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Legislative Assembly of Manitoba

STANDING COMMITTEE

ON

LAW AMENDMENTS

Chairman:

Mr. J. Wally McKenzie,
Constituency of Roblin

Monday, June 11, 1979 8:00 P.M.

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Hearing Of The Standing Committee
On
Law Amendments

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HAIRMAN: J. Wally McKenzie.

R. CHAIRMAN: The committee will come to order. We're dealing tonight with Bill No. 30, an ct to Amend the Child Welfare Act; No. 36, an Act to Amend the Real Estate Brokers Act; No. 3, an Act to Amend the Trustee Act; No. 47, an Act to Amend the Personal Property Security ct; No. 48, an Act to Amend the Civil Service Act; No. 51, an Act to Amend the County Courts ct; No. 55, an Act to Amend the Insurance Act; No. 56, an Act to Amend the Family Maintenance ct.

The following names have been offered to the Clerk that have presentations to make tonight. n Bill No. 30, an Act to Amend the Child Welfare Act, Mr. James Dubray from Portage la Prairie, e Director of the Children's Aid Society of Central Manitoba, Sandy McIvor, a private citizen; 3: aul Swartz representing the Manitoba Association for Rights and Liberties. Bill No. 48, we have brief that has been presented to us for distribution tonight which was presented by Mr. G. A. ber, the President of the MGEA, and on Bill No. 56, an Act to Amend the Family Maintenance ct, we have Alice Steinbart and Marcel Baril.

So I will call James Dubray of Portage la Prairie, Bill No. 30.

By the way, are there any other that would like to make a presentation tonight on this legislation? they would come forward and leave their names . . .

RS. MARY BERG: I'm Mrs. Mary Berg, the president of the Children's Aid Society of Portage Prairie, and Mr. Jim Dubray, our Executive Director, will be presenting our brief to you.

R. CHAIRMAN: Thank you, Ms Berg. Mr. Dubray.

R. DUBRAY: Mr. Chairman, I have copies of the material I wish to speak to. Do you want me circulate them to you?

R. CHAIRMAN: We will have the Clerk pick them up.

Proceed, Mr. Dubray.

R. DUBRAY: In making the presentation to Legislative Commitee, we would like to identify some ilient points that need further work and clarification in the proposed Child Welfare amendments, as the case may have it, articles in the present Act that need changing. You will note that in ir items that we were referring to, the ministerial amendments as the working committee document ot under Bill 30, but I can happily provide you with a cross-reference to Bill 30 as I go ong.

The first item we'd like to talk to is the definition of parent, and it appears on Page 2, item o. 2 of Bill 30. The amendment as we see it is highlighted there for you to read, and I'll just oceed to our recommendation.

In parts 3, 4 and 5 of the Act, parent includes every person who is, as a natural or adoptive irent or guardian or person who is under legal duty to support, maintain and educate a child, cept a person or persons alleged to have caused a pregnancy by a mother through artificial semination.

We are also proposing that in Part 6 and 7 of the Act the definition of parent be: "Includes ery person who is a biological or adoptive parent or guardian of a child, except a person or rsons alleged to have caused a pregnancy of a mother by artificial inseminiation."

Our rationale for this proposal is as follows. If the proposed ministerial amendment is adopted can be construed to recognize common-law relationships. In our work under Part 3 of this Act, would allow us to ascertain some of the plans of common-law husbands towards their children,

cared for by them, under Part 3. At the same time, we feel it has the potential to add confusio to the Adoption Section of the Act, normally called Part 7, as it projects the definition of common-la relationships into a specific section. We are not sure that this was the original intent of the definitio or of The Child Welfare Act, but from our point of view, the confusion can arise when the common-la parent, who is not the natural parent, has by the very nature of this proposed definition, the rigl to be served under Sections 83(2), on 100(2), and 102(4) of this present Act.

It must be clear that in the Adoption Section, parent does not mean common-law parent, bu clearly indicates it is either the natural parent or the adoptive parent.

Further, in Sections 56(d) of the ministerial amendments, there is a clear thrust to exclude parent who becomes a parent through artificial insemination. To have consistency in the Act, th definition of parent should also include that exclusion as well.

A further complication can arise in Section 60 and 69 of the Act. Section 60 basically make provision for more than one punitive father to be named on an Application for an Order of Affiliatio And Section 69 makes it clear that a judge can make an order against one male in hearing a Application for an Order of Affiliation. Given this situation, it is theoretically possible that six me could be named the punitive father for a child. We would seriously question, that for the purpose of adoption, whether all those men should be served in an adoption hearing, as not all of the can possibly be the natural parent of the child. The net effect of having all these men served f an adoption hearing, would certainly delay matters at a minimum, and bring a complete aura confusion into the adoption hearing. In the words of our agency solicitor and I can quote you, "A hell would break loose in adoption hearings."

The second item we would like to comment on tonight, Mr. Chairman, is the ministeri amendment, Section 25(7.1) and it can be found on Page 7 of the present bill.

MR. CHAIRMAN: Page 17 is that right?

MR. DUBRAY: Of your bill, it should be Page 7 of Bill 30. I'm going from the working copy, M Chairman, that I have.

MR. CHAIRMAN: I see 17 here.

MR, DUBRAY: It'll be entitled Item 27 on Page 7. The ministerial amendment says, "In determini under Subsection (7) whether representattion of a child is desirable, the judge shall have in additi to all relevant consideration, a regard to

(a) any differences in the views of the child and the views of the child-caring agency, or of parent of a child;

(b) any difference in the interest of a child and the interests of a child caring agency or t parent of a child;

(c) the nature of the proceedings, including the seriousness and the complexity of the issu and whether the child caring agency is requesting that a child be removed from the home of parent;

(d) the capacity of a child to express his or her views to the court; and

(e) the views of a child regarding the separate representation where such views can be reasonat ascertained."

Our recommendation, Mr. Chairman, is that Section 25(7.1) be dropped from the prese amendments and relegated to the regulations in such a way that it can act as suggestions a guidelines for the judge to review and make a decision whether or not a child needs le representation, but this will not commit a judge to a mini-trial before a Child Welfare A hearing.

Therefore, the discretion of the judge remains intact; guidance from the Act is offered, and t rights of the child to a counsel are preserved in accordance with the definition of the best interes of the child as proposed on the first page of Bill No. 30.

Our rationale for this proposal is: while it is desirable in a worthwhile cause to provide crite for making a judicial decision, the net effect of establishing such criteria in The Act will only provi a basis for having a mini-trial prior to any hearing under The Child Welfare Act, and I can certai solemnly speak to that from experience in the court system right now.

The effect of this mini-trial will only be to delay hearings even further than they already a and by directly causing adjournments and utilizing judicial time which is already in very short supp in the province.

Secondly, by providing criteria in the Act itself allows for the possibility of overlooking so particular situation that possibly could qualify.

Thirdly, nothing is said in Section 25(7.1) that would happen if a judge found two of the abo

conditions applied and the remaining three did not.

Given this situation, we feel that the principle of providing counsel for a child is enshrined in the Act under Section 25(7) that further offering of conditions is only going to hamstring the judge and cause useless delays and in the end will only serve to provide confusion and inconsistency of practice.

The third item we would like to speak to, Mr. Chairman, has do do with Sections 27(1)(a), Section 27(1)(b), 31(1) and 31(2) and these are found in Bill 30 on pages 7, 8 and 9, bottom page 7 and tems 29 and 30.

If I can read to you the amendments as proposed now: Section 27(1) says "where upon the completion of a hearing under Section 25 , a judge finds that a child is in need of protection, he shall in the best interest of the child, order

(a) that a child under 12 years of age be made a temporary ward of the director of society or a period not exceeding 12 months ; or

(b) that a child of 12 years of age or over be made a temporary ward of the director of the society for a period not exceeding 24 months.

Section 31 lightly applies to reconsiderations and it says: "Any extension or continuation of the period of temporary guardianship of a child under the Clause 30(3)(a) with respect to a child under 12 years of age shall not exceed 12 months; and the period or periods of extension or continuation under the clause together with a period of temporary guardianship granted under Section 27 shall not exceed 24 months.

Section 31(2) An order of temporary guardianship of a child 12 years of age or over ,ay be made for a period not exceeding 24 months; but a judge may extend or continue the order of guardianship for a further period or periods not exceeding 24 months each, as the case may be.

Our recommendation has to do with what time do you decide whether or not a child is over or under the age of 12. And we have highlighted that in our recommendations. In Section 27.1(1)(a), that a child of 12 years of age, at the time of apprehension be made; and at 27.1(b), at the time of apprehension also; and 31, we've asked that since it's a reconsideration, that the 12 years of age be at the time of the current hearing, and that likewise for Section 31(2) at the time of the current hearing, since both those two latter sections apply to reconsiderations.

Our rationale, Mr. Chairman, Section 27 deals with the initial hearing, where decisions are made regarding the status of the Child Care Agency's application under Section 16 of the Act. This is difficult section, because a judge must determine if the child is over the age of 12, or under the age of 12. And as a result, certain deliberations and judgments are made with regard to an order of Temporary Guardianship.

It is unclear from the subsection at what point, at what age, the decision made by a judge is made. Is the child to be 12 or over, or 12 or under at the time of the hearing, or at the time of apprehension? It is necessary to provide some guidance for judges in making their decisions, so that we can have some consistency of practice across the province with regard to this very difficult but necessary section.

Subsequently in Section 31, we are dealing with a similar problem of guardianship that can be extended for a further period of 24 months if the child is over 12 years of age. Again, the crucial decision must be made with regard to the age of the child. At what point are you going to determine the magic age of 12 years? Is it at the age of the child at the time of apprehension, the time of the initial hearing, the time of the application for the hearing, or the time of the present hearing?

Given all these variables, we would recommend that the most consistent way in dealing with this section is to have the judge make a decision on the age of the child in the case of the consideration, at the time of the current hearing.

So, we're suggesting that in the two sections where a child is made a ward in the beginning from apprehension, that the time of the apprehension be considered the point of reference, and the time of the current hearing be considered the point of reference for reconsiderations.

Item 4 — We were talking about Section 26 of Bill 30, and that is Item No. 28 on Page 7 of Bill 30. The Ministerial Amendment says,

"Where the parents of a child consent, or the person who has charge or custody of a child consents to temporary guardianship of the child by the director or a society, as the case may be, the judge may, without receiving further evidence make an order respecting temporary guardianship of a child in accordance with Clause 27(1)(a) or (b), as the case may require, and may, subject to Section 31, review or extend that order.

Our recommendation, Mr. Chairman, is that proposed amendment, Section 26, be dropped from the present amendments.

Our rationale for our recommendation — well, it can be argued that social agencies should make

it easy for arents to get out of parenting, if they make a decision on their parenting skills and th professionals in the field agree with that decision. This could potentially be accomplished by havin a Child Welfare Hearing and those parents consenting to an Order of Guardianship made unde this proposed Section 26. However, it can be pointed out, that if parents wish to get out of th process of parenting, they can do so easily under the present Section 15 of the Act and they d not need to go through a court hearing, which could be an added burden. If this proposed Sectio 26 is implemented, we are asking Family Court judges to make a decision on the guardianshi of a child without hearing any evidence. We would propose that many judges would be reluctar to hear applications under this section as they personally could not be satisfied that such an orde could be in the best interests of the child, as outlined in the bill's current definitions of best interest of a child.

And lastly, if the parents were consenting, and it was therapeutically expedient to have a hearin where the parents indicate their consent, the judge ultimately has the power to decide how muc evidence he needs to hear in order to make a decision. We feel that discretion should be left t the individual judges.

We had included Item 5 but I would like to skip over Item 5, as we find in reading Bill 30, whic we just received today, that that item has been dropped from the original working papers, an it really makes no sense for us to further comment on it. So, I would like to move on to Item please.

Item 6 can be found in Bill 30, on Page 4, Item No. 14 or Page 15, Item No. 54, as the cas for Section 85 and Section 15 respectively. Section 15 presently says, under the ministeri amendments, "No agreement shall be entered into under Section 1, until the expiration of at lea seven clear days after the birth of the child", and then we want to point out the inconsistenc in Section 85, where it says, "No person shall execute or give consent to the adoption of a chil under Section 83(2), and no person shall take, request or solicit the consent of any person to th adoption of a child under that section until the expiration of at least 10 clear days after the da of the birth of the child."

Our recommendations, Mr. Chairman, are that there could be consistency of practice and I won read through them all, but we recommend that you use seven clear days, clear calendar days, specify it even further, and our rationale for that is as follows: Both of these sections deal wit the consent by parents.

In the first section, consent cannot be given until seven days have elapsed. On the other han Section 85 is indicating it takes 10 clear days before a consent can be given. Since both of thes sections deal with relinquishing children for adoption placement, it is preferable the time-frame aft which consent can be given should be made consistent.

