



Fourth Session - Thirty-Fifth Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE

on

LAW AMENDMENTS

42 Elizabeth II

*Chairperson
Mr. Bob Rose
Constituency of Turtle Mountain*



VOL. XLII No. 9 - 1:30 p.m., FRIDAY, JULY 9, 1993

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

Members, Constituencies and Political Affiliation

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	Liberal
ASHTON, Steve	Thompson	NDP
BARRETT, Becky	Wellington	NDP
CARSTAIRS, Sharon	River Heights	Liberal
CERILLI, Marianne	Radisson	NDP
CHOMIAK, Dave	Kildonan	NDP
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	NDP
DOER, Gary	Concordia	NDP
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	Liberal
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Clif	Interlake	NDP
EVANS, Leonard S.	Brandon East	NDP
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
FRIESEN, Jean	Wolseley	NDP
GAUDRY, Neil	St. Boniface	Liberal
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
GRAY, Avis	Crescentwood	Liberal
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	NDP
LAMOUREUX, Kevin	Inkster	Liberal
LATHLIN, Oscar	The Pas	NDP
LAURENDEAU, Marcel	St. Norbert	PC
MALOWAY, Jim	Elmwood	NDP
MANNES, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	NDP
McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda, Hon.	Assiniboia	PC
MITCHELSON, Bonnie, Hon.	River East	PC
ORCHARD, Donald, Hon.	Pembina	PC
PALLISTER, Brian	Portage la Prairie	PC
PENNER, Jack	Emerson	PC
PLOHMAN, John	Dauphin	NDP
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	NDP
REIMER, Jack	Niakwa	PC
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ROCAN, Denis, Hon.	Gladstone	PC
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VODREY, Rosemary, Hon.	Fort Garry	PC
WASYLYCIA-LEIS, Judy	St. Johns	NDP
WOWCHUK, Rosann	Swan River	NDP
<i>Vacant</i>	Rossmere	
<i>Vacant</i>	Rupertsland	
<i>Vacant</i>	The Maples	

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS

Friday, July 9, 1993

TIME — 1:30 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRPERSON — Mr. Bob Rose (Turtle Mountain)

ATTENDANCE - 10 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Manness, McCrae, Praznik

Messrs. Gaudry, Helwer, Martindale, Penner, Reimer, Rose, Ms. Wasylcyia-Leis

APPEARING:

Becky Barrett, MLA for Wellington

MATTERS UNDER DISCUSSION:

Bill 29—The Minors Intoxicating Substances Control Act

* * *

Mr. Chairperson: Will the Standing Committee on Law Amendments come to order. When the committee last met on Wednesday, July 7, we had completed public presentations on Bill 29, The Minors Intoxicating Substances Control Act. We are now ready to proceed with clause-by-clause consideration of the bill.

Does the minister have an opening statement for Bill 29?

Hon. James McCrae (Minister of Justice and Attorney General): Mr. Chairperson, I apologize for being four minutes late. It had been my understanding that we might be sitting at two as opposed to 1:30, but here we are.

Mr. Chairperson, before we heard from members of the public the other night, I had with me a proposed amendment that I was planning to bring. Right from the beginning, we, in our consultations with the police authorities and others, made it clear that imprisonment was not what was on our minds here for young people who use sniff, but a clear signal to them that the use of intoxicating substances is going to become, should become, illegal in Manitoba.

After all, drugs like marijuana, for example, are illegal, and as one of our presenters said to us, this is more dangerous than marijuana. So anyone who wants to argue that sniff ought to be legal obviously is arguing that marijuana ought to be legal and hashish and cocaine and all those other dangerous things that are out there, including alcohol, which is illegal for anyone under the age of 18. You cannot really have it both ways.

We believe that we ought to send a very strong message, not only to those who make this stuff available to young people, and I think everybody supports that, but a message needs to be sent to young people too that, not that they are not bad people as we discussed the other night, but that it is wrong to abuse yourself and thereby abuse society in doing so. So that is what we are doing.

As you may know, Mr. Chairperson, the Young Offenders Act sanctions are available under this legislation, or are made available to young offender courts, and the full range under Section 20 of the Young Offenders Act provides a number of possible sanctions, including imprisonment.

The amendment I had under my arm would have reduced the period of imprisonment from the two years allowed in the Young Offenders Act to quite a much-reduced term, but after listening further to representations and thinking about this further, it is my view that maybe we should do more than just say, it is not our intention to use imprisonment, and that we ought to put in the legislation, an amendment that would make sure that imprisonment is not one of the sanctions that ought to be used in these cases.

Many people have referred to these young people as victims, and in many respects they are. But we must not lose sight of the principle that in order for treatment to work, or anything else to work, there has to be a recognition that something is wrong with this behavior. Young people—I do not care how young they are—have to learn and should learn to be responsible for their behavior. That responsibility, once that recognition is made, the likelihood, the chance of healing, the likelihood

and the chance of any kind of treatment program that might be available now or might be available in the future, will have a better chance of working if there is that recognition that this behaviour is wrong, and No. 2, that these young people have to take some responsibility in terms of their own treatment and improving their lives.

So that is the point, and I am going to bring in an amendment in a little while to remove the sanction of imprisonment, leaving the remainder of the range of sanctions available to the courts there. Those include things like community service, probation orders, treatment, detention in a hospital where treatment can be made available, those kinds of things.

So I think that represents a very good balance from where we began and where we are now. We made it clear right from the beginning, and we have it in writing, that imprisonment was never our intention, and by virtue of this amendment, I think we would make that clear.

Mr. Chalperson: Thank you very much. Does the critic for the official opposition have an opening statement?

Mr. Doug Martindale (Burrows): I am not the official critic for this bill, but I am very, very interested in it, and I have been following this issue and lobbying on this issue for 13 years, which is not as long as some people in the community have.

A number of people in the inner city of Winnipeg became very concerned about this problem in the late '70s and got organized, got a group of community development workers, particularly from CEDA, the Community Education Development Association, and church workers and teachers and police officers together to try and do something about the problem of sniffing. They formed a coalition which eventually was called the Winnipeg antisniff coalition.

One of the first things they did was to pick at a hardware store on Main Street that they knew was selling sniff products to minors, and that got a lot of media publicity. I do not think it stopped the problem, and I think they realized there were far too many sellers to ever have an impact on the problem simply by picketing stores and trying to garner bad publicity for the store owners.

So they lobbied City Hall successfully to get a by-law to put restrictions on the sale of sniff products. It was always the position of the antisniff

coalition that minors should not be penalized. In fact, it was always the position of the police officers who were part of the coalition that minors should not be penalized.

* (1340)

Unfortunately, one of the chain stores took the city by-law to court, and, eventually, it was struck down. It was struck down on rather legalistic terms. It was found to be unconstitutional. I have read the judgment, but it did not have very much to do with sniffing. It had to do with federal jurisdiction versus municipal jurisdiction, et cetera.

We did look at other municipalities and other provinces to try and find better legislation. I know the—I believe it is The Health Act in Alberta, is an act that has been amended to try and combat this problem, but I do not know whether it is successful or not. I actually have it here. Maybe one of the reasons why it is not successful is that the fines are quite small. The maximums are larger, but the minimums are quite minimal. We did have a presenter who expressed, several presenters, actually, who expressed concerns about the size of the fines.

In the minority Legislature between '88 and '90, the member for St. Johns, Judy Wasylcia-Leis, did bring in Bill 91. It was passed and the government supported it. In fact, all three parties supported it, which I suppose is one of the good things about minority governments, is that it is possible to proceed by way of consensus and agreement. We were very hopeful, and the people who belong to the antisniff coalition and its successor group were very hopeful that her bill would be proclaimed and would become a good tool in combatting this problem.

