



Second Session — Thirty-Second Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE

on

LAW AMENDMENTS

31-32 Elizabeth II

Chairman
Mr. P. Eyer
Constituency of River East



MG-8046

VOL. XXXI No. 6 - 10:00 a.m., THURSDAY, 16 JUNE, 1983.

MANITOBA LEGISLATIVE ASSEMBLY**Thirty-Second Legislature****Members, Constituencies and Political Affiliation**

Name	Constituency	Party
ADAM, Hon. A.R. (Pete)	Ste. Rose	NDP
ANSTETT, Andy	Springfield	NDP
ASHTON, Steve	Thompson	NDP
BANMAN, Robert (Bob)	La Verendrye	PC
BLAKE, David R. (Dave)	Minnedosa	PC
BROWN, Arnold	Rhineland	PC
BUCKLASCHUK, Hon. John M.	Gimli	NDP
CARROLL, Q.C., Henry N.	Brandon West	IND
CORRIN, Brian	Ellice	NDP
COWAN, Hon. Jay	Churchill	NDP
DESJARDINS, Hon. Laurent	St. Boniface	NDP
DODICK, Doreen	Riel	NDP
DOERN, Russell	Elmwood	NDP
DOLIN, Hon. Mary Beth	Kildonan	NDP
DOWNEY, James E.	Arthur	PC
DRIEDGER, Albert	Emerson	PC
ENNS, Harry	Lakeside	PC
EVANS, Hon. Leonard S.	Brandon East	NDP
EYLER, Phil	River East	NDP
FILMON, Gary	Tuxedo	PC
FOX, Peter	Concordia	NDP
GOURLAY, D.M. (Doug)	Swan River	PC
GRAHAM, Harry	Virden	PC
HAMMOND, Gerrie	Kirkfield Park	PC
HARAPIAK, Harry M.	The Pas	NDP
HARPER, Elijah	Rupertsland	NDP
HEMPHILL, Hon. Maureen	Logan	NDP
HYDE, Lloyd	Portage la Prairie	PC
JOHNSTON, J. Frank	Sturgeon Creek	PC
KOSTYRA, Hon. Eugene	Seven Oaks	NDP
KOVNATS, Abe	Niakwa	PC
LECUYER, Gérard	Radisson	NDP
LYON, Q.C., Hon. Sterling	Charleswood	PC
MACKLING, Q.C., Hon. Al	St. James	NDP
MALINOWSKI, Donald M.	St. Johns	NDP
MANNES, Clayton	Morris	PC
McKENZIE, J. Wally	Roblin-Russell	PC
MERCIER, Q.C., G.W.J. (Gerry)	St. Norbert	PC
NORDMAN, Rurik (Ric)	Assiniboia	PC
OLESON, Charlotte	Gladstone	PC
ORCHARD, Donald	Pembina	PC
PAWLEY, Q.C., Hon. Howard R.	Selkirk	NDP
PARASIUK, Hon. Wilson	Transcona	NDP
PENNER, Q.C., Hon. Roland	Fort Rouge	NDP
PHILLIPS, Myrna A.	Wolseley	NDP
PLOHMAN, Hon. John	Dauphin	NDP
RANSOM, A. Brian	Turtle Mountain	PC
SANTOS, Conrad	Burrows	NDP
SCHROEDER, Hon. Vic	Rossmere	NDP
SCOTT, Don	Inkster	NDP
SHERMAN, L.R. (Bud)	Fort Garry	PC
SMITH, Hon. Muriel	Osborne	NDP
STEEN, Warren	River Heights	PC
STORIE, Hon. Jerry T.	Flin Flon	NDP
URUSKI, Hon. Bill	Interlake	NDP
USKIW, Hon. Samuel	Lac du Bonnet	NDP
WALDING, Hon. D. James	St. Vital	NDP

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS

Thursday, 16 June, 1983

TIME — 10:00 a.m.

LOCATION — Winnipeg

CHAIRMAN — Mr. P. Eyler (River East)

ATTENDANCE — QUORUM - 10

Members of the Committee present:

Hon. Ms. Dolin, Hon. Mr. Evans, Hon. Ms. Hemphill, Hon. Messrs. Kostyra, Lyon, Mackling, Pawley, Penner, Hon. Mrs. Smith and Hon. Mr. Storie.

Messrs. Brown, Corrin, Doern, Mrs. Dodick, Messrs. Downey, Driedger, Enns, Eyler, Harapiak, Johnston, Lecuyer, Manness, Mrs. Oleson, Ms. Phillips, Messrs. Orchard, Ransom, Santos, Scott and Steen.

MATTERS UNDER DISCUSSION:

Bill No. 50 - The Manitoba Intercultural Council Act; Loi sur le conseil interculturel du Manitoba.

Passed without amendment.

Bill No. 12 - The Water Rights Act; Loi sur les droits d'utilisation de l'eau.

To be considered further at a future meeting of the committee.

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MR. CHAIRMAN: Committee come to order. We are considering several bills in the Law Amendments Committee today, Bills 12, 14, 15, 17, 20, 26, 43, 46, 50 and 57. What is the will of the committee on how to proceed?

Mr. Penner.

HON. R. PENNER: Mr. Chairman, it would not be my intention to proceed on Bill 14. It was just referred to committee yesterday and there should be an opportunity for persons who may wish to make representations to be notified of its pending consideration by Law Amendments.

Similarly, Bill 17, the Honourable Member for St. Norbert has raised some questions about that bill that I am considering, and I would not call it for consideration today.

MR. CHAIRMAN: Is it agreed that we not proceed with 14 and 17 today? (Agreed)

Mr. Penner.

HON. R. PENNER: I believe that the Minister of Cultural Affairs has requested that Bill 50 be given consideration first. He has another obligation, and that's fine with me. I recommend it to the committee that we fall out of sequence and take 50 first.

MR. CHAIRMAN: Is it agreed that we do Bill 50 first? (Agreed)

**BILL NO. 50 - THE MANITOBA
INTERCULTURAL COUNCIL ACT**

MR. CHAIRMAN: Bill No. 50. What is the will of the committee on how to proceed? Page-by-page? Page 1—pass; Page 2.

Mr. Ransom.

MR. B. RANSOM: I just had a concern, Mr. Chairman, about the membership on the council; that the method of registering the groups is left to the council to determine how that should be done. It just causes me a bit of concern that this isn't spelled out a little more in the bill, or that it might be spelled out in some sort of regulation that's under a little more direct control by the Legislature, because we are being asked to fund this council.

Considerable stress has been put on the necessity of adequate funding for it, and it concerns me somewhat that the Legislature doesn't have a clearer picture of exactly how the council will be structured. Perhaps the Minister could make some comment on that.

MR. CHAIRMAN: Mr. Kostyra.

HON. E. KOSTYRA: Thank you, Mr. Chairman. As indicated in Section 4(1) of the proposed act, the council is comprising representatives from each registered ethnocultural group. The formal guidelines for registration will be a matter of determination by the council. I'm not concerned that the council is going to act in such a way to exclude or preclude representation from groups that ought to be recognized or registered.

I suppose one could make the argument that the government, you could make the same errors with respect to guidelines for registration as the community can. In fact, it will probably be argued by the community that they're in a better position to do that since the majority of the councils represented are going to be representatives of the various communities.

So I don't know to what extent or what the reason is for the concern. I don't have any, I feel that council will be able to form guidelines that are reasonable to ensure representation from the affected groups and if there was or did arise difficulties then that would be something we'd have to look at, but I don't anticipate any.

MR. CHAIRMAN: Mr. Ransom.

MR. B. RANSOM: Mr. Chairman, it's not a point that I'm going to make a serious issue of, but I raise it as a concern and I think that time will probably prove out that there will be difficulties arise because of the way this is structured.

Now they perhaps can be dealt with when they do arise, but I think it's best to structure things in advance to avoid problems rather than have to deal with them after they've arise.

MR. CHAIRMAN: Mr. Kostyra.
Page 2—pass; Page 3—pass; Page 4—pass.
Mrs. Hammond.

MRS. G. HAMMOND: Yes, on the remuneration of the members, and I had brought it up before, had the Minister definitely made a decision on whether there should or should not be remuneration, for the council will be approximately 70 people? I'm wondering if there is going to be, if there's any suggested amount?

MR. CHAIRMAN: Mr. Kostyra.

HON. E. KOSTYRA: Thank you, Mr. Chairman.
No, there's been no decision made with respect to any form of remuneration. I would expect, as the member could appreciate, Section 11 of the proposed act is nothing more than an enabling section. It doesn't require or mandate the payment of any form or level of remuneration, rather it just simply allows for that to be paid if it's determined that it needs to be paid, and as the member will note it requires approval by the Lieutenant-Governor-in-Council.

I am going to await the formation of the council, and their recommendations in this regard, and I would veiv such requests in line with what is paid other agencies of government for allowances.

I think the major concern would be in the area of travel for those individuals who do not reside in the City of Winnipeg and have to find means of transportation in order to attend meetings.

The other area where there may be concern, the Folk Council, itself, probably will not be meeting on a frequent basis, but they will be forming Executive Committees, or Committee of Council that may require further attendance, and I would see that an area that there may be some assistance provided, in order to ensure meetings. But the simple, or the short answer is that, no, there has not been any preconceived conditions, with respect to that, and I would await the appointment of a council, their recommendations, and then review that in the context of other boards, commissions, and agencies.

MR. CHAIRMAN: Mrs. Hammond.

MRS. G. HAMMOND: Yes, when I was referring to this, certainly out-of-pocket expense and travelling would be a consideration. I was really considering a per diem. The other question that I have is on the powers of council on 13; what staff do you consider is going to be adequate? You have a budget in the Estimates for \$139,200, and here it says that "the council may appoint such professional, technical, and other employees, as may be required? Would these be full-time employees that you're talking about?

