LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS
Monday, January 8, 1990

TIME — 3 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Edward Helwer (Gimli)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Cummings, Findlay, Penner

Mrs. Charles, Messrs. Helwer, Pankratz, Patterson, Plohman, Roch, Taylor, Uruski

APPEARING:

Mr. Philip Fontaine, Assembly of Manitoba Chiefs

Mr. Jack London, Assembly of Manitoba Chiefs

Mr. William Roth, Reeve, Rural Municipality of Dufferin

Mr. Charles Chappell, Rural Municipality of Dufferin

WITNESSES:

Mr. Laurie Evans, MLA for Fort Garry

Mr. Elijah Harper, MLA for Rupertsland

Mr. Bob Brown, Provincial Municipal Assessor

Ms. Dianne Flood, Crown Counsel (Civil Legal Services)

Mr. Rob Walsh, Crown Counsel (Legislation)

MATTERS UNDER DISCUSSION:

Bill No. 79—The Municipal Assessment and Consequential Amendments Act

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Mr. Chairman: The Committee on Municipal Affairs is called to order.

We last met on Wednesday, January 3, 1990, to hear public presentations on Bill No. 79, The Municipal Assessment and Consequential Amendments Act.

I have a list of persons wishing to appear before this committee today: Mr. Philip Fontaine and Mr. Jack London from the Assembly of Manitoba Chiefs, and also I understand we have Reeve William Roth from the Rural Municipality of Dufferin.

I understand that today is the last day we will hear from the public, and we will proceed later on with clause-by-clause consideration. Before we continue, I would like to ask what the will of the committee is with respect to an adjournment hour today.

I understand that the proceedings in the Chamber will continue with Private Members' hour at 5 p.m. Is it the will of the committee to adjourn at 5 p.m. and resume with this committee at 7 p.m. tonight? Mr. Patterson, you said you wanted to make some comments.

Mr. Allan Patterson (Radisson): You said five o'clock to seven o'clock?

Hon. Glen Cummings (Minister of Environment): I would like to propose that we accept the recommendation of adjourning from 5 p.m. to 7 p.m.

Mr. Chairman: Is it the will of the committee then? Mr. Plohman.

Mr. John Plohman (Dauphin): I understand that we have a caucus meeting from 6 p.m. to 8 p.m., which is the usual sitting hours of the House. Without having the agenda in front of me, I do not know if we will be finished by 7 p.m., but I certainly feel it should be on that basis we should consider following the same hours that we follow in the House. I believe Private Members' hour is still on, so that we would adjourn to the House from 5 p.m. to 6 p.m. then the adjournment time would be from 6 p.m. to 8 p.m.

Mr. Gilles Roch (Springfield): I would concur. I do not know if we should necessarily recess the committee at five o'clock for the Private Members' hour unless that is the general consensus and desire of the committee here. I do not think that we could reconvene before eight o'clock.

Mr. Chairman: Is it the will of the committee then, we carry on at 5 p.m. until 6 p.m., dispense with Private Members' hour and then adjourn from 6 p.m. till 8 p.m.?

Mr. Plohman: Well, Mr. Chairman, we have no authority to dispense with Private Members' hour. I think what you meant to say is that the Members here would not attend Private Members' hour. Private Members' hour is on, it has not been waived and that is by agreement of the House Leaders.

Mr. Cummings: What I was simply trying to do was to get us an extra hour of committee time. If it is the will of the committee to go to 6 p.m. and reconvene at 8 p.m., I am agreeable.

* (1505)

Mr. Chairman: Is that the will of the committee then? We will meet till 6 p.m. today and start again at 8 p.m. Agreed.

I have a list of persons wishing to appear, that is, Mr. Philip Fontaine and Mr. Jack London from the

Assembly of Manitoba Chiefs. Would they like to take the stand, please?

Floor Question: Is this it?

Mr. Chairman: Yes, that is right, and your brief has been distributed to the Members of the committee.

Floor Answer: I am going to read it into the record.

Mr. Chairman: Yes, you read it for the record, yes, and you carry on.

Floor Answer: Thank you very much.

Mr. Chairman: You are Mr. Jack London?

Mr. Philip Fontaine (Assembly of Manitoba Chiefs): No, I am going to get into that. I am going to introduce myself and I am going to introduce Mr. Jack London as well. If I can read this stuff here. I will dispense with the glasses.

My name is Philip Fontaine, I am the Provincial Leader of the Assembly of Manitoba Chiefs. I have with me our counsel, Jack R. London, Q.C. We welcome this opportunity to appear today before this committee.

Our purpose is limited to one issue. We strongly oppose the proposed amendment which would remove the exemption from municipal taxation for lands held in trust for a tribe or body of Indians in Manitoba. We believe the proposed amendment is historically unjustified, discriminatory in its effect, regressive and offensive to the rights of First Nations people guaranteed by the Constitution of Canada. We serve notice that in the event the proposal becomes law and the exemption is removed, we will take our case and our struggle to the highest courts of this land.

Paragraph 2(2)(b) of the current The Municipal Assessment Act reads as follows:

"2(2) The following lands are exempt from all taxation levied by the council of a municipality,

(b) lands held in trust for any tribe or body of Indians;"

That provision or one similar to it was part of the law of this region even prior to Confederation. It is also the law of certain other provinces. It is our submission that this exemption from municipal property tax was intended to recognize the special place and position of the Indian people within this community and, in particular, to recognize that a progressive tax system would not subject to taxation land held in trust for tribes or bodies of Indians. It is of course to be noted that the exemption does not apply to lands held directly by individual Indians or for that matter to corporations, the shareholders of which are Indians. The exemption is very specific. It applies to situations where individuals or corporations hold land in trust for tribes or bodies of Indians.

That notion of trust which results in a fiduciary relationship recognizes the special obligations of the white community to predecessor aboriginal groups from whom all the land of this province was taken. The exemption therefore differs from all others. It is the equivalent of a transfer payment, a recognition of past injustice. The exemption was deliberately placed more than 100 years ago. It has been deliberately continued continuously thereafter, most recently in 1970 when The Municipal Assessment Act was carved out of The Municipal Act. The exemption for lands held in trust for tribes of bodies of Indians was deliberately maintained at that time. Nothing since has indicated the rightfulness of its removal.

Some have argued that the original purpose of the exemption was simply to exempt reserve lands which were part of a municipality. That indeed was the tactic taken unsuccessfully by the Province of Manitoba in the recent litigation between the Keewatin Tribal Council Inc. and the City of Thompson and the Provincial Municipal Assessor. In that case, decided on June 2, 1989, in favour of the Keewatin Tribal Council Inc., that argument quite rightly was rejected. Mr. Justice Jewers, in responding to that argument, at page 11 of his decision said as follows, and I quote:

"The respondents submit that as it was common for legislatures to use the word 'trust' in relation to reserve lands, particularly in the earlier statutes, therefore the Manitoba Legislature must have had reserve lands in mind when they enacted that lands held in trust for any tribe or body of Indians should be exempt from taxation. They further point out that the exemption was originally enacted at a time when the federal legislation did not provide such an exemption. I cannot agree with this submission. It may very well be that the legislature did contemplate that the exemption would cover Indian reserves, but in my opinion, it cannot be said that they intended the exemption to apply only to reserves and not to be extended to other lands held in trust for a tribe or body of Indians. As the applicant points out, if the legislature had intended the exempton to refer to Indian reserves, and Indian reserves only, they could have said so either by using the word "reserve," or some phrase incorporating that word, or by incorporating by reference the definition of "reserve" contained in the Indian Act."

* (1510)

Yet in all subsequent discussions with political and bureaucratic representatives, one finds continued repetition of the fiction that the exemption was originally intended to cover only reserve lands. Notwithstanding the decision of Mr. Justice Jewers, unappealed by the Province of Manitoba, those who would deny the First Nations people their rights continue to hold fast to a myth, as though it had substance or reality. It does not. The exemption was not and is not intended to provide for the peculiar position where reserve land is found within a municipality. The exemption, rather, has always been intended to recognize the special status and needs of the Indian community of this province. Therefore, the proposed removal of the exemption from a people badly in need of even mere tokenism of this kind in order to assist the remedy of social and economic disabilities not faced by the white community represents a regressive, harsh and unjustifiable offence and insult to First Nations people.

Indeed, the Assembly of Manitoba Chiefs addressed this issue recently, both with regard to the proposed

amendments and the Private Member's Bill originated by Mr. Roch which preceded the present amendment package. On November 22, 1989, the Assembly of Manitoba Chiefs passed Resolution No. 59/89 which reads as follows:

> "WHEREAS the Union of Manitoba Municipalities have on their agenda at present an item which discriminates and attempts to remove our Treaty right to land tax exemption for properties held in trust by Tribal Councils or Indian Bands;
>
> WHEREAS the minority Manitoba Government and the Liberal Party of Manitoba have endorsed a Private Members' Bill No. 79 in the Manitoba Legislature which will remove any tax exemption status of properties held in trust by Tribal Councils and Indian Bands.
>
> THEREFORE BE IT RESOLVED THAT the Assembly of Manitoba Chiefs condemn this action by the Union of Manitoba Municipalities and the Manitoba Government, supported by the Manitoba Liberals, as racist and discriminatory and a direct attempt at denying us our Treaty right to tax exemption, and further direct that the Manitoba Government rescind this section of the proposed Act that purports to deny First Nations of this right and keep the current section intact."

Some have said that municipal revenues are in jeopardy if the exemption is continued. We believe, and suggest to the Government of Manitoba, that if that be the case, though there is no empirical evidence to support that position, rather than amending the legislation to remove the exemption, the Government must pursue two other courses:

1. End the multiplicity of tax exemptions directed towards predominantly white institutions whether they be hospitals, cemeteries or universities; and

2. Pursue a strategy to obtain reimbursement or transfer payments from the federal Government which, of course, is charged with responsibility for the First Nations people of this country.

It is our position that whatever may be the revenue loss of municipalities occasioned by the exemption, the burden of rectification should fall not on those who are least able to afford it, that is, the First Nations people, but rather on one or all of the three levels of white Government who can better afford the remedy and have the obligation to effect it.

In any event, we suggest that the proposed legislation, insofar as it withdraws the exemption from municipal property taxation on lands held in trust for tribes or bodies of Indians, is unconstitutional. When the Constitution Act, 1982, was enacted in the year 1982, all aboriginal rights enjoyed by the First Nations people of this country and this province were frozen in time. Amendment of any of those rights or, more to the point, withdrawal of any such right, requires a constitutional amendment, which, amongst other things, requires the consent of the federal Government. The exact provision of the Constitution Act, 1982, is as follows:

> "35.- (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
>
> (2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Metis peoples of Canada.
>
> (3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.
>
> (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons."

* (1515)

The exemption from municipal taxation contained in the present Municipal Assessment Act is an aboriginal right, both because it derives historically from the days of Confederation, because it results from treaty negotiations and undertakings, and simply because it was a part of the legislative framework of the Province of Manitoba at the time of the enactment of Section 35 of the Constitution Act, 1982. It is our submission that the Manitoba Legislature does not have jurisdiction unilaterally to withdraw the exemption and the aboriginal right which it affects. The current Bill is invalid constitutionally on that account.

That lack of constitutional validity is made even more apparent by the failure, indeed refusal, of the current Government to discuss and/or negotiate matters relating to the exemption either with the Keewatin Tribal Council Inc., which fought the litigation confirming the exemption, the Assembly of Manitoba Chiefs, other First Nations groups or, presumably, the federal Government.

On June 14, 1989, counsel for the Keewatin Tribal Council Inc., and our counsel here before you today, Jack London, Q.C., wrote to the Hon. Jack Penner, Minister of Rural Development, on the issue of the possibility of an attempted withdrawal of the exemption from taxation of lands held in trust for tribes or bodies of Indians. In accordance with his instructions, Mr. London requested that the Minister first consult with those most directly affected, that is, the Indian people.

To date, neither the Minister, or any Member of his Government, have sought consultations with First Nations people or, for that matter, with Mr. London or the Keewatin Tribal Council Inc. Indeed, we have not been favoured even with the courtesy of a reply to the letter of June 14, 1989. We are outraged that the Minister, and this Government, have chosen to insult the First Nations people in this way. We are a people. We deserve courteous and effective consultation.

