



Legislative Assembly of Manitoba

**STANDING COMMITTEE
ON
MUNICIPAL AFFAIRS**

Chairman

**Mr. Arnold Brown
Constituency of Rhineland**



Tuesday, June 27, 1978 10:00 a.m.

**Hearing Of The Standing Committee
On
Municipal Affairs
Tuesday, June 27, 1978**

Time: 11:00 a.m.

CHAIRMAN, Mr. Arnold Brown.

AN ACT TO AMEND THE BRANDON CHARTER

MR. CHAIRMAN: Could we come to order? We have a quorum. We'll be discussing Bill 18. When we left off the last time that we sat it was agreed that we would delay proceedings on this particular bill until we had further notice from the Municipality of Cornwallis and the City of Brandon. I understand we now have this further material which we asked for. The Member for Brandon East — and I would again like to tell all members, please speak into the mike because they're having difficulties.

MR. EVANS: Thank you, Mr. Chairman. In accordance with the request of the Committee I contacted the City of Brandon and also the Municipality of Cornwallis and indicated the Committee's desire to have a resolution formally passed by those municipalities indicating their agreement with respect to this annexation procedure. I have now received certified copies of resolutions passed by these municipalities and if you so wish, Mr. Chairman, I could read them into the record. I certainly can table them. Perhaps that would be more expeditious.

But in essence the City of Brandon resolution formally requests the Provincial Legislature to amend Bill 18 to include in there the reference to the present Brentwood Village remaining zoned as a mobile home park for a period of ten years, also that the lands to be annexed, as described in Bill 18, to be used as a mobile home park for 10 years, and thirdly, that Bill 18 be amended to provide for the rezoning of the lands to be annexed to the City of Brandon to the mobile home park.

Similarly the resolution passed by the Municipality of Cornwallis makes reference to these three items; namely, (1) That the existing Brentwood Village Mobile Home Park site within the city be maintained as a mobile home park site for a period of 10 years. (2) That that land which is to be annexed, the 38.15 acres, be rezoned and maintained as a mobile home park for 10 years and (3) that there is reference to the zoning.

There is another item in the Cornwallis resolution but that has nothing to do directly with the work of the Legislature. It really relates to the City of Brandon. But I have duly signed copies that I can file with the Chairman or with the Clerk of the Committee and I can answer any questions but it seems to me now, Mr. Chairman, that we have overcome the hurdle. The matter I trust is resolved. There is one other concern. That concern is that Mr. Hall, the owner of the Brentwood Village Mobile Home Park has not yet completed the exercising of his option with a Mr. Anderson, the present owner, so I'm prepared to move an amendment to the Act which would in effect say that the Act will come in force upon proclamation, meaning, even though the bill passes third reading in the House, it still doesn't become law until the Cabinet proclaims the bill as law and the amendment says that the Lieutenant-Governor-in-Council, namely the Cabinet, will in effect bring it into force when it is satisfied — in so many words — when it is satisfied that the land has been legally transferred to the new owners. In other words, in this way we can be assured that the legal transaction takes place, that we don't pass a law and then find that an agreement that was supposed to be concluded doesn't become consummated. So I think in this way we are providing for that contingency.

So I think, Mr. Chairman, that I would hope resolves all the items outstanding in this bill.

MR. CHAIRMAN: The Clerk just informed me that we had received this resolution from the Municipality of Cornwallis but to date we have received nothing from the City of Brandon.

MR. EVANS: I have it. I said I have it here to file, Mr. Chairman. It's a certified copy signed by

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the City Clerk with the City Seal on it, and I also have a certified copy with the Seal of the Municipality of Cornwallis for filing with the Clerk.

MR. CHAIRMAN: The Member for St. James.

MR. MINAKER: Mr. Chairman, the Attorney-General is out of town until this afternoon, and I wonder if we could hold the Committee for five minutes while at least somebody from the Municipal Affairs Department is contacted, because I think it would be useful to the Committee if we had somebody from the department to advise us on certain questions that may arise from the amendments that are put forward at this time. Would it be agreeable to the Committee that we wait until somebody from the Municipal Affairs Department is contacted because I think they should be able to get here right away.

MR. CHAIRMAN: Is it agreed that we adjourn for five minutes?

MR. EVANS: Mr. Chairman, I have no problem in the five minutes. I believe there has been considerable discussion between the municipalities and the Department of Municipal Affairs in this matter and also Mr. Tallin, our legislative counsel, has been discussing this with various people.

