the Assembly is sitting, which is part of the year. Is that a correct assumption?

MR. SCHREYER: Yes, Mr. Johnston.

MR. JOHNSTON: With the council it can be made at any time throughout the year. Is that correct?

MR. SCHREYER: But it can be dealt with only at a meeting of council. You know that's just a fact of life.

MR. CHAIRMAN: On to the next page - 8. We're into - conclude the consideration of municipal councils and into senior public servants in Part III. Mr. Johnston.

MR. G. JOHNSTON: Page 8, at the bottom when they're defining "senior official", deputy minister and associate deputy minister, assistant d.m., that would be all in a . . .

MR. SCHREYER: No,. . . .

MR. G. JOHNSTON: . . . executive assistant to a minister, would he be covered?

MR. SCHREYER: Really those three categories are listed there just for elaboration sake but not so as to restrict the generality of what follows; that is to say, a person who occupies a senior officer rank in the public service.

MR. JOHNSTON: Or salaries equivalent to that?

MR. SCHREYER: Well yes. That's precisely what it does say. I suppose in a sense we could have left out (i) entirely, it wouldn't affect the substance of the bill because all deputies, associate deputies and assistant deputies are senior officers or equivalent. So it's just put in there for a specific clarification or a specific exemplification I guess I'd have to say.

MR. CHAIRMAN: The next page - 9, 10.

MR. G. JOHNSTON: Page 10, relating to "false or misleading statements." Can the government tell us why only certain people can initiate an action for a false or misleading statement; and those people are the Provincial Auditor or the Civil Service Commission which is a body, or a government agency which is - how many have we got? - a couple hundred - or a member of the Executive Council. In other words, a Cabinet Minister. They're the only ones that can make the charge. Is there any reason why it's limited to them?

MR. SCHREYER: Well I think the only reason here would be tradition itself, Mr. Johnston. The point being that if on the report of a provincial auditor or on the perusal of the statement by the provincial auditor or any one of the Civil Service Commission or a member of the Executive Council, there is felt to be a false or misleading statement of disclosure, there's need for some systematic way to deal with that, so this section 20 is rather important. There is formal notification of the dissatisfaction with the statement and then the person involved has a period of time in which to make a written report or written defence to the employer.

MR. G. JOHNSTON: The reason I brought that up, I recall in the last session that the Leader of the Official Opposition made certain charges in connection with housing up North. If he had produced documentation, in other words enough evidence and either publicly in the House or presented it to a Minister of the Crown, the Minister could refuse to ignore that evidence and not proceed. Is that correct? If this were to go through as it is now written - Section 20?

MR. SCHREYER: Well except that that would be subject to debate in the Legislature. The action taken by the Executive Council would be subject to debate.

MR. G. JOHNSTON: But in the final analysis say a decision could be made by any one of these groups or bodies not to proceed even though they had evidence that they should. Perhaps unwelcome evidence but evidence was presented to them.

MR. SCHREYER: Yes. Well then we would be in a position not unlike we've been over the years. The Cabinet is responsible to the Legislature for the conduct of the public service.

MR. G. JOHNSTON: The point I'm making, Mr. Premier, is that by law certain bodies or certain persons in the government service, whether it's an elected person or a career official, can make the charge but he's not required to although he's been presented with evidence. In other words, why should a Cabinet Minister be allowed to decide whether or not to make a charge and the Leader of the Official Opposition not be allowed to make the charge if he has evidence?

MR. SCHREYER: Oh he can--nothing precludes him from making the charge.

MR. G. JOHNSTON: Yes, Section 20.

MR. SCHREYER: Well, no . . .

MR. G. JOHNSTON: It sets down the people who can initiate the charge.

MR. BALKARAN: I was going to raise the same question, Mr. Premier, because this is likely to hurt me personally as well. The filing of the statement of assets is with the Provincial Auditor. Then in Section 20 you have a range of people who can then turn around and challenge the veracity or the authenticity of that statement. Why should not the provincial auditor be the person to initiate that? It's filed with him with respect to all agencies and departments and branches. But then after it's filed, under 20, any number of persons, indeed a member of Cabinet, could then turn and say well we don't think this is right.

A MEMBER: Not an MLA.

MR. BALKARAN: Well whoever, but I'm saying you have any number of people, even a member of the Civil Service Commission or member of Hydro or Telephone.

MR. SCHREYER: Well we are going through uncharted waters here. What has been the practise, ignoring this legislation for the moment, what has been the practise up to now I suppose has been varied, but in the case of Alberta at the present time, every senior public servant, above a certain rank is required to file a statement with the Premier's office, that's one alternative. I thought that a better alternative was to have it filable with the Provincial Auditor, but in terms of the employer, in this case Executive Council, having the means to simply check any allegations or suspicions of conflict of interest that it should be specifically provided for in the statute.

I might add that Section 20 doesn't really do anything new, it merely puts in statute form a practise that is already open and followed or followable. It's clearly by definition, if allegations are made then the employing authority must have the means of checking up those allegations.