Secondly, there is always a possibility of confusion between calendar days and juridical day It is important for legislation to express their preference. Therefore, we would propose using th term "calendar days", as it relates to these sections of the Act. We would prefer the seven-da ruling, rather than the ten-day ruling, because in modern society we are dealing mostly with mobi people, and especially in the rural areas. The longer time we spend after the birth, the greater th chance the mother will be unavailable for signing consents.

Item 7 is found in Bill 30 on Page 21, Item No. 72. The ministerial amendment says, "Wher after the hearing of the applicants or the guardian of the child, and the parents of a child, as th case may require, and after considering the report of a child-caring agency, the judge may gra the order of adoption, or he may order: (a) that the care and custody of a child be turned ov to the parents or guardian, or that the child be made a ward of the Director or a society."

Our recommendations on this amendment are as follows: "Where after hearing the applican or guardian of a child and the parents of a child, as the case may require and after considerir the report of a child-caring agency, the judge may

(a) grant the order of adoption, (b) that the care and custody of the child be turned over the parents or the guardian of a child, or that the child be made a permanent ward of the Direct or a society," with the key emphasis on "permanent", Mr. Chairman.

Our rationale is as follows: This section under private adoption part of the Act, allows a judg basically three dispositions: (a) to grant the order of adoption, (b) to return the child to the ca and custody of his parent or guardian, and (c) to make the child a ward of the Director or a societ However, the wording in this section is such that it only clearly shows two alternatives, i.e., (a) ar (b) of the ministerial amendments and the net effect would be confusion, unless the three alternativ are clearly spelled out.

Secondly, in Subsection (b) of the existing amendments, it is indicated that the child be mac a ward of the Director or a society. It does not articulate what kind of wardship is indicated. W do know, however, that a judge is asked to make a decision with regard to a permanent plan f a child, i.e., adoption, and that the child-caring agency has made an investigation of the adoptic

nd presents its recommendation.

However, if an order of adoption is not granted, and if the return to the parents is unworkable, would seem to be in the child's best interests, that he be made a permanent ward of a society r the Director, rather than a temporary ward. The permanent wardship would be then in line with ıe provision and request for permanency under the private adoption. The need for permanency well delineated in the section of the new amendments under the best interests of the child, as the first page of the Bill No. 30.

Item 8 has to deal with The Child Welfare Act itself and not the amendments, but it has to eal with Section 4(14), Sections 5(1), 5(2) and 5(3) of the child welfare amendments, and that's ınd on Page 2, Items 5 and 6 — at least 5(3) is. This has to do with the difficult section of nding and I'd like to address that for a moment, if you would, Mr. Chairman.

Section 4(14) says, "From and out of the Consolidated Fund, with moneys authorized by an ct of the Legislature to be paid, and applied for the purposes of this Act, the Minister of Finance ay pay to a society in any fiscal year of the province, such grants as may be specified by an der of the Lieutenant-Governor-in-Council."

Section 5 (1) says, "The Minister may fix the amount that shall be chargeable to, and payable the Director to a society, or an institution, in respect to temporary contract placement, mentally tarded children, placement of children under apprehension, and children in charge of or committed the care and custody of a society."

Section 5(2) — "The rates fixed under Subsection 1 shall be effective on, from and after such ıte as may be fixed by the order of the Minister, or they may be fixed retroactively."

Our amendments, Mr. Chairman, are as follows. I'm sorry, the ministerial amendments are as llows now:

Section 5(3) — The cost of temporary contract placement, mentally retarded children placement, ildren under apprehension, children committed to the care and custody of a society for any reason aced in the charge or care of a society shall be chargeable to and payable by the Director to society, or an institution, in accordance with the per diem rates fixed under the subsection.

That's the ministerial amendments. Our recommendations are as follows: That Sections 4(14), 1), 5(2), 5(3), 5(4) and 5(5) be all collected under one section, and numbered as Section 5, and titled as Funding, as they all deal with money matters.

(2) That Section 4(14) be changed to Section 5(1), to read as follows: "From and out of the ınsolidated Fund, with moneys authorized by an Act of the Legislature to be paid and applied the purposes of this Act, the Minister shall pay to a society in any fiscal year of the province, ch grants as may be specified by an order of the Lieutenant-Governor-in-Council, for the specific rpose of carrying out the society's duties and responsibilities as designated in Section 6 of this t."

We further recommend that 5(1) shall be renumbered as 5(2), and remain worded as is; 5(2) renumbered as 5(3), and remain worded as is; 5(3) be renumbered as 5(4), and remain worded it is presently worded in the amendments; 5(4) be renumbered as 5(5), and 5(5) be renumbered 5(6).

Our rationale for the substantive change that we itemized in this second section above, is all sections above deal with the funding of agencies or institutions in their respective per diem es or grants. We see them spread out between two numerically different sections in the present t and the amendments. To our manner of thinking, they should be dealt with as one separate ction of the Act, and entitled as Funding.

Section 4(14) deals specifically with the service and administration grants to societies, which essence funds our basic operating costs for such items as salaries, benefits, travel expenses, lding costs, etc. Further, it is our understanding that Section 4(14), as it presently stands, and ction 6 of this Act are inextricably tied together.

If you look at Section 6 as it is itemized on the bottom of Page 2, you will see it puts out very arly what the duties and responsibilities are of a child care agency, and therefore we are saying two are linked together. Section 6 spells out in the Act, and in the proposed amendments, at the duties and the obligations of the society are. The Act further provides, under Section 3(1)(c), t the Child Welfare Directorate can hold the child caring agencies accountable for their duties l obligations.

The paradox that is typified is that Section 6 spells out the obligations; Section 3(1)(c) indicates accountability; and Section 4(14) provides only questionable obligation on the part of the Minister fully fund all those activities, obligations, duties and responsibilities.

It is widely recognized in administrative circles that if you mandate a service, you must also ure or guarantee the funding for that service. If the funding is not available for all those activities, n it is the obligation of the Legislature to review the mandate, and cut back the obligations l responsibilities in proportion to the money available for goods, service delivery.

We are not requesting a blank cheque for governmental funding, but we are concerned a administrators of a private, non-profit, charitable corporation, that our mandate be clearly spelle out in a piece of legislation, and that funding be secured for that mandate; that we, in makin application for funding, know specifically what our duties and obligations are, and know that if w present a case for service delivery in accordance with these duties and obligations, the provinc then has a responsibility to secure the funding for that mandate. If that is not possible, then th mandate should be revised.

If we are permitted one further point on this matter, we know that, for example, the provinc over the past year has provided service standards in the area of child protection, and child care and is presently proceeding with work on adoption standards. While we applaud the work bein done in this particular area, we note specifically that the standards fall far short in determinin the necessary casework levels to implement those standards.

In summary, we have a legitimized mandate, service standards, but no legitimized staff cas ratio to carry out those standards and obligations. We strongly suggest that the province legitimiz in the regulations, casework standards for the various areas of service delivery.

The net benefit for the province in the short and the long-run, is that it would know specificall what it is funding, and what the cost or unit cost for each area of service is, instead of fundin a block of unknown child welfare services with a "X amount of staff" allocated to it as a conditio of this particular fiscal year.

Two additional comments with regard to overall considerations in the amendments. First, it i important for us, as practitioners where events can occur legally and a designation occur to whethe these are calendar days or juridical days. We have highlighted one of those incidents in ou presentation. We would ask that you review the Act and the amendments, and designate all tim frames in terms of clear calendar days or juridical days. That would make for intense time-savin in the field, and it would be clear from the outset what is meant.

Secondly, many of the sections in the Act deal with a variety of options available under a particula section. It is very important to us, as practitioners in the field, to have those options clearly spelle out and itemized.

The tendency has been in the past, and is still with us in some of the sections of the amendment to obscure the conditions of a section with the real options that it provides. And we strongly sugges that these options be itemized as either a, b, c, or 1, 2, 3, or whatever you prefer.

In concluding, Mr. Chairman, may I say, on behalf of the Board of Directors of the Childrer Aid Society of Central Manitoba, we thank the Legislative Committee for taking the time to liste to our concerns on the proposed Child Welfare Act amendments, and we hope that ou recommendations will be taken into account, and we look forward to operating and functionin under one of the most progressive Child Welfare Legislation packages in Canada.

If there are any questions, I'll . . .

MR. CHAIRMAN: Thank you, Mr. Dubray. Are there any questions of Mr. Dubray.

If there are none, I thank you, Sir.

MR. DUBRAY: Thank you.

MR. CHAIRMAN: And I call Sandy MacIvor. Mr. MacIvor? I call Paul Swartz.

MR. PAUL SWARTZ: Ladies and gentlemen, and Mr. Chairman, I appear on behalf of the Manitob Association for Rights and Liberties. The brief that I am about to refer to was prepared by a numb of persons including myself , those other persons being, Vivian Rachlis and Mr. Michael Skremetk There are other members of this group. We have considered Bill C-30 in some detail — the Childrer Concerned Group, that is — not the entire Association for Rigbts and Liberties. We have bee functioning as a group since October of 1978 andwe are composed of a number of persons involve either professionally or as volunteers in the Child Welfare System one way or another on the periphe or directly involved.

We have worked hard on considering the amendments and we are going to put forward thre major concerns to you that we have and hope, of course, that you will consider them serious and perhaps take some of our suggestions with the seriousness that we feel they should b taken.

MR. CHAIRMAN: Mr. Swartz, do you have copies of your brief for the committee?

MR. SWARTZ: I'm sorry, because of the nature of the timing involved, we were advised only ear this morning and we do have a written brief that I'm only going to refer to it as draft and it w

be submitted in final form within the next day or two. I think that you will be able to follow me because as I said, there are three major portions that we wish to deal with.

The first area of our concern is the best interest tests. We certainly welcome that there are provisions made to give judges guidelines in determining what is in the best interest of a child in making decisions in protection hearings, or custody hearings, but one concern that we have about that; it's hard to state it succinctly. The best interest test would lead one to believe that the decision that is being made is certainly in the best interests of a child. Quite frankly, we feel it's more realistic to consider it that it is more like the best move in the surrounding circumstances, and accordingly we are suggesting that rather than using a simply best interest test, that it be combined with the phrase "the least detrimental alternative" and that in fact, best interests be defined to mean "the least detrimental alternative in the circumstances" and then reference being made to the specific guidelines that have been stated in the Act or the proposed amendments. We feel that that just puts the matter in a more realistic setting when the judge is deciding the situation.

The concern again, we wish to emphasize is not a minor one because in most cases one must understand that no disposition is best for the child in an absolute sense. The child has already, in most cases, lost the best choice, that is being with his family. And the suggestion that we're making is certainly not out of a vacuum. There is substantial periodical literature available on the point. The recommendation itself is one that was considered by Ontario in their amendment to their Child Welfare Act.

We strongly urge the committee to consider that test — the least detrimental alternative in the circumstances — with reference to the guidelines as outlined in the amendment. If the committee will bear with me, I just wish to give you a brief example of that.

Supposing that a child is found to be in need of protection. A judge sitting and applying the standard of the best interests, the judge is at that point not really expected to compare the probable consequences of the child's remaining in the home with the probably consequences of his removal, since in most cases only the risks of the child being placed or kept in the home are placed before him, the judge may not readily see the risks of foster parent placement.

In that particular example, of course, the result is a substantial bias in favour of removal. If the court were required to choose the least detrimental alternative instead of the best interests, we feel it would simply be more realistic. By deciding that the child is in need of protection the court has already determined that the child has fallen below the minimum standards of care and that interference by the State is required to raise that standard of care. The least detrimental alternative we feel, would convey the idea of minimum intervention without creating false expectations that there is somehow a best future for the child in State care.

The second point that we wish to make has to deal with the legal representation of children, and while our focus of course is on the children who are involved in the process, it is with some surprise that I find we have come to a completely opposite conclusion to that which the preceding speaker, I believe, Mr. Bray, came; Mr. Dubray, I apologize, Mr. Dubray. The suggestion made by him was that he is applauding the progressiveness of the legislation and certainly we are to some extent in agreement with that because the bill itself obviously implicitly accepts the fact that legal representation of children is a matter of prime consideration. And I say prime consideration because it's true that in the existing Act, Section 25(7) there is a provision whereby a judge could appoint a lawyer to represent the interests of a child. But that matter was left in a vacuum since 1974 and the information that I have is that there are very few, if any cases, where legal representation for children has been provided.

Now, as I said, we say that the legislation that is now proposed, Bill 30, implicitly accepts that legal representation is a matter of prime consideration and we would like to further expand on that and in fact, we feel that the Section as proposed, is somewhat limiting and should be more sharply focussed. If we accept that legal representation is a prime consideration, then our submission is that the Section should be amended whereby legal representation for a child should be directed, unless the court is satisfied that the interests of the child would otherwise be adequately protected. It's still our position that the matter would be left to the discretion of a judge and contrary to what Mr. Dubray said we do not believe that this would cause any delay in proceedings. He referred to a mini-trial.