MR. CHAIRMAN: While we are waiting for our legislative counsel to attend or people from the Municipal Affairs to attend, maybe we could proceed with the proposed amendment to Bill 18, the proposed Clause that 3A 1(b) of the Brandon Charter as set out in Section 1 of Bill 18 be amended and the following Clause substituted therefor.

(b) All that portion of the south-east quarter of Section 10 in Township 10 and Range 19 west of the principal meridian in Manitoba which is contained within the following limits namely.

MR. EVANS: Mr. Chairman, for the members' information, there was a technical error in the description of the land as originally contained in the bill. The City of Brandon provided us with a description that was 50 feet out, I believe. At any rate this has now been corrected and this is the amendment that our Chairman has been reading. So it's simply a technical amendment and there was a 50 foot error in the description and that's what the amendment takes care of.

MR. CHAIRMAN: Before we proceed could we have a mover for this amendment?

MR. EVANS: Yes, I would so move, Mr. Chairman.

MR. CHAIRMAN: The Member for Roblin.

MR. McKENZIE: Mr. Chairman, I wonder if — on (b)(4) there it mentions the portion for a public road. That's eliminated now.

MR. EVANS: I believe so, but I don't have that amendment. Oh, here it is here, pardon me. Okay. If there was a provision, and I'll have to read this, but if there was a provision for a road — well, I can't say for certain — I wonder if Mr. Tallin . . .

MR. TALLIN: I'm afraid I couldn't tell you precisely whether the road is included or excluded, but if the road is within the property being added to the City of Brandon, it would then become either a municipal road or a provincial road, and if it is within the City of Brandon, and it's a municipal road, it should become the responsibility of Brandon to maintain it. If it's a provincial road, of course, the Highway's Department would continue to maintain it, but I'm afraid I can't tell you. The description is what the survey expert in Municipal Affairs prepared for the Planning Division, and the Planning Division sent it to the solicitors for Brandon, and they have said that it's correct.

MR. EVANS: Well, I can assure the honourable members it has no bearing on any provincial highway. It has no bearing on No. 10 Highway, and I'm not even sure whether the road exists as such. It may just be in the plan, I doubt if the road exists as such, but I really don't think that is a major problem. The city did send a small map, and I was looking for it to show the Member for Roblin, but I have to find it.

MR. CHAIRMAN: The Member for Emerson.

MR. DRIEDGER: Is the Member for Brandon East suggesting that within the legal description that

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we have under the proposed amendment, that the road is within that? I think that is a point well taken by the Member for Roblin, because if it is not included, it remains the jurisdiction of the municipality and as such they would have to maintain it, and I'm sure they would be very upset and nervous about that situation.

MR. CHAIRMAN: The Member for Brandon East.

MR. EVANS: Well, again, the new description I haven't studied that carefully, and I don't even know whether it makes reference to a road as such. There is no reference here.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: It would include all roads that are situated within this property. The road property would be transferred to Brandon's responsibility if there was a road there.

MR. EVANS: From looking at the map, there isn't any road in existence. I can show the honourable members a little map that the City Solicitor of Brandon sent me.

MR. CHAIAN: The Member for Lac du Bonnet.

MR. USKIW: Mr. Chairman, presumably the respective Councils have agreed to the legal description. If that is so, then the question isn't really relevant. If they are agreed to whatever the surveys are, the boundaries are, then why are we concerned?

MR. EVANS: Yes, Mr. Chairman. Both resolutions make reference to the legal description of the land, the township, the range, section, lot numbers, etc.

MR. CHAIAN: Are you ready for the question?

QUESTION put, MOTION carried.

MR. CHAIRMAN: The Member for St. James.

MR. MINAKER: Mr. Chairman, unfortunately I was out of the room when some of the discussion took place.

In the proposed clause that we just passed, was it changed that it would be upon proclamation?

MR. EVANS: . . . I have a couple of other ones . . .

MR. MINAKER: So this is just a technical? Okay.

For the information of the committee, the Municipal Affairs Department was contacted, and unfortunately those particular people who would be useful to us for informational purposes are presently at the meeting of the Union of Municipalities this morning, and I asked the secretary if there was anybody there that we could have for information to send them down. At the present time, when I talked with the secretary, there was no one there that she could send down. My understanding is that the Attorney-General will be back this afternoon.

MR. CHAIRMAN: Is it the wish of the committee that we wait until the Attorney-General can attend? The Member for Brandon East.