Regretfully, after the 1990 election when the Conservative government had a majority, for what reasons we do not really know, the bill was not proclaimed. Now, the Minister of Health (Mr. Orchard) alluded to legal problems, and I believe that our member asked him to table the legal opinion so that we could all look at it and see whether we agreed. I am sure if we had that legal opinion we would have consulted our own legal counsel as to whether the alleged problems were serious or insurmountable. I think that if there was a problem with one section of Bill 91, we would have been willing to look at amending it, but we never had that opportunity. The government chose

not to proceed, and eventually the government brought in Bill 29, The Minors Intoxicating Substances Control Act.

We heard very interesting presenters, and most of the presenters had some familiarity with the problem in the inner city, or they were concerned about legal aspects of the bill. The stories that they told were very, very moving. In fact, three of the presenters one morning or evening that the committee sat disclosed that they had been sniffers when they were young, and I know all three of those individuals and I did not know that about them before. In fact, one of them was one of our former staff in the children's program at North End Community Ministry. He has gone on to become a solvent abuse counsellor at the Sagkeeng First Nation abuse treatment centre.

One of the presenters made a very interesting suggestion. I believe it was Donna Glover who said, why not let people declare that they have a problem and then find some healing for them. I suppose she is suggesting a model similar to AA, and I think there are many people who would voluntarily avail themselves of treatment if much more treatment and many more treatment centres were available, particularly in northern Manitoba as we have been calling for repeatedly.

I think her suggestion points out a fundamental difference between the government's approach and other approaches that could have been taken, particularly regarding minors. The analogy that I used in committee was that at one time being drunk in a public place was considered a moral issue and people were charged and penalized, and now we do have legislation but people are taken to detoxification facilities and allowed to dry out and are not charged with being drunk per se. I think the difference is that we have decided that drinking and alcoholism is really a health problem.

I think there are exceptions, if you look at this minister's drinking and driving legislation. I think fairly clearly the message is that it is morally unacceptable to drink and then to drive a vehicle, and that legislation has had quite a profound effect on society and people's drinking habits.

With solvents I think the approach to take with minors is to treat it as a health problem and provide treatment facilities. With adults and vendors, we think there should be penalties on selling, because clearly these people are exploiting young people

and we heard numerous examples of how that exploitation takes place and how widespread it is, and of vendors selling sniff products out of vehicles, out of stores that sell no other products except sniff products, and we think that those vendors should be penalized. So there are parts of this bill that we can live with, but there are parts that we believe need to be amended, and we will be bringing in amendments to change the bill in ways that we think would be much more appropriate.

I would like to ask, through the Chair, if the minister is prepared to answer questions.

Mr. McCrae: Mr. Chairperson, of course, that is what I am here for.

Mr. Chairperson: Does the critic for the second opposition party have an opening statement?

Mr. Nell Gaudry (St. Boniface): Mr. Chairperson, I would like to proceed clause by clause, like we were supposed to do this afternoon and proceed.

Mr. Chairperson: Thank you. I will request to proceed forward clause by clause. Is that the will of the committee?

Mr. Martindale: Mr. Chairperson, the minister agreed to answer questions, and I would like to ask him some questions.

Mr. Chairperson: Would it be acceptable to you to ask the questions as we proceed to clause by clause, so we can keep the questions specific to the clause?

Mr. Martindale: No. I would like to ask some general questions before we get started on the bill.

Point of Order

Mr. Edward Helwer (Gimli): On a point of order, Mr. Chairperson, I believe we are here to deal with clause by clause.

The discussion for the bill has gone through two readings in the House. The member has had considerable time to ask questions and to discuss the bill prior. We are here to deal with the bill clause by clause, and I would hope that we proceed with that.

Mr. McCrae: On the same point of order, the honourable member has asked for questions. I have agreed that I will answer them. My colleagues also would like to see us move to clause by clause. Let us move to clause by clause, and I will answer questions at that point.

Mr. Martindale: Mr. Chairperson, I would like to ask some specific questions on the minister's opening statement. I am sure the minister would be willing to do that.

Mr. McCrae: Well, let us get into Clause 1, and then we can do that. Is that the first one we start with?

Mr. Chairperson: I will rule that the member for Gimli did not have a point of order, but I would seek direction from the committee. Are you prepared to move into consideration of clause by clause?

Some Honourable Members: Clause by clause.

Mr. Chairperson: Clause by clause?

Mr. McCrae: Clause by clause, and I will answer your questions.

* * *

Mr. Chairperson: Just for your information, the bill is a relatively small one. There are only 12 clauses, I believe, and a number of amendments, so I would recommend that we consider each clause separately. That is agreed? [agreed]

*(1350)

As is normal practice, the Title and Preamble are postponed, consideration of those two items are postponed until all clauses have been considered in their proper order by the committee.

Clause 1—pass. Shall Clause 2 pass?

Mr. Martindale: I would like to ask the minister if the regulations will contain a lengthy list of products, and in that case, will it be similar to Bill 91, because I believe we are really talking about tens, if not hundreds, of different products here. I would like to know if the regulations here will be similar to Bill 91.

Mr. McCrae: Mr. Chairperson, you will notice, if you look at the definition of intoxicating substance, there are lots of them, but as has been suggested by many in the past, you outlaw one thing and the people will move to something else, so we wanted to have the regulation-making ability to deal with some future substance that might come along that we had not thought of in this bill.

The problem with Bill 91 was that it did not allow for the large number of potential innocent uses that might come along. That was one of the things that was wrong with the bill.

The honourable member—I wish he had not made some of the comments he made because he

should remember that out of that same session, all parties agreed to the knives in bars bill brought in by the member for Concordia (Mr. Doer). The honourable member should also recall that all honourable members agreed to a bill on handicapped parking brought in by the then member for Seven Oaks, now known simply as Mark Minenko. There were problems with that bill which got fixed.

There are problems with this one too, and we are attempting to fix it. It has taken longer because of the complexity of the problems, so I wish the honourable member would not do that when we are all supposed to be trying to deal with this issue in a nonpartisan way.

Mr. Martindale: I certainly understand that there were a number of bills that were passed in minority government. I think there were three private members' bills that got all-party consent.

I do not think that you are trying to proceed in a nonpartisan way. I mean, the government tabled the bill. We had no input, and there was no consultation with our critic before you tabled this bill, to the best of my knowledge. If that is not correct, the minister has the opportunity to correct me. [interjection] Well, it is certainly not nonpartisan in the sense that there is an all-party agreement here. We would not be amending it if we agreed with your bill.

Mr. McCrae: We can argue all day about this. I do not think we should. I say it is nonpartisan because the seed was planted by the honourable member for St. Johns (Ms. Wasylcia-Leis). Repeatedly, I have given her all kinds of credit and commendation, and I still do today. What a wonderful member that honourable member is. She has cared enough to bring in Bill 91, which we used to help us in the preparation of Bill 29. I mean, what more do I have to say to try to make this nonpartisan, and what do you have to say to this honourable member to make him stop being a politician for two minutes and work together and do something?

Mr. Chairperson: Shall Clause 2 pass?

Mr. Martindale: I agree with part of what the minister says. I mean, our concern here is particularly for children. I think all of us are concerned about the issue of solvent abuse. Where we differ is on how to tackle the problem.

I would like to ask the minister more questions about the regulations. Is it the case that you feel that most of the products are covered in the bill itself, and what is not covered will be in the regulations, or any new products that come on the market will in the future be covered by regulation?

Mr. McCrae: Mr. Chairperson, that is our feeling. The substances contained here in the bill cover the ones we feel to be the problem. If further substances should become known through subclause (f), we have given ourselves the power in the future to regulate those substances into the bill.