MR. BALKARAN: The point, Mr. Premier, is it seems to me that there are a number of people who are put in a position to judge on that statement that's been filed. I'm saying that if the Provincial Auditor has reason to believe, whether his information comes from an agency or from a member of cabinet or from the Civil Service Commission . . .

MR. SCHREYER: Or a charge in the Assembly.

MR. BALKARAN: Or in the Assembly. The Provincial Auditor should then be able to go to Cabinet and say well an allegation has been made, that this statement is not correct, it's misleading and it's false, and then the rest of the procedure could be followed.

MR. SCHREYER: All right. The provincial auditor would be charged with the responsibility of investigating the allegation . . .

MR. BALKARAN: Or reporting it to Cabinet.

MR. SCHREYER: And reporting thereon to Cabinet. Then what?

MR. BALKARAN: Then you follow to 21, eh?

MR. SCHREYER: Right. Okay, I see no problem. Okay, so then specifically it's a case of just revising Section 20?

MR. BALKARAN: Right.

MR. SCHREYER: Revise Section 20 so that the preliminary investigating authority . . .

MR. ENNS: Initiated by auditor.

MR. SCHREYER: . . . lies with the Provincial Auditor.

MR. CHAIRMAN: Any discussion, further comments? If not, we go on to 21, bottom of the page and then over the page to 22. Mr. Johnston.

MR. G. JOHNSTON: Mr. Chairman, there's glaring inequalities throughout this Act.

MR. SCHREYER: Excuse me, Mr. Johnston, before you go on to that point. In the case of Section 20 are we saying that the preliminary investigating authority lies with the Provincial Auditor ab initio, or upon a referral to the auditor by the Lieutenant-Governor-in-Council?

MR. BALKARAN: I don't care.

MR. SCHREYER: Either way? So that it can be initiated by one of two ways . . .

A MEMBER: By the auditor in both cases.

MR. SCHREYER: . . . provincial auditor or by formal referral?

MR. BALKARAN: I would have thought that the same thing could be accomplished if the provincial auditor upon whatever the source of information he went to Cabinet. Cabinet then passed an O/C authorizing him to act, you know. Well in effect that would be the same thing, just the one step.

MR. SCHREYER: All right, I've made that note, it can do the same. Sorry, Mr. Chairman.

MR. CHAIRMAN: Mr. Johnston.

MR. G. JOHNSTON: Section 21 refers to the--after it's been established that there has been a false and misleading statement filed and the Provincial Auditor has verified the fact that this is a case, then it goes to the Cabinet and the Cabinet decides whether or not to proceed further. That doesn't seem like justice. If the Provincial Auditor has enough evidence to say that there has been a wrongdoing or a misrepresenting or misleading statement filed, then it goes to the Executive Council and they decide again, although the evidence has been put in that there was a case.

MR. BALKARAN: Consistent with 21.

MR. SCHREYER: So what are you suggesting, Mr. Johnston?

MR. JOHNSTON: Well in the case of the municipal council or the case of the Legislative Assembly, it goes directly to a court or to a committee.

MR. SCHREYER: Well the Legislative Assembly has to be the custodian of the discipline of its own members. Right? In the case of a municipal council there is no machinery other than the conventional machinery of the court, County Court in this case. In the case of the public service, the Executive Council is accountable to the Legislature but the Legislature - I ought to put it that way - the Executive Council is accountable to the Legislature for the carrying out of the functions of the public service, reporting directly on public service to the Legislature.

MR. G. JOHNSTON: Section 21 says that the Cabinet, Executive Council "may appoint a commissioner" under Part V of the Act; they're not required to take action. We're making very strong rules for some groups and rules that can be altered or judged by another group, or ignored.

MR. SCHREYER: So what would you suggest as the alternative here, Mr. Johnston?

MR. G. JOHNSTON: I don't know, I'm just raising a question, I never thought about it.

A MEMBER: Mandatory?

MR. G. JOHNSTON: the Cabinet is not required to appoint a commissioner under Part V but they may.

MR. SCHREYER: I think perhaps that's just standard wording there, under the Evidence Act as it exists at the present time it's so worded. Am I right, Mr. Balkaran.

MR. BALKARAN: Yes.

MR. SCHREYER: The Lieutenant Governor in Council "may" with respect to the . . .

MR. G. JOHNSTON: See any difficulty that was found would probably, or could well be found in a Cabinet Minister's department as anywhere else and he's going to sit in council and decide whether or not to let this thing go any further. He has to make a decision.

MR. SCHREYER: Yes.

MR. ENNS: He's also answerable for whatever decision . . .

MR. SCHREYER: That's right, he's answerable, you see, and that's really--I don't know that you can change the basic . . .

MR. G. JOHNSTON: But who is he answerable to?

MR. SCHREYER: To the Legislature. I'll perhaps put a marginal note on that. I can explore it.

MR. G. JOHNSTON: Mr. Balkaran, could he tell us what is the legal definition of that phrase "may appoint a commissioner". Does that mean it's a discretionary act?