MR. EVANS: Mr. Chairman, I wonder if we could get agreement to carry on. As I said, our own legislative counsel has had discussions with people on the technical descriptions. The municipalities involved have discussed this with the people in the Planning Branch, and I'm wondering if there is a difficulty — if one should arise — the Minister could bring it up in the report stage to the House, because what I'm proposing today is two things:

One, to put the 10-year stipulation in accordance with the request of those municipalities; and secondly, to put in the clause that in effect it doesn't become law until it's proclaimed by the Cabinet, and the Rabinet will not proclaim until they're satisfied about the legal transaction.

So this is what I'm suggesting. I don't know whether there would be any great loss if we passed these amendments and brought it to third reading in the House and if, as I said, there is any major difficulty, the Minister could speak up at the report stage. What I'm concerned about is we may be going into speed-up pretty soon, and we may be running out of time and running out of not

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time itself, but getting various committees together because there's overlapping and so on.

MR. CHAIRMAN: The Member for Brandon West.

MR. MCGILL: Well, Mr. Chairman, I must again put on record my concerns about this bill. When we last met, we felt that it would be preferable to insure that there was agreement between the two jurisdictions with respect to the present and future use of the property, and that having achieved that, the bill then would simply be a device to approve an amendment to the Brandon Charter that would transfer land. I was hopeful that any stipulations with respect to the achieving of this joint agreement between the two jurisdictions might have been put into a contract or some other legal document that would not be part of this bill. I would like to have seen this bill as a simple approval by mutual consent of the two jurisdictions in the transfer of land, and that the checks and balances that were required by each jurisdiction would be handled in some other legal fashion. I gather that this is not possible, that we can't have a bill that is free of putting into this statutory document the 10-year reservation on the use of the land and the zoning, and so forth. Can the Chairman advise me on that point?

MR. CHAIRMAN: The Member for Brandon East.

MR. EVANS: Mr. Chairman, perhaps our legal counsel might wish to speak to this, if he would, but my understanding is that it's only the Legislature that can legally enforce the 10-year limit on zoning, and this is a requirement of the municipality of Cornwallis in particular, and the City of Brandon has agreed to it by resolution of the Council. I would agree it would be very good to keep a bill as simple as possible, but it seems to me that both parties involved are requested — it doesn't seem to me, we do have official requests from both municipalities — and we are simply implementing what they are requesting at this stage. But I don't believe that there is any other method of . . . well, my understanding was that this was the way to carry it out, that it couldn't be zoned for ten years in any other fashion except with the passage of some bill such as this by the Legislature, but perhaps our legal counsel could speak to it, Mr. Chairman, our legislative counsel.

MR. CHAIRMAN: For your information, there'll be somebody here from Municipal Affairs in a few minutes.

The Member for St. James.

MR. MINAKER: Well, Mr. Chairman, I would like to hear an answer to the question before I raise a couple of points that Mr. McGill raised to our solicitor.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: I have grave doubts that two municipalities can agree, one with the other, to maintain a zoning on a particular piece of property for an particular period in the future. The Planning Act, I think, gives people the right to apply for changes in the zoning and any municipality that entered into such a contract would in effect be taking away rights which were set out in the statute, the right of the land a landowner to apply to have his land zoned in some other way. Now, how the courts would deal with that kind of a contract between municipalities, I'm not sure. My feeling is that they would say it's a contract which municipalities do not have authority to enter into.

MR. CHAIRMAN: The Member for St. James.

MR. MINAKER: Mr. Chairman, through you to Mr. Tallin, I know when I was on the City of St. James Council, we used to have legal agreements with people when they connected to our services, that would stipulate certain things, that providing that these stipulations were met over a period of time that they would have services of water and sewer.

Now, I suggest, is it possible that when the City of Brandon agrees to connect services to this said land that we are discussing at the present time, would they have the power within their by-law to stipulate that services of sewer and water would be provided providing that the land is zoned mobile trailer park and this to be in effect for a minimum of 10 years? Now, would a legal document of that nature — could the municipality have this power because I know we used to do something to the same effect and I don't know whether Mr. Miller had similar agreements in the Kildonan area or not. But my suggestion, and why I raise it, Mr. Chairman, is that in my understanding the objective of this whole exercise is to annex the land into Brandon so it can be served with services, and the objection that Cornwallis had was that they have no objection to this providing the land stays as a mobile park.