Mr. Martindale: Mr. Chairperson, I do not have Bill 91 in front of me, so I wonder if the minister could tell us how this bill and how Bill 91 differ when it comes to listing of substances.

Mr. McCrae: I am sorry. How do they differ?

Mr. Martindale: Yes, how do they differ? How did Bill 91 handle the listing of intoxicating substances?

Mr. McCrae: Mr. Chairperson, I have a side-by-side version here of our bill and your bill, if you want to call them that. I call them both our bill.

Added to the list in Bill 29 is the word "glues," and the word "cements" after "adhesives" as found in 91.

Later on in subclause (c), the new bill says: "fingernail or other . . ." The words "or other" are added to Bill 91, ". . . polish removers containing acetone, aliphatic acetates . . ."

Then these words are added, "or methyl ethyl ketone."

Then if you go down to subsection (e) which is new in Bill 29: "aerosol disinfectants and other aerosol products containing ethyl alcohol, and . . ."

Those words are added to Bill 91.

Then we made a change in subsection (f): "any other product or substance that is prescribed by regulation as an intoxicating substance for the purposes of this Act; . . ."

That is the part that I was talking about earlier, which is broader than Bill 91, and that is it dealing with this particular clause in terms of changes.

Mr. Martindale: So would it be the minister's opinion that Bill 29 is an improvement over Bill 91 in terms of identifying the prohibited products?

Mr. McCrae: Well, we feel that it is, especially because we have added the regulation-making

power. That was not in the previous Bill 91. Bill 91 seemed to be restricted more to vapours and stuff like that as opposed to things that you can ingest, which is included in 29.

Mr. Chairperson: Clause 2.

Mr. Martindale: Could the minister explain to us how the new regulations will be implemented? Will it be on the basis of recommendation from the police or the deputy minister, because I perceive a problem here.

I think the minister will appreciate that, and that is that people seem to have an unlimited imagination when it comes to finding new products to sniff or ingest. We know this from having to amend parts of The Liquor Control Act now, and we know this from presentations like that of John Rodgers from Main Street, who probably is one of the more knowledgeable people, you know, working with clients in the community as to what is being ingested, and it is constantly changing.

People are always finding new products. So is there something that can be done quickly? Is it going to take a month, or is it going to take a year? How will you identify the products and get to the stage of amending the regulations by Order-in-Council?

Mr. McCrae: I think this can be dealt with quite quickly when and if it comes up in the future. I mean, I think Inspector Lou Spado has his eyes on what is going on and his ear to the ground, and it would not take him very long to let us know of a new product out there that might be giving his department some cause for concern. At that point it can then be discussed with my department.

I referred to Inspector Spado, but he or the Winnipeg Police Department or any other police department could make a new substance known to us and analysis could be made of the nature of the problem and regulations passed, I would think, quite reasonably quickly.

Point of Order

Mr. Jack Penner (Emerson): On a point of order, the honourable member opposite is asking a series of hypothetical questions that nobody can really answer and really have no bearing on the bill as it is currently being considered. I would suggest to you, Mr. Chairperson, that you call the honourable member to order, and bring him into the discussion of the bill, if we are going to discuss the bill.

I would suggest to you, Mr. Chairperson, that we proceed with clause-by-clause consideration of the piece of legislation that is currently in front of us.

Mr. Martindale: On the same point of order, I feel that the member for Emerson (Mr. Penner) is really insulting me by suggesting that these questions are meaningless. They are not hypothetical. This legislation and this problem affect a great many of my constituents, a great many people in the inner city, almost all of whom are represented by NDP MLAs. This is a very important issue to myself and our caucus members, because it affects so many of our constituents. What if questions are still very legitimate and very important, and I think the member does not have a point of order.

Mr. Chairperson: Thank you. I thank you for your advice, Mr. Martindale. The honourable member for Emerson does not have a point of order, but I would ask the critics from the opposition party that we would like to proceed, that this committee was called at 1:30 and so far we have well over a quorum, and it is certainly the will of the committee to proceed expeditiously with this bill. So I would ask Mr. Martindale to have his questions brief and to the bill, please.

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Ms. Becky Barrett (Wellington): Mr. Chair, I am not an official member of the committee, but I am wondering if I could ask the minister a question?

* (1400)

Mr. Chairperson: I believe the rules are that any MLA is an ex officio member of the committee and can take part in the debate, in the discussion, but simply cannot vote unless they are a member of the committee. Ms. Barrett, to proceed.

Ms. Barrett: I would like to make a very brief comment before I ask the question, and the brief comment is that I do not understand why the government is in such a hurry, or certain members of the government are in such a hurry to pass this bill clause by clause. Is there something more important that you have to do on a—[interjection] We are discussing it clause by clause. [interjection]

Mr. Chairperson: Order, please.

Ms. Barrett: Mr. Chairperson, I will go to my question.

It is a general—well, it is not a general question. It is a specific question about a comment the minister made in his opening remarks, and I hope

the Chair will not rule it out of order, because it is in the part of the committee process where we discuss the bill and the minister's opening comments. This would be the only time I would have an opportunity to ask the minister to clarify something.

That is, the minister said, and I do not have the exact words, but he said something about the treatment programs that are now or might be available in the future, in discussing why he will be bringing in an amendment eliminating imprisonment as part of the bill.

I am wondering if the minister can tell us, very briefly, what kinds of treatment programs are currently available, what are planned and where they are located. The reason I am asking this question is I think it has a bearing on the implementation of this bill and its ability to be functional.

If the minister is talking about putting more focus on rehabilitation and treatment and less on imprisonment, which I, by the way, think is a very positive change, then it is even more important that we look at the treatment programs and how they will be affected and what the government is thinking in terms of those treatment programs.

Mr. McCrae: There are not sufficient facilities probably anywhere they have a sniffing problem, certainly, in western Canada. I do not know that we have more or less treatment facilities today than we had when Bill 91 was before us, and neither bill makes any pretense at dealing with the issue of treatment.

So it is my hope that in the future, we can find the resources to address more substantively than we do today the issue of treatment. There are some treatment facilities available, but I think, generally agreed, not enough.

Ms. Barrett: Does the minister know where those treatment facilities are located, or are there any treatment facilities located in the northern part of the province, where a major component of the problem that this bill is attempting to address occurs?

Mr. McCrae: There are facilities for adolescents at the St. Norbert Foundation, Sagkeeng and Vassar, Manitoba.

Ms. Barrett: So those are the three treatment programs in the province.

Mr. McCrae: Those are the ones which I am aware of for adolescents. There are adult treatment centres as well, and this would be—other than the information I can give today, I would have thought the Health Estimates would have been a good place to ask these questions.

As I say, this bill does not deal with treatment in the sense that the honourable member would like it dealt with. I know why she wants it dealt with that way, and I do not blame her. To the extent we have facilities available, they are available. To the extent we do not, we still have this bill that can assist in helping stop the supply of this stuff.

Ms. Barrett: I appreciate the minister's comments. Yes, the whole concept of treatment is a health issue, but it is again one of these examples where interdepartmental connections need to be made, I think, because this bill, especially if it is amended the way the minister is talking about amending it, hopefully will lead to more, not only shutting down the supply—but we all know, as has been stated, that there will be a supply found there.

Even if we shut down the supply completely today or upon proclamation of this bill, and no new cases were discovered or found, there would still be a huge problem of dealing with the individuals who currently are affected by this problem, and granted, the Health department will take a major role in it.

This bill still, it seems to me, is a major contributing factor in the whole attempt to deal with the problem. So I guess my question is, does the minister know if the government is looking at, now, additional treatment facilities, assuming that this bill just does not deal with shutting down the supply and, in fact, has more of a proactive, positive impact? Has he talked with the Minister of Health (Mr. Orchard) about working together to establish treatment facilities outside the city or even in the city?

