

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON
PUBLIC UTILITIES AND NATURAL RESOURCES
Tuesday, February 27, 1990.

TIME — 8 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Harold Gilleshammer (Minnedosa)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Cummings, Downey, Enns, Ernst
Mrs. Charles, Messrs. Chornopyski, Evans
(Brandon East), Evans (Fort Garry),
Gilleshammer, Storie, Uruski

WITNESSES:

Jack Dubois, Manitoba Environmental
Council

MATTERS UNDER DISCUSSION:

Bill No. 8—The Endangered Species Act
Bill No. 19—The Ground Water and Water
Well Amendment Act
Bill No. 35—The Wildlife Amendment Act

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Clerk of Committees (Ms. Bonnie Greschuk): Will the committee please come to order. We must proceed to elect a Chairperson for the Standing Committee on Public Utilities and Natural Resources. Are there any nominations? Mr. Enns.

Hon. Harry Enns (Minister of Natural Resources): I nominate Mr. Gilleshammer from Minnedosa if he promises not to walk out on us.

Madam Clerk: The Honourable Minister has nominated Mr. Gilleshammer. Are there any further nominations? No. Since there are no further nominations, will Mr. Gilleshammer please take the Chair?

Mr. Chairman: The Committee on Public Utilities and Natural Resources is called to order. Bill No. 8, The Endangered Species Act; Bill No. 19, The Ground Water and Water Well Amendment Act; and Bill No. 35, The Wildlife Amendment Act will be considered tonight. Is it the will of the committee to consider the Bills as they were read? Agreed.

* (2005)

It is our custom to hear briefs before consideration of the Bills. What is the will of the committee? Agreed.

I have a list of persons wishing to appear before this committee. On Bill No. 8, The Endangered Species Act,

Jack Dubois, the Manitoba Environmental Council. Is Mr. Dubois here? Would you like to come forward and make your presentation? Do you have a written presentation for us?

Mr. Jack Dubois (Manitoba Environmental Council): No, I am sorry, I do not. Every time I went through, more and more things came up. If I started to write them all, I—

Mr. Chairman: Okay, you may proceed.

Mr. Dubois: Mr. Chairman, ladies and gentlemen, for those of you who might not be familiar with the Environmental Council, in fact it is an advisory body to the Minister of Environment (Mr. Cummings). It has a wildlife committee, which I understand is actually still there from when the Minister of Natural Resources (Mr. Enns) was also the Minister of Environment. So it is a bit of an historical artifact. Be that as it may, I am here speaking on behalf of that committee.

Professionally, I am the chief curator of natural history at the Museum of Man and Nature, so I have just a couple of comments in my professional capacity when we get to some aspects of the Bill.

If I may—I do not know how long I have—I would like to go through the Act and touch on maybe a dozen points, I guess, in the way of a brief summary to start.

When I tried to think of what I could say flattering about the Bill, I guess I can say it is a good place to start. I think it is absolutely the bare bones. If you look at similar Acts in Ontario and New Brunswick that I looked at, that were written some 20 and 30 years ago, this one is modelled very closely after them and really has missed the boat in terms of a modern piece of legislation in light of, I think, the state of awareness in Manitoba of these kinds of matters and in light of other excellent Bills that have been passed recently in Manitoba, like The Environment Act.

So I think The Endangered Species Act is quite inadequate. It does a poor job of outlining the responsibilities of Government to accomplish the intents and purposes of the Act. It also does a poor job really of outlining what the role and responsibility of the public is in accomplishing the intent and purpose of the Act.

With those sorts of general comments, I would like to quickly go through the Act, if I may, and give you a quick rundown. On the first page in the Preamble it talks about, plant and animal species are of ecological, educational, et cetera, et cetera. I have a few sort of grammatical points. It seems to me it should say native or indigenous plants and animal species.

In the second paragraph there, (b), it talks about "extinct." I realize that it defines extinct species—over

on the next page under "Definitions" it talks about "extinct species." Now, as a person who works with this kind of terminology all the time, I would like to point out that in the Canadian Committee on Endangered Wildlife the definition of "extinct" is completely wiped out. I think what the Act is referring to is what is more properly termed extirpated or locally extinct, which means it is gone from a given location but it exists elsewhere in the world. So there is a terminology problem there.

* (2010)

Carrying on in the Definitions, "habitat", there is no quantification there. It says: " 'habitat' means, in relation to an endangered or threatened species, an area of land, water or air that contains the natural resources on which the species depends for its life and propagation." It does not talk about what is a sufficient quantity. This of course is hard to get a scientist to pin down on, what exactly, for a given species, is necessary as far as quantity goes, but it may be of some value when you get into the penalties and the offences section in trying to determine when a critical amount is being removed or affected. You may have to determine that as a Government before you can in fact proceed with any actions.

Under "Purpose," Section 2, it is an extremely cryptic definition of purpose, and I am not even sure that grammatically, "The purpose of this Act is the protection . . ." "should not be "The purpose of this Act is to protect or to enable the protection of . . ." It seems to me there is some problem with the wording there. The other addition I might suggest to "Purpose" is that the purpose of the Act is to legally designate species which are considered threatened, rare and potentially extinct or extirpated. In other words, I think that is one of the biggest purposes. If you look in other jurisdictions, one of the biggest purposes of the Acts are, in fact, to designate which species fall under those categories. It is not mentioned in this particular Purpose, not directly.

Turning to the next part, "Administration," Section 5 particularly and Section 6, in my earlier comments I alluded to the shortcoming of the Act in describing the responsibilities or obligations of the Government vis-a-vis what it is trying to accomplish with this Act. Under Section 5, rather than obligating the Government to conduct biological investigations, to implement remedial programs or to prepare status reports, it simply says that the Minister may enter into agreements on behalf of the province. Now it seems to me that is extremely weak. That does not address the purpose and intent that the province—it seems in fact to be shirking the responsibility of the Government to address the situations that cause species in the province to become rare, threatened or endangered in any way.

In comparison, for example, to The Environment Act, The Environment Act has a couple of sections, Section 4 of The Environment Act under "Report by minister" and the "Tabling of report," which details when the subject of that Act is addressed by the Minister and his department, that the reports are in fact made public. This section in this Act, Section 5, "Ministerial

agreements," not only does not obligate the Government to do these things, but it does not address at all if, when and where they will be reported on. I think it is quite a discrepancy in the Act. Even more germane to the Act itself is, I think, that without this kind of data being gathered and an obligation of the Government to gather this kind of data, I do not think you can make a case later on under "Offence and penalty." I will address that when I come to it.

* (2015)

The other large area of inadequacy that I mentioned in my opening remarks was public input. Under "Advisory committee," Section 6, I think the committee is very poorly defined. I think if you look at Section 5 under The Environment Act, it defines advisory committees and talks about their role. If I can find it in a hurry, I will read it to you, because I think it is a—this is from The Environment Act. It says, "The minister may establish and appoint members of such advisory committees as the minister considers desirable for the purpose of providing advice and assistance in carrying out the objects and purposes of this Act." Now that is not exactly a great essay, and yet it goes a lot further towards describing why in the world you have these advisory committees than the 6(2) that you have in this particular Act.

The other place for public input that is addressed quite well in The Environment Act and left out completely in this particular Act is under "Regulations," Section 9. Under The Environment Act, Section 41, for example, the Act states, "Except in circumstances considered by the minister to be of an emergency nature, in the formulation or substantive review of regulations . . . the minister shall provide opportunity for public consultation and seek advice and recommendations regarding the proposed regulations or amendments."

In this particular Act, all you have is that "The Lieutenant Governor in Council may make regulations". You have no provision whatsoever for public input. Again, apart from that weak mention of research and status reports in Section 5, there is no mention of any called-for research or status reports or anything else under this section except for (c) under 9(1) which simply talks about, "respecting any matter necessary or advisable to carry out the intent and purpose of this Act," again, a very cryptic reference and really does not leave you with any concept of how this Act will in fact address the intent and purpose. It just gives you that rhetorical statement.