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Now, if these objectives can be met through the normal channels like Mr. McGill has indicated, then I would much prefer some kind of a legal document, then if the bill is passed just as it sits before us with the corrected description of it and had an amendment to it that said it becomes in effect upon proclamation, what we are saying to Cornwallis and Brandon and the people of Brandon is that you people, you Brandon, say that you will provide the service, give a legal document to the people who have that property, in by-law form, that they will receive services for sewer and water providing it stays in that zoning and in that use for 10 years. There, I would think, you would have that particular objection from Cornwallis overcome, and it would also put the onus on the owner. This is what concerns me, he isn't even the owner as yet. This is why the bill is being proposed and annexed, or the land is. I'm very concerned, Mr. Chairman, that we start to add all these amendments because now it becomes a different issue, as I indicated in the last meeting. We are not just talking about annexing a piece of property into Brandon and objections of one municipality that it is being taken from them, we are now dealing with the issue of, in actual fact, short-circuiting The Planning Act. If we are concerned about the fact that there is no legal way that somebody can zone it and restrict it for 10 years, then I suggest the right approach to it is to amend The Planning Act so that somebody has the power. I appreciate that the time element would not allow it in this case, but I would be very hesitant for us to pass a bill that says in essence this land can be annexed but we won't proclaim the law because at the present time the owner who is going to develop this land doesn't own it and he is negotiating with the other owner. I think it is very bad legislation to take this approach and furthermore, to bypass the other boards that exist. My understanding in talking with Mr. Tallin is that the Municipal Board would not come into effect unless somebody objected to it. I think if this kind of agreement could be developed in Brandon's Council by by-law, that they would only provide the services to this land providing it was zoned this for a certain length of time, that we might overcome this problem of putting all these additional items into the Act.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: With respect to the development agreements that municipalities enter into, usually it is an undertaking to develop the property in a certain way, not to retain any zoning qualifications on it. As far as I am aware, development contracts usually talk about building certain types of buildings and that sort of thing.

MR. MINAKER: . . . services would be provided.

MR. TALLIN: That's the typical development contract, that the services will be provided if the owner proceeds to develop certain types of structures on it.

MR. MINAKER: Mr. Chairman, if I might interrupt — I don't want to talk legal contracts in this committee, but what you are saying is that if they stipulated that the services will be provided to serve lots with connections for trailers, that is stipulating the structure. Would that be legal?

MR. TALLIN: Yes. But one of the things that worries me is that you are presuming that an application for a change in zoning will go through without any hitches. Now, Brandon has indicated that they have had hitches in the past, and not necessarily from those people who were involved directly in the community where the zoning was being asked for, but from the community at large even. They cannot apply for the zoning until it is in Brandon, or they could apply for it in Cornwallis, I suppose, and Cornwallis might put it through for a zoning change while it was still in Cornwallis. But so far as the Brandon Planning scheme is concerned, they cannot touch it until it is part of Brandon.

If you bring the Act into force, there is no guarantee that the planning will go through without objection, and if there is objection, then the objections may be sustained and the property may be retained as agricultural land. So Brandon then would have a piece of agricultural land. What these amendments are trying to do is to adjust this anomaly of not being able to proceed with the planning until it is part of a city and then not being sure that the property will ever end up as a mobile home, because although Brandon and Cornwallis can agree that the planning will be mobile home for 10 years, if there are objections, they may not be able to get it into that zoning.

MR. CHAIRMAN: The Member for Seven Oaks.

MR. MILLER: Mr. Minaker and Mr. Tallin are both right. The problem is this: This is really a very oddball situation. If time was not an element, you could simply say, well, let Brandon and Cornwallis

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sort this out. One will acquire the land from the other by mutual consent; an application for rezoning will take place, etc. But time is an element here. Even if there were no objections at all, who is going to undertake the rezoning procedure, Cornwallis or Brandon? Brandon can't, because they don't own it; it's got to be Cornwallis. Cornwallis really has very little interest in this thing, because once it's rezoned, it's going to be annexed by Brandon.

In any case, even if there are no objections, it's going to take three or four months because of the advertising requirements and the whole procedure that it goes through, and coming to the Provincial Land Use Committee for ratification, because in the final analysis, the province has the final say on whether or not this is going to be acceptable. So that there is a need for the bill itself, rather than say, well, we helped them to get together, now let's bow out, so there is a need for a bill whereby it's annexed with the understanding that there will be a rezoning for mobile home use.