The little bit I know about St. Norbert Foundation, for example, is it is a residential program. Its numbers are small. I am not saying it is not doing good work, but the point I am making is we need to connect the two kinds of concepts. I am wondering if work has been started in that regard.

Mr. McCrae: The work, Mr. Chairperson, on this bill has been work between Justice and Health, so there has been plenty of co-ordination between the two. I do not know what co-ordination there was

when Bill 91 came down. I can only say that we do not make any pretense here with this bill beyond whatever was being stated on Bill 91, except we think this one will perhaps work. We hope it will. There is the difference that we intend to make it an offence for a young person to ingest or inhale or do whatever it is you do with these substances.

The issue of health care, I have already answered that question for the honourable member. As long as we have a problem, you are never going to get me to say we have enough treatment facilities. We can talk about it all day. The fact is I do not think there are enough treatment facilities when we have this problem out there. We hope that whatever facilities we have, this bill might be a tool to help bring these people to such facilities to the extent that we have them, to the extent that we can.

One of our presenters said these kids do not want to be cured. This is a very different kind of addiction problem. I am told, too, that there is no cure for this. It is not a sickness in the sense that there is an instant cure. The kind of treatment has more to do with, not that you can take a pill or you have to be counselled and all of that. That is the kind of treatment I assume you are talking about.

An Honourable Member: Absolutely.

Mr. McCrae: Yes, well, I have answered the question.

Mr. Chairperson: Clause 2—pass. Shall Clause 3 pass?

Ms. Judy Wasylycia-Lels (St. Johns): Mr. Chairperson, I have an amendment to 3(1).

I move in both English and French

THAT subsection 3(1) be amended by striking out "where there is a reasonable basis to believe that the person will use the substance, or cause or permit the substance to be used, as an intoxicant".

[French version]

Il est proposé que le paragraphe 3(1) du projet de loi soit amendé par suppression de tout ce qui suit "18 ans".

Motion presented.

Ms. Wasylycia-Lels: Mr. Chairperson, I apologize for not being here at the start of the committee due to another commitment, and I understand my colleagues have done a great job of presenting some of our concerns.

We have some real concerns with this bill, and the amendment is here for very good reason. As the minister knows, Bill 91, the previous legislation passed three years ago by all parties in the Legislature, did not include any reference to charging the minor. It did not include any reference to putting the blame on the user. It did that deliberately.

* (1410)

After great consultation with many in the community, it was felt it would be pointless to include such provision for people who are already victimized. In fact, any attempt to go down that path would serve only to doubly victimize these individuals.

We were very disturbed that after waiting three years, the minister brought forward a new bill that did just what we were most worried about, include a provision to charge the users, to go after the victims, in our estimation. All the presenters whom we heard two evenings ago on this bill indicated some level of concern with such a provision. Most of them felt very strongly about it and have suggested to us that their concerns are so great, it might be worth reconsidering having this bill pass.

Many feel the damage would be so great that we would be doing a great disservice in seeing Bill 29 come to fruition. It is our belief that we must work very hard at doing whatever we can in this very serious problem in our society. It would seem, from all of the discussion, dialogue and research that there are two areas that must be attacked.

One is the question of prevention and treatment, and I will not go over that at any length because I understand my colleagues have cited those concerns. The other has to do with making it less possible to get access to solvents, making it less accessible for young people, a very legitimate and significant initiative, not the end of the problem, not the final solution, not a final answer, but very much a step toward dealing with the problem.

All whom I have talked to felt it was important, no matter what difficulties this kind of legislation entails, that even if it meant one young person's life was saved because they did not have access, could not purchase the solvent, then it would have all been worthwhile.

So this amendment is part of that whole approach we took leading up to Bill 91 and why we have registered so many concerns with Bill 29.

Section 3(1) is an attempt to create the possibility for vendors to have grounds upon which to avoid prosecution.

Section 3(1) makes it more possible, more likely that people who sell solvents, either deliberately or just as part of their regular business or retail outlet, will be able to find a way out of that kind of prohibition by arguing that there was reasonable basis to believe that the person was not going to use the substance for intoxicating purposes.

So this part of Section 3(1) has, in our mind, opened a whole can of worms, has put an incredible loophole in this whole issue of prohibition of sales to minors. It is creating all kinds of opportunities for retail outlets and individuals who sell these products wherever, in back alleys, out of their homes, in local grocery stores, that there is a basis for avoiding charges, avoiding prosecution.

So I am sure it does not come as any surprise to the minister or to members of the government that we bring forward this amendment. The other amendments I will be bringing forward attempt, also, to deal with that general concern, to move back to the notion of a general prohibition with some exceptions, and I certainly feel there is enough legal input and advice from law enforcement agencies that the new Bill 29 is no more enforceable than 91, and may, in fact, be less enforceable.

So we have waited three years for a bill that is not necessarily more enforceable and, also, contributes to an already serious situation facing many of our young people. We certainly had those views backed up by individuals making presentation two nights ago. We heard from those who work in the field and those who practise law who felt there was little in 29 that justified the three-year delay.

So we put forward this amendment with the hope that perhaps the minister might reconsider some of the changes he made to the original bill we all agreed to and ensure we do everything possible to help young people out of an addiction problem or keep them away entirely.

Mr. McCrae: Mr. Chairperson, my advice is that although extremely well-intentioned, the honourable member's amendment is what would tear the enforceability out of the bill. This is the guts, the meat and potatoes of the whole issue, whether this thing can work or not.

The member just wants us to go back to the way her bill was, Bill 91, which left, really, no room for a defence, which makes all kinds of innocent uses illegal and thereby tells the court to throw this legislation out and strike it down as not being appropriate, constitutionally, legally or any other way.

That is why I hesitate and I am sorry, but I have to decline to accept this amendment because if we did, we might as well just all quit and go home right now.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Mr. Chairperson: The amendment is accordingly lost.

Ms. Wasylycia-Lels: Mr. Chairperson, could we have a recorded vote, please.

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

Yeas 2, Nays 6.

Mr. Chairperson: The amendment is lost, Nays 6, Yeas 2.

Shall Clause 3 pass?

Ms. Wasylycia-Lels: Mr. Chairperson, I have another amendment.

I move

THAT subsections 3(2) and (3) be struck out and the following substituted:

Exceptions

3(2) Subsection (1) does not apply

(a) where the person under 18 years of age presents the written consent of his or her parent or guardian, which consent shall contain the address and phone number of the parent or guardian;

(b) where the intoxicating substance is given, sold or delivered simultaneously with and as part of a kit used for the construction of model airplanes, model boats, model automobiles, model trains or similar models;

(c) where the intoxicating substance is sold, given or delivered to a person under 18 years of age for use in an adult supervised youth organization;

(d) where the intoxicating substance is given, sold or delivered to a person under 18 years of

age pursuant to the written direction or prescription of a duly qualified medical practitioner or dentist; or

(e) where the intoxicating substance is to be used as a fuel source and is placed directly into the fuel reservoir of machinery or equipment.

Written consent to be kept

3(3) A person who gives, sells or delivers possession of an intoxicating substance to a person under 18 years of age who presents the written consent of his or her parent or guardian shall keep the written consent for a period of 6 months and make it available for inspection by a public health inspector or a peace officer.

Sale from self-service display prohibited

3(4) No person shall sell or offer to sell an intoxicating substance from a self-service display.