MR. CHAIRMAN: Mr. Kostyra.

HON. E. KOSTYRA: Thank you, Mr. Chairman. The Budget that's been set aside for the council is one we would feel would be adequate, in order to provide the council with having a maximum of two employees; one executive-type secretary, which is contemplated in Section 14(1); and one general clerical support person.

So the funds that are set aside would be sufficient to provide that level of staffing and I do not see the need for any additional staff, other than those two, outside of use of a consultant or someone for a specific study that may be undertaken by the council from time to time.

MRS. G. HAMMOND: In 13(b), "acquire personal property and dispose of it." What will that entail?

HON. E. KOSTYRA: I don't know what that entails. As I understand, this whole section, Section 13, the three subsections are the type of sections that are included in acts dealing with agencies that are established by government that acquires, I don't know, I suppose that could include such things as typewriters, for that matter; they could buy a typewriter and then dispose of it, if need be.

MR. CHAIRMAN: Mr. Santos.

MR. C. SANTOS: Through you, Mr. Chairman, I'd like to ask the Member for Kirkfield Park her position about the reason why she is . . .

MR. CHAIRMAN: Order. The questions would be to the Minister responsible.

MR. C. SANTOS: Oh, okay. Thank you, Mr. Chairman, I waive my right to questions.

MR. CHAIRMAN: Order please, order please. Page 4 - Mr. Kostyra.

HON. E. KOSTYRA: Mr. Chairman, just one further point. It was pointed out to me by Legislative Counsel that, with respect to real property, there's a further limiting factor in Section 13(c) that can only be acquired or sold, leased or otherwise disposed of with the approval of the Lieutenant-Governor-in-Council, so there's a limiting fact with respect to any real property.

MR. CHAIRMAN: Page 4 - Mr. Ransom.

MR. B. RANSOM: Just with respect to Section 11 again, Mr. Chairman. Is it correct, on the Minister's part, that if the council recommends that there be remuneration paid to the counsel members that the Minister will approve that?

HON. E. KOSTYRA: Well, the short answer would be maybe. I don't know what requests may come from the counsel for a level of remuneration. If it was one that is reasonable with respect to the amount of time that may be required for the functioning of the council, then we would consider, but I can't give a definitive answer to that kind of question without knowing what the nature of the request is. I'd have to wait and see what kind of recommendation is made by the council, if any.

MR. B. RANSOM: Well, Mr. Chairman, that raises the question then of why are we passing, why are we being asked to pass into law something which the Minister won't or doesn't acknowledge is required. If the Minister

is prepared to say, yes, I think that this board should receive remuneration and we want the authority in the act to do that and we intend to do that in keeping with payments that are made elsewhere, then I believe that's acceptable, but if the Minister is trying to give the impression that, well, really we don't know whether this counsel should receive remuneration or not, then I don't think that it's proper to ask the Legislature to pass into law something on that basis. So, if the Minister really intends to pay remuneration, then I think he should simply say so.

HON. E. KOSTYRA: Well, this discussion I'm a bit surprised at, because this kind of provision in an act with respect to the activities of an agency of government is normal. I would suggest that there are normal provisions for enabling a section in an act to allow for remuneration if and when it's required and if it's approved by the Lieutenant-Government-in-Council. That's not a new provision in an act. If I'm tentative on the position of the government with respect to remuneration, it's with good cause because the council is not formed, it is not an ongoing government body that we've got a lot of experience with, and for me to say in the first instance that yes, we will pay remuneration for every member of the council at such a level, I think would be irresponsible and not in keeping with the role that I have as Minister in looking after the public good, because I would be setting conditions without really knowing the extent to which remuneration is required.

It's a simple enabling section that exists in other acts and one that is not surprising. If we were not to include it and there would be a request for remuneration, then it would require legislative amendment at some time in the future. I would suggest to the member that he look at sections of similar acts of agencies to see what is contained in there and he will note that the same section is contained in most acts that govern agencies or commissions of government. To suggest that we should take the normal rate of pay for these agencies is one that I don't understand, because I know that the rates of pay that exist for board members of agencies of government ranges all over the place, from a low probably of \$20 or \$25 per meeting, as I understand it, for one board that's under the responsibility of my department, the Film Classification Board, to levels of \$200 or \$300 per board meeting for meetings of some government agencies. I believe in the health care field where doctors are involved, they are paid at that level.

So I don't know which norm he's talking about because, as far as I know, there is no norm of remuneration for boards and commissions; they're based on the specific activities of the board, and the requirements of time and other factors. So I don't think this is a strange position for: (2) this to be contained in the act; secondly, for the government to be taking a position of awaiting the formation of the council to discuss that matter with the council.

MR. CHAIRMAN: Mr. Ransom.

MR. B. RANSOM: Can the Minister give an example of another act where there is provision for remuneration

of board members, and the board members, in fact, don't get remuneration?

HON. E. KOSTYRA: I will attempt to find such an example for him. I don't know of one offhand, but there are many such agencies of the government. I presume that there is one, but I will check into that and inform him as to whether or not there are any that have the requirement but do not pay.

MR. B. RANSOM: How does the Minister plan to assess, then, what the members should be paid if there is a request to pay that? It seemed to me that it was possible to make an evaluation of what was a comparable level of service on other boards but, from the Minister's comment, he seems to think that might be difficult. Can he give us an indication then of how he would intend to evaluate that request?

HON. E. KOSTYRA: I would intend to evaluate as we do other levels of remuneration for boards, as far as the amount of time that is put in. As the member may be aware, and I would be surprised if he wasn't aware, that some boards are paid on a per diem rate of so many dollars per year based on some expectation of those board members putting in a specific amount of time, whether it's one day a month or two days a month. I know that some boards pay \$2,000 or \$3,000 a year for the activities of those members; other boards pay on a specific per diem basis per meeting of \$25 per meeting or \$50 per meeting.

I would intend to look at the amount of time that would be expected of members if they, indeed, made such a request for remuneration, and then base it on that, whether or not there should be a flat per diem, or a specific rate per meeting. It would also have to be judged on the amount of time. If the meetings are of a very short duration of one or two hours, or if they're intended to be full day meetings; obviously one would not pay the same for a meeting that is intended to only last one hour, as against a meeting that may last eight hours. So there are a whole range of criteria, I think, that would come into play in determining what is an appropriate level, once we have established what amount of time is going to be spent on such activities, and if such a request is made.

MR. B. RANSOM: Some boards are paid according to time; some boards are paid according to the technical input that people make to them. Does the Minister just see this as a sort of a lay board, then, that would not be in the category of requiring technical input, and that it would, in fact, then be based on time that people put in?

HON. E. KOSTYRA: Yes, I would agree that this board is in the nature and the realm of lay boards, rather than a board with specific technical expertise required of it. The idea is to have lay representatives of the various ethnic communities so the determination of any remuneration would be on that basis, not on specific technical expertise that is required for the functioning of the board.

MR. CHAIRMAN: Page 4—pass; Page 5—pass; Page 6—pass; Page 7—pass; Preamble—pass; Title—pass; Bill be Reported—pass.

BILL NO. 12 - THE WATER RIGHTS ACT

MR. CHAIRMAN: What is the will of the committee for the next bill to consider? Shall we go through them in order starting with Bill No. 12? Is that agreeable? (Agreed) Bill No. 12.

Mr. Mackling do you have some preliminary statements?

HON. A. MACKLING: Yes, Mr. Chairman, I would like to indicate that I have had an opportunity to listen in the House to the contributions of the members who spoke on this bill during the course of the debate on second reading, and I listened to the comments that were made both constructive criticism and concern.

I also have had an opportunity of reading the submissions that were made to the committee. I was not present when the submissions were made, but I've had an opportunity of reading their brief, and I've had an opportunity of reading the response of the department and discussing the brief with the department.

I'm advised also that the department had extensive consultations with the Association of Irrigators of Manitoba prior to the drafting of the bill, after the drafting of the bill, and throughout have kept that association, who have a particular interest in this bill, fully informed.

I also want to say that I read with interest the comments of the Member for Lakeside, who drew to the attention of the House some degree of criticism on his part that I wasn't present when he was addressing his remarks on this bill. There was some discussion about that.

I want to point out, Mr. Chairman, that I have been in the House through many, many days when the bill was on the Order Paper and available for debate, and I was there present and wanting to hear news on this bill.

I don't determine when a member in the opposition is going to speak. If the member wanted my presence in the House certainly he could have merely adjourned the debate and I would have been present for his remarks and I would have enjoyed that. But to draw attention in the House to the fact that I wasn't present to hear his remarks when I had been present many, many times when the bill was stood, I have some concern about it and I just put that on the record.

Now in respect to the bill itself there are some amendments as can be the case in all relatively detailed legislation. There are some errors that occurred in the drafting and Mr. Silver, who was Legislative Counsel in respect to this bill, has prepared the amendments and there's a whole list of them there. I believe that they are technical in nature, some rather precise improvement in some of the wording in the bill. They don't really affect any matter of major principle that I am aware of, however, members may question on each of those, as they're introduced.

In respect to the submissions that were made, two significant areas of concern, I will be prepared to comment on either when we get to the sections or I could comment on them now, Mr. Chairman. I think perhaps, it might be preferable to comment on them when we get to the section, because I don't want to

take too much time of the committee in making commentary until we get to the sections of concern.

MR. CHAIRMAN: What is the will of the committee on how to proceed? Page-by-page until we get to the requirements that require changes?

Page 1—pass; Page 2—pass; Page 3 - Mr. Penner.

HON. R. PENNER: Yes, Mr. Chairman, I have an amendment for Clause 3(2). I move

THAT subsection 3(2) of Bill 12 be amended by striking out the words "or diverting" in the first line of clause (b) thereof.

MR. CHAIRMAN: Any discussion? Mr. Ransom.