I'm not too keen frankly on Section 3, this amendment, which brings into it Mr. and Mrs. Hall, and that they must own the land, etc., I find that very strange in a public bill. I'd rather the day fixed by proclamation with Cabinet knowing, the Minister knowing, and Land Use Committee knowing, that this is the intent behind it all. And when in fact title is transferred to the Halls, when in fact upon passage of the bill Brandon has acquired the land and annexed it, when proof is given to the Land Use Committee and to Cabinet, that all the conditions that we've talked about have been met, then they proceed to proclaim it, otherwise it's never proclaimed, like dozens and dozens of statutes, just never proclaimed, because it hasn't met certain conditions. I am not sure I would want these conditions spelled out within the bill itself, but I don't think we can simply say that somehow we should allow it to run its course because there are problems as Mr. Tallin points out, where the rezoning application, the change of land use — Brandon can't initiate it, it would have to be Cornwallis; Cornwallis really has no interest in doing it whatsoever — they are prepared to give up the land under certain conditions. So I think we do need a bill, and the bill, in my view, should not make reference to the Halls except that it's known by Provincial Government that that was one of the points at issue, and that the zoning and that reference to the 10 years, I think I can live with that.

The development agreements that Mr. Minaker refers to, usually, as Mr. Tallin points out, didn't necessarily refer to a zoning, they refer to a type of structure that might be allowed which then automatically sort of led to a particular zoning under the development agreement. It didn't necessarily refer to a requirement for zoning, but rather to a nature of construction that could take place on that land. So that I think there has to be some reference to the 10 years, but not the reference to the Halls, but I don't think we can simply say, we brought the two together, now they can work it out, because it will take months. The procedures under The Planning Act, the advertising, the publications, the holding of hearings, even if nobody turns up, it's going to take three months, three or four months, if you're lucky.

MR. CHAIRMAN: The Member for Brandon East.

MR. EVANS: The point of the Member for Seven Oaks re striking out reference to the Halls, I have no problem with that, unless our Legislative Counsel can advise otherwise, that is, I suppose it could be a simple reference to proclamation by the Lieutenant-Governor-in-Council, with the understanding that the Lieutenant-Governor-in-Council will only act when certain conditions have been met. But, I wonder if Mr. Minaker could hear this.

I just wanted to say to Mr. Minaker, the Member for St. James, I'm not sure whether he was here at the last committee meeting, when I was requested by the Committee to contact the municipalities and ask for these resolutions, and I have done so. They have been expeditious, both have been very expeditious as possible, they have rushed, they have called the special meetings, they have conducted a poll, they have now sent us officially, with the official seal of those municipalities requesting us to put in a bill these clauses in effect that I am about to bring forward. I am just simply saying, that you asked me to do something, the municipalities responded positively, and I would think that the proper thing for us to do, unless there is some other major concern, is simply to proceed to put these in here, because they are both agreed to it.

The only other thing that I understand that Mr. Minaker has concern with is the proclamation, but again, I think the Member for Seven Oaks has perhaps got the solution by simply saying, it shall come into effect on proclamation; many bills do this without making reference to the owners or what have you. But that has to be done. We can't proceed until Mr. Hall has exercised his option with the present owners now. He has advised us that he has checked this with his lawyer and he has an exercisable option, if he takes the entire parcel, so some of it will be in Cornwallis, the rest will be in Brandon if this passes. But I don't see this as a great difficulty. It seems to me that we have asked the municipalities to stipulate certain conditions, they have done so, they have advised us officially, and I think we should proceed with the amendment to the bill.

MR. CHAIRMAN: The Member for St. James.

MR. MINAKER: Mr. Chairman, it's obvious I didn't leave an impression with Mr. Evans when I spoke of concern about the proposed amendments that he put forward at that time which was before us at the last meeting. But the issue I would like to raise, Mr. Chairman, is that my concern, and I believe possibly . . . it is unfortunate that the Attorney-General is not here, or the Minister of Municipal Affairs is not here at this time, my concern is that when we do not get two communities agreeing on something or having faith in one another, that's maybe putting it too harsh, but a resolution of one community and a resolution of another community that says you are going to try and do this, this is the intent, this is why we want the annexation. If s, then that occurs next year after we've passed these proposed amendment really what I can see happening and I asked Mr. Cameron from Municipal Affairs Department about this item, is that if the two communities couldn't get together, well, we'll bypass Municipal Affairs Department, the Planning Act, and more importantly, the Municipal Board, because we don't know what they're going to say, and we'll put it in the bill. I could see many bills starting to come in to the Legislature and the Municipal Affairs Committee would become a Planning Committee of the Province of Manitoba, which I don't think is the major role that this Committee has. It has that role when we're setting up the laws in The Planning Act, the laws that govern the Municipal Board, but I think by passing these, we're going to create this situation. And I respect the problem of the time element. I respect the suggestion of Mr. Tallin, that the confusion that . . . you know, there is no guarantee that if the land is annexed, that Brandon will proceed and get it zoned, or whether the Municipal Board will approve it.