Certainly the judge would have to — in our submission I'll get to the particulars of the Section in a moment — in our view, the Section would require the judge to make a determination at the outset whether or not a child should be provided with legal representation, but we do not feel that that would cause any delays nor would there have to be a mini-trial. It would be a simple matter for the judge to determine, and even if it were to cause a mini-trial, we feel that the concern for the children who are being processed through the courts, overrides that little problem.

The section that we would propose being instituted, rather than the present Section 25.7(1), is that which was recommended by the Ontario Attorney-General's Committee on the Representation

of Children. Bill 114 in Ontario, I believe, became law not too long ago in the province of Onta and the section that was enacted there is, I'm reasonably certain a duplication of what is in E 30, or perhaps Bill 30 is a duplication of what is in Ontario.

The Committee for the Representation of Children looked at that section and came to t conclusion as humbly, we also have, that the section was not strong enough. We are recommendi that the Law Amendments Committee consider the following section in substitution for 25. 7(The section should read as follows:

"A child may be legally represented at any stage in proceedings under this part." And th specifically is, of course, the protection hearings where Children's Aid is alleging abuse or negle "Where on an application under this part, a child is not legally represented, it is the duty of t court, before proceeding to the hearing of the evidence, to determine whether representation desirable to protect the interests of the child. If at that or any later stage in the proceeding, t court is of the opinion that representation is so desirable, the court shall direct that le representation be provided for the child." I point out, it seems to me a fairly simple determinati that a judge can make it the outset, without the need for any mini-trial.

Section 2, to that or the following would be: that in determining whether representation desirable to protect the interests of the child under the foregoing section, "Where the court is the opinion that there is a difference between the view of the child and the view of the socie or of either parent or custodian of the child, and

Sub (1) the society is requesting that the child be removed from his present residence, o

Sub (2) the society does not propose to return the child to the care of his parents or custodi upon the termination of a temporary contract placement; or upon the expiration of a tempora wardship order; or the child has been apprehended and a parent or custodian of the child cann be located so as to be present at the initial hearing of proceedings under this part; or a child w has been taken into care is alleged to be a child upon whom abuse, as defined, has been inflicte the court shall direct that legal representation be provided for the child, unless having regard the views of the child, if any, the court is satisfied that the interests of the child would otherwi be adequately protected."

We cannot stress strongly enough that we feel this section is necessary especially in view the fact, of course, we are in the International Year of the Child. The matter of legal representati of children is a matter that has been sorrowfully neglected over years, and the children who a being processed through the system ought to be entitled to independent legal representatior

I would go one step further just on this point of legal representation and say that the secti that we have referred to, ought not to be confined simply to protection hearings. It is our vi that that section or a similar section ought to be enacted, whereby in custody proceedings betwe parents under The Child Welfare Act, whether they be in Provincial Judges' Court or the Co of Queen's Bench, that a similar section ought to be enacted so that legal representation for childr in all cases where their rights and interests are directly or indirectly being affected by decisio they ought to be legally represented.

Our third major area of concern has to do with wardship orders, or for lack of a better ter we are going to propose to the Committee that there be mandatory review of permanent ord of guardianship in favour of the society, the Director of Child Welfare or whatever the case m be. Again, we do not make these recommendations in a vacuum; we have considered literatu on the subject and in particular, recommendations that were considered by Ontario.

The present section 30, is proposed to be amended but there appears to be in our view, o item missing. In Section 31 of Bill 30, amending Section 30(1), and this deals for the first part w temporary orders, it says that application may be made by the Director, society or parent of t child. Since our view is from the point of view of a child, we feel that a child over the age of years ought to be included in that section. It ought to be open for a child over the age of 12 ye to retain counsel, if competent to do so, and make an application to terminate a temporary or of wardship. We see nothing inconsistent or out of the ordinary in doing that and we strongly sub that that little item, which we are sure is an oversight, ought to be included in that section.

If we turn then to Section 33 of the existing Act, which is dealt with in the Bill 30 by Secti 34, Section 33 of the Act deals with reviews of permanent orders of guardianship. The Act n reads that applications can only be made, I believe, by the Director or the society. It does n include an application that could be made by a parent, nor does it include an application that co be made by a child over the age of twelve. We feel that in particular, that Section 34 of Bill ought to include a further amendment, in that a child over the age of 12 and a parent ought have the opportunity to apply to terminate a permanent order of guardianship. Now, the reas we suggest that is as follows:

We further take the view that while it's true that in most cases where permanent orders guardianship are made, the society will take charge of children and then place them for adopti

opefully successfully. We nevertheless must accept that a number of children — and not a small umber — end up being placed in one foster home and then another, and either do not get adopted r if they do, they themselves as children having been in care prior to the adoption, are the future ıvenile delinquents.

We feel that there ought to be provision whereby any permanent order of guardianship be ıtomatically reviewed at the end of two years. The matter would automatically be brought back) the court but of course if Children's Aid or the society who has guardianship, were to effect ı adoption placement, then the matter would not be reviewed.

We feel strongly, that on such an application which we feel should be broadened to include ıe parent and a child over 12, that on that automatic review the judge should be restricted to ertain orders. We would not want to see the judge making an order reverting temporary ıardianship back to a society. What we would view as being appropriate is that the judge, on earing of an automatic review, could continue the permanent wardship order. He could terminate ıe Permanent Wardship Order, and return the child to the biological parents, or he could terminate e Permanent Order and return the child to the parents under supervision. And if there was any der allowing access to the child during that period of permanent wardship, we think that the judge ıould, of course, be able to grant, vary or terminate an access order.

This is not new to this field, I would respectfully submit. As I indicated, Ontario has enacted milar provisions. The State of New York has also enacted provisions providing for the automatic view of permanent wardship. We do not feel that this would interfere with any plans that the ıciety might have for adopttion, as I indicated. If an adoption placement were effected, there would e no review. However, the children who are in care for a number of years and are not adopted, ere should be some process for review to make the society accountable for its plans.

Those are the three major points we wish to make. One being that the best interest test should e defined to mean the least detrimental alternative in the circumstances, and then reference being ade to the guidelines that have been specified in Bill C-30. The second point being that legal presentation of children is implicitly a prime consideration by this Legislature, and we feel that ere should be stronger provisions to assure that children will be entitled to legal representation protection hearings in particular, and more generally in all matters where their rights and interests e affected. And the third thing is that we submit that there ought to be mandatory review of ermanent Wardship Orders.

There are just a number of minor points that we wish to make. We feel that a judge ought be required to give reasons in all protection hearings. He ought to be required by this legislation give reasons for his removal of the child from the home of the parents, as to why the society ırdship is preferred over that of the parents, and that reasons as to the plan submitted by the ciety, ought to be included in the reasons, and any other relevant considerations that the judge ıuld have in his decision.

We have some concern as well about the fact that the Manitoba Youth Centre is being used a centre for the holding of children who are neglected or runaways, etc. — children in need shelter. We feel that the Act, specifically the Definition Section of Place of Safety, ought to be ined to specifically exclude the Manitoba Youth Centre. It is with some concern that we have ırned that . . .

t. CHAIRMAN: Order please, Sir. I think I'll have to bring you to order on that point. We are aling tonight with Bill 30. If you could relate that subject to the bill, I might accept your ıument.

t. SWARTZ: Yes, Mr. Chairman, I'm sorry. Bill 30, of course, deals with amendments to The ild Welfare Act. The Child Welfare Act, as it exists in the Definition Section of a Place of Safety s not been dealt with by the amendments. I take it that it is in order to suggest that the Place afety be included into Bill 30 as an amendment.

t. CHAIRMAN: I think, if I read it correctly, you are speaking to what's in the bill as before Sir. I don't think you have an amendment that we can deal with at this particular time, just at's in the bill is what we're dealing with at the moment.

t. SWARTZ: Very well. One last point, and this is somewhat minor as well. I was discussing ction 34 of the proposed amendments — that was dealing with Section 33 of the Act which als with Permanent Orders of Guardianship. Section 34(b) of Bill C-30 refers to striking out the d "shall" and substituting therefor the word "may". If one looks to the Act, Section 33(1), the ic of the section seems to allow a judge to come to the conclusion that it would be in the best erests of a child to terminate a Permanent Order of Guardianship, and yet he could then be

given the discretion to not return the child to the parents. We don't understand why "shall" ha been made to be "may". We think it should remain as "shall". There should be a mandato requirement on the judge that if he comes to the conclusion that it is in the best interests of tl child, that an Order of Permanent Guardianship should be terminated, then that's what he sh do. We do not feel he should be given the discretion. It's just logically inconsistent.

Those are our remarks and we thank the committee for listening to them, and hope that tl three major areas of concern will be considered in detail, and hopefully children in Manitoba w be provided with progressive legislation whereby their rights and interests can more effectively l represented.

MR. CHAIRMAN: Thank you Mr. Swartz. Would you remain and see if there's any questions, M Swartz. Any questions for Mr. Swartz? The Honourable Attorney-General.

MR. MERCIER: This is not in the form of a question, Mr. Chairman, but perhaps just for tl information of the delegation, if he's not aware of it. The Manitoba Law Reform Commission a presently studying the question of children's advocacy, and are receiving some prelimina representations from interested members of the public.

MR. SWARTZ: I thank you, and we will direct our attentions to there. I just wish to also poi out — I happened to read today in Headnotes and Footnotes, that Provincial Judges Court requesting a list of attorneys who might be interested in representing children in matters such these, but it is unnlear as to how they intend to create a mechanism whereby children can l represented.

MR. CHAIRMAN: Any further questions of Mr. Swartz? I thank you, Sir.

MR. SWARTZ: Thank you.

MR. CHAIRMAN: Bill No. 48. The Clerk now will distribute a brief that was presented by Mr. G. Doer, President of MGEA. We move on then to Bill No. 56, and I call Alice Steinbart.

BILL NO. 56 — AN ACT TO AMEND THE FAMILY MAINTENANCE ACT

ALICE STEINBART: Yes, hello again. I'm speaking on behalf of the Coalition on Family Law, a there is a brief being given out.

The Coalition on Family Law wishes to commend you for this legislation, Bill 56, dealing wi improvement of procedures for enforcement of maintenance orders. We are pleased with yo concern in this area and with your awareness that this is a very important area. We are pleas that you are taking action and that you are serious in your intent to improve this area of la

This legislation is a good first step. We agree with your appointment of a designated offic who will be responsible for collecting and enforcing orders. We feel this will make an importa difference in the enforcement procedure. However, it still does not solve the problem of delay, getting the money into the hands of the woman on the date when she expects it. In fact, despi the designated officer being responsible for the enforcement of the order, it could take anywhe from one to three months and even longer before that money is received by the woman. In tl meantime, she still has to pay rent, to buy the groceries and clothes, to pay for the incidenta such as money for her child at school for a project or a field trip. One solution to this proble is to amend Section 25 of The Family Maintenance Act to read that the court shall require tl person against whom the order is made to deposit a bond or some other security with court an amount equal to maintenance for three months. Thus the woman would be able to rely on tl security deposit while her order for maintenance is being enforced. Section 25 of the Act shou further read that in the event such a security deposit or bond would cause undue hardship, th the court shall make the order on such terms as it thinks fit, including a suspension of the requireme to make such a deposit or bond. So the court could order that the bond or security deposit or be paid after the husband receives the sale proceeds from the property settlement, if there is su a sale, or the husband could pay the security deposit over a period of months, gradually buildi up the fund in that way.

A second concern we have with the legislation again deals with delay. The Act provides th the designated officer may summons the husband into court for a show-cause hearing. It is possit that at that point the husband will tell the judge that he is unable to pay because there has be a change of circumstances, such as illness or loss of job or whatever. If the original order can from a court other than Family Court, in other words if it came from County Court or Queer

ench, the judge has no authority to deal with that order. What the judge will have to do is to djourn the proceedings and tell the husband that he has the right to go back to the other court) ask for a variation. In the meantime, the order is unenforced. The solution here is to have a nified Family Court so that whatever judge is sitting, has the right to deal with the matter then ıd there and not delay it.

Another concern we have deals with the show-cause hearing whereby the designated officer can ave the husband come into court to be examined in respect to employment, income, assets and) forth. Our concern is, who will be doing this examination? We expect it will be the designated ficer, but this is not clearly shown in the Act itself. It could be possible that the designated officer ould not be involved and, again, it would be up to the woman to produce her own lawyer for is examination.

Another concern we have deals with the method of enforcement. One of those set out in the ct deals with relief under The Judgments Act. There is a problem in The Judgments Act itself that it is badly drafted. Section 3 of The Judgments Act allows a judgment creditor after a judgment as been registered in the Land Titles Office for a period of one year, to commence proceedings force sale of land. Section 9 of that same Act states that in respect to maintenance orders, e spouse who has the order has what is called a life annuity against the land. Some judges have terpreted these sections to be exclusive, so that a spouse who has a right under Section 9 has) right to force a sale of land under Section 3. These sections should not be exclusive. A woman ıould have the right to force the sale of land under Section 3, and The Judgments Act should) amended to reflect this. In addition, the exemptions generally in The Judgments Act should not)ply to maintenance orders. For example, a woman should not have to wait a year before she ın force sale of land, nor should she be stopped from forcing sale of certain property, such as rm property, home property and so on that is not of a certain value. All these assets should be ıbject to a maintenance order.