MR. BALKARAN: Well it is discretionary but on the other hand if you use the word "shall" you remove any discretion whatsoever, it becomes mandatory in that context. There is ample case law to indicate that the word "may" coupled with a duty that is imposed on a public officer that that is interpreted as "shall".

MR. G. JOHNSTON: Are you suggesting that word should be "shall" and not "may"?

MR. BALKARAN: Oh no, I'm not suggesting that at all. I'm saying that where you have language of that type adopted in legislation, "may" coupled with a duty to act is interpreted as "shall" and has consistently been so interpreted by the Court.

MR. G. JOHNSTON: Would the government have any objection to having that mandatory, in other words, "shall appoint a commissioner"?

MR. SCHREYER: No, I frankly find that historic provision under the Evidence Act to be practical the way it's worded now. I wouldn't want to be the one responsible for changing it to a nondiscretionary, mandatory procedure. Maybe some succeeding government might. I wouldn't recommend it.

MR. BALKARAN: I would add, Mr. Johnston, that wherever there's been a requirement to do something, the word "may" has been traditionally used in legislation - as far as I know anyway - except for certain situations where it is not intended to confer discretion where the imperative "shall" is used.

MR. G. JOHNSTON: My point is that in the other two areas where this law would apply there's required action be taken. In this Section 21 it leaves a discretionary action with the Cabinet although they've been presented with evidence from the Provincial Auditor that it would require an action.

MR. SCHREYER: But even this is going considerably further than we have at the present time. I mean at the present time - I'm not suggesting we have any problem here in Manitoba nor am I aware at the present time of any problem in any other jurisdiction in Canada except that there's always the borderline cases. There was some problem in Ottawa last - oh approximately a year ago - with respect to suspicions of conflict of interest on the part of certain senior public servants. There's no statutory provision covering that so all the practise has been is that from time to time Ministers may have had to refresh the memory and conceivably warn certain public servants that they better be careful with respect to their position in respect to their asset holdings. But that's about all that's been required up to now.

We're trying to put this a little bit more systematically, that there's need to file a report with the auditor of their allegations, that the allegations be investigated by the auditor and let him report thereon and we'll make provision here for the establishment of an inquiry commission under the Evidence Act. All of this is going, you know, quite a ways further. I wouldn't want to go that far, at least not in the first year of operation of this legislation, to provide for a nondiscretionary investigation under the Evidence Act every time there's an allegation.

MR. G. JOHNSTON: My point is that there wasn't an allegation. The provincial auditor in this hypothetical case has presented a case for some action and the party who is being questioned has had a chance to reply or explain. Then the auditor makes a report. Obviously he wouldn't make a report if there is no case. He's making a report that he considers to be a case for further action. Now the council can intervene - perhaps not intervene but they can stop it right there if they wish.

MR. SCHREYER: But you see if the Lieutenant Governor in Council feels that the matter is of substance to the point where somebody has to be suspended or dismissed then it can do so only - if you look at Section 22, it can do so only after it has appointed a commissioner under Part V of the Evidence Act and after that commissioner has reported, etc.

Now if pursuant to Section 21 no commissioner is appointed then the Lieutenant Governor in Council can't take any further action by way of suspension or dismissal; so, you know, because Cabinet is responsible to the Legislature, it's answerable as to why it has or has not proceeded. In the final analysis, there's no circumventing that fact.

MR. CHAIRMAN: Shall we move on? Any further discussion? Then we're into Part IV, page 11, No. 23.

MR. SCHREYER: I might add, in case anyone was curious, Section 88 of the Evidence Act, it would not apply; Section 88 is the section which requires for publicizing of the holding of an inquiry. I think the reason for that is obvious.

MR. CHAIRMAN: Part IV. Itemizing and . . .

MR. SHERMAN: In this connection, Mr. Chairman, are we dealing with this section by section or page by page? Are we going to be looking, for example, at pages . . .

MR. CHAIRMAN: Just as you wish.

MR. SHERMAN: . . . looking at pages 18, etc. individually or dealing with them under these sections, because I . . .

MR. SCHREYER: You're talking about the schedules?

MR. SHERMAN: Yes, the schedules.

MR. SCHREYER: Well I think, Mr. Chairman, in view of the time that if anyone has general observations to make now with respect to the prescribed form as shown in these schedules, we could sit a little longer. Then I'd propose that we adjourn sometime on or before 1 o'clock and simply sine die without any specific date set for the next meeting.

MR. CHAIRMAN: Well if that's agreed we can--Mr. Sherman.

MR. SHERMAN: I just had two questions that won't take long to dispose of, but I was just wondering whether I should deal with them when we reach pages 20 and 22 or deal with them now under the section referring to them.

MR. CHAIRMAN: If there's no discussion on the others preceding that then we can go on to 20 and 21. Is that what you wish? (Agreed). --(Interjection)--20.

MR. SHERMAN: 20 - Debts secured by Real or Personal Property and Debts not secured by Real or Personal Property. Presumably this does not refer to bank debts. Presumably bank debts would be excluded would they or would they have to be indicated too?

MR. HANUSCHAK: No, these are debts owed to the deponent. Are they not, Andy?