MR. B. RANSOM: Yes, Mr. Chairman. I'm very concerned about this section generally, and this amendment even deepens my concern. If I might be allowed to address the entire section and what it says and how the amendment affects it. The section says that "no person shall, in any manner whatsoever use or divert water, unless he holds a valid or subsisting licence to do so."

Now, that means, Mr. Chairman, that a farmer, for example, who has two potholes on his property and wishes to divert one into another and make one out of the two, still confining the water entirely on that person's property, is not allowed to do so under this act, without a licence. Mr. Chairman, I think that is unnecessary and unacceptable. What the amendment does is remove the possibility that that could have been done, because under Section 3(2)(b), I suppose one might have said that diverting water for domestic purposes was that sort of action would fall under that category.

Now, I would like to know from the Minister if that is his intention, first of all, to say that no person may combine or divert water that is entirely within the property of that person?

HON. A. MACKLING: Mr. Chairman, I think the honourable member has pointed out a very valid concern, that it will involve the way the legislation is drafted and conceived; will involve the regulation of drainage. Now, in many instances, that drainage may be insignificant or inconsequential and a routine or perfunctory approval on the part of the department.

On the other hand, there may be significant - what might be called "potholes" - but significant areas of water, that although they're on private land, are in areas of recharge, in respect to ground water areas. We will then have an opportunity to influence the determination of drainage projects and I think that is important. What we can do is certainly monitor that very carefully, and if there is difficulty in that area, reconsider in future, the provisions of the act.

I know, for example, our conservation districts have, under active consideration every year, areas of pothole consolidation. I don't think there's any difficulty in those areas where the conservation district will communicate with our department, confirm the nature of the diversions and the nature of the consolidations, and providing that those changes will not be detrimental to the ground water supply or the recharge or other

significant matters of habitat, I see no problem. But it is true that in its wording, the act does provide for a blanket control over any diversions of water.

MR. B. RANSOM: Let's look at the definition of "diversion" or "divert." "Divert includes block, dam, impound, obstruct, interfere with, remove, dispose of, alter or change the course or position of, or disturb, whether wholly or partially, any water whether flowing or at rest." Now, if a landowner or an operator may not use or divert water unless he holds a valid and subsisting licence to do so, what you are saying by this act, is that a farmer may not go out in his fields in the springtime and dig a trench with a shovel to let water from one slough to another, without having a licence to do so.

A MEMBER: That's what they're saying. That's incredible.

MR. B. RANSOM:: Well, Mr. Chairman, the Minister says no. I would like the Minister then to show me where it is legal to do that, when one looks at the definition of "divert" and one looks at Section 3 of the act, I would like to know where it is legal for someone to do that. I don't want it based just on the assurance that some bureaucrat is going to overlook what he judges to be all right in his or her judgment; because what this is going to do is make lawbreakers out of hundreds and hundreds of farmers, and I don't think that, whether or not they're prosecuted, should depend upon the judgment of some bureaucrat, and I don't think they should be placed in this position. If that is not the Minister's intention, then I believe that he should make an amendment to the act that at least allows people to deal with situations, where the effect of the action is confined to the landowner's property, so that he's not diverting water off onto somebody else's land, that sort of thing, Mr. Chairman.

Now, I would like, also, to know from the Minister where he says, he spoke, I believe, of routine or perfunctory approval, which certainly indicates to me that he does expect that individuals are going to have to seek a licence to divert water; that's what the act says. How does he plan to enforce this? Are there going to be more staff in place? Has the Minister even really considered what this act is saying, and does he find it acceptable?

MR. CHAIRMAN: Mr. Mackling.

HON. A. MACKLING: Well, Mr. Chairman, the honourable member highlights the significance of this act. In the Turtle Mountain Conservation District, an area that is familiar to the member, what was considered to be an inconsequential agricultural development seriously affected a whole area in that conservation district. A man-made inconsequential trivial hand-shovel effort caused serious change to a water level in the whole area.

Yes, the act is concerned about any diversion of water. Obviously, there are diversions of water that are inconsequential; water that is temporarily on a farmer's field in the spring. Certainly farmers are going to build drains; that is not the intent and purpose of the act. It has to be considered in a common sense way.

One could, I suppose, interpret "divert" in a way in which, if you put an umbrella up you're diverting water flowing or at rest because it's blowing down. We could interpret legislation to be into the absurdity. That is not the intention of any member around this table, I'm sure, Mr. Chairman.

There is no doubt that there are areas of diversion that a farmer may contemplate, in his long-term interest, that we would want to look at because it could involve a significant effect on neighbouring land, and on drainage patterns within an area, because historically that has happened.

We have had major ravines developed by changing the course of run-off water in the province, and I've alluded to the one situation that was pointed out to me - I'm sorry, I said it was in the Turtle Mountain Conservation District, it was in the Tobacco Creek area. I apologize to the Member for Turtle Mountain. It was in the constituency of the Honourable Member for Pembina where this small, insignificant, man-made diversion took place with very significant consequences.

Mr. Chairman, obviously we're going to need to monitor that closely in the event that we need to refine that somewhat further; certainly I am prepared to do that. I don't think that there is any intention, on the part of anyone, to frustrate what is reasonable use of land, particularly by our agricultural community, certainly not to prevent regular needed drainage on farms. But, where that drainage does effect a neighbouring property owner; does effect municipal interests; does affect the ground water recharge; we want to be aware and we want to be interested, because water and the use of it is fundamental to the protection, not only of the individual farmer, but to the agricultural community as a whole.

MR. B. RANSOM: How does a person know when they should be applying for a licence, and when they shouldn't be applying for a licence?

HON. A. MACKLING: Mr. Speaker, I believe it's understood in the department that it'll be necessary, through the Department of Agriculture and through our conservation districts, to get out information to everyone who is a landowner, to let them know the requirements of the act, so that everyone can appreciate the importance of water and why it's necessary that, not only a neighbour, but that government that has responsibility for water knows about the proposal and can be assured that it doesn't have an environmental effect which would be devastating, or cause a problem that otherwise might have been seen by the person who wanted to divert, or dam, or otherwise use that water.

MR. B. RANSOM: Well, that's really not much help. It's not very elucidating, Mr. Chairman, to have that kind of answer from the Minister, because what the act says, at the moment, is that if you're going to divert water you must have a licence, period. But the Minister is saying that in some cases you're not going to have to have a licence; but that's going to depend upon the judgment of somebody in the department. But that doesn't help the individual person who's out there, and perhaps knows what the act says, perhaps knows they

have to have a licence. Are they going to risk breaking the law without knowing whether they are going to be prosecuted for it? Surely there is some way of writing the law so that it reflects what the government wants to do, rather than continually putting people in the position of technically breaking the law, but depending upon the judgment of bureaucrats, as to whether or not they're going to have a charge laid against them. Surely it is not beyond the ingenuity of drafters of legislation, and of legislators, to write that kind of provision into the act.

I have absolutely nothing against efforts of the government to try and undertake meaningful management of water; it's obviously an important resource. There obviously have been abuses in the management or the mismanagement of water and they must be dealt with, but I strongly object to the approach of throwing a blanket over everything and then lifting the corners of the blanket as the bureaucrats decide is appropriate to do so to allow people out from under it.

MR. CHAIRMAN: Mr. Mackling.

HON. A. MACKLING: Mr. Chairman, I appreciate the honourable member's concern for precision. I have that concern as well. Quite frankly, there may be ways in which, by regulation, we can provide greater precision to the requirements, but they are broadly written because it's hard to completely specify.

Now I know, for example, and I don't have a flowing stream, I don't have a place where I can impound water. I know, for example, in the Pembina escarpment, there are people who have within their own land opportunities to impound water. That may be highly desirable for them, but if that water were to be released suddenly onto a neighbour's property, it could have devastating effects. Regardless of the fact that it may seem like too all-encompassing to say that no one can dam and store water without a licence, it is important because it can have very marked effects on other property owners.

Now the honourable member says the legislation is too broadly worded. Yeah, I guess so, but we have many examples in our statutes of the same problem. I refer you, for example, to one of the statutes that we have to deal with very, very often in our courts, the Criminal Code and The Highway Traffic Act. You'll find within those two documents requirements that — (Interjection) — I'm sorry. Someone wants to add something to what I'm saying?

MR. B. RANSOM: He said too much regimentation.

HON. A. MACKLING: Thank you. I appreciate those affirmative comments. You will find wording, for example, that no one shall drive dangerously. Then there is an attempt to define what driving dangerously will include. The courts have to determine those things.

We can't conceive of every situation in legislation, and I don't fault the draftsmen and I don't fault the department for trying to find ways to specify all those things. But I tell you the clear intent of this Minister and this department is not to frustrate the valid interests of those who own private land on which there is water,

but we are concerned about those neighbours who have land and we're concerned about the totality of the effect on our environment in respect to the use of water.

It may be that by way of regulation we will be able to provide further refinements as we experience the workings of this Act, but at this stage my staff have not brought forward to me refinements that I could recommend to you. I bring forward, therefore, the act with the wording that it now has. We will look at that very carefully. If there are ways in which we can provide a clearer definition and exemption, I would welcome that.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: In this regulated society - some would say, regimented society, but that's a value judgment - there are literally thousands of regulatory statutes, federally and provincially, municipally as well. Yet the number of charges which are actually laid in courts are very, very few. Why? Because the way in which regulatory statutes are used in the main is that it provides the legal basis for inspectors to attend and to, as they do, discuss with people who are selling food or medical products or who are engaged in works, which may have environmental consequences of one kind or another, a problem which has come to their attention. They say, look, that is something that you can't do, or that is something that you need a licence for. They do not launch into prosecutions at the drop of a hat. They use the legal basis which is provided by statute in order to obtain conformity with the regulatory scheme.