[French version]

Il est proposé que les paragraphes 3(2) et (3) du projet de loi soient remplacés par ce qui suit:

Exceptions

3(2) Le paragraphe (1) ne s'applique pas dans l'un ou l'autre des cas suivants:

a) lorsque la personne de moins de 18 ans présente le consentement écrit de son père, de sa mère ou de son tuteur, lequel consentement doit indiquer l'adresse et le numéro de téléphone du père, de la mère ou du tuteur;

b) lorsque la substance intoxicante est donnée, vendue ou livrée comme partie d'un ensemble utilisé pour la construction de modèles réduits d'avion, de bateau, d'automobile, de train ou de tout autre modèle réduit;

c) lorsque la substance intoxicante est vendue, donnée ou livrée à une personne de moins de 18 ans pour une utilisation supervisée par des adultes dans le cadre d'un organisme de jeunesse;

d) lorsque la substance intoxicante est donnée, vendue ou livrée à une personne de moins de 18 ans conformément à une directive écrite ou à une ordonnance d'un médecin ou d'un dentiste;

e) lorsque la substance intoxicante doit être utilisée comme carburant et est placée

directement dans le réservoir à carburant de machines ou d'équipement.

Consentement écrit à conserver

3(3) La personne qui donne, vend ou livre une substance intoxicante à une personne de moins de 18 ans qui a présenté le consentement écrit de son père, de sa mère ou de son tuteur doit garder ce consentement pour une période de six mois et le mettre à la disposition d'un inspecteur de la santé publique ou d'un agent de la paix pour examen.

Interdiction de vente à l'étalage

3(4) Nul ne peut vendre ou offrir de vendre des substances intoxicantes sur des étalages accessibles aux clients.

* (1420)

Motion presented.

Ms. Wasylycia-Lels: Mr. Chairperson, again, we remain concerned about Bill 29 for two major reasons, No. 1, the intent of this government to charge minors and to victimize them even further, and secondly, the loopholes for retailers to avoid prosecution.

This is not just an opinion from members of our caucus. This was stated many times over by those at committee the other night. This has been suggested by police officers here in the city of Winnipeg, in the city of Thompson, in Portage la Prairie and other municipalities throughout the province of Manitoba.

Concern has been expressed that, in fact, the elimination of this section which I have just included as part of my amendment, something that was in Bill 91, will mean that vendors and odious individuals, to use the words of the minister's own departmental officials, who sell to young people will have all kinds of opportunity, all kinds of defence, to avoid being prosecuted.

It is the combination of Section 3(1) as the minister has presented to us with Section 8 which creates that kind of enormous loophole in the bill, an enormous opportunity for anyone in the field to get out of the charge.

Mr. Chairperson, the member for Rhineland suggests that my amendment or the old Bill 91 makes an even bigger loophole and opportunity for vendors to get out of prosecution. I suggest to that member and everyone else that based on input and advice we all received the other night and based on comments made by the police themselves, in fact

the provisions under Bill 91 made it a more enforceable bill.

It clearly is more enforceable because it makes for a strict prohibition and then allows for exceptions which are clear cut, which have to be documented, which provide for all kinds of opportunity for the defence of the accused, and that we must juxtapose against the new provisions and the new arrangements outlined by the minister in Bill 29, which basically makes it possible for anyone to make a case, to assert to claim that they had reasonable basis to believe that the young person was not going to use the substance for intoxicating purposes.

That is subjective; that is wide open. It is open to judgment. It is open to personal interpretation. It is open to all kinds of circumstances. There is nothing clear cut about it and no guarantee that we will be able to crack down on a problem of selling solvents to young people under this Bill 29. We heard a lot of talk and a lot of comment the other night about unscrupulous vendors, those in back alleys and in corner stores and in homes who deliberately buy the stuff in bulk and repackage it and sell it to young people, either to make money, to make profit off these vulnerable young kids or to trade in sex or whatever. All of those people will have told us and will continue to tell us that those kinds of vendors know the law inside and out, and they know how to get around it.

They will know exactly how to make a defence indicating that they believed a young person was not going to use this stuff for intoxicating purposes. We did not talk so much the other night about the honest retailer in our community, the bulk of those people that would be affected by this legislation. This provision in fact does nothing in terms of preventing a young person from getting access to solvents.

I want to give an example just to make that point, and maybe the minister could help clarify how this bill is going to help this situation.

Apart from a lot of the kids we heard about the other night who are in very difficult situations economically and socially, we know there are a lot of young people who try sniff on an experimental basis. These kids come from all over the province. They do not come from depressed areas. They do not just come from the inner city. They do not come from northern reserves. They come from

suburban, well-to-do neighbourhoods in our city and in our province.

A number of years ago, and the minister may recall this, a young boy died from experimenting with a sniff product on a first-time basis. I believe it was glue, and it involved using the method of a plastic bag and inhaling from the plastic bag. I guess he probably suffocated instantly or maybe even experienced sudden sniff syndrome that we heard about the other night. At any rate, it was a kid in a well-to-do neighbourhood, well dressed, who went into a store and bought some glue and went out and tried it. Unfortunately, that kid died from that first-time experiment with a sniff product.

That kid goes into a store. He has been into the store many times in his neighbourhood, and the store owner knows him, knows the family. This kid has always been a good, upstanding member of the community, is well behaved, good mannered, polite, courteous, a good student, active in sports and other things in the community. The store owner is not going to question the wisdom of this person buying the sniff, is not going to guess for a moment that he was going to use this product for sniffing it on a first-time basis.

Under Bill 91, that store owner would have had to take the necessary steps, would have had to ask that kid for a note from the parent or guardian or met one of the other exceptions outlined in the original bill, and that kid would probably not have tried a sniff product on an experimental first-time basis. That young person may not have died, may still have been with us today.

This bill, these changes under Bill 29, will not address that problem because it means that it is up to the discretion of the store owner. He is going to be able to argue that this is a kid who has been in there buying stuff before. He has been in with his parents. He had no reason to believe that this person would use this substance for intoxicating purposes. You would think, had that held up in court, and if not, one has to question the wisdom of a bill that does not take into account that kind of situation. So why leave it up to chance? Why put a retailer in that kind of predicament? Why appear to be violating the rights of individuals in our society? Why not create a situation where it is clear these are the requirements, these are the specifications that must be met, these are the steps that must be taken?

Would we not be a lot further ahead with that kind of a clear-cut piece of legislation as opposed to one that leaves it wide open and allows for this kind of defence that you can drive a truck through. We are amending, proposing an amendment to Bill 29, to put back into this bill that strict prohibition outlining the exceptions to the rule so that it is clear, it is understood.

This bill also puts back into our antisniff legislation an important provision that has been taken out of Bill 29. It did not receive much comment the other night but was there for good reason, and that is the requirement that sniff products not be on self-service display, not be out in the open. I could imagine that that was eliminated from the legislation because of a fairly impressive major lobby from the business community, based on the submission from the chamber of commerce. I would have to ascertain that that viewpoint and indicating—[interjection] Yes, just for the minister's information, the chamber was not here making a presentation in person but actually presented a brief. They outlined some concerns we expect to be there in the business community, and that is the numerous products that are involved and the problems it creates for retailers.

We admit problems are created for retailers, for any kind of legislation that you take serious and you want to do its job, but it is not beyond question. It is not out of reach; it is not something that is impossible for retailers to do. In fact, we had—although he could not be here for our committee hearings, we had some discussion with the pharmacist of Broadway Pharmacy who has probably been a leader in terms of retailers trying to get some action on this whole issue and trying to be a very responsible businessperson.

* (1430)

He felt, in fact, that this was one of the greatest tragedies about Bill 29, that that section had been eliminated from the bill. He has taken steps to, every time he hears about the latest sniff product of choice on the market, make sure that that product is not out there in self-service display cases and has found it not to be impossible, not unreasonable. He feels that is a small price to ask retailers in our province to do, because it does mean less access for young people. You just make it that much harder for kids to get access to these products and

try it either on a regular basis or on an experimental basis.