Another concern we have deals with Section 31.1(2), that's your Definition Section. In that section, ere is a definition of "Order" but it does not include an Order under The Child Welfare Act. ıerefore, it might be possible for an order for child maintenance to be made which will not be ıvered by Bill 56.

Another concern is the time period when this bill will come into effect. We understand that the stem is to be computerized, which is a lengthy procedure, and that the system may not be brought o effect until possible January 1st, 1980. It is important, of course, that the system be mputerized, but the delay will mean hardship for women and children until the system comes o effect. We know you are most concerned about this area, and we expect that your concern ll result in this system being implemented not later than January 1st, 1980, and hopefully oner.

There is another item which unfortunately we have never mentioned . before, not to the committee ıdying this ' case, nor to you, nor to the Attorney-General. The only reason I can think of is has gotten shoved off into what I call "The bottom of the iceberg", for the whole area of Family w is immense and what we have covered up to now is only the tip of the iceberg.

The item which I wish to mention is what is referred to in law as "the one year rule". This is principle of law that if maintenance is in arrears beyond one year, a court will not allow those ·ears over a year old to be enforced unless a wife can prove she she has been actively trying obtain those payments, both before they became a year old and has continued trying steadily, t intermittently, to force those payments.

In other words, the court would allow her husband to abuse the normal delays built into our stem of justice to defeat a wife's claim. The reason given for the one year rule is that a wife ɔuld not be able to build up a nest egg at the husband's expense. It would be too harsh on husband as several years of arrears could amount to thousands of dollars. It could wipe him t or at the very best wipe out his nest egg, his savings. I think that should be "at the very least)e out his nest egg or his savings".

There is no doubt about it, it possibly would. What about the reverse? Children are a joint ıponsibility. They are also a financial burden. I know that my parents have never lived so well when my brother and I became financially independent. An income which was enough for my ·ents was strained by a family of four. If a woman is left alone to raise her family, she never ts a chance to build her nest egg. All her money is used in that day-to-day battle of making ds meet on a strained income. Her husband's nest egg is built at her expense because he is t paying maintenance, and then it is protected by this one year rule.

A woman often, after a separation comes onto the job market at a severe disadvantage. She y have remained at home during the marriage, looking after the home and family. Therefore has lost job skills, possible promotion, possibly even her basic skills, so that she cannot return that field, at least not without some retraining. She has definitely lost seniority rights, accumulation

of time towards longer holidays and pension benefits. If she worked outside the home during t marriage, it may have been intermittently as she took time off to have children.

This also means that she lost seniority and fringe benefits. Even if her work was not interrupte she is probably in a lower paying job, a job which was not meant for the head of the househo and therefore does not pay enough to support the family. There are major financial disadvantag but despite this too many women have been left alone by husbands who do not pay maintenan and by our legal system with this harsh one year rule to support a family on an inadequate incor The result is a struggle for the women and children, not only because of the physical denials th must go on when there is not enough money to provide a good environment to raise the childre but also because of the emotional stress, worry, strain of not having enough money to make en meet. No doubt much of this stress is taken out on the children.

The one year rule is not a rule passed by the Legislature; it is a judge-made law. The judg in their wisdom saw and understood the effect a lump sum of arrears would have on a man a they were correct. But the judges, through the lack of ability to see life through the eyes of a moth alone did not understand its effect on the women and children. They never saw that his nest e existed because she alone carried the financial burden of raising the children. They never saw t older woman whose studies now show to be amongst the poorest group of people in Canada. Th never saw that a mother who spent her life and her money on raising the children condemned hers to poverty on retirement, for she never had any money to put by; every penny was used to ma ends meet.

It is unfortunate that raising children can be, not just a joy but also a burden, and it is a burd that must be shared including if necessary by transferring his nest egg to her. It is harsh on h of course, but if the one year rule continues to exist, then it is even harsher on her. By enforci maintenance all the way back, both parents again resume the joint burden rather than one beari it all, and even then it would not be a joint burden because the wife would not receive the intere on the money never paid, only the money itself. The interest from having the use of the mon for all of those years, the husband retains.

An interesting aside, I first came across this one year rule as a student and it struck me th as wrong, but I wasn't able to articulate why. It just was wrong. When I tried this concept out other lawyers I was given all the stock answers: to force a husband to pay years of arrears is hars it would wipe him out. I couldn't answer that, as of course it was true, but it wasn't until recen in one of those flashes of insight that you get now and again, that I realized that no one ever look at it from the woman's point of view, and from that perspective everything looks different. Fro that perspective we can see the woman's struggle to make ends meet, her anguish that her childr are suffering or being denied, her determination to do well for her children, her bitterness at h husband and our legal system for their lack of concern and callousness and just plain stupid that they cannot see things as they really are.

It is one of our great disadvantages that our legal and political systems have locked wom out. The 50 percent of our judges and lawyers who form the judge-made laws are not wome the 50 percent of our legislators who form our statute laws are not women. We hope that by simp pointing out these facts to you, we will be able to have the woman's perspective put into law. Th one year rule must be eliminated.

There is one other item I would like to cover. It does not deal specifically with this bill but genera with the area of Family Law. We are pleased with the Attorney-General's knowledge and conce with the problems in this area. This was particularly evident at the last Federal-Provincial Conferen when the federal government offered to transfer jurisdiction over divorce to the provinces. Manito was one of the two provinces to object to this, and we believe it was because the Attorney-Gene was more knowledgeable in this area than the other Attorneys-General.

They did not seem to realize the problems and the hardships such a split in jurisdiction wou entail. We also want to commend the Attorney-General for the co-operation we have received monitoring the current Family Law legislation to see that it is in fact working as everybody intend it to work. It has become evident to us, as we are sure it has become evident to the Attorney-Gene , that so far we have only touched the tip of the iceberg in the area of Family Law and that the are many areas which the Legislature has not dealt with yet.

MR. CHAIRMAN: Are there any questions for Alice Steinbart? Mr. Parasiuk.

MR. PARASIUK: Thank you, Mr. Chairperson. I'd like to ask Ms Steinbart: what does a wom do if she doesn't get any money in the first three months? I think you point that out actually Page 1 of your brief. We are suggesting that there be a deposit of a bond or some other secur with the court in an amount equal to the maintenance for three months.

In your experience, what is the case right now when people just don't get any money for t

rst three months? Do they go on welfare then?

S STEINBART: It can vary. If the woman is already on welfare then of course she just continues. she is a working mother and she's relying in part on her income and in part on the maintenance, ıe just tries to eke out on her income. She wouldn't be getting welfare because she's working. ut it does cause a lot of hardship. Maybe she might try and borrow from her parents or from ends or something to that effect. Or just simply tries to cut back on the family income.

R. PARASIUK: Yes. Do you have any idea why it was left out? I know this has been discussed. 'ere you involved at all in the discussions leading up to this particular bill? My understanding was at there would be discussions with groups that were interested in the whole area of Family Law,) I assume that you must have been involved in some of those discussions leading up to the drafting this bill. Were there any explanations given as to why a deposit or a bond system couldn't have ;en proceeded with, because you do qualify this by indicating that Section 25 could further be nended — that in the event that this would cause undue hardship the court could take that into :count.

S STEINBART: Well, it's obviously a political decision and I think the Attorney-General can answer :tter as to why it wasn't put in.

R. PARASIUK: But in your discussions with the group drafting this bill, you made those ggestions before. Did you or . . .

S STEINBART: Well, we made quite a number of suggestions. There's no way that they could cept all of them. This was one of the things that we suggested, yes.

R. PARASIUK: Thank you. I can get back to the Attorney-General on that later.
On page 2 of your brief you comment about the difficulties that develop if you don't have a ified Family Court. That's something that some people have been pushing for for some time and hink it's gone by the wayside in the name of restraint. At the same time in terms of the cost society, this can be a cost to those individuals involved, and indeed I think it will probably be :ost in legal terms as well, extra legal terms in terms of referring back and forth from one court another. So there is a social cost that is going to be borne by society because of this cutback the name of restraint.
How much time will some of these referrals take? You indicate that — is that up to the lges?

S STEINBART: Well, to some of my clients I think they feel it takes forever. It can really drag and if there has been an enforcement procedure in Family Court and it has to go back to Queen's nch or County Court, it's really up to the judge or the husband to make the application for variation d it can take a long time.

L. PARASIUK: What's a long time? Three months, six months, nine months? Any idea?

S STEINBART: Well, I'm sure it could take at least three months, because the ball is in the sband's court and he's the one that carries it and he's the one who decides when it's going be brought on.

. PARASIUK: So while that's happening, the order isn't enforced? Is that correct?

STEINBART: Under the present procedure if the Enforcement Officer is involved, no, it's not orced. That, under the present procedure, does not stop the wife from saying, "I'll garnish on own".

. PARASIUK: But it's not enforced — the Officer doesn't enforce it?

STEINBART: Not now.

. PARASIUK: Under this Act, would the Officer enforce it?

STEINBART: I suspect not. I suspect that if the husband says that he wants to go for variation designated Officer will not do anything.

MR. PARASIUK: So then it's in the husband's interest to have a delay.

MS STEINBART: To delay, yes.

MR. PARASIUK: So who will be pushing the judge to ensure that the matter is dealt w expeditiously? The husband obviously won't.

MS STEINBART: No.

MR. PARASIUK: The husband's lawyer obviously won't.

MS STEINBART: No.

MR. PARASIUK: Can the wife's lawyer bring that — can the wife's lawyer put pressure on a judg Can anyone put pressure on a judge with respect to timing as opposed to putting pressure a judge with respect to subsidies?

S STEINBART: I can't imagine — if the system goes into effect as indicated in Bill 56 and ther still not a unified Family Court — I can't imagine any effective pressure being put on.

MR. PARASIUK: So we could have delays — you know, we've had a delay for example in a re review case of something in the order of a year now, so it could take quite a long time.

MS STEINBART: Well, everybody's heard about how notorious law cases can be and how th can drag on. I don't know whether it would be a year. I would hope not.

MR. PARASIUK: Okay. Now, my final question concerns the one year rule which you say is r in legislation. It's something that the judges have derived through custom. Is that correct?

MS STEINBART: Yes.

MR. PARASIUK: And on Page 4 of your brief, you give reasons for the one year rule. Have thc ever been explicitly stated by judges? In their judgment? Or is that again by custom? Custom . . . by osmosis, by judges as they become judges . . .

MS STEINBART: I think it may have, in some cases, been explicitly stated that it would be t harsh. I think they may have gone as far as saying that.

MR. PARASIUK: Yes. Now, how can one get rid of it? Like on Page 7 you say the one year r must be eliminated. Is that possible just through a simple amendment to this particular legislati or would it require something more than that?

MS STEINBART: Well, they say in law that the Legislature can always do anything, that they supreme, so yes, if you wanted to put it into law, as long as it was drafted very carefully sc was made very clear to the courts or to the lawyers and the judges that this is what your intenti was, yes, you can do it.

MR. PARASIUK: Those amendments or amendment that would be required to get rid of the o year rule, the place for that would be this legislation, is that what you . . .?

MS STEINBART: I think this is a good place for it, yes.

MR. PARASIUK: What other places are there?

MS STEINBART: Well, it has to be in the Family Maintenance Act. I think that's where it shoi be, and obviously this is the amendments to the Faly Maintenance Act.

MR. PARASIUK: No, I thank you very much for the information on that latter point, becaus think the point you made is pretty valid.,
MR. CHAIRMAN: Any more questions? Thank you.

IS STEINBART: Thank you.

IR. CHAIAN: I call Marcel Baril, is it? Marcel Baril B-A-R-I-L. There is also a Ms Macrae and Is Barrett. If not, then that is all the briefs that are before the committee tonight. I will call Bill o. 6, an Act to Amend the Condominium Act.

BILL NO. 6 — AN ACT TO AMEND THE CONDOMINIUM ACT

R. CHAIRMAN: Clause by clause. Section 1, (a.1) —pass — Mr. Parasiuk.

R. PARASIUK: Thank you, Mr. Chairperson. I'd like to ask the Minister if he has any amendments bring in.

R. MERCIER: Yes.

R. CHAIRMAN: Okay, everybody has copies of the amendments and that there's an amendment r Section 2 (m.1). The Member for Pembina.

R. ORCHARD: Thank you, Mr. Chairman. Motion that Bill No. 6 be amended by adding, thereto, mediately after Section 1, thereof the following section: Clause 1(m.1) of the Act is further amended adding thereto, immediately after the word "means" in the first line of Clause (m) thereof the ords and figures, "subject to subsection 8 (7.1)."