The problem, of course, is one that is identified by the Member for Turtle Mountain that is one that is almost intractable; namely, that you cannot so define that you deal with every possible situation without, in fact, making the legislation virtually unenforceable and incomprehensible.

I just want to give an example. The problem that has been addressed particularly about the amendment to eliminate the words "or diverting water for domestic purposes." If one looks at the definition of domestic purposes, "domestic purposes" means the use of water obtained from a source other than a municipal or community water distribution system, at a rate of not more than 25,000 litres per day. Now supposing that on the farm in question, the person is diverting a stream that goes across his farm from one place to another, the diversion of which in a volume higher than 25,000 litres - let's say, 125,000 litres, because I assume that if 25,000 litres is not significant, 125,000 litres is - the farmer diverts the stream at the rate of 125,000 litres, but is only doing it to use for domestic purposes 25,000 litres. You see the problem, that although the use comes within domestic purposes, he is only using 25,000 and therefore hasn't offended the act as it's presently worded. He is diverting 125,000, and that 125,000 which would then, as the act is presently worded, not be contrary to the statute and could have very serious effects on one side or the other side of the property.

What would happen in a case where a person in the example used by Mr. Ransom wanted, in fact, to divert water where presumably, if this amendment passes,

being an exemption would require a licence is sometimes a simple phone call to find out whether the particular purpose in moving water from one pothole to another requires a licence, or indeed if it does require a licence, obtaining a licence of this kind is not a difficult problem, certainly not measured against the consequences that the Minister has spoken of where diversion of water can - and I've noted it from my law practice, not from my own avocation - cause considerable damage.

MR. CHAIRMAN: Mr. Manness.

MR. C. MANNES: One question on this section, and it's related at a distance to the line of questioning brought forward by the Member for Turtle Mountain. In the flatlands which I represent, of course, we do not have the pothole problem, but I'm wondering again under the definition of "divert" whether indeed this act would have any power at all over people in my area who may take extraordinary measures to protect their property during either large flood circumstances or local flooding circumstances.

I am wondering whether, for instance, those individuals who see slowly moving flood waters who may take the protection to do some damming along their own property or along a road allowance, No. 1; or No. 2, those people who may have localized flooding within their own farm yard, because of snow, who may cut a road and, therefore, change the natural flow; whether indeed they could be subject to penalty under this act.

HON. A. MACKLING: Well, Mr. Speaker, again, I think this act has to be administered in a way that will benefit people and not be a problem for people, by being arbitrarily picayune, or unnecessarily bureaucratic, or anything else; it's a regulatory act.

I refer the honourable members to a section which we will come to, and it's entitled "Regulations Section 26" and it says: "For the purpose of carrying out the provisions of this act according to their intent, the Lieutenant-Governor-in-Council" and so on and so forth.

Then if you look at Page 17, you'll find regulation (m) "respecting the storage, pondage, regulation, diversion or utilization of water for any purpose and for the protection of any source of water."

Mr. Chairman, as I indicated, I don't have the regulations here before you, but the intent of this act is to protect people in their continued use of water so that water will be available to them, and to protect water as a resource for the entire province. I think that, within the regulation section, we can do those things; we can spell out that on-farm drainage of excess water is appropriate, requires no formal licensing. I think we can do those things. If we can't, if this is too restrictive an act then, of course, I think I'll be obliged to come back to this Legislature and say we've got to say it, because the legislation isn't in accordance with what we intend. I believe that the legislation is drawn in a way in which we can do those things.

MR. CHAIRMAN: Mr. Ransom.

MR. B. RANSOM: Mr. Chairman, my understanding, as a layman, of our system of lawmaking is that people

are allowed to do anything, except as prohibited by law; and what this act does is prohibit everything, except as allowed by the judgment of the bureaucracy. While I recognize the importance of what is trying to be accomplished, I don't think that it is necessary to proceed to the extent that this act does. I don't think that it is unreasonable to think that in Section 3, subsection (2) that we couldn't include another section saying that subsection (1) doesn't apply to a person diverting water, the effect of which doesn't extend beyond the property in which the diversion takes place, or something to that effect; because there are people out there who sincerely believe that if the Legislature passes a law then it must make sense, and it must be obeyed, and they don't want to continually find themselves breaking the law.

So, surely it is not impossible to reflect the intention of the government by putting that into the act. Now, especially when someone looks at the penalty section, Mr. Chairman, which can result in people getting up to a \$10,000 fine; up to three months in jail; up to a \$25,000 fine if you happen to be a corporation, why is it necessary to go that far? Why can't we frame the law so that it reflects really what the government wants to do, and it gives the individual person a little bit of leeway in their behaviour before the law?

The Minister, I don't know whether he doesn't intend to respond to that.

HON. A. MACKLING: Mr. Chairman, someone was addressing me on a suggestion and I wanted to hear that suggestion, but I certainly did listen to the honourable member and I appreciate, and I agree with his general observation about the law.

I think it is clear that the intent of this act is not to frustrate the legitimate use of water. Now the concern is that the act might do that. It's been suggested to me that perhaps the members are concerned; I've read about the application of regulations. Most acts require regulations to spell out, in detail, the lesser factors involved in application of the principles that are embodied in an act, and this act is no exception, it does that, and I read the regulation section. Perhaps, as Legislative Counsel has suggested to me, if - and I'm amenable to that - to ensure that is clear, in Section 3(1) which says, with the subtitle "Prohibition against use of water," we could specifically provide for the reference to the regulations so it could read: "Except as in this act, or the regulations as otherwise provided, no person shall (a) in any manner whatsoever use or divert water, unless he holds, etc."

So it will be clear that the regulations do provide for the exceptions that spell out the common sense use or diversions of water that are not contemplated to require regulation under this act.

MR. B. RANSOM: Well, Mr. Speaker, that would certainly be some better, but I would like the Minister to undertake to examine whether or not there cannot be a saving section put in the act, because generally, if anything is available to the public, it's probably the act and not the regulations. If it's possible to put a section in, a subsection that reflects what the Minister really wants to do, then I think this is the place that he should do it. I would like his undertaking that he

will examine that carefully and, if possible, bring that in for amendment in the House; and, if that is not possible, then at least we will have his absolute assurance that it will be spelled out in the regulation, so that the public knows where they stand.

HON. A. MACKING: Well, Mr. Chairman, I agree with the honourable member that it is important that the public understands, and I will give serious consideration in the interval because it will give me an opportunity to discuss with the department and Legislative Counsel whether or not there would be a relatively easy way of providing for that clear indication that this is not to be used in a heavy bureaucratic manner.

So I will do that, but if that suggestion seems welcomed I will add that as a further amendment that can be moved. I think it would have to be . . .

HON. R. PENNER: At report stage.

HON. A. MACKLING: At report stage. We can do it right now, can't we? ". . . or the amendment, or as in this act or the regulations as otherwise provided." Is that the wording you have?

HON. R. PENNER: I would suggest that since there may be other amendments that the Minister wants to consider that that amendment be introduced at report stage with any other amendments that may . . .

HON. A. MACKLING: I could do that or we can do it right now.

HON. R. PENNER: There may be others.

HON. A. MACKLING: Oh, there might be, yes that's true, that's true. Okay, we'll bank them.

MR. CHAIRMAN: Mr. Ransom.

MR. B. RANSOM: A couple of specific questions then, Mr. Chairman.

Does this apply to municipalities, to any work that municipalities do? For instance, every time a road is built there is in effect a ditch constructed as well. Will each municipal work then, constructed by a municipality, require the municipality to apply for a licence to do so?

HON. A. MACKLING: Yes, Mr. Chairman. It's my understanding that our Water Services Department, our staff, do monitor that very closely now, because quite often road development, either is a deliberate intent in the planning or, as a result of the road development, involves some significant drainage factor or diversion of water.

MR. B. RANSOM: The Minister says that it is now monitored. Does the municipality now have to apply for a licence under the present act before they undertake construction of a road?

HON. A. MACKLING: Well, Mr. Chairman, I'm advised that the department does give authorization for works that involve drainage, and if a road has associated with

it a ditch that would involve drainage, it's my understanding that there would be a requirement to confirm with the department the characteristics and the adequacy of those works to satisfy the overall concerns the department would have in respect to that water.

MR. B. RANSOM: Do they now require a permit or a licence? Under the new act, will they require a permit or a licence?

HON. A. MACKLING: The department does now issue permits and, of course, there would be a continuation of that. Pursuant to this act there would be the requirement that authorization be given.

MR. B. RANSOM: How many applications would the department have received for construction under the old act? How many licences would they have issued? I'm not talking about exact numbers, but are we talking about hundreds?

HON. A. MACKLING: Yes, I'm advised 100 to 200. Now that's just a recollection, we don't have those statistics with us.

MR. B. RANSOM: So this then is no change from the present act?

HON. A. MACKLING: Well, I'm advised that there's, of course, a difference in reference to sections and so on, but basically there's no change in - I would suppose there might be a difference in form of the reporting and so on.

MR. B. RANSOM: Is the municipality going to have to behave any differently under this act than they did under the old act?

HON. A. MACKLING: Not that I'm aware of, Mr. Chairman.

It's my understanding that municipalities have been required in any diversions of water that they make to ensure that those diversions are in accordance with the requirements of the Government of Manitoba. Now I don't know how formal has been the authorization. I assume that there's relatively no change.

MR. B. RANSOM: Mr. Chairman, I believe if I recall correctly that under the existing legislation it is illegal for anyone to change the course of the flow of water. That has been in legislation for some period of time, but the response of the government has generally been that they haven't enforced that section.

On occasion people in the country would read that section of the act and say, well here it says you can't do that without the approval of the government, and they go to the government, and the government would say, well, we generally haven't dealt with that section, we haven't been enforcing it.

Now does the Minister intend, with the passage of this act, to begin to enforce the provisions that are in the act?

HON. A. MACKLING: Yes, Mr. Chairman.