This is the rules that are set up at the present time and the part too that further complicates it, as I indicated earlier, is the fact we want to put in the word proclamation because we're not too sure whether the present person who says he's going to do this will exercise his option. This is how big a grey area we have before us. I would find it very difficult to support this, even though knowing that the City of Brandon, the people of Brandon, want trailer park stalls. My understanding is there is quite a few vacancy trailer park stalls in the City of Brandon at the present time. I appreciate the problem, but I think we'd be making a big mistake by just assuming that because of a time element, that we have to tie these particular items to this bill, because in essence it's opening the gates for other municipalities that don't agree on something to come in and say, hey, we'd like to have a bill put forward and get this straightened out. I think probably that I would much prefer to see a simple bill, I'd much prefer to see the two municipalities work it out, which I think they have indicated in good faith to one another now that the big question mark is whether they can get it zoned, Brandon, once it becomes annexed, and get it by the Municipal Board. But I mean that always existed. If that's wrong, we don't change it by saying that piece of land is unique, that piece of land is immune, that piece of land will be this, because then indirectly what we're saying is that these Acts or these boards that we have are wrong, that we should have a law in the legislation that governs those particular Acts or planning groups, and change it so we don't have to get involved in this. I'd find it very difficult to support that amendment at the present time.

MR. CHAIRMAN: The Member for Emerson.

MR. DRIEDGER: Mr. Chairman, I also have a few problems on my mind with this other portion here. Initially when the bill was presented, it was because there was not unity, or the two counsels could not get together in terms of annexation. They have now agreed mutually between themselves, in terms of the annexation, and actually what we're doing with the bill right now, now we're playing with the rezoning factor in this, and I have concerns just like the Member for St. James has on this matter. In my mind I am not really prepared to, maybe I don't understand properly, but I'm not prepared to support it under the present circumstances. What happens if we rezone this parcel through the bill, and then as Mr. Tallin mentioned before, that there are people who have objections and if they are valid objections, what is our position then? Then we, by passing the bill, have created a sort of a . . . well, in my mind, a problem, a precarious position, because this is actually why we have the proper hearings, that if they are valid objections, then it cannot be rezoned. Now if we are going to do this, we are going to short cut this whole thing, and if there are valid objections I think our position is not very good, and like I say, initially when the bill was presented it was basically because they could not agree on the annexation. That part of it has been overcome, now we're playing on the zoning end of it.

MR. CHAIRMAN: The Member for Brandon East.

MR. EVANS: Well, Mr. Chairman, my role in this as a local MLA is to expedite a problem, and I have no particular axe to grind one way or the other, and I find that I am a bit frustrated now

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because I had clear instructions I thought, last committee, to go to the municipalities asking for these resolutions. Now if for some reason these resolutions aren't satisfactory and we don't want to act upon them, I think we look a bit foolish, because we said, well, these are the conditions, if you two can get together, pass your resolutions, come back to us whereby we are not making the decision, we are just implementing what you're asking us to do, and that's exactly what we've got here. We've got two duly certified resolutions, asking us to not only annex but to make reference to the 10-year period, and to make reference to the zoning, and they are agreed upon that, and one of the reasons they have agreed upon it is because there is a very special local problem of people being forced to vacate their present living quarters and I don't know whether you heard the delegations when they were here, Mr. Minaker, but they had two associations, the Mobile Home Owner Association and the Larkhill Court Association, and they seemed to think they have a very great problem, and I know they have, because there have been some pretty frantic phone calls and letters, and so on, to Mr. McGill, myself, and others, and as I understand it, there is a problem.

Because of that problem, I believe both councils were prepared to act expeditiously because they realized the local problem, and I think that if we were reversing ourselves now, I don't know, I think people would be wondering what is the committee up to. At one point we said we're prepared to go ahead if we got these resolutions, because we all understand the urgency; now we've got the resolutions, we've heard all the delegations and we're holding up because we say, well, we may be setting a precedent. I would hope we're not setting a precedent; I would hope that this is a special case and that you will not find very many like this. We're certainly not imposing anything on either municipality, that's for certain, because they are both in agreement. I don't know what else I can add unless Mr. Tallin can add further, or whoever else might wish to enlighten us.

MR. CHAIRMAN: Before we proceed, we have gone into discussion on the amendment to Section 2, and we have had nobody move this as yet. I wonder, could we have a mover for it? .

MR. EVANS: Mr. Chairman, shall I read the whole motion as it stands for Section 2 or can we take it as read? Well, I'll start at any rate.