So we would like to see those provisions put back into the bill so that there are some teeth in the bill so that we can actually get serious about restricting access to young people to sniff and solvent products.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: No.

Mr. Chairperson: The amendment is accordingly lost.

Ms. Wasylycia-Lels: I would like to request a recorded vote, please.

Mr. Chairperson: A recorded vote has been requested.

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

Yeas 2, Nays 7.

Mr. Chairperson: The amendment is lost.

Clause 3—pass; Clause 4—pass; Clause 5—pass. Shall Clause 6 pass?

Ms. Wasylycia-Lels: I do not have an amendment for this clause, but I do have a couple of concerns and questions for the minister.

A number of presenters the other night expressed a concern about the fine structure. One person in particular made the suggestion that we should, in fact, be looking at two things: one, a minimum fine which is in The Liquor Control Act; and also, a much heftier fine on all counts for individuals, corporations, for first and second offences.

Arguing that this bill and even Bill 91 was hard to enforce, and therefore the police were not much further ahead at being able to get at these dubious, unscrupulous vendors who deliberately get into this business to make money or trade in sex, they felt that probably the only way left without some other way to make this bill more enforceable was to actually increase the fines and make them so steep that retailers and individuals would think twice before getting into the business.

I think that is a legitimate, it is a good suggestion, you know, it has legitimacy. It makes some sense if there is little else left in the bill that gives us reason to believe we are going to be able to get prosecutions out of the people who sell to minors.

I think the suggestion for having a minimum fine also made some sense, because based on some experience, individuals suggested that the kinds of fines that get handed out on a first-time basis or for first-time offenders are often so small as to be a licence to go and do it again. It is just a slap on the wrist and it does not make any difference, and so they take the risk.

So both were good suggestions. I have not brought forward an amendment because clearly this bill, and I have to give credit to the minister, has fines in it that are steeper and harsher than the fines that we had proposed in Bill 91. I am not an expert in the field, and I do not know what impact minimum fines have or whether the amount of the fine has any bearing in terms of an individual's or a corporation's behaviour. I also have a concern with jumping right into hefty fines and minimum fines, because I want to be consistent with my whole approach to this area of legislation, and consistent at least with Bill 91, which was an attempt to not just focus on those unscrupulous individuals, but to somehow have in place mechanisms for all retailers who have sniff products as part of their normal wares that kids buy strictly for the purposes of sniffing.

I do not know and I could not justify at this point if I believe that this legislation should apply to all retailers, if I could justify fines that would involve young people who have part-time clerk jobs in stores who would be left stranded without some kind of measures to ensure they could pay for fines. I am, at this point, reluctant to go further down this path. So I would like to leave it the way the minister has presented it to us unless he, because of the presentations we heard the other night, feels that there is some room down the road to revisit this, and that in fact minimum fines sometimes make a difference in that the amount of the fine is a deterrent.

Mr. McCrae: Mr. Chairperson, I think the honourable member's comments are completely appropriate, and I appreciate them. I think that we have beefed up penalties, especially for subsequent offences, and we really hope that we will be able to make some major busts here with this legislation, and maybe that will really make a difference. If these fines ultimately, these penalties, could be improved on, I am not averse to looking at that in the future.

Mr. Chairperson: Clause 6—pass. Shall Clause 7 pass?

Mr. McCrae: I have an amendment, Mr. Chairperson. I discussed this with the honourable member for St. Johns (Ms. Wasylycia-Leis) a couple of hours ago to let her know. As I said at the opening today, the honourable member may not have been able to hear me at that moment, but I did say that I was concerned from the beginning about imprisonment as a sanction, and I am bringing in an amendment to remove imprisonment as a sanction that the courts can impose against young offenders for using sniff or using intoxicating substances that they are not supposed to use.

Mr. Chairperson, I move

THAT subsection 7(2) be amended by adding “, other than a term of imprisonment” after “determine”.

[French version]

Il est proposé que le paragraphe 7(2) soit amendé par adjonction, après “le tribunal”, de “, à l’exception d’un emprisonnement”.

Motion presented.

Mr. Chairperson: Thank you. That is a proper amendment.

Ms. Wasylycia-Leis: Mr. Chairperson, first of all I want to acknowledge that the minister has taken a small step towards dealing with some of the concerns that we have been raising and that all the presenters raised the other evening. There certainly was an expression of concern about the impact of incarceration or imprisonment on the lives of young people who are already victims. So I want to give the minister credit for having heard those concerns and moving a step in the direction of addressing those concerns.

However, the minister’s amendment does little to deal with the overall, overriding concern of charging minors, because as we heard the other night, people are concerned about the impact on victimized young people, of a charge period, of being picked up for sniffing, of being taken to a locked facility, of going to a crowded youth centre, of being then penalized in some way, of facing consequences for an action which they probably did without thinking or had no control over because of the circumstances of their lives.

So all we are doing is making the individuals who are victims of poverty, of abuse, of hunger, of

homelessness, and making them wards of the juvenile delinquency system. I have not heard any reasons to date that hold any water to suggest that this is going to make any difference in terms of making young people stay away from sniffing and using solvents. I have not heard any justification for this provision in the bill that makes any sense.

We have heard different arguments. We know that the assistant Attorney General—if that is the right title, I am sorry—Mr. Stu Whitley has said that it might be useful to have minors charged because then they might be able to get more evidence against some of these odious individuals and unscrupulous vendors. Yet when we asked individuals about that kind of an argument, nobody seemed to believe it would hold much water. So we have not heard any good reasons for charging the minor, and with or without imprisonment, incarceration, that our problems still remain, the concerns are still there. These are victimized young people who will get further victimized.

* (1440)

So, Mr. Chairperson, we will be voting against this provision as amended even though we acknowledge the minister has taken a step towards meeting some of the concerns.

Mr. McCrae: Mr. Chairperson, the clear intention here is that we are dealing with the sanctions available to young offenders who sniff, not young offenders who sell or traffic in this because we want them to face the full range of penalties. If that requires a further amendment, we would consider doing that at the report stage of this bill.

Mr. Martindale: I have a question for the minister. Is the minister concerned that by making it an offence for minors to sniff that this is going to make it much easier for those minors who want to get out of their community and get into a place like the youth centre? I mean, that is not a very healthy way of thinking, but we did hear from presenters that some people are living in such abject poverty and with such violence and abuse that they want to be in a place like the youth centre because they have a decent bed to sleep in, and it is warm, and they get good meals.

Is this going to make it much easier for kids who want to get out of their community or out of their home and into some kind of institution or a group home?

Mr. McCrae: By virtue of this motion, the young person found guilty of ingesting or sniffing this stuff is not going to go to the youth centre, certainly not for very long, because that is what we are saying. Imprisonment is not going to be one of the sanctions available to users. Judges though can still order children, young people, to serve probation orders, to abstain from the use of this stuff and report to a probation officer.

Probation officers provide a wide variety of services. We are talking about no facilities for treatment and so on, and when we know there is really no cure for this other than role modeling and guidance and things like that, probation officers can serve that function, and I acknowledge there is pressure on that area of the government service, too. But we are not talking about imprisonment for young people who sniff. We are only talking about imprisonment for young people and other people who traffic in sniff.

Mr. Martindale: Yes, I understand what your amendment does, but your amendment really has to do with the dispositions available to the judge once the young offender is there and under the Young Offenders Act. But I guess I am thinking about the fact that sniffing itself is an offence. So, you know, we have heard and read about kids who shoot up schools or break windows or do break-and-enters in order to get arrested. I am wondering if this does not offer one more option and a fairly easy one.

I mean, you could sniff in front of a police officer hoping that you might get picked up and arrested or charged under this bill. You may spend several weeks in some place like the youth centre before going to court.