MR. B. RANSOM: Is this going to require an expansion of staff in the department? Where will people go to apply, because immediately upon the passage of the act people are going to have to make application, inspections are going to have to be done and that sort of thing? Is the Minister contemplating any administrative change then to accommodate the act?

HON. A. MACKLING: Well, Mr. Chairman, I assume that the department are going to be bringing forward to me the requirements that will be involved, extra staffing, the extra processes. The act will be brought in on proclamation and I'm hopeful that when we do that we've prepared to deal with the extra administrative requirements that will be involved. If we're not ready, they'll tell me.

MR. B. RANSOM: Can the Minister give us assurance then that prior to the proclamation of the act that he will be undertaking an information program to inform municipalities, to inform the public what the new requirements of the act will be, and that the Minister will have in place the administrative set up to handle this, so that when people apply to get a licence that they're not going to be told that well we don't have enough staff and we can't handle it and it's going to take weeks, and weeks, and weeks to deal with the licensing? Can we have that assurance from the Minister?

HON. A. MACKLING: Well, Mr. Chairman, not being perfect, nor is my department perfect, I won't guarantee perfection. But I will indicate to the member that, yes, we will endeavour to communicate the requirements of the act and to facilitate all those who want to take advantage of rights that they now enjoy, or that they want to enjoy under the act.

MR. CHAIRMAN: Mr. Driedger.

MR. A. DRIEDGER: No, Mr. Ransom covered my points.

MR. CHAIRMAN: Mr. Orchard.

MR. D. ORCHARD: It's not worth haggling with the Minister about, Mr. Chairman.

MR. CHAIRMAN: On the motion of Mr. Penner that subsection 3(2) of Bill 12 be amended by striking out the words "or diverting" in the first line of clause (b) thereof. Is it agreed? (Agreed).

Page 3 as amended—pass; Page 4—pass; Page 5 - Mr. Ransom.

MR. B. RANSOM: Mr. Chairman, here is the situation in Section 5 which deals with the issuing of licences. Section 5(2): "Terms and conditions of licences. Every licence is subject to such terms and conditions as may be prescribed in the regulations and such further terms and conditions as may be required by the Minister."

I recognize the necessity to have some things covered by regulation, but this causes me some concern that the entire terms of the licencing will be done under regulation, that will not receive the usual sort of scrutiny that an act receives.

Secondly, of course, there is no indication here about the terms and conditions that will apply to the licence. There has been a lot of concern by people who have right to use water about the length of time, the term of their licence, and there was a recommendation in the Water Commission Report concerning the period during which a licence would be valid. I don't expect that the Minister is likely to change the fact that he's going to do that by regulation, but can he give us some indication at this time, what he's contemplating in terms of the length of time for which a licence is going to be issued?

HON. A. MACKLING: Mr. Chairman, the honourable member does reflect a concern that has been made known to me and I suppose been made known to a number of members of the Legislature. I know that the Honourable Member for Inkster, who is my legislative assistant, wants to say something further on this section. I know there are concerns on the part of those who were investing fairly substantial sums of money in irrigation equipment, want to feel that there is a long enough licence period, to know that in the amortization period, either for tax purposes or otherwise, they're going to be able to enjoy the licence long enough to get the full benefit from that investment. Certainly, we have to take that into consideration in the administration of the act. Now, I think, as I say, the Honourable Member for Inkster has been talking to me about this and he has a suggestion to make that I'm prepared to listen to, as well.

MR. CHAIRMAN: Mr. Scott.

MR. D. SCOTT: Thank you, Mr. Chairman. After conversations a couple of days ago and again this morning, with members of the irrigation group or irrigators, I have been persuaded that their rationale that they are asking for, in wanting some recognition in the act itself, of their status. I think their concerns are very valid - and I'm not going to propose an amendment right now - but I would like to be able to refer this back to the Minister, so that he can come forward with an amendment at the report stage, the same as we may be considering under Section 3.

It goes something along this line, that where the licences are for irrigation purposes, they be issued on a 20-year licence basis, reviewable every five years, and subject to the conditions, as may be prescribed in the regulations, and other further terms and conditions, as may be required by the Minister. This, at least gives them some standing in the act itself, rather than leaving it up to the whim of the regulations.

For the other bodies concerned on the other priorities, be it domestic, municipal, agricultural, industrial and other purposes, it's too difficult to try and set terms in an act. It would be too rigid with those potential water users, and I would recommend that the present Clause 5(2), perhaps be moved into a 5(3) position, saying that all other licences covering all the other priority groupings, with the exception of priority (e), which would have its own reference within the act itself.

I think if we took this measure, it would satisfy, not simply the demands but the situation that the irrigators are in, and that under the regulations can be the

conditions and under the regulations, as well, can be the terms and conditions for non-irrigation purposes. Because as I mentioned a few moments ago, those other purposes are just too variable to be able to tie into any specific time period, when you are dealing with individuals or corporations that are going to have very differing circumstances surrounding them.

So for the irrigation purpose, just to repeat, that I'd like to be able to have this referred back at committee stage for a possible amendment to the act, to be able to provide for 20-year licences, reviewable every five years for the irrigation users alone.

HON. A. MACKLING: Well, Mr. Chairman, I disagree with the Member for Inkster in his characterization of provisions in the regulations as just providing for - by whim - certain policy direction. I disagree with that very strongly, that the regulations to any act are law, and are not something that are trivially developed, but I do appreciate the argument that there is concern that within the act itself, as of right rather than by discretion, by decision of the government itself, that the Legislature makes that provision.

I say, I certainly think that that has some merit and I'm prepared to consider the drafting of an amendment that would provide for a greater certainty of tenure at the outset, for those who are making that kind of investment in irrigation equipment and certainly prepared to look at that.

MR. B. RANSOM: Mr. Chairman, the suggestion of the 20-year licence with a renewal at the five-year period, is one that I made to the committee the last time we sat, because it is the same sort of thing that is done in the forestry leases. It makes eminent good sense to do that. I am pleased to hear now that the Minister is prepared to consider that.

I am a little disappointed that he hadn't given it more careful consideration between the time that the committee last met and now, because it might have been a cleaner operation to be able to deal with it now. I don't care all that much, Mr. Chairman, whether or not that is in the act as long as the people have the assurance that the Minister is either going to operate that way or, at least, to look very seriously at doing that type of licensing and put that kind of renewal process in place. I think it would be of some considerable assurance to the people who are going to be using water.

Mr. Chairman, on Section 6(1), I have a concern here as well. In fact, I would like to propose an amendment if the Chairman is prepared to entertain a handwritten amendment. This section says that, "An application for a licence shall be submitted to the minister and shall contain or have enclosed therewith such information, particulars and plans as may be prescribed in the regulations and such additional information, particulars and plans as the Minister deems necessary."

Mr. Chairman, I really object to that last provision, "... and such additional information, particulars and plans as the minister deems necessary," because what that does is completely throw it wide open for any kind of provision again that the bureaucracy may wish to place on someone after they have already fulfilled what's required by the act and regulations. That means that

the person making the application never knows where they're at. I believe that if it can't be spelled out at least in the regulations, then it shouldn't be a requirement.

I would like to propose, Mr. Chairman, that Section 6(1) be amended by deleting all the words after "regulations" where it appears in line 4.

MR. CHAIRMAN: You have heard the motion. Is there any discussion?

HON. A. MACKLING: Yes.

MR. CHAIRMAN: Mr. Mackling.

HON. A. MACKLING: Mr. Chairman, I'm rather ambivalent, quite candidly, on the amendment. I appreciate what the honourable member says, and I agree with his concern about harsh or unnecessary regulation and additional requirements by the department. When it says "Minister," it's government.

I know with almost certainty that those words are there because the department is sensitive to the concern that perhaps there will be some factor that will arise for which there is not a specific in the regulation. Something will come up that was unforeseen, so there's has to be some way that additional information can be required. It is put there, I could use the words, probably from an overabundance of caution. I think that's the rationale for the department's recommendation for those words. It's not mine.

I am inclined to - well I'd better talk to my department. Can I just have a moment?

MR. H. ENNS: Mr. Chairman, perhaps while the Minister is speaking . . .

HON. A. MACKLING: I would like to hear what you say. It will just be a minute.

Mr. Chairman, I am not convinced by my department that we need the verbiage, and I would be certainly prepared to see it struck.

MR. CHAIRMAN: Mr. Enns.

MR. H. ENNS: Mr. Chairman, I was simply going to speak in support of my colleague's amendment. I thank the Minister for seeing the wisdom of that amendment, and I am pleased that committee will support it.

MR. CHAIRMAN: It is moved by Mr. Ransom that Section 6(1) be amended by deleting all of the words after "regulation" where it appears in line 4. Is that agreed? (Agreed)

Page 5 as amended—pass; Page 6 - Mr. Ransom.

MR. B. RANSOM: Mr. Chairman, this has a whole new provision - at least, I believe it's a new provision - whereby the Minister can direct that the applicant shall after submitting an application, publish or cause to be published in a newspaper notice, etc., and that there would be a public hearing before the Municipal Board.

Can the Minister give us some explanation of how he sees this functioning, and perhaps even some justification of why the applicant should be publishing

the notice in the newspaper, whether that's a standard sort of procedure that takes place with other hearings or whether that's something that's different in this case?

HON. A. MACKLING: I don't have an exhaustive list of examples that I could give, but I know that there will be individual applications where the work it's proposed, the diversion of water or the impoundment of water, can be fairly readily perceived to have a significant effect on the rights of others that enjoyed downstream benefits from the water that would otherwise be impounded or diverted.

When it's obvious that it would have an effect, then it would be only reasonable to require that the applicant bring that to the attention of people in the area that would be affected. I think that the burden of that shouldn't rest upon the taxpayers of Manitoba, but it should rest upon the applicant. It's out of a concern to protect others who might be affected by those applications that we have provided for that provision.