I move that Section 2 of Bill 18 be struck out and the following Section substituted therefor: Deemed zoning, etc. 2 Notwithstanding the Brandon Charter, the Planning Act, or any other Act of the Legislature upon the coming into force of this section. And then there's (a) and (b) and it's as written. Is that agreeable.

MR. CHAIRMAN: It's been moved by the Member for Brandon East — the Member for St. James.

MR. MINAKER: Mr. Chairman, in answer to Mr. Evans. Yes, I was here when all the delegations presented their views and I too am concerned about a possible lack of mobile home accommodations in not only Brandon, in other areas, but my understanding, Mr. Chairman, was that when Mr. Evans was directed to get resolutions from the two communities is that it's a type of resolution that was put forward by Cornwallis where it doesn't stipulate that the wording of the Act include zoning and 10 year period. All they have indicated is providing the 38.15 acres of the description given be rezoned and maintained as a mobile park for a period of 10 years, whereas the City of Brandon resolution clearly says, request the Legislature to enact as follows, and words that it be included. My understanding was that the City of Brandon would come back with a — maybe I was wrong in thinking this — it would come back with a resolution saying that it would be the intent of the City of Brandon to seek rezoning of this area upon annexation and that the zoning would be for 10 years, and in that way, you know, I could accept that. I would think that it's on record in the City Council minutes that the resolution contains the intention that this would satisfy both Cornwallis and Brandon. Now Mr. Tallin indicates some other legal complications that could occur, but then I suggest, Mr. Chairman, that if certain legal complications could occur with regard to municipal board decisions and other then really there's something wrong with those particular Acts that cover those jurisdictions and the right approach is to make amendments to the Act so that the proper channel can take place and I realize it can't be done this year. I was with the understanding that that would be the type of resolution that would come back, not stipulating that the Act contain those particular items.

MR. EVANS: Mr. Chairman, I've had a discussion with the City Clerk of the City of Brandon, Mr. Lloyd Thompson. It's his understanding also in discussion with the Department of Municipal Affairs and others and their own legal counsel that this is the only way they can proceed. They have to depend on the Legislature in order to legally enforce this 10 year stipulation, which they don't necessarily want. It's Cornwallis that wants this 10 year stipulation so this is where they say they agree to annexation if it's rezoned and maintained, you know, for 10 years. So they've asked, they

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say they agree to annexation on that basis and then the City of Brandon has come and said, we agree to not agree, but we request that the Legislature put this into the bill, the 10 year period and the zoning provision. And, as I said, this is the dilemma we have. If we don't proceed this way then we can't accommodate, we cannot deal with the crisis situation that exists in the area and to suggest you go the municipal board route at this point will simply, well, it simply cannot do the job. As Mr. Tallin has indicated, this is about the only way we could deal with this matter given all the circumstances. I wonder if Mr. Tallin . . .

MR. TALLIN: I'm sorry. I was speaking to Mr. Cameron. Were you asking me a question?

MR. EVANS: Well, I'm sort of looking at you when I say that, but my understanding — and I guess we're just going around in a circle here because my understanding is, from Mr. Thompson and I thought from your remarks, that this was the dilemma we find ourselves in, that we have to put it in the legislation, otherwise they can't deal with the crisis situation they've got.

MR. TALLIN: Yes. On the 10 year restriction I don't see any way that the municipalities can impose a 10 year restriction on themselves on the zoning, so if there is to be a firm 10 year restriction I think the Legislature is the only person that can do it.

Now, there can be an intent which wouldn't be enforceable in a legal way, but might be enforceable politically because the councils just would refuse to advance any application for rezoning within that 10 year period, but that depends on the personalities on the council a few years down the pike.

MR. EVANS: Well, I just repeat, Mr. Chairman, I hope what we are doing is responding now to these two municipalities, and we're not telling one or the other what they should be doing for they're both coming to us saying this is what they would like, so I don't know what else I can say.

MR. CHAIRMAN: The Minister of Co-operative Affairs.

MR. MCGILL: Mr. Chairman, it is a fact that we should recognize here that we have eliminated the key problem here and that is to get agreement on terms between the two jurisdictions, the two municipalities, and I think there should be found some way to proceed on that basis. The other matters are technical matters and I accept the advice of the legislative counsel that there really is no other way to provide these stipulations and so forth that the Council of Cornwallis wants to see enshrined in order that the annexation be approved.