R. CHAIRMAN: . . . Explain. The Honourable Attorney-General.

R. MERCIER: Mr. Chairman, if I could make a general comment, the amendments that will be t forward that have been distributed, are all based on the presentation and brief that was presented us the other evening by Mr. Calof, on behalf of the Manitoba Subsection of the Canadian Bar sociation. No doubt all members of the committee have reta1ned a copy of that brief to assist em in perusing the amendments, Mr. Chairman.

I suppose I should also say that all of those amendments have also been reviewed by Mr. Lamont, Registrar-General of the Land Titles Office and Legislative Council and have received their proval.

R. CHAIRMAN: Then Section 1.1 as amended—pass. Section 2—pass. Subsection 2.(3)—pass— Honourable Member for Pembina.

R. ORCHARD: That the proposed new subsection 2(3) of The Condominium Act as set out in ction 3 of Bill 6, be amended by striking out the figures "6.5" in the first line thereof and ostituting therefor the figures "6(5)". —(Interjection)— It should be 6.5 as it is in the bill and amended to 6(5).

R. CHAIRMAN: Pass. Clause 5(1), and we have an amendment to this next section as well. The mber for Pembina. Oh, Section 3—pass. Section 4 — The Member for Pembina.

. ORCHARD: That Section 4 of Bill 6 be struck out and the following section be substituted refor: 4 Clause 5(1)(f) of the Act is amended by adding thereto at the end thereof, the words interests or estates in the land in respect of which caveats, other than caveats claiming an erest or estate in the land by virtue of a residential tenancy have been filed."

. CHAIRMAN: Explain. The Honourable Attorney-General.

. MERCIER: Again, Mr. Chairman, this amendment to Clause 5(1)(f) was dealt with in the sentation by Mr. Calof. The amendNent to Clause 5(1)(f) is being revised so that the consent a caveat who are claiming under a lease of a unit will not be required. There was an extensive lanation of that in the brief that was presented to us the other evening.

. CHAIRMAN: Section 4 as amended—pass. Section 5—pass; 5(j)—pass; 5—pass. Section 6, Honourable Member for Pembina.

. ORCHARD: I move that Section 6 of Bill 6 be struck out and the following Section be stituted therefor: "6, Clause 5(1.1)(b) of the Act as amended by adding thereto immediately after

the word "occupation" in the 2nd line thereof, the words "under a lease of any kind and it w still so an occupation on the date of the giving of the option."

MR. CHAIRMAN: And the explaining on it, The Honourable Attorney-General.

MR. MERCIER: Again, Mr. Chairman, these were all clearly explained the other evening in t brief.

MR. CHAI8MAN: Section 6 as amended—pass. Section 7—pass. Section 8 — is there a chan there? The Honourable Member for Pembina.

MR. ORCHARD: Mr. Chairman, I move that proposed new subsection 5(6) of The Condominiu Act as set out in Section 8 of Bill 6 be amended by striking out the words "he may" in the 7 line thereof.

MR. CHAIRMAN: Pass as amended. —(Interjections)— Well then 8(1) as amended would be t first motion, I guess. The Member for Pembina.

MR. GREEN: Mr. Chairman, I say to the people who are in charge of drafting, that it is cumberso language, dispensing with consent, 5(6) Upon application, a judge of the court may dispense w the requirement of the consent of the person and thereupon the consent of that person is not requir for the registration of the declaration and plan where he finds (a), (b), and I don't know why y are making it more difficult for lawyers to practise law. . . . an a) and a (b) and then you ha a dispense starting a clause at the bottom . . .

MR. MERCIER: Mr. Chairman, the amendment at the top of Page 2, struck out those words " may."

MR. CHAIRMAN: The Member for Inkster.

MR. GREEN: I understand but if you look . . . Just follow the sections. Upon application a jud of the court may, where he finds, (a) that a consent, etc., etc., etc., (b) that the encumbrance, e and then after you've read that you come to, dispense with the requirement of the consent. Sho it not read as follows? Upon application, a judge of the court may dispense with the requirem of the consent of the person and thereupon the consent of that person is not required for registration of the declaration and plan, where he finds, (a), (b). . . Do it the way you like. cumbersome language.

MR. CHAIRMAN: Can you repeat it to us? The Honourable Member for Inkster.

MR. GREEN: Look at 5(6) in the bill. " Upon application, a judge of the court may" and t I'm suggesting you say,"dispense with the requirement of the consent of the person and thereu the consent of that person is not required for the registration of the declaration and plan wh he finds,

(a) that a consent of any person is unreasonably withheld; or
(b) that the encumbrance, interest or estate, as etc.

Now if you don't agree that that's better, then leave it the way it is.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: Mr. Chairman, we'll review it further before third reading.

MR. GREEN: I say that the Attorney-General should bring it in in either form that he think more acceptable, I don't care. To me it reads a lot easier the second way.

MR. CHAIRMAN: Section 5 Subsection 6(a)—pass; (b)—pass as amended; 5—pass. Sect 8—pass. The Honourable Member for Pembina.

MR. ORCHARD: Mr. Chairman, I move that Bill 6 be amended by adding thereto, immediately a Section 8 thereof, the following sections: Clause 6 (1)(d) repealed. 8.1 Clause 6(1)(d) of the Ac repealed. Subsection 6(2) repealed and substituting 8.2, subsection 6(2) of the Act is repealed the following subsection is substituted therefor:

''Approval of Plan.

6(2) a plan and any amending plan shall not be registered unless:

(a) It contains'', rather than contained, ''It contains the certificate of a land surveyor certifying that he was present at and personally superintended the survey represented by the plan or amending plan and that the survey and the plan or amending plan are correct, and

(b) It has been approved by the Examiner of Surveys.''

MR. CHAIRMAN: 8.1—pass; 8.2—pass; then 6.2(a) and ''contains'' is changed from the word 'contained'', and (b)—pass; 6—pass; 6(7)— the Honourable Member for Pembina.

MR. ORCHARD: Mr. Chairman, I move that proposed new subsection 6(7) of Th; Condominium Act as set out in Section 9 of Bill 6 be amended

(a) by striking out the words ''all the'', substituting therefor the words ''one or more'', and

(b) by adding thereto at the end thereof the words ''in respect of the building.''

MR. CHAIRNAN: Oh yes, we've got a new Section 9, so that will pass. Then 6, subsection (5)—pass; 6 subsection (6)—pass; Now 6(7) as amended, (a)—pass and (b)—pass. 9 as amended—pass; Section 10—pass — the Honourable Member for Pembina.

MR. ORCMARD: Mr. Chairman, I move that Bill 6 be amended by adding thereto imdiately after Section 9 thereof the following sections:

Subsection 8(7.1) added.

9.1 Section 8 of the Act is amended by adding thereto immediately after Subsection (7) thereof he following subsection:

''Encumbrance'' defined for subsection (8) and (9).

8(7.1) subsections (8) and (9),''encumbrance'' means an encumbrance as defined in Section 1 ut excluding a mortgage registered against all the units and common interests.

Subsection 8 (8) repealed and substituted

9.2, subsection 8(8) of the Act is repealed and the following subsection is substituted herefor:

Discharge

8(8) any unit and common interest may be discharged from an encumbrance by payment to he claimant of a portion of the sum claim deteined by the proportion allocated to that unit in the leclaration of the contributions to the common expenses.

MR. CHAIR8AN: Okay, Subsection 8, subsection 7.1 9.1—pass; 8(7.1)—pass; 8(8)9.2—pass; 8.8 ubsection (8)—pass; 8 subsection 7.1—pass; 9—pass; Section 10—pass; (a)—pass; (b)—pass; c)—pass; 9(4)—pass; 10—pass; Subsection 17(1)11—pass; 17(1)—pass; 11—pass; Section 2—pass; Section 17.1(1.1)—pass; 12—pass; Subsection 17 (2)13 —pass — the Honourable lember for Pembina.

IR. ORCHARD: Mr. Chairman, I move that Section 13 of Bill 6 be struck out and the following ections substituted therefor:

Subsection 17(2) amended

13 Subsection 17(2) of the Act is amended

(a) by adding thereto, immediately after the word ''trustees'' in the third line thereof, the words if any, or as may be otherwise'';

(b) by striking out the words ''if any'' in the fourth line thereof; and

(c) by striking out the word and figures ''section 19'' in the fifth line thereof and substituting herefor the words and figures ''sections 19 and 20''.

IR. CHAIRMAN: The Honourable Member for Inkster.

IR. GREEN: 17(2) of the Act is amended by adding thereto, immediately after the word ''trustees'' the third line thereof. Now, I'm looking at what I think is 17(2), which is 13; is that right? 13 f the bill, 17(2) of the Act, and I don't find any word ''trustees'' in the third line thereof. Maybe m in the wrong place. I'm looking at 13, which is 17(2) of the Act. And it says, ''by adding thereto, mediately after the word 'trustees' in the third line thereof''. Now, I'm looking at what I think the third line thereof, and it says, ''Words and figures Section 19 and 20''.

R. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: Mr. Chairman, the amendment will amend 17(2), as it exists now in the Act, and "trustees" — I'm looking at Section 17(2) of the Act now, as it . . .

MR. GREEN: I see; I don't have the Act; I only have the bill.

MR. MERCIER: Yes.

MR. GREEN: So what happens to . . .

MR. MERCIER: Section 13 in the bill will be struck out.

MR. GREEN: Okay; I'm sorry.

MR. CHAIRMAN: 13(a)—pass; (b)—pass; (c)—pass; 13—pass; 14—pass; 17 Subsection 2.1—pass 14—pass; Section 15(a)—pass; 15—pass — the Honourable Member for Pembina.

MR. ORCHARD: Mr. Chairman, I move that Bill 6 be amended by adding thereto immediately after Section 15 thereof the following section:

Subsection 19(1) amended

15.1 Subsection 19(1) of the Act is amended

(a) by striking out the words "and common elements" in the first line thereof and substituting therefor the words "or the common elements or both;" and

(b) by adding thereto, immediately after the word "units" in the fourth line thereof, the words "other than bare land units and improvements thereon."

MR. CHAIRMAN: Okay, Subsection 19(1) as amended 15.1(a)—pass; (b)—pass; 15.1—pass 16—pass; 17 — the Honourable Member for Pembina.

MR. ORCHARD: Mr. Chairman, I move that the proposed clause 20(3)(b.1) of of The Condominium Act as set out in Section 17 of Bill 6 be amended by striking out the word "pertinent" in the fourth line thereof and substituting therefor the word "appurtenant".

MR. CHAIRMAN: It's already in the copy we have here. Oh, 4, yes. 17 as amended (b.1)—pass 17—pass; 18 — the Honourable Member for Pembina. 18—pass; 19(b.1) — the Honourable Member for Pembina.

MR. ORCHARD: Mr. Chairman, I move that the proposed clause 22(3)(b.1) of The Condominium Act as set out in Section 19 of Bill 6 be amended by striking out the word "pertinent" in the fourth line thereof and substituting therefor the word "appurtenant".

MR. CHAIRMAN: Section 19 as amended (b.1) as amended—pass; 19—pass; Section 20 — the Honourable Member for Pembina.

MR. ORCHARD: Mr. Chairman, I move that Section 20 of Bill 6 be amended by adding thereto at the end thereof, the words "but Section 7 is retroactive and shall be deemed to have been in force on, from and after September 1, 1976."

MR. CHAIRMAN: The Honourable Member for Transcona.

MR. PARASIUK: Mr. Chairperson, I'd like to ask the Attorney-General why he would want to make this legislation retroactive. "Section 7 is retroactive and shall be deemed to have been in force on, from and after September 1, 1976." What's his rationale for that?

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: Mr. Chairman, this relates to the original enactment of the Act and it goes back to the amendment in Section 7 of the bill and the amendment we made in that case. The written explanation that we have is that it was the common practice to register a declaration, pardon me it was the repeal of the existing subsection 5.1(d) be made retroactive to the date of enactment to cover the situation where the statement that "the Condominium Corporation was the asignee of all leases" was put in the Declaration simply to comply with the statute and the leases have not been reassigned to the owner of the units who is collecting the rent.

Again, there is a detailed explanation. It was contained in the brief on behalf of the Manitoba section of the Bar Association with respect to this item.

MR. CHAIRMAN: The Honourable Member for Inkster.

MR. GREEN: Yes, I mean, could the Attorney-General, who is asking us to approve something retroactively — and I appreciate that there was a brief — but I didn't know all of the items of the brief were dealt with. Could you give us a for instance how this is a problem, for whom, and how it affects somebody? I gather that what has happened, is that in the original Act, there must have been some flaw, which happens, and that if you don't correct it retroactively, that there will be a period between 1976 and 1979 that the flaw will still be there and it will be corrected as of now. Just tell us what is the flaw that we are correcting.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: Mr. Chairman, the more detailed explanation of the Bar Association indicated that declarations registered after September 1st, 1976 and prior to the enactment of Bill 6, must contain a statement that the Corporation is the assignee of the lessor in respect of all leases of any kind of the land that is a subject of the Declaration or any portion thereof and in effect on the date of registration. In view of the deletion of subsection 5(1.1)(d) which the committee is in complete agreement with, the committee recommends that the bill provide for the automatic deletion from all declarations registered during the aforesaid period of the statement referrred to concerning assignment of leases.

MR. CHAIRMAN: The Honourable Member for Inkster.

MR. GREEN: It's not a defect in the Act that's being corrected. You're saying that people may not have filed a declaration as between 1976 and 1979 and you're relieving them of the responsibility of filing them, it appears.

MR. MERCIER: It was my understanding that it was a bit of a flaw in that the Condominium Corporation couldn't be the assignee of the leases and the declarations have been basically drawn this way ever since and this corrects the situation.

MR. CHAIRMAN: Section 20 — The Honourable Member for Transcona.

MR. PARASIUK: I have some questions after this.

MR. CHAIRMAN: Section 20 as amended—pass; Preamble—pass; Title—pass; Bill be reported. The Honourable Member for Transcona.

MR. PARASIUK: Mr. Chairman, when I commented on the bill in second reading, I raised the problem of senior citizens, or older people, being dispossessed from the apartments that they were living in because they have difficulty getting mortgages from the financial institutions, if they are sixty or over. And if someone buys an apartment and gets consent from 50 percent or more of the tenants to convert that apartment into a condominium, then that person can do so and proceed to try and sell off the units as quickly as possible. Senior citizens who have lived there for a number of years, find that they cannot get the financing to buy that unit and in a sense they become dispossessed from that apartment and may have difficulty finding other accommodation.

I brought this to the Minister's attention and I asked him if he would consider bringing in an amendment which would prevent that. I pointed out that some corporations presently are doing that, the notable one being Daon Corporation, which is a very large land development house building property management company. And they have as a matter of policy, the policy that they will not dispossess elderly people.

I think this is a hardship; this has been a hardship elsewhere. The Minister has said he would look into it seriously, and I would like to ask him why he didn't see fit to bring in an amendment to that effect.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: Well, Mr. Chairman, after second reading, I wrote to the Manitoba Association Senior Citizens, with respect to the matter that was raised by the Member for Transcona; that

was on April 25th. I have not yet received any reply from them. I also wrote to the President c the Mortgage Loans Association of Manitoba. They wrote back to me indicating that — and th President wrote back to me — indicating as far as we can ascertain, mortgage lending practic does not involve age as a criteria, therefore any suggestion that a senior citizen has had difficult in obtaining a mortgage loan because of his age would apparently not be correct.

I also had referred to him the policy that the Member for Transcona wrote about, whereby a elderly person or a couple may continue to rent an apartment due to any event that they cannc obtain a mortgage. He has indicated that a number of companies in the industry follow this polic in attempting to assist senior citizen tenants and attempting to match them up with accommodatio that is available on the market. But he did indicate firstly, Mr. Chairman, that age was not a criteria so the basic premise of the argument of the Member for Transcona was not substantiated an my other difficulty was that I did not receive a reply from the Association for Senior Citizens.

MR. CHAIRMAN: The Honourable Member for Transcona.

MR. PARASIUK: He received a reply from the Mortgage Association saying that age isn't a criteria yet the indication is that companies do in fact follow a policy of trying to provide continued tenanc for elderly people who cannot get mortgages. So it seems the. . .

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: Well, I apologize if the member wasn't finished, Mr. Chairman. I might indicat in many cases it's not the fact that senior citizens cannot qualify for a mortgage, but just at tha stage in their life many of them — this is an opinion — that many in that age group don't wan to get involved in the process of buying again; they want to rent and to continue to rent. And that' why many of the companies in the industry follow the policy that the Member for Transcona referre to.

MR. PARASIUK: Well, I'm going to contact Daon Corporation myself and find out why they'v developed that policy. My understanding was that there are instances when, because the futur income of a retired couple is difficult to predict in terms of the disposable income taking into accour inflation, that there has been a hesitancy on the part of mortgage companies to provide mortgage for senior citizens, even though they say that age isn't a factor. What they are taking into accoun is the future earning power of a senior citizen or a retired couple and they feel that the earnin power won't be sufficient to warrant a mortgage and those people find themselves being move out of an apartment that they assume that since they have been able to keep up the rent for fiv or ten years, they surely should be able to keep up the payments. Unless of course, what take place in the conversion process, is that someone buys an apartment unit for say something in th order of $20,000, gets conversion approval from the tenants, and then puts the price up t $30,000.00. At that stage, the senior couple could not get mortgage financing for — or perhap couldn't afford the mortgage financing — for a $30,000 unit, when they were able a month or tw months before, to provide rent which was sufficient to pay off the amortization cost of a $20,00 mortgage.

That may be the problem; I will be checking with Daon Corporation for the specifics, and I thin that it will be a problem for seniors. It's been a problem experienced in other provinces wher the conversions of existing apartments into condominiums especially places like Ontario, has bee much more prevalent than it is in Manitoba. That's just a process which seems to be starting i Manitoba. It's probably been taking place over the last year-and-a-half, and I would expect tha the Minister will find problems of this sort in the future.

MR. CHAIRMAN: Bill be reported— Pass. Bill No. 7, An Act to Amend the Jury Act.Are ther any amendments for this? No; okay.

BILL NO. 7 — AN ACT TO AMEND THE JURY ACT

MR. CHAIRMAN: / Section 1—pass; Section 2—pass (Sections 1 to 13 were rea section-by-section and passed) Title—pass; Preamble—pass. Bill be reported.

BILL NO. 13 — AN ACT TO AMEND THE HIGHWAY TRAFFIC ACT

MR. CHAIRMAN: Bill No. 13, An Act to amend The Highway Traffic Act. Are there any amendment for this bill? Okay, I have the amendments. (Sections 1 to 7 were read clause-by-clause and passed

Section 8 Subsection 41(1)(a)—pass — the Honourable Member for St. Vital.

MR. WALDING: Mr. Chairman, I'd just like to ask the Minister, or whoever is speaking for the Minister on this, whether this is a new requirement or is it a matter of going metric on tread depths.

MR. MERCIER: Clause (1)?

MR. WALDING: 41(1), pneumatic rubber tires.

MR. MERCIER: Which one?

MR. CHAIRMAN: 8 and then 41(1).

MR. MERCIER: Which section?

MR. WALDING: Subsection 8 of the bill.

MR. MERCIER: 8.

MR. CHAIRMAN: On Page 2 of the bill.

MR. MERCIER: The explanation, Mr. Chairman, that I have from the Minister is that a minimum tread depth of 1.6 millimetres for tires on mopeds or motorcycles is not reasonable and exceeds the federal standard for tread wear indicators required on such tires. The amendment would bring our standard in line with federal tire standards.

MR. WALDING: I'd like to ask the Minister whether there is a requirement in the Act at the moment for tread depths, and is it in millimetres or is it in inches.

MR. MERCIER: It is presently in millimetres.

The existing section, Mr. Chairman, requires all wheels of motor vehicles and trailers . . . It requires tires to have at least 1.6 millimetres of tread remaining. This distinguishes between the mopeds and motorcycles and other motor vehicles.

MR. WALDING: Does the department feel that .8 of a millimetre, which is almost paper-thin, is sufficient for some motorcycles which could be more powerful than cars and could certainly do similar speeds and carry considerable weight. They're not comparable to mopeds in any way.

MR. MERCIER: As I have indicated, the Minister advises that these sizes would bring the widths in line with the federal tire standards. The present requirement of 1.6 millimetres is not reasonable and exceeds the federal standard for mopeds or motorcycles.

MR. CHAIRMAN: 41(1)(a)—pass; (b)—pass; 41(1)—pass; Section 8—pass; Section 9(a)—pass; (b)—pass; (c)—pass; 9—pass; Section 10 — the Member for Rhineland.

MR. BROWN: Mr. Chairman, I move that Section 10 of Bill 13 be struck out and the following section substituted therefor:

Subsection 72(3.1) amended

Clause 10 Subsection 72(3.1) of the Act as enacted by Chapter 22 of the Statutes of Manitoba, 1978 is amended

(a) by adding thereto immediately after the word "municipality" in the fourth line thereof, the words and figure "or in the case of The City of Winnipeg in accordance with subsection (1.1);" and

(b) by adding thereto immediately after the word "municipality" in the fifth line thereof, the words "or the City".

MR. CHAIAN: Section 10 as amended—pass; 72 subsection (3.1) (a)— —pass; (b)—pass; —pass. (Sections 11 to 17 were read section-by-section and passed) Section 18(a)—pass; —pass; (c)—pass — the Honourable Member for Rhineland.

MR. BROWN: I move that clause 18(c) of Bill 13 be amended by adding thereto immediately after

the word "in" in the first line thereof the words and figure "the second line of".

MR. CHAIRMAN: (c) as amended—pass; 18—pass. (Sections 19 to 28 were read section-by-sectio and passed) Section 29 — the Honourable Member for Rhineland.

MR. BROWN: Mr. Chairman, I move that Section 29 of Bill 13 be struck out and the followin section be substituted therefor:

Section 306 amended.

29 Section 306 of the Act is amended by adding thereto immediately after the word "car" wher it appears

(a) twice in the sixth line of subsection (1) thereof;

(b) in the eighth line of subsection (1) thereof;

(c) in the second line of subsection (2) thereof; and

(d) in the first and sixth lines of subsection (3) thereof;

in each case, the words "truck or motorcycle".

MR. CHAIRMAN: Section 306 of the Act, as amended, 29(a)—pass; (b)—pass; (c)—pass; (d)—pas 29—pass; 30—pass; 31—pass. Preamble—pass; Title—pass; Bill be Reported—pass.

BILL NO. 17 — AN ACT TO AMEND THE PUBLIC PRINTING ACT

MR. CHAIRMAN: Bill No. 17, An Act to amend The Public Printing Act. Are there amendment for this bill?

A MEMBER: Yes.

MR. CHAIRMAN: Well, it doesn't come down until 11. There is only one amendment, 11(2), s we can start on the bill. (Sections 1 to 5 were read section-by-section and passed) Sectio 11(1)—pass; 11(2) — the Honourable Member for Rhineland.

MR. BROWN: Mr. Chairman, I move that the proposed clause 11(2)(c) of The Public Printing A as set out in section 6 of Bill 17 be amended by adding thereto, at the end thereof, the wor "or an officer of the assembly designated by the Board of Internal Economy Commissioners f the purposes of this section".

MR. CHAIRMAN: 11(2)(a)—pass; (b)—pass; (c) as amended—pass; (2)— —pass; 11—pas 6—pass. (The remainder of Bill 17 was read section-by-section and passed) Title—pas Preamble—pass; Bill be Reported—pass.

BILL NO. 25 — AN ACT TO AMEND THE HUMAN TISSUE ACT

MR. CHAIRMAN: Are there any amendments for this bill? None. 1—pass — the Honourab Member for St. Vital.

MR. WALDING: Mr. Chairman, isn't there a typographical error in the first line? It should b "Human", not "Muman".

MR. CHAIRMAN: Well, shall we correct that? Do I have leave from the Committee to correct th error? (Agreed) (Bill 25 was read section-by-sektion and passed) Preamble—pass; Title—pass; B be Reported — pass.

BILL NO. 27 — AN ACT TO AMEND THE LIQUOR CONTROL ACT

MR. CHAIRMAN: Are there amendments for this? There are, okay. Bill No. 27, an Act to Amer The Liquor Control Act. (Sections 1 to 4 of Bill 27 were read and passed.) 5 — the Honourab Member for Rhineland.

MR. BROWN: Mr. Chairman, I move that Section 5 of Bill 27 be struck out and the following sectic substituted therefor:

Section 71 as amended.

Clause 5, Section 71 of the Act is amended by striking out the words "not exceeding one qua of spirits, one quart of wine and two gallons of beer" in the second and third lines of Clause (

hereof.

MR. WALDING: Explain.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: Mr. Chairman, the present section 71(b) provides that any person may have, keep ınd consume as provided herein liquor that he has on any one occasion brought or caused to ›e brought into the province from a place outside the province and (b) that he has legally purchased ır acquired in any part of Canada other than Manitoba. We would be striking out the balance of hat section which reads "not exceeding one quart of spirits, one quart of wine and two gallons ıf beer".

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

MR. WALDING: Mr. Chairman, I'm not clear on the intent of the change that the Minister is roposing from the amendment in the bill.

MR. MERCIER: Well, the effect, Mr. Chairman, is to remove the limitation on the amount of liquor ıat a person may purchase outside the province of Manitoba and bring into Manitoba for his or er own personal use.

MR. WALDING: Mr. Chairman, it was my understanding that that is what Section 5 of Bill 27 said r intended to say. Now is that not the case?

MR. MERCIER: It has the same effect, really. The difficulty with the wording before was that it ɔuld have conflicted with Section 167 of the Act, where it refers to really unlawful possession of cohol purchased from various licensed vendors. This will have the same effect. It's just really a ›wording of it, a different approach to it, so that it doesn't conflict with another section of the ct. The intent is to change the law so that again, as I say, a person may purchase liquor outside Manitoba and bring it back into Manitoba for his or her personal use.

R. WALDING: I understand, Mr. Chairman, that there was a problem in this section, that it would ›em to interfere with interprovincial trade and that that was a subject where the federal government ıd jurisdiction and that it claimed that a province didn't have the right to restrict interprovincial ade or movement. I want to just ask the Minister if he can confirm that this affects the international ɔrder as well as the interprovincial border.

R. MERCIER: Mr. Chairman, (a) and (c) of this section still remain and they're the ones that fer to the kind and quantity of liquor that a person may be permitted to import into Canada ıd there's reference to the duty that must be paid under federal legislation. This amendment does ɔt affect the amounts of alcohol that may be imported from the United States into Manitoba.

R. WALDING: Just to confirm then, it has to do with an individual importing spirits from ıskatchewan or Ontario.

R. MERCIER: Interprovincially.

R. WALDING: Can I just ask the Minister to confirm that this applies only to individuals and is for liquor for their own consumption. It would not, for instance, include any retail outlet from rchasing beer from out of province.

R. MERCIER: No, there are other prohibitions in the Act that would prohibit liquor to be brought for anything other than personal use.

R. CHAIRMAN: Okay, Section 71 as amended 5 —pass. (Section 6 to 18 of Bill 27 were read ıuse by clause and passed.) Section 19(i)—pass — the Honourable Member for Rhineland.

R. BROWN: I would like to move that the proposed subclause 133(1)(e)(i) of The Liquor Control t as set out in Section 19 of Bill 27 be amended by striking out the figures 1:00 in the first e thereof and substituting therefor the figures 2:00.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MERCIER: I'll just look up the particular section, but I would think there's been an error i that probably the premises can remain open till 2:00 o'clock in the morning rather than 1:00 o'cloc in the morning.

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

MR. WALDING: Can the minister tell us which premises he's referring to that may stay open unt 2:00.

MR. MERCIER: As soon as we get the Act.

MR. CHAIRMAN: The Honourable Member for Rhineland.

MR. BROWN: Mr. Chairman, it was pointed out to me that I read that proposed subclause 13 which should have been 133(1)(e)(i). I would like to correct that.

MR. CHAIRMAN: Okay. We don't have The Liquor Act here? Have any of the members got Th Liquor Act in their possession?

MR. WALDING: Can the minister tell us what Clause 133 presently says in regard to the 1:00 o'cloc closing. Is it 1:00 o'clock now in the Act, and the minister is allowing them an extra hour?

MR. MERCIER: It's 2:00 o'clock now.

MR. WALDING: It is 2.

MR. MERCIER: It's 2:00 o'clock.

MR. WALDING: This merely confirms the time that is presently in the . section, is that right?

MR. MERCIER: Yes.

MR. WALDING: Okay, pass.

MR. CHAIRMAN: So that's 19(i) as amended—pass; 19—pass; 20—pass; 133(4)—pas 133(5)(a)—pass; (b)—pass; 133(5)—pass. Is there amendments in 16 and 17?

A MEMBER: Yes.

MR. CHAIRMAN: Oh. Can we have leave to back to 16 and 17, I'm sorry. The Honourable Membe for Rhineland.

MR. BROWN: Mr. Chairman, I move that the proposed Subsection 125(2) of The Liquor Contr Act as set out in Section 16 of Bill 27, be amended by adding thereto immediately after the wor "cabaret" in the third line thereof, the word "and".

MR. CHAIAN: Okay, by leave then, that's 125. We passed 2(a)(b) now that'll be 125(2) a amended—pass. The Honourable Member for St. Vital.

MR. WALDING: I'm just trying to follow the amendment, and find the word "cabaret" in th . . .

MR. CHAIRMAN: Now we have another one, 125(2)(3). The Honourable Member for Rhinelan by leave.

MR. BROWN: Mr. Chairman, I move that the proposed Subsection 125.2(3) of The Liquor Contr Act as set out in Section 17 of Bill 27 be amended by striking out the words "The size of eac bottle and the purchase price of each item" in the fourth and fifth lines thereof and substitutin therefor the words "And the size and purchase price of each xottle of liquor."

MR. CHAIRMAN: Any questions on that amendment? The Honourable Attorney-General.

MR. MERCIER: Providing the price is right. Grammatical change, Mr. Chairman.

MR. CHAIRMAN: Okay. As amended with leave—pass — the Honourable Member for St. Vital.

MR. WALDING: Mr. Chairman, I don't think that's a matter of grammar, it's replacing as I read it, the word "item" with "bottle of liquor".

MR. MERCIER: I'm not sure what the member's concern is about. It's intended to be a grammatical change, to correct it. The size of each bottle . . . yes, instead of "item" you have "bottle". Because it's clear, it will require the holder of this new form of licence to display the price list, showing the size and purchase price of each bottle of liquor. Well, if you like the licencee to show the purchase price, I suppose it would be showing the kinds of liquor that may be purchased on the premises, the size of each bottle and the purchase price of each item. Does the member want it to refer to the fishing tackle and fishing hooks, I suppose, that they may have for sale?

MR. WALDING: Well, I suppose if the Commission approved that price list, that would be required, but I notice that it's required to be approved by the Commission.

MR. MERCIER: Here we're concerned only with the purchase, the price list of the bottles.

MR. WALDING: Well, I understand about the changes, Mr. Chairman. It seems so insignificant I wonder why the minister would want to make it the subject of an amendment, that's all.

MR. CHAIRMAN: Bill125-2(3) with leave as amended—pass. Now Section 21—pass; 22—pass; 23—pass; 165(31)—pass; 23—pass; Subsection 166(4) as amended; 24(a)—pass; (b)—pass; 24—pass; 25(a)—pass; 25(b)—pass; 25—pass; 166— pass; 26—pass; 27—pass — the Honourable Member for Rhineland.

MR. BROWN: I move that Bill 27 be amended by adding thereto immediately after . . . Oh, I'm sorry, I'm a little ahead of you.

MR. CHAIRMAN: So that's Section 27—pass; 27(191)—pass; 27—pass; 192(1)—pass; 192—pass; 192(1)—pass; 28—pass; 190(29)—pass; 30—pass — the Honourable Member for Rhineland.

MR. BROWN: I move that Bill 27 be amended by adding thereto immediately after Section 30 thereof, the following section: Subsection 193(2) repealed and substituted. 3.1, Subsection 193(2) the Act is repealed and the following subsection is substituted therefor by corporations; 193(2) Every corporation that offends against any provision in a section set forth in Subsection (1) and subject to the same exception, is guilty of an offense and shall on summary conviction be sentenced

(a) in the case of a first offense to a fine of not more than $1,000 and
(b) in the case of a second or a subsequent offence to a fine of not more than $2,000."

MR. CHAIRMAN: Any questions? The Honourable Member for St. Vital.

MR. WALDING: Since we don't have 193(2) in front of us, perhaps the Minister would tell us what now provides for and what the proposed change is.

MR. MERCIER: Mr. Chairman, it's an increase in penalty. The existing Section 193(1) in Section of the bill refers to every person not being a corporation, so the effect of this is to now add penalty provisions for corporations. It was just overlooked. Does that answer the question?

MR. WALDING: No, Mr. Chairman, it doesn't tell me what the present penalties are and . . .

MR. MERCIER: Existing penalties are to fine not more than $300 for the first offense, to a fine not less than $300 or more than $500 for the second offense, to a fine of not less than $500 the third offense or for any offense subsequent to the third. This increases the maximum fines a case of a first offense from $300 to $1,000 and for second and third offenses from $300 or 00 to a maximum of $2,000.00.

MR. WALDING: Mr. Chairman, I understand that Section 30, having to do with 193(1) increas the penalties quite substantially for individuals and also tidies up a matter of a mandatory or jail sentence for lack of ability to pay. I'd like the Minister to tell us whether 193(2) is being increas by the same proportion and does he see anything odd that here we have corporations w presumably have a much larger ability to pay are subject to the same fines as an individual.

MR. MERCIER: Mr. Chairman, the member raises a good point, that it appears to have be overlooked in the review of the penalty provisions. I would be prepared to review that further pri to introduction for third reading, and bring forward a minimum fine penalty, particularly with respe to second offenses.

MR. CHAIRMAN: The Honourable Member for Inkster.

MR. GREEN: Mr. Chairman, wouldn't it be a better idea, we're going to be back here, you do need the Act tonight, wouldn't it be better — rather than bringing in a report on third readir to come back next time, put this bill aside and the Attorney-General can look at it.

MR. MERCIER: It would make it much easier to do, rather than an amendment at third readi is a little bit more complicated.

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

MR. WALDING: Mr. Chairman, I notice that the section is headed "Penalty for breech of sunc sections". When I looked into this, it was pointed out to me that there are more major sectio and more major breeches of the Act where the penalties are more substantial. I'd like to ask t Minister, if he doesn't know now he can perhaps look into it, whether this 193(2) is also referri to breeches of sundry sections, and whether there is a group of other offenses under the Act whi perhaps carry more drastic penalties for corporations.

MR. CHAIRMAN: The Honourable Attorney-General.

tt04MR. MERCIER: Mr. Chairman, we'll review that particular matter and bring that informati back when we deal with this Act again. We'll go through the rest of it and leave that sectio

MR. CHAIRMAN: Shall we leave then the section — that section — we'll proceed with Secti 31—pass; Section 214, subsection (2)—pass; Section 32—pass; Section 33—pass, and we'll h the bill.

BILL NO. 45 — AN ACT TO AMEND THE TEACHERS' PENSIONS ACT

MR. CHAIRMAN: Bill No. 45, the Teachers' Pensions Act. Are there any amendments for this A If not, Section (1)—pass; 32.1 subsection (1) (a)—pass; (b)—pass; (1)—pass; 32.1—pass; subsecti (2)—pass; subsection (3)—pass; (4)—pass; (5)—pass; (6)—pass; Title—pass; Preamble—pass; be Reported.

BILL NO' 46 — THE CIVIL SERVICE SUPERANNUATION ACT AMENDED

MR. CHAIRMAN: Bill No. 46, The Civil Service Superannuation Act. Are there any amendme to this bill? If not, we shall proceed page by page. Page 1—pass; Page 2—pass; Title—pa Preamble—pass; Bill be Reported. No. 30, an Act to Amend the Child Welfare Act. —(Interjection Oh, I'm sorry. We do have No. 50.

BILL NO. 50 — AN ACT TO AMEND THE TELEPHONE ACT

MR. CHAIRMAN: Bill No. 50, An Act to Amend the Manitoba Telephone ACCT. Page by pa Page 1—pass; Preamble—pass; Title—pass; Bill be Reported. Bill No. 30, An Act to Amend Child Welfare Act. Are there any amendments to this . . .? The Honourable Attorney-Genera

MR. MERCIER: I wonder, Mr. Chairman, if we skipped over the Child Welfare Act until the e and dealt with the remainder of the bills which I don't think are in any way contentious. If tha agreeable? (Agreed.)

BILL NO. 36 — THE REAL ESTATE BROKERS ACT AMENDED

IR. CHAIRMAN: Bill No. 36, an Act to Amend the Real Estate Brokers Act. Page 1—pass; itle—pass; Preamble—pass; Bill be Reported.

BILL NO. 38 — AN ACT TO AMEND THE TRUSTEE ACT

IR. CHAIRMAN: Bill No. 38, an Act to Amend The . Page 1—pass; Page 2—pass; Page 3—pass; reamble—pass; Title—pass; Bill be Reported.

BILL NO. 47 — AN ACT TO AMEND THE PERSONAL PROPERTY SECURITY ACT

IR. CHAIRMAN: (Bill No. 47 was read page by page and passed.) Preamble —pass; Title —pass; ill be reported—pass.

BILL NO. 48 — AN ACT TO AMEND THE CIVIL SERVICE ACT

R. CHAIRMAN: Page 1 — pass; Page 2 —pass — the Honourable Member for Logan.

R. JENKINS: Page 2, Mr. Chairman, on Clause 5, the repeal of this section dealing with appeals the Minister. In discussion of this bill at second reading we opposed this clause and we still ›pose it and mainly on the grounds, Mr. Chairman, that we feel that the Commission the way is set up now and the Minister had said in Committee that he would agree to permannent ›pointments to the Civil Service Commission, which hasn't come about as yet, and we feel with e result that the Commission at the present time is under a cloud, and as a result, Mr. Chairman, e are not prepared to support Clauses 5 and 6 under those circumstances.

R. CHAIRMAN: The Honourable Minister of Labour.

R. MacMASTER: Well, Mr. Chairman, I think that the deletion of the appeal to the political person ing the Minister, is advantageous in the eyesight of the employees. It's advantageous in the esight of the Civil Service Commission, and as the political person being referred to myself, I lieve that it's advantageous that it be deleted and that reference do not be made, and that the peal to the political person being the Minister, that that should be deleted. I think it restores ›re merit, credibility, whatever term you want to use to the Civil Service itself, where that's the d of the line and that's where it should be. I know that the Manitoba Government Employees' sociation are quite anxious to have that particular Section repealed.

R. JENKINS: Mr. Chairman, what the Minister is saying may have some merit but based on the rformance of the government and the fact that the Civil Service Commission is under suspicion this time, and I threw out a suggestion to the Minister during his estimates that if he really wants make some changes to the Civil Service Commission, I really think he and the Treasury Bench ›uld really take a look at the Civil Service Act and the Commission and the way it is set up, :ause under the circumstances the Minister has had now at least about a month in which to ke those appointments to the Commission that are of a temporary nature of a permanent nature, d nothing has been forthcoming. And so under the circumstances I feel that the Commission ›perating under a cloud of suspicion and so the appeal mechanism, especially since this deals h people, who are not covered by the collective agreement. For those who are under thecollective eement who are covered by MGEA, they are covered under the collective agreement. These people who are not covered by the collective agreement. Therefore I think until the government ans up its act as far as the appointments to people on the Civil Service Commission, therefore are not prepared to support the amendments as proposed by the government at this time.

. MacMASTER: My understanding of the debate during the estimates was this, in fact it's stantiated in Hansard. There's no suspicions, there's no discredit given in any way to the racter of the people who sit on the Civil Service Commission. The debate by the Member for an was of method — methology in which we chose to appoint those people, but not the character he credibility or the ability itself of those particular people to perform, and I would suggest taking the political end of it out of it, in this particular case the Minister of Labour out of s a great advantage to the people who may be using that particular section.

JENKINS: I just want to make it clear, I'm not saying that the people who are on the

— I said that the suspicion that is cast upon those people and I think if you will check Hansard the suspicion that was cast upon those people was cast upon them by the government who appointec them to temporary, and the Minister has had sufficient time, I think, in which to make those appointments permanent.

I would also suggest to the Minister that he take cognizance of the fact too, that I suggestec a different method of appointing the members to the Commission — that we use the method tha we use for appointing the ombudsman, that I think that that would make the Civil Service Commissior actually apolitical or beyond the realm of political susceptibility or suspicion whatsoever regardles: of who appoints them. If they are appointed by the Legislature or legislative committee, made up of all parties in the House, I think it would be to the credit of the government and to the credi of the Civil Service Commission. As it operates at the present time the Minister has had sufficien time and I think that he should be forthcoming with those permanent appointments and until sucl time we are not prepared to go along with the amendments as they are.

MR. CHAIRMAN: ection 5, 13 (8) —pass?

A COUNTED VOTE was taken, the result being as follows: Yeas 10; nays 6.

MR. CHAIRMAN: I declare the motion carried. 13(8) —pass; Section 5 —pass. / (The remainde of Bill 48 was read section by section and passed.) Preamble —pass; Title —pass; Bill be reportec .

BILL NO. 51—AN ACT TO AMEND THE COUNTY COURTS ACT

MR. CHAIRMAN: (Bill No. 5l was read page by page and passed.) Preamble—pass; Title—pass Bill be reported—pass.

BILL NO. 55 — AN ACT TO AMEND THE INSURANCE ACT

MR. CHAIRMAN: 55, an Act to Amend the Insurance Act, and we have an amendment to Sectio 208, so 1, subsection (40)—pass; 1.—pass; Section 208-1(2) — I guess it's 2 that's amended, isn it? —(Interjection)— Oh yes, 1. The Honourable Member for Rhineland. Oh, sub 2. The Honourabl Member for Rhineland. 208.1(1)(a)—pass; (b)—pass; 1.—pass. 208.1 subsection (2). The Honourabl Member for Rhineland.

MR. BROWN: Mr. Chairman, I move that proposed new subsection 208.1(2) in the Insurance Ac as set out in Section 2 of Bill 55 be struck out and the following subsection be substituted therefo '' Liability of group insurer on termination''. 208.1(2) ''Where a contract of group insurance or benefit provision therein is terminated, the insurer continues as though the contract or benef provision had remained in full force and effect, to be liable to or in respect of any group persc insured under the contract, to pay benefits thereunder relating to

(a) loss of income because of disability; or
(b) death; or
(c) dismemberment; or
(d) accidental damage to natural teeth;

arising from an accident or a sickness that occurred before the termination of the contract benefit provision. If the disability, death, dismemberment or accidental damage to natural teeth reported to the insurer within the prescribed time period''.

MR. CHAIRMAN: 208.1(2)(a) as amended—pass
(The remainder of Bill 55 with amendments was read section by
Title—pass; Preamble—pass; Bill be Reported.

BILL NO. 56 — THE FAMILY MAINTENANCE ACT

MR. CHAIRMAN: The Family Maintenance Act, Bill No. 56. Are there amendments? Bill No. 5 Section 26(1), subsection (1)—pass — the Honourable Member for Rhineland.

MR. BROWN: Mr. Chairman, I move that Bill 56 be amended by adding thereto immediately aft Section 1 thereof the following section:

Section 31 as amended
1.1, Section 31 of the Act as Amended

(a) by renumbering the present subsection (2) as subsection (3) thereof;
(b) by striking out the word and figures "Subsection (1)" in the first line of Subsection (3) thereof renumbered and substituting therefor the words "this section"; and
(c) by adding thereto immediately after subsection (1) thereof, the following subsection:
Appointment of receiver without formal application.
31(2) Where a person is before court for any purpose under this Act xut other than pursuant an application under subsection (1), the court, is satisfied that the person is in default in respect an order or interim order for payment made under this Act, may there and then and twithstanding the requirement for an application under subsection (1) appoint the receiver for om provision is made in that subsection. —(Interjection)—

R. CHAIRMAN: No, no. Yes we should have. 26(1) we did pass, and then when the amendment me in —(Interjection)— Oh, 26(2), I'm sorry. 26(3) and (4)—pass; now 26, Section (1)—pass — e Honourable Attorney-General. —(Interjection)—

R. WALDING: It says in the amendment that it's Section 31 that's being amended. Bill 56 doesn't er to Section 31. —(Interjection)— It would surely come under Section 2, would it not?

R. CHAIRMAN: The Honourable Attorney-General.

R. MERCIER: In the right order, Mr. Chairman? 26(1), (2), (3), (4) subsection 31. That should correct.

R. CHAIRMAN: Okay. After 26. And that is Section 1, is it? That should be correct. The nourable Attorney-General.

R. MERCIER: Are you satisfied that the section is in the right order? With respect to the endment itself, Mr. Chairman, in reviewing this matter further with the existing enforcement tion it was felt that it would be a simple process to insert this section to allow the court to oint a receiver without the need of a formal application, that it will improve the process, if neone is before the court on a Show Cause hearing, the court will under this section have the hority to appoint a receiver without going through another separate application for same. We pected that we will avoid delays, and will be used in situations where a person is in default.

. CHAIRMAN: Section 31 as amended, 1.1(a)—pass; (b)—pass; (c)—pass; 1.1—pass; (2)—pass; 1 subsection . . .

. WILLIAM JENKINS (Logan): Mr. Chairman, you have to pass the amendment that you have e, the appointment of the receiver without formal application, because you don't have it within present Act that you're amending here.

. CHAIRMAN: 31. . . . ?

. JENKINS: No, 31(2).

. CHAIRMAN: 31.1(2)—pass; 31.1(2)(a)—pass; (b)—pass — the Honourable Meer for neland.

. BROWN: Mr. Chairman, I move
THAT proposed clause 31.1(2)(b) of The Family Maintenance Act as set out in section 2 of Bill be struck out and the following clause substituted therefor:
(b) "order" means, as the case may require,
(i) an order or interim order for payment made under this Act or The Child Welfare Act, or
(ii) a maintenance order made in a jurisdiction outside of Manitoba and registered or confirmed within Manitoba under The Reciprocal Enforcement of Maintenance Orders Act.

. CHAIRMAN: The Honourable Attorney-General.

. MERCIER: Mr. Chairman, this amendment really just adds in orders under The Child Welfare which we have been aware of for some time and which was referred to by Ms Steinbart in

her presentation.

MR. CHAIRMAN: The Honourable Member for Logan.

MR. JENKINS: Yes, Mr. Chairman, I notice that (b)(ii), while it adds the reciprocal orders, bu also drops the last part of the sentence here, the reference to an order under The Divorce Cc of Canada. Could the Minister explain why that has been dropped in the amendment?

MR. MERCIER: You refer to orders under The Divorce Act?

MR. JENKINS: Yes.

MR. MERCIER: Mr. Chairman, we're not dropping that. That will come up again in the amendment on Page 3. It's your 31.3, which will still include those orders.

MR. CHAIRMAN: 31.1(2)(b)(i) as amended—pass; (ii)—pass; (b)—pass;. (Sections 31.1(3) to 31. were each read section-by-section and passed) Section 31.1(10)(a)—pass — the Honourable Mem for Rhineland.

MR. BROWN: I move

THAT hat proposed section 31.1(10) of The Family Maintenance Act as set out in section 2 Bill 56 be amended by striking out the word ''clerk'' in the fourth line thereof and substituting there the words ''designated officer''.

MR. CHAIRMAN: 31.1(10)(a) as amended—pass; (b)—pass; (c)—pass; (d)—pass; (e)—pa 31.1(10)—pass; 31.1—pass; 31.2(1) — the Honourable Member for Rhineland.

MR. BROWN: Mr. Chairman, I move

THAT hat proposed section 31.2 of The Family Maintenance Act as set out in section 2 of 56 be struck out and the following section substituted therefor:

Automatic application of enforcement provisions.

31.2(1) The provisions of section 31.1 apply in the case of any order other than an order the payment of a lump sum, made after that section comes into force, unless the person entit to receive the payments thereunder signs and files with the designated officer a statement i form satisfactory to the designated officer indicating that those provisions shall not apply in case of that order and in that event the provisions cease to apply upon the filing of statement.

Non-application to prior orders or lump sum orders.

31.2(2) The provisions of section 31.1 do not apply in the case of any order made before t section comes into force or in the case of any order for the payment of a lump sum whene made, unless the person entitled to receive the payments thereunder signs and files with designated officer a statement in a form satisfactory to the designated officer indicating that th provisions shall apply in the case of that order and in that event the provisions become applica upon the filing of the statement.

Subsequent opting into or out of enforcement provisions.

31.2(3) A person who signs and files a statement under subsection (1) or (2) in respect of order may subsequently, at any time and from time to time, sign and file a further statemen respect of the order indicating that the provisions of section 31.1 shall apply or shall not ap to the order, as the case may be, and upon the filing of each further statement those provisi become applicable or cease to apply to the order, as the statement may indicate.

Statement by Director of Social Services.

31.2(4) Where a person in whose favour an order was made is receiving social allowances assistance under The Social Allowances Act, the Executive Director of Social Services appoin under The Social Services Administration Act or a person acting under his authority shall sign file a statement under this section indicating that the provisions of section 31.1 shall apply in case of that order, and upon the filing of the statement those provisions if not already applica to the order under this section become applicable and, notwithstanding anything herein to contrary, remain applicable so long as the person in whose favour the order was made contin to receive the social allowances or assistance.

MR. CHAIRMAN: 31.2(1) as amended, Subsection (1)—pass; 31.2(2)—pass; 31.2(3) amended—pass; 31.2(4) as amended—pass; 31.2—pass; 31.3(1)—pass — the Honourable Mem

Rhineland.

R. BROWN: Mr. Chairman, I move

THAT hat proposed Section 31.3 of The Family Maintenance Act as set out in Section 2 of Bill be struck out and the following section be substituted therefor:

Default under Divorce Act Orders, etc.

31.3 In the case of an order or interim order for alimony, alimentary pension or maintenance yments made by a court otherwise than under this Act or The Child Welfare Act, the court may ke all or any other provisions of Section 31.1 and 31.2 applicable thereto, mutatis, tandis.

R. CHAIRMAN: Okay. 31.3(1) as amended—pass; 31.3 as amended— pass 31.3—pass; le—pass; Preamble— pass. Bill be reported.

An Act to Amend The Child Welfare Act. Are there amendments?

MEMBER: No, there are no amendments, Mr. Chairman.

R. CHAIRMAN: Bill 30, (Pages 1 to 23 were read page by page and passed. Preamble—pass; e—pass; Bill be reported .

That is all the bills that we have before us tonight. Committee rise.