MR. B. RANSOM: Mr. Chairman, perhaps the Minister can tell me whether or not the notices published concerning hearings before the Clean Environment Commission, for example, whether those are published by the applicant or whether they are published by the Clean Environment Commission. It would be my understanding that they would be published by the Clean Environment Commission.

HON. A. MACKLING: Mr. Chairman, I'm advised - and I'm no expert on the operation of the Clean Environment Commission - I think the member is probably correct that the Clean Environment Commission does carry out that activity, but I see no reason why the applicant here shouldn't cover the costs of the expense.

I know that, for example, if you applied for a zoning variance, you have to pay for it, you have to pay for the publication of it. I think that's appropriate. Maybe we should look at the Clean Environment Commission to see if we should have to change that.

MR. B. RANSOM: A couple of further questions then, Mr. Chairman. How does the Minister see the decision being made as to when a hearing is necessary? Who will make the decision about whether the applicant has to go before the Municipal Board?

HON. A. MACKLING: Mr. Chairman, I think we're going to have to rely upon the branch itself to apply some guidelines that can be adopted. I really haven't got that technique blueprinted yet, but it's obvious that we are going to need that. Probably we can provide for that in the regulations. Certainly there will be reliance upon the expertise within the department to advise us on that.

MR. CHAIRMAN: Mr. Enns.

MR. H. ENNS: Mr. Chairman, I think the Minister is really stretching the patience and our good intentions to try to co-operate with the Minister in passing this very important piece of legislation. I want to indicate to honourable members opposite it is very important legislation, but I am getting increasingly disturbed by

the number of clauses in here that obviously don't have the - I don't wish to be unkind to the Minister - but either don't have his full understanding or what is even of greater concern is his wishy-washiness, for want of a better term, as to how he intends to carry out the different clauses.

Mr. Chairman, we're only on Page 6 of a bill that numbers some 20-odd, 18 pages, and we keep coming onto this question as to what precisely is it that citizens of Manitoba that are going to be governed by this act, what is their responsibility? We keep hearing from the Minister, well, we're going to have to rely on the good judgment of the department; we are going to have to rely on the bureaucratic decision-making as to whether this is required under the law or whether that isn't required; whether a licence is required or whether a licence is not required. Now we are talking about again the judgment of the bureaucracy whether or not a public hearing has to be held or whether it does not need to be held.

Mr. Chairman, I advise the Minister when in doubt or when not sure of what you want to do with an intended piece of legislation, a clause, then leave it out. Because you are putting on those persons, who will come under this law in my judgment and I think in the judgment of most reasonable people, an unnecessary area of greyness where they in good faith will not know how to respond under this legislation, as my colleague from Turtle Mountain has pointed out, nonetheless are subject to some pretty severe penalty sections should a department's or the Minister's attitude be less than understanding or kind about a violation that was incurred under these very wide-ranging clauses that do not spell out the particular responsibilities of the applicants.

It was said earlier that this is essentially a regulatory act. Okay, we in the opposition will accept that, but when the Minister cannot respond what responsibilities the applicant will have even when the regulations are published as to when he must apply for a licence; when a licence is not required; when he is supposed to hold a public hearing; when he doesn't have to hold a public hearing, Mr. Chairman, I think that is asking the user or the applicants that will come under this act for an understanding on his part and a lack of assurance on his part as to whether or not he can proceed with a certain project.

After all, a potential applicant who wants to follow the act, wants to make application for use of water in a particular manner, he firstly apprises himself of what the act says. He talks to the local responsible official from the Department of Water Resources and says, okay, what do the regulations say about doing this or that? He is advised. He is given presumably printed regulations that say, well these are the regulations, fill out your application and your application will be considered.

He should be able to, with reasonable assurance, know that if he can comply with those regulations that his application will be favourably considered. But throughout the act, Mr. Chairman, we are finding out that, notwithstanding filling out the requirements as stated by yet to be published regulations, there are all kinds of additional question marks as to whether or not the applicant has any assurance of whether or not his proposed use of water in this case will be acceptable

to government and to the department. He does not even in good faith know whether or not he - in this case he puts in an application for diversion or a particular construction or of some maintenance work. He presumably has filled the necessary application forms in. He may be at some level within the department told, that's fine, that meets all the conditions that are laid out by statute, by law, and you can proceed.

However, then for some reason, and this happens, it comes to the attention of a more senior person in the department or the Minister himself. Maybe it comes about because of a specific complaint within the community where the work is to be constructed. This comes after the applicant has been given an indication that he can proceed. After all, he has filled out a formal application. He may even be in the business of constructing that work, and then finds out that, no, that application really is not acceptable under this section. We have decided, I have decided that you have to hold public hearings; that you have to bear the costs of putting in the notices as prescribed in the act. Fine. The Minister says there are other areas of the law that that is the case.

We're not even taking issue with that, although I think there was issue made. Contradiction was pointed out with respect to the Clean Environment Commission, but what we are taking issue with is that the applicant is not sure at any time under several sections of this act whether he is prescribing to law or whether he is not.

HON. A. MACKLING: Mr. Chairman, the honourable member makes a very pretty speech about bureaucracy and rights and so on. You know, I respect his right to make that speech and make those points, but earlier on we were talking about petty - not petty, I shouldn't use that word - insignificant uses or diversions of water that will require no formality of treatment probably by the department, and the regulations, hopefully, will make that clear. But surely the honourable member isn't suggesting that there will never be applications come that have a significant affect on others; that has happened, Mr. Chairman. It's a matter of historic record it has happened; and it happened where someone, because there wasn't any regulatory control, did something and a great many people paid the consequences thereafter. What this act seeks to do is to make sure that people have a right to do things but, where the application of their rights could detrimentally affect others, that there will be an opportunity for those others to speak out.

I can tell you that within this province we've got obstructions that have been built on streams. No one knows exactly why they were built; some records have been kept, others we don't know.

I know, for example, that I was in southeastern Manitoba just last week - and the Honourable Member for Emerson, I'm sure, is very conversant with this - he will tell you that people out there are concerned about diversions of water that have occurred that were not authorized, they're unhappy with it. I can tell you that other honourable members can confirm that there are dams or dikes that have been built; again, I know of one in southeastern Manitoba. No one knows when, who, why they have an effect on others.

What this section provides for is some screening process so that the applications, that obviously will have no effect beyond the boundaries of a municipality, can be dealt with without formal application. But, say a municipality wants to make a major diversion of water outside of the conservation district, should the other conservation districts, or the other municipalities, as of right, have an opportunity to know about it and deal with it in a formal way? That's what this section makes provision for. It's not there to harass or make things difficult; it's there to protect rights, not to take them away.

MR. B. RANSOM: Mr. Chairman, is this essentially a provision for an environmental assessment and review?

HON. A. MACKLING: No, Mr. Chairman, I wouldn't characterize it as such.

MR. B. RANSOM: Well, the section just says that a public hearing shall be held before the Municipal Board, at which any person may make representation, either himself or through counsel, for or against the application. Now, that doesn't say that it's a representation related to how the project affects that person or their property. — (Interjection) — No. The Minister says, isn't that implicit? This could very easily be someone making representation on the part of waterfowl interests, for instance; that they want to have this kind of hearing which will become an environmental assessment and review process applying to drainage. Now, that's not necessarily bad in every case, Mr. Chairman, but it begins to raise questions also then. If the government is undertaking diversion of water, can someone from the public ask that a public hearing be held then on the action of the government so that they can make representation, as to the effects that it might have on waterfowl, for example?

I believe that if this is required for the individual person, then surely it should also apply to government, and is that the Minister's intention?

I echo the concerns that my colleague from Lakeside had expressed concerning not knowing when this process is going to be invoked; and surely, again, there is some way of being more definitive about when this process will be invoked because the way it stands, at the moment, it's just simply too obscure as to when it will be invoked. It certainly could be used by government as a harassment of some individual, if that was the choice of government to do. Now, nobody expects that the government is going to set out to do that, but there certainly aren't any safeguards here to protect the person who's making the application.

I think the Minister has to address this area in more detail than he has. I could perhaps also ask them a specific question, as well; did he give some consideration to having the Water Commission have this kind of hearing, rather than the Municipal Board. The Water Commission hasn't been noted for being tremendously active, whereas the Municipal Board usually has quite a heavy load of work to carry out. According to my reading of this section, as a layman again, it doesn't say, either, whether the Municipal Board shall direct that a licence be issued, or say that a licence won't be issued, or that the application be altered in

any way. Perhaps that is implicit in the section, but it certainly isn't evident to a layperson, such as myself, in reading this section.

HON. A. MACKLING: Mr. Chairman, the intent of this section is not to require that the Crown, or an agency of the Crown, has to go through the same hoops as an individual. That's been spelled out in the section of the act which we considered, Section 3(2). The act does not apply to a person exercising a right under any other act of the Legislature, or any act of the Parliament of Canada.

The provision of direction by the Minister for advertising is appealable if the person who is required to advertise say, you know, that's terrible that I should have to advertise my construction of this dam on this stream; or that I should have to advertise this diversion by ditch of the waters from this stream because it will affect my neighbours; that's not fair. Well, then he can go, pursuant to the provisions of this act, to the Municipal Board and appeal the decision of the Minister.

Now, if he's not satisfied with that, he can appeal to the Ombudsman. The Ombudsman Act applies to this act like any other act. He can appeal to 56 other members of the Legislature and say, you know, that department has called upon me to advertise this impoundment of water, or this diversion of water, and it only affects one or two neighbours, why should I have to advertise it? You know, sure, if it's a minor application, even though it may affect neighbouring property owners, if the department is satisfied - says the Minister, it's the department - that the neighbouring property owners are in agreement with the application, why would we require advertising? I think, you know, there would be flexibility to not require advertising, but where a neighbouring property owner is concerned, or may be concerned, because it may have a significant effect on the neighbouring property owner, then perhaps it should be advertised, so that the neighbouring property owner has a matter of right to object to the granting of the application because it would affect his property significantly. We think it's fair.