A MEMBER: No.

A MEMBER: That's what it says here.

MR. HANUSCHAK: Sure. A debt is an asset of the deponent. That would be a debt owing to him. This deals with . . .

MR. SHERMAN: Owing to the deponent? Oh! Thank you.

And on 22, Assets, Properties, etc., disposed of - how retroactive is that?

MR. SCHREYER: I'm sorry, what's the question again?

MR. SHERMAN: On the retroactivity on page 22, Assets, properties, etc., disposed of - the retroactivity of dispositions.

MR. HANUSCHAK: On Page 14 (k) - a list of all property, interests, etc. that the deponent or his spouse may have disposed of, waived, released, etc. within 14 months.

MR. CHAIRMAN: Within 14 months.

MR. SHERMAN: 14 months.

MR. BOYCE: - (l) on 15 makes the same difference relative to the 14 months retroactivity.

MR. BALKARAN: Mr. Chairman, before you leave page 14 - go back to 14, clause (i) I don't think this is intended but it could possibly include . . .

MR. SCHREYER: 14 (i)?

MR. BALKARAN: Page 14, clause (i). A description of offices. I happen to hold certain offices in little organizations like hockey associations in community clubs and what not and there's nothing to indicate that these things are exempt. They seem to be caught by this clause.

MR. SCHREYER: Well certainly that's not the intent and as I recall in the drafting instruction reference was made to not requiring reference in the forms, reference to any charitable or nonprofit organization.

MR. BALKARAN: It's not clear in this clause. I wonder whether . . .

MR. SCHREYER: . . . make a notation of it.--(Interjection)--Yes, any charitable, nonprofit organization nor . . .

MR. BALKARAN: Religious . . .

MR. SCHREYER: Charitable, religious, nonprofit organizations.

MR. ENNS: This is--not to be entirely facetious but, you know, disclosures very often, you know, we're talking about disclosure bills, not necessarily related to . . .

MR. CHAIRMAN: Would you use the microphone please.

MR. ENNS: . . . to one's financial holdings. I think if one is a member of subversive organizations or--(Interjection)--like the Conservative Party or something like that, that may have a greater influence in terms of the kind of influence he wishes to exercise in the House. In general, Mr. Premier, I begin to worry more and more about the legislation as I see more and more of it.

MR. BILTON: Mr. Chairman, before we leave it and before it gets away from us, 24 (c). I wonder if there'd be any objection to including in there municipal bonds as well as government bonds. I've noticed United Nations are in there but municipal bonds to me is an item that shouldn't be overlooked.

MR. SHERMAN: 24(c) . . . ?

MR. CHAIRMAN: No, there is no 24(c).

MR. BILTON: 24 on page 12 - (c), list of all bonds and debentures owned by - it specifies those that are exempt and I'm asking for municipal bonds to be included in it.

MR. SCHREYER: Certainly, Mr. Bilton, that's the intent, municipal debentures, municipal local government issue debentures would not be required. You can make a notation, Andy, on that.

MR. BILTON: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Johnston.

MR. G. JOHNSTON: Mr. Chairman, on page 22, titled "Assets. Properties, etc., Disposed of" . . .

MR. CHAIRMAN: You said page 22?

MR. G. JOHNSTON: Yes. The matter of "gifts". Is there a legal definition of a gift or should it be spelled out?

MR. SCHREYER: I think that the intent here is to use the same definition as applies under the Gift Tax Act.

MR. BALKARAN: That's right, yes.

MR. G. JOHNSTON: Should that be described because there will be quite a few hundred people filling out this form.

MR. SCHREYER: Yes, take note of that, Andy, as well.

MR. BALKARAN: What's that? I didn't quite get . . .

MR. SCHREYER: Well simply to insure that in the bill it is clearly stipulated that the definition of "gift" is the same as under the Gift Tax Act legislation.

MR. BALKARAN: That's almost superfluous because a gift is something with no strings attached, irrevocable.

MR. SCHREYER: Well if it's not defined in here . . .

MR. BALKARAN: The common law definition of a gift is one that is made from (a) to (b) or (a) to (c) as the case might be without any . . . retraction because then it's not a gift. And that, you know, is very simply put, is something that you have given once and for all whether it is $1,000, $500 or part of the farm house.

MR. CHAIRMAN: Without expectation . . .

MR. BALKARAN: The gift tax definition may vary from that concept because there may be a question of associated persons, unrelated persons and all sorts of things.

MR. SCHREYER: Well I just ask you to make the notation there that if Legislative Counsel feels that no specific definition is required or whether in fact the same definition as used in the Gift Tax Act be transferred to this bill as well.

MR. BALKARAN: I'll ask Rae to look at it.

MR. SCHREYER: Very well.

MR. CHAIRMAN: Anything further.

MR. SCHREYER: I don't see it here, Mr. Chairman. In the drafting instruction reference was made to, in terms of disclosing debts owing, to require that only with respect to debts owing in excess of $1,000 so as to avoid the necessity of referring to casual debts.

MR. BALKARAN: What clause is that.