We suggest that this committee conclude that the proposed legislation is inappropriate, not only because it is regressive, but also because it offends the constitutional rights of the aboriginal people of Manitoba and, given the discourtesy of the present Government, yet another example of unfair and arbitrary treatment by white society of the aboriginal people of Manitoba.

Mr. London and I would be happy to respond to any of your questions.

Mr. Chairman: Thank you, Mr. Fontaine. Mr. Harper, you had a question?

Mr. Elijah Harper (Rupertsland): Yes, I would direct a question to Mr. London or to Mr. Fontaine. In your presentation you mentioned that you will take this case, or struggle, to the highest courts in this land. Maybe you could provide us with what kind of an opportunity or case you might have in dealing with this right that the aboriginal people have.

Mr. Chairman: Just a minute. Mr. London, I wonder if you would wait until I recognize you so the recording equipment can . . . Mr. London, go ahead.

Mr. Jack London (Assembly of Manitoba Chiefs): I am sorry, Mr. Chairman. The litigation, if it were necessary and of course one hopes it will not be necessary, arises out of the issue which is raised in the brief that was read to you by Mr. Fontaine dealing with the provisions of the Constitution Act 1982.

You will remember that it was a deliberate action on the part of the Governments of each of the provinces of Canada, and the Government of Canada, one of those provinces then being represented, of course, by Sterling Lyon, an Act which ensured, under the Constitution Act of 1982, that the notion of aboriginal rights and the withdrawal of any aboriginal rights would be subjected to a constitutional review before any attempt was made to withdraw any aboriginal rights.

For that purpose Section 35 was built into the Constitution Act of 1982, which in fact says that you cannot withdraw an aboriginal or treaty right in this country without there being an amendment to the Constitution. That requires, of course, depending on whether it is seen as a national or a local issue, in either event the concurrence of the Government of Canada. Manitoba does not have the jurisdiction to do it on its own.

The nature of the litigation which would follow would, therefore, be to ensure that the protection that is afforded to the Indians of this country and this province by Section 35 is honoured by all Governments, whatever the political stripe may happen to be.

* (1520)

Mr. Harper: I have been trying to do some research into the ability, or whether as a result of the exemptions which were made for Indian people, or tribal Indians, for exemption from municipal taxation. I have been trying to get some record as to the original intent of the original piece of legislation. Of course, we do not have Hansards available at that time, and since then a number of legislations have been passed also recognizing treaty and aboriginal rights.

I believe in the presentations which were made before this committee that indeed aboriginal rights, or treaty rights, were taken into consideration, and my feeling has been that some of the people have been taking a narrow position that essentially taxation was just to exempt reserve lands. I was just wondering, maybe you can elaborate on that issue much further.

Mr. London: I think that there are two or three different kinds of responses to your question, Mr. Harper. The first one is that, as Mr. Fontaine said, in the litigation before the Court of Queen's Bench counsel for the Province of Manitoba, and the Provincial Municipal Assessor—I might say very effective counsel—made that argument over and over and over again, or attempted to make that argument over and over again. Quite clearly Mr. Justice Jewers in Court of Queen's Bench rejected that argument several times in his judgement with equal force. It was the case of an action receiving an equal but opposite reaction. Quite clearly Mr. Justice Jewers has found in the case that the original notion, the original intent of the placement of the exemption in the legislation, was not to deal with reserve lands, and not to deal with the exemption of reserve lands which may by circumstance happen to find themselves in the middle of a municipality. That is at one level.

The second level, if you look back at that early legislation, as we did in the litigation—and Mr. Harper, I think I saw you fingering through a copy of one of the older statutes from the 1870s—you will notice that the exemption related not only to lands held in trust for tribes or bodies of Indians, but actually lands vested in tribes or bodies of Indians. Even lands which were owned by the bands at that time were exempt.

Quite the contrary, I think that the purpose of the exemption, if one has to find a purpose, is the purpose that Mr. Fontaine suggested to you, and that is a recognition that the aboriginal peoples of this country were entitled to be free from municipal property taxation on the lands which were subject to use by them as a group.

It is important to distinguish that from the situation where you have an individual who is of Indian descent, or a small group of two or three, who may form a commercial venture, for example, and own property within a municipality. The exemption does not and was never intended to cover those situations, but it was intended to cover the situation in order to make up for the numerous injustices—I do not need to detail them for this committee—which have been done to the aboriginal people over time, to ensure that they were free from taxation.

The treaty negotiations, and I hope it does not get to that, but in the treaty negotiations, which obviously we are going to have to examine in some great detail early on, you find consistently this reference to the fact that the Indians were not going to be subjected to tax.

I just grabbed, as I was walking out of the office, the negotiations leading up to Treaty No. 8, which is back in 1899, and it is typical of the report of commissioners in all the treaties. We assured them, that is, the Indians, that the treaty would not lead to any forced interference with their mode of life, that it did not open the way to the imposition of any tax. The earliest treaty negotiations had reference to taxation, and this exemption comes out of those early discussions. It would be inappropriate as a side matter in the renovation of a piece of provincial municipal tax legislation to deal with a fundamental aboriginal right in this way.

Mr. Chairman: Thank you, Mr. London. Mr. Harper.

Mr. Harper: In your presentation you mentioned the two recommendations or two courses the Government must pursue. One is to end the municipal multi-facility of tax exemptions. The other was to pursue a strategy to obtain reimbursement or transfer of payments from the federal Government. Either one, you would recommend that the Government take a course of action in the course of—I guess to obtain reimbursement from the federal Government.

* (1525)

There is presently no arrangement at all in place. By that, I mean that I know the Keewatin Tribal Council had been trying to negotiate with the province whereby they would pay grants in lieu of taxes. Because the Keewatin Tribal Council is not recognized as a level of Government yet, they are not able to afford the Keewatin Tribal Council to pay in lieu of taxes. My understanding is that the Government cannot tax another level of Government. In this case, if you were pursuing this strategy, would you encourage the federal Government, through the Department of Indian Affairs, to pay the provincial Government grants in lieu of taxes?

Mr. London: It has been the position of the Keewatin Tribal Council Inc. and, so far as I know, of the Assembly of Manitoba Chiefs throughout this piece, long before I became involved. This goes back a number of years. It has been their position that if someone from the Government, any Government, would sit down and talk to them rather than acting unilaterally and arbitrarily—which is again the course of action which is being chosen, I add parenthetically—if someone would sit down and have a discussion with them and with the federal Government, that there may be a number of avenues available by which to solve what appears to some to be an economic problem. The problem has been that no white Government of which I am aware has been prepared to sit down and talk to the Indians of this province.

It was requested again, following the litigation with the council. I wrote, as Mr. Fontaine said, to the Honourable Mr. Penner. I have yet to receive a reply to the letter. There may be a number of actions that can be taken and we would be happy, I say, on their behalf, to take those actions. I might say in support of the force of that statement, and to give it even added credibility, that if you look at the record of the proceedings in the litigation before the Court of Queen's Bench, you will find the correspondence, whereby as you said, Mr. Harper, the Keewatin Tribal Council Inc. offered to pay the dollars to the City of Thompson in lieu of the taxes that were exempted. The issue was one of appropriate negotiation and no one has yet seen fit, in the way in which we have tended over the years to deal with the Indian people, to sit down and talk to them.

I think that ought to be the first step, long before an amendment is made to a piece of legislation and can slip through as an omnibus statute. Someone ought to sit down and talk to the people whose rights are being taken away. One would do that with the business community before taking away an exemption that was enjoyed at long standing by the business community. One would do that with any of the other interest or lobby groups that are available. It is astounding to me and to my clients that no one will sit and talk to them, and I wonder why that is. Perhaps it would be functional for this committee to investigate why that is.

Mr. Harper: One last question. Have you met with any other groups of people, Mr. Jack London, in respect to this municipal assessment, I was just wondering. I had placed some questions with, I believe it was the president of the union of urban municipalities, Mr. Wiebe, in regard to an amendment in the Act, if the exemptions that were originally provided for Indian people were as a direct result of treaty and aboriginal rights.

At that time he indicated to me, I believe it is in the Hansard on Wednesday, January 3, 1990, page 191, and his reply was, "I believe we would be prepared to sit down and discuss it in dialogue." I was just wondering if there had been an opportunity to dialogue with the urban municipalities, because a lot of times they seem to be ignorant of the rights of the aboriginal people.

The other thing is, I asked another person, Miss Brenda Leslie regarding the payment of the school levy by the Indian bands. I believe the taxation that is imposed like they did in the City of Thompson by the tribal council, municipal taxes and also educational levies is also part of that municipal levy. A lot of the students that come in from the outside communities already pay to the school board. I do not know what the figure is—$4,000, $5,000 to the school board already. I was just wondering whether any discussions had been had or whether any plans to hold discussions so that some of these people would have an understanding of the rights of the aboriginal people.

Mr. London: A short answer to the question, Mr. Harper, is that I am not aware of any discussions having been held with others on it. I have not been directly involved in any such discussions, and I am not aware that the Assembly of Manitoba Chiefs or anyone from the Keewatin Tribal Council has been involved either.

Mr. Chairman: Thank you Mr. London. Are there any other questions for either Mr. London or Mr. Fontaine?

Mr. Plohman: I notice, Mr. London and Mr. Fontaine, in your presentation that you refer on page 3, several times, that the Legislatures have deliberately continued this exemption. Do you have any evidence that it was a deliberate action on the part of the Legislature? Are you assuming that when legislation is passed, it is done so deliberately and all parts of it are?

* (1530)

Mr. London: I assume that Legislatures intend the natural consequences of their Act. I remain naive in life and in politics. I assume that there is a deliberateness to it, but I think in this case there are two supports to the naivete of the assumption which take a different fantasy into reality. The first one is that Mr. Justice Jewers found that. In his decision he refers

to the fact of the 1970 amendments and indicates that the Legislature had ample opportunity at that time and obviously chose not to exercise the right to remove the exemption.

Secondly, when you consider that it was as recent as 1970 that the current Municipal Assessment Act was carved out of the old Municipal Act provisions and there had to have been a review at that time of the provisions, it was continued. What really happened—and we have all known each other for too long to pull punches—was that prior to 1988 the Indians of Manitoba had not chosen to exercise the right in any, even a minimal, way, so no one was very concerned about it. But the minute that the community began to exercise a right that it has had for more than a hundred years, we became very concerned with the existence of that right, and that is really what happened.

The fact of the matter is that in 1970, when everyone thought we would just pat them on the head and have them go away as they usually do, it was continued because it looked good on the books.

Mr. Plohman: Just on that then, there is no Hansard evidence to that effect other than what was in the Bill, insofar as speeches or any records there. That is really what I was asking.

Mr. London: I am not aware of any.

Mr. Plohman: Mr. Chairman, is it not a fact that Justice Jewers could only deal with what was in front of him? With the legislation that was in front of him, he could not make the findings of what the intent was. Whether the Legislature at that time meant something else, he could only deal with the wording which was in the legislation.

I would just put this for you to refute, if you want, and I would like to hear what you have to say. He was not rejecting the argument of intent by the Government, as you said in your paper, as he rejected it, but he was simply saying he had no proof that what the Government was saying in their case was actually the case. So he was simply making his findings on the basis of what was in the statute at that particular time.

Mr. London: I think that it is a fundamental principle of statutory interpretation. At least it always has been in my experience, and I am sure counsel of the committee would support it. That what a court does when it interprets legislation is it seeks to find the intention of the Legislature in having enacted the particular provision.

When Mr. Justice Jewers therefore finds that this was intended to cover lands beyond reserves and municipalities, which was the argument that was put by counsel for the province, clearly he was making a finding of what the intention of the Legislature was at that time. Now he makes that finding by a little bit of investigative work, because you can never have a Legislature which in all of its 50 or 60 or 100 or 200 people will speak with a single voice.

Therefore, he takes the collective will of the Legislature—and I refer you to page 4 of the brief that Mr. Fontaine read to you—and not only does he say in the underlined portion that it cannot be said that they intended the exemption to apply only to reserves and not to be extended to other lands held in trust for a tribe or body of Indians, but if you go on to read the next part, it is an important part.

As the applicant points out, if the Legislature had intended the exemption to refer to Indian reserves and Indian reserves only, they could have said so either by using the word reserve or some phrase incorporating that word or by incorporating by reference the definition of reserve contained in the Indian Act. So he goes much farther than simply saying, I am not sure what they meant. What he is saying is, it was so simple to say reserve, that by not saying reserve I have to conclude that the exemption was intended deliberately.