MR. B. RANSOM: What about my other question?

HON. A. MACKLING: What other question?

MR. B. RANSOM: I asked the Minister specifically about the Water Commission. Why it's the Municipal Board that's being given this authority instead of the Water Commission, and whether the Municipal Board will direct that a licence be issued, not issued, or be altered in some way?

HON. A. MACKLING: Well, Mr. Chairman, of course, we could look at restructuring the Water Commission Board to clothe it with the authority that would be required to be an appellate tribunal to deal with these matters. That board doesn't have those rights at the present time. It's an advisory board, and my staff felt it appropriate, when we talked about an appeal board, to refer to one that was already in being that does deal with appeals respecting land use.

MR. CHAIRMAN: Page 6—pass; Page 7 - Mr. Penner.

HON. R. PENNER: Yes, I have an amendment for 8(1). I move

THAT Section 8(1) of Bill 12 be amended by striking out the words "submission of each licence" in the second and third lines thereof and substituting therefor the words "submission of the application for each licence."

MR. CHAIRMAN: You've heard the motion, is there any discussion? Is it agreed?

HON. A. MACKLING: It was imprecise.

MR. B. RANSOM: I have a question. In Section 7(5), "if required by the Minister, an agreement in writing, made between and executed by both the applicant and the owner of the lands to be affected," how does that Minister see that subsection being applied?

HON. A. MACKLING: Mr. Chairman, there may be an application where someone will be proposing to do something that will be using some part of a neighbouring property owner's land. It may be that the neighbouring property owner has no objection to it, but short of seeing that agreement, the department would otherwise call upon him to advertise and to deal with it in a formal way of a hearing. If the neighbouring property owner has agreed, then there's no problem.

MR. CHAIRMAN: Page 7—pass, as amended; Page 8 - Mr. Penner.

HON. R. PENNER: Well, I'll let Mr. Ransom talk first. I've got amendments to 8(2) and 8(3).

MR. B. RANSOM: Here is another section in 8(5), where there is another opportunity for the Minister to exercise judgment, "licences have precedence in relation to one another according to such other factors, circumstances or considerations as the Minister may deem relevant." Again, it's, in my view, an undesirable sort of section to have. Now, it's similar to the one that had before and a cynical person could easily assume, and I suppose under the terms of the act, the Minister could even judge that a relevant factor was the colour of the party card.

HON. A. MACKLING: Now, how would you ever consider that?

MR. B. RANSOM: Well, Mr. Chairman, it should never be left open to any Minister to make that kind of judgment and, again, is this really a situation where it is not possible to spell out, by regulation, what can be done, so that the person understands where they're at? If it absolutely cannot be spelled out by regulation and it's necessary for the Minister to determine what other factors or circumstances are relevant, then we have to give it some consideration. Can this one also be deleted, Mr. Chairman?

HON. A. MACKLING: I agree with the honourable member. We joke back and forth about political cards, but I agree with him in the policy position he suggests. I think that we have to improve the wording there to

make it clear that it's factors, circumstances, or consideration, as the regulations may provide, or some words to that effect, so that it's clearly not some unknown or uncertain provision discretion that a Minister uses. I would rather have the precision itself.

MR. B. RANSOM: Then, Mr. Chairman, perhaps we could fashion an amendment at the moment, by saying that Section 8(5) be amended by deleting all the words after "another" where it appears in line 5, and substituting "as set out by regulation."

HON. A. MACKLING: Well, Mr. Chairman, I will leave it. There are other considerations, other sections that we're going to consider. I haven't got the opportunity here to review with Legislative Counsel the wording that might be most suitable to the department and to Legislative Counsel.

MR. B. RANSOM: Well, I appreciate the Minister's concern, but if it can be handled by taking an extra 60 seconds in the committee, it probably ends up using less time overall than by having to go through the process of amending it at report stage.

HON. A. MACKLING: Mr. Chairman, I don't disagree, but when I do take time to talk to my officials, then I'm accused of not listening or not being attentive and, you know, I'm sensitive about that. I think that we can have it either way. We'll take a few moments and I'll discuss it with staff and Legislative Counsel and see whether we can do that, or we'll have it the other way.

I have taken the opportunity to discuss it with staff and Legislative Counsel and the Attorney-General has offered some suggestions, and we thought how we would revise this is that the wording would be altered to delete the last two lines of the subsection so it would read: "have precedence in relation to one another as the regulations may provide." — (Interjection) — Yes, it's pretty well the same thing. Yes, that's the same, so if the Attorney-General will move that one, I will accept it.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: I move that Section 8(5) be amended by deleting all words after the word "another" where it appears in line 5, and substituting the words, "as the regulations may provide."

MR. CHAIRMAN: You have heard the motion. Is that agreed? (Agreed)
Mr. Enns.

MR. H. ENNS: Mr. Chairman, I just wanted to make a general observation in these matters and to tell the Minister that we are really concerned about his best interests in this case or any future Ministers as those of us who have been Ministers appreciate - and I'm not opposed and certainly have always felt and accepted the full role and the responsibility of the Minister and the Minister to exercise his full degree of responsibility - but in cases such as this, when you're dealing with a competition for licences or something like that, the Minister will appreciate not having these kinds of general

clauses in statute that then make it very difficult for him, indeed his office can be prevailed upon to say, now, you know, Mr. Minister, it says so right in the act, we have two or three licences competing for the same resource and we know because the act says, you can use your judgment and exercise your preference.

Where possible under these circumstances, it's best to so regulate that there is a clear choice that is made and one that is made as set out by regulation. It will, I assure the Honourable Minister, make his life easier in terms of being responsible for the actions of this act.

HON. A. MACKLING: Mr. Chairman, I appreciate what the honourable member says. I can assure him that when I reviewed the first draft of this act, I addressed my concerns to staff and to legislative draftsmen about the areas where discretion is left with the Minister, and I can assure you that the act - well, some might say suffered, but I would say was improved by my concerns along those lines. Now, obviously, there were other areas where I agree that there is still unnecessary use of ministerial discretion, in my opinion, and I have accepted them because I think that generally speaking I share those same concerns that the member talked about.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: Just before I propose the amendments, I just wondered if the Member for Lakeside's concern for the welfare of the Minister of Natural Resources is part of that family of advice - this will hurt me more than it hurts you. It sounded a bit like it.

I move, with respect to 8(2) the following amendment:
THAT subsection 8(2) of Bill 12 be amended
(a) by striking out the words "submission of a licence" in the second line thereof and substituting therefor the words "submission of an application for a licence";
(b) by striking out the word "thereof" in the third line thereof and substituting therefor the words "of the licence"; and
(c) by striking out the words "for the licence" where they appear in the first and second lines of clause (a) thereof and again in the fourth and fifth lines of clause (b) thereof.

This tightens up the language of the section.

MR. CHAIRMAN: You have heard the motion is there any discussion? Is it agreed? (Agreed)
Mr. Penner.

HON. R. PENNER: With respect to 8(3), I move
THAT subsection 8(3) of Bill 12 be amended by striking out the words "submission of a licence" in the second line thereof and substituting therefor the words "submission of an application of a licence".
This motion is consistent with the previous motions.

MR. CHAIRMAN: You've heard the motion, is there any discussion? Agreed? (Agreed)
Page 8, as amended—pass; Page 9 - Mr. Penner.

HON. R. PENNER: With respect to 8(6), I move
THAT subsection 8(6) of Bill 12 be amended by adding thereto, immediately after the word "precedence" in the second line 'hereof, the word "originally".

MR. CHAIRMAN: Is there any discussion? Agreed? (Agreed)

Mr. Ransom.

MR. B. RANSOM: Mr. Chairman, this is the page, Section 11, where I expect there are some philosophical differences between the members opposite and the members on our side of the House. I'll attempt to be brief in putting forward the case and some of my colleagues may also wish to speak to it because we regard it as an important issue.

This section says that where an estate or interest in the land is transferred any subsisting licence relating to the estate or interest expires automatically as of the date of the transfer unless the Minister upon the application of the transferee, transfers the licence to the transferee.

Mr. Chairman, it is our view that the licence should go with the land, that it simply creates too much uncertainty for the person buying the land, taking over the land and for the person selling it if there is not certainty that the licence will go with the land, because people can have tremendous amounts of investment tied up which depends entirely upon holding the licence, and if they don't hold the licence then the equipment is worthless to them.

This was an issue that was referred and considered by the Water Commission. I, when I was Minister of Natural Resources, directed the Water Commission to undertake a study relating to ground water and among the terms of reference was to look at the adequacy of the existing system for licencing uses of ground water. One of the recommendations of the commission after public hearing was that water licences should run with the land and should not be transferred separately from the title of the land.

So, this is not a position that is simply being taken by the members on this side of the House; it is a position that was taken by the Water Commission after public hearing. It is a position that will be taken by all of the people who are actually involved in investment related to the use of water and so, Mr. Chairman, I would move that all the words after the word "interest" where it appears in the third line of Section 11 be deleted and the words "shall be transferred to the transferee" be added.

MR. CHAIRMAN: Mr. Mackling.

HON. A. MACKLING: Mr. Chairman and colleagues, I certainly recognize the concerns of those who have made submissions, both in the House, and before this committee on the question. I suppose there is some philosophical difference if one considers that there's a concern that the ownership of the water vests with the Crown and not the owner of the land, but having said that, that's the only philosophical difference I see.

If the thrust of the honourable member's argument was that New Democrats don't believe in the ownership of land or don't believe that those who own land should be able to use water below the land, he is mistaken.