Has this bill made it easier for those young people to get out of a painful situation and into, at least, better physical surroundings, even if it is for a few weeks?

Mr. McCrae: Well, I do not think it is anybody's intention to use this legislation to throw kids in the youth centre. I have been saying that since the day we brought this bill in. It has never been the intention.

The honourable member is saying, I suppose, that somebody could be held in the youth centre pending his or her trial. That is an option, but from my experience, working in the youth courts of this province, I do not know anybody who has ever

been held in custody for a thing like liquor, for example. I mean, they are held in custody because they have been charged with murder or they have been charged with armed robbery or some such thing.

So I do not think the honourable member—I do not think what he is suggesting is going to come true, certainly not very often, unless there is a sniffer involved in another very serious crime or something like that. Under those circumstances, they might be held at the youth centre. I cannot see the youth centre being used to hold sniffers for very long unless it is overnight to dry them out, or whatever it happens to be.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: Pass.

Mr. Chairperson: The amendment is accordingly passed.

Shall Clause 7 as amended pass?

Ms. Wasylycia-Lels: Mr. Chairperson, I am not sure how this works. We, as you know, supported the amendment, but we would still like to vote against both Sections 7(1) and 7(2) and have a recorded vote.

Mr. Chairperson: We are voting on Clause 7, and you wish to do so on division.

Ms. Wasylycia-Lels: Yes.

Mr. Chairperson: Clause 7 as amended pass on division?

Some Honourable Members: Pass.

Mr. Chairperson: The amendment is accordingly passed on division.

Shall Clause 8 pass?

Ms. Wasylycia-Lels: Mr. Chairperson, I move, in both English and French

THAT section 8 be amended

(a) by striking out clauses (a) and (b); and

(b) by adding "that the person was 18 years of age or older." after "ascertain".

[French version]

Il est proposé que l'article 8 soit amendé:

a) par suppression des alinéas a) et b);

b) par adjonction, après "personne", de "qu'elle était âgée d'au moins 18 ans."

Motion presented.

Ms. Wasylycia-Lels: Mr. Chairperson, this amendment is consistent with our other suggestions for Bill 29 and consistent with the approach we took with Bill 91, and that is to have in legislation a clear prohibition with some exceptions as opposed to having a wide-open defence, where the accused merely has to find, demonstrate, reasonable steps to prove that the young person was not going to use the product for sniff purposes or as an intoxicant.

We recognize, however, what the minister said earlier and that is that there needs to be defence provisions for whatever the bill stipulates. So consistent with that, we are suggesting that such a defence provision be included as it pertains strictly to the age limitation question, strictly to the fact that it is minors we are talking about. It is retailers who sell to young people that we are trying to address in legislation. That is the intent of this amendment.

I do have a question for the minister pertaining to my previous comments about the child who died as a result of experimenting with sniff and pursuant to how this section will get interpreted, applied or dealt with. Are there criteria being developed? Are there specific objective measures of what this means, reasonable steps to ascertain that the person did not use the substance as an intoxicant? How will it get applied when we have a case before the courts and how does he see it unfolding?

Mr. McCrae: No, Mr. Chairperson, other than to say that this amendment is obviously needed in order to make the initial amendments the honourable member wanted work, and we did not accept those so we cannot really accept this one.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: No.

Mr. Chairperson: The proposed amendment to Section 8 is accordingly lost.

Ms. Wasylycia-Lels: On division, Mr. Chairperson, then I have a question.

Mr. Chairperson: The proposed amendment to Section 8 is accordingly lost, on division.

Shall Clause 8 pass?

Some Honourable Members: Pass.

Ms. Wasylycia-Lels: On division.

Mr. Chairperson: Clause 8 is accordingly passed, on division.

Shall Clause 9 pass?

* (1450)

Ms. Wasylycia-Lels: Mr. Chairperson, I guess whether I ask my question under Clause 9 or Clause 8, it does not really matter. I would like to know from the minister how he sees this bill being applied when we have such loose, wide-open wording around what constitutes the defence of an accused?

Does he envisage specific criteria being developed, some objective signs that will be used in terms of determining whether or not the vendor took reasonable steps to determine if the young person was going to use this product for sniff or not?

Mr. McCrae: Yes, Mr. Chairperson, the department has corresponded with police agencies to let them know the kinds of things they should be looking for. I referred to them last night in a question to one of the presenters, the night before last when I talked about that 13-year-old smelling of Lysol at four o'clock in the morning, appearing to be intoxicated and wanting to buy three cans of Lysol.

It sort of presents quite a picture, and that is the issues that my department has suggested ought to be addressed by police agencies in their investigations. I suggest police agencies use this bill in a very creative way, and I am going to ask them, obviously, always to be extremely careful with their operations. I think police are pretty good at finding ways to catch people who are trafficking narcotics, for example. They have methods and ways to end up bringing convictions.

I think I can share with the honourable member, I do not have it with me, but the correspondence that my department has had with police agencies to discuss, to set out how this thing ought to be enforced.

Ms. Wasylycia-Lels: Mr. Chairperson, I appreciate the answer and I believe that it is helpful in terms of understanding how this will be applied. However, I think the minister is only addressing part of the problem. The criteria he is talking about, and I have noticed similar kinds of criteria in that letter I referred to from Mr. Whitley, all address part of our community and deal particularly with those unscrupulous vendors who are really going after kids already with the problem.

So criteria like, dressed poorly, smelling of sniff, street kid, all of those kinds of criteria may help in terms of getting at part of the problem, but I do not

know how this section and those kinds of criteria would have helped the young suburban boy who died a few years ago because he experimented with sniff.

The vendor, that retailer who had served that child many times and served the parents and believed the kid to be never up to or capable of ever trying glue for sniffing purposes, would have believed he took reasonable steps to ascertain that the kid would not use that purchase for sniff purposes. Now, if he did not and if he does not fit any of that criteria, then he is going to be charged, yet it seems so unfair to the retailer.

It seems to me it would be much more fair and appropriate to have a general prohibition across the board, with some very clear-cut exceptions, so retailers know exactly what they are dealing with and how they can take steps and avoid selling to young people when they should not have and avoid living with the guilt of having sold to someone who then tried it for the first time and died as a result of that inhalation.

So I think we are not that much further ahead with these changes to Bill 29. We are still not going to be able to get at a good part of the problem. You know, all the experts have said we are not just dealing with an inner city issue or a reserve problem. We are dealing with a statistic. Something like 10 percent of all young people anywhere try sniff at least once, and it is possible they will die with one attempt at inhalation.

So I am still very worried. I want the record to know that. I wish the minister could give me some assurances that there would be some way, with such a loosely worded, wide-open defence provision as is included in Section 8, that we would not see that kind of unfortunate incident from taking place.

Mr. McCrae: Mr. Chairperson, I worry just like the honourable member. I worry about the case of a young person who gets a note from his mom to buy some airplane glue, goes down and buys the airplane glue and decides to sniff it, instead of using it on his airplane, and dies. I worry about that, too. I really do. But how can we legislate that? The member's bill would not do it because the kid had a note in that case. So there is no perfection, I am sorry, and we do our best.

I am just afraid that if we had taken the approach the honourable member is suggesting—and she is

not suggesting anything today that is different from Bill 91 really, that improves on Bill 91 and makes it enforceable, and that was our concern.

The honourable member has never believed me on that point, but I am telling you, that is the advice I am getting from the experts. It is not my opinion. I like the honourable member's bill, and I voted for it, but I found out subsequently that it will not work. Am I supposed to tell officials who are far better trained in the law than I am, well, I do not believe you; I believe Judy?

I am sorry, it does not work that way. I would have gone along if my advice had been that the member's bill could work; it would have been in operation a long time ago. So I just ask the honourable member to believe me on that point.