Under Prohibition, Section 10, it talks about, "No person shall . . .", and later, under Offences, it talks about "where a person is an individual" and "where a person is a corporation" et cetera, whereas under Section 10 it talks about no person. It seems to me if you are going to differentiate between persons, corporations and agencies in one part of the Bill, you should be consistent throughout the Bill.

Again, in terms of public input under Permits by Minister, Section 11, there is a process very—actually, there is not a process. All it says is, the Minister may

issue a permit. It does not describe the process whereby that permit will be issued or how in fact it is to be applied for or any of the other processes. Again The Environment Act, whenever you are talking about permits and licences, goes into great length as to exactly what the process is that will be used to obtain these kinds of permits, where the public will have a chance to be a party to the process and where recourse might be desired in terms of when permits are denied. None of that is indicated in this Act, whereas again it is outlined in great detail in The Environment Act. I just wonder when the people were drafting this particular Act—it just seems so bare bones and so cryptic compared to another piece of legislation that was brought forward not so very long ago.

* (2020)

Finally, under Offence, Section 13, sorry, I have one more point after this. In 12, Exemption of developments, again there is no process for appeal to the Minister if a person or an agency is affected by the permit or by either the exemption of the development or the denial of exemption of development. There is no process indicated in here whatsoever for appealing the decision of the Minister or the decision of the department. Again, in The Environment Act there is quite a lengthy process, so that people who are affected by the legislation are well aware of exactly what the process is and when a decision is made by a Minister, how that decision can be appealed. There is no provision in this Act whatsoever for any comparable process.

Sorry, just to go back to the previous page under Prohibition. Again, in The Environment Act, there is provision for emergency action by officers or by the department or by the Minister to prevent something happening. In this particular Act, there is no provision for emergency action for saving a particular piece of habitat or a particular species.

We have had the recent example in Ontario of a tremendous environmental disaster of a certain tire dump being lit while all of the litigative and legal processes were being exhausted while that danger existed. It is not a terribly analogous situation, but if we waited until the process of charging a person or an agency with destroying a habitat that was critical to a particular species in Manitoba was exhausted before the Minister had the power to do anything about it, it seems to me we might miss a critical time period at which emergency action was required. There is no provision for it in this Act. It seems to me you have just set up a process for laying charges and things, and a not particularly well detailed process at that.

In terms of the Offence section, I was glad to see the Crown was bound by this particular Act, as we may find that actions of particular Crown corporations are in fact threatening particular species in this province. I was glad to see that. I wondered why, in this Act, the provision for people other than officers, accredited officers being able to lay information to invoke the Act as is again provided for in The Environment Act. I would like to think that any informed person in the province who was aware that there were circumstances that this Act could be applied to should be able to go to the

Minister and indicate—and again, there is specific provision for that under The Environment Act, whereas there is not in this Act.

I guess I missed one more point. Underneath “Permits by Minister,” Section 11(1), it says that a person may apply to the Minister for a permit and have issued one “to collect and hold alive members of endangered or threatened species.” Switching hats a minute to my museum hat, we happen to have a considerable collection of non-alive members of various species of flora and fauna of this province, and from time to time continue to collect—again, we do not keep them alive—specimens of what may sometimes be endangered or threatened species. So I am wondering about how this Act will accommodate those sorts of circumstances.

* (2025)

The permit also—again, it is extremely cryptic. It does not really describe the process. Maybe that happens under the regulations, but it does not talk about time periods, it does not talk about whether they are renewable or nonrenewable, and it does not talk about, again, a person, whether that person can be an agency, a corporation, or whatever.

I guess that pretty well does it. I would just recommend that a review of those points be done, especially considering, as I say, the excellent piece of legislation that our environment Act is. It seems to me it incorporates the principles, especially of public participation, to a far greater degree than this particular Act does. This Act seems to have been brought forward quickly; I commend the intent of it.

The last shortcoming I want to touch on—again, they say every salesman should make his point three times—is the lack of a clear responsibility of Government to engage in the necessary research to determine in fact the status of particular species of plants and animals in the province. I would suggest to you that there are very few species, even those currently officially designated for which the penalties could be invoked under this Act, that a good lawyer could not get the person or agency off immediately on the simple grounds that the province has done insufficient inventories and insufficient research to in fact prove that a particular piece of habitat is critical to the survival of a particular species.

Burrowing owls, for example, actually might be one of the few species in the province where sufficient work has been done to determine that, yes, a particular pasture, if it were disked tomorrow, would be detrimental to the future survival of that particular species. But there are very few other species that either are, or may be considered for listing under the regulations, for which sufficient research has been done in this province to be able to launch a prosecution on the basis that a particular piece of habitat in fact was critical. So I think the province has to either put some wording in this Act that gives the departments responsible a mandate to go out and do that particular work, or you are going to find that when it comes time to take someone to court to enforce it, there are going to be no grounds to do so. Thank you very much.

Mr. Chairman: Just before you leave, Mr. Dubois, we may have some questions or comments. The Honourable Minister.

Mr. Enns: Thank you, Mr. Chairman. Mr. Dubois, thank you for your presentation, in the first instance. Not wishing to put words in your mouth, would it be fair to describe your presentation in terms of a comment on the Act? You use the words "cryptic," implying that brevity seems to have been in force where perhaps a more extensive description of the intent, purpose of the Act might be employed. You allude to other legislation.

I do not disagree with that general statement, but I question whether it in fact makes any substantive difference. If I may use one particular case in point, you are critical of the lack of description as to what the advisory committee ought to do, and how it should engage itself, and how it should function. But the fact that the Act encompasses public participation through an advisory committee is surely the substantive matter of the Act. Perhaps politicians, who generally have no loss for words—I find the section to be clear. It is to advise and to have expert advice from the public, to be advised in this area. The substance of the criticism is not, in my judgment, changed by lack of two or three additional paragraphs that would enlarge that particular section.

* (2030)

Mr. Dubois: I think the way it is currently worded it could well be seen to be a very—it is totally unknown how this advisory committee would function, and the extent to which its advice would be either publicly made available or considered to be acted upon. The section I pointed out in The Environment Act states more clearly that it is to give advice to the Minister. I think just a few more words to that effect, with that particular point, would in fact give some assurance to those of us who are concerned about public input. As far as public input into the regulations, however, I think that it is clear that The Environment Act appreciates the fact that the regulations are the working edge of the tool if you will, that is where it has made specific provision for public input. It states that the Minister shall provide opportunity. There is absolutely no vestige of that in the regulation section of this Act. Again that concerns me as far as public participation goes.

Mrs. Gwen Charles (Selkirk): Your presentation was excellent, and I appreciate it. We are all here trying to make the best laws always as possible. Because of the restrictions of the amounts of amendments you are wishing to have made to the Act, do you feel that if the amendments could not be made at this point that the Act should be passed as was presented and then amendments made? Or do you feel that it would be best to withdraw the Act at this point and come back with it in full form?

Mr. Dubois: As I said initially, it is a good start. I would rather see it passed. If it is not able to be substantively amended prior to its initial passing, I think it is better to have it in place and subject to subsequent

amendment than to throw it out at this time. There are very few jurisdictions in Canada that have even this bare-bones protection for these endangered species. I appreciate the protection that it would give, and I hope that even in this rudimentary stage it would allow the Government to allocate adequate resources to the responsible departments to flesh it out more.

Mrs. Charles: You speak of not having an inventory of species in the province. Certainly, again, under The Environment Act, it calls for a report to come back to the House and state-of-the-environment within three years, I believe as of July this year. Should not that be incorporated within this Act that some report should come back within a time frame cataloging the species within the province as best as we possibly can?

Mr. Dubois: Yes. I think that is a particularly glaring omission. That is, there is no call for status reports on the particular species. It is only alluded to in the sense that the province may enter into agreements with someone somewhere to do it. There is no requirement for a report; in fact there is no requirement for it to be done. Again, I think to give the departments which are anxious to carry out this kind of work, to give them the mandate that the Act should be amended to call for specific reports would allow the Minister to allocate the resources to have it done.

Mrs. Charles: On that reporting mechanism, do you see it as a general report, or should it be done per species or an amalgamation of species—mammals, reptiles, insects, whatever you wish? Or is there some procedure you could see that it would be the best of coming back? It would seem to be a horrendous job to go out there to discover every species that exists in our province and where it exists and to what extent and what the habitat is. Could you give us some framework perhaps to base that report that should be done on?

Mr. Dubois: I do not think that I could outline a very sophisticated version here off the top of my head. The advisory committee, although I spoke about it, I certainly know that there are excellent people in the province who could do good service in terms of working out that kind of mechanism. I would like to add that from my experience that the only resource department that considers ongoing inventory a part of its mandate is Mines. They do continuing and ongoing inventory work, whereas the other departments, resource departments, seem in the past to have focused on only those particular species that are commercially exploitable and have left the kinds of species that we are talking about in this Act virtually unworked on.

Mr. Jerry Storie (Flin Flon): First of all, I want to acknowledge the importance of Mr. Dubois' presence here. This Act in fact, I think, and the Minister will confirm, was actually modelled on other pieces of legislation. It is unfortunate perhaps it was modelled on legislation that was in fact many years old already and did not reflect perhaps the new reality.

I guess if I read anything into your comments, Mr. Dubois, it was the fact that the language in this Bill is

permissive rather than obligatory. It does not require the Government to do anything. The Minister may establish an advisory committee. He does not even have to establish an advisory committee. The Minister may enter into agreements, the Minister may permit.

I guess if I read you correctly, you are saying that there are some things the Government should of necessity be obligated to do. One of those would be a minimal obligation to protect endangered species and threatened species, and that should be somewhere in the Act.

Mr. Dubois: Yes, I have dealt with Government legislation enough to know that it is very hard in most cases to get a "may" changed to a "shall," but as I hope, my overall impression is that the clauses that are in there now do not sufficiently empower the Government, the Minister and his department to do those things that would in fact address the purpose and intent of the Act, particularly in terms of research and inventories or surveys. Yes, how to specifically reword a particular clause, I cannot say at this time.

Mr. Storie: Mr. Chairperson, that is interesting, because my next question was: did you bring to the committee any specific recommendations for changes? I would suggest that in some cases, and if the Minister is amenable to making amendments this evening, there may be some simple ways that we can do that, for example, Part III, Designation of and Activities Related to Endangered Species, where it says: "Where the Lieutenant Governor in Council determines that a species is threatened with extinction, the Lieutenant Governor in Council may, by regulation, declare . . . , that should be in all probability "shall."

* (2040)

If the Government has determined, and we will leave it to the Government to decide how it determines that it should happen, it should not be a discretionary power. I think it seems reasonable that we as legislators believe that it is important to protect species that the Government should be obligated to act. It does not seem to me to be very difficult. It does not seem to be putting an onerous burden on the Government to require it to act if it has information which tells it that a species is threatened or endangered. I am wondering if in your opinion that simply changing the "mays" in that particular section, Section 8, to "shalls" would be a strengthening of the legislation.

Mr. Dubois: I guess it is to my mind the most important aspect of this Act, or would be, not particularly the penalties but again amending it such that the Government was in fact obligated to be pro-active, obligated to in fact do something to carry out the purpose and intent.

I think we have seen across Canada the simple decoration or the simple designation of status of a particular species really does not do a thing to save it from its fate. What you have to do in fact is allocate resources to working on the cause of its fate, of how it got to be designated in the first place.

In Section 8 to change the "mays" to "shall" to me does not enable the Minister any more to allocate resources to actively work on the causes for the designation, if you follow me. I would rather see changes made in other parts of the Act. I am sorry I did not bring specific ones, but I would be happy to give the Minister my notes, with circles and arrows, if that would be of any help whatsoever.

Mr. Storie: Mr. Chairperson, there are a couple of other areas where you indicated you had some concern particularly about the process, particularly the ability of the public or interest groups to make presentations to have decisions appealed. One was with respect to the permits that could be issued by the Minister, permits that the Minister may give to persons to hold or collect endangered species.

The second one being exemptions, and I gather for example, dealing with exemptions of developments, you would like to see some form of public process whereby the reasons at least for a Minister's decision would be required to be made public, or that there would be a public process that the Minister would go through to ensure that he had the views of many in making his decision.

Mr. Dubois: Absolutely. I think that is again one of the more glaring comparisons between The Environment Act and this particular Act, the poor processes, the lack of detail, the lack of recourse, and the lack of public input in any of these processes as outlined in the Act before you, compared to The Environment Act.

I do not know if there would be some sort of bridging wording to that other Act that would enable this simpler wording to remain and some sort of process whereby licensing of developments could have some consideration of the presence of endangered species in the consideration of the environment licence.

You could envision where a particular development would have to go through a couple of permitting processes. I suppose that is not unusual for developments, but you could see how there could be some confusion in the public's mind over this sort of a permitting process, and the environmental licence for example for a particular development.

Mr. Storie: One final question. I referenced in my first remarks the question of whether changing the "may" to "shall," when it came to requiring the Government to declare species endangered, threatened or extinct, where they had information that told them that was the case. It seems to me that your concern could be addressed perhaps by making 9(1), which requires the Government, or allows the Government, to make regulations directing action to the correction of the problem, so that by simply changing the "mays" in 8 and 9 to "shalls", you would have the Government being required to recognize a problem and requiring them to deal with the problem in some way.

The reason I raise it is because obviously this evening it is difficult, particularly when you get into substantive wording changes, to do it on a moment's notice. If we can find a way that will strengthen the Bill in a relatively

straightforward way, we might get agreement on the part of the committee to make some changes.

I am wondering if you would take a minute to reflect on those changes, and see if you think that would not substantially strengthen the requirement on the part of the Government to act in the best interests of endangered species.

Mr. Dubois: Well, I agree with you in terms of 9(1) that replacing the "may" with "shall" certainly gives it more force. The interpretation of course of the subsequent passages would be a tough one. My greater concern as far as regulations go was the lack of any provision for opportunity for the public to have input such as currently exists under The Environment Act. There is no vestige of that here. It seems to me if that is where the teeth are, and that is where public concerns can be made known regarding the other clauses under that section, that would be a more worthy amendment, to insert wording similar to Section 41 of The Environment Act.

I do agree changing "may" to "shall" in 9 certainly strengthens it, but I would have to reiterate that in terms of designation per se, designation per se has yet to save any species in Canada. It gives private conservation organizations some assistance with the little old ladies in tennis shoes in raising funds, but in terms of enabling Ministers of the Government to mobilize resources, to work on those particular species, it is probably less effective than some other amendments that could be made to other sections of this Act.

Mr. Chairman: Are there any further questions? Mr. Evans, Fort Garry.

Mr. Laurie Evans (Fort Garry): Mr. Chairperson, I was wondering whether you could perhaps give us your expert opinion in terms of the jurisdictional responsibilities here. How much of the designation of endangered versus other designations for species really is provincial as opposed to being national in scope? Is it entirely a provincial responsibility?

Mr. Dubois: I am sure, as the Minister could tell you, the natural resources are primarily a provincial jurisdiction, especially with regard to the land base. That is what this Act has quite correctly keyed in as the critical part of solving the problem of endangered species, and that is habitat.

Provincially, in terms of jurisdiction, I believe the province is certainly the lead hand on that in that regard. There are of course other Acts such as the migratory game bird Act and other Acts in which the province is a partner with the federal Government in protecting species, but I am sure that in terms of protecting where they live, it is squarely within the province's jurisdiction both to protect it and to come up with mitigative kinds of programs to do that.

Mr. Laurie Evans: I was thinking more in terms of the definitions and who is responsible for defining when a species is threatened versus one that is endangered,

the various categories. Are these clear-cut? In other words, how does one make that decision as to whether a species is in fact threatened or endangered? Does someone have that function in Canada separate from the individual provinces? It would seem to me this is also a national problem in the case of many species.

* (2050)

Mr. Dubois: Again, it comes down to a jurisdictional thing. There so far has been a Canada-wide committee to which Manitoba has supplied staff from time to time from its Department of Natural Resources to designate things on a national basis. The designation per se has not really enabled Ministers, especially provincial Ministers, to mobilize a lot of resources to work on it. It requires an Act like this within a given jurisdiction and the actual designation within the Province of Manitoba, I would say, to enable Manitoba to act in any substantive way. That is the purpose for the designation within the Act. That was the purpose for my suggestion, that under the purpose of the Act it state clearly that one of the purposes of the Act was in fact to designate those species so that subsequent parts of the Act would enable action.

Mr. Laurie Evans: I guess this is why I am asking the question, because on the surface I would have to support the more permissive approach to this, in the sense that my view would be, if you make too much of it obligatory then the committee gets bogged down in what is its obligation, as opposed to broadening its scope and looking at it on a more all encompassing approach. I guess my view as a scientist would be that these committees—if you strike a committee, the scope of the work that they are going to do will depend entirely on the make-up of that committee.

Some may find that there are 10 species that are endangered in Manitoba. Another one, because of the lack of definition, might come up with the recommendation that there are 100 or thousands of them that are endangered or threatened in this province. This is why I am a little concerned, about can a definition be struck that is a meaningful one, or is it already available? It is a meaningful one when a species moves from the so-called threatened to endangered. Is that clear-cut? Is that already there in terms of documentation so we know exactly what we are talking about in these different classifications?

Mr. Dubois: Well, I think there is no more a problem with that than there is, for example, setting provincial standards for pollutants under the regulations of The Environment Act. The people that do that look at what other jurisdictions do, and using their professional expertise come up with an appropriate definition of a limit, if you will, in that regard, here in Manitoba.

I would imagine that the committee appointed by the Minister to provide that kind of advice would do that very same thing. As I say, I know that staff of the Department of Natural Resources now are on the Canadian committee, so there would certainly be close liaison there. I cannot see that it would be a great worry as long as the quality of people that were appointed

were good and the advice of the senior staff in the department, who have worked on this kind of thing for many years, was taken.

Mr. Chairman: Are there any further questions? I would like to thank you, Mr. Dubois, for your presentation this evening.

Mr. Dubois: Thank you for the opportunity.

Mr. Chairman: Are there any further presentations? Since all presentations have been heard, we will proceed with the Minister's -(inaudible)-

Mr. Enns: No, proceed, Mr. Chairman. I commend these Bills to the committee. Honourable Members - (inaudible)- as we acknowledged in the introduction of the Bills in the Chamber at first and second reading, that contrary to the advice just heard the Bills may be wanting, but they have been indeed looked at and worked on by different Ministers and the department for some time, and I commend them to the committee in their present forms.

Mr. Chairman: Does the critic for the official Opposition have a response? Mrs. Charles.

Mrs. Charles: Thank you, Mr. Chairperson, I believe we all here today are very pleased to be dealing with an Endangered Species Act and would compliment the Minister for bringing one forward and the staff as well for the work that has been done on it.

At the same time, we do appreciate Mr. Dubois' presentation in pointing out where the Act could be made more full and perhaps, in the same tone and attitude of The Environment Act, which we are working with today, and seeing that it is indeed developing possibly into areas that those who passed it were not aware of at the time that it was passed, and learning and dealing with it as it goes along.

I think we all appreciate the remarks that Mr. Dubois has made, and accordingly both Opposition Parties have put in amendments that the legal assistants are working on at the moment, and hope the Minister will bear with us as these amendments are being drawn up and will be able to come forward and to be discussed by this committee this evening.

I think it is very important, as Mr. Dubois points out, that the public joins with Government in protecting our environment and definitely the species therein. I think it would be very appropriate that this Minister, this Government and any future Governments keep that in mind in all environment Acts that come forward. Perhaps, because time would not permit us to get into the long amendments that would be necessary to set the tone as it is in The Environment Act, we will have those amendments coming forward in the next Session, should that ever occur.

With that, I hope that committee will consider the amendments I will be putting forward, as others will be considered, and that if necessary, in order to have these drawn up, perhaps we could take a short recess so that can be allowed, if necessary.

Mr. Chairman: We will hear from the critic for the Second Opposition Party, Mr. Storie.

Mr. Storie: Mr. Chairperson, I want to just echo some of the comments made by my colleague from Selkirk. We recognize that we are not about to make a major rewrite of the Act at this point. However, I think by making some strategic changes we can enhance the intent of this legislation.

Both the Member for Selkirk (Mrs. Charles) and myself have made some recommendations, which I do not think would be difficult to incorporate into the Bill, nor would they change the direction or the intent of the Bill, but would strengthen it, I think, in lines with the comments made by Mr. Dubois and I think agreed to by Members of this committee. I think it was quite a rational presentation.

I believe that if we gave Legislative Counsel 15 minutes, they would have the amendments before us. What I would recommend we do is proceed to review and listen to the presentations on the other Bills and then come back to the proposed amendments that will be brought forward on Bill No. 8.

Mr. Chairman: I thank Members for their advice. Is it the will of the committee then to allow time to draft these amendments and proceed with the next Bill? The Minister of Northern Affairs.

Hon. James Downey (Minister of Northern and Native Affairs): Mr. Chairman, do we have many other presenters?

Mr. Chairman: I do not believe there are any other presenters.

Mr. Downey: Mr. Chairman, maybe we should deal with the Bill that is before us that is being presented by the Minister. If we do not have other presenters, let us deal with the Bill.

Mr. Storie: Mr. Chairperson, if there are no other presenters, I recommend that we deal with Bills 19 and 35. I do not think there are many amendments that are being brought forward in those two, unless the Minister has a number. By that time I am sure Leg. Counsel will have some amendments that we can begin to review.

Mr. Enns: That is fine with me, Mr. Chairman.

Mr. Chairman: Okay, we will proceed then to consider Bill No. 19, The Ground Water and Water Well Amendment Act.

Mr. Enns: Page by page, Mr. Chairman?

Mr. Chairman: Does the Minister have an opening statement?

Mr. Enns: Mr. Chairman, I think the statements are on record at second reading in the Chamber, that this Act is a further attempt on the part of the Government to, in this case, bring into greater scrutiny the very

important resource of ground water in the Province of Manitoba, and I recommend it to the committee.

* (2100)

Mr. Chairman: Thank you, Mr. Minister. Does the critic for the official Opposition have a statement? Mrs. Charles?

Mrs. Charles: We made most of our comments in general in the second reading of the Bill. I think we may as well go on. It is a direction that was a beginning on checking our ability or inability to look after our water and to be responsible for the drilling of wells. Hopefully, we can just pass it and go on.

Mr. Chairman: Thank you. Mr. Uruski.

Mr. Bill Uruski (Interlake): Mr. Chairman, I would like to know from the Minister or his staff, the repeal of Section 5 as I understand in this legislation is to remove the necessity of application for permits to drill wells. The new process that is being put into the legislation is to allow anyone to drill basically wherever they desire. How will the department determine and what process will the department use in order to find out where someone is drilling the wells, since you are now doing away with the need for permits to drill?

Mr. Enns: Mr. Chairman, I am advised that the Bill nonetheless requires that all the detailed information, location, where a well is proposed to be drilled, that is all in place. It is just the application for permit that is being done away with. All the basic information is still there, and that is still a requirement.

Mr. Chairman: Can we proceed to clause-by-clause consideration? Clause No. 1—pass; Clause No. 2—pass; Clause No. 3—pass; Clause No. 4—pass; Clause No. 5—pass; Preamble—pass; Title—pass. Shall the Bill be reported? Agreed. Is it the will of the committee that I report the Bill? Agreed.

We will proceed then to Bill No. 35. Does the Minister have an opening statement?

Mr. Enns: Mr. Chairman, again it has been a while, I appreciate, since I introduced these Bills to the Legislature. In Bill No. 35 significant amendments to The Wildlife Act—allow me just to repeat them for the memory of the Honourable Members. First of all, it simply provides a better definition of hunting to exclude the words “trapping or attempting to trap” and to amend all sections accordingly. There is a difference in the way the Act applies.

Number 2 is to allow certificates from other than Government or RCMP police laboratories, research stations and meteorological stations, provided they are accredited to be admissible in evidence. The current Act specifically restricts evidence to come from the RCMP laboratories only. Development is such that there are other sources of expert advice available to us that are accredited and quite capable of providing admissible evidence in cases of prosecution.

Number 3 is to prohibit the possession of cyanide guns for taking wildlife by other than authorized

persons. That prohibition has not been put in place. The use of cyanide has in fact virtually disappeared, but it is deemed important by the department to put that into law. The muzzle loading and muzzle weaponry is becoming increasingly popular in the province, and some further clarification of definitions in the area of muzzle loading and loaded firearms section is required.

Number 5 is to provide for some greater ministerial authorization of land and habitat management agreements. We are entering into substantially a new era of agreements with private landholders and others that involve the Crown. It is deemed important to change some of the legislation in that regard. I commend the Bill to the committee.

Mr. Chairman: Thank you, Mr. Minister. Does the critic for the official Opposition have a comment?

Mrs. Charles: Just a question, Sir, and I did have someone phone me about concern that there was going to be some restrictions on the type of firearms to be used, and I just want to be reassured that there is no change in the restrictions on the firearms to be used.

Mr. Enns: Mr. Chairman, I can advise the Honourable Member for Selkirk that there are no unconditional restrictions being in place. I do not know where that surfaced; my office, as well as the Member's office has received a number of inquiries believing that there were some changes or restrictions being brought into law with respect to, particularly the muzzle-loading part of it, and that is simply not the case.

Mrs. Charles: No, that is fine, thank you.

Mr. Storie: Mr. Chairperson, I just had one question for clarification. It is perhaps highlighted in Section 15, entitled “Licence requirement: Except as may be otherwise permitted by this Act or a regulation under this Act, no person shall hunt, trap,” et cetera, “unless the person does so under the authority of a licence.” I am wondering whether it would not be necessary or whether would not be room for perhaps for some mention of aboriginal people's rights under the Constitution, or the Indian Act. This is a complete exclusion; it says except as otherwise permitted. Is it generally understood that those rights, those Treaty and aboriginal rights pre-exist? Is it correct to say that they are permitted by this Act? Is there room for some reference to aboriginal and Treaty rights?

Mr. Enns: Mr. Chairman, the Member raises an interesting question. I do not believe this section of the Act addresses or in any way diminishes from that constitutional fact of life that we acknowledge and indeed that courts increasingly are underwriting. It has to do with the carrying of firearms, more so than the Act—the constitutional right of hunting.

Mr. Chairman, I am further advised that there is another section in the Act that clearly indicates that the Act acknowledges the Memorandum of Understanding that exists with respect to Treaty hunting rights.

Mr. Storie: Yes, I do not have, obviously, the rest of the Act, and I would like to know the reference. What

I am concerned is that this Act seems to be saying, in effect, to people, that we are permitting Native people to hunt and trap, and that is not the case. It says except as may be otherwise permitted by this Act. That, from many aboriginal peoples' perspective, from the First Nations' perspective, should be worded somewhat differently and I am wondering whether there is not room to acknowledge that in this particular amendment or is the Minister satisfied or is his staff satisfied that other sections make it very clear that when we are talking about permitted in this case, we are talking about people other than those who have a pre-existing right which is the case with aboriginal people?

Mr. Enns: Mr. Chairman, to the Honourable Member for Flin Flon (Mr. Storie), I am advised that this Act is subject to paragraph 13 of the Memorandum of Agreement set out in The Manitoba Natural Resources Act, which is the parent Act, if you like, within which it fully recognizes the aboriginal hunting rights. I appreciate what the Member for Flin Flon is saying. Perhaps the optics of some recognition in this area, it would be helpful I suppose if we could see the actual Memorandum of Agreement that I refer to, and that may well satisfy the Honourable Member. I do not have that available to me at this time.

Mr. Storie: My concern is that the wording here may imply to some people, Native people, that somehow the province is providing this exemption when that clearly is not the case. I do not know the date of the signing of this Memorandum of Agreement with respect to Natural Resources. I know that the Natural Resources Transfer Act occurred in 1930, which obviously was some 60 years after the first signing of Treaties in effect in Manitoba. The last Treaty was in 1906 or 1910. Clearly their rights pre-date any regulation or legislation in the Province of Manitoba.

Mr. Enns: This paragraph 13 that I refer to is of that 1932 Resources Transfer Act. It sets out right from the time that the Manitoba Department of Natural Resources has been making any regulatory or hunting changes that the constitutional aboriginal rights are recognized. I suppose it could be argued that for us to in fact put in references to them now could also be read the other way, that we now for some reason or other deem it necessary to mention that in provincial legislation it was basic to the document that transferred the resources to the province from Canada. I suspect that has stood these many years and I have received no representation on behalf of aboriginal people that they are concerned about the particular section, Mr. Chairman.

Mr. Chairman: Thank you. Can we proceed to clause-by-clause consideration? Mrs. Charles.

* (2110)

Mrs. Charles: Just to follow up on topic as we were before with The Endangered Species Act, can the Minister indicate where the regulations would be put forth that no hunting or trapping should be done on endangered habitat nor endangered species?

Mr. Enns: Whenever a new piece of legislation like The Endangered Species Act is introduced, there will be sections withdrawn from other pieces of legislation, but the provisions of The Endangered Species Act clearly indicate that the protection for sole designated species and the normal applications of The Manitoba Wildlife Act would apply.

Mrs. Charles: If a species were determined to be threatened with extinction, that would immediately fall within The Wildlife Amendment Act, that recognition would be taken under The Wildlife Amendment Act in some form that is already set in place so that there is some immediacy to the whole reaction to the determination of a threatened endangered species, or would we have to wait for the whole process of the Bill and legal authority within this Legislature to have that regulation come into effect?

Mr. Enns: Subject to some better advice from my staff, but The Wildlife Act is not all inclusive in terms of hunting activity. It states specifically certain regulations regarding certain species of wildlife. What is specific though under The Endangered Species Act is that should we pass the legislation they fall immediately under the protection of that Act.

Mr. Storie: It seems to me that there is some overlapping protection. Section 17 talks about no person being allowed to hunt, trap, take animals in a restricted area. Of course, The Endangered Species Act talks about the Government's ability to prohibit or restrict the entry by any individual into any area. So certainly the Minister would have the power under The Endangered Species Act to prohibit entry.

Mr. Enns: Mr. Chairman, in this short bit of time, staff has shown me that in Section 8 we have one, two, and three very specific actions, that declares the kind of action that would be taken by the Wildlife Branch when a species is declared endangered or threatened, or be extinct.

Mr. Uruski: Mr. Chairman, could the Minister indicate whether there is an enhancement or an expansion of training or safety regulations dealing with hunting in this legislation?

Mr. Enns: Mr. Chairman, Manitoba has, and the former Minister is well aware, for many years a hunter safety program that I think has received—you know, accredited as doing a fairly responsible and good job. The Bill before you, or the amendments to the Bill before you do not contain any additions to that program.

Mr. Uruski: Mr. Chairman, is it now, in terms of hunter safety—are all firearms that may be used in the course of hunting, that an individual may use, subjected, or are the individuals subjected to taking a hunter safety course prior to obtaining a licence? Or are there some firearms that are excluded, are in the excluded category, or in the permissible category of hunting without the necessity of a hunter safety program?

Mr. Enns: I am advised, Mr. Chairman—to the Honourable Member for Interlake (Mr. Uruski)—that all

must take the hunter training course with no exemptions as to the particular type of weapon.

Mr. Chairman: Can we proceed then to clause by clause? Clause 1—pass; Clause 2—pass.

Clause 3—the Member for Flin Flon.

Mr. Storie: What does Clause 3 do?

Mr. Enns: Clause 3 repeals Clause 5(2)(b).

Mr. Storie: Which is?

Mr. Chairman: Shall it pass?

Mr. Enns: If I got away with that, you know, I would—

Mr. Storie: Well, yes, the Minister would get away with that if I had the Act and could refer to section—Clause 5(2)(b), but I do not. I would like to know what it is.

Mr. Enns: Mr. Chairman, it is where in The Wildlife Act we make specific reference to the endangered species, which with the introduction of The Endangered Species Act is now considered redundant in the general Wildlife Act—Section 5(2), where an area is proposed to be designated under Section 2, consists—for endangered species and so forth. It is covered under The Endangered Species Act.

Mr. Chairman: Clause 4—pass; Clause 5(1) and (2)—pass; Clause 6—pass; Clause 7—(pass); Clause 8—(pass); Clause 9—pass; Clause 10—pass.

Clause 11—Mr. Uruski.

Mr. Uruski: -(inaudible)- Clause 11, in Clause 9, Section 18, Hunting or trapping for remuneration. Mr. Chairman, can the Minister indicate whether these amendments are attempting to deal with the whole area of I guess what is commonly known as paid hunting, where individuals come and say we will give you X number of dollars if we can use your stubble field for the next few days and dig whatever holes we have to?

Is that an issue that is of concern to the department? What is the intent actually of Section 18 in Clause 9?

Mr. Enns: Mr. Chairman, the Member raises a question that is indeed raised by a significant number of Manitobans about the degree of commercialization of hunting practice in Manitoba.

What the department has attempted to do, particularly in close co-operation with the Department of Tourism, who are in fact the operating branch of Government that provides the outfitters' licensings or lodge licensings, again in close co-operation with ourselves, but where it is deemed that some species in limited quantities are available for this kind of activity, they are closely and carefully regulated by this Act.

I am not really answering the big question. As the Member is well aware, there is a considerable body of thought in the province that takes issue with what they view to be commercial exploitation of our game. On

the other hand, when viewed as an economic benefit, particularly in some instances in areas where economic opportunities are few, the branch has worked out considerably advantageous agreements with several Indian bands. To provide an example, we are encouraged with the degree of co-operation we are getting in the overall management of the wildlife resources in these instances and require, however, the kind of restrictions in the Act that enable the branch to restrict that kind of hunting activity under pretty controlled circumstances. As I read Section 18, Mr. Chairman, it prohibits you or I with a general hunting licence to engage in that kind of activity without any reporting back or control in terms of how our licences are being used.

* (2120)

I might just indicate an example of what we are just talking about. We will develop in the next few years—as the Members are aware, we have reintroduced the wood bison to the Province of Manitoba. They are being released, or will be released into the wild, a certain number. However, there is a finite number of them that are capable of being kept in the area and there will be and the program was conceived, again with substantial tourist input to make possible, in this case, for the bands in and around the Waterhen area to be very much part of the controlled, limited harvest that biologists being prudent from time to time and very likely that some of this will be either to a non-resident or a resident who will pay for that hunting experience.

Mr. Uruski: Mr. Chairman, are there provisions now in the Act that would regulate and/or deal with the question of individuals who may—I guess the common expression or at least identification of this would be co-operating game farms. I note, for example, there is a game farm up in the Gypsumville area or at least the raising of deer in captivity. Is this section intended to deal with the regulation of those or is it primarily the section that more explicitly deals with the question of outfitters that the Minister described in his remarks earlier?

Mr. Enns: Mr. Chairman, there is no specific direction aimed at that kind of activity in this Act. This has been in the Act for a number of years. The main addition here is the word "trap," that brings this clause back with us, but it is a general prohibition against anybody capturing animals, unless under certain subscribed conditions or permits. To take an injured goose into your farmyard, in effect, requires a permit to be obtained from the department, but it does not in any way comment or change or move in the area that the Member mentions.

Hon. Jim Ernst (Minister of Industry, Trade and Tourism): Mr. Chairman, I just have a comment with regard to what the Member for the Interlake (Mr. Uruski) raised in the question. I guess there are two areas of questions. One is managed hunting, which is the commercial rental of your property for the purposes of hunting, which by and large is practised in managed hunting areas, most notably at Oak Hammock Marsh and at Grant's Lake, two major areas around Winnipeg.

which has had the benefit, quite frankly, of reducing the number of hunters per quarter-section and giving the waterfowl a little bit more of a chance in the overall scheme of things, No. 1, and No. 2, has reduced the incidence of confrontation, shall we say, between hunters that used to take place when there was at one time a firing line where everybody was standing shoulder to shoulder.

The other, of course, is the question of licensing of outfitters, which is a significant portion of the tourism industry in the Province of Manitoba, very significant, and as the Minister indicated, deals with many areas where job opportunities are relatively limited and this provides under supplemental income or at least, in some cases of course, farming income for potential hunters who wish to come to the province and pay a substantial sum in order to be guided and so on to be looked after.

One of the problems we have with that is that the control of those individuals sometimes is difficult and we have to have as much opportunity to control them as possible in order to make sure (a) you get a good experience, and (b) people are not ripped off, shall we say.

Mr. Chairman: Shall Clause 12 pass—pass.

Mr. Uruski: Mr. Chairman, I might at this point raise with the Minister—and he is aware of letters and concerns being raised by none other than some of the licensed outfitters, primarily within the Interlake region that I am well aware of—I guess what is now known in their circles as an over supply of outfitters and an encroachment on one another's territory, the very kind of situation that occurred in the area of goose and duck hunting just in and around the periphery of Winnipeg until some management of hunters actually occurred.

I am hopeful that the Minister in his comments to myself is refraining and looking at very seriously from allowing further encroachment by others who, in fact, by some of the allegations that are made by those who trained guiding personnel, now want to get into the business themselves. The circle gets larger.

I am hoping that the Minister is true to his word in reviewing that whole situation very carefully, knowing that it is very difficult to satisfy everyone who is in the industry and wants to get into the industry at the present time.

Mr. Chairman: Clause 13—pass; Clause 14—pass; Clause 15—pass; Clause 16—pass; Clause 17—pass; Clause 18—pass; Clause 19—pass. Mr. Uruski.

Mr. Uruski: Before we go to 19, could the Minister indicate in Section 17, what in essence the major changes are from the existing legislation on the suspension of licence?

Mr. Enns: Mr. Chairman, I advise that what it essentially does is it tidies up an error when last the Bill was dealt with. It makes it automatic upon conviction, where that was not clearly spelt out in the old legislation.

Mr. Uruski: Have there been instances in which the interpretation of the Act did in fact allow someone who

is convicted of an infraction to continue getting their licence, or is this just a situation that the department felt they did not want to have any ambiguity in?

Mr. Enns: Mr. Chairman, I am advised that there have indeed been instances where that error in the legislation was used. It is under the advice of Crown counsel that this rewording has been brought forward.

Mr. Chairman: Clause 20—pass; Clause 21—pass; Clause 22—pass; Clause 23—pass; Clause 24—pass; Clause 25—pass; Clause 26—pass. Mr. Uruski.

Mr. Uruski: Before we leave page 7, can the Minister indicate the regulations that deal with the royalties on taxidermy? Are there prescribed royalties within the department for taxidermists, who deal with processing of pelts and skins, or actually animals?

Mr. Enns: Mr. Chairman, I am advised that the requirements are identical. It is the same requirement that all fur-bearing animals that are either trapped by a registered trapper or whether brought into a taxidermist's shop, the same royalty regime exists.

Mr. Uruski: Mr. Chairman, perhaps I could ask the Minister or the staff to send me the regulations and the prescribed fees. I am not certain that all Manitobans are well aware of those regulations. There may be some people that I come in contact with that I may be able to provide with some of that information.

* (2130)

Mr. Enns: Mr. Chairman, I am sure that can be accomplished, and we have taken note of it.

Mr. Chairman: Clause 27—pass; Clause 28—pass; Clause 29—pass; Clause 30—pass; Clause 31—pass; Clause 32—pass; Clause 33—pass; Clause 34—pass; Clause 35—pass, that was 35(1) and 35(2)—pass; Preamble—pass; Title—pass. Shall the Bill be reported? Agreed. Is it the will of the committee that I report the Bill? Agreed.

We are going to have to recess for about 10 minutes while the staff get the Bill ready. We will come back to order at quarter to.

RECESS

Mr. Chairman: We will call the committee to order at this time. The Honourable Minister.

Mr. Enns: Mr. Chairman, I wonder if in the interests of time the movers of proposed amendments could indicate to the committee the precise nature of the amendments. I would be more than pleased to indicate whether or not the Government was prepared to entertain them.

Mrs. Charles: I am proposing under Section 2(1), Purpose, page 2, that the purpose be more defined and I believe—I do not have the copies in front of me, but there will be two designations under Purpose along

the lines as Mr. Dubois indicated, that the purpose is also to legally designate species which are threatened.

I will have actually three designations under 2(1) of the purpose of the Act; as well, under Section 5 that it be amended to ensure that the biological status report be prepared under the committee established under Section 6, and then Subsection 6(1) outlining the role of the advisory committee in that it should be specified as to what acts it would be carrying out and to whom it shall be reporting to, that the inventory should be made public and that the Minister should be advised of the recommendations brought forward by the committee accordingly.

I hope the Minister will accept these as friendly amendments to the Bill, not to change the purpose of the Bill, but to define the purpose in a way that we can include the public and that we can indeed deal with what the Minister's intent was with bringing the Bill forward, and that is to protect our wildlife and all the species in Manitoba. I hope the Minister will agree to look at these amendments in a friendly manner and work with the Opposition to improve the Bill as can be done under this time frame.

Mr. Storie: Mr. Chairperson, I have some amendments that I believe are also friendly. I am a little concerned that the Minister's response is, well, he will listen and decide whether he is going to withdraw the Bill.

Mr. Chairperson, I have been involved in legislative committees like this for a number of years. I have also seen many amendments brought forward and passed. I believe that Mr. Minister was one of those people I heard referencing the other day in committee the importance of listening to the public and responding in a public way to concerns addressed on pieces of legislation. That is what makes democracy quite unique in Manitoba, the fact that we have these kinds of public committees and we respond. I believe the presentation raised some good issues, and I hope that the Minister and Members of the committee will find the amendments that are being proposed by the Member for Selkirk (Mrs. Charles) and myself to be reasonable.

Mr. Chairperson, I will be moving an amendment on Section 6. We heard from Mr. Dubois, and I believe common sense would tell us, that the establishment of Endangered Species Advisory Committees is a good idea. The language right now says that the Minister "may." I see no reason why, if we are going to have the legislation, the Minister would not want to establish an advisory committee. I also believe that there are some responsibilities that we can give this committee in an advisory capacity, recognize that is the best we can do, and is probably all we would want to do. Certainly I believe the Minister would want to be kept abreast of the latest information and have the best advice available to him. That is possible.

Therefore, I move, seconded by the Member for Interlake (Mr. Uruski), that Subsection 6(1)—

Mr. Chairman: Sorry. We do not have the written copy yet, so we are just at this time getting an explanation of your amendment.

Mr. Storie: It is written out both in English and in French. I can share this with you after I have read it, if that is satisfactory.

Mr. Chairman: Proceed.

Mr. Storie: I move, seconded by the Member for Interlake (Mr. Uruski),

THAT subsection 6(1) be amended

(a) by striking out "may" and substituting "shall"; and

(b) by adding the following:

"to advise the Minister in respect of

(a) the purposes of this Act;

(b) whether an exemption should be made for a development under section 12; and

(c) a regulation or proposed regulation; and the Endangered Species Advisory Committee shall report to the minister every five years on the status of endangered and threatened species in the province."

* (2150)

(French version)

Il est proposé que le paragraphe 6(1) soit amendé:

a) par substitution à "peut établir", de "constitue";

b) par adjonction de ce qui suit:

Le Comité est chargé de conseiller le ministre sur:

a) les objets de la présente loi;

b) la question de savoir si une exemption devrait être accordée à une exploitation en vertu de l'article 12;

c) tout règlement ou tout projet de règlement.

Le Comité consultatif sur les espèces en voie de disparition présente un rapport au ministre à tous les cinq ans sur la situation des espèces en voie de disparition ou des espèces menacées dans la province.

That outlines three specific responsibilities for this advisory committee.

Mr. Chairman: But we are not dealing with the Bill yet, we were just—

Mr. Storie: No, that is one amendment.

Mr. Chairman: Okay, the second.

Mr. Storie: Mr. Chairperson, I have two other what I consider small amendments. One is to Section 8: I move, seconded by the Member for Interlake (Mr. Uruski),

THAT subsections 8(1), (2) and (3) be amended by striking out "may" wherever it appears, and substituting "shall".

(French version)

Il est proposé que les paragraphes 8(1), (2) et (3) soient amendées par substitution, à "peut, par règlement, la déclarer", de "la déclare, par règlement,".

That is and seems to be logical that if the Lieutenant-Governor-in-Council determines, it says, the Bill currently reads: "Where the Lieutenant Governor in Council determines that a species is threatened with extinction," In other words, the Lieutenant-Governor-in-Council has information which says this is a threatened species. Why should it not be obligatory for them to declare it an endangered species? The amendment simply says in those cases where they have that information, they "shall" declare the species extinct, endangered or threatened. So I move that amendment as well.

Mr. Chairperson, the final amendment again is a wording change and follows in Section 9.

I move, seconded by the Member for Interlake (Mr. Uruski),

THAT subsection 9(1) be amended:

- (a) by striking out "may make regulations";
- (b) by adding "shall make regulations" after "(a)";
- (c) by adding "may make regulations" after "(b)" and "(c)."

(French version)

Il est proposé que le paragraphe 9(1) soit amendé:

- (a) par suppression de "peut, par règlements";
- (b) par substitution, à "prendre", à l'alinéa a), de "prend, par règlement,";
- (c) par insertion, avant "interdire ou restreindre", à l'alinéa b), et avant "prendre", à l'alinéa c), de "peut, par règlement,".

So again if we have a situation where the Government has information, and I leave it to the Government, the Government clearly has the ability, has the obligation to determine when it has sufficient information to make the decision. But once they have the information, they shall make the decision and then it flows from that.

If they have made that decision, they should also have some obligation to act, and the acting would be of course, the Government "shall" make regulations respecting the preservation and survival of the habitat of an endangered or threatened species. In other words, the Government has to act once it has that information at its disposal. The rest of them of course flow from that, and there is not as much onus on the Government, but in the first case "may" shall be replaced by "shall." That is it. Those are my amendments.

Mr. Enns: Mr. Chairman, I thank Honourable Members for those suggestions. It will be my intention to consider them seriously in the next very short while. I would ask, Mr. Chairman, that you withdraw the Bill, at this time, from further consideration by the committee.

Mr. Storie: Mr. Chairperson, I am somewhat flabbergasted by the Minister's response. I think that the least he owes this committee is some explanation as to what shortcomings he might see in the amendments that have been proposed. I mean, is the Minister interested in The Endangered Species Act and protecting endangered and threatened species, or is this a game? Does he believe in public input? Does he believe in the committee process? Or is that too a game? All I request is an explanation. What is so onerous or so inconsistent with the amendments that have been proposed that it would require withdrawing of the Bill? I do not understand that action; it is totally void of logic.

Mr. Enns: Mr. Chairman, a number of amendments have been suggested to the structure of the Bill. I am simply advising all Members of the committee that it would be prudent on my behalf to consider them and bring them forward at a later date when I have had, and my officials have had a chance to do just that. What Honourable Members perceive to be a relatively minor amendment, a change from the word "may" to "shall" has implications of 20, 30, 200, 500 millions of dollars. I am not prepared to make that decision by myself. There is unquestionably a person or a committee can find, indeed designate an endangered piece upon our floor of, for instance, at the Conawapa site. I am not about to pass legislation at this point in time that would impede the Government from carrying on with decisions made in that regard and decisions I made in the process in that regard. I would expect that all of these considerations will be taking place indeed in another forum, in front of the Clean Environment Commission, whose hearings will be extensive and exhaustive in that area.

I do not know, and I might be wildly exaggerating the situation. My experience teaches me that at ten o'clock at night, I do not entertain amendments I have seen for the first time. I am certainly not indicating any other action, other than I will ask for an opportune time to study the recommended recommendations before I proceed forward with the Bill. It is under my responsibility that the Bill moves forward. I wish to know precisely what kind of legislation I am moving forward.

Mr. Storie: Mr. Chairperson, I appreciate the explanation. It is not unusual for committees to hold over legislation. There is no need to act precipitously and withdraw the legislation. All I was asking for, all the committee deserves from the Minister is an explanation of the concerns he has. Or, if he has additional information, to bring that forward. I would recommend then that we not proceed with the amendments as presented.

This committee will be meeting again tomorrow or the day after. The Minister will have opportunity to present his views and have staff review the amendments as proposed. I would move that committee rise at this point and the Minister bring back his concerns and address them in a more straight-forward way.

Mrs. Charles: I would like an opportunity to speak before we deal with the motion on the floor, if that is agreed upon with this committee—

Mr. Chairman: I think there is general agreement that the committee will rise and that Mrs. Charles can have just have a few words.

Mrs. Charles: Well, if we rise before I speak, then the committee is dissolved.- (interjection)-

Mr. Chairman: I recognized Mrs. Charles.

Mrs. Charles: First of all, I would hope the committee would accept my amendments to be on the record. They are being printed. I did not read them verbatim because I understood it was proper procedure before we read them into the record to have them distributed in full copy to all Members here, and did not realize the amendments would be accepted by committee Members if the copies were not available for consideration of all Members at the table.

I would hope the Minister will take the copies as distributed when they come forward. I would move, seconded by the Member for Fort Garry (Mr. Laurie Evans), that these amendments placed on the table by myself will be accepted as read into the record both in English and in French so they can be maintained on record for the Government to consider.

MOTION

THAT subsection 2(1) be struck out and the following substituted:

Purposes

2(1) The purposes of this Act are

- (a) to ensure the protection of endangered and threatened species in the province;
- (b) to enable the reintroduction of extinct species into the province; and
- (c) to designate species that are endangered or threatened with extinction in the province.

(French version)

Il est proposé que le paragraphe 2(1) soit remplacé par ce qui suit:

Objets

2(1) La présente loi a pour objets:

- a) d'assurer la protection d'espèces en voie de disparition et d'espèces menacées dans la province;
- b) de permettre le repeuplement dans la province d'espèces disparues;
- c) de désigner des espèces en voie de disparition et des espèces menacées dans la province.

MOTION

THAT section 5 be amended

- (a) by deleting the period at the end of clause (c) and substituting a semi-colon; and

(b) by adding the following after clause (c):

and any biological status report prepared under this section shall be made public through the Endangered Species Advisory Committee established under section 6.

(French version)

Il est proposé que l'article 5 soit amendé par adjonction après l'alinéa c) de ce qui suit:

Le Comité consultatif sur les espèces en voie de disparition constitué en vertu de l'article 6 rend public tout rapport concernant les conditions biologiques préparé en application du présent article.

MOTION

THAT subsection 6(1) be repealed and the following substituted:

Advisory committee

6(1) The Lieutenant Governor in Council shall establish an advisory committee to be known as the Endangered Species Advisory Committee to perform the following tasks:

- (a) to carry out an inventory of species native to Manitoba and to update the inventory every five years thereafter;
- (b) to advise the minister of species that are endangered or threatened or whose habitats are endangered; and
- (c) to recommend to the minister species that should be designated under section 8.

THAT the following be added after subsection 6(1):

Inventory to be made public

6(1.1) An inventory under clause (1)(a) shall be made available to the public.

(French version)

Il est proposé que le paragraphe 6(1) soit remplacé par ce qui suit:

Comité consultatif

6(1) Le lieutenant-gouverneur en conseil constitue un comité consultatif désigné sous le nom de "Comité consultatif sur les espèces en voie de disparition".

Le comité est chargé:

- a) d'inventorier les espèces du Manitoba et de mettre à jour l'inventaire dressé à tous les cinq ans;
- b) de conseiller le ministre sur les espèces en voie de disparition, les espèces menacées ou les espèces dont l'habitat est menacé;
- c) de faire les recommandations au ministre au sujet d'espèces qui devraient être désignées en vertu de l'article 8.

Il est proposé que le projet de loi soit amendé par adjonction, après le paragraphe 6(1), de ce qui suit:

Caractère public de l'inventaire

6(1.1) L'inventaire visé à l'alinéa (1)a doit être mis à la disposition du public.

At the same time, I am very disturbed with the Minister saying that he is very concerned about endangered species unless they get in the way. I think this is quite a deviation from recognizing what the environment is all about. He did say that he would have to take it under consideration in case we had some endangered species in the way of the Conawapa Dam. My interpretation—and I am being liberal in my interpretation—I take the intent of what he said was that if endangered species are in the way and it costs too much, we would rather have them be extinct than hold up progress, so called progress.

I hope it is a liberal interpretation, that the Minister will clarify his attitude that is not acceptable to me in this age of understanding that all species are unique to this world and that at the rate they are disappearing, we can not afford to just arbitrarily wipe one out because it happens to be in the way of construction.

* (2200)

Also, although I appreciate the Minister must consider the costs of any amendments that are made, I do not feel he is hearing the amendments in full. The purpose, as the amendment that I am proposing, for the Purpose, under Section 2(1), I cannot see where this would cost the Government any money. Instead of improving the Bill, he wishes to rescind it. I would ask the Minister if he will give us the time frame that he could come back with the Bill back on the table?

Mr. Enns: Mr. Chairman, committees are called through arrangements with the respective House Leaders. I would assume that within a very short period, in the next day or two, this committee will have an opportunity to be recalled.

Mr. Chairman: Is it agreed that the other two Bills be reported? Agreed.

Mr. Leonard Evans (Brandon East): Not to prolong this at all, I think what may have caused some of the Members to be concerned is the Minister's use of the term "withdraw". I gather he did not really mean to say to the committee that he was necessarily going to withdraw the Bill at this time but that rather he did not want it dealt with this evening. He needed time to go over it with his staff, which is very reasonable and very understandable.

I think it is maybe the use of that particular term; I think some Members of the committee are fearful that he just will not come for this. I gather the Minister, by looking at him, is intending to come back. Even though there may be disagreement, regardless, it will come back for consideration by the committee. I see the Minister nodding in agreement, so I gather that is the intent, not to withdraw it, but just to defer the matter until the Minister and his staff have sufficient time to review the proposed amendments.

Mr. Enns: Mr. Chairman, I thank the Honourable Member for Brandon (Mr. Leonard Evans) for assisting me. It is the precisely in the manner in which the Honourable Member for Brandon has suggested. I simply asked that the Bill not now be dealt with so that staff and myself could consider the amendments that had been presented to us which only now are being circulated. I have not had an opportunity of seeing them in print, and I think it is understood at least by former Ministers that have been responsible for bringing forward legislation to at least be advised and allow staff to advise them as to the import of proposed amendments.

Mr. Chairman: What is the will of the committee? Committee rise.

COMMITTEE ROSE AT: 10:02 p.m.