The department is concerned, and I have to be concerned, about the practical application of the act. There will be instances where people who own land - and they may own not just a few acres, they may own

hundreds of acres, or thousands of acres - have water rights attached to the use of that land. They may irrigate a small portion of that land, but the title to the land they hold may be much greater than the land that is chosen to be irrigated.

When the vendor comes to sell, he doesn't sell the 400 acres, or 460, or 640 acres he owns. He may wish to sell the 40 acres by the La Salle River, or the Seine River to someone who wants to buy that land for some intensive farm operation. It may be the growing of a specialty crop, strawberries, or whatever, that require a considerable water supply. In that event, there are going to be splits - splits in title. Having a provision that upon the sale of the land there will be a termination of the license will provide for the opportunity to deal with all of the ramifications of changes in ownership of land, where only part of the land is involved in the use of water. We could call them the splits, if you want to use a short term.

There's also the concern that people may wish to acquire the land primarily for the water rights and that becomes a concern that the water rights will be capitalized, but they won't be recognized as having been capitalized per se. The land will take on additional value because of the water rights. We will face concerns where people are trying to obtain water rights and making arrangements to acquire land simply in order to get the water rights.

My concern, Mr. Chairman, is that out of the provisions that this act makes, there will be an opportunity for the people of Manitoba to continually monitor, by control, the use of water in the province. There will be no absolute rights in respect to use of water by anyone. Those rights will be accorded pursuant to the decisions of the people of Manitoba through their government. The members may well say, well, but you say that there will be transferability, but what if we apply and the Minister of his department, somebody doesn't like us and they say no. Well, Mr. Chairman, there's an absolute appeal provision to the Municipal Board on any decision that the Minister makes.

In addition to that, as I've indicated earlier, in respect to any application of this act, any manifestation of the administration of government, the Ombudsman is there to report to the Legislature, any abuse of authority vested under an act, any injustice that may be considered to have occurred anywhere. In addition, we have 57 members of the Legislature who are conversant with the rights of the citizens under this act and would be prepared to speak out on that.

Now the honourable member says that persons will not know whether or not they're going to get the rights when they buy. Well, Mr. Speaker, we have many instances of sales now, where people have to protect themselves before they buy the land, if they require something - some right that has been used by the person owning that land, then in their agreement to purchase they make specific reference to it, because that is something that they need to carry on the activity for which they're buying the land.

I can refer you to numerous instances of this in government, whether it be under The Liquor Control Act, where someone buys a hotel. They buy a hotel, not simply because they feel that they're going to be able to make sufficient money out of renting the rooms, but they require the licence, a liquor licence, a beverage

room licence, or some other liquor licence. So, in their purchase, they make the purchase contingent upon their being approved for the transferability of that licence. It's not directly analogous, but it's similar.

People who operate trucking franchises in this province. When they sell the purchaser buys contingent upon approval of the transfer of licence. There are innumerable examples where there is a requirement for licence approval. When that occurs, the licensing authority has an opportunity to be satisfied that the intended use is in accordance with the original application, that there are no prior uses that have been waiting for an opportunity to buy but they couldn't afford to compensate the existing prior use. There will be factors where, as a result of the government being able to have a look at the application, there'll be an assurance that the water is being used in accordance with the best use of that land and the best priority for that water.

I can see no great difficulty in the section as it is. I can see greater difficulty if there was an absolute right that ran with the land, Mr. Chairman. I think that could pose long-term problems for people, as a whole, and so therefore I'm not unduly defensive about this, but I see no reason to change it, because I think not only is it necessary and advisable that the continuing interest of the people, reflected through the government, in the control of water be there, but it is also practically useful for the purposes I've indicated.

MR. CHAIRMAN: Mr. Downey.

MR. J. DOWNEY: Mr. Chairman, I want to speak in support of the proposed amendment by my colleague, the Member for Turtle Mountain. The Minister of Natural Resources, I believe, is demonstrating a lack of knowledge of the kind of people who, first of all, get into the irrigation business and the farm community. He should be made aware of the fact that when long-term investment is planned and made the individual who is making that long-term investment and plans is that some day wants to protect himself or herself against something going wrong, and the ability to recover or recoup that investment through sale of that business, whether it be farming or whether it be any other type of industry.

It is, therefore, essential that person, who is investing in irrigating in Manitoba, be given the assurance that when he goes to offer that business for many reasons, whatever they may be, if it is for sale, that they can be assured that investment will be able to be recouped through the sale, and the individual who may want to buy it would have water rights.

I think that's the kind of long-term planning and direction that anybody that enters into it should be expected to obtain, particularly from a government who has been priding themselves so much in this great job creation program of theirs. If you look at the irrigation industry, Mr. Chairman, that some of the biggest job opportunities in Manitoba can come through the investment in irrigation. It's a very intensive area for employment. If you look in the Portage la Prairie area where there are many many jobs provided for many many people in the vegetable industry, those people are providing a lot of jobs. If you are going to now

restrict them from transferring that water right, or that water right being transferred if they were to sell that operation to an oncoming or an incoming investor, then the whole thing could fall to pieces.

I can appreciate the irrigator's position when they put it forward, as I can appreciate any other farmer who is looking at investing in a long-term investment and this type of thing. It's a matter of giving an underlying assurance to those people in the private sector that there is somebody in the government that's concerned about them and wants to see that as a sound and worthwhile investment.

As well, Mr. Chairman, if the Minister would talk to the Manitoba Agricultural Credit Corporation, or any number of banks, they would tell you before they would look at investing in, or providing mortgage money for an irrigation setup, that they would have to have that water right to go with it. So it's a matter of confidence.

I just want to touch back again on the job creation part of it and that kind of stability that they need to provide those jobs. If you, Mr. Chairman, would just stop and think of the numbers of people per acre that an irrigated farm needs to produce, whether it be vegetable crops or whether it be corn or alfalfa, the number of jobs per acre, then I would think this kind of an assurance would be worthwhile for the government to consider because, in fact, it gives you long-term employment opportunities in that industry.

I would think that, Mr. Chairman, if you are to move in this direction with the water rights, as it relates to the land, then there would have to be a look at the quota rights, and the production rights to produce milk in a dairy barn; how that is transferred, as well, whether at the time of a sale that quota would be removed from that operation, if the Minister saw fit, if the government saw fit; the same in the broiler industry.

It's a matter of principle, as was pointed out, and you cannot, Mr. Chairman, remove that water right from going with land just at the whim of the government. As has been pointed out in the earlier sections of this bill, that you are planning a five-year review of it; that if that is to be put in place that there would be an automatic five-year review if that water right was not being used with that land, or abused. The government have the full right to remove that licence, or to make a change; but just to do it on a philosophical principle, one which does not make sense when it comes to jobs, does not make sense when it comes to investment confidence, I think, Mr. Chairman, is an irresponsible move by the Minister and he should seriously reconsider supporting this amendment as has been proposed.

MR. CHAIRMAN: Mr. Ransom.

MR. B. RANSOM: I'll yield to my colleague from Lakeside.

MR. CHAIRMAN: Mr. Enns.

MR. H. ENNS: Thank you both. Mr. Chairman, the Minister, and this government has an opportunity, in dealing with this important piece of legislation, to provide for stability and some long-term planning in an important segment of our agricultural industry. And it is, as has already been mentioned, it's an intensive

industry; it's a high employee industry; and he can do it by listening to, first of all, the study results and recommendations of the Manitoba Water Commission.

I want to emphasize that because it isn't just simply a matter of us, in opposition, taking a position that is at odds with this government and with this Minister. Those recommendations of the Water Commission were there because of extensive public hearings; they looked at the situation and they came to conclusion that it is in the interests of the success of that industry, and the appropriate use of the resources, both resources and, in this case, Mr. Chairman, they are not separable. Land and water in this case are not separable; they go together.

It's not a question like oil rights that you pump out of the ground and ship around the world; it's not a question even of quota rights, for instance, in the dairy industry. I can buy a quota and add to my barn if I'm already an existing producer, and that quota can transfer from the Red River Valley up to the Swan River Valley, etc., etc. This land and this water goes together.

If a licensee has a licence to draw water from the Assiniboine River, that water can only be used on the adjacent lands, can only enhance the viability of that industry; it can't be used any other way. Mr. Chairman, in the minute remaining to me, the best example I can give to you is that we have a similar clause in the agricultural Crown leases. They did not used to be transferrable, and ranchers and cattle people, when they used to buy, in fact, I cite my own case. When I bought in my own farming operation, in the Interlake area, I made the deal so far, and then I saw the senior civil servant, Mr. Chalmers at that time, and had an under the table arrangement with him that assured me

that the leases, the several thousand acres of leased land, would transfer if I, indeed, carried out that purchase. I wouldn't purchase the land without knowing that, because it took away the viability of the ranch.

You are preventing the businesslike transfer of land, in the vegetable industry, particularly, by this kind of a clause. I'll tell you what will happen, any perspective buyer, no perspective buyer will buy a vegetable farm in the Portage area until he has the authority - only in this case it'll be under the table, it won't be out in the open. It'll be under the table, he'll go and see the Director of Water Resources who's responsible for administering the act and say, look, I want to purchase Mr. Connery's farm, he's got these and these licences. I'm agreeable to making a payment that we've all arrived at, but your act says I don't have any water rights; I have to now depend on a bureaucrat whether I get water rights. So he goes first to get that assurance.

Well now, if that's the case, then why not put it in statute? Why not put it on the table, the way it is with agricultural Crown land leases? Why not put it there where it's above board; where there isn't room for under table dealings, and where you recognize that, by doing so, you can. By doing so you can, in a very substantive way, help this industry and help the future stability of this industry. I ask the Minister, between now and when we next meet, will he at least take a look at what is happening in his same department, under the transferability of agricultural Crown lands?

MR. CHAIRMAN: Order please. The hour is 12:30. What's the will of the committee?

Committee rise.