MR. SCHREYER: I don't know, I can't find it. I assume that it was in the draft. There is exemption from disclosure of debts owing that are less than $1,000.

MR. HANUSCHAK: . . . 24(1)(f) that you'd be looking at on page 13?

MR. BALKARAN: You see, that's what we talked about awhile ago . . . .

MR. ENNS: . . . these are not debts owing, these are debts coming . . .

MR. SCHREYER: I'm referring to debts owing to . . .

MR. BALKARAN: Yes.

MR. SCHREYER:. . . which are assets in effect, and pursuant to Mr. Sherman's point, there's no intention to require the disclosure of debts owing.

MR. ENNS: He doesn't have to report the ten bucks he's borrowed off me.

MR. SCHREYER: Well that sort of thing, that sort of thing - yes.

MR. SHERMAN: I'm not concerned about that debt, there may be others that I am. I'm not very concerned about that one. I was confused on page 20 and as Mr. Hanuschak pointed out that that refers to debts owed to the deponent, but . . . that raises the question of the alternative to which the Premier has now referred - the alternate position, I mean, of debts owed.

MR. ENNS: He's also referring it in the same way as you are referring it.

MR. SCHREYER: Yes, and actually clauses (f) and (g) on page 13 clearly indicate that these are debts owing to the deponent, and I'm just saying that in that connection there was to be a thousand dollar exemption of disclosure to any one party . . .

MR. BALKARAN: A thousand dollars per debt, if you want to put it that way - per person.

MR. SCHREYER: Per debt . . .

MR. BALKARAN: So that in totality he has . . .

MR. SCHREYER: That's right, it's conceivable. We certainly don't need, I'm suggesting we don't need in this kind of legislation the kind of casual debts owing that are -- one could even question a thousand dollars, it's a figure which we are using with respect to other disclosure here below which there is no need to disclose.

MR. SHERMAN: But was there any consideration given to debts owed?

A MEMBER: No.

MR. SCHREYER: Well you see this is really basically disclosure of assets legislation, it's not disclosure of assets and liability legislation. I know you can make the argument that to really get a comprehensive picture it should be a balance sheet,you know, assets and liabilities, but we just couldn't see it in the same light.

MR. SHERMAN: I accept that, that's fine. We're probably well advised to leave that subject. I just wondered whether it had come up for consideration and just been omitted inadvertently.

MR. SCHREYER: No, it was deliberately looked at and not included.

MR. SHERMAN: Good.

MR. CHAIRMAN: Do you want to go on to 21, Interests in Partnerships, Officer and Directorships, Property Interests in Expectancy; Assets, Properties on page 22, Gifts . . .

MR. SCHREYER: I might add that on page 21 the prescribed form for showing officer and directorship in corporations, institutions, organizations, that the change we've already made here this morning would apply mutatis mutandis, there'd be no disclosure on this form of organizations that are charitable, religious, non profit, etc.

MR. CHAIRMAN: Page 23.

MR. BILTON: Mr. Chairman, excuse me, going back to 19, I believe I mentioned at our last meeting that -- talk about conflict of interest, you've got two persons owning equal shares in a company and one decides to run for public office and he must by virtue of this indicate his interest in that particular company and his partner may object to it.

MR. ENNS: Has pity, doesn't run.

MR. BILTON: He doesn't run for office. Because that's his livelihood. Or quits the partnership this compels it, does it not?

MR. SCHREYER: It doesn't compel it unless there is such strong feeling about disclosure of the holdings of the other partner.

MR. BILTON: Well it could very well be, Mr. Premier, you know, it has been my privilege to be in partnership and I know the difficulties that do arise.

MR. ENNS: To the everlasting sorrow of your partner.

MR. BILTON: That is a problem. This creates a conflict of interest on a local level before he even runs for office. But he's got to do it according to this or else.

MR. BALKARAN: It may be a very small point but the disclosure of real estate, for instance, would it apply if I own real estate in the West Indies and this government wanted to do business with that country?

MR. BILTON: That's a pretty ticklish one.

MR. ENNS: Do you want to grow rutabagas in the West Indies . . .?

MR. BALKARAN: Well I might want to grow some sugar on the land I own down there some of these days.

MR. BILTON: But that is a problem. The silent partner or the man that is not running for public office may not agree to the partner that is running for public office making public his interest in that particular company, for very good reasons sometimes.

MR. SCHREYER: Mr. Chairman, I'd like to ask Mr. Bilton if he sees the same problem with respect to disclosing holdings in a corporation as opposed to a partnership?

MR. BILTON: No, I am speaking in the interest, Mr. Premier, of the bulk of the businessmen in this province, that is the small businessmen and small companies that this is going to effect. I'm not thinking in terms of corporations whatsoever but rather the situation that can be developed by small businessmen.

MR. ENNS: Mr. Premier, just on that. I, on the other hand, am looking forward to the disclosure of assets owned by my spouse - what it will do to my marriage is something else but I've often wanted to know.

MR. SCHREYER: I'm trying to understand Mr. Bilton's concern because while a person holding public office would be required to disclose his holdings, including holdings in a partnership, what he discloses in no way sort of gives away the total value of the holdings of the partnership. This legislation doesn't require you to indicate whether you own 30%, 50% or 80% of a joint venture, merely what the office holdings in that venture are, leaving completely undisclosed . . .

A MEMBER: Nor name the other partner.

MR. SCHREYER: The other partner - yes - unless the name is right in the corporate name but if it isn't it leaves unnamed the partner and leaves unnamed his percentage that . . .

MR. BILTON: That it's reasonable for somebody that might be interested, in a community such as ours, that they could - for $10 - come down and get a copy of all this to do with me particularly, using it as a case, and come to a conclusion as to the total value of the company knowing full well that I am an equal partner. And my partner may not want that sort of information exposed but someone can get it by coming to the Legislature and putting down a few paltry dollars and get the whole business.

Now you talk about conflict of interest. There may be a company of a similar size, in a similar location and so on. There may be all sorts of things enter into it. There may be the selling of one's interests and so on that my partner wouldn't want the opposition to know anything about. There's all sorts of little things - they don't come quickly to mind. But I'm suggesting, just plainly and simply, that my partner may object to me putting that information on this form that anyone can acquire by putting down a few dollars from the Legislative Assembly. And it's his right and his privilege to expect that of me, the confidentiality of our concern is our business and no one elses.

MR. SCHREYER: Well I think, however, Mr. Chairman, that that concern can be met by - first of all in looking at the form on page 21, the last column, I've made a notation here to see if that last column heading in fact is necessary and if we can't delete it.

MR. BALKARAN: We may be in some difficulty with other legislation we have where we may possibly be violating the privacy of that other person.

MR. SCHREYER: Well this is what I'm trying to address myself to. So that last column, if it's at all feasible, we will endeavour to delete that particular heading or requirement; and furthermore, we will also try to ensure that the legislation does not call for percentage or proportion ownership disclosure, so that merely the absolute sort of dollar value of holdings by the office holder is required to be disclosed. No disclosure whatsoever in terms of the other partner or partners.

MR. HANUSCHAK: . . . make the remark, Mr. Chairman, I believe that is public knowledge at the present time under another piece of legislation.

MR. SCHREYER: Under the Registration of Companies' Act.

MR. HANUSCHAK: Yes. If the amount of the interest were shown without any reference as to whether it constitutes half or two-thirds or a quarter interest or whatever.

MR. SCHREYER: Yes, the proportionality we'll make sure is not needed to be disclosed and in that way safeguard privacy. But I should tell Mr. Bilton that some of his concern here is perhaps exaggerated for the simple reason that there is now public access for payment of what? - 50 cents or a dollar - to the Registrar of Companies and one can peruse the makeup or composition of partnerships, corporations, etc.

MR. BILTON: Well I'm not too well versed on it but it comes immediately to mind that something in the neighborhood of $100,000 is the overall report to the province as to the value of our company, but actually it was just a figure that we could get up to $100,000 before increasing our report in to the province that we have to do every year, that is under the Companies' Act. But this exposes my individual interest in that company, if you follow

(MR. BILTON cont'd) . . . . .me. What my own particular interest is, which, as I say, is confidential between my partner and I and no one else. But in the event that I run for public office and I am elected I've got to admit that whole setup, and that applies to probably thousands of small businessmen throughout the province where partnerships are involved.

MR. SCHREYER: But you do not have to list or disclose the total estimated value of the business or partnership nor your partner's holding in it, just your own.

MR. BILTON: I have to report debts, half of which may be his and half mine through the company operation, half of which is his and half of which is mine. I report my half.

A MEMBER: Only debts owing to you.

MR. BILTON: That's right, the same applies.

MR. SCHREYER: No, no, only debts owing to you as an individual.

MR. BILTON: That's right but in a company . . .

MR. SCHREYER: . . . debts owing to the company, you only have to disclose your individual interest in the company.

MR. BILTON: That's right but it's still exposing part of the company operation to public view.

MR. SCHREYER: Well to some extent that's done now under the Companies' Act.

MR. ENNS: I don't know, I'd like to get back to the old Swiss formula.

MR. SCHREYER: The old Swiss formula - which is? Oh, the Swiss banking.

MR. BALKARAN: Mr. Chairman, through you to the Premier and this committee. I have a real concern when I raised that point about property outside of Manitoba for a very good reason because clause (j) on page 14 requires you to disclose any interests to which the deponent is entitled in expectancy under any trust which would include a will. And as my mother-in-law owns property in Trinidad where I come from originally and my wife happens to be a beneficiary under her will, I don't know just what the extent of that interest might be. I don't even know what the legal description of that property is and I'd be damned if I'd be able to find out. Am I then violating the provisions of this bill if I can't find out just how to describe . . .

MR. SCHREYER: Which clause are you referring to?

A MEMBER: (j) on page 14.

MR. BALKARAN: (j). This is why I raised the question of property outside the jurisdiction.

MR. SCHREYER: Property actually owned, I think reference to expectancy we should delete entirely wherever it appears.

A MEMBER: I believe that is right.

MR. ENNS: I think the whole question of property owned outside the jurisdiction of Manitoba could come under question in the sense that what jurisdiction do we have vis-a-vis, you know, any kind of conflict of acts.

MR. CHAIRMAN: Mr. Balkaran.

MR. BALKARAN: If the person is resident here, a member or senior official or a member of municipality is resident here, we can require him to make that disclosure, we can't legislate with respect to that property, we can ask him to disclose his interests . . .

MR. ENNS: I know we can do that but . . .keeping in mind that this legislation is aimed at potential possible conflict of interests, where does the area of conflict of interests arise in property owned outside of the jurisdiction of the public officials domain or the electors . . .

MR. BALKARAN: If I happen to be a member of the Trading Corporation of Manitoba and we're going to be doing some business with Czechoslovakia and I own property there and that's the area within which this company is going to do business, isn't there conflict of interest? And I happen to be an officer of that corporation.

MR. SCHREYER: Well in any case the reference to expectancy here under trust or under disposition of estate, that should be deleted out. Just make a notation to that effect.

MR. BALKARAN: Could we clear up though, Mr. Premier, this question of property because if someone indeed files a statement and excludes his foreign-owned property, can he then be accused of not filing a proper or correct statement? You know it goes both ways. Do we make it abundantly clear that he has to disclose that too or leave it out. Because the allegation could still be made if he leaves it out, that look you haven't filed a proper or correct statement. You see it's a vital thing when it comes to filing. I don't know how many

(MR. BALKARAN cont'd) . . . . . people own property outside Manitoba but . . .

MR.SCHREYER: Well the question you're raising is one that there is -- it's not as though it is sort of left unclear inadvertently.

MR. BALKARAN: Well could we say all real estate in clause (j)?

MR. SCHREYER: Oh yes, yes.

MR. BALKARAN: That's what I'm getting at.

MR. SCHREYER: Well I believe that's what the bill reads.

MR. BALKARAN: Whether in Manitoba or outside Manitoba?

MR. SCHREYER: Yes, yes.

MR. CHAIRMAN: Anything further on that. Mr. Johnston.

MR. G. JOHNSTON: Just on that point, Mr. Chairman, if a person owns property, a summer cottage or a farm say in Ontario - Kenora - he doesn't have to . . . but if he owns the same thing in Manitoba he has to report it. That seems rather odd.

MR. BALKARAN: No, no.

MR. SCHREYER: No, it's the opposite. He has to report the whole works.

MR. G. JOHNSTON: What was the point? Were you saying that outside the country you didn't have to . . .

MR. SCHREYER: No, no, it's required to be reported.

MR. G. JOHNSTON: Anywhere, in all provinces?

MR. SCHREYER: Yes.

MR. CHAIRMAN: Can we proceed? And we're on to the next pages - 23 and on, Assets, Interests of Spouse, Real Estate, so on. Any discussion, questions? Mr. Enns.

MR. ENNS: I have a vital kind of question, Mr. Chairman. On page 33, Verification of Statement of Assets and Interests, to be done before a Commissioner of Oaths.

MR. CHAIRMAN: Pardon me, page which?

MR. ENNS: The last page. And assume that it's to be done individually by all deponents, which includes a number of persons, which may not just for mechanical reasons be all that easy in this day and age where you have 16 and 17 year-old children that may be outside of the province attending school or university elsewhere - I can see, you know, just small mechanical problems of having the signature of the deponent in front of a Commissioner for Oaths, in the hands of the Clerk in the prescribed time that's prescribed in the Act. Is it not possible to consider the one verification of statements of assets and interests that would be so filled out by the responsible person, the guardian or the parent on behalf of all deponents, or am I reading this wrong. Is it . . .

MR. HANUSCHAK: Yes. Andy, what do we mean by deponent? Just merely the MLA, councillor or senior civil servant?

MR. BALKARAN: Yes.

MR. CHAIRMAN: Not dependents.

MR. HANUSCHAK: Because otherwise the list could be endless.

MR. ENNS: That's what I mean. Okay. So deponent is just the individual?

MR. BALKARAN: Three people involved.

MR. HANUSCHAK: Yes. Because then if the child is a deponent and if you go back to definitions you could have a child of a child who's a deponent.

MR. ENNS: Okay.

MR. SCHREYER: Oh, there's only one deponent.

MR. ENNS: I had difficulty in understanding the word deponent.

MR. SCHREYER: The office holder.

MR. G. JOHNSTON: Two short questions, if I have permission to go back to page 16 and 17.

MR. CHAIRMAN: 16 and 17?

MR. G. JOHNSTON: Yes. At the bottom of page 16, No. 28, "upon request at a reasonable time and upon paying a fee of $10.00, a person may search a statement of assets and interests filed with the Clerk of the Assembly or with the Clerk or Secretary-Treasurer or a committed municipality." Where do board members and assistant deputy ministers and people like that file their -- in other words can their assets be examined in the same manner?

MR. SCHREYER: They file with the Provincial Auditor's office and that's covered on the very next page.

MR. G. JOHNSTON: Well does anyone have the right to examine their assets?

MR. SCHREYER: Well Section . . .

MR. HANUSCHAK: Yes, 29, page 17.

MR. SCHREYER: Not any person. "Upon request at a reasonable time any member of the Legislature or Executive Council or any person employed in the government service with the Executive Council or any committee of the Executive Council" -- well, as stated there.

MR. G. JOHNSTON: Well what I'm getting at is the difference. In 28 anyone for $10.00 can examine the assets, whereas in 29, that's not so.

MR. SCHREYER: No, there though the access is through the Legislature or through the Executive Council branch.

MR. BALKARAN: I think the difficulty here is that the civil servant's statement is not provided for in there. You have the Clerk of the Assembly or the Clerk or Secretary-Treasurer but not the Provincial Auditor.

MR. SCHREYER: That's covered in the next page.

MR. BALKARAN: Is it? I don't see it.

MR. G. JOHNSTON: I don't see it either.

MR. SCHREYER: Provincial Auditor. The statement of assets that's filed with the Provincial Auditor is the statement of assets by public servants. They file with the Provincial Auditor. And those statements filed with the Auditor, access to those is by MLAs, members of the Executive Council.

MR. BALKARAN: 28 provides for any person making a search?

MR. SCHREYER: Yes.

MR. BALKARAN: 29 says, a member of the Legislature, or of the Executive Council, or any person employed in the service, not just any person may search the statement.

MR. SCHREYER: That's right. Well this is intended.

MR. BALKARAN: In other words, a member of the public cannot look at my statement?

MR. SCHREYER: No.

MR. BALKARAN: Oh, I see.

MR. SCHREYER: That was the intent.

MR. G. JOHNSTON: Well I'm satisfied with that answer. The other question . . .

MR. SCHREYER: But take note, a member of the Assembly may.

MR. G. JOHNSTON: Can do. Section 31, page 17 . . .

MR. BALKARAN: Before we leave that, Mr. Premier, may I raise one more point. I'm not a member of this committee but . . .

MR. SCHREYER: Go ahead.

MR. BALKARAN: Where this type of a search is made, what immunity, if any, is there with respect to the person whose statement has been searched, for legal action to be taken based on that information?

MR. SCHREYER: Well give me a contingency.

MR. BALKARAN: What I'm getting at: There is information now made available to the public that could very well form the basis of legal action against a member who has filed a statement - some information has now come to the fore which the public might not ordinarily have been able to get; where the public knows he owns certain number of shares in some corporation, a person can now get a garnishment order and attach those shares, etc. etc.

MR. SCHREYER: Well I don't see the problem really.

MR. BALKARAN: Well I don't know. I mean is it intended that that right should be available to the person who made the search? As of now he couldn't do it because he doesn't know.

MR. SCHREYER: Ah, but he has alternative means of finding out, usually; not always but sometimes.

MR. CHAIRMAN: You are asking for some kind of immunity?

MR. BALKARAN: Oh, I'm not asking for that. I want to hear is it intended that this be used. In other words, in some legislation we have protection for people where this type of information is provided . . . that it cannot be used except for perjury and certain other things. Only at the last session we had some legislation going through - it escapes me at the moment now what . . .

MR. SCHREYER: No, I don't think we want to bestow any immunity here, Mr. Balkaran.

MR. BALKARAN: Fine, if that's the intent.

MR. CHAIRMAN: Have we finished the examination. Mr. Johnston.

MR. G. JOHNSTON: I have one other question. Page 17, section 31. "The council may pass a by-law declaring the municipality to be a committed municipality for the purposes of the Act." Would it be within a Council's rights to pass another by-law opting out?

MR. BALKARAN: No, they just want . . .

MR. G. JOHNSTON: Once they're in, they're in?

MR. BALKARAN: I guess the main by-law doesn't apply.

A MEMBER: No, but once they're in, if they want to get out.

MR. ENNS: No, but Mr. Johnston's point is that a council may decide to opt into this legislation, a subsequent council five years down the road may decide that they do not want to have this legislation.

A MEMBER: Rescind the by-law.

MR. ENNS: They rescind the by-law.

MR. BALKARAN: The power to enact a by-law carries with it the power to amend or repeal.

MR. SCHREYER: Yes, that was the assumption.

MR. BILTON: We have a suggestion from the Premier though that he's going to give further consideration to the municipal setup.

MR. SCHREYER: Well I . . . . it would be to an amendment to the Municipal Act, sir.

MR. CHAIRMAN: The business having been completed for the present time . . .

MR. SCHREYER: Mr. Chairman, just before you adjourn, I'd just like to point out to members of the committee that at the last meeting a certain file of documents was circulated with respect to proposed legislation on the registration of private pension plans and respecting the solvency thereof.

Now in the event that this committee is convened before the House meets, then it would be for the purpose of taking under consideration the provisions of the documents that were circulated and a possible draft bill that might be circulated in advance of the next meeting. That's just for information.

MR. CHAIRMAN: Thank you, Mr. Premier. The meeting stands adjourned.