Third Session - Thirty-Fifth Legislature

of the

Legislative Assembly of Manitoba

STANDING COMMITTEE

on

LAW AMENDMENTS

39-40 Elizabeth II

Chairperson
Mr. Jack Penner
Constituency of Emerson

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON LAW AMENDMENTS

Monday, June 22, 1992

TIME – 2:30 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Jack Penner (Emerson)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Mr. Ernst, Hon. Mrs. Mitchelson

Messrs. Chomiak, Edwards, Ms. Friesen, Messrs. Gaudry, Helwer, McAlpine, Neufeld, Penner, Rose

*Substitution:

Mr. Ducharme for Mr. Rose (1551)

APPEARING:

Gerald Ducharme, MLA for Riel

WITNESSES:

Trevor Thomas, City of Winnipeg Legal Department

Donovan Timmers, Councillor for Westminster Ward, City of Winnipeg

Harry Lehotsky, Private Citizen

Sylvia DiCosimo, Private Citizen

Fred Curry, Private Citizen

Patricia Thompson, Armstrong's Point Association Inc.

Morley Jacobs, Private Citizen

Bev Jacobs, Private Citizen

Guy Jourdain, Société franco-manitobaine

MATTERS UNDER DISCUSSION:

Bill 7, The City of Winnipeg Amendment Act (3)

* * *

Mr. Chairperson: Could we come to order, please? Order, please. Will the Committee on Law Amendments please come to order?

This afternoon, the committee will be considering one bill, Bill 78, The City of Winnipeg Amendment Act (3). This committee will also be meeting again this evening at seven o'clock to consider this bill and to consider Bill 98.

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

To date, we have 19 presenters registered to speak on the bill. I will read the names on the list: Mr. George Druwe, Société franco-manitobaine; Councillor Bill Clement, city councillor for Charleswood; Mr. Trevor Thomas, the City of Winnipeg Legal Department; Councillor Greg Selinger, city councillor for Tache; Mr. Donovan Timmers, city councillor for Westminster; Reverend Harry Lehotsky, private citizen; Sylvia DiCosimo, private citizen; Mr. Fred Curry, private citizen; Mrs. Lorna Cramer, Residents Committee of Garden City; Mrs. Patricia Thompson, Armstrong's Point Association Inc.; Mr. David Cramer, private citizen; Mr. Dena Sonley, private citizen; Mr. Michael Sawka, private citizen; Mr. and Mrs. Robert Peterson, private citizens; Mrs. Antonia Engen, private citizen; Morley and Bev Jacobs, private citizens; Lori Janower, private citizen; Mr. Robin Weins, Old St. Boniface Residents Association; Mr. Max Saper, private citizen. That is the list of presenters.

If there are any persons who wish to speak to the bill, who have not yet registered, would you please contact the Clerk of Committees to have your names added to the list of presenters. I would also like to ask any person requiring photocopies of their briefs to be made to contact the Clerk of Committees.

Did the committee wish to indicate, for the audience, how long it is willing to sit this afternoon and if it will take a break for supper? What are your wishes? Do you want to break at six o'clock? Six o'clock. Agreed? So ordered. For the presenters to Bill 78 who are not present this afternoon, did the committee wish to call their names again at seven o'clock? Is that your wish? Okay. Let us call them again at seven o'clock. Did the committee wish to introduce time limits on the presentations? No time limits? We might be here a long time.

I would then like to call upon Mr. George Druwe, Société franco-manitobaine to come forward, please. He is not here?

I would then like to call Councillor Bill Clement, city councillor for Charleswood. Is Mr. Clement here? Not here.

Mr. Trevor Thomas, the City of Winnipeg Legal Department. Mr. Trevor Thomas, would you come forward, please.

Mr. Trevor Thomas (City of Winnipeg Legal Department): I have here 15 copies of–

Mr. Chairperson: You may commence your presentation.

* (1440)

Mr. Thomas: Mr. Chairperson and members of the committee, I am dealing only with one restricted item in Bill 78, that is the topic of use variances. As you know, the provincial government, during 1991, imposed a restriction that a zoning variance could not allow a change of use.

There is a proposal in this bill, a new section, 608(4), which would allow use variances for up to five years. Our only concern on that point was that the five years be counted from–well, I had suggested July 1 of this year, rather than at the first time somebody got a variance. I have been advised that the Department of Urban Affairs has consulted with the minister, and they are proposing to introduce essentially that amendment with a date effective from July 26 last. That would accomplish the city's purposes, so I do not think there is any need for me to dwell at any length on that.

On page 3 of my brief, I set out an alternative No. 1 to that amendment, which was what the city asked for last year and was rejected, namely a return to the full power to grant use variances with no restrictions. I do not think I will elaborate upon that. That has been considered in the past. I was instructed to put it forward again. I have done so.

I will deal with the reasons for that under the heading of alternative No. 2, and without reading it, I would just give you perhaps two examples. This first example is an example of a large, old house in the Riverview area off Osborne, which was very expensive to heat, and nobody could be found who wanted to buy it as a single-family dwelling. I believe it was owned by an estate, and it was being rented out and deteriorating.

The owner proposed to turn it into a duplex. The neighbours surrounding it agreed. They felt that this was a better choice than having it continue to deteriorate.

Now, if the amendments go through as proposed and we have another situation like that, the most we could do would be to grant a use variance for five years. To make it permanent, the alternatives would have to be to rezone that property to R2 in the midst of R1, which the neighbours would be frightened of and the city would not want to do, or to amend the text of the zoning by-law and introduce R2 as a conditional use, which would then be a potential conditional use through the whole of the R1 area. I think the neighbours would be equally afraid of that, and the city really would not want to do it.

The proposal I have under alternative No. 2 is that in that kind of a situation, the owner could make an application for a variance in the usual way. It would go to the new board of adjustment, and if they granted it and there was no appeal, then that would be the end of the matter.

However, if you change the scenario somewhat and there is neighbourhood objection and they appeal it, that appeal would go to the appeal committee which, under Bill 78, would be the Planning Committee, as presently the community committee. That committee would have to make a decision.

Now, if they granted it, that order would not be effective unless and until the order was referred to City Council with a report and the City Council considered the matter and a full vote of council would make the decision in the same manner as if it was a zoning. The council could amend the conditions or impose different conditions.

Now that, to the city's way of thinking, has all of the advantages of a rezoning in the sense that the decision is made by the full council. It does not have the disadvantages that you are introducing a spot of R2 zoning in the middle of the neighbourhood or you are introducing a permissive conditional-use provision, subject to approval, to have these R2 uses throughout the whole residential neighbourhood.

Another example could be: As you know, under the city's zoning by-laws, if a use is not mentioned, it is not permitted. It is prohibited. We have situations where a businessman comes up with an innovative idea for a use in a commercial district. It is not mentioned in the by-law. Up until last year, he would have gone for a use variance, and if it was not contentious, he would have it.

Under the proposed amendment, we could say, well, we can give you a use variance but only for five years. If he cannot invest his money on five years, he would have to apply for a full rezoning if he has the time and inclination. I do not know what we would rezone it to. More likely, he would have to apply to have the text of the by-law amended to put it in as a permanent use. That might be reasonable, although it would be time consuming.

If it is something that the city thinks is appropriate in a particular location but not throughout the whole district, then, we submit, it would be far more appropriate to take a variance application as I have described, but it would be subject to council ratification.

So again, to repeat myself, the council would have the final say as they would in the case of a zoning; the residents would have a full opportunity to present their case. In fact, they do it twice, both at the initial application to the Board of Adjustment and again on the appeal.

To sum up, we see that that mechanism would have all of the advantages of a rezoning without the disadvantage of a true spot rezoning in the midst of a neighbourhood or introducing a conditional use throughout the whole neighbourhood, which invites everybody to assume that it is appropriate anywhere, subject to the locational factors of a conditional use.

I should also point out that a zoning variance is really a bending of the zoning rule. If you can bend it without breaking it and without causing substantial adverse effects, you can grant it, but if you do grant a variance such as the one big duplex in Riverview or this businessman's innovative idea for a particular location, and you do it as a variance, the next person who comes for it is met with the fact that we have bent the rule a little bit.

Now, maybe we can bend it for the second one and maybe not, but you get to a point where you can argue that we granted two or three, we have bent the rule as far as we can go, no more–that is a good restraint on having too many things going into a neighborhood of that type–whereas if it is a conditional use, and you only did it in order to let one in, now you have tended to open the door to repeated applications, and it is much harder to say, well, we gave it to the previous two, but you cannot have it.

That really sums up my presentation. If there are any questions, I will be happy to answer them.

Mr. Chairperson: Thank you, Mr. Thomas. Are there any questions? If not, thank you again for your presentation.

I would like to now call on Councillor Greg Selinger, city councillor for Tache. He is not here.

I would call Donovan Timmers, city councillor for Westminster. Mr. Timmers, would you come forward, please.

Mr. Donovan Timmers (Councillor for Westminster Ward, City of Winnipeg): Thank you very much.

Mr. Chairperson: Have you a presentation to distribute?

Mr. Timmers: It is verbal, and unfortunately, I do not have a written one.

Mr. Chairperson: Thank you. Would you proceed.

Mr. Timmers: Okay, I am here to address Bill 78, and in particular, I am referring to page 13 of the bill. There is a Section 574(2) at the bottom of the page, titled Meaning of "committee of council," and it carries on to page 14, where it says Meaning of "committee of council" in Section 641(4), 643(2) and (3).

Essentially, those are the two portions of the bill that I would like to address. Just to quickly summarize: My concern is the loss of new-found appeal powers that community committees have attained under Bill 35. I will just back up a little bit at this point and try and give some background.

Recently the provincial government brought forward Bill 35, which amended The City of Winnipeg Act, which has been one of many recent City of Winnipeg Act amendments. I stress that, because I think that this process of amending The City of Winnipeg Act, in recent times, has been a rather ill-planned and hasty exercise. The amendments are coming pretty thick and fast, and I have not seen so many amendments to a piece of legislation or The City of Winnipeg Act in such a short period of time.

* (1450)

It is cause for concern that there is not an overall directed approach done in closer working relationship with the City of Winnipeg. Anyway, Bill 35 gave City Council the power to establish the details of the process for land-use regulation. Bill

35 stated that City Council may, by by-law, fine tune the process.

It also established the Board of Adjustment, the citizen panel to deal with variances and conditional uses applied for at the city level. Anyway, City Council decided–and it was quite a strong majority vote of 17 to 10–in its wisdom, that the community committees should be given the appeal powers on various conditional uses and variances, because Bill 35 said that any committee of council would have the authority to deal with appeals if so granted by council.

Now, council, on January 22, considered quite a, well, reasonably lengthy report, at which time an amendment to this report from the Planning Committee of council was made. That amendment was to make the community committees the appeal body on variances and conditional uses.

I guess my concern at this point really is that–there are a number of concerns in regard to the provincial government overruling and overriding the will of council. Essentially, that is what has happened. The provincial government has given City Council authority. City Council exercised that authority, and no sooner was that done, than the provincial government has intervened and is attempting to remove that authority from the city. So that is one aspect. The province overrides the will of council after giving council a certain amount of authority.

The second concern for me is the impact on local government, particularly in Winnipeg. There is this larger issue, the restructuring of council, which, in my view, decreases political representation and distances people from their local political representation. I suggest that this effect is only increased by this intervention. Well, first of all, the change in political process, particularly dealing with land-use regulation, where the Board of Adjustment was established, because that further distanced community residents from their local political representation. Then when the provincial government intervenes and takes away a power that is granted to community committee, it is only distancing people from their representation even further.

I suggest that that flies in the face of tradition in Winnipeg and political culture in Winnipeg. I would say that it is rather unprecedented. I guess I would suggest too that it is an Americanization of Canadian political process, something that I am not very comfortable with. I think we are all aware that our political structures are based in British tradition, in parliamentary tradition. I think that it would be dangerous to move away from that. I think we have established processes, and we should follow those.

There are a couple of other issues that I would like to address. There are some red herring arguments that come up when people advocate that community committee have the final say on issues of local concern. First of all, I want to emphasize those terms "local concern." Variances and conditional uses are local matters. They can be decided at the local community level. There is nothing wrong with that. I will elaborate on some of the positive points of that.

I think there are two reasons why it is good to have that appeal power on local issues, and I will just backtrack for a moment again. These local issues merely set the tone and the character of a neighbourhood and a local community. They are not wide, sweeping issues that have significant impact on the city at large on a short-term basis. I guess the advantages to having that appeal power at the community committee level is that having established the Board of Adjustment, you do streamline the system a little bit for councillors. I am grateful for that.

However, without the appeal power, I think we lose two things: consistency and accountability. There are two aspects to the issue of consistency in decision making. One is in relation to civic by-laws, and the other is in relation to decision making.