Before she got here, I said you were a wonderful member and that you cared a lot and you brought in Bill 91. So how do you like that? So no politics here for me, Mr. Chairperson. I hear what the member is saying, and I worry too.

Ms. Wasylycia-Lels: I thank the minister for his wonderful words, the accolades, but I am afraid that gives me little comfort in terms of getting assurances from him that we have got the most effective mechanism before us for cracking down on the sale of sniff products to young people.

The minister mentions the problems with the provision in the previous bill requiring a note of parent or guardian. We always conceded and said that that was not fool proof, that it was not perfect. It did not prevent all kids, young people from getting access to the products, but it made it a little bit more difficult. It dealt with a situation and ensured, at least, for a young person coming from a family that was really always concerned about their children's health and well-being, a mechanism for stopping the sale of solvents to that particular young person, because the retailer would have checked with the parent or guardian. The retailer would know the kid. The retailer would have a way of a clear-cut system for ensuring that that individual did not get access to the product and tried it for the first time and died.

The minister likes to turn it back on me and say trust him. I have not seen anything, any reasons how this wide-open provision, this wide-open defence provision in Section 8 makes it more enforceable. Nothing we heard the other night backed that up. All the comments from police

officers, from Inspector Spado, from the police officers quoted in the paper from Thompson and Portage la Prairie, all of them pointed to this making it less enforceable, creating problems, wondering if it would ever lead to a prosecution.

The minister says, trust me, but I would like some real reasons, some hard evidence, something to suggest that this is more enforceable than the other bill, or is it in fact that the minister has tried to reach a compromise between those retailers who are concerned about having this kind of regulation in place and hampering their retailing abilities, a compromise between that and those who sell without any scruples and morals to young people. [interjection]

Mr. Chairperson: Order, please. Ms. Wasylycia-Leis has the floor.

Ms. Wasylycia-Leis: I am trying to raise a serious concern. I think I understand that the minister may have tried to reach a compromise between the business interests and between those who want some action taken. I appreciate that.

Mr. McCrae: I object to that.

* (1500)

Ms. Wasylycia-Leis: If the minister objects to that, I apologize for putting words in his mouth and I will certainly take them back. I do have, you know, as I read the other night, the words of Mr. Stu Whitley in a letter to the police force indicating that it represents the best compromise between legislation that broadly attempts to catch all sales of such materials to minors and getting at the odious individuals who trade in the misery of children. So I just assumed all along that there was in this Bill 29 some attempt at finding a compromise between those different interests and different views about whether government should do anything in this area or nothing at all.

I believe that the problem is serious enough to warrant fairly decisive, clear-cut action. I do not think anyone who has appeared before this committee or has commented on this whole issue and this legislation has disagreed with the fact that Bill 91 made it clear cut, certainly more clear cut, in terms of the sale of solvents to minors. That is all I am raising today. [interjection] You know, it is interesting the noise in this room—[interjection]

Mr. Chairperson, notwithstanding what is happening all around me, I am simply trying to give

the minister an outline of our concerns about the bill. [interjection]

Well, the member for Rhineland says the press are already gone. I did not embark upon this process three or four years ago for media purposes. I began to work with a group of individuals and community representatives in my constituency and in the surrounding area who are very concerned about this problem, and who have been trying for a couple of decades to get some sort of legislative provision to curb the sale of solvents to minors.

So the bill that came forward, Bill 91, three years ago—that was passed by all of us three years ago—came out of that process. It was a reflection of the needs and interests of concerned individuals in our community, not out of my attempt or anyone else's attempt to self-aggrandize, to seek publicity, to seek media, to be self-serving in any way. It was a serious attempt—we are still at it in a very serious way, and that is why we have participated in this whole process around Bill 29 in a serious way. We have not treated it lightly. We have not dismissed the minister's attempts out of hand, and we have tried to find ways to ensure that there is as clear cut as possible prohibition against the sale of solvents to minors.

Everything we have heard today in terms of Bill 29 suggests that it is actually more difficult to enforce, more wide open, less likely that we will be able to get at vendors who sell solvents to young people. [interjection] So, Mr. Chairperson, the members around this table should know that I talk longer when I cannot hear myself think, and I might get to the point if there was some order in this room.

I guess I would like to conclude by reminding members around this table that the few minutes we are spending on this bill today are pretty small compared to the three years we have waited for some response to Bill 91 which we all agreed to, which was passed and which was awaiting proclamation, and over those three years, we did not get anything very specific about what was wrong with Bill 91.

The Minister of Health (Mr. Orchard), who was the spokesperson for this bill or a spokesperson for the delay in proclamation, never gave a specific reason except to say there were some enforceability problems, but we got no legal opinion, nothing tabled, nothing in writing, no

information to suggest there were enforceability problems.

We still do not, to date, have that kind of legal opinion. We have heard from no legal expert suggesting that Bill 29 is more enforceable than 91. [interjection] We have not. The member for Rhineland suggests that, in fact, there is evidence. Well, we do not have those written opinions. We do not have the documentation.

Point of Order

Mr. Penner: On a point of order, Mr. Chairperson, I would just suggest to the NDP that they should not bail out on their colleague before this bill is dealt with.

Mr. Chairperson: The honourable member does not have a point of order.

* * *

Mr. Chairperson: The honourable member for St. Johns, to conclude her remarks.

Ms. Wasylycia-Lels: I just want to conclude, Mr. Chairperson, by saying I think the few minutes we are spending is not much compared to the long wait we have had. I think the members should be patient and tolerant of a little time spent airing this bill.

I want to finally indicate that we are very disappointed that it has taken three years to end up with a bill that is, in our opinion and the opinion of many others, weaker, more watered down, less likely to get at the root of the problem than the previous legislation.

We regret the delay. We appreciate the small steps the minister has taken. We appreciate the opportunity to have the dialogue, but we are very disappointed and angry that this problem, this serious problem in our society, has been allowed to continue without action being taken, which was possible when Bill 91 was passed and should have been proclaimed.

Mr. Chairperson: Thank you for your concluding remarks.

Mr. McCrae: And I thank the honourable member for all of her comments.

Like every single bill ever passed in every Legislature, the enforceability of this bill will be

decided by someone other than the honourable member or me or any other expert. It will be decided by some judge somewhere along the line. We hope this will work. Let us pass it and find out.

Mr. Chairperson: Shall Clause 9 pass?

Some Honourable Members: Recorded vote. On division.

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

Yeas 7, Nays 0.

Mr. Chairperson: Yeas 7, Nays 0. Clause 9 is accordingly passed.

Clause 10—pass; Clause 11—pass; Clause 12—pass; Preamble—pass; Title—pass.

Shall the bill as amended be reported?

Some Honourable Members: Recorded vote.

Mr. Chairperson: All those in favour of the bill being reported as amended, please indicate. The Clerk will count.

Clerk of Committees (Ms. Judy White): One, two, three, four, five, six, seven.

Mr. Chairperson: All those opposed?

Point of Order

Hon. Darren Praznik (Minister of Labour): I think the record should show that the New Democratic Party did not vote.

Ms. Wasylycia-Lels: On a point of order, I think the record should show that the New Democratic Party is reserving judgment to assess the impact—

Mr. Chairperson: Order, please. There is no point of order.

* * *

Mr. Chairperson: The record will show that the bill shall be reported on a vote of Yeas 6, Nays 0.

Madam Clerk: Seven Yeas.

Mr. Chairperson: I will read that again. The bill as amended shall be reported on a vote of Yeas 7, Nays 0.

Is it the will of the committee that I report the bill as amended? [agreed]

Committee rise.

COMMITTEE ROSE AT: 3:08 p.m.