There are many other difficulties that have been brought up, and perhaps the main one in terms of our doing this in time to satisfy some of the people who are now displaced by the phasing out of the Larkhill Park, perhaps the main one there is that, while it's true there are other sites available in Brandon, some of the people in Larkhill can't qualify to get into that site so they really are out of business, those are the people that really we're most concerned with. But we're not going to by the mere passage of this bill through the legislature, eliminate all the road blocks because Mr. Anderson, the present owner of the property, has indicated that he doesn't think this option is a valid one to annex this property. So if we hold the proclamation until that transfer is effected it may well be months, if not years, going through the courts if Mr. Anderson chooses to challenge the option which Mr. Hall now holds. But i that's speculation and perhaps we should proceed with one thing at a time and I think perhaps that, on the basis of the mutual agreement, on the terms between the two jurisdictions, we should proceed.

MR. EVANS: Well, could we call the question then on Subsection (2) then that I've just put forward. That's the 10 year stipulation and the zoning.

QUESTION put on Clause 2(a).

A COUNTED VOTE was taken, the result being as follows:

Yeas, 3; Nays, 3.

MR. EVANS: Well, I just, you know, again point out, for those who are concerned, this bill is not coming into force until proclamation and, as Mr. McGill has pointed out, the Minister of Corporate Affairs and Consumer Affairs has pointed out, really the problems of ownership and so on are problems down the road and we need not really concern ourselves with that at this point in time. I mean we can at least do the job that's been requested of us by the municipalities. —(Interjection)— Could we have that vote again?

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MR. CHAIRMAN: Since not all the members voted, I wonder would you want to have a short recess and call the vote again for further discussion? The Member for Lac du Bonnet.

MR. USKIW: Mr. Chairman, I'm wondering who are members of this Committee that did not vote. Were there any abstentions?

A MEMBER: I abstained.

MR. CHAIRMAN: Okay, we'll call the vote once more.

A FURTHER COUNTED VOTE was taken, the result being as follows:

Yeas 4; Nays 3.

MR. CHAIRMAN: I declare Clause 2(a) carried.
The Member for Brandon East.

MR. EVANS: Yes. The next clause, Mr. Chairman, is the commencement of the Act and I would like to move an amendment which in effect says that the Act would not come into force until it is proclaimed. However, there is a bit of a problem. There's reference to Mrs. Hall, and I'd like to ask the legal counsel whether, in his view, it would be satisfactory to eliminate the reference to this on the understanding that the Cabinet would act — we have a member of the Cabinet here who's directly concerned, Mr. McGill — on the understanding that this is the intent of this particular section, rather than make reference to it in the clause.

MR. CHAIRMAN: Are you ready for the question? Well, we're dealing with (b) right now.

MR. EVANS: Oh, I'm sorry. I thought we dealt with 2. We're dealing with 2(b).

MR. CHAIRMAN: 2(a) has been passed.

MR. EVANS: I'm sorry. I'm sorry. I was on 3.

MR. CHAIRMAN: 2(b). That's the existing mobile home.

MR. EVANS: I apologize. I'm sorry.

MR. CHAIRMAN: That's the existing mobile home in Brandon. Are you ready for the question on 2(b)?

A COUNTED VOTE was taken, the result being as follows:

Yeas, 4; Nays , 3.

MR. CHAIRMAN: I declare 2(b) carried.
Mr. Tallin.

MR. TALLIN: I see no difficulty. What I was trying to do was bring the attention of the Committee to the fact that Mr. Anderson, who is the present owner of the property, did not want the property to be annexed to Brandon and therefore it would seem to be kind of precipitous to bring it into force right away. As long as the Committee understands that, I don't see any reason why there couldn't be a period after proclamation so that it would just read, "This Act comes into force on a day fixed by proclamation."

MR. CHAIRMAN: The Member for Seven Oaks.

MR. MILLER: I concur in that. I don't think that this Committee should get involved with the Halls or the Smiths or the Browns. The concern here is that there should be a mobile park home. Whether Hall owns it or Anderson owns it I couldn't care less. There can be two side by side. You know, it may end up that way for all I know. The Halls may sell out to Anderson and he may start a much larger one. So I would concur that we don't get involved with the ownership or the individuals, we simply leave it to be fixed by a proclamation. The department knows what the intent was. The Land

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Use Committee knows what the intent was, and the Cabinet will know what the intent was, and they'll simply act accordingly.

MR. EVANS: The bill now states that, in Section 2 this Act comes into force on the day it receives the Royal assent so I would be prepared to move the motion that this Act comes into force on a day fixed by proclamation.

MOTION presented.

A COUNTED VOTE was taken, the result being as follows:

Yeas, 5; Nays, 0.

MR. CHAIRMAN: It's carried.

Preamble—pass; Title—pass; Bill as amended—pass; Bill be reported—pass. Committee rise.