Now, you are probably all aware that the various districts of the city have their own zoning by-laws. I am a representative from City Centre-Fort Rouge Community Committee, and we have By-law 16502. It is a document that is about "that" thick. Nobody ever gets to read the whole thing, because there is just not enough time in the day to do so. But each community area has its own zoning by-law.

When you go through those zoning by-laws, you are going to find differences from one community committee to the next, and some significant differences. So, to argue that the appeal power should be at a standing committee of council, such as the Planning Committee, because you will not have consistency, is not a very substantive argument, because there is not a lot of consistency in the zoning by-laws on a district-to-district basis.

Where you will get consistency, though, is within the community committee decision-making, because you will have councillors sitting there for a three-year term dealing with matters of local concern and gaining familiarity with them and being in front of their local community on a consistent basis, and as a result having to be consistent in their decision making.

I guess, inadvertently, I have already moved over to the second aspect of consistency. So one is in the by-laws, there is no consistency, so you cannot say on a city level there will be consistent decision making if a central committee makes the appeal decisions.

The other one is the political decision making. When you have councillors dealing with these appeals at the local community level on a regular basis in front of their community, establishing a track record, you will get consistency in your decision making, and the reason you will get that consistency is a factor known as accountability. When politicians stand up in front of their constituents and make decisions on an ongoing basis and establish that record, people will get back to their elected representatives if they do not like what is going on and if they see some glaring flaws in it. I think when you refer this to some other place, you will not get that consistency.

The other problem is that the standing committee, if it was the Planning Committee to be the appeal body, that membership changes every year. As you know we reappoint members of standing committees on an annual basis, and you get that turnover every year, so you lose the continuity and the knowledge of local communities in the process. As well, I think you all know that standing committee membership is a bit of a mixed bag. There is no real control over who is on the standing committee other than the majority of council that decides.

Now, what can ultimately happen, as in the case of standing committee right now–the planning committee–is that you can have duplication of representation. We have two members of the St. Boniface-St. Vital Community Committee on the Planning Committee and we have two members from Assiniboine Park-Fort Garry Community Committee and then one from each of two other community committees. So there are community committees that are not represented on Planning Committee. There are community committees that are overrepresented on Planning Committee. That is inconsistent in itself.

I guess one of the other factors here, and I am going to refer specifically–it is more of a licensing issue, but it is an issue that we are trying to have regulated by conditional use–and you probably caught a bit of the controversy about pawn shops and massage parlors and so on. Well, I just want to point out to you that massage parlors and dating and escort services are restricted to the City Centre-Fort Rouge community area, and ask me if I am going to get the support of 24 councillors in the City of Winnipeg to move massage parlors out to, well, let us say, East Kildonan-Transcona and out to somebody else's part of the city.

I think the answer is clearly no, and, fine, people in the City Centre-Fort Rouge Community Committee can deal with political reality. So we are not going to ask for something that we know we are not going to get, but to remedy that situation, what we are saying is, at least give us the appeal power at the local community level to decide on the location of these things so that we do not have them overconcentrated in inappropriate areas, next to low-density residential neighbourhoods, next to schools and community centres and so forth.

* (1500)

What we are in the process of doing, I should add, is we are changing the licensing provisions. I think those of you who have been councillors have some knowledge of this, but we are trying to change the licensing provision over to a conditional use regulation process so that, again, community committees would have the final say on the location of massage parlors, pawn shops, dating and escort services and amusement parlors. So I think if you take away that authority from us now, I think, we end up moving back to square one, and we will see certain parts of the city overrun with an overconcentration of less than desirable types of businesses. All that backfires on the dollars that you put into community revitalization in the older parts of the city.

Now, accountability. I think this is an important factor. When you have your local councillors faced with their community for a period of three years, establishing a track record on decisions of local concern, you are going to generate accountability. You as a constituent will get to know what your councillor does. You will read it in the weekly Free

Press. You will learn about it when you show up at community committee meetings and so on, but eventually, the word will get out and accountability will prevail.

In the past, when we have had the Variance License and Conditional Use committees, that is where all the "dirty deals" were done around City Hall, where you could show up as a local councillor, and you could whisper to your colleagues on community committee–you vote for this, I cannot vote against it because I have got some opposition from my community, but you swish it through because I really do not care, or I am really on the side of the applicant. Then the decision goes off to appeal, and then you can get on the phone and through the backdoor, start the lobbying.

I think anybody who is a city councillor or has been a city councillor knows exactly what I am talking about. Even though that kind of lobbying and intervention in process is not legitimate, and it is clearly stated in The City of Winnipeg Act that you cannot do it, it is done all the time because there are some issues that are of significance to a community where people feel like they have to break the rules to get the community message heard, or they feel they have to break the rules to perpetuate a special or vested interest. Anyway, rather than referring things off to some distant, arm's-length appeal committee, have it dealt with locally.

If I was a councillor deciding on an issue that affected Minister Mitchelson's area, I would not feel quite as accountable for the decision that I was making. It is not my community. How are the voters out there going to hold me accountable in the next election? After all, it is the election that is the enfranchising aspect of politics in this country.

So if I do not have to be accountable to anybody directly for my decision, my decision might not be in the best interest of the community. That is one thing to consider. If it is my community and they are facing me over a long period of time, you will get that accountability.

The other thing with the turnover in the membership of committees, you are not going to generate as much accountability either because I am here this year; I am gone next year. So these things will not have to come back and haunt me, and I will not have to live with them. I can brush them off and I can disappear. I think those who are familiar with the city process know exactly what I am referring to.

There are a couple of flaws I would like to point out in this whole process, if you change to this new system, or one major flaw. I pointed out one earlier, and that was the imbalance of representation on the standing committee. I guess one of the difficulties that I have with this whole thing is the impact on the role of councillors. You know that we are going to full-time council now and a reduced council.

Well, I would suggest that if you exclude community councillors from these decisions, they are going to end up being lobbied full time and they will become full-time lobbyists at the Planning Committee which will be handling the appeals, and the phones will be ringing day in and day out. You will be badgered left and right, pushed to and fro on things like garage eaves troughs that are three inches too close to a property line, or a back yard fence that might be four or five inches taller than the by-law requires, or it may be a significant issue such as temporary use variances.

What I like about the previous system is that when an application is filed, in theory, councillors are supposed to be quasi-judicial and remain at arm's-length from the fracas and controversy in the community. I will tell you, I know from my own experience, and I think those of you who have been councillors, I think you can appreciate not having to be dragged into neighbourhood feuds and disputes every three weeks over a number of minor issues in the community.

You are free to stand back and deflect all that, yet you are still appearing before the community with your rationale in making your final decision, but you do not have to get dragged into small neighbourhood feuds on an ongoing basis. If the Planning Committee becomes the appeal body, and you have to go down there for virtually every variance and conditional use that is being appealed, you will spend all your time down at City Hall lobbying the members of the planning committee, being embroiled in neighbourhood conflict. I do not think that is an appropriate role for a councillor. Give us back the appeal powers that we have. We can remain arm's length, and we can make the decisions, yet be held a lot more accountable than we have been.

I just want to point out that it was on January 22 that City Council considered the change in the

process as designated by Bill 35, and the recommendation from the Planning Committee was to make the Executive Policy Committee the appeal body. Now, I found that a little bit amusing because I find it unusual that an executive committee should be making decisions over whether an eaves trough is three inches too close to a property line. I think there is more appropriate use of councillors' time than that, and particularly EPC's time.

Executive Policy Committee, I think, in its wisdom, and perhaps out of revenge, I do not know, recommended that the Planning Committee should be the appeal body. At that point, the report came to the floor of council and an amendment was tabled, and that amendment was essentially to make community committee the appeal body. That amendment carried by a vote of 17 to 10, and that was a recorded vote. All that information can be obtained from the city clerk.

In the meantime, as you are aware, we have been dealing with this massage parlour, pawn shop issue that plagues our community, and I have been before the Planning Committee and the Finance Committee on this issue in general and trying to, as I said, change the licensing provisions over to conditional-use provisions.

We are partway through the process, but you are running much quicker than we are, and I think you are running too quick for City Council to be able to deal with these issues properly. I should point out that at the last meeting of the standing committee of finance and administration, they concurred with our request to make these various licensed businesses conditional uses, and they also concurred with our request of them that they support us in asking that the province not amend The City of Winnipeg Act to remove our appeal powers. I have a copy of the report here with me, and I will just read the operative sentence in it.

This is a recommendation from the Finance Committee to the Planning Committee, and it says: Further recommending that your committee request the provincial government to not change the legislation which empowers the community committees to consider appeals from the decisions of the Board of Adjustment.

Finance Committee has had a chance to deal with it. They concurred with our position that you leave those appeal powers alone. It went to Planning Committee today, and there was some movement at Planning Committee, not as much to my satisfaction, but there was some movement. In the past, four councillors on that committee voted against community committee having the appeal power, and they did so on the floor of council. One of those councillors changed his vote today, so it was a three-three vote at the Planning Committee, so we are seeing a little bit of movement.

* (1510)

You have to spend some time educating people and informing them as to what they have to lose or gain, and eventually some people come around when they are presented with information. We have seen a little bit of change, but I think what you have to keep in mind is that the overwhelming majority of City Council decided that community committees should have the appeal powers, and keep in mind too that we are dealing with matters of local concern.

Perhaps in the city centre-Fort Rouge community, these issues are a little more critical for us because we are dealing with some aspects of the city that are not terribly desirable for us and that have a significantly negative impact on neighbourhoods and the community at large when these particular operations are overconcentrated in an area.

I will conclude my presentation at this point and leave myself open to questions.

Mr. Chairperson: Thank you very much, Mr. Timmers.

Hon. Jim Ernst (Minister of Urban Affairs): Councillor Timmers, you indicated at the opening of your address that the amendments that were made to The City of Winnipeg Act over the past three years were, in fact, ill-planned and hasty, I believe were your words. Let me–

Mr. Timmers: Well, I think you may have the context wrong. What I was referring to is that when–

Mr. Chairperson: Mr. Timmers, I would suggest that we will let the minister finish his question, and then I will let you respond after that.

Mr. Timmers: Pardon me.

Mr. Ernst: My recollection of it was that the amendments over the past three years with regard to The City of Winnipeg Act were coming thick and fast, and that your words, I believe, were "ill-planned and hasty."

I would like to point out to you, perhaps you are not aware, in 1986, The City of Winnipeg Act was reviewed by Mr. Cherniack and committee which

made a bunch of recommendations for changes to The City of Winnipeg Act.

When we came to government in 1988, the then minister of the day addressed a number of those issues and set forth a plan for amending The City of Winnipeg Act, not all at once but phased in over a period of three years.

That plan was communicated to the City of Winnipeg by letter, together with a schedule of proposed amendments that were going to be dealt with over a period of time; 1991 happened to be the year in which Part 20 of the act was to be reviewed, which was done and a number of amendments made, so that there is a very clear plan that was outlined to the City Council in 1989, and their opportunity for input has been ongoing since that time, and it has been consulted on a regular basis. So I suggest your remarks, "ill-planned and hasty," are incorrect.

Mr. Timmers: Yes, my apologies to the Chair of the committee. I am a little more used to the less formal procedures at City Hall.

I think you make a reasonable point there. I guess the context in which I meant those comments was that various amendments should come forward more as one large package, as opposed to being dribbled through on an ongoing basis, and I guess, particularly in the case of Bill 78, or, pardon me, Bill 35, the concept of the Board of Adjustment was, to my understanding, walked on literally at the eleventh hour, and it had taken even all the city administrators by surprise. I can tell by your response what you are thinking, but that is the information that was provided to me by civic administration. Perhaps I am wrong in that, but it took everybody quite by surprise.

I think this recent amendment in Bill 78 which takes away the appeal powers of community committee is hasty because we have not had the time to really look at the full implications of what it is you are doing.

Mr. Ernst: Councillor Timmers, when Bill 35 was brought forward to the Legislature, and before this or another committee of like type, the recommendation was that the application be heard by community committee or a committee of council and that the appeal be heard by the Board of Adjustment. During discussions here at the committee, it was determined that the appeal should be to the political level and that the initial application be made to the Board of Adjustment.

At that time, there was no discussion with regard to appeals to community committees at all, because appeals had, before that time, since 1971, always been heard either by a standing committee or by what is euphemistically referred to as the Variance and Conditional Use Appeal Committee.

In fact, those who had appeared at that time, members of council, to my best recollection supported removing from the agenda of the community committee a lot of these matters which could well be dealt with by a Board of Adjustment. In fact, at the time that this matter was before the committee, it certainly was the intent of the government that the appeal would continue to be heard at the central council level. By an interpretation of the wording of the bill or the legislation, council determined in its wisdom that the community committee should be the appeal mechanism. I understand that.

The intent of the government all the way through is that the appeal would be heard at a central level and for a number of reasons, and some of those reasons you listed in your brief, although I did not necessarily agree with your interpretation of them; nonetheless, consistency is one.