Mr. Plohman: I have one other question on this area. Some argue that since the City of Winnipeg does not have that exemption, it should not apply to the rest of the province; it should be consistent. How do you deal with that?

Mr. London: I would of course, on behalf of my clients, say that one would prefer that it was homogenous throughout the province. However, I have not looked at The City of Winnipeg Act recently, but my recollection is that the amendment to The City of Winnipeg Act took place prior to 1982, that is prior to the freezing of aboriginal rights within the Constitution. This amendment has taken place after 1982. It is therefore an accident of history against the aboriginal people of the City of Winnipeg that they may not have an argument open to them to within the large urban centre that is open to them in all other centres in the province. It is simply a question of historical timing.

Mr. Roch: Mr. London, you are aware that the major concern for the various rural municipalities is the fact that there would be a lack of revenue. You have mentioned today, I believe, and in the past that the Keewatin Tribal Council is willing to—if someone had sat down and negotiated with them. I take it that you were referring to the provincial and/or federal Governments. They would have been willing to pay grants in lieu of.

Now we have been informed that only Governments can provide grants in lieu of. Are you then saying, given the fact that according to this brief and the ruling of Judge Jewers, that if indeed it is the case that Indian bands or tribal councils cannot give grants in lieu of taxes, that it is a federal responsibility to look after the revenues that would be lost by the local Governments?

Mr. London: Let me respond to that in three ways. First of all, I dispute the advice, I have always disputed the advice that a grant in lieu can only be made by another level of formal Government. There may be authority for that proposition of which I am not aware, but I am not aware of it. I have done some looking at that, and grants in lieu have been accepted and received in a number of other cases from organizations that are not Governments. So I challenge the assumption that

was made back when the offer was initially given a few years ago, and the assumption that is being made today.

Secondly, you raise a very interesting area, Mr. Roch, for this committee to consider. It is one that I suggest the committee must consider, and so must the Legislature of Manitoba. Mr. Justice Jewers' decision, like the decision of the federal Government through Revenue Canada over the years, has been to accord municipal status to a certain number of tribes and bodies of Indians and to reserves in this country.

Therefore, and it is part of Mr. Justice Jewers' decision, one of the reasons he comes to the conclusion to which he comes, which is in favour of the Keewatin Tribal Council Inc.—and I could explain the technical legal reason he had to come to this conclusion, and I will if you like—is because it is like a municipality. He accords in his decision a municipal or quasi-municipal status to the bands for whom these lands are held.

* (1540)

You understand that the Keewatin Tribal Council Inc. in that case had no private proprietary interest in the property. They were simply a holder in favour of 10 or 13—I have forgotten the number—Indian bands in this country. Mr. Justice Jewers finds, as Revenue Canada has earlier stipulated and is now even more apparant, given the recent amendments to the Indian Act, that the bands, the reserves, are municipalities or like municipalities in terms of governmental power. So at the second level of your question, I would suggest we already have in place a system whereby grants in lieu could have been arranged. I am not suggesting they are still available from the bands. The bands are pretty angry that no one would talk to them. That is a possibility.

I think your third question is, should the federal Government take responsibility? Of course, what should have happened months ago, and would have happened if anyone had bothered to respond to a letter, would have been that we could have sat down with representatives of the federal Government, with representatives of the municipalities, with representatives of the band, and we could have attempted to negotiate an appropriate conclusion to this. But instead of that, someone is introducing a Bill in the Legislature to hammer the Indians of this province and to take away that aboriginal right. That is wrong.

Mr. Roch: If I understand you correctly then, you were saying that if the three levels of Government, provincial, federal and, in this case, the Indian bands and/or the tribal council, would sit down and negotiate, the potential problems that have happened, and the fears of the local Governments of, in some cases, losing out on significant amounts of revenue could have been solved.

Mr. London: I am suggesting that could have been. I am suggesting, though I do not have a direct brief to say this to you today, that is still a possibility. The call has been for consultation, the call has been for negotiation from moment one. There has never been anything said other than that, and the Government has refused consistently to respond to a letter. Not only would it not consult, it would not respond to a letter with the invitation.

Mr. Roch: Therefore, the point that we are at today, what would your recommendation be?

Mr. London: My recommendation would be that this—sorry, I will take myself as recognized. My recommendation would be that this provision of The Municipal Assessment Act, and I am not dealing with the whole plethora of issues that arises under the proposed Act, and there are many of them—my suggestion would be that the exemption for lands held in trust for tribes of bodies of Indians in this province be continued in this current reformation.

One could put a sunset clause on it; that is, it would automatically come up again for review within six months, a year, two years, whatever might be, and that a process of negotiation and consultation be entered into by the Government of the Province of Manitoba with the federal Government, with the Assembly of Manitoba Chiefs and/or any of the other First Nations representatives of this province in order to see what the appropriate conclusion to what may or may not be a real problem is.

You will appreciate, Mr. Roch, and I know you introduced the Private Members' Bill, that the municipalities became very concerned very quickly about the loss of revenue base, but there is no empirical evidence that there in fact is, or will be, a loss of revenue base to the municipalities as a result of the continuation of this exemption.

In the case of the City of Thompson and in the case of Keewatin Tribal Council, as I have said before, there are some over 60 properties owned in trust by the Keewatin Tribal Council in Thompson. The exemption has been claimed on three, and there has been no attempt to claim the exemption further beyond that.

Mr. Harold Taylor (Wolseley): Going through the brief and having heard comments from yourself and Chief Fontaine, I wonder, given the opportunity to finally sit down and have these negotiations—an invitation to which the chiefs never got a response—what would you see as a rather ideal solution to give adequate protection to your client here, the Assembly of Chiefs, and still allow for some of the practical aspects that have to be dealt with by the municipalities and the somewhat paternalistic approach that our federal Indian Affairs Department takes? You have seen the political realities of this area of concern for some time. What would you hope for as a reasonable but ideal solution?

Mr. London: I would hope for a solution in which the rights of the Indian people of this province were respected by the Government of this province, by the white Government of this province, at the same time that the Indians of the Province of Manitoba bore its fair share of the tax burden, whatever it might be, in the municipalities of this province.

No one has ever suggested that this ought to be anything other than neutral or progressive legislation

in terms of taxation. What is happening now, however, is that a regressive action is being taken by the Government in introducing this Bill, because it is withdrawing a right to exemption without any corresponding benefit, without having had any negotiation from a group of people that can least afford it. That is the definition of regressive taxation.

Mr. Taylor: Mr. Chairperson, I guess I see, looking at this presentation, having done some earlier reading, having heard the comments from both of you today, that it would appear that the key player in this whole exercise is going to be the federal Government, and I see it for two reasons. They are the custodian, if you will, of the lands held in trust on behalf of the Native peoples. That is a concept that I have always had a lot of trouble with, I might add.

Also, the federal Government is the one that has the jurisdictional responsibility for the Native peoples in this country and also has the greatest ability to raise revenues of any Government across the land.

Has there been any initiation by the Assembly of Chiefs with the federal Government on the idea of compensatory funding, which would mean that the monies would actually be given directly to the bands for direct payment, or has there been any initiation by the Assembly to the federal Government on the matter of turning over the title. If I understand your brief correctly, lands directly held are not in the same context. It is two related points and if you could respond, please.

Mr. London: On the first one, I am not aware of discussions having been had with the federal Government by the Assembly of Manitoba Chiefs. I cannot speak for all of the First Nations groups in the province. Nor would I have counselled that such discussions take place until such time as the Province of Manitoba was prepared to enter the negotiations and to sit down and discuss the matter in a three-level conversation which could be productive.

There was no sense in speaking to one level as another, and it was never the intention of the First Nations people of this province to play one level of Government against the other, which could have been the conclusion to be drawn by that kind of activity. The First Nations people of Manitoba are prepared to sit down in a tripartite discussion to take a look at the revenue impact of a withdrawal if that is what it is to be, or a continuance if that is what it is to be, of the aboriginal right expressed in The Municipal Assessment Act.

* (1550)

As to the second question, that is the ceding of title, there is no issue on the ceding of title that I know of and perhaps you and I are not—maybe I have miscommunicated or have been inadequate in my communication. The land that is owned, say, by the Keewatin Tribal Council and the City of Thompson to use an example, is land that is beneficially owned by the bands through the conduit of a corporation incorporated under the laws of the Province of Manitoba. Those are lands which are properly held and which do not require that they be ceded to any level of Government in order to maintain the exemption which is provided under the Act.

In fact, if you go back into the history, and I will not bore you with a long history lesson, you will see that in the very earliest of the legislations which gave rise to something under The Indian Act called special reserves, which by the way, continue to exist and would be yet another level of challenge to this legislation even if the constitutional level were not successful. They are clearly designated. The notion was clearly designated as white Europeans holding land in trust for the Native people. The words are actually used. That is the origin of all of this. That goes back into the 18th century. So far as I know, there is no question of ceding, if I understood your question correctly.

Mr. Taylor: Going back, Professor London, Mr. Chairperson, on the first part of that two-part question. You are saying that you would not advise your clients to start unilateral negotiations. Possibly you could tell the committee, though, to what degree do you think Indian and Northern Affairs is aware of and familiar with this issue, and has there been communication to the regional director of Indian and Northern Affairs by the Assembly on the matter in general terms without going up to the top of the line.

Mr. London: My understanding is that the federal Government is aware of the problem as you put it, but aware of it in relation to the litigation that went on with the Keewatin Tribal Council Inc. We required certain documentation and certain undertakings from the federal Government at that time with regard to that litigation. So, they were fully aware of it. I am not aware that they are aware that there is a proposed amendment to the legislation. I have not brought it to their attention. I do not know whether any of the First Nations people have, and I do not know what the general level of intergovernmental communication is these days between the provincial and federal Government.

Mr. Taylor: I guess why I am asking that is to determine whether there is an awareness, and hence whether any basic work has been done in preparations by the federal Government, or whether it might have been considered a closed case once a decision came down and that nothing further was required.

I think it is important we should know whether there has been any communication, either by individual bands or by the assembly as a whole, to Indian and Northern Affairs.

Mr. London: All that I can respond, Mr. Taylor, is that I am not aware of any communication having been undertaken.

Mr. Chairman: Thank you. Are there any further questions? Mr. Evans.

Mr. Laurie Evans (Fort Garry): Mr. London, you indicated that there were only three parcels in Thompson that had requested or sought the exemption despite the fact that there were 60 or more. Is it your

opinion that all 60 of those would in fact be eligible for exemption if they were so inclined?

Mr. London: It is my opinion that by the simple mechanism which was accomplished with regard to these three, of putting those properties into trust for the bands, they would be available for the exemption, yes. The Keewatin Tribal Council Inc. has not taken that step. It has not put the lands in trust. It owns them directly and provides housing in the City of Thompson for members of its constituencies through that mechanism, but it has not sought to put them in trust in order to take advantage of the exemption.

Mr. Laurie Evans: Can you clarify the difference then in which those two groups are held? The property that is in trust, how does it differ from that which is owned by the council but is not in trust? What is the significant difference between the way in which it is held?

Mr. London: This is a 60-hour first year course at the Faculty of Law. Let me do it by way of analogy.

Let us assume that you were happy to be the beneficiary of a large estate from one or both of your parents. There were two ways that your parents could have given you that estate. The one is, they could have given it to you outright, in which case you could have, knowing your penchant for consumerism, disposed of the funds very quickly and very easily, and you would be left with absolutely nothing on a moment's notice. Or they could have left it for you in trust, which would have put a trustee who had fiduciary obligations prescribed by law so that the property could not be dealt with other than in accordance with the terms of the trust and the fiduciary relationship. Therefore it had to be put to certain uses, and you as an individual would not have any ability to change those uses.

That is the difference between straight proprietary interest and property held as a beneficiary of a trust. What we have here is a trust, and the bands are the beneficiaries of that trust. The trustee is the Tribal Council Inc.

Mr. Laurie Evans: Mr. Chairperson, not being an historian, I am not going to go into the past. I am more concerned about the potential that this has for the future. Can you anticipate, or do you visualize, that there could be purchase of considerable amounts of property that would be held in trust which then forever after would be exempt from taxation? Can I carry this so far as to say that you could look at a situation where a very sizable part of a municipality could then be purchased and held in trust and be exempt from taxation forever after?

Mr. London: There are a couple of responses to that. The first one is that the City of Thompson in this particular case has refused to sell property to the Keewatin Tribal Council Inc. in the event that it would take advantage of that exemption, which is an interesting act, given the human rights legislation of the province. So the municipality has a certain amount of control over that, at least in terms of land that comes directly from the municipality.

Secondly, it is theoretically possible that if one could accumulate the capital that was required to own a country, anyone could buy the country. But first you have to have the capital formation which allows you to make that acquisition. It is unlikely that the Indians of Manitoba have the kind of capital that would allow them to buy up the municipalities of Manitoba and somehow all of a sudden become the owners of this province. I am sure they would like to do it if they could, but there has been the stumbling block along the way, which is the absence of a capital base.

The third is that there are restrictions, I would think, that would be constitutionally validly imposed on the sorts of trusts, on the conditions of the trust and the uses to which lands can be put, for example, over time, which would pass muster, and which could have been the subject of negotiations, in fact, in order to prevent that from happening.

Mr. Chairman: Thank you. Any further questions for Mr. London? Mr. Plohman.

Mr. Plohman: Mr. Chairman, to clarify, we have been asking for the Government to meet with Native people, and representatives, to discuss this issue. You have stated that there have been no overtures made—I just want to, not put words in your mouth but to clarify that point—by the Government, to meet with any representatives and Native organizations on this issue that you know of, or Mr. Fontaine knows of. Secondly, nor has the Government responded to any overtures made by you, or other representatives of Native organizations, which I would like clarification which consists of what? What overtures have been made?

Mr. London: Both statements are accurate, that is, I am unaware of any overtures having been made, or discussions having been held with members of the Assembly of Manitoba Chiefs, or with myself; and on your second issue, the overture that was made, the references in the brief that Mr. Fontaine read to you and it refers to a letter dated June 14, 1989, which went out under my signature to the Minister indicating that consultations should, in our view, be first had with the First Nations people prior to an amendment being forthcoming, that they would be happy to participate in those forms of negotiation. I might add that letter was copied to both Opposition Parties; responses were received from both Opposition Parties, but there was no response from the Minister's office.

* (1600)

Mr. Plohman: Mr. Chairman, just one further question on that. Clearly then you did not suggest discussions and negotiations with yourself, but with your clients, and you did this on behalf of your clients—

Mr. London: That is right.

Mr. Plohman: —that discussions should take place directly with your clients?

Mr. London: That is right.

Mr. Chairman: Are there any further questions for Mr. London? If not I want to thank you very much for your presentation this afternoon, Mr. Fontaine and Mr. London.

Mr. London: Thank you for your attention.

Mr. Chairman: Thank you. We have one further presentation by Reeve William Roth. Before he appears here, is it the will of the committee that we hear Mr. Roth and some supplementary information to the Union of Manitoba Municipalities' briefs? What is the will of the committee here, shall we hear—

Mr. Plohman: Do you need unanimous approval for that, Mr. Chairman?

Mr. Chairman: Yes, we do, Mr. Plohman. Is it the will of the committee that we hear Mr. Roth? Agreed? (Agreed) Mr. Roth.

Mr. William Roth (Reeve, Rural Municipality of Dufferin): First of all, I would like to express, on behalf of the Union of Manitoba Municipalities, our appreciation for the Members of this hearing to grant us the opportunity to make this presentation today.

I have with me Charlie Chappell, adviser to us; and also, until one hour ago I had the Reeve of Springfield with me, Jack Nicol, who was going to accompany me in this presentation, but he slipped and hurt himself as he was proceeding to the Legislative Building.

The President of the Union of Manitoba Municipalities, Mr. Manson Moir, made a written submission to your committee dealing with Bill 79 on December 19, 1989. Since that submission was received, considerable public representation has been made to your committee and certain issues have been addressed which are of concern to the Union of Manitoba Municipalities. As a result, on Friday, January 5, 1990, the Board of Directors of the UMM directed, delegated and instructed two of its directors, being Mr. Jack Nicol, the Reeve of the Rural Municipality of Springfield and myself, Bill Roth, Reeve of the Municipality of Dufferin, to make a supplementary representation to your committee.

It remains the position of the Union of Manitoba Municipalities that the reform of assessment, as envisioned in Bill 79, ought to be proceeded with and enacted by the Legislature. The UMM urges the Legislature to proceed with this enactment for the following reasons:

1. Equity: The existing legislation in The Municipal Assessment Act has created terrible inequities relating to the method of assessment and a liability to taxation of real property in Manitoba. The proposed legislation is much more equitable and the UMM supports the principle of equity contained in the reform legislation. Examples of equity are as follows: (a) the liability of farm outbuildings, including residences, to taxation; (b) removing from the Board of Revision the necessity of investigating and interfering with the financial affairs of a complainant when seeking exemption of farm outbuildings and residences from taxation.

It is perhaps one of the most distasteful tasks that a municipal official or member of a Board of Revision must undertake in determining his neighbour's financial position in a public forum.

2. Education Support Levy Exempted from Farm Property: The UMM has for many years requested this provision and we are pleased to see the exemption contained in Section 23(2) of Bill 79.

3. The Triannual Assessment: The UMM supports this legislation requirement as contained in Bill 79. The existing situation wherein reassessments are conducted between a minimum of eight and a maximum of 17 years in municipal corporations is unacceptable. The provision for an up-to-date reassessment every three years is strongly supported by the UMM. Equity may be accomplished at least within a triannual assessment provision.

4. Value: The Union of Manitoba Municipalities supports the concept that the term "value" will mean full market value for the reference year of the assessment. The definition of market value as contained in the Expropriation Act of the Province of Manitoba is acceptable to the UMM.

5. Application for Revision: The Union of Manitoba Municipalities supports the principle that a complaint or application for revision by an assessed owner ought to be undertaken on an annual basis for the revision of the assessment roll having regard to the reference year of the assessment. Any changes to the market value of the assessed property whether by increase or decrease of value as the result of internal matters to the property as provided in Section 13(1) or external matters ought to be appealable and subject to revision whether in the reference year or subsequent years. It is not the position of the UMM to limit in any way the right to complain, the right of review and the right of revision of any property owner's assessment in any year. The purpose of the legislation is to achieve a fair and just relationship between all assessed owners.

6. Phase-In: The Union of Manitoba Municipalities supports the permissive principle of phase-in for the years 1990, 1991 and 1992. A decision would be made by the individual municipal council once the impact of the reassessment has been determined for each municipal corporation.

7. Agriculture Value Versus Developmental Value: In general the Union of Manitoba Municipalities supports the principle that the Government of Manitoba and the local municipal corporation school division ought not to tax bona fide agriculture endeavours in a manner so as to make the agricultural endeavour impossible to exist.

The so-called two-value system as advocated by the Weir Report is not objectionable, but to implement such a system and its administration is a matter that ought to be studied and reviewed by the Government of Manitoba and local municipal officials prior to any legislative amendment.

Conclusion: It is respectfully submitted that the Legislature of Manitoba ought to proceed with the enactment of Bill 79 in amended form so as to create an equitable assessment and the resulting tax system in Manitoba. Our existing legislation is fraught with

inequity, and the reform now being considered will in the view of the Union of Manitoba Municipalities provide a system wherein a property owner can understand the full market value assessment and the resulting taxation imposed upon the property owner by local authority.

It is also respectfully submitted that exemption for liability to assessment and taxation ought to be restricted as for each exemption granted there is a transfer of that portion of the taxation burden to other taxpayers.

It is respectfully submitted that while the Bill was made available for consideration on November 2, 1989, the concepts contained within the reform legislation have been discussed in great detail with individual municipalities at municipal meetings of the Union of Manitoba Municipalities and at the convention of the members of the UMM for many years. As a result it is interesting to note that the following organizations comprising local authorities in Manitoba support the concept of the Bill and the reforms proposed. These organizations are: the Union of Manitoba Municipalities, the Manitoba Association of Urban Municipalities, the Manitoba Association of School Trustees, the City of Winnipeg, the City of Brandon and a number of individual municipal corporations which have made individual presentation to your committee.

It is therefore respectfully submitted that the Legislature of the Province of Manitoba proceed forthwith to enact Bill 79 as amended." Thank you.

Mr. Chairman: Thank you, Reeve Roth. Are there any questions to Reeve Roth from the committee here? Committee Members? Mr. Evans.

* (1610)

Mr. Laurie Evans: Thank you, Mr. Chairperson, and I want to thank you, Mr. Roth, for your submission. The first question I would ask would be: in your position as a reeve of a municipality, how critical is the timing, as far as the passage of this Bill is concerned, to the urban municipalities when it comes to the entire process of taxation, the submission of their taxation bills, the budgeting and the whole thing?

I think we all appreciate around this table that this is a Bill. I do not think there is anyone around the table who is opposed to the Bill in principle, but we have heard many submissions, and the number of amendments that I think the committee is going to be requested to consider is going to be very numerous.

We are now here on the 8th of January, and we have been told that the 15th of January or even earlier is a critical time. I guess many of us are prepared to sit around this table to the wee hours of the morning if that is necessary. But I would hate to sit around here until four o'clock or five o'clock in morning, going clause by clause in order to get these changes made, and then be told at a later date there was not that need for that kind of haste, that had it been concluded by the end of January or the middle of February, it would have been fine. I would like to have that interpretation, or at least your opinion as to the urgency of this at this time if you are able to make that sort of a statement.

Mr. Roth: First of all, I would like to congratulate you in indicating to me that basically you are in support of this Bill. In looking at our budgets, whether the passage of this Bill is immediate or not, the municipal corporations of this province will strike a budget, and those budgets will be addressed in the very near future.

However, I would like to point out one very important fact. Some municipalities normally collect taxes and revenues from their ratepayers as early as July. As a consequence, for this to be achieved and for the municipalities to be in a position to do this, the municipalities would urge that in order to do this, legislation be passed as speedily as possible in order that we may present our tax bills to our ratepayers.

Mr. Laurie Evans: One paragraph in your submission that particularly interests me, Mr. Roth, is at the top of page 5 where you indicate that "it is respectfully submitted that exemption from liability to assessment in taxation ought to be restricted as for each exemption granted there is a transfer of that portion of the taxation burden to the other taxpayers." How far would you go in this? It would seem to me that there is always the option that if exemptions are granted, they can be covered in terms of grant in lieu of taxation. This possibly could even can be carried so far as hospitals and schools and others. Can I infer from this that the UMM would be in support of trying to eliminate as many of the exemptions as possible?

Mr. Roth: Yes. Basically the position of the U of MM would be that we would like to see all exemptions avoided wherever possible, because an exemption for another person simply becomes another ratepayer's bill. As a consequence, if we look at the outbuildings, we are in favour of taxation of outbuildings.

In the past 30 years the farm scene has changed dramatically. We have intensive grain farmers; we have producers in the hog operations who are intensified. We have poultry producers who have intensified operations; we have cattle producers who have intensive operations. The farm scene has changed dramatically, and as a consequence it makes the old Bill obsolete. We would say to you that therefore in the agriculture sector there should be no exemptions, because what we would like to see here is a fairness.

All of our ratepayers, and it does not matter what sector of agriculture you look at, require services from municipal corporations. If we look at buildings, they require fire protection; if we look at people and property, services for the property, they require police protection. There are many other services of municipalities that we provide for all ratepayers, whether it be a cattle producer, hog producer or what. As a consequence we feel that in all fairness to those ratepayers that are paying a disproportionate share of the taxes now, the exemptions should be as minimal as possible.

Now with regard to schools and hospitals and other edifices which are there for public purposes, we actually have no problem with the basic exemption of 10 acres.

We have not analyzed the situation carefully, but we actually feel that the exemption increase from four to 10 is probably quite appropriate.

Mr. Laurie Evans: I would like to pursue this just a bit further because I think most individuals would not have major problems with the concept of exemption of schools and hospitals. But once you get beyond that, then you get into a—and I am speaking personally here—grey area as to how far those exemptions should go. You are getting into situations where you have ethnic organizations that have exemptions and others that are seeking exemptions.

Would it not be more practical to eliminate all the exemptions and those institutions who are dependent on Government funding for their survival or for their continuance anyway? That adjustment could be made in the level of funding from Government to them with the idea that the exemptions then are brought to virtually a very minimal number, if not eliminated entirely, and start over from square one so that there is at least an opportunity to review this situation and identify those exemptions which are really legitimate as opposed to those that have come about through some quirk of history.

Mr. Roth: Regrettably I find some difficulty in really addressing your proposal. However, we simply noted that in the past there has been the exemption of approximately four acres for public buildings. We have no problem; particularly in the last 20 years with the consolidation of school districts, there are larger schools. We have noted that there are larger hospitals. Some of the hospitals in rural areas have become non-functional and have been eliminated. As a consequence, we have little difficulty in the 10 acres.

As to the matter of eliminating exemptions totally on hospitals and schools, I think it would be far more appropriate if MAST addressed that issue, or people that really had data, hospital boards and so on, to give you a better indication of what should be done.

Mr. Chairman: Are there any further questions for Mr. Roth? Mr. Uruski.

Mr. Bill Uruski (Interlake): Thank you for your presentation, Mr. Roth. I wanted to ask a few questions with respect to your brief. No doubt you are aware—you have noted that your president made a submission to the committee. In your brief you talked about the principle of phasing in, and you say that the decision would be made by each individual municipal council. What remedy do you propose to a taxpayer wherein a municipality may not wish to undertake phasing in? If they are basically saying, look, we are not going to listen to you, what remedy will the taxpayer have if the Act is left totally to the discretion of each municipal council?

Mr. Roth: Right. I appreciate the question. This has caused some concern within our organization; this has resulted in some debate. We take the position that each local municipality knows its area the best and should be in a position to address that issue better in the best possible manner. As a consequence, we may realize there may be differences and they may create minor problems, but we feel that it is a responsibility which municipal officials should accept, and they should address it appropriately. We have the confidence in the municipal officials that they will address it appropriately.

* (1620)

Mr. Uruski: Mr. Moir, in his presentation on December 19, talked about the concern that phasing puts the onus on local council. He indicated that some Members will agree that it is a good idea, while others will have difficulty in accepting that responsibility. In his statement he says that "phasing in of separate property could even be more controversial. We feel that there should be some percentage of increase stated in the Act that could justify phasing in."

Mr. Chairman, can Mr. Roth clarify Mr. Manson Moir's position with respect to the position that he has now taken on behalf of the UMM? Who is speaking for whom?

Mr. Roth: I believe in that brief there was concern expressed regarding phasing in—correct. However, we do feel that if the municipal councils are not responsible and cannot address those issues appropriately, they are in a three-year term, those municipal officials will be gone.

For many years we have had one sector picking up what we consider to be an unfair portion of taxes. As a consequence, some reeves and municipalities feel there should be no phase-in, but it is our position that the majority of our reeves and councillors will accept a phase-in because it could create some hardships on the intensive livestock producer, hog producer, egg producer, and so on. Therefore we would accept the phasing in on that basis. We do recognize there are some difficulties here.

Mr. Uruski: Mr. Chairman, Mr. Roth has been on municipal council a number of years and has a lot of experience, but let us look at some of the reality where you will have a municipal council, and councillors may be predominantly grain farmers. However, in that municipality you may have, let us say, half a dozen intensive livestock producers. They are going to get socked if there is no phase-in. They may get a whopping increase if there is a major shift in that municipality. There may not be, but in the event that there would be a major shift.

Now, if these six councillors who represent the vast majority of the populace do not take too lightly to the complaints of say a half a dozen or ten of their constituents, there is no way that they will in fact be able to be kicked out next time around, quote your words, because they are clearly in the minority, by those who are affected. Should there by a remedy in the Act for those people, in which local councils may just not take lightly to the position of the ratepayers who are in fact complaining about the massive increase?

We know from our experiences that their personalities at the local level tend to become at different times

much closely associated with issues, and that is where feelings run high. That is why I raised the question with you. It does contradict what your president has said, that there should be something in the Act, while now you are telling us on behalf of the UMM that no, we are agreeing that there should be phasing, but leave it up to us totally to decide.

Mr. Roth: I will just make one quick comment, and maybe I will ask my colleague here to—all right, being a rural person and, Mr. Uruski, you know you are a ruralite also, I think we both are in agreement that rural people are very, very fair, straightforward. We know the situation better than the majority of Manitobans. I think you would have to agree with me that the chances of addressing concerns of those livestock operations with intensive buildings assessment, large assessment billings, the chances of that happening and not dealing with them fairly would be very, very minimal.

Now, I would say to you that we cannot have a legislation that is going to address every individual concern to Manitoba. Let me assure you that municipal officials are quite prepared to take some criticism and to address this issue, but I think that if we can present it to these people that we are looking for fairness here for everyone, I do not envision too significant a problem.

Mr. Uruski: Mr. Chairman, before Counsel answers, I just want to make one point, and I think you epitomize the feelings that are running high in rural Manitoba about the question of fairness, that there may be a feeling in some areas that the load, the taxation load on property has been carried far too long on the land side, and the feelings are running so high that people will say, look, it is about damn time that you carried your fair share and we are not dealing with you in terms of fairness of phasing in.

In your brief you made it very clear and I agree with you, that feeling is there, let us get some equity into the system. Nobody is arguing against that. I am only getting at the point of saying, if the increase is phenomenal and there is a council, it may not even be the entire council, but just a simple majority of council that says no phasing, damn it, we have carried them all these years, what is the remedy? Should there be some direction, as Mr. Moir has suggested, into councils—should there be a threshold, should there be some means at least giving directions to councils that phasing is desirable?

Mr. Chairman: Mr. Roth, did you want to answer that?

Mr. Roth: I do not think either brief really comes out and emphatically states that we would not approve of this body placing in the legislation that we have a phase-in period.

Mr. Uruski: That is exactly why I am raising it, I think—

Mr. Roth: I do believe that the UMM and the members of UMM would have no problem if that was implemented into this legislation.

Mr. Charles Chappell (Rural Municipality of Dufferin): Mr. Chairperson, in reference to the earlier question, I would simply point out that the provision for phase-in is permissive. I would respectfully suggest that politics being what it is, is still the system we are governed by. Those elected councillors if they feel that injustice is done and they want to go into the phase-in system, and they opt for that system, there is permission for them to do so.

I would ask you to keep in mind that the very point that we are all making is equity within the system, and then we immediately go and say, equity causes some problems, so for three years we will provide this permissive phase-in. Those people, quite frankly, are expected to pay their fair share, and it is only because of the way in which we have done our assessment system in the past, with 27 years in the City of Winnipeg between reassessments, between eight and 17 years in the rural areas, that now we have to even consider a phase-in. Had we been doing a proper job earlier, I do not think that we would be concerned with a phase-in feature.

* (1630)

Mr. Plohman: Mr. Chairman, I have a couple of issues that I would like to raise with Mr. Roth, but just in response on this issue of phasing, which is a very important one. We have to assume that every piece of legislation that was brought in at a given time was as legitimate as one that was being brought in at this time, and that at one time that obviously was considered fair, because that is what we had. That is what the Legislature of the Day thought was fair.

We cannot assume that we are necessarily righting all wrongs at one time and that we must do it overnight, or in one day. If we are moving toward equity, that is what we all want, and we certainly do not want anyone to have such a hardship that there is going to be a major shock or impact on some operators that it is going to make it very difficult for them to bear.

I think that is where my colleague and myself have been coming from on this issue, and when we discussed it with Mr. Manson, we got the feeling, and that is why we are pursuing it now, that the union felt that there was some legitimacy to this point, and there maybe should be some consistency in the legislation to ensure that there would be consistency of treatment above a certain level where the impact would be rather substantial. That is why we have put that forward.

If you have any further clarification as to why there should not be a threshold above which there should be a requirement for phasing over the three-year period, then I will not pursue that any more, but you may want to make some more comments on that.

I wanted to raise another issue with you, and I find a little bit of contradiction in your paper here. On page 5, you say that even though the legislation was introduced on November 2 in the Legislature, this reform legislation has been discussed in great detail with individual municipalities and municipal meetings of the Union of Manitoba Municipalities, the annual convention, and members for many years. Yet we see, and I do not fault you, I just point out the legitimacy

of the hearing process now and the legitimacy of some delay in coming to a final conclusion on this matter. We find contradictions in presentations made within a few days by your organization, which leads me to believe that there is still a lot of confusion out there.

I would not look at this paragraph as saying, gee, we have discussed this thing to death and we all know what it is about, so we do not have to worry about it any more; you know, we have all taken a position. Obviously, there are a lot of complicated issues there and you are demonstrating that in your own presentation. I would find that to refute what is on page 4 with regard to the two-value system, because there you say that the Weir Report put this in, and I would assume that since you have had so much time to study the Weir Report you all have taken a position on this.

Why then would you need to have further study and review by the Government and local municipal officials in order to have a two-value system if you do not need any further study and review on the rest of it, as you say, even though I pointed out that you do because you have obviously taken different positions in the last week?

I am just pointing out, Mr. Chairman, there are many different positions being taken by organizations on this issue.

Mr. Roth: Yes, regarding a dual-assessment system and so on, to the best of our knowledge we are unaware of any other province where you would have a dual system of this nature. As a consequence, we feel that this could be followed up with legislation following the passage of this Bill.

We feel, and also I am quite confident, that the UMM would be willing to consult with any or all three Parties and to address this issue.

Mr. Plohman: My point to Mr. Roth is, why would you single out this one particular issue for further consultation when there is confusion and obviously different positions being taken almost on a daily basis by various organizations, and that is fine, it is a difficult area? Why would you single that one out to hold it back when the others should go ahead? Right now, too.

Mr. Chappell: I believe, Mr. Chairperson, the concern of the UMM is not quite the concept of the two-value system, but in order to find a workable way in which that principle or concept can be, first of all, legislated, and then secondly, administered. There are some concerns, and we believe that while we support the principle, we must work at the mechanics as to obtaining a workable system. That is the concern we have.

Mr. Plohman: So that could be legislated, but proclaimed at a later date, and you would not have a problem with that because that is the goal that you have in mind.

Mr. Chappell: Of course, it is not the principle. It is just the mechanics of operating the system, of course.

Mr. Plohman: So you would not disagree then, just to clarify, that kind of an amendment could be brought forward if the Government chose to do it or if someone else chose to do it at this particular time, and have it implemented some time one year hence, for example, with time for the municipalities and the department and others to deal with it.

I wanted to ask one other question. On the top of page 5, as regards your statement, that it is respectfully submitted that the exemption from liability to assessment taxation ought to be restricted as for each exemption granted, could you clarify what you mean by that and how that would be done? Are you suggesting that there should be fewer exemptions in this Bill than as Weir was proposing in his report, or is it meant to be something else?

Mr. Roth: Having looked at the proposed legislation, and looking specifically at the agricultural sector, we feel that exemptions should be kept to a minimum, because we think it will result in fairness. As soon as there are exemptions made we are of the position that there will be inequities and unfairness. As a consequence, as I indicated before, it was in the agricultural sector we believe that all intensive farm operations should be treated in the same manner. Therefore, we accept the position that those in the dairy business, their outbuildings would be taxed; those in the hog business would be taxed. We would hope that there would be uniformity.

Let us face it, some of the grain producers do also have extremely large outlay of monies in buildings and as a consequence their assessment on buildings would be considerable also.

When we looked at exemptions we also looked at the exemptions of the schools and the hospitals. As I indicated prior that due to consolidation of schools and larger hospitals it may be perfectly justified that we raise it from four to 10 acres, but I would prefer to see that, we are just saying they should be restricted as small as possible. It would seem to me that MAST should address this issue more specifically and maybe also the hospital boards.

Mr. Plohman: I just wanted to ask him about the schools, for your position on that a little more clearly, but just before I leave this particular broad issue, do you feel then that there are no specific exemptions in this Bill that you would like to see removed, or taken out at this time in order to accomplish the restriction? It is just that those that are there should be defined in as limited a way as possible?

Mr. Roth: In analyzing the Bill and looking at the exemptions there has been no suggestion by any of my colleagues that any of the exemptions be removed.

Mr. Plohman: As you know, Mr. Roth, perhaps that MAST made the presentation rather strongly that school property should not be subject to taxation, municipal taxation, for property taxation. They have come forward with that, as you have referenced that issue you said you agree with the exemption being expanded from four to 10 acres, but that only deals with schools. Do you have any position on other property? MAST has

taken the position they would like to see their exemption broadened to not only include the schools, but other school board property, garages and so on.

* (1640)

Mr. Roth: We have not analyzed that situation in detail, and we have not asked for a great deal of data on that particular issue. However, I would hope that MAST, if they could justify a greater exemption, that the three Parties here would reach some agreement and make those amendments. We are not here to ask that this Bill be passed carte blanche. We appreciate the constructive criticism that has been offered by both Opposition Parties and, therefore as a consequence, we realize that there may be amendments coming forth, but we would hope that those amendments are done with considerable prudence, that there may be compromises made here with the Government, and that we end up with a fair equitable Bill. We hope that we end up with a Bill better than what we have.

Really I would like to say, I believe it was three years ago, when the Premier of this province and the NDP were the Government at that time, I think they recognized the inequities, some of the unfairness within rural Manitoba, and let me assure you it was greatly appreciated. They recognized the unfairness by giving back a $500 rebate to the farm community. This was followed up by the Conservatives. Also we have heard today that basically Members of the Liberal Party are in support of the basic principles of this Bill. Therefore, we honestly believe that to assure a better system in Manitoba, and a fairer taxation system, there is room for compromise, there is room for making prudent amendments.

We hope that is achievable in the near future. We are very concerned that if this does not pass this Legislature at this time, we will not see it in the near term. We will not see it in the next maybe 10 years even and, as a consequence, farmers who are least able to pay taxes on houses right now will continue to pay those taxes, and in fact even with this Bill they will continue. At least the neighbour with the bill to be paid on the $100 house will be paying his fair share. We are very gratified to hear some of the comments that are coming out.

Mr. Plohman: Yes, Mr. Chairman, we are very pleased to see that you have put forward a presentation that talks about passing this legislation in its amended form, because it does recognize that there are areas that can be improved and should be improved and I think that is an important recognition of the decision that I know our Party has taken on this issue. Perhaps Liberals can speak for themselves on that. That is one of the reasons why we wanted to see this prolonged to a larger number of hearings and so I appreciate your saying that at this particular time.

I guess with that I may be reading too much into your statement that you said, "As a result it is interesting to note that the following organizations comprising local authorities in Manitoba support the concept of the Bill and the reforms proposed." That gets pretty specific and I know there are concerns by various organizations about various parts of this Bill and I think that it is too broad a statement to make on behalf of those other organizations, but I will leave that.

I just wanted one further question, Mr. Roth, on the issue. Do you not think, as far as the exemption of 10 acres, it is maybe better not to have a specific designation of a certain number of acres because you are always going to have a situation that is too small to cover perhaps? If four was not good enough, 10 might be good enough. Is it not better just to say that those schools or those hospitals as defined would be exempt rather than putting a maximum acreage on it which, as we heard from the hospitals, would not cover all of their situations, in the City of Winnipeg at least. In the rural areas perhaps in all cases it would cover hospital situations, but in Winnipeg it does not. In schools, I am not certain whether there are some that would not be, but there are other properties involved. That is their issue, a MAST issue. There are other properties other than schools, but it is possible that there will be some that would not be covered. So is it not better just to take out a specific designation in terms of acreages and just describe what you want to do?

Mr. Roth: Well, once again, we did not specifically address that issue or ask for data from hospitals or ask for data from school boards. Whenever we have exemptions on to visualize there is always a problem. Now let us assume that we have in this case the schools, then it is debatable if we should exempt the garage and this could cause debate. Now, if the school boards and school divisions can justify this to the Members sitting around this table with facts and data to show where it is beneficial to rule Manitobans, or all of Manitobans, then so it be but looking at the situation with the information we have, we have accepted the 10 acres.

Hon. Glen Findlay (Minister of Agriculture): Yes, Mr. Roth, I would just like a little further clarification on your situation with regard to outbuildings. You have made it fairly clear in your answers to the variety of questions that you are strongly in favour of fairness and equity and you are not in favour of exemptions. What I am wondering about here and I would just like to ask you if you can see if there is any rationale in segregating outbuildings into two groups? One group would be those that are in production, like hog barns, or turkey barns, or dairy barns, or that sort of thing, versus buildings that are used for storage. Is there any rationale to segregate outbuildings into those two categories such that you tax the producing buildings but you do not tax the storage buildings? Is there any rationale for that segregation or should it be left as outbuildings period.

Mr. Roth: At the executive level and to the best of my knowledge we, U of MM, did not address that specific issue. As a consequence I cannot indicate to you the U of MM's position on that. I can indicate to you what my personal thoughts are. My personal thoughts are exemptions for farmers to be competitive with the Europeans, because of the trade war between the

United States and Europeans when we look at grain, because of the quota system, because of the inability to ship out produce in the winter time. We as producers, the grain farmer, do not produce grains for storage purposes. As a result, this is a real negative cost to the grain farmer. This is a personal point of view.

We would like to see the economy of rural Manitoba become far more stable. We have the depopulation of rural Manitoba as a real concern. We are losing most of our youth. As a consequence we would like to see if it was possible that our hog producers remain very, very stable, and that the stability is long-term. The hog producers in the last two years have faced severe market declines, and many operations have been put into bankruptcy or many have gone out of business.

This is quite contrary to the cattle producers. The cattle producers were looking at markets which I believe were at a 10-year high. As a consequence, the cattle producers in the last four or five years, many of them have done extremely well in comparison to hog producers. Due to the fact that it appears that produce of farmers is cyclical, I have some difficulty in recommending that we have any exemptions.

To be competitive with another country which has a warmer climate and that, we could argue that there should be exemptions. But I do have some difficulty, and I think it would cause some consternation within the farm community.

Mr. Findlay: So really the essence of what you are saying is that you are not in favour of exemptions, period, within different classes of the farm sector.

Mr. Roth: Another problem we have with this is that we do not know what is going to really be portioned. We understand that portioning is not ironclad. Therefore we are going to place our faith in the Members of this Legislature -(interjection)- well, not only the Government. We hope the Opposition Parties -(interjection)- We are going for a fairer system in Manitoba. I believe we are willing to take a risk here.

Now if that risk results in problems, or unfair taxation of rural Manitobans, let me assure you that you will probably certainly hear from us in the very near future. We are under the impression that the portioning is not ironclad, and we would hope that in the future the Governments address this issue and make it fair and equitable if it is not.

Mr. Findlay: One other question. You have already started into my next question, and that is with regard to the portion of the assessment that will pay the tax. Do you see that the portioning between land and outbuildings should be exactly the same in the farm sector, or can you see any rationale as to why they would be different?

Mr. Roth: We do not have the data to look at that, and we have not asked for or received a detailed analysis of the portioning aspect that would really happen. We know we have gone through some scenarios, and we are under the impression that with portioning and the passage of this legislation, 80 percent of rural Manitobans would pay less or a very small amount more than they presently pay.

* (1650)

Mr. Findlay: One last question. You mentioned stable rural economy. I guess I would like to see a methodology of assessment in the future that leaves stability in that assessment. Right now, because we cannot do anything different, we are talking market value, that is, establishing value by comparable sales. Do you think it would be better in the long run if we could develop a system where we determined the productivity value in land by a method of land classificatiom, and the productivity of that classification versus using comparable sales?

Do you see that as being more stable than following comparable sales which can fluctuate for a number of reasons, and have in the past? I would just add that we have to stay with market value now because we cannot use the other system. If we could get stability in a productivity-based assessment, would you advocate that we move that way in the future?

Mr. Roth: I am here representing the UMM. We have looked at the current market scenario. We think it would result in a system that would be more understandable to the ratepayers in Manitoba. We think it would result in uniformity. We think it would result in a system which assessors could address more adequately.

As a consequence, we have come to the conclusion that we were prepared to accept the current market value, because we were assured that we are just going to be updated every three years. Now there is no doubt in my mind that productivity, in some instances, should be reflected in the market value of that property, but we would hope that maybe that is even—yes?

Mr. Findlay: I would just say that in regard to No. 7, you are dealing with agriculture value versus development value. That is one way of dealing with development value. You weed it out by using just agriculture productivity value of the soil involved.

Mr. Chairman: Mr. Roth, do you have a comment on that?

Mr. Roth: No, I do not.

Mr. Chairman: Okay, thank you.

Mr. Taylor: Mr. Chairperson, I find it interesting Reeve Roth, the position in No. 5, the application for revision. It was not my understanding that when the president of your organization, Mr. Moir, appeared here one very cold evening just before Christmas, that this was the position of the UMM.

I very much appreciate this situation, because it makes clear that you are saying that when there is a change in the value of the property that a property owner should have the right of appeal for any reason, and I thank you very much for that clarification.

The point that you make in No. 3 about going towards a more standardized approach to reassessment in

Manitoba I think is also refreshing. I look at points three and five and the question I wish to pose relates to the concept of the freeze as contained in the Act now proposed. Then what you are saying by points three and five is that you wish to see reassessment done all across Manitoba every three years, but within the three-year horizon appeals may be had for any reason. Is that what I am understanding you are saying?

Mr. Roth: Yes. I would like to follow up with that. There may be properties within that three-year period that may change in nature. There may be properties—for example, before us we are presently looking at the regulations regarding the waste disposal sites for Manitoba.

Now as a consequence then, assessment might take place in one year and the following year a municipality may buy an adjacent quarter section of land for the means of using that as the disposal grounds. As a consequence, when we talk about external factors, we are talking about external factors in close proximity that would certainly affect the value of that neighbouring farm land. As a consequence I think it would only be prudent and fair that we would have to address this. I think it would be fair to our ratepayers if we did so.

Mr. Taylor: Mr. Chairperson, well that is good news that UMM is taking that position. It reflects much of the thinking that we have had also. We had the opinion previously, maybe unfairly so, that UMM had advocated the freeze, in an absolute sense, was solid, whereas what you are saying is, no. The ability of a ratepayer to appeal, given changed context and changed value, I think is the fairest way to go too.

I thank you for coming out and providing the supplementary information that you have, because it is obvious by this presentation and your response to numerous questions that there has been a fair amount of research done obviously by yourself and others in the organization. Thank you.

Mr. Uruski: Mr. Chairman, to Mr. Roth, I guess part of the problem that you are having and I think that many of us have had in this whole question of apportionment is the lack of complete data or greater information. You have had that difficulty, have you not?

An Honourable Member: Well, in principle we accept that, but the difficulty is what are the impacts and the lack of data in that area.

Mr. Uruski: Mr. Chairman, I wanted to follow up on questions that Mr. Findlay raised and UMM's position of no exemptions in the agricultural area, like treating a sector equally and farming as, I have no difficulty with the equity treatment within sectors. I, not question, but I ask whether consideration in terms of arriving at an assessment, and maybe they do that already from an assessment point of view on the question of buildings. Where we talk about hog producers, the building will be used 12 months of the year, but yet their income, they have really really suffered, and you have a dairy farmer or a chicken farmer also have year-round operations, and their income is to a greater degree guaranteed through supply management and cost of production.

You have also the turkey farmers that I am from, where their production is guaranteed more or less through supply management. You have potato growers who have storage buildings, and they have a marketing board in terms of trying to get some guarantee. In essence I am asking whether there should be some criteria as to the amount of use or the amount of income that building generates in terms of not only as it relates to its value in determining assessment, or should that not be a factor in considering the value for assessment purposes.

* (1700)

What I am saying is that in some sectors of agriculture you have a high-priced building, and I will give you our own instance where we brood young commercial turkeys. They are in the barn eight to ten weeks; the rest of the year the building is empty. On the breeding side of the operation the building is used seven to eight months of the year. There is very comparable to hog producers. The same thing with a potato farmer in terms of their storage. For the bulk of the year, the building may be vacant, but for four-five months of the year, the building is used for storage. Should there be some recognition or at least assessment, and there may already be in the assessment process the amount of use and/or income generation from the building. I do not know, has UMM considered those kinds of conditions or maybe council may wish to reply to that.

Mr. Chappell: Mr. Chairperson, when we go to a full market-value system, I would ask you to make an assumption that Mr. Uruski's buildings produce $25,000 in his turkey operation, and Mr. Taylor's produce $50,000 in his turkey operation of net income. In a full market-value system I suggest respectfully that Mr. Taylor's normalized income strain through his operation, whether it be by location or some other favourable site matters aside from management, would probably be assessed at some greater level than Mr. Uruski's. The assessment subject to Mr. Brown's expertise in this matter may be developed on the basis of a costing manual, and I am assuming that the cost manual for each building is the same.

Obviously, if Mr. Taylor's produces more money Mr. Chairperson, it is probably going to be worth more in the market value and therefore will be assessed higher. Mr. Uruski would not be able to complain if the two properties were compared perhaps and have his assessment reduced by the board of revision on appeal.

Mr. Uruski: Mr. Chairman, I would like to thank Members of the UMM for the in-depth discussion and the fruitful information that they have provided.

Mr. Chairman: Mr. Penner, the Honourable Minister, would like a few comments.

Hon. Jack Penner (Minister of Rural Development): First of all, I would like to thank both groups that have appeared here today, both Mr. Fontaine of the Keewatin

Tribal Council as well as Mr. London who was representing them. I would also like to thank Mr. Roth and Mr. Chappell for appearing before us today for the UMM. I think both groups have presented very well their case for: No. 1, the exemption of property rights for Native communities; and No. 2, the case was made very well for the agricultural community.

I found some of the comments that we have heard throughout the hearings and I—very interesting that Mr. Roth should be the last presenter who we will hear on Bill 79—but found it very interesting that many of the presenters referred to the equity and the fairness that this Bill is, in my view, going to provide. That is one of the main intents of the Bill, to be able to provide that equity and fairness that many have talked about during their presentations. When I discuss—and I want to refer this to Mr. Roth—when we discuss equity and fairness, it always, I guess, brings the issue fairly close to home.

Where we have a situation where we have a young farmer who is trying to raise a family on a quarter and 80 acres, and right across the road from his place is a similar farmer on two quarters of land that has two large poultry barns on his quarter, as it happens, the young farmer on the quarter and 80 has to take an outside job and has for the last 20 years taken an outside job which earns more money. He has to have this job in order to maintain his family and his farm operation but earns more money in town than he does off the farm and therefore has been for the last 20 years paying tax on his farm home. This person pays better than $3,000 in taxes, whereby the owner across the road earning much, much more of a net income, and we have compared the two incomes, pays virtually no tax at all. I think that is the fairness and equity that I have heard your organization and many of the other organizations express.

I found interesting the comments in response to the questions which were put regarding buildings, whether storage or other farm buildings, and how to deal with them because that has certainly been a dilemma for us. We sat and considered the various aspects of the Bill and how to deal with the various properties, whether they were commercial properties which were used for storage or whether they were agriculture properties used for storage and other industrial uses as well as the industrial uses in agriculture. I wonder, Mr. Roth, whether you have given consideration as to the possibility of exemptions, as was suggested here, for storage facilities within your jurisdiction in rural Manitoba, both for agricultural and/or industrial. If you did exempt one, would you have any recommendations how you treat the other ones, whether they be of industrial nature or agriculture nature?

Mr. Roth: Basically I agree with you. Certainly the inequity and injustice of one paying taxes on his house and another one not has certainly been a very difficult experience for councillors at the Court of Revision and has resulted in councillors imposing taxes on those families whose father may have been forced to go to Saskatchewan, may have been forced to go to Alberta, or may have been forced to go to Winnipeg to earn an income. As soon as he earned $500, he had to pay those taxes on that house. As far as I am concerned, as far as UMM is concerned, legally we had an obligation to do that and we were compelled to do that. It is a very, very sad thing when you have legislation which forces you to tax people of this nature, and yet due to the fact that another farmer who has been financially sound and been on the farm for many, many years does not pay taxes in that respect.

Now, in regard to the exemptions, I have indicated to you that at the present time the UMM's position is that we should minimize the exemptions. As a consequence, I think I should leave that statement with you. Let me assure you, we will be looking at the means of financing education in the future. I think probably there may be even exemptions, or possible exemptions which may be fairly addressed and implemented for the benefit of rural Manitobans; it may come up in the future again. There are many problems which we think that this Bill could address right now and eliminate obsolete legislation, legislation which has been here for 50 years.

Mr. Chairman: Thank you. Mr. Minister.

Mr. Penner: Thank you very much, Mr. Roth. I want to again extend my appreciation for the amount of work that you and your organization have put into the review of this Bill. I appreciate very much the comments that you have made in regard to the Bill. Thank you very much.

Secondly, before we move on probably to clause by clause on this Bill, I want to also indicate that in regard to the criticism that was extended by the Keewatin Tribal Council in my refusal to meet with them, I had indicated publically on numerous occasions that I would meet with any organization that requested to do so.

* (1710)

I have met with the Ojibway Tribal Council on this matter of 2(2)(b). They voiced their opinions to me. I had also indicated through a mediatory my wishes to meet with the Keewatin Tribal Council on this matter. However, I guess it was impossible to arrange for a meeting at a convenient time. Therefore, I suppose, the meeting did not take place. Thank you very much.

Mr. Chairman: Thank you. Mr. Uruski.

Mr. Uruski: Mr. Chairman, I have no further questions of Mr. Roth, but I have a point of order.

Mr. Chairman: Okay. Thank you very much, Mr. Roth and Mr. Chappell, for your presentation this afternoon.

Mr. Roth: On behalf of the Union of Manitoba Municipalities, I would like to indicate to you that the executive and, I am sure, many municipal officials will be very gratified to hear that Members of all the Parties enabled us to make this presentation today.

We believe this is one of the most important or probably the most important piece of legislation that we have seen before this Legislature in many, many years. We have hopes that if there are amendments

made, those amendments are prudent, that compromises can be reached, and that it may be passed so that the municipalities and towns are able to dispute their bills in the near future. We think that this is a Bill that would benefit not only rural Manitobans but all Manitobans. So, on behalf of the executive, I thank you.

Mr. Chairman: Thank you very much.

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Mr. Chairman: Before we go into clause by clause, Mr. Uruski, on a point of order.

Mr. Uruski: Mr. Chairman, just on a point of order. I gather that this committee made a decision earlier this afternoon to sit through Private Members' hour without the concurrence, discussion and agreement between House Leaders to this effect. It may have been, and I am not certain, that Members from this committee may have wanted to speak to some of those resolutions and really had to either leave this committee or in fact forego their opportunity in the Assembly.

I raise this in the sense to say that I am not certain that—while a committee is empowered to make its own decisions, the difficulty of not having reached a concurrence and agreement between all Parties in the House, I find stretching this whole question of co-operation, especially through a period of Private Members' hour, knowing that we will be sitting later tonight if we leave the committee now and come back at 8 p.m.

Mr. Chairman: I am sorry, that is not a point of order. We did deal with the question earlier, and it was agreed by all three Parties, Mr. Uruski. It seems the suggestion came from, I believe, your Party and the Opposition. Mr. Plohman.

Mr. Plohman: I think it is important. You did say, Mr. Chairman, that the suggestion came from our Party. What I suggested is that we adjourn at 5 p.m., go to Private Members' hour and then have our caucus meeting from 6 p.m. to 8 p.m., because I expressed concerns about coming back at 7 p.m. That was what I said. Then there were other suggestions that we go until 6 p.m. and then adjourn until 8 p.m. We dropped the argument at that point, but it was reluctantly.

Mr. Chairman: Thank you. What is the will of the committee then? Mr. Cummings, did you have a comment?

Mr. Cummings: It is simply to encourage the Members of the committee, unless there is some stated reason why they do not want the committee to continue. We were simply trying to get on with the responsibility that we are charged with and find an extra hour in which to do that work. I do not mind saying that my own House Leader (Mr. McCrae) asked me if we had all-Party concurrence, and it was my understanding that we did. Therefore we could continue. It was not an attempt to circumvent the House Leaders; it was simply a matter of trying to get on with our responsibility.

Mr. Chairman: Mr. Roch, and then Mr. Uruski.

Mr. Roch: The fact that there have been a couple of more briefs presented and there has been a considerable amount of discussion, and it is a fairly lengthy Bill, possibly some of these other items have to be looked at, I certainly will not be remiss at recessing until 8 p.m.

Mr. Uruski: Just on that point, I did check with our House Leader on that very point and found out that there really was no discussion whatsoever on this matter between House Leaders of either Parties. There is no doubt that if we do continue, and I am not suggesting that we do, I think it would be appropriate that this committee recess till eight and any Member that wishes to participate in Private Members' do so.

The point that I would want to leave on the record is that this should not be, if we do continue, this should not be a precedent that a committee will overrule the Legislature in terms of having Members, who may wish to participate in Private Members' hour, have to make the decision when they are Members of the committee that they have to either be here or be out, and make a difference should a vote be called in this committee.

Mr. Chairman: Thank you. What is the will of the committee? Shall we rise till eight o'clock? Mr. Minister.

Mr. Penner: I wonder, Mr. Chairman, whether it would be useful if we, and I do not dispute that we should rise—I find it interesting that we would agree a little while ago and then change our minds on it, but that be the will of the committee—whether it will be useful if we would indicate what our intention is as far as amending the Bill prior to you rising, prior to committee rising, that might have some bearing on deliberations that were made by both Parties or all three Parties over supper hour. If it is the wish of the committee I would certainly be prepared to indicate that. Yes, that I would willing to share with the committee what our intention was as far as amendments to this Bill were concerned prior to breaking.

Mr. Chairman: Before we have any other discussion on this, it is not possible, Mr. Minister, to do that. Either we have to get into clause by clause or we will adjourn until eight o'clock, one or the other. If we allow the opening statements now, we will be here until after six anyway, probably. Mr. Plohman.

Mr. Plohman: Yes, I think there has been a recommendation to rise. The information that the Minister is raising here is something that can come forward at eight o'clock. We are not going to complete the Bill, I do not believe, tonight and we will be able to follow up on the Government's recommendations at that time. I believe it is appropriate for the Government to indicate to the legislative committee precisely what they are intending to do with this Bill in terms of amendments and then we can work from there. That would be appropriate at eight o'clock.

Mr. Chairman: Mr. Cummings, did you have—

Mr. Cummings: Mr. Chairman, I take it from the comments we just heard that the majority of the committee wishes to rise. I simply want to indicate my disappointment that after previously agreeing to work, and after previously having had a harmonious relationship when we agreed to hear additional presentations today, I hope that when we come back at eight o'clock that we can continue with that spirit of co-operation to get on with the clause by clause, and that we start promptly at eight with clause by clause and begin to work our way through it, because obviously it is going to take us more than one sitting to do it.

Mr. Chairman: Thank you. Okay, before the committee rises, I would just like to add one point. That when we come back at eight o'clock or in the recess, if you would give some consideration to the time that we will adjourn tonight, and we will decide that at eight o'clock then.

Okay, committee rise.

* (2000)

RECESS

Mr. Chairman: I bring the committee to order. The Bill will be considered clause by clause. During the consideration of a Bill, the Title and the Preamble are postponed until all other clauses have been considered in their proper order by the committee. Since this is a lengthy Bill, may I suggest that if the committee wishes to consider clauses in blocks, for example, Clauses 2 to 15, would that be acceptable? If there are going to be any amendments proposed today, may I suggest to all Members that your co-operation will be greatly appreciated if you prepare them ahead of time. You may ask for assistance from Legislative Counsel.

May I also remind all Members that all amendments shall be presented with respect to both English and French.

Before we get started, what are the time limits tonight; how long do we want to go tonight?

Mr. Taylor: Mr. Chairperson, I will have to respond after that ridiculous comment from a certain Member who does not like to work late some nights it appears. But in any case, I think there is a spirit in the committee to put some real effort into this piece of work. I think you have seen that in the public hearings portion of it, and I would suggest that we do the piece of work no justice whatsoever if we are prepared to start working through to two and three and four in the morning. The process is going to take us a couple of days here, maybe three or four, but my expectation is it is going to be done this week without fail.

Now, given that, I would rather be fresher at doing this stuff than slogging away on what is probably one of the toughest pieces of legislation we will probably ever have to deal with, and I make a suggestion for discussion that we call it quits at eleven o'clock and see what the feeling is around the Table. We are going to be back at it tomorrow night, same thing, and maybe the next night, too.

Mr. Chairman: Any other suggestions?

An Honourable Member: Back tomorrow morning.

Mr. Chairman: We will be back tomorrow morning, yes.

Mr. Taylor: We will be at it tomorrow night, too, I am betting.

Mr. Chairman: 11 or 12, what do you say?

An Honourable Member: If we are in an issue at 11, you will finish that clause I am sure. If it goes, 11:15.

An Honourable Member: 12 is good.

Mr. Plohman: I would just concur that we leave at eleven o'clock because of the nature of this, as has been outlined by Mr. Taylor that it would probably be suitable, particularly in light of the fact that a lot of the amendments that come forward will be perhaps new to us, having not seen them. When you distribute them, we have not distributed amendments prior to sitting and, therefore, in order to do a proper job of it, it may be necessary to hold some of them over, to have an opportunity to discuss them further, if that need arises. But in any event, it is going to be a lot of intensive work and I would think eleven o'clock is an appropriate adjournment time.

Mr. Chairman: Is that the will of the committee? Agreed? (Agreed)

It has been suggested that we leave the definitions part, that is Part 1 really, which is the definition part of it, until the end, and start on Part 2. Mr. Plohman.

Mr. Plohman: I believe, Mr. Chairman, the Minister may want to make some statements about what his intentions are—an amendment to definition of value would be included in this first section, and it would be very important to have that on the Table before we get into the other section. So I would see some value in going through the definitions first, at least to the extent we can, before proceeding to the other clauses.

Mr. Chairman: Okay. Mr. Roch, do you have a comment?

Mr. Roch: I just want to echo that same sentiment. That was the issue of the whole definition of value, and also, given the type of Bill that we are facing, possibly we should go right from the beginning to the end, because some definitions may have implications later on. I do not know. Is it just custom, or—

Mr. Chairman: That is the will of the committee—Mr. Cummings.

Mr. Roch: I just want clarification, what I want.

Mr. Cummings: Mr. Chairman, the Member for Dauphin (Mr. Plohman) perhaps makes a valid point, but the thinking might be of the committee that there would

be quite a few amendments that would therefore require some amendments of the definitions as well subsequent to the amendment. For that reason, it might be practical to save the definitions until after the amendments have been finalized.

Mr. Chairman: Mr. Roch first.

Mr. Roch: So if I understand the suggestions correctly, we would have a definition of value tabled and then we would go on to about the section immediately following definitions.

Mr. Chairman: I am not sure, but in the opening remarks of the Minister, he has some amendments that he is going to bring up I would think, and then some of these things will be clarified. Mr. Minister will refer to them. Mr. Plohman.

Mr. Plohman: Under those circumstances, I think we should hear what the Minister has to say and then determine whether we want to proceed. I would like the understanding that the Member for Springfield (Mr. Roch) had, and that is that we would have tabled the definition for value. Others, we could leave, all of them we could leave to deal with at the end, but any changes to definitions that might arise as a consequence of other amendments, can be left to the end in any event.

* (2010)

Mr. Chairman: That is fine then. We will leave it till after the Minister's opening remarks. If there are no other questions, we will start, and I will ask Mr. Minister to give us his opening remarks.

Mr. Penner: It is certainly my pleasure to be able to sit here today on this historic occasion. As a committee, I guess, we are going to be faced with numerous challenges to make sure that we have the kind of legislation that is going to serve local Governments probably for as long as the previous legislation served. I believe it was some 60 years that the previous assessment legislation was in place, and municipalities were forced to work with, although during the latter part of the years somewhat an antiquated legislation.

It is certainly our pleasure, as a Government, to be able to have drafted a piece of legislation that I think will serve very well, and that I think will need very few amendments, except for some minor corrections to some of the wording in the Bill. There are however, after having listened to the many presenters that we have heard, it has become apparent that we should redraft or amend some of the sections in the legislation to conform with the current thinking in the province. Therefore I would like to specifically draw your attention to the fact that I will be, as I said the other day, proposing some amendments to the Bill, although not a great deal, that will help address, in my view, the presentations that have indicated very clearly the desires of the general public in this assessment legislation.

Therefore I believe it is important that we clearly define a section in the Bill dealing with hospitals to clarify that certain mental hospitals are not included in this definition. As well, we will ensure that all hospital buildings are exempt from taxation so long as they are used for hospital purposes.

Also, as a result of the presentations by a number of people who appeared before this committee, I will be coming forth with an amendment to the section dealing with value, to ensure that there is a clarity in the definition of market value. If it is your wish, I can table that portion of the Bill now, but I would sooner finish my remarks and then table that portion of the Bill.

As a result of some other concerns expressed by others before this committee on the ambiguity of the appeal rights, I will also be proposing an amendment under Section 13 to clarify that issue as well, that the rights of the appeal that some people have questioned is going to be as was in the previous Bill or defined even more clearly.

The issue of the two-value system for farm property has been a subject of many of the presentations that we have heard. It is also our desire to amend that section to clearly define how farm properties that are affected by the urban shadow can be addressed. This issue, I believe, is and has been a significantly difficult one throughout the history of this Manitoba Legislature, or since the Bill was drafted. It became quite apparent that the urban sprawl affected agricultural values to a much greater degree within limits of the City of Winnipeg and many other urban centres in the province. Therefore we will be dealing with this section under the amendments of this Bill to address that issue.

In dealing with clause-by-clause consideration, I would like to suggest to the committee, as has been suggested by the Chairman really, with the exception of the one clause dealing with market value, that we really should be moving to the second section of this Act to make the amendments or to deal with the rest of the Bill, and then come back to the definitions to reflect on the changes that have been made. So if the committee would concur with that, that would be my suggestion. I believe that if we do not do that, if we deal with the first section first, we will just be referring back to it and coming back to it later to make changes as we go along.

With that, Mr. Chairman, if it is with your wishes, I will table the amendment dealing with the market value definition, which reads:

THAT Section 1 be amended by adding the following definition in alphabetical order

> "value" means, in respect of property being assessed under this Act, the amount that the property might reasonably be expected to realize if sold in the open market in the applicable reference year by a willing seller to a willing buyer; ("valeur")

(French Version)

Il est proposé que l'article 1 soit amendé par insertion, dans l'ordre alphabétique, de la définition qui suit:

> "valeur" Relativement aux biens qui font l'objet d'une évaluation prévue par la présente loi, le

montant qui pourrait vraisemblablement être obtenu si les biens étaient vendus sans contrainte dans le marché libre au cours de l'année de référence applicable. ("value")

That is basically lifted right out of The Expropriation Act, and if the committee concurs, I would move that we amend the Bill in that order.- (interjection)- That is under Definitions, yes.

Mr. Chairman: Just a minute, Mr. Plohman, it is being distributed right now. Okay, go ahead.

Mr. Plohman: I understood that we were agreeing to have this tabled, but we were going to go to Section 2 and then do all amendments to definitions later on. If we are going on that basis, then the Minister does not have to move this at this particular time, and I do not know that the Minister should be moving it in any event. I believe that some colleague of his normally would do that.

Mr. Chairman: So is that the wish of the committee then, that we proceed with Section 2?

Do the Opposition Parties or critics have opening statements also? Mr. Roch.

Mr. Roch: Thank you, Mr. Chairman. Before I proceed, I just have a question to the Minister which I guess I may have missed from there, but if I understand the process correctly, this definition of value, this amendment to define value will be introduced when?

Mr. Chairman: When we finish the amendments to the original Bill, then we will come back and do the definitions, the front part of the Bill, which is the definitions.

Mr. Roch: Okay, thank you, Mr. Chairman.

Mr. Chairman: Is that clear?

Mr. Roch: Yes. We have some time constraints, I understand, so I will make just a brief opening statement. Then I will be happy to proceed to clause-by-clause consideration of this Bill.

Mr. Chairman, we are most anxious to proceed with assessment reform. What the Government presented, I believe, is a piece of legislation which can be improved. It was presented very late in the Session. I certainly hope it was not done to limit public input on essential amendments, but it appears to be the process which has happened to date.

We have amendments that we intend to present. We believe that these amendments will enhance the assessment process and create a more equitable system for all Manitobans. I want to highlight six of the major amendments which we will be presenting during the clause-by-clause consideration of this Bill which, with its consequential amendments, will go a long way to improving this Bill and, hopefully, speed its passage along.

The Chairman will be presenting amendments to exempt farm buildings just to produce, equipment and feed. As currently proposed, Bill 79 encourages poor farming practices by taxing storage buildings. Implement storage prolongs the life of machinery and reduces maintenance costs. Produce and feed which is not stored properly quickly deteriorates.

Further, the nature of the quota system which determines the quantity and time of grain shipments often results in farmers constructing extra granaries. I believe that the Government is taking advantage of the implications of the quota system perpetuated by the federal Government. We believe that the maintenance and construction of storage buildings should be encouraged, not penalized.

In order to reduce the bureaucracy taxpayers face when appealing their assessments, and to limit the financial and administrative burdens on local governments, we will also be proposing the removal of the Board of Revision. A great many problems of the Board of Revision have come to our attention. One of those is that each local government appoints a Board of Revision which may include councillors or private citizens. In many municipalities, members of the Board of Revision went through all of the assessment appeals of their friends, relatives and neighbours.

* (2020)

As well, for many municipalities, the Board of Revision is a millstone due to complexities of the assessment system. Therefore, it is often difficult to find people willing to sit on the board. Members of the Board of Revision who are not councillors are paid on a per diem by the municipality. Depending on the number of applications, this could represent a significant sum for less affluent municipalities.

Lastly on this particular point, most decisions by the Board of Revision are appealed on a municipal board by either the applicant or the assessor. In many cases applicants fail to appear before the Board of Revision, because they know they will be appealing to the municipal board or the Court of Queen's Bench. Therefore, we are proposing to streamline the system in order to reduce the red tape and bureaucracy for taxpayers, as well as to reduce the costs and headaches for municipalities.

Environmental protection is one of the guiding principles for proposed tax exemptions for land used for environmental or ecological purposes. Although the Government has identified the environment as a priority, this Bill has ignored environmental protection in one of the most important Bills to come before this Legislature. It is our belief that farmers preserving tree stands, wet lands and the like, or allowing land under cultivation to revert to nature should not be taxed for their efforts. A right of entry clause is fundamental for the protection of property owners. Failure to include such a clause is, in my opinion, a very serious oversight by the Minister. The Government has given little consideration to the rights of the people of Manitoba, but the Liberal Party is committed to ensuring that people's rights are respected.

Another major oversight by the Minister was a lack of consideration given to the unfair taxation of farmers

living in the urban shadows. Now I understand that the Minister has indicated in his opening remarks that he will be looking at that. However, we have to look at the picture throughout the whole province, not just the periphery of Winnipeg, because all lands bordering towns and cities have been unfairly taxed because of the potential development value of their lands. As indicated previously, it is our position that agricultural land under development pressure should be assessed at a rate comparable to similar agricultural land not under development pressure. The ideal system should be established to assess land for its market value, i.e., its development potential as well as its agricultural value.

Farmers owning their property for less than 15 years could choose to sell their land for development purposes or develop the land themselves and would be required to pay the difference of the two assessed values for a period of five years. We believe that annual assessments are needed to counter a freeze that this Bill will impose on appeals assessments. As has been pointed out by various presenters, items such as a PCB spill or the construction of a slaughter house or other such items which may reduce property values, taxpayers who are affected will not have their assessments amended until the next general assessment. We hope to propose and we hope that this committee accepts a far more equitable system by requiring annual assessments, with the reference here being the preceding year, not 1985 as proposed by the Government, and be annual thereafter. In addition to these items that I have just outlined, we intend to propose some other amendments.

Unfortunately, the number of errors and omissions in Bill No. 79 are reminiscent of previous Bills introduced by this Government. For example, we will be presenting amendments to redefine hospital, which may or may not be the same as the one which the Minister will be introducing. As well, we want to increase the maximum exemption to ensure that all hospital facilities are exempt from taxation. We will be modernizing the definition of railway roadway to reflect current technology. We will be presenting an amendment to the defence and penalty clause to make provisions for obstruction of an assessor. We will attempt to correct other shortcomings of the proposed Bill.

The Liberal Caucus is devoted to providing Manitobans with a more equitable system of taxation as soon as possible. We are willing to work with the Government and the third Party to hammer out the best possible assessment legislation. With co-operation, this will happen and without undue delays. I would submit though that ultimately the responsibility for passage of this Bill in the time frame agreed to by all three Parties rests with the Government. In co-operation we can pass this Bill within the time that we want to. Thank you.

Mr. Plohman: Mr. Chairman, I am not going to make opening remarks as to specific amendments. What we are going to be doing is questioning the Minister, seeing what amendments he is prepared to make and corrections as we go along. After all, this is his Bill, the Government's Bill. We will be attempting to improve it, if the Government is not putting forward amendments that we think are appropriate, or if the Opposition is not putting forward amendments that we think are appropriate. We want to proceed.

Mr. Chairman: Okay, we will deal with Clause 2. Clause 2—Mr. Roch.

Mr. Roch: When you say Clause 2, you are referring to Section 2?

Mr. Chairman: Section 2, