

**Second Session - Thirty-Ninth Legislature**  
**of the**  
**Legislative Assembly of Manitoba**  
**Standing Committee**  
**on**  
**Justice**

*Chairperson*  
*Mr. Daryl Reid*  
*Constituency of Transcona*

**Vol. LX No. 11 - 7 p.m., Thursday, June 5, 2008**

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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Ninth Legislature**

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**LEGISLATIVE ASSEMBLY OF MANITOBA  
THE STANDING COMMITTEE ON JUSTICE**

**Thursday, June 5, 2008**

**TIME – 7 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Daryl Reid (Transcona)**

**VICE-CHAIRPERSON – Ms. Marilyn Brick (St. Norbert)**

**ATTENDANCE – 11 QUORUM – 6**

*Members of the Committee present:*

Hon. Mr. Chomiak, Hon. Mr. Swan

Mses. Braun, Brick, Mr. Goertzen, Ms. Korzeniowski, Messrs. Maguire, McFadyen, Mrs. Mitchelson, Mr. Reid, Ms. Selby

*Substitutions*

Mr. McFadyen for Mrs. Taillieu

**APPEARING:**

Mr. Kevin Lamoureux, MLA for Inkster  
Mr. Gerald Hawranik, MLA for Lac du Bonnet  
Mr. Cliff Graydon, MLA for Emerson

**WRITTEN SUBMISSIONS:**

Bill 26–The Legal Profession Amendment Act

Mr. Bill Gade, Private Citizen

**MATTERS UNDER CONSIDERATION:**

Bill 14–The Criminal Property Forfeiture Amendment Act

Bill 26–The Legal Profession Amendment Act

Bill 35–The Statutes Correction and Minor Amendments Act, 2008

Bill 37–The Lobbyists Registration Act and Amendments to The Elections Act, The Elections Finances Act, The Legislative Assembly Act and The Legislative Assembly Management Commission Act

Bill 39–The Court of Appeal Amendment Act

Bill 40–The Drivers and Vehicles Amendment, Highway Traffic Amendment and Manitoba Public Insurance Corporation Amendment Act

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**Mr. Chairperson:** Will the Standing Committee on Justice please come to order. Good evening, everyone. Welcome back.

This meeting has been called to consider the following bills: Bill 14, The Criminal Property Forfeiture Amendment Act; Bill 26, The Legal Profession Amendment Act; Bill 35, The Statutes Correction and Minor Amendments Act, 2008; Bill 37, The Lobbyists Registration Act and Amendments to The Elections Act, The Elections Finances Act, The Legislative Assembly Act and The Legislative Assembly Management Commission Act; Bill 39, The Court of Appeal Amendment Act; Bill 40, The Drivers and Vehicles Amendment, Highway Traffic Amendment and Manitoba Public Insurance Corporation Amendment Act.

At our previous meeting, last night, Mr. Goertzen moved the following motion and amendment:

THAT this committee recommend to the House that Mr. Preston Manning be asked to make a special presentation before the committee to address issues related to Bill 37 and its democratic principles.

THAT the motion be amended by adding the words "and Ed Schreyer" after Preston Manning.

The motion and amendment were both ruled in order, and at the time of adjournment, Mr. Maguire was speaking to the amendment with eight minutes remaining.

Mr. Maguire, did you wish to continue remarks, sir?

**Mr. Larry Maguire (Arthur-Virden):** No, I will turn that over to my House leader.

**Mr. Chairperson:** Thank you, Mr. Maguire.

**Mr. Kelvin Goertzen (Steinbach):** I think that the motion and the amendment to the motion were substantive and worth debate. I think that the point has been made. I wonder if there's leave of the committee to withdraw both the motion and the amendment to the motion.

**Mr. Chairperson:** Is there leave of the committee to withdraw the amendment and the main motion itself? *[Agreed]*

**Mr. Goertzen:** Also, it's come to my attention that there might be some matters that need to be attended to, and I wonder if it's the will of this committee to recess at the call of the Chair.

**Mr. Chairperson:** Is there leave of the committee to allow this committee to recess and to be reconvened at the call of the Chair to allow some Chamber matters to be dealt with? *[Agreed]*

I will notify the various caucus committees when this committee is about to reconvene.

*The committee recessed at 7:09 p.m.*

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*The committee resumed at 10:50 p.m.*

\* (22:50)

**Mr. Chairperson:** Order, please. Will the Standing Committee on Justice please come to order.

Prior to the recess we had some business that's unfinished for this committee. But before I start with the business of this committee, I'd like to indicate to committee members that we have a substitution: Mr. McFadyen for Mrs. Taillieu.

Now, to proceed with the business of the committee, we have received written submissions and an attachment on Bill 26 from Bill Gade which has been distributed to committee members that, perhaps, you have in front of you. Does the committee agree to have this submission included with the *Hansard* transcript of this particular committee meeting? *[Agreed]*

In what order does the committee wish to proceed with clause-by-clause consideration of these bills? Is it bill—

**Hon. Andrew Swan (Minister of Competitiveness, Training and Trade):** I believe we'd like to start with Bill 37 and then proceed through the others in numerical order.

**Mr. Chairperson:** Is it agreed that this committee will proceed with starting with Bill 37 until concluded the clause-by-clause consideration, and then proceed with the other bills in numerical order? *[Agreed]*

**Bill 37—The Lobbyists Registration Act and Amendments to The Elections Act, The Elections Finances Act, The Legislative Assembly Act and The Legislative Assembly Management Commission Act**

**Mr. Chairperson:** During the consideration of a bill, the table of contents, the enacting clauses and the titles are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, I will call the clauses in blocks that conform to pages with the understanding that I will stop at any particular clause or group of clauses that members may have comments, questions or amendments to propose, and we'll give members, hopefully, adequate time to propose their amendments. Is that agreed? *[Agreed]*

We'll now proceed by clause-by-clause consideration of the bills.

**Mr. Hugh McFadyen (Leader of the Official Opposition):** Mr. Chairman, there's been some discussion between the government and opposition on some of the amendments to come forward tonight.

I wonder if we could get leave of the committee to deal first with the government amendments and then to revert back to the beginning of the bill to deal with some opposition amendments, and go on a clause-by-clause basis—and on that basis.

**Mr. Chairperson:** It has been proposed by Mr. McFadyen in a request for leave to have this committee move through clause-by-clause consideration of Bill 37 starting with government amendments that may be proposed, and then reverting back to the beginning of the bill for any amendments that may be proposed by opposition members. Is that agreed? *[Agreed]*

Thank you to members of the committee. We'll now proceed with clause-by-clause consideration of Bill 37.

Does the minister responsible for Bill 37 have an opening statement?

**Hon. Dave Chomiak (Minister of Justice and Attorney General):** No, Mr. Chairperson.

**Mr. Chairperson:** I thank the honourable minister.

Does the critic for the official opposition have an opening statement?

**Mr. McFadyen:** No, Mr. Chairman.

**Mr. Chairperson:** I thank the honourable member.

For the information of committee members, due to the structure of this bill, as I call the clauses I will be referencing which part of the bill they are from by noting the schedule they are contained within.

We'll start with Schedule A, The Lobbyists Registration Act, page 3.

Shall clause 1, in Schedule A pass?

**Some Honourable Members:** Pass.

**An Honourable Member:** One moment.

**Mr. Chomiak:** Yes, I wonder if we might have a moment just to organize.

**Mr. Chairperson:** Yes, that's fine.

*The committee recessed at 10:55 p.m.*

*The committee resumed at 11:09 p.m.*

**Mr. Chairperson:** Order, please. We'll call the Standing Committee on Justice back to order.

We're proceeding with clause-by-clause consideration of Bill 37 and we're at Schedule A, The Lobbyists Registration Act, page 3.

Clause 1 in schedule A—pass; clause 2 in schedule A—pass. Shall clause 3 in Schedule A pass?

\* (23:10)

**Hon. Andrew Swan (Minister of Competitiveness, Training and Trade):** Yes, thank you, Mr. Chairperson. I move,

*THAT Clause 3(1)(e) of Schedule A of the Bill be replaced with the following:*

(e) officers, directors or employees of a charitable or not-for-profit organization, unless the organization is constituted to serve employer, union or professional interests or the interests of for-profit organizations;

**Mr. Chairperson:** It's been moved by the Honourable Minister Swan,

*THAT Clause 3(1)(e) of Schedule A of the Bill be replaced with the following:*

(e) officers, directors—

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense. The amendment is in order. Any further discussion? Minister Swan.

**Mr. Swan:** Yes, Mr. Chairperson, this amendment, as members will see, is in a section which provides a

number of exemptions under The Lobbyists Registration Act, and we believe this section will better clarify the nature of the exemption.

**Mr. Chairperson:** Questions? No further questions?

Amendment to clause 3(1)(e)—pass; clause 3 as amended in schedule A—pass; clause 4 in schedule A—pass; clauses 5 and 6 in schedule A—pass; clauses 7 through 9 in schedule A—pass; clause 10 in schedule A—pass.

Shall clause 11 pass? Honourable Minister Swan?

**Mr. Swan:** Thank you, Mr. Chairperson. I move,

*THAT Clause 11 of Schedule A of the Bill be renumbered as Clause 11(1) and the following be added as Clause 11(2):*

### **Independence**

**11(2)** The person appointed as registrar must be one of the independent officers of the Assembly or the commissioner under *The Legislative Assembly and Executive Council Conflict of Interest Act*, or a person on the staff of one of them.

**Mr. Chairperson:** It has been moved by Honourable Minister Swan,

*THAT Clause 11 of Schedule A of the Bill be renumbered as Clause 11(1) and the following be added as Clause 11(2)—*

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense. The motion is in order. Minister Swan?

**Mr. Swan:** Thank you, Mr. Chairperson. The intention of this amendment is to clarify that the registrar will indeed be one of the independent officers of the Assembly to make sure that the process is transparent and fair to all parties.

**Mr. Chairperson:** Further comment, committee members?

Ready for the question?

**Mr. Kevin Lamoureux (Inkster):** Can the minister just explain. How do you make the determination which one it would be? How do you know if it's going to be the Ombudsman's office, the Auditor's office, or Elections Manitoba office?

**Mr. Swan:** Yes, I can tell the Member for Inkster that that final determination of which independent officer would be made by the Lieutenant-Governor-in-Council.

**Mr. Lamoureux:** Is it safe to request just a commitment that that individual, I would think, should have at least LAMC, you know, that LAMC should be consulted with? Now I realize that maybe not in the form of an amendment, but even just some indication that the minister would be content as a minister to see it actually, at least referred to LAMC, as to which one it should be.

**Mr. Swan:** I can maybe provide a bit more detail. Although we're still in discussions, it is hoped that when the FIPPA bill passes, it would, indeed, be the FIPPA commissioner that would have the responsibility to do that.

**Mr. Chairperson:** Any further comments or questions? Ready for the question?

**An Honourable Member:** Question.

**Mr. Chairperson:** Do you wish the motion read back?

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense. Amendment—pass; clause 11 as amended in schedule A—pass; clause 12 in schedule A—pass; clauses 13 through 15 in schedule A—pass; clauses 16 through 18 in schedule A—pass; clauses 19 through 21 in schedule A—Mr. Swan.

**Mr. Swan:** Yes, thank you, Mr. Chairperson. I move *THAT the following be added after Clause 19 of Schedule A:*

#### CONSEQUENTIAL AMENDMENT

*Consequential amendment, C.C.S.M. c F175*

**19.1** *The definition "officer of the Legislative Assembly" in section 1 of **The Freedom of Information and Protection of Privacy Act** is amended by adding "the registrar appointed under **The Lobbyists Registration Act,**" after "Auditor General,".*

**Mr. Chairperson:** It has been moved by Minister Swan,

*THAT the following be added after Clause 19 of—*

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

The motion is in order.

**Mr. Swan:** I think that the Member for Inkster may have been ahead of his time because this then clarifies the question that he asked.

**Mr. Hugh McFadyen (Fort Whyte):** Question for the minister. The regulation-making power is left with the Lieutenant-Governor-in-Council under section 19. I want to ask: Is that the norm when it's an independent officer that serves as the registrar or commissioner in a situation like this?

**Mr. Swan:** Yes, I can advise the member that none of the independent officers of the Legislature have any regulation-making authority under their enabling legislation.

**Mr. McFadyen:** One of the fundamental prerequisites of being independent would be to have some discretion over the matters that are dealt with under the regulation-making powers here. Would it be normal to have, on the advice of the independent officer, prior to the words "Lieutenant-Governor-in-Council?"

\* (23:20)

**Mr. Swan:** Yes, I'll try to provide the best answer I can to the member again because there are no regulation-making powers for the independent officers. This may be a slightly different situation. Our expectation is that, if this government or any subsequent government went ahead to try and have an independent officer follow regulations that hadn't been discussed, the independent officer would let the government know about it in their next report. I don't think any flavour of government would want to have to deal with that.

**Mr. McFadyen:** The concern is that the regulation-making power gives Cabinet quite a lot of leverage versus that independent officer. I believe, and I stand to be corrected, that the other independent officers, such as the Chief Electoral Officer and other officers of the Legislature, have issued guidelines that might deal with some of the issues that are contained in section 19.

I wonder if it might make sense to simply repeal 19, even if we pass 19.1.

**Mr. Swan:** Legislative Counsel pointed out two things, the first under section 17 of the bill as drafted. The independent officer would have the right to issue advisory opinions and interpretation bulletins. I'm also advised by Legislative Counsel, they quickly checked the three other jurisdictions in Canada that have an independent officer serving in a similar function under the lobbyist registration. They tell me that all three of those jurisdictions also provide for the Lieutenant-Governor-in-Council making regulations dealing with that office.

**Mr. McFadyen:** I'll just make a final comment because I don't want us to get hung up on this provision for too long. We'll have an opportunity for amendments at report stage, when the bill comes back. Under the sessional order that's been agreed to, this bill is going to come back in the fall.

Can I just ask the minister if, in the meantime, we could just undertake to take a look at this issue and see if it might make some sense to either amend or repeal some of these regulations to the extent that they might impinge on the independence of the commissioner?

**Mr. Swan:** Yes, we will take a closer look at how the other jurisdictions that have a similar provision have dealt with this. We will undertake to review it, if there's an improvement that could be made.

**Mr. Chairperson:** Committee ready for the question?

**An Honourable Member:** Question.

**Mr. Chairperson:** Do you wish to have the amendment reread? Dispense.

Amendment—pass; clause 19 as amended—pass; clause 20 in schedule A—pass; clause 21 in schedule A—pass.

We'll now proceed with schedule B, The Elections Amendment Act, on page 17.

Clauses 1 through 5 in schedule B—pass. Shall clause 6 in schedule B pass? Mr. Lamoureux.

**Mr. Lamoureux:** Mr. Chairperson, there is no amendment, I assume, to that particular clause.

I know that there is a great deal—and we've heard it in terms of public presentation—of interest with regard to, is this actually a set date. I'm referring to 49.1(2), where it has cast a shadow of doubt. The Premier (Mr. Doer) has been fairly clear inside the Chamber, and I guess it's just to, more so, give notice, much like what the Leader of the Official Opposition just did, is to indicate that maybe there might be merit in terms of a third reading report stage amendment.

What I would request that the government give consideration to is the suggestion that a better fixed date, or set date, as I prefer to call it, be in the last week of October as opposed to June, just based on the presentations that were made. I'm not in a position to move an amendment, but I do think it's worthy in terms of the government reflecting over

the summer period in hopes that they might see the merits of making it a little bit better. Thank you.

**Mr. Swan:** I can let the Member for Inkster know that, when drafting this provision, the drafters did take a look at other jurisdictions, in particular Ontario and Saskatchewan. I'm advised that those jurisdictions have the same type of provision. Of course, the idea is the general election would be held on Tuesday, June 14, 2011.

As I think everybody's aware, nothing can take away from the power of the Lieutenant-Governor to dissolve. We don't expect that would happen in this province because of the current distribution of seats among the parties, but there's nothing that can be done to take away the ultimate control of the Lieutenant-Governor.

Perhaps over the summer with more time to reflect, the member can take a look at the Ontario act and the Saskatchewan act. We can have a discussion on how that works, but I don't expect the government will be coming back with a report stage amendment. The opposition may choose to.

**Mr. McFadyen:** Mr. Chairperson, just on a procedural point, I made the point earlier seeking leave to deal with certain amendments that have been the subject of discussion among the parties previously. The Sessional Order that's being ratified in the House as we speak has a midnight deadline of tonight to file amendments to get them through report stage. So what I would want to ask is that we move to Schedule C, deal with the amendments that had been the subject of discussion, and then come back.

I know there are issues throughout the bill that we would like to see dealt with, and I agree with what the Member for Inkster (Mr. Lamoureux) is saying, but there is I think a need to move forward with some of the other amendments. Then I think the committee has agreed that we'll come back and go clause by clause and decide whether it is the will of the committee to deal with the amendments in committee or defer until report and third reading in the fall.

**Mr. Chairperson:** It's my understanding on the provisions of the agreement that, as long as all of the amendments are in the hands of the Clerk of this committee prior to midnight, then this committee has the ability to deal with all of the amendments that would be proposed between the midnight hour and 1 a.m. That would give members the opportunity to

have further consideration of each of those amendments.

I hope I've explained that clearly.

\* (23:30)

**Mr. McFadyen:** I think you have. So we'll continue with clause by clause, again subject to the agreement earlier, that we would revert to the beginning after we get through the amendments to be introduced by the Member for Minto.

**Mr. Chairperson:** All right, are we ready to proceed?

Clause 6 in schedule B-pass; clause 7 in schedule B-pass; clause 8 in schedule B-pass; clause 9 in schedule B-pass; clause 10 in schedule B-pass; clauses 11 and 12 in schedule B-pass; clauses 13 and 14 in schedule B-pass; clauses 15 and 16 in schedule B-pass; clauses 17 and 18 in schedule B-pass; clauses 19 through 21 in schedule B-pass; clauses 22 through 25 in schedule B-pass; clause 26 in schedule B-pass; clauses 27 through 29 in schedule B-pass.

We will now proceed with schedule C, The Elections Finances Amendment Act, page 31.

Clause 1 in schedule C-pass; clause 2 in schedule C-pass. Shall clause 3 in schedule C pass?

**Mr. Swan:** I move

*THAT Clause 3 of Schedule C to the Bill be struck out.*

**Mr. Chairperson:** It's been moved by Minister Swan

*THAT Clause 3 of Schedule C to the Bill be struck out.*

This amendment is out of order because it seeks to delete a clause in the bill.

As Marleau and Montpetit noted on page 655, an amendment is out of order if it simply attempts to delete a clause since, in that case, all that needs to be done is to vote against the adoption of the clause in question. Therefore, this amendment cannot be considered by this committee.

**Mr. Swan:** With that in mind, I will encourage members of the committee to vote against this provision. By doing so, we would remove the inflation adjustment which was contained in the bill, as introduced in the Legislature.

**Mr. Chairperson:** Is the committee ready for the question? Wish to have the amendment reread? Dispense.

Shall clause 3 in schedule C pass?

**Some Honourable Members:** No.

**Mr. Chairperson:** Clause 3 in schedule C is accordingly defeated.

Clause 4 in schedule C-pass; clauses 5 and 6 in schedule C-pass.

Shall clause 7 in schedule C pass?

**Mr. Swan:** Yes. Just before moving a motion that might be ruled out of order, I'll be encouraging members of the committee to vote against clause 7. This also, by doing that, we would delete the inflation adjustment which was contained in the bill as presented to the Legislature.

**Mr. Chairperson:** Shall clause 7 in schedule C pass?

**Some Honourable Members:** No.

**Mr. Chairperson:** Clause 7 in schedule C is accordingly defeated.

Clause 8 in schedule C-pass; clause 9 in schedule C-pass; clause 10 in schedule C-pass.

Shall clause 11 in schedule C pass?

**Mr. Swan:** Mr. Chairperson. I move

*THAT Schedule C to the Bill be amended by replacing Clause 11(1) with the following:*

*11(1) Subsections 54.1(1) and (2) are replaced with the following:*

**Advertising expense limits for year of fixed date elections:**

**54.1(1)** In the year of a fixed date election, the total advertising expenses incurred outside an election period

(a) by a registered political party shall not exceed \$150,000; and

(b) by a candidate shall not exceed \$5,000.

**Expenses incurred by others**

**54.1(2)** For the purposes of this section, advertising expenses are incurred

(a) by a registered political party if the expenses are incurred



(i) by an individual on the party's behalf with its knowledge and consent, or

(ii) by a constituency association of the party; and

(b) by a candidate if the expenses are incurred by an individual on the candidate's behalf with the candidate's knowledge and consent.

**Mr. Chairperson:** It's been moved by Minister Swan—

**Mr. Swan:** Dispense.

**Mr. Chairperson:** Dispense. Comments, questions?

**Mr. Swan:** I can just tell committee members that this section enhances some of the initially proposed limits on spending in an election year.

**Mr. Chairperson:** The amendment is in order.

Further comment?

**Mr. McFadyen:** And in addition to what the minister has indicated, it further enhances the freedom of political parties to communicate in non-election years.

**Mr. Chairperson:** Further comments?

Seeing none, is the committee ready for the question?

**Some Honourable Members:** Question.

**Mr. Chairperson:** Do you wish to have the amendment reread?

**Some Honourable Members:** Dispense.

**Mr. Chairperson:** Dispense.

Amendment—pass. Shall—

**Mr. Swan:** Yes. I move

*THAT the proposed subsection 54.1(6), as set out in Clause 11(3) of Schedule C to the Bill, be amended*

*(a) in the part before clause (a), by striking out "by a registered political party in producing and distributing" and substituting "in respect of";*

*(b) in clause (b), by adding "or candidate" after "party"; and*

*(c) in the part after clause (b), by adding "that a registered political party or candidate produces and distributes, if the material is distributed outside the election period in that year," before "but".*

\* (23:40)

**Mr. Chairperson:** It's been moved by Minister Swan

*THAT the proposed subsection—*

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

Comments or question on the amendment?

**Mr. Swan:** This is a further amendment to the provisions dealing with the political parties' communication with constituents.

**Mr. Chairperson:** The amendment was in order.

**Mr. McFadyen:** As I understand it, it clarifies that materials that are printed in advance of a writ period, in a fixed date election year, are not included within the \$150,000 cap as long as they're distributed during the election period.

**Mr. Swan:** Yes.

**Mr. Chairperson:** Any further comments or questions?

Is the committee ready for the question?

**An Honourable Member:** Question.

**Mr. Chairperson:** Do you wish to have the motion reread?

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

Amendment—pass; clause 11 as amended in schedule C—pass; clause 12 in schedule C—pass; clause 13 in schedule C—pass; clause 14 in schedule C—pass.

Shall clause 15 in schedule C pass?

**Mr. Swan:** I move

*THAT Clause 15 of Schedule C to the Bill be amended by striking out the proposed subsection 70.2(5).*

**Motion presented.**

**Mr. Chairperson:** The amendment is in order.

**Mr. Swan:** Again, similar to some other provisions we've dealt with tonight, this would remove the indexing to inflation.

**Mr. Chairperson:** Any further comment or question?

Is the committee ready for the question?

**An Honourable Member:** Question.

**Mr. Chairperson:** Amendment—pass.

Shall clause 15 as amended in schedule C pass?

**Some Honourable Members:** Pass.

**Some Honourable Members:** No.

**Mr. Chairperson:** I hear a no.

#### Voice Vote

**Mr. Chairperson:** All those in favour of clause 15 as amended in schedule C, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\* \* \*

**Mr. Chairperson:** Clause 15 as amended in schedule C is accordingly passed, on division.

Clause 16 in schedule C—pass.

Shall clause 17 in schedule C pass?

**An Honourable Member:** Pass.

**Some Honourable Members:** No.

**Mr. McFadyen:** With respect to clause 17, there have been several issues with respect to the way in which Elections Manitoba communicates the results of investigations. Accordingly, we believe that there is a need for greater transparency in the way those investigations are conducted and then publicly reported. So I would propose an amendment and just bear with me for a second.

Mr. Chairperson, I move

*THAT the proposed subsection 77.3.1(3), as set out in Clause 17 of Schedule C to the Bill be replaced with the following:*

#### Notice of Investigation

**77.3.1(3)** The commissioner shall make public the outcome of all investigations and may include, in the

commissioner's discretion, in the publicly recorded information

(a) the name of each person investigated;

(b) the nature of the matter investigated with reference to the relevant sections of this or any other Act; and

(c) the disposition of the investigation and reasons for the disposition.

**Mr. Chairperson:** It has been moved by Mr. McFadyen

*THAT the proposed subsection 77—dispense?*

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense. The amendment is in order. Comments?

**Mr. McFadyen:** There have been several investigations undertaken by Elections Manitoba over the years where information was put into the public sphere about the fact that an investigation had taken place, but on the conclusion of that investigation, it had been communicated that either charges had not been proceeded with or that the investigation had been concluded, and in some cases not even communications to that extent.

Mr. Chairman, we believe it's in the public interest for there to be a higher level of disclosure when investigations are undertaken. Certainly this has been a point of contention for the news media as well as members of the public, and we believe it's important that there be some guidelines provided to the Chief Electoral Officer in terms of how they handle the public communication of investigations undertaken pursuant to The Elections Act. I would therefore encourage members to support the amendment.

**Mr. Lamoureux:** I just want to fully endorse the motion that has been moved by the Leader of the Official Opposition. I just couldn't echo loud enough just how important it is that this particular amendment actually pass for the committee. I think it's an issue of transparency. It's the right thing to do. Thank you.

**Mr. Chairperson:** Is the committee ready for the question?

**An Honourable Member:** Question.

**Mr. Chairperson:** Do you wish to have the amendment reread? Dispense?

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Shall the amendment pass?

**Some Honourable Members:** No.

**Some Honourable Members:** Pass.

**Voice Vote**

**Mr. Chairperson:** All those in favour of the amendment, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those please signify by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Nays have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\* \* \*

**Mr. Chairperson:** The amendment is accordingly defeated, on division.

Shall clause 17 in schedule C pass?

**Some Honourable Members:** Pass.

**Some Honourable Members:** No.

**Voice Vote**

**Mr. Chairperson:** All those in favour of clause 17 in schedule C, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\* \* \*

**Mr. Chairperson:** Clause 17 in schedule C is accordingly passed, on division.

Clause 18 in schedule C—pass. Shall clause 19 in schedule C pass?

**Some Honourable Members:** No.

**Some Honourable Members:** Pass.

**Mr. Chairperson:** No?

**Voice Vote**

**Mr. Chairperson:** All those in favour of clause 19 in schedule C, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\* \* \*

**Mr. Chairperson:** Clause 19 in schedule C is passed, on division.

Clause 20 in schedule C—pass; clause 21 in schedule C—pass;

\* (23:50)

Just for the information of committee members, prior to proceeding with schedule D, any member of the committee who wishes to move an amendment during clause-by-clause consideration of a bill, after 12 midnight on that day, must file 15 copies of the amendment with the Clerk of the committee by 12 midnight on that day. The Clerk must distribute the amendment to members of the committee. This is for sessional orders that were just passed a short time ago.

I trust, then, with that information, committee members who may have amendments to propose will have filed them with the Clerk of this committee prior to the midnight hour.

We'll now proceed with schedule D, The Legislative Assembly Amendment Act, page 44 of your legislation, your bill.

Clause 1 in schedule D—pass. Shall clause 2 in schedule D pass?

**Mr. Swan:** Yes, I move

*THAT Clause 2(1) of Schedule D to the Bill be amended by striking out the proposed subsection 52.22(4.2)*

**Motion presented.**

**Mr. Chairperson:** The amendment is in order. Comment. Questions?

**Mr. Swan:** This would delete the provision in the bills presented to the Legislature, providing the mailing and printing privileges are subject to the LAMC criteria or guidelines.

**Mr. Chairperson:** Further comment? Is the committee ready for the question? Do you wish to have the amendment reread?

**Some Honourable Members:** Dispense.

**Mr. Chairperson:** Dispense.

Amendment—pass; clause 2 as amended in schedule D—pass; clause 3 in schedule D—pass; clause 4 in schedule D—pass; clause 5 in schedule D—pass.

We'll now proceed with schedule E, The Legislative Assembly Management Commission Amendment Act, page 46 of your bill.

Clause 1 in schedule E—pass. Shall clause 2 in schedule E pass?

**Mr. Swan:** I move

*THAT Clause 2 of Schedule E to the Bill be amended by replacing the proposed section 6.1 with the following:*

**Criteria or guidelines**

**6.1(1)** The commission must, as soon as reasonably practicable after the coming into force of this section, establish criteria or guidelines to ensure public funds are used appropriately in respect of

(a) material printed, mailed or distributed electronically; and

(b) advertising in newspapers, magazines or other periodicals, on the Internet, on radio or television, or on billboards, buses or other property normally used for commercial advertising;

by members and by caucuses of recognized political parties.

**Definition: "public funds"**

**6.1(2)** In subsection (1), "public funds" means

(a) money paid under section 52.23 of *The Legislative Assembly Act*; and

(b) money that is appropriated by the Legislature

(i) to enable a member to communicate with his or her constituents, or

(ii) for use by a caucus of a recognized political party or a member who does not belong to the caucus of a recognized political party.

**Parties without a commissioner to have a member invited**

**6.1(3)** When calling a meeting of the commission to consider the criteria or guidelines to be established under this section or the mailing expense budget to be established under section 6.3, the Speaker or the presiding commissioner, as the case may be, must also invite a member who has been designated by a political party that is represented in the Assembly but that is not represented on the commission.

**Interim criteria or guidelines**

**6.1(4)** If the Speaker is satisfied that the commission has been unable to develop the criteria or guidelines under subsection (1) in a timely fashion and by consensus, the Speaker must, after consulting with the leaders of the political parties represented in the Assembly, appoint an individual whose duty is to prepare interim criteria or guidelines.

**Distribution and Effective Date**

**6.1(5)** Once the individual appointed by the Speaker has prepared the interim criteria or guidelines, he or she must file them with the Speaker, who must then distribute copies to each member. The interim guidelines are effective on the date they are distributed by the Speaker and remain effective until criteria or guidelines are established under subsection (1).

**Mr. Chairperson:** It's been moved—

**Some Honourable Members:** Dispense.

**Mr. Chairperson:** Dispense.

**Mr. Swan:** Yes, I feel like Cinderella running down the steps as the clock is striking 12. Obviously, this section will amend some of the drafted provisions regarding the criteria of guidelines for mailings that individual members of this Assembly make.

**Mr. Chairperson:** The amendment is in order. Any further comment?

**Mr. Lamoureux:** Again, just for clarification, my understanding is that it includes independence—that's when I read the word "members" in the whole process.

**Mr. Swan:** That's correct.

**Mr. Chairperson:** Further comments or questions?

Committee ready for the question? Do you wish to have the amendment reread?

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

Shall the amendment—Mr. Hawranik.

**Mr. Gerald Hawranik (Lac du Bonnet):** No, go ahead. I thought we were in some other position on this—go ahead.

**Mr. Chairperson:** Okay?

**Mr. Hawranik:** Yes.

**Mr. Chairperson:** Shall the amendment pass?

**Some Honourable Members:** Pass.

**Some Honourable Members:** No.

#### Voice Vote

**Mr. Chairperson:** No? All those in favour of the amendment, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, by saying nay.

In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** The amendment is accordingly passed, on division.

\* \* \*

**Mr. Swan:** I move

*THAT Clause 2 of Schedule E to the Bill be amended by adding the following after the proposed subsection 6.3(1):*

#### Minimum mailing expense budget: 2009-11 fiscal years

**6.3(1.1)** For the 2009-10 and 2010-11 fiscal years,

(a) the total amount of the mailing expense budget established under subsection (1) must not be less than the average of the annual amounts expended by the members in the five fiscal years immediately preceding the 2009-10 fiscal year; and

(b) the percentage of the budget allocated

(i) to the official opposition must not be less than the average percentage of the mailing expense budget expended by the official opposition in each of the five fiscal years

immediately preceding the 2009-10 fiscal year, and

(ii) to independent members must not be less than the average percentage of the mailing expense budget expended by independent members in each of the five fiscal years immediately preceding the 2009-10 fiscal year.

#### Franking expenses excluded

**6.3(1.2)** For the purpose of determining the amounts expended under subsection (1.1), the expenses incurred under subsections 52.22(1) and (3) of *The Legislative Assembly Act* are excluded.

**Mr. Chairperson:** It has been moved by Minister Swan that—dispense?

**An Honourable Member:** Dispense.

**Mr. Chairperson:** The amendment is in order. Comment? Questions?

**Mr. Hawranik:** Yes, I would move

*THAT the amendment to Clause 2 of Schedule E to the Bill be amended in the proposed section 6.3(1.1) by striking out "five" wherever it appears and substituting "three".*

**Mr. Chairperson:** It has been moved by Mr. Hawranik that the amendment to—

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

The subamendment is in order. Comment? Questions?

**Hon. Dave Chomiak (Minister of Justice and Attorney General):** Yes, Mr. Chairperson, so, from what I understand of the subamendment, the proposal is that a three-year average be used in all cases in that subamendment, rather than the five-year average that had been proposed in the amendment.

**Mr. Hawranik:** That's correct.

**Mr. Lamoureux:** Three years average, we're talking about the years '06-07, '07-08 and '08-09. Correct?

**Mr. Hawranik:** Yes, that's correct.

**Mr. Chairperson:** Committee ready for the question?

**An Honourable Member:** Question.

**Mr. Chairperson:** Do you wish to have the subamendment reread?

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

Subamendment—pass; amendment as amended—pass; clause 2 in schedule E as amended—pass, on division; clause 3 in schedule E—pass.

As previously agreed, now this committee will revert to the schedules of this bill to allow for opposition members who may have amendments to propose.

Are there any further amendments by members of this committee to Bill 37? No further amendments?

For the information of this committee, I will ask you now to turn to the beginning of the bill where the following items require our consideration, in the following order:

The table of contents for Schedule A, the five enacting clauses for schedules on pages 1 and 2, the coming-into-force clause (6) on page 2, the main enacting clause on page 1, and the bill title.

Table of contents in schedule A—pass.

Shall clause 1, the enacting clause for schedule A, The Lobbyists Registration Act, pass?

**Some Honourable Members:** Pass.

**Some Honourable Members:** No.

#### Voice Vote

**Mr. Chairperson:** All those in favour of clause 1, the enacting clause for schedule A, The Lobbyists Registration Act, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\*\*\*

**Mr. Chairperson:** Clause 1, enacting clause 1 for schedule A, The Lobbyists Registration Act, is accordingly passed, on division.

Shall the enacting clause 2 for schedule B, The Elections Amendment Act, pass?

**Some Honourable Members:** Pass.

**Some Honourable Members:** No.

#### Voice Vote

**Mr. Chairperson:** All those in favour of clause 2 for schedule B, The Elections Amendment Act, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\*\*\*

**Mr. Chairperson:** Enacting clause 2 for schedule B, The Elections Amendment Act, is accordingly passed, on division.

Shall enacting clause 3 for schedule A, The Elections Finances Amendment Act, pass?

**Some Honourable Members:** Pass.

**Some Honourable Members:** No.

#### Voice Vote

**Mr. Chairperson:** All those in favour of clause 3 for schedule C, The Elections Finances Amendment Act, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\*\*\*

**Mr. Chairperson:** Enacting clause 3 for schedule C, The Elections Finances Amendment Act, is accordingly passed, on division.

Shall enacting clause 4 for schedule D, The Legislative Assembly Amendment Act, pass?

**Some Honourable Members:** Pass.

**Some Honourable Members:** No.

**Voice Vote**

**Mr. Chairperson:** All those in favour of clause 4 for schedule D, The Legislative Assembly Amendment Act, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\* \* \*

**Mr. Chairperson:** Enacting clause 4 for schedule D, The Legislative Assembly Amendment Act, is accordingly passed, on division.

\* (00:10)

Shall enacting clause 5 for schedule E, The Legislative Assembly Management Commission Amendment Act, pass?

**Some Honourable Members:** Pass.

**Some Honourable Members:** No.

**Voice Vote**

**Mr. Chairperson:** All those in favour of clause 5, schedule E, The Legislative Assembly Management Commission Act, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\* \* \*

**Mr. Chairperson:** Enacting clause 5 for schedule E, the Legislative Assembly Management Commission Amendment Act is accordingly passed, on division.

Shall clause 6 pass?

**Some Honourable Members:** Pass.

**An Honourable Member:** No.

**Voice Vote**

**Mr. Chairperson:** All those in favour of clause 6, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

\* \* \*

**Mr. Chairperson:** Clause 6 is accordingly passed, on division.

Shall the enacting clause pass?

**Some Honourable Members:** Pass.

**Some Honourable Members:** No.

**Voice Vote**

**Mr. Chairperson:** All those in favour of the enacting clause passing, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\* \* \*

**Mr. Chairperson:** The enacting clause is accordingly passed, on division.

Shall the title pass?

**An Honourable Member:** Pass.

**Some Honourable Members:** No.

**Voice Vote**

**Mr. Chairperson:** All those in favour of the title passing, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\* \* \*

**Mr. Chairperson:** The title is accordingly passed, on division.

Shall the bill as amended be reported?

**An Honourable Member:** Agreed.

**Some Honourable Members:** No.

#### Voice Vote

**Mr. Chairperson:** All those in favour of the bill being reported, please signify by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, signify by saying nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In the opinion of the Chair, the Yeas have it.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

\* \* \*

**Mr. Chairperson:** The bill shall be reported as amended, on division.

That concludes the business of Bill 37, clause by clause.

#### Bill 26—The Legal Profession Amendment Act

**Mr. Chairperson:** We'll now proceed with consideration, clause by clause, for Bill 26, The Legal Profession Amendment Act.

Does the minister responsible for Bill 26 have an opening statement?

**Hon. Andrew Swan (Minister of Competitiveness, Training and Trade):** This bill amends The Legal Profession Act to enhance the ability of the Law Society of Manitoba to protect the public interest in the delivery of legal services.

I can assure all members of the committee that not only was there consultation with the Law Society, but, indeed, this bill was requested by the Law Society, and we're pleased to move it ahead.

**Mr. Chairperson:** I thank the honourable minister. Does the critic for the official opposition have an opening statement on Bill 26?

**Mr. Gerald Hawranik (Lac du Bonnet):** No, none other than we support it, as we've indicated prior.

**Mr. Chairperson:** I thank the critic for the official opposition. We'll now proceed with clause-by-consideration.

Clauses 1 through 4—pass; clauses 5 and 6—pass; clauses 7 through 9—pass; enacting clause—pass; title—pass. Bill be reported.

Thank you to members of the committee for your co-operation.

#### Bill 35—The Statutes Correction and Minor Amendments Act, 2008

**Mr. Chairperson:** We'll now proceed with clause-by-clause consideration for Bill 35, The Statutes Correction and Minor Amendments Act, 2008.

Does the minister responsible for Bill 35 have an opening statement?

**Hon. Andrew Swan (Minister of Competitiveness, Training and Trade):** As is the time-honoured tradition in this Legislature, this is a bill which is brought forward to correct typographical numbering and other drafting errors. This year's edition makes minor amendments to various acts. It also repeals an obsolete act.

**Mr. Chairperson:** Thank the honourable minister for the opening statement.

Does the critic for the official opposition have an opening statement?

**Mr. Hugh McFadyen (Fort Whyte):** I don't know that I'm the critic, but I would like to offer some critic—constructively critical comments.

This is one of the bills that, pursuant to the sessional order, is being carried over until the fall. Accordingly, we are now beyond midnight and unable to file amendments at committee stage.

As a result of that, I would just want to put on the record that there are some provisions of this act which would appear to be substantive and go beyond merely consequential amendments. We would therefore say, that, certainly, there's an agreement to have this bill pass through committee tonight according to the sessional order, but opposition may very well have amendments to be introduced at report stage.



**Mr. Chairperson:** Thank the Leader of the Official Opposition for the opening statement.

We'll now proceed with clause-by-clause consideration of Bill 35.

Clause 1—pass; clauses 2 through 4—pass; clauses 5 through 8—pass; clauses 9 and 10—pass; clauses 11 and 12—pass; clauses 13 and 14—pass; clauses 15 and 16—pass; clause 17—pass; clauses 18 through 20—pass; clauses 21 and 22—pass; clauses 23 and 24—pass; clauses 25 through 27—pass; clauses 28 through 30—pass; clauses 31 through 33—pass; clauses 34 through 36—pass; clauses 37 through 39—pass; clauses 40 through 42—pass; clauses 43 through 45—pass; clauses 46 through 47—pass; clauses 48 through 50—pass; clause 51—pass; clauses 52 through 54—pass; clauses 55 through 57—pass; clause 58—pass; clause 59—pass; clauses 60 through 62—pass; clause 63—pass; clauses 64 through 66—pass; clause 67—pass; clauses 68 and 69—pass; Shall clauses 70 and 71 pass?

**Some Honourable Members:** Pass.

**An Honourable Member:** No.

I just worry about voting for any amendment for The Noxious Weeds Act.

\* (00:20)

**Mr. Chairperson:** Clause 70—pass; clause 71—pass; clauses 72 through 74—pass; clauses 75 through 77—pass; clauses 78 through 80—pass; clauses 81 through 83—pass; clauses 84 through 86—pass; clauses 87 and 88—pass; clauses 89 through 92—pass; clause 93—pass; clauses 94 and 95—pass; clause 96—pass; clause 97—pass; clauses 98 and 99—pass; clauses 100 and 101—pass; table of contents—pass; enacting clause—pass; title—pass.

Shall the bill be reported? *[Agreed]*

Thank you for your co-operation of the members of the committee.

#### **Bill 39—The Court of Appeal Amendment Act**

**Mr. Chairperson:** Does the minister responsible for Bill 39 have an opening statement?

**Hon. Andrew Swan (Minister of Competitiveness, Training and Trade):** This bill would increase the number of judges of the Court of Appeal of Manitoba by one, from seven to eight. It would also include provisions to deal with vexatious proceedings, based on similar existing provisions in The Court of Queen's Bench Act, and, I think,

appropriate for the year 2008, the language of the English version would be made gender-neutral.

**Mr. Chairperson:** I thank the honourable minister for the opening statement. Does the critic for the official opposition have an opening statement?

**Mr. Gerald Hawranik (Lac du Bonnet):** In accordance with the briefing that I received and confirmed as well with the federal government, I understand that this is at the request of the federal government, in order to increase the size of the bench in the Court of Appeal. For that reason, we would support it.

**Mr. Chairperson:** I thank Mr. Hawranik for the opening statement. Before we proceed with clause-by-clause consideration, Mr. McFadyen.

**Mr. Hugh McFadyen (Leader of the Official Opposition):** Just in addition to that, my understanding is that the Chief Justice of the Court of Appeal had made a request with respect to the vexatious proceedings provisions in the bill as well. That was a request that was made of MLAs from different parties, and we certainly support that.

**Mr. Swan:** That's my understanding as well.

**Mr. Chairperson:** We're ready to proceed with clause-by-clause?

Clauses 1 through 4—pass; clauses 5 through 10—pass; clause 11—pass; clause 12—pass; enacting clause—pass; title—pass. Bill be reported.

Thank you to members of the committee for your co-operation.

#### **Bill 40—The Drivers and Vehicles Amendment, Highway Traffic Amendment and Manitoba Public Insurance Corporation Amendment Act**

**Mr. Chairperson:** We'll now proceed with Bill 40, The Drivers and Vehicles Amendment, Highway Traffic Amendment and Manitoba Public Insurance Corporation Amendment Act.

Does the minister responsible for Bill 40 have an opening statement?

**Hon. Dave Chomiak (Minister of Justice and Attorney General):** Just briefly, this is one of the most complicated acts I have ever encountered in my entire life. But Ms. Decook *[phonetic]* actually took me through it, and I was able, in a briefing, to actually explain it to individuals.

So, in short, I think we've had several sessions with the opposition critic and I think he's fairly

comfortable with the provisions of the act. Coincidentally, Ontario has now introduced their enhanced driver's regime into their Legislature and we are endeavouring to work with Ontario and the federal government in order to proceed on this venture. It essentially deals with the establishment of five different forms of licences to accommodate Manitobans who may not have access to identification. In almost all cases, where it's the enhanced drivers licence at the highest levels, et cetera, Manitobans who wish to have these licences will have the option of volunteering, and that is, providing information which normally they may not have to provide in order to obtain these licences.

So, without getting into the details, I will leave it at that, unless there are questions or if members want a more substantive briefing, that can be arranged as well.

**Mr. Chairperson:** I thank the honourable minister for the opening statement. Does the critic for the official opposition have an opening statement?

**Mr. Cliff Graydon (Emerson):** Mr. Chairperson, I really don't have an opening statement, but what I will say is that any amendments will be brought forward in the report stage, if that suits the minister.

**Mr. Chairperson:** I thank the honourable member for the opening statement. We're ready to proceed with clause by clause.

Shall clauses 1 and 2 pass?

**Mr. Kevin Lamoureux (Inkster):** Yes, Mr. Chairperson, I just wanted to take the minister up on a comment in terms of getting a briefing on the legislation. I have had the chance to very briefly go through it. I did speak to it in second reading. I suspect it won't be for a while, but sometime over the summer, I would, just to give indication, to follow up on his offer to have a better explanation provided at a future date.

**Mr. Chomiak:** By all means. I apologize if, in the process, when we were briefing, that I may have overlooked the member. So, in terms of providing a briefing, we are fully prepared to brief and provide as much information as the member would like. Because this legislation is going to affect all Manitobans in very many ways and the better we understand it, the better we'll be able to explain it to our constituents.

Because this is groundbreaking and we've been advised that officials from Canada Border Services,

et cetera, may utilize our legislation as the prototype—we've recently been advised that—it's even more important that any kinks or anything that might be out of order be dealt with, not to mention the issue that the critic for the official opposition has raised, is the significant privacy and security concerns that are contained in this bill that we think we have appropriately dealt with. But one, in this kind of era of IT, and groundbreaking area, we can never be too careful.

So we can provide ongoing briefings at all times to all members on this bill as we work through it.

**An Honourable Member:** Payback time today.

**Mr. Chomiak:** No, I just got passionate.

**Mr. Chairperson:** We're ready to proceed with clause-by clause.

Clauses 1 and 2—pass; clause 3—pass; clause 4—pass; clause 5—pass; clause 6—pass; clauses 7 through 9—pass; clause 10—pass; clause 11—pass; clauses 12 through 15—pass; clauses 16 through 18—pass; clause 19—pass; clauses 20 through 23—pass; clause 24—pass; clauses 25 through 27—pass; clauses 28 through 30—pass; clauses 31 and 32—pass; clause 33—pass; clause 34—pass; clause 35—pass; clause 36—pass; clauses 37 and 38—pass; clauses 39 through 42—pass; clause 43—pass; clause 44—pass; clauses 45 and 46—pass; clause 47—pass; clauses 48 and 49—pass; clause 50—pass; clauses 51 through 54—pass; clause 55—pass; clauses 56 and 57—pass; clauses 58 and 59—pass; enacting clause—pass; title—pass. Bill be reported.

That concludes the clause-by-clause consideration of Bill 40.

**Ms. Marilyn Brick (St. Norbert):** I just wanted to put on record, I'm sure, on behalf of everyone here at the committee, I wanted to thank so very much the clerks who've worked so hard, and the staff from the law department, as well as all the other staff who came at this late hour.

They've done an amazing job to help us move this legislation through the House, and I just wanted to say how very much everyone here appreciates their hard work.

**Some Honourable Members:** Hear. Hear.

**Mr. Chairperson:** I thank the honourable member for that statement. I think that concludes the business of this committee.

The hour being 12:34 a.m., committee rise.

**COMMITTEE RISE AT:** 12:34 a.m.

**WRITTEN SUBMISSIONS PRESENTED BUT  
NOT READ**

Re: Bill 26

**AN ILLEGAL AFFAIR**

**Executive Summary of  
Crimes Committed Against  
Stillwater Broadcasting Ltd.**

Stillwater Broadcasting Ltd. was incorporated as a for-profit corporation in Manitoba by William Gade on Aug 30, 2004. William Gade was the only director and shareholder of the corporation.

Mr. Gade paid \$8,000 to treasury on May 18, 2005. That sum included \$300 for 300 shares issued to Mr. Gade and a \$7,700 loan to the corporation. Treasury on that day issued the shares to Mr. Gade. Three, 100 share certificates were issued.

On Dec 20<sup>th</sup>/21<sup>st</sup>, Mr. Gade held meetings of Stillwater Broadcasting Ltd. He was the only person to attend. Mr. Gade was, at this time, the only shareholder and director.

Mr. Gade, at the meetings, determined that he would sell 200 of his shares to two other individuals. Mr. Koltusky and Mr. Landry would each receive 100 shares in consideration of their payment of \$20,000 to include a loan to the corporation in the amount of \$19,000 and \$100 for 100 shares.

Mr. Landry tendered his monies and equity on October 28, 2005. Mr. Gade executed the transfer of 100 shares to Mr. Landry.

Mr. Koltusky did not tender any money or equity.

83 North Inc. erected the tower to be leased to Stillwater Broadcasting on June 7<sup>th</sup> and 8<sup>th</sup>, 2007.

Mr. Koltusky was offered employment at the radio station before such time as he had fulfilled the requirements of purchasing his shares.

Mr. Landry and Mr. Gade worked at the station on June 17<sup>th</sup> and 18<sup>th</sup>. Mr. Koltusky refused to be a part of the work and refused to attend to the station during that time. Mr. Koltusky did attend to work, late, on June 19<sup>th</sup>.

Mr. Koltusky was terminated from his employment, with cause, on June 26<sup>th</sup>. Mr. Koltusky admitted to stealing intellectual property from the station. Mr. Koltusky refused to leave the building and had to be removed by RCMP.

Mr. Gade alone finished construction of the station on June 27<sup>th</sup> to 30<sup>th</sup>.

CJSB-FM Swan River went live to air on July 1<sup>st</sup>.

Mr. Gade advised the corporation in writing that he was no longer willing to sell shares to Mr. Koltusky.

On July 5<sup>th</sup>, Richard Holmes submitted \$100 on behalf of Mr. Koltusky in an attempt to purchase shares of the corporation. The cheque was returned to the office of Palson and Holmes almost immediately.

Richard Holmes then demanded \$400,000 for his client's 100 mythical shares. Several claims were made by Richard Holmes in a letter dated July 7<sup>th</sup>. However, the fact of the matter is that his client had never fulfilled any of the requirements to purchase shares. Mr. Koltusky never owned shares to attempt to sell.

The request for \$400,000 was not fulfilled.

On July 6<sup>th</sup>, Stillwater Broadcasting sent a cease and desist letter to Koltusky, Holmes et al.

Nothing more was heard for some time.

Richard Holmes provided notice of a meeting of Stillwater Broadcasting on August 28<sup>th</sup>. The meeting purported to be called by two of the directors, Koltusky and Landry. Upon receipt of the notice of meeting, Stillwater Broadcasting retained the legal services of Aikens, MacAuley and Thorvaldson LLP.

***Richard Holmes counselled his client to ignore his legal status and attempt to move forward with a "Fake" shareholders meeting.***

Peter Drazic of Aikens spoke to Mr. Holmes and provided clarity to him in writing. Drazic noted that Koltusky did not own 100 shares of Stillwater Broadcasting. Holmes was further cautioned to stop using the Stillwater Broadcasting name.

Mr. Gade, through his lawyer offered to meet with Koltusky and Holmes on August 31<sup>st</sup>. Homes refused such a meeting unless Gade admitted, with prejudice, that Koltusky owned shares. As this was not the case, no meeting occurred.

Drazic informed Holmes, in writing, on September 1<sup>st</sup> that Mr. Gade was the majority shareholder of the corporation.

**Any COLOUR OF RIGHT defence ended at this point. Holmes had been notified verbally before, but this written notice, to any competent legal professional, should have Holmes to question his**

**client. There was no further ability to use COLOR OF RIGHT as a defense.**

Holmes continue his course of action and held a "fake" shareholders meeting. At the meeting, Holmes purported to make several decisions regarding the company. As well, Holmes accepted shares of Stillwater Broadcasting as payment for his services. Holmes created minutes for the meeting.

As well, Holmes created a new corporate record for Stillwater Broadcasting. This included a new minute book, new records, shares, etc.

***Holmes fraudulently created a new documentation for an existing corporation. He was acting in his capacity as a lawyer. He knew full well that he was not legal council for Stillwater Broadcasting.***

***Holmes violated the ethics of the Manitoba Law Society by accepting a share of the corporation as payment for his services.***

***Holmes violated the policy of the Canadian Radio-Television and Telecommunications Commission and the Broadcasting Act/Radio Regulations by purporting to make shares of the corporation without prior approval. This is punishable by a daily fine.***

Holmes was informed again, in writing, that he was not involved in Stillwater on September 7th.

As well, by this time Holmes was making a habit of contacting Mr. Gade directly instead of through his lawyer. He was cautioned in writing to not contact Mr. Gade directly.

***Holmes ignored the ethics of the Law Society and contacted another lawyers client directly.***

In December of 2006, Mr. Holmes again advised that he would attempt to hold an illegal meeting of Stillwater Broadcasting Ltd. He was advised, again, in writing, that he was not Stillwater's lawyer and that he was not able to hold such a meeting.

The real Stillwater Broadcasting was by this time paying the real lawyers bills. (Cheque in package)

On the evening of December 22, 2006, at about 8:40 p.m., Mr. Holmes along with his client and three hired thugs entered the premises of 83 North and Stillwater Broadcasting. Their presence in the corporate offices was not welcome and was in fact illegal.

Mr. Holmes forcibly removed the only staff member working that night. The five men then began robbing both businesses.

Mr. Holmes identified himself to staff at the scene as an owner of the radio station. At the time, he was standing less than 6 feet away from an RCMP officer. (*Witness Statement - Not in Package*)

The RCMP was called by staff members. However, when they attended to the scene, they did not stop the crime in progress. **In fact, RCMP members held the door to the building open to facilitate the theft.**

It was several minutes later, at the behest of our staff, that the RCMP finally began to question why a lawyer was robbing a business at night. Mr. Holmes admitted that he had no court order, or any other valid reason, to rob a business. RCMP seized the equipment and later returned it to Stillwater. Over the course of his actions that night, Mr. Holmes caused in excess of \$30,000 damage.

During the course of the evening Mr. Holmes assaulted staff.

***Holmes contravened the Criminal Code of Canada. Full details of the possible charges are included in the package. They include assault, theft, vandalism, mischief, etc.***

***Additionally, Holmes illegally removed equipment that was not even owned by Stillwater Broadcasting. Theft charges are also in order for equipment stolen from 83 North Inc., Jeremy Hudson, etc.***

***Holmes contravened many parts of the ethics and code's of the Law Society. He counseled a criminal act, and encouraged a client to break the law.***

RCMP didn't appear to know what to do with a criminal. Instead of arresting Holmes, they stood on the street calling people on their cell phones.

Over time, it became apparent the RCMP had no intention of investigating the matter. The RCMP did not attend to the scene of the crime. RCMP did not take witness statements. (Various items in package.)

On January 5<sup>th</sup>, the RCMP promised to begin investigating.

On February 9<sup>th</sup>, 2007, the CRTC ruled that indeed Mr. Gade owned two thirds of the company. According to Canadian law, that ruling is final. It may be appealed, but only to the Supreme Court of

Canada, and only for 30 days. No one appealed the ruling.

Once the CRTC ruled, RCMP realized they would be forced to lay charges against Holmes. A deal was made between Holmes and the RCMP. He was told that if he filed something in court, he could avoid charges.

On February 14, 2007, Holmes filed suit in Court of Queens Bench. This was not the proper venue to challenge the ownership of the company. Mr. Holmes was in such a hurry to file, to avoid charges, that he also misfiled the lawsuit. Many portions of the suit had nothing to do with Stillwater. Portions were from other lawsuits Holmes had filed in the past against other persons. Addresses were wrong. In short, it was unprofessional.

In his lawsuit, Mr. Holmes again claims to own Stillwater.

***Holmes was apparently incapable of practicing law. The Law Society should move to suspend incompetent lawyers.***

On February 28<sup>th</sup>, Stillwater sent a cheque to Aikens as payment for services. Had there been doubt before, it was extremely clear that Stillwater was the one paying Stillwater's legal bills. And, that Holmes was not the lawyer who had been retained.

The RCMP sent an incomplete package for review to the Crown Attorney. To that point, they had yet to interview a single employee or real owner of Stillwater. Their entire case was based on documents provided by Holmes.

The Crown Attorney refused to review the case, it was instead sent for outside opinion. However, the outside opinion was to come from another Manitoba lawyer. It is impossible for a fellow lawyer to be considered impartial when contemplating charges against a colleague.

Additionally, Doug Abra was selected to review the case. This carries several other issues. First, Abra was to be appointed a judge a few weeks after his review of the case. Should he have found that charges were needed, he would have been unable to become a judge with the case ongoing. A case such as this could easily take years. Abra would have no reason to recommend charges—it was not in his best interest.

Secondly, Abra served as president of the Law Society from 1993-1994. The society has a long standing history of trying to protect Mr. Holmes

from his incompetence. The president of the group that pretends Mr. Holmes is not a criminal is not well suited to determine if he should be charged and publicly humiliated by being a thief.

Abra would have dealt with Holmes on several occasions on discipline issues in the Law Society. It is impossible to say he was independent.

Needless to say, Abra determined there would be no charges. This was based at least in part on the lack of credible evidence collected by RCMP.

Following the lack of justice, Stillwater began the complaint process to have the file reviewed.

In June 2007, Stillwater reached a preliminary agreement with Holmes. On the advice of our lawyers, Stillwater was considering paying Holmes to stop suing. There would be no admission of guilt—it was felt that as Holmes did not own property, there was a real chance that when Stillwater proved its case in court, Holmes would refuse to pay our costs. With no property to seize, we would have spent more on legal fees to win than Holmes was asking to simply stop.

Officers in Swan River learned they would be reviewed for their action (or inaction) during the theft on December 13<sup>th</sup>, 2007. That same day, they took the law into their own hands.

On the afternoon of December 13<sup>th</sup>, 2007, a police car followed a marked CJ104 vehicle. The CJ104 vehicle was driven by Mr. Gade's wife, and also contained his 15 month old daughter.

The RCMP were not immediately behind the vehicle when it left Swan River. To catch it, they exceeded the speed limit. Independent witnesses to the event suggest the cruiser was speeding so excessively that the driver should be charged with dangerous driving.

The RCMP cruiser was driven by none other than the lead investigator in the original incident. He is the officer who is expected to take much of the blame for choosing to hold the door open to help the criminals.

His actions on December 13<sup>th</sup> were a clear attempt to intimidate Mr. Gade's family. It is the focus of a second complaint against the RCMP which is ongoing. (Details in package)

As part of the legal proceedings, Landry decided to sell his shares. Mr. Gade arranged for a new partner, Mr. Hudson to purchase those shares. He provided a substantial amount of money.

Stillwater provided \$40,000 in trust as part of the preliminary settlement. It was to be held until such time as Mr. Holmes tendered Landry's share certificate. Mr. Holmes took the money but did not provide the share certificate. This is a breach of trust conditions.

***Holmes breached trust conditions. He fraudulently accepted \$40,000 and furthermore, is not holding that money in his own trust account. Suspension by the Law Society should occur.***

Mr. Hudson became increasingly nervous as the money disappeared and shares were not forthcoming. After several months, he elected to withdraw his down payment and cease to own shares of Stillwater. This was a direct result of Holmes committing more fraud. Mr. Gade was then forced to invest more of his personal money into Stillwater.

As part of an ongoing argument with Holmes about the share certificate in question, he provided copies of share certificates he had made on December 10<sup>th</sup>, 2007. These certificates are not valid and were never issued by Stillwater. It would appear that creating false share certificates is fraud. Holmes also provided copies of a fake corporate minute book. This was also fraudulent in nature.

***Holmes committed fraud again when he created fake share certificates. He indicates he provided those fake certificates to RCMP to prove he was an owner of Stillwater. He claimed an owner shouldn't be charged for robbing his own business. Sadly, Holmes does not, nor ever has, owned a portion of Stillwater. Criminal charges and licenses suspension should occur.***

At this time, Holmes should have \$40,000 plus seven \$2,000 payments sitting in his trust account. This money represents a lump sum down payment plus monthly payments. This money should not yet be released from the trust account as the agreement is still not complete. Holmes has not provided the required share certificate. Stillwater has not signed the agreement, awaiting the share certificate.

It has come to our attention that the money is no longer in the trust account. It is somewhat incomprehensible that Holmes would be so stupid as to again violate the rules of the Law Society and the Laws of Canada. ***To be clear, there should be \$54,000 as of April 16<sup>th</sup>, 2008, in Holmes' trust account.***

***Holmes should now be fully investigated for fraud and breach of trust/breach of an undertaking. His license should be suspended. Lawyers must actually follow the law.***

Overall, Stillwater has been severely damaged by a lawyer and legal system that is not protecting the victim. This must change. Damages must be paid by those who have done wrong. Stillwater can not, and will not, accept the burden of others.

Through Holmes' latest fraudulent activities, Stillwater now finds itself in contravention of the Broadcasting Act/Radio Regulations. This is punishable by the CRTC. All of these matters must be resolved with haste.

**Did you wonder what happened to Landry?**

**Holmes gave him \$30,000.**

The Legislative Assembly of Manitoba Debates and Proceedings  
are also available on the Internet at the following address:

**<http://www.gov.mb.ca/legislature/hansard/index.html>**