What you have is some areas—as you say, there are different by-laws, but some of those by-laws are identical so you cannot suggest for a moment that, for instance, By-law 1800, which deals with southwest Winnipeg is any different than By-law 1558 which deals with the community of St. James-Assiniboia.

They are identical, and notwithstanding the fact that they are identical and most by-laws are very similar in any event, the practice has been over a long period of time to make appropriate adjustments to those by-laws. Quite frankly, the time has come for the city to, I think, address a comprehensive by-law for the whole city, but that is a matter for a new council to consider.

Nonetheless, the concern was for consistency, and as to what happens right now, there are community committees that will grant a variance for minor matters or some major matters. On the one hand in, for instance, East Kildonan and Transcona, it will be permitted, but it will not be permitted in Fort Garry or St. Boniface, simply because of the

personal preferences of the members of the community committee.

We also have a concern that it will lead to continual parochialism in planning, where one district of the city wants or does not want a particular type of activity and will make appropriate, albeit consistent, decisions to that end, whereas people who live in the city of Winnipeg, in one common city, are entitled to one common application of their general-use by-laws.

We also see, quite frankly, that if the arrangements remain the same, where appeals are to be held before a community committee, there will be a great many more appeals than there otherwise might have been simply because either the applicant or those who are in opposition realize they can exercise a lot more political pressure on the members of the community committee than they can perhaps on a standing committee.

Now, that in some respects may be good and in some respects may be bad. The fact of the matter is, though, you are going to get inconsistent results from that kind of application in my view.

When I was a member of council, I sat under both systems. I sat as a member of the then Committee on Environment which heard all the appeals from all over the city, plus the additional zone, on variance and conditional-use applications. In fact, we met one Monday on general planning business, and the next Monday, we met on appeals only and spent the entire day on appeals. Then I have also sat under the appeal process under the variance and conditional use appeal committee.

Certainly, most preferably, the consistent application of decision making based on the standing committee was the more preferable and I think the fairer of the two, and certainly, it was not intended to be put back into the community committee situation.

* (1520)

Interestingly enough, nobody made the suggestion that the community committee should not be removed from hearing the first application. In fact, that was supported, I think, by members of council coming here and suggesting that the Board of Adjustment was the appropriate mechanism, to take it out of the hands of the community committee with never any intent expressed, that I heard, during those hearings that it should be there for the appeal process.

With those comments, I will relinquish the microphone.

Mr. Chairperson: Thank you, Mr. Timmers. The next presenter–

Mr. Timmers: Mr. Chairperson, is there opportunity to respond?

Mr. Chairperson: Did you have a response, Mr. Timmers?

Mr. Timmers: Yes. You made reference to parochialism in your response to me. I find that the term parochialism is one of these terms that is dredged out when it becomes politically convenient to do so, and it is something that gets tossed around as a denigrating kind of comment.

I would suggest that when you have single-member constituencies, such as ward elections are, that there is an expectation that your local elected political representative will carry forward the views of that constituency and that ward, and if you do not, well, you will pay the price in the next election.

I think we see it all over the place, if you want to use the term parochialism. Politicians go and get grants and funding for the megaprojects of their choice in their constituencies. Politicians do all sorts of things. Sometimes it is parochial; sometimes it is not. I think though the best judge of that are the electors who put those politicians in place, so I do not put a lot of stock in the parochialism article.

Now, if there is an issue that is contentious in the community, people get to know about it, and they get to know about it fairly quickly and the word travels. If a councillor goes along with a strong representation from the ward, well, I would suggest that maybe the councillor is listening to the will of the people, and if that councillor does not do so and listens only to the loudest and not necessarily the most, then I suppose that councillor will pay the price in the next election. I do not think we should underestimate political process and electoral process as the safety valve, as the check and balance, in the system at large.

Mr. Dave Chomiak (Kildonan): Councillor Timmers, I want to thank you for that presentation, largely because it reflects, I think, the kind of representation that I have received from my own local community with respect to concerns about Bill 78. I have before me over 140 letters of response to the very issue that you noted today, all in opposition. I am hopeful that there will be several

presenters making that point this evening, but I wanted to clarify a few of the points that you made for the minister.

Most notably, firstly, you will confirm that during the discussions–the minister refers back to the previous discussions regarding Bill 35 and the initial application to community committees, but it was never the provincial intent to have the community committee be the appeal board. Are you aware of any intent, what the province's intent was, in general? Are you aware of what the provincial intent was?

Mr. Timmers: Well, I guess I have my interpretation of that, and I look at the intent based on the province's overall direction in its amendments to The City of Winnipeg Act, and I would say the intent is clearly–it is an ideological bias.

Do not take that as a criticism. Look, everybody has an ideological bias and perspective, but within that, what troubles me about it is that there is a reduction in political representation, and there is a distancing of people from their elected representatives, and the democratic process in the city of Winnipeg, which is fairly unique, is being undermined. That causes me some concern.

I think the other overall effect is really one of cultural significance for the city of Winnipeg. When Unicity was put together, it was meant to approximate 13 municipalities, and to try and retain some of their character, some of their unique features.

It gave the St. Boniface-St. Vital area, which was largely a French-speaking part of the city, its own community boundaries and its own identity and designation. The old city of Winnipeg retained its own community boundaries, more or less, and its identity. It gave St. James and Assiniboia its community and identity.

I feel that all that is being eroded and eliminated. So democratic process is being chipped away at. Perhaps a little more than just chipped away it, it is being gouged at here. So I am concerned when you put this in the overall context of what has been happening to The City of Winnipeg Act and the structures.

Mr. Chomiak: Councillor Timmers, one of my concerns with this bill was in respect of the fact that council made a decision, as I understand it, that community committees should at least have input at the appeal process. That decision, by virtue of this bill, seems to be overruled and, in fact, will be precluded–[interjection] Oh, yes, the minister illustrates for me, on the record, that this decision is overruled.

As a city councillor, you made reference to that in terms of jurisdiction in your initial comments. As a citizen of Winnipeg, how do you respond to the fact that council voted–the ones who make the decision, who are elected by their electors–17 to 10, to have the appeal be at the community committee level, and now you are being told by the senior level of government that you cannot do that, put that process in place? Can you indicate how you might respond to that?

Mr. Timmers: Well, on a personal level, an individual level, it angers me to a considerable degree, as I am sure it would anger members of this provincial government if the federal government decided to intrude upon provincial powers and undertake constitutional amendments and force them through.

For example, back in 1982, when Pierre Trudeau suggested that he would just unilaterally patriate the Constitution and that he could do so and that he would do so, well, I think the provinces reacted in a certain way. I guess I react in a similar fashion, that here is a senior level of government arbitrarily enforcing its will upon the people of a municipality.

With all due respect, I would have to say that the current provincial government has a large rural representation within it. I think that is excellent, but I do not see an overwhelming majority of urban MLAs forming the provincial government, and so I wonder what is driving the agenda here.

So I guess I look at it and I say that there is a minority of members of the legislature who are actually forcing their agenda upon the city at large, particularly when the public profile of these amendments has not been very high and particularly when people in general have a hard time grasping the concept of the processes of land-use regulation and the applying of variances and the appeal process and what is happening under Bill 78.

You have to spend a lot of time explaining that to people and walking them through the process and giving them very careful explanation. Then and only then do people begin to really understand what is going on and what is being jeopardized. So, in a roundabout way, that is my answer to your question.

Mr. Chomiak: Just in summation then, on the basis of all of your arguments, most of which, I can indicate, I wholeheartedly agree with and certainly have the impression people in my community agree with, in your opinion, the best means for the government to respond would be to remove these amendments and allow City Council's will to be done–to put it in those terms–and allow the appeals to go to community committee and let that process continue. Would that be a correct summation?

* (1530)

Mr. Timmers: Yes, precisely.

Hon. Gerald Ducharme (Minister of Government Services): First of all, I do not agree with some of the things Mr. Timmers has mentioned today, but I am going to throw a different concept on the record–

Mr. Chairperson: Mr. Ducharme, could I interrupt just to ask you to move your mike in a bit closer?

Mr. Ducharme: –than Mr. Chomiak, who maybe does not understand the complete system of sitting at community committee. I enjoyed community committee, but I did not enjoy the final result of dealing with variance and appeal. I do not know whether he understands the game playing that can go on both at the variance and appeal that we had and also at community committee. If he feels that by going back to community committee that he is going to stop that game playing, he does not understand the concept.

First of all, a lot of times when you are sitting at community committee and you are dealing with people on, say, a bi-weekly meeting, you have probably four or five individuals who get to know each other, get very close. Then all of sudden one says, well, I want this really through. They will vote against him at the community committee, where if it has gone to another body and the member for that area can represent his constituents, because he still will be able to do that through the by-law that is established by the City of Winnipeg. Any members can come to that appeal committee. The councillor for that area can continue to represent his constituent.

I think it will give a very fair and, probably, a broader outlook, especially if you take a look at the new construction of the City of Winnipeg with the 15 councillors. We have to remember that by arranging the concept of the 15 councillors that you are looking at whole new spectrum for dealing with these issues. No one at this table is saying that we are taking away–from this government side anyway–the appeal process of the constituent.

The constituents, for the first time, will be able to be heard at the appeal by their councillor. Their councillor, for the first time, will be allowed to appear at that appeal mechanism, which he could never do before. He could not even sit on that committee to express the views to the other members sitting around.

So many times–whether you want to agree with it or not, and I know that the minister expressed parochialism. It does happen, it is there, when you are dealing at the community committee level only, you are always dealing with the same councillors. You can take a look at that before Unicity. Before Unicity, different cities used to compete for development in their areas.

Now, when someone comes forward with a development, if there is anyone who is against it–and you said about counting numbers, you cannot always count by the number of delegations that come forward–that there are sometimes where you have to make a decision that appears to the whole community, and I am talking about to an area. I think the mechanism that we are using or the one that we are stressing is the only way that you can probably sit down now and have an appeal mechanism.

If you go back to the community committee, I do not think it fair either, when you are talking about the taxpayer, remember you have two taxpayers involved in an issue. You have two residents of your community committee sitting there. One wants a garage attached to his house, and the other one does not. You do not always have an outside point of view when you are dealing with the community committee direct.

You talk about people getting involved in in-fighting at a community committee. Yes, it happens. What happens is they all get carried away; they all start to fight amongst each other. The residents, if they know that when they come forward to an independent body, an Independent body of elected officials who have no axe to grind with the councillor who is sitting there, because they do not have to work with that councillor continually at a community committee.

They can make the decision based on what they feel is the best decision for that area. It does not refrain or restrain that councillor for that area to

make his best pitch and to work with his people to make the best pitch. But remember, he is sitting there and he has got to make the best pitch for two sides, and I think the concept of the appeal act committee dealing with other than community committee, and I am talking about the appeal process, is the way to go.

Mr. Chomiak: Mr. Chairperson, I do not know if that question was directed at me or at Councillor Timmers.

Mr. Chairperson: Before we proceed, I am going to caution committee members that we do not get into debate with each other. The purpose of the hearing is to ask questions of the presenter. Mr. Timmers is the presenter. So with Mr. Chomiak's indulgence, I am going to ask Mr. Timmers to respond to Mr. Ducharme's presentation.

Mr. Timmers: I think by the time an appeal–assuming we retain the system that is in place now, and keep in mind that it is in place now. Our community committee heard its first appeals a week ago and it went quite well. If this system remained in place, I can tell you that by the time an appeal is filed and by the time it would get to the community committee appeal body, the issue would be quite heated and quite politicized. After all, that is what we are is politicians, and we are supposed to be able to deal with the heated issues, and we are supposed to live and function in a highly politicized climate.

I think to suggest that you can refer tough political decisions off to an independent neutral apolitical body is really shirking political responsibility, and, believe me, especially at the community level. You will be held accountable. The word will get around within the community. You will establish a track record. Democratic process will prevail over a three-year period, and if somebody starts fooling around cutting deals at the local community appeal committee, they will feel the heat and they will feel the pressure. They will feel the accountability if they step out of line and they do not meet with community standards, they will know about it and they will not do it again, otherwise they will not be back.

Mr. Ducharme: To the presenter, and I meant it for both the presenter and Mr. Chomiak. However, no one is saying that someone is ever trying to relay or give someone else the responsibilities of dealing with the actions. I can tell you–and I have watched your community committee in action–you have never had to deal with 25 to 27 variances from one councillor at one meeting like we had to continually in the area of the city of Winnipeg we did. So I do not have to take any lesson from someone who watched them dealing with these types of representations.

You have to remember that what I am trying to get at is when you are dealing with individuals, you are dealing with neighbours who are fighting, and they do fight. You have to have another mechanism other than dealing with community committee at appeals, because there has got to be someone else who will take a different side of it. They have to. There has got to be another method of dealing with that. There has to be another body there other than community committee to hear the appeal, the same as we do in courts and everything else. There is an appeal mechanism not heard by the originals and not heard by the same individual councillors who sit around there at community committee continually.

That is what my argument to you is that I think that there has to be another concept, and the concept is, if I allow that councillor to appear together or to make the point and bring back the information dealing with the locality of the area, he brings it forward to that body of councillors and let them be heard.

* (1540)

Mr. Timmers: With all due respect, I think what I heard you say is that councillors should not get involved in neighbour disputes. That is essentially what you said because your rationale was limited and shallow, and you offered very little substance to what it was you were trying to say.

Now, I want to dispel the myth that all we ever do is mediate neighbour disputes at community committee level. We deal with a lot of issues that significantly direct the tone of the community, the local character of the community, and in some parts of the city we have large lots and in other parts of the city we have small lots. In some parts of the city we have very high density commercial development, in others it is lower density. In some parts of the city we are dealing with encroachment of commercial activity into older established residential neighbourhoods. There is a real mix of issues out there that go far beyond two neighbours duking it out over a garage eavestrough three inches too close to the property line.

Mr. Chairperson: I am going to ask the indulgence of the committee, and I am going to interrupt the presenter. I am not going to, for very long, indulge

in whether we should or should not get involved in community or neighbourly disputes. I would like to ask committee members as well as presenters to direct their remarks to the concepts of the bill. If we are finished with that, I would ask that we hear another presenter. If we are going to deal with the bill and proposals for change of bill or support of the bill, I will hear those. If not, I would ask that we terminate this discussion.

Mr. Ducharme: To get back to the information that we have before us on the bill. I am just trying to stress, and I guess I have not made myself clear enough because I have been accused of not having any substance, but I try to use street sense instead. It has always been the way I have operated.

However, all I am trying to stress to the member is that, in the bill under by-law–and I used the example of neighbours because it is the simplest one to use. A lot of times when I say neighbours, you could have hundreds of people appear before a committee and they could be all divided. However, under the bill, under the by-law–and I am wondering if Mr. Timmers realizes that–you can have those people appear again. Not only that, but under a by-law established by the City of Winnipeg, it is realized that even someone who did not appear at the original hearing can appear at the appeal. Does he realize that?

Mr. Timmers: Yes.

Mr. Ducharme: One more question just to follow it up. Other than only having their councillor there, what more can probably be added?

Mr. Timmers: Well, I am going to give you a specific example. In my community particularly one of the problems that we have faced, and I think you are probably all fairly aware of it, is the demolition of housing for parking lots. That demolition of housing has been occurring largely in lower density residential neighbourhoods, older neighbourhoods going through a cycle of decline and now a cycle of revitalization. So we deal with these demolitions of housing. As you know, we have a demolition permit and a process for that, but you are also required to have a conditional use for the demolition of those houses.

In the absence of strong provincial legislation like Bill 13 which will protect housing stock, particularly in the older residential neighbourhoods on the periphery of commercial areas, we see the housing stock declining out of neglect. Ultimately what happens is the owners of that property are attempting to sell it off for parking lots because it is not economically viable as a housing unit any more, they have made their money, they have paid for it, they have made their profit, and now they are going to cash in again by eroding a viable residential community by allowing the housing to deteriorate and then bulldozing it down for parking lots.

I can take you into many neighbourhoods on the downtown periphery where that problem exists. So if you have appeal power, you can start to prevent some of that from happening. You start to send out a message that this kind of activity will not be permitted and tolerated; that it works in the worst interests of the city at large, because it depopulates the centre of the city and displaces population further and wider. It leaves even worse living conditions for those people who have to remain behind. So in the absence of the proclamation of Bill 13, give us some teeth, give us some clout in our community.

Ms. Jean Friesen (Wolseley): I want to thank you for your presentation. A couple of, perhaps, questions and comments I had and some of it has been covered by my colleague. I was interested by the comment you made about the number of amendments to the City of Winnipeg and the speed at which they are coming and, particularly, having been through a number of bills myself, I sympathize with any citizen in Winnipeg who in fact has to deal with this act.

You mentioned, particularly, the complexity of the language, the detail of the act, the piecemeal nature of it. It is certainly something that brought it home again to me, the great need for a plain language, a citizens version in fact of the act.

The second thing I wanted to comment on was perhaps the differences between the kinds of things that the Minister of Housing (Mr. Ernst) has been saying and the way in which you are reflecting your particular community–sorry, the Minister of Government Services (Mr. Ducharme).

The minister seems to be emphasizing the role of individual councillors in adjudication, the role of individual councillors in determining disputes between neighbours. It seems to me, what I am getting from you, is a sense of a community committee deciding collectively on the values and the nature of each particular community. So I wanted to perhaps emphasize that for other

members of the committee as well, that in the context, and again I think you mentioned this in your presentation, of the dramatic changes in the City of Winnipeg, when we are going from a councillor representing 20,000 people to one who is going to represent 40,000 or 60,000 people, where we have changed boundaries and in fact, altered old communities, that the political discussion within the community committee is in fact one of the means to retaining that sense of community, to retaining the sense of neighbourhood that we may in fact be losing by the new changes in the City of Winnipeg.

Now, you said you had only, so far, one experience of the committee as a board of appeal or as an appeal from the board of adjustment. I know that one cannot generalize from one experience, but is there any sense in which you felt that the community was coming together in that way, it was defining its own sense of neighbourhood and that it could function in this way?

Mr. Timmers: The short answer is yes. The specific example was as I saw an article in the newspaper, and you may have seen it. It was an application for an arcade in Osborne Village, in which the community got together, the local business improvement zone, which is the business association and residents. They had gone to the board of adjustment. I think in that process of going to the board of adjustment or the initial hearing body, you start to see who else is out there and you start to make your connections within your own community, and you start to develop the standards and the values for your community in doing so.

* (1550)

Anyway, they did come along to appeal and our community committee concurred with what the board of adjustment had decided, but I felt that the process was a reasonable one in that the positions had been established by both the applicant and the opponent, so to speak. So that they had already had an opportunity to think things out a little more, because they had each heard each other's arguments and so on. So I felt that the process was smoother in that sense than having the first round at community committee.

I want to make it clear that if we can retain the appeal powers at community committee, I am all in support of the board of adjustment because it streamlines things for us. It takes the workload off councillors that should come off councillors so that we can go on to being in the full-time position of a reduced council that we are faced with. But I felt that the appeal process was fairly smooth, and I think it will work out just fine.

Mr. Chairperson: Thank you, Mr. Timmers, for your presentation.

Committee Substitution

Mr. Gerry McAlpine (Sturgeon Creek): Mr. Chairperson, I would like to move, with the leave of the committee, that the honourable member for Riel (Mr. Ducharme) replace the honourable member for Turtle Mountain (Mr. Rose), as a member of the Standing Committee of Law Amendments effective now, with the understanding that the same substitution will also be moved in the House to be properly recorded in the official records of the House.

Mr. Chairperson: Is there leave?

Some Honourable Members: Leave.

Mr. Chairperson: Are we agreed to the resolution? Agreed.

* * *

Mr. Chairperson: Reverend Lehotsky, would you come forward, please?

Mr. Harry Lehotsky (Private Citizen): I have a couple of copies.

Mr. Chairperson: Have you copies for distribution?

Mr. Lehotsky: There are some typos in that. It just got put together about 20 minutes before I got here.

I am here today to express my strong opposition to the section of Bill 78 which takes appeal powers away from community committee, giving them to another standing committee of council.

I am a pastor of an inner city Baptist church and our family lives in the neighbourhood. Our community involvement includes chairperson of John M. King Parent Council, head of the Block Parents in our neighbourhood, and co-chair of the Inner City Advisory Committee on Education. I also serve as a member of the West Central Network; the Manitoba Baptists' Association executive as their secretary, and also the Evangelical Fellowship of Winnipeg.

I list these not to try to impress you with my busyness, but I have discussed these concerns with each of these groups and they have each shown

strong opposition to the proposed changes in this bill. They are concerned. These are not just inner-city residents, and they are not just talking about one party or another. This is a strong concern that they have.

I love Winnipeg. Just briefly, my wife and I just became citizens last year. We moved here from New York. I enjoy the city. I appreciate the diversity, and I like what is happening here. I would like to see it kept that way and improved rather than let it decline to some of the other places I have been.

I grew up in New York City, lived in Boston and Chicago before coming here to Winnipeg. I am not coming here to complain, but rather to sound a clear warning.

Example of cities in the U.S.: Cities in the U.S. are now reaping the benefits of similar misguided assumptions and laws. In effect, their laws and their planners' philosophies of containment have created ever-growing ghettoes whose anger and problems have been seething and spilling over into the rest of those cities.

Inner cities in the United States have been decimated by politicians who make decisions about communities they do not live in. These politicians do not live in the inner city and are accountable to people who do not live in the inner city.

Suburban decision-makers can effectively pursue containment philosophies which protect their own neighbourhoods while funnelling undesirable businesses and activities into certain inner city neighbourhoods.

Another major point: This bill limits the input of the people who know their community best, the residents. To me, if you are talking street sense, and I appreciate that because that is mostly what I end up talking with people every day, it makes sense that people in the community know best what is good for the community. They live there every day. They have to walk past these businesses.

No one will ever convince me that the people who live in our community do not know best what the problems are and what can be done about them. Our children grow up here.

I have three children, ages seven to five. We shop here; we go to school and church here in our community. This bill will not discourage lobbying. In fact, it will encourage a new form of more militant and confrontational lobbying. I have seen that. I was trained in that model in the States, because what happened is you had a more centralized group that you had to deal with, you had to get more radical and more militant in the way that you achieved your objectives.

Example: Case in point–we were dealing with a massage parlour owner who would not listen to the will of the community, so we decided he was using the inner city as a toilet for his garbage. We decided to reroute the plumbing.

We found out his home address and we took the toilet, rerouted the plumbing out there, and we started letting all his neighbours know about what he was doing. Nothing illegal about that. We just wanted to inform his neighbours about their neighbour.

These kind of strategies will continue and intensify if this is the type of system that you set up, where a local community feels unable to express their concerns locally. They have to express them to a broader group. They have to lobby a broader group. That creates more of a confrontational atmosphere. You see that in the States. You are moving in that direction.

You are encouraging people to lobby through the media and the city planning department rather than directly to local city councillors. These local councillors see patterns in the community and are more accountable to the community than anyone else. This lobbying will be expressed in more militant ways. Inner-city residents will be encouraged to collect condoms and hypodermics found on their streets and drop them off in suburban communities of people who do not understand our concerns.

Today I was at city Planning Committee and somebody said: if you have got a problem, call the police. The problem they were talking about was part of the problem that has been compounded by the police and their refusal to acknowledge what goes on in pawnshops. It was just so frustrating to hear somebody who is hearing these things–and this is supposed to be the group that is hearing these things on an ongoing basis–and he is saying to me, call the police.

The police have categorically stated that there is no relationship between pawnshops and property crime. There is no cause and effect relationship. You would say that to anybody in our neighbourhood who has street sense, and they will tell you what they think of that and what they think

of the police and how respect for government is eroded in that kind of atmosphere. You will see an increasingly confrontational style of organizing, as you see in the U.S.

Next point: This bill will not help those seeking to promote the corporate image or atmosphere of Winnipeg. If you are concerned for the corporate image of Winnipeg, you do not want to see the negative things and tactics in the news that you are encouraging if you pass this bill. Too many laws and by-laws are naive. We know that. We will call it what it is.

Too many politicians hide behind these naive laws and, in the end, protect only their own community or interests. When you give us no other effective means of protecting our communities–an emphasis on "effective"–our last option is in the streets and through the media. These demonstrations and the flawed laws which encouraged them will not be good news for those trying to promote a positive image for our city and province. This bill discourages community initiatives for improvement by making many of their efforts irrelevant.

I am all for the philosophy which admonishes individuals and communities to pick themselves up by the bootstraps. I get requests for help all the time. We live there, we work there. In the church and at my door, I get requests for help, and I tell people, you have to do something yourself before I go ahead and pitch in and help you. I have to see a desire to help.

At the same time, however, I see, in a very practical way, you are handcuffing us as a community, which is willing to do some of that picking ourselves up by the bootstraps, before we start. Following through on community concerns by speaking to a community committee on a regular basis was an empowering experience which encouraged residents further to improve their community.

Passage of this bill ignores realities at City Hall. In a perfect system, the removal of appeal powers would not matter that much. Councillors, even though not from our area, would understand our concerns and respond to them as impartially as if they were their own concerns. But the system is far from perfect. Passage of this bill would ignore present realities. It is inexcusable and irresponsible to pass a bill which you know will not be beneficial to the community. You may hope it will help, but present realities and the realities of city politics will not allow it.

Number one: There is an assumption that the next city Planning Committee will be more representative of all communities. You know that this will not necessarily be the case.

Two: there is an assumption that the city Planning Committee will have a more "objective" view. This is already encouraged by the Board of Adjustment. You have already stripped community committee from hearing the initial application and now you are showing your true intent, to strip community committees of their power. Incidentally, the Board of Adjustment already sparked concern in our community because no one on this board is elected and the majority do not live in the inner city.

* (1600)

So we are concerned, but again, we could live with that if we still had appeal powers. But we feel like one-half of the thing has been taken away from us, and now the other half is chopped off from under us and we feel like there is very little recourse for us anymore. It is not that this disqualifies suburban people from understanding our concerns, but it does give us the feeling that decision making has been moved further away from the community most affected by the decisions.

Three: There is an assumption that the motivation of an outsider will be more pure than that of a community resident. No one is more qualified to speak to a situation than a stakeholder in that system. No one is as careful in examination and implementation as a stakeholder. I am a lot more careful about pawnshops because they are right next door to me. They are all around the house. People who are somewhere else will look at the by-laws and say: Well, a pawnshop is a permitted use. It is a legal business. Why bother getting so upset about it? You know, why get in the way of this thing?

We have a stake in this. Further, my contention would be that community residents are the most qualified and honest stakeholders in the zoning and variances which determine the make-up of our neighbourhood streets. Some will argue that stakeholders or residents are too subjective about what is good for their community. While this may sometimes be true, it is far more common that nonstakeholders or nonresidents of our community

approach our concerns and issues from a more theoretical than practical base.

Theoretical does not necessarily imply objectivity. Common sense or practicality does not imply subjectivity or parochialism. Our present struggles against pawnshops, arcades and massage parlours show this clearly. Many people are ignorant of what happens and how laws are irrelevant to the real problems of these places. In my book, ignorance does not bring objectivity.

4. There is an assumption that City Council will appoint a fair and impartial Planning Committee. The present City Council voted to stack the Planning Committee. Nothing in your bill addresses this reality.

5. There is an assumption that the councillor representing his community will have adequate influence on the planning committee's decision. Even the present planning committee has problems with quorums when councillors commenting on appeals must excuse themselves. I have heard now that that would change. Even if they no longer must excuse themselves, they will not likely be able to vote on the very issues which affect their community. This is ludicrous.

6. There is an assumption that the inevitable lobbying being between councillors will be healthier than the lobbying done by the public of the community committee. Surely, you know the reality of this situation better than that. This back-room lobbying further distances the public from decisions made by elected representatives.

Just a final kind of summation: Do not duck your responsibility to your citizens. I say this as–I am not aligned with any party. I am living in the inner city, and I am concerned about what I see. You can try to say that it is not your job to fix a blundering City Council, despite the fact that this is exactly what you are attempting with this bill. I have a further problem, you are ducking a responsibility to your citizens. You have a responsibility to deal with reality.

When you tried to say that City Council's problems are not your problems to deal with, it is like telling the chronic alcoholic that it is not his job not to drink the drink you paid for and set in front of him.

We are waiting to see if you care. We have been warned that you do not. We have been warned that you are out of touch with the more painful realities of urban life. I do not want to believe those critics. Please prove them wrong and make a move that will help build, rather than destroy communities.

Mr. Chairperson: Thank you very much, Mr. Lehotsky. Are there any questions? Thank you very much for your presentation.

Could we move on then to the next presenter. The committee calls Sylvia DiCosimo. Is it Miss, Mrs. or Ms.?

Ms. Sylvia DiCosimo (Private Citizen): Any title you wish to give me.

Mr. Chairperson: Thank you very much.

Ms. DiCosimo: As long as you listen and do not talk too much. I have no handout because I will be speaking.

Mr. Chairperson: Would you proceed, please?

Ms. DiCosimo: Thank you. I am speaking on Bill 78, Clause 574(2) appeal committee being negated by Bill 78. I guess Timmers and Reverend Lehotsky have pretty well summed up what I probably would have said today, except my family has lived in the same house on Goulding Street, which those of you may know is a fringe area of the inner city, a fringe street, since the 1940s.

I have come back from living overseas for 15 years to raise my family there. I am not impressed. The house is still suitable, it has plaster walls, everything is going for it, except I see an erosion of the area. I see an erosion of my being able to be a participant in my neighbourhood. I want the appeal committees kept. Why?–because I have gone to three of them in the last couple of months, and I was able to be there.

Why do I want them kept at City Hall?–because even if I did not vote for that councillor, I know he will probably listen to me. How many of your constituents have tried to get in touch with you for days on end, because you are busy? I do not know.

I want to stay in my neighbourhood, because I live there. That is virtually all I have to say.

Mr. Chairperson: Thank you very much. Are there any questions? If not, thank you again for your presentation.

The committee calls Fred Curry. Mr. Curry, have you a–

Mr. Fred Curry (Private Citizen): Yes, I do, Mr. Chairperson. How many copies would you like?

Mr. Chairperson: Well, 15, if you have.

Mr. Curry: I have got them.

Mr. Chairperson: Would you proceed, Mr. Curry?

Mr. Curry: Thank you. My first comments are about the amendment, that is 12(2), which is the temporary use variance amendment.

I am going to give a series of examples here. The first example is, within the last few years, the City Centre Fort Rouge Community Committee rezoned several areas in their jurisdiction to R2T low-density residential. This was done so that the zoning would reflect more accurately actual land use, and so that low-density housing would have the zoning protection that it lacked for 40 years.

This rezoning was made necessary because 40 years ago the city rezoned huge areas of low-density housing in the inner city for higher-density, residential, commercial and industrial uses. Since that time, the stock of inner city housing has been decimated. The R2T zoning is intended to arrest the attrition of low-density housing and stabilize these areas for low-density residential use.

A couple of years ago and subsequent to this rezoning, a group of psychologists purchased a house in one of these areas on Balmoral Street. Their intention was to set up shop. This use is a C1 use and normally would be the subject of a rezoning. If these individuals had applied for a rezoning, they would have been turned out on the grounds that this use and the zoning that accompanied it would defeat the purposes of the R2T zoning.

Instead, they applied for a variance. Although they were turned down at community committee, they succeeded in getting the then variances, conditional uses and licences appeals committee to overturn this decision. In a recent court challenge to this decision the judge refused to comment on the substantive issue which in this case was whether or not it defeated the purposes of the zoning by-law, he ruled that the city had the right to offer a variance, in this case because of the way in which the statute was worded.

The power to vary is supposed to be used to make minor adjustments for minor nonconformities for developments which in other respects do not defeat the purpose of the applicable zoning by-law. In this case, the variance has been used deliberately to circumvent the by-law. If this loophole cannot be plugged, then I would prefer that the city not have the power to vary for use.

My second example, several years ago a fellow bought a house on Stafford Street near Grant. It was zoned R1, and it was a little bit run down. To the delight of his neighbours, he began a renovation and addition to the Stafford side yard. No one thought to look for a building permit. Their pleasure turned to dismay when he opened a furniture repair shop. Their complaints brought the matter before community committee.

He was able to win sympathy and a variance on the grounds that the variation would expire when he moved, sold or otherwise stopped doing business in the house. Again, had he applied for a rezoning, he would not have succeeded. A few years later, he moved to a new location and sold the house to an owner who purchased it expressly for commercial use.

The new owner argued that because the house had not been used for residential purposes for several years it was, in fact, a commercial property, and he got his rezoning.

My objection is that history teaches us that nonconforming uses tend to persist and not disappear. Temporary variances for commercial use in R1 districts lead to attempts to rezone that are much more plausible because of the variance. Again, this is not really a variance, temporary or otherwise. It is really a disguised form of rezoning, zoning by variance, zoning by increment and zoning by osmosis.

If the power to vary for use that is being given to this city is not worded to prevent incremental rezoning, then I think it should not be permitted at all.

My third example, St. Ignatius Church and School is zoned R1 and occupies the block bounded by Stafford, Corydon, Harrow and Jessie. There are four buildings in two clusters having three separate addresses. The buildings are skewed to the Jessie side, probably because of the relative quiet provided by the residential nature of Jessie.

* (1610)

Until recently, one of these buildings was a convent. Its address is on Jessie in the middle of the block. As a residence for sisters, it fit into the residential quality of Jessie quite well. Last year the sisters moved out. The church agreed to allow three groups of outsiders to use the building. One of these groups is a commercial, private, Montessori

daycare. Because the convent is attached to the church, this use is permitted in R1.

Another use is the River Heights Family Life Centre, a nonprofit group which does worthwhile work in the community, but because ofthe intensive nature of the use, it is a C1 use.

The third group is a franchise operation, an holistic psychotherapy business based in Europe. It is privately owned and charges fees for its services. It too is a C1 use.

St. Ignatius has been offered and accepted a request by the city to apply for a use variance, and thathas just happened within the last little while. By working with one of the city solicitors, I was able to persuade the church that the city does not yet have the jurisdiction to offer a variance of this type. It is the intention of St. Ignatius to proceed with this variance when it becomes allowable. They are doing this not as a temporary solution. They are doing it as the easiest, immediate solution to their zoning problems.

My objections? Again, the zoning process is being circumvented. A variance is viewed much less seriously by all parties. The rezoning that must come inevitably at the end of the five years is made more plausible because of the variance. There is no intent here that this procedure be temporary, and everyone knows it. This is a process of rezoning by variance, in increments, by osmosis. I enclose the former Sections 625(2) and 625(3) of The City of Winnipeg Act. It is on the back of the presentation that you had. It was originally on an extra page, but I have done two sides. These sections have the virtue of requiring the designated committee, which in this case is planning, to review variance applications to ensure that the proper instrument is being used, and they cannot delegate that power either in those two sections. In this case, though, examples one and two both got through. So, in other words, that review procedure, whatever it is, did not succeed in stopping this kind of variance.

My recommendations about this are: Firstly, I encourage inclusion of sections requiring a review of the way in which use variances are used. Secondly, I encourage definition of these use variances which will not permit them to be used to circumvent the rezoning process. If this cannot be done, I prefer that the city not have the power to vary for use at all.

I guess I just want to say that, in the definition of conditional uses in the front of the planning section, conditional use is actually fairly well defined, so they provide some structure and guidance as to how that section is to be applied. The section on use variances that existed before and the new one do not have any guidance at all. There is no definition as to what the use variance should be used for. It is supposed to be something minor. In cases like the ones I have given you, it is used for something major which should have been the subject of a rezoning.

Example 4. I want to give an example of what I would consider to be an acceptable use of a temporary variance. A house located on the corner of Stafford and Dorchester has just been sold. It is zoned R1. The former owner lived there for 30 years with her husband and children. She also had a variance going back 30 years by a board of adjustment to allow six boarders instead of the usual two. She ran a guest home for little old ladies. She has lived with the one remaining boarder for the last few years.

Now, the new owner wants to run a small bookstore in the house as well as to live there. Because the use is not permitted, and unless she is offered one of these objectionable use variances, she will have to rezone. To me this is using a sledge hammer to kill a mosquito. The restriction on home occupation by conditional use are intended to protect sheltered residential areas from an invasion of outside traffic. This house has already been invaded. It is on Stafford Street. There is 24-hour traffic. The home occupancy by-law should be amended to permit more intensive use in these circumstances. Pending that amendment, she should be able to receive a temporary variance until that amendment is ready. So my recommendation is that the statutes pertaining to use variances should promote uses in this manner.

The second section that I want to address is this one that has just been discussed by the last few speakers, to do with removal of the appeals at the community committee. On January 22, 1992, pursuant to Section 643(2) and (3) of the act, City Council debated and passed a by-law which in part designated community committee to hear the appeals of variances and conditional use. For this particular council the debate was both orderly and comprehensive. The pros and cons of available alternatives were debated and the vote was close,

and I consider a 17-10 vote close. You need 16 to have an absolute majority, and to pass a motion at council, and 17 is just one over that. The vote was close and in different circumstances might have been reversed. I support the choice of community committee and it galls me that without even bothering to see how this option will work, council's chosen alternative is being taken away.

It is alleged that having the appeals heard by community committee will give rise to parochialism. How will having the appeals heard by Planning Committee differ? Why is it that when my local councillor hears my appeal it is parochial, but when someone else's local councillor hears it, the issue is deemed to be heard on its merits. I do not want to suggest that there is no problem with parochialism. My observation is that parochialism is a natural consequence of human nature and a political system that elects representatives one to a constituency.

There are other factors to be considered. It is argued that a councillor hearing an appeal from a constituency other than his own will be less likely to be influenced unreasonably by concerns for his or her re-election and more likely to decide the issue on their merits.

(Mr. Gerry McAlpine, Acting Chairperson, in the Chair)

The trouble is, when the pressure to respond to the interests of constituents is removed, there is still pressure to respond to a whole bunch of other interests. Being a councillor or an elected politician is happily or otherwise an open invitation to all sorts of people who have all sorts of agendas.

I recall the case a couple of years age in which the chair of Planning Committee had ascertained that a particular matter in which she was interested because of its city-wide implications would not be heard in her absence. She then took a short holiday. It was in the interest of a certain businessman that this matter be heard in her absence. He contacted a friend who just happened to sit on Planning Committee. This friend had the matter walked on the agenda and passed in the chair's absence. Tell me this is not parochial. Tell me that this kind of scenario is preferable to having appeals heard by community committee. This kind of thing can go on at community committee as well, but at least the constituents affected will be represented.

That is what we elect our councillors to do, to represent us. In this case, my influence as a constituent can serve to balance these other influences–checks and balances. In the other case there are none. That is democracy, not perhaps at its best, but in its reality. Do not take this away from us.

I almost lost an appeal because the applicant was the Royal Winnipeg Ballet rather than on the merits of the case. The application was supported by a raft of money and a very expensive lawyer. One of the councillors was a balletomane and liked to rub shoulders with the rich and famous. We were saved by the fact that one of the councillors sitting on the appeal had lived in our area and understood that certain of our arguments were valid. This is local knowledge, not parochialism.

Councillors hearing appeals who have no knowledge of the area are often at a loss to assess the merits of either side. This was one of the drawbacks of the previous appeal committee. They did not know what the facts were. They did not know how to assess the information that they were being presented with. How are they to decide the issue on its merits? Planning Committee has the same drawback.

It is argued that if my local councillor hears appeals that a higher percentage of variances and conditional uses will be appealed and community committee will be overwhelmed. The rationale here is that people will count on being able to exert political pressure on their elected representative and so swing the vote. This hope will cause more of them to appeal.

A similar argument can be made in the case of Planning Committee. Persons aware that councillors on Planning Committee have no local knowledge of a particular area, and no accountability to residents of that area, may appeal to Planning Committee in the hope that they can sneak one by. These same individuals might refrain from appealing to community committee because they know the local councillor will not be fooled, and I recall the variance for commercial use in the Balmoral area that I mentioned earlier. It was approached as a variance precisely because the community committee could be bypassed on the appeal.

At any rate, both these arguments are speculative and moot. Unless community committee is given a

chance, we will never know. My experience with these appeals, and I am a city planner and part of what I do is I help residents groups going through the zoning process at City Hall, is that the overwhelming majority of citizens do not have any understanding of the reasons behind by-law restrictions. They do not understand the ins and outs of the process they go through. In most cases they are terrified by it. The appeal mechanism is a freebie, there are no strings attached. People take it because they believe that whatever the decision, if it has not gone their way, they have been the victims of an injustice. They appeal in the hope that the wrong will be righted. The deliberate nature of the Balmoral variance and appeal is an exception in this case.

Suppose an issue arises that affects your constituents, and because you are a responsible elected representative you make yourself familiar with the situation. Suppose, too, that when the time to make the decision regarding this issue arrives, that one of your colleagues who knows absolutely nothing about the issue is delegated to decide it. Now, if this is okay with you, then my plea will fall on deaf ears.

* (1620)

Give community committee a chance. If it does not work you can always nail them during the next session. If you are concerned that local considerations narrowly construed will override city-wide concerns, add a section requiring that the appeals be reviewed by Planning Committee periodically to ensure that some relevant standard is observed.

I figure that the changes brought in last summer coming into effect now will destroy the community committee system of local government that has been fostered during the last 20 years. This is being done to try and force us to become a single city in more than just name. The trouble is, Winnipeg is not now, nor has it ever been, a single city. A hundred years of our history prior to the last 20 testify to that. Winnipeggers have strong municipal and local loyalties. Any attempt to unite the city should treat that loyalty as a strength not a weakness. Attempts to coerce unity are more likely to drive the city apart than unite it. There is an advantage to having decisions affecting local issues made on a local basis. If a bad decision is made, both elected representatives and residents suffer the consequences of that decision. Vice versa for a good decision. When that relationship between representative and constituent is removed, trouble ensues.

This winter I heard a residents group from St. Norbert making a presentation to EPC. They were protesting certain decisions that had been made and that affected them. They were asked if they were not represented on the city-wide committee making the decisions. Yes, they had local people on the committee, they said, but no way a city-wide committee represented St. Norbert.

In other words, they were saying they really did not see themselves as being part of the city of Winnipeg. No local government, no representation, no accountability equals trouble. Thank you.

The Acting Chairperson (Mr. McAlpine): Mr. Curry, would you entertain questions from the committee?

Mr. Curry: Certainly.

Mr. Ernst: I just have one question with regard to the first part of your presentation regarding a temporary use variance. You are aware, of course, that prior to last year's Bill 35 being passed, the city had unlimited use of that power.

Mr. Curry: Yes, sir, I was happy when you took it away. Excuse me for interrupting.

Mr. Ernst: Are you aware then that there are anomalies and problems that arise as a result of us taking that away? If you are a practising planner, you will know that there are any number of circumstances that need to be addressed on a temporary basis. I just wanted to ask you, are you aware that the temporary use that we are proposing for five years would have to be approved within the context of allowing variances at all?

In other words, it has to be consistent with Plan Winnipeg. It has to not create substantial adverse effect on a neighbourhood. It also is the minimum variation of the by-law required to relieve any injurious effect on the proposed property. If you do not meet those criteria, you cannot have a variance at all. It is inappropriate to apply.

So I think six of one and half a dozen of the other. I suppose whether the problems that arise from use–and you can provide 10 or 15 proposals, and I am sure the city can provide 10 or 15 other proposals where it makes sense to do it. It really boils down to the question of who is going to grant it, and I suppose who is going to have the appeal.

Mr. Curry: I guess what I was hoping is that, for example, it is supposed to be a minor change, right? The minimum change required for a variance. Well, to me, varying for C1 use in R1 is not a minor change; that is a major change. Primarily what I am objecting to is that there is a lack of definition in the statute to indicate what a minor change might be in the case of use.

It is very easy in the case of a structure to specify what a minor change is; it is not very easy in the case of use. So what happens is–I mean, in the case of the Balmoral appeal or the Balmoral variance, somebody was smart enough either to figure out on their own or to talk to somebody in the administration at City Hall and have them advise that, gee, they did not really have to go for rezoning, here they could go for a variance and maybe get away with it.

I would hope that, if there is some way, without becoming very lengthy in the statute, of defining a use variance or defining what a minor variation is considered to be, that could be included in the statute, and then these variances, indeed, would satisfy the criteria that you have just mentioned. But I do not see where–if I am putting a C1 use under a variance in an R1, I do not see that Plan Winnipeg is satisfied, but it is often very hard to make these arguments stick either before a Board of Adjustment or before a committee of councillors.

If the property owner is there asking for a variation based on his feeling that his property rights are being aggrieved, and he has been offered that variation as part and parcel of what the bureaucratic process is, usually the kind of argument that I have made, that maybe you should not vary for C1 and R1, is tossed out the window right off the bat. You tend to hear it as if it were a rezoning, but you pass it as a variance, and then in this temporary nature, that variance is not going to run with the title. Five years from now that person is going to be back, and then they are going to have to ask for a rezoning or else they are going to have to vacate the use.

So I am saying, if it is going to be a rezoning, let us call it a rezoning. If it is going to be a variance, which is something minor, I am happy for that, but let us make sure we know what a minor variance change is. Thank you.

Mr. Chomiak: I thank you for your presentation, Mr. Curry. You make a very interesting suggestion on page 7 of your presentation, and I think it bears emphasis because we have heard now a city councillor, two community representatives and yourself all make a case for the province not to take away from City Council the responsibility of the decision they made for appeals to be held on matters of this kind at the community committee level, and your suggestion is interesting.

I just want to emphasize, and perhaps you might want to comment on it again, and that is, you state on page 7: Give community committee a chance. If it does not work, you can always nail them during the next session. If you are concerned that local considerations narrowly construed will override city-wide concerns, add a section requiring that appeals be reviewed by a Planning Committee periodically to ensure some relevant standard is observed.

What I like about this suggestion is it is not black and white, but it is simply saying to the province, look, give it a chance to work. You can always come back next session and change it. It is not such a major factor. Perhaps you might want to comment on that.

Mr. Curry: I attended that particular debate where the amendment that Councillor Timmers referred to was made, and because most of my experience with appeals was with the former conditional uses, variances and licence appeal committee. In my mind, that committee was an absolute disaster. I hated having to appear before that committee. I hated having to take my residents groups before that committee because you could never tell who was going to be there, and you had absolutely no idea what was going to happen.

If the choice is between that and Planning Committee, I would certainly take Planning Committee, believe me. At least it is a stable committee and you know who is going to be on it, except that it changes every year, from period to period.

My experience with the Planning Committee again has been the same situation that Councillor Timmers referred to. Right now, I do not think there are four communities on that. I think you have three. You have two councillors from each of three committees. The inner city is not represented on that committee. I am fortunate that my community committee has two councillors on it, and that gives me a sense of comfort if I am bringing something

from my area, but if I was coming from another part of town, I would not be all that confident about it.

Interestingly enough, although council by 17 to 10 passed this particular amendment allowing the local community committees to hear it, it was exactly the opposite on Planning Committee. In other words, Planning Committee wants to hear them themselves. That tells you something, that whoever is on Planning Committee right now, they are not representative of what council as a whole would do. I think that sort of situation bodes ill for people bringing appeals to Planning Committee.

If you have a particular bias that is represented more on one committee than another, and that happens to be the city-wide committee hearing the appeals, it is just going to stack everything against the residents.

I think the other thing that is really important about community committee from my perspective, again of bringing residents groups to appeals, is that they are terrified. I mean, they are frightened when they go into community committee. They are even more terrified if you take them to a standing committee. They feel a lot more secure knowing that the councillor that they elected is there to hear them.

Again, I am not saying that my own councillor cannot do rotten things to me or to my constituents. I mean, these things happen, but the thing is, at least the person is there to be accountable in some way. If there is a problem with these sorts of things, where you get these oddball things happening from place to place, where you are doing one thing in one part of the city and another thing in another part of the city, then let us have standards imposed by the legislation or some guidelines that would require the Planning Committee to review these decisions and determine if in fact they do reflect a city-wide thing or if there is some kind of local bias creeping in.

* (1630)

I think a good one is conditional uses on gas stations. In the inner city, a gas station is conditional in C1. In the other areas, it is not permitted in C1. It is conditional in C2. I mean, your bringing gas station things or zoning things, beefs, before a committee of council that does not have anybody from the inner city on it that has to do with a gas station, they do not understand what is going on because they are used to dealing with something that is conditional in C2. So when you tell them, well, we wanted to block this particular C1 zoning because we did not want a gas station in it, they really do not respond that well on the spur of the moment.

So I am saying, let us find some way of protecting the local communities without encouraging this kind of parochialism, and I think that having Planning Committee review these decisions and maybe having it passed right through to council periodically so that it is debated at EPC as well as at planning and then debated at council–are these decisions being made in a parochial way? If they are, I think that a vote of council that took place last January would be reversed.

I thought that this debate was one of the particularly responsible debates that I have heard at council. There were no insults, no name calling. They just took this issue apart from all the different perspectives and decided that they wanted the community committee to hear these appeals. I figure, give them a chance to make it work. They were given that power last summer. Let us see if they can make it work, and then if you do not like the way they are dealing with it, take it away from them later.

The Acting Chairperson (Mr. McAlpine): If there are no more questions, I would like to thank Mr. Curry for his presentation and co-operation in answering questions.

Mr. Ernst: I propose the committee take a five-minute recess.

The Acting Chairperson (Mr. McAlpine): Is that agreeable to the committee? A five-minute recess then. It is agreed.

* * *

The committee took recess at 4:32 p.m.

After Recess

The committee resumed at 4:41 p.m.

Mr. Chairperson: Would the committee please come to order. The committee calls Lorna Cramer, Residents Committee of Garden City. Lorna Cramer–not here.

Mrs. Patricia Thompson, Armstrong's Point Association. Mrs. Thompson, have you got a presentation to distribute?

Mrs. Patricia Thompson (Armstrong's Point Association Inc.): Yes, I have.

Mr. Chairperson: Mrs. Thompson, you may proceed.

Mrs. Thompson: Thank you, Chairperson Penner and Minister Ernst and members of the committee. I am speaking to the same issue, Bill 78, Part 20, Section 574, and I am speaking on behalf of the Armstrong's Point Association, which is a residential area about two blocks from here, the last R1 area in the city centre. Because of that, we spend an awful lot of time down at City Hall trying to keep our area as a residential area.

I also attended a meeting on February 9 of a group which gets together informally often. We call ourselves the Downtown Winnipeg Neighbourhoods. There were a number of representatives from various downtown neighbourhoods at that meeting. We discussed this issue, and the consensus at that meeting was what I am going to say to you today, too. They were also opposed to this amendment which excludes community committees from being an appeal committee.

The associations were present at that meeting were: the Armstrong's Point Association; the West Broadway Association; Ellice-Redboine Community Council; Wolseley Residents Association; Broadway-Assiniboine Residents Association; the Central Park Association; Point Douglas; and one that calls themselves NEAT and that stands for Notre Dame-Ellice-Arlington-Toronto; and also, McDermot-Sherbrook residents. So all of those residents associations were present at that meeting, and they all concurred that this amendment should not go through.

Nearly all of the points that I had intended to make today have already been made very eloquently, so I am not going to take very much time. I just want to reiterate some of the points that have been made.

Variance orders and conditional uses tend to be local in nature. There are differences in communities in the city. Whereas a bed and breakfast might be able to be put in one community, as a conditional use, where there is lots of room to park in the backyard, and this kind of thing, it may not be suitable in another neighbourhood, where you have narrow, little lots, no on-site parking. You have to consider that there are individual differences in neighbourhoods.

We have found in the past, and I have been down to City Hall an awful lot of times in the past, that the nonlocal appeal committees have failed to understand the special, and often very fragile, nature of the downtown neighbourhoods. A home occupation which might be suitable in the suburbs, for various reasons, is not suitable downtown. They have failed to understand the very fragile nature of the downtown neighbourhoods often.

Another point that we have found in dealing with nonlocal appeal committees is that they have sometimes tended to adopt an "it is better in the downtown than in my backyard" attitude. This has to do with such things, as other people have mentioned today: amusement parlours, billiard parlours, pawnshops and this kind of thing. They like the idea that these are only in the City Centre-Fort Rouge area, and so often these appeals have been disallowed at community committee and then they are overturned at the appeal. It is because the appeal committee does not understand the nature of the community and they also do not want to have any chance that these things are going to be getting out into the suburbs.

I think the most important point that I want to make is that the blatant abuses which have occurred with land use change by means of variance orders are possible only when there is no accountability on the part of the appeal committee, and that is the situation that you have now. You have the Board of Adjustment which is not accountable to the community, and you have the appeal committee which has no accountability to the local community, the people who are going to be affected by that decision. That is when you can get the blatant abuses that we have seen in the past, and we have all heard about the hotel that was going to become a seniors apartment, the shifting of appeal committee participants to get the desired result.

Three people today have already mentioned the one in our community, this 82 Balmoral, where at the community committee when it was disallowed– this is a C1 use in an R2T area, again, it is just a couple of blocks from here. Balmoral has always been the boundary between the downtown commercial area and the residential area, which is enjoying quite a comeback as a residential area. At the community committee there were all kinds of residents associations that appeared in opposition. The planning department was opposed. The decision of the community committee to oppose this C1, 3,500 square feet of commercial space in the middle of a residential block–it was opposed unanimously by all the councillors against 13 supporting reasons.

When that went to the nonlocal appeal committee, perhaps it was just coincidence that the owner of the house is the wife of a former city councillor, maybe it was just coincidence that two of the people on that appeal committee, two of the four members, were former colleagues of that city councillor on his community committee. It certainly did not appear to be coincidence when that 3,500 square feet of C1 commercial space was allowed in the middle of a residential block. It appeared to be a blatant abuse of the variance and conditional use appeal process, and that is going to happen again when there is no accountability. If those councillors who made that decision had to face the voters, they would not have dared make that decision, but there was no accountability in that case and that is what we have to avoid.

I just wanted to say this, since Bill 78 once again makes possible land use changes, and our initial reaction was to oppose these temporary variances which you are now allowing, but I know that the planning department has requested that power and I can see that there are reasons for it, but you have to then allow some accountability in the appeal process if you are going to allow land use changes by means of variance.

There are just a couple of other points that I wanted to deal with. One was your response to Councillor Timmers in that one of the reasons why you felt that it was important that the Planning Committee be the appeal body was for consistency, but I think the by-law is what provides the consistency. Variances are–they are the bending of the rules. They are the exception to the rule. They are the things that deliberately take away from consistency. The by-law provides the consistency. Variances are the exceptions to the rule, and they have to depend on the local interests of that local community.

I would just like to say that I think Mr. Curry's suggestion that you give the present system a try and if it does not work, if there are abuses of it or if it does not appear to work, then you can have another opportunity to change that part of it, but I think you should give it a try and let people who are accountable for their decisions be the ones who are making those decisions.

Thank you very much, and if there are any questions I will try to answer them.

Mr. Chairperson: Thank you. Are there any questions?

Mr. Ernst: Mrs. Thompson, are you aware that under the system that has existed for 20 years and the system that exists today, the local councillor within the community committee may make no representation either on the initial application or the appeal?

Mrs. Thompson: Yes, I am aware that is the system now. Well, not now, because now the appeal is at the community level.

* (1650)

Mr. Chairperson: I would ask Mrs. Thompson to allow the minister–

Mrs. Thompson: I am sorry.

Mr. Chairperson: –unless I recognize you, your comments will not be recorded, because the mike will not go on until I recognize you. Mr. Minister, please proceed.

Mr. Ernst: Mr. Chairperson, now I have lost my train of thought again here.

Mr. Chairperson: Please proceed, Mr. Minister.

Mr. Ernst: Thank you. You are aware then that heretofore and presently the local councillor may not represent his community of interest other than by way of his vote at a community committee meeting. Mr. Chairperson, before we ask Mrs. Thompson to reply, I want to clarify that.

Presently, under the current system, where the application is heard by the Board of Adjustment and the appeal by the community committee, because the thing may be appealed, the councillor will have to sit quasi-judicially in community committee; therefore, the councillor cannot make representation before the Board of Adjustment. The councillor may not publicly side one way or another before the appeal is heard by community committee, because of the fact that it is again a quasi-judicial system.

If the proposed changes that were represented in this bill pass, in fact, then the councillor may, No. 1, make representation on behalf of his constituents before the Board of Adjustment and also may make representation on the appeal, because they will not have been sitting in judgment on either–save the case where they are a member of the appeal committee. I just wanted to know if you were familiar with that?

Mrs. Thompson: Yes, Mr. Minister, I am aware of that. I think that if Bill 78 goes through, it will put the councillors in an impossible position. It will put them in the position of being pulled one way and the other by their constituents and be put in a very difficult position when they had to make representation at either of these bodies, and they are still not accountable.

Mr. Ernst: You do not think that happens now?

Mrs. Thompson: Well, you are saying that, now under the current system, the councillors cannot make representation at either of those. They cannot make representation at the Board of Adjustment. When it comes down to making the decision, then they are put in that quasi-judicial position, as you described it. They are accountable for the actions that they take.

Mr. Ernst: I am suggesting that you do not think they are torn now. I can tell you that during the time when the community committee heard the original application, it was common practice that if 10 people showed up in opposition, regardless of how correct or incorrect the decision may have been, it was very easy for the community committee to simply turn it down and let the appeal committee deal with it. That is not being accountable in my view.

Mrs. Thompson: I found in practice–

Mr. Ernst: That is not addressing the specific issues that are coming before the community committee, and that was very common practice.

Mr. Chairperson: Thank you very much. I know how difficult it is.

Mrs. Thompson: I have found in practice that the community committees have not given up their responsibility; they have always listened very carefully to the issues and have considered them very carefully. On occasion they have gone on to appeal, but it usually has not been at the request of any councillors in my experience.

Mr. Chairperson: Any other questions?

Mr. Chomiak: I just want to thank you and say well done with your exchange with the minister.

Mr. Chairperson: Thank you very much, Mrs. Thompson.

The next presenter is David Cramer, private citizen. Is Mr. Cramer here? Not here. Dena Sonley, Michael Sawka, not here. Mr. and Mrs. Robert Peterson, are they here? Not here. Mrs. Antonia Engen, is she here? Lori Janower? Morley and Bev Jacobs here? Mr. Jacobs, have you a presentation for the committee? Mr. Jacobs, would you proceed please.

Mr. Morley Jacobs (Private Citizen): Mr. Chairperson, committee members, I feel privileged to have this opportunity to make this presentation, and together with that, I guess I am proud also to be and have been a resident of West Kildonan for over 40 years. Before I make this presentation, I must apologize for the last few pages which are in the written form. I guess I went through what we might call a true Monday when my computer went out, and with my one-fingered ability with the typewriter, the typewriter ribbon went out halfway through, so I apologize and hope you can read my writing.

First of all, I am making a presentation not only as a resident of West Kildonan but also in my capacity as a trustee in the Seven Oaks School Division, where I went through the complete process that Bill 78 is to replace. I am strongly against Bill 78, and I believe that I have an example of why the present system is clearly the best alternative. I must also say that the arguments against Bill 78 have been well articulated thus far, and I guess, it is funny, or not so much funny, but the fact that all of us come from very diverse backgrounds and differences of opinions, we all seem to be saying the same thing with different examples. I, too, will be giving you an example of going through a process that I think clearly demonstrates that Bill 78 is not the alternative that should be chosen.

On October 15, 1991, an application for the conditional use under Zoning By-law No. 4450 to permit an amusement parlour at Garden City Shopping Centre was presented to the Lord Selkirk-West Kildonan Community Committee which comprises the five resident city councillors. The application had received approval from the City of Winnipeg zoning and licensing departments. This application was opposed by a large segment of the community which included letters from school principals, letters from parent-teacher associations, letters from area residents, signatures of hundreds of residents, of residents' petitions, and formal presentations from the Seven Oaks school board and numerous private presentations.

The resident councillors turned down the application with the only dissenting vote coming from Councillor Mendelson, whose constituency included the Garden City Shopping Centre. It is important to note this. Ms. Mendelson's contention

was that the issue was one of equal opportunity for all entrepreneurial endeavours in the community, and the question of the moral aspects of the enterprise and the wishes, needs and safety of the community was not the issue. Needless to say, the decision was appealed and the appeal took place on November 14, 1991, at City Hall before the Variance, Conditional Use and License Appeal Committee made up of city councillors but excluding representation from the five resident councillors in the Lord Selkirk-West Kildonan Community Committee.

Both sides made presentations and the final decision resulted in the appeal being allowed. The reasons for the reversal included the following: 1. The area councillor, Mrs. Mendelson, voted in favour of the original request for a licence, and 2. Other city councillors felt that since video arcades were already present in their constituencies it was quite acceptable for one being approved in the Lord Selkirk-West Kildonan jurisdiction. Therefore, there is no accountability in this particular appeal process.

* (1700)

It is quite obvious that the decision made by these councillors was based on the previous voting patterns of the five resident councillors on the Lord Selkirk-West Kildonan Community Committee and not on the issue itself. That is, the wishes of the community were not an issue in the final vote. It was apparent that this method of decision making was unjust and a new system was instituted–I put January 1992, I am really not sure of that.

In this new system all requests for commercial licences must first go through the usual City of Winnipeg zoning and licensing departments for approval, and once approved, must in turn be approved by the independent Board of Adjustment made up of residents of Winnipeg who have no ties with City Hall. The Board of Adjustment hears all presentations, for and against, before a final decision is made.

On May 22, 1992, an application for the conditional use, under Zoning By-law No. 4450, to permit an amusement parlour at Northgate Shopping Centre was presented to the Board of Adjustment. In order to be approved by the Board of Adjustment an application must satisfy three criteria: (1) it must be compatible with the area; (2) that it does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area; (3) that it complies with Plan Winnipeg and the specific zoning by-law in question.

Based on the above three criteria, the application had received approval from the City of Winnipeg zoning and licensing departments. The application was opposed by a large segment of the community once again, which included letters from school principals, letters from parent-teacher associations, in this case letters from churches, letters from area residents, signatures of hundreds of residents in the immediate area in various petitions, and formal presentations that night from the Seven Oaks School Board and numerous private presentations.

In the final analysis, the Board of Adjustment, in its wisdom, turned down the application since two of the criteria were not met, in their opinion: (1) the proposed business was not compatible with the area, and (2) the residents living on three sides of Northgate Shopping Centre and who appeared at the public hearing demonstrated that the type of business operations conducted in the shopping centre has an impact on their lifestyle, and this type of business operation is unacceptable. By the way, this is the wording of the Board of Adjustment.

An appeal of this decision will be heard on July 21, 1992, before the Lord Selkirk-West Kildonan Community Committee, hopefully, made up of the five city area councillors. I believe that this appeal procedure, together with the previous licensing step, is appropriate, and is in fact the best overall process in operation to date, in that the final appeal must be approved by the area community councillors who understand the community demographics, needs and wishes of its residents, and their decisions are unlikely to be affected by external influences and pressures.

Bill 78 will eliminate a licensing procedure that is unaffected by the interpersonal relationships between city councillors, tit-for-tat decision making, and the personal ambitions of city councillors as it might relate to their voting patterns. Bill 78 will allow the City of Winnipeg zoning and licensing departments to not only decide on the acceptability of a licence request, but also will serve as the only avenue for appeal. I have demonstrated to you on two recent occasions where the zoning and licensing departments made decisions contrary to the wishes of the community in question.

Licensing and zoning departments make decisions based on criteria that are not influenced by specific area demographics, needs and wishes, and where morality, safety–which is one of the criteria used–and health of the community is not an issue. We must ensure that we have a system of steps that negates cold decision making, that is, a system that is humanistic and holistic, a system that has the concerns and needs of the citizens of Winnipeg as the ultimate issue of question.

The present system and stops and starts or checks and balances, if you may, addresses all issues. Bill 78 is regressive, unresponsive and open to external pressures, influences and possibly graft. I ask that this committee seriously consider the ramifications of Bill 78 and put it aside for a more comprehensive review and analysis of how the system could be better served. Let us continue to ensure that accountability remains at the local community level. Thank you.

Mr. Chairperson: Thank you, Mr. Jacobs. Are there any questions? If not, thank you very much for the presentation. I would like to ask, does Mrs. Jacobs have a presentation? Would you come forward please. Have you a presentation for distribution?

Mrs. Bev Jacobs (Private Citizen): I apologize, having had no access to a typewriter; the ribbon broke. So I will provide you with a photocopy if you so desire.

I have been a resident of the city of Winnipeg all of my life, and I would like to speak to the amendment under Bill 78.

The proposed changes under Bill 78, which will amend The City of Winnipeg Act, is contrary to the wishes of the communities in which variance requests and their opponents come into dialogue.

This amendment under Bill 78 will distance people, I believe, and their elected representatives from having their concerns heard in the manner in which they are currently heard.

The wording of Bill 78 clearly allows the potential for a closed-doors policy in the hearings of first judgments and their subsequent appeals. No amount of political doublespeak, making assurances which claim that Bill 78 is no change, or change of little consequence, is an acceptable response to concerns about this amendment since there are petitioners here who perceive a substantial change which diminishes their representation to issues.

I question the reasoning of the government which seeks to make amendments to The City of Winnipeg Act without providing to the public, which has no difficulty with the current process, as to the necessity for an amendment. I therefore petition this Legislative Assembly to withdraw the amendment under Bill 78 in an act of good faith to the communities of Winnipeg before passage today, and I thank you.

Mr. Chairperson: Thank you very much, Mrs. Jacobs. Are there any questions of Mrs. Jacobs. No. Thank you again.

The committee calls Lori Janower. Not here. Mr. Max Saper. Not here. Mr. Robin Weins. Not here.

We have one extra presenter. Mr. Richard Chartier, Chamber of Commerce. He indicated that he was on his way down here, but he is not here yet.

We have another person, Guy Jourdain of the SFM who is here. Mr. Jourdain, have you a presentation to distribute?

Mr. Guy Jourdain (Société franco-manitobaine): Yes, I do.

Mr. Chairperson: Thank you. Would you proceed, please?

Mr. Jourdain: Mr. Chairperson, members of the committee. My name is Guy Jourdain. I am a member of the political claims committee of the Société franco-manitobaine. Mr. Druwe, the president of the société is unavailable at this time although he was here this afternoon at approximately 2:40. Unfortunately, we were a bit late.

Mr. Chairperson: Could I interrupt and let the minister have one question, please?

Mr. Jourdain: Certainly.

Mr. Ernst: Mr. Jourdain, can you tell me, is George on his way and we want to wait for a couple of minutes, or he is not available at all?

Mr. Jourdain: No, I do not think he is going to be able to attend at all.

Mr. Ernst: Okay.

Mr. Chairperson: Would you proceed, please.

* (1710)

Mr. Jourdain: I have a preliminary point to raise. We fully expected to be able to make our

presentation in the French language. We had prepared our notes in the French language, and I will have to present you with a rough translation of our notes. We find it extremely deplorable that a committee which studies a bill related to the provision of French language services does not itself provide simultaneous translation services.

This point being made, I will now proceed with our submission as to the bill itself. As you know, Part 3 of The City of Winnipeg Act was enacted in the early 1970s at the time that the city of St. Boniface was amalgamated with the city of Winnipeg. At that time, a historical compromise was made whereby the citizens of the old cities of St. Boniface and St. Vital were provided with certain guarantees as to the maintenance of their linguistic and cultural identity.

By and large, unfortunately, these guarantees were not enforced in everyday life and remain to a large extent a dead letter. Many efforts have been made over the course of the last few years to improve this situation. Various committees have reviewed Part 3 of The City of Winnipeg Act in order to amend it.

The Cherniack Committee, I believe, was the first committee to review Part 3 of The City of Winnipeg Act, and it made certain recommendations in that regard in 1984. Since that time, the government of Manitoba established a joint committee formed of the provincial government and the City of Winnipeg to review Part 3 of The City of Winnipeg Act.

In fact, we have been involved in the dual-track process for the last two or three years. We have been talking with the City of Winnipeg about the implementation of the current Part 3 of the provisions as they exist, and we have been talking with both the City and the government of Manitoba about amendments to Part 3, about improvement concerning Part 3 of The City of Winnipeg Act. Our discussions with both the city and the government of Manitoba have been very fruitful. There is a lot of goodwill.

For example, the City of Winnipeg and the government of Manitoba are very aware of concerns of the French-speaking community. They are very aware of our objective to normalize French life in Manitoba. They are very aware of our needs concerning the concept of active offer, and they are also aware of the economic benefits that flow from the concept of a bilingual city.

For example, recently the Royal Trust established a telecommunication service here in the city of Winnipeg due to the presence of a large number of bilingual citizens. They were able to hire bilingual citizens who were able to provide a bilingual service on a national level for the Royal Trust.

Now, to deal with the bill itself, I would like to refer you to the analysis which we forwarded to the minister, which was the basis for some of our discussions over the course of the last few weeks. On the basis of our concept of active offer, we present the document in both official languages. You will see in the introduction that the Société franco-manitobaine is generally pleased with the bill.

The bill meets the fundamental demands set out by the Société franco-manitobaine over the last, maybe, seven or eight years. However, with respect to the implementation process, the Société franco-manitobaine has a number of concerns on which I will elaborate a little bit later.

As I mentioned, we have had discussions with the minister and other government officials over the last few weeks. We met with Minister Ernst and his officials on June 18. At that time, we discussed the document that we have provided you with. First of all, we would like to thank the minister. We were of the opinion that he considered our representations with a very open mind. We agreed on a significant number of amendments to be made to the bill which will alleviate a number of our concerns. Unfortunately, we were not able to agree on some issues. I will elaborate on that, once again, a little bit later. But before talking about the shortcomings of the bill, I would like to point out the strong features of the bill.

The bill is a definite improvement as compared to current Part 3 of The City of Winnipeg Act. There are a number of checks and balances that have been incorporated in the bill and which constitute a definite improvement. For example, the designated area is now much larger. It comprises the territory of the old village of St. Norbert, and this is a definite improvement.

As far as the checks and balances are concerned, one of the flaws of the current Part 3 is that there is no enforcement mechanism. There is a definite improvement in the current bill. For example, a French language services co-ordinator would be appointed. There would be a mechanism for

complaints to the city ombudsman. There would be an annual report that would be filed by the City of Winnipeg with the minister; and after a period of five years, there would be a comprehensive review of the operation of the act. So we feel that all of these measures would certainly strengthen Part 3 of The City of Winnipeg Act.

As for the shortcomings of the bill, as I mentioned, we were able to agree on amendments that relate to a large number of our concerns. There are a few outstanding issues, one of them being the implementation process. The minister indicated that he would be prepared to propose an amendment which would set a deadline for the adoption of an implementation by-law by the City of Winnipeg. We are extremely pleased with that.

However, the implementation plan that would be passed by the City of Winnipeg would not be subject to any deadlines in the act itself. So, in other words, in theory, the City of Winnipeg could indicate in its implementation plan that it does not plan to provide bilingual signs before the expiration of a period of 25 years. I know that in reality this will probably not happen, but it is still a theoretical possibility. So we would very much like a mechanism that would ensure the implementation of Part 3 before a set deadline, a fixed date.

A second concern which we have deals with the wording of subsections 87.4(3) and 87.5(5). The interpretation that was given to us by government officials is that the City of Winnipeg would be required to offer services in the French language in offices located outside of the designated area, that there would be an obligation to that effect. Our interpretation does not confirm that unfortunately.

We are of the opinion that the city would have a full discretionary power to designate locations outside of the designated area where services would have to be provided in both languages. Therefore, we would request that the committee ask the legislative draftspeople who are present here today to look at this issue and to determine whether or not the wording of these subsections is not clear enough. We would feel extremely relieved if a clarification was made to the wording of these particular provisions.

Lastly, our third concern has to do with the date for the coming into force of Part 3. In the current bill, Part 3 would come into force at a date fixed by proclamation. We feel that there is a strong element of uncertainty in this mechanism, and we proposed an alternative solution to the minister during our meeting of last week. We proposed that the bill, that Part 3, could come into force at that same time that the implementation by-law would be passed by the City of Winnipeg, provided, of course, that the by-law is passed before the deadline set in the act. We would ask that the committee consider very carefully this proposal.

* (1720)

Once again we would like to express our thanks to the minister and to government officials for all the time they took to consider our representations. We feel that it has been an extremely productive process, and we hope that we will be able to solve the outstanding issues in the favourable matter. Thank you very much for your time.

Mr. Chairperson: Thank you very much, Mr. Jourdain.

Mr. Ernst: Thank you for your presentation. As you mentioned, we had a discussion last week with regard to a number of these issues, and I will be introducing, for the information of members of the committee, when we get to clause-by-clause consideration, a number of amendments. However, that is not going to deal entirely with our disagreement, yours and mine particularly.

In fact, I can say facetiously, I accused him of being a lawyer over the consideration of that particular clause because we are of the view, contrary to Mr. Jourdain, that it does say what he says it does not–in other words, that the city is obliged to provide services throughout the city, that it is only a question of what building it is provided in. As opposed to having the concern of Mr. Jourdain that they are not obliged, we are of the view they are. I guess we will have to see what happens, I suppose, ultimately. Our people are saying we do not need to make it any clearer; it is there for compliance by the City of Winnipeg.

The question of when it comes into force, we did have some discussion about that as well. It is our view that we would reserve the right to proclaim it on a specific date in order not to require legislative amendments in case a specific date mentioned in the legislation is not met. We will see the results of that later on when I have another amendment on a different matter totally, as a result of some changes that require further amendment.

Generally speaking, I think we are agreeable in most cases, Mr. Chairperson, but I wanted to advise the delegation that we still reserve comment on those two issues that he raised.

Mr. Jourdain: We simply wanted these concerns to be a matter of official record. If it is at all possible for the draftspeople to have a look at it and to see if clarifications could be done, then we would be pleased with that.

Mr. Neil Gaudry (St. Boniface): First, I would like to say merci to Mr. Jourdain for his presentation this afternoon, and I would like also to concur with the fact that he was not able to present his brief in French. I do not where the system has failed; maybe nobody asked for it, because I know personally I have had satisfaction when I have asked for a translation in the House. Probably somewhere along the line nobody asked for it.

I know during Question Period we always have translation there, like last week when I made my brief comments on Bill 78 I made them in French and translation stayed in the House without any problem. I guess there was somewhere we failed in having translation here for you people. I do not know who is going to apologize, but anyway it should have been there. I concur with your concerns. Merci beaucoup.

Ms. Friesen: Perhaps, could I just follow up on that and ask the Minister of Government Services (Mr. Ducharme) what the regulation is. I understand informally from the Clerk that 24-hour notice would normally be the issue. I know when other committees have gone around the province it has been provided automatically, for example in the constitutional committee. But do we have anything on record as a regular policy in the House?

Mr. Ducharme: You would have to ask the Speaker what the regulations are. It is not under the Government Services.

Mr. Gaudry: Mr. Chairperson, I have had it on five minutes notice. That is why I say I have been satisfied in getting translation.

Mr. Chairperson: Thank you very much. I think that clarifies the issue.

Floor Comment: No, it does not.

Mr. Chairperson: Well, what I can undertake as Chairperson of the committee is to raise it with the Speaker's office to ensure that when we have bilingual presentations that there will in fact be interpretive or translation services provided. Therefore, I say, I think the issue has been well presented and note taken by the Chair to raise it with the Speaker's office. Hopefully, in future this will not happen again. Thank you, Mr. Jourdain.

I understand that we had agreed at the beginning of the hearings of this committee to call again those presenters who were not present, and I will proceed to do so.

Mr. Chomiak: I believe our agreement was to call the speakers again at seven o'clock. I just want to make certain that those who are not present on a second call will still have an opportunity to appear at seven o'clock. That is my concern.

Mr. Chairperson: If that is agreed, then what is the will of the committee? Is it the will of the committee then to recess until seven o'clock? Agreed.

COMMITTEE ROSE AT: 5:28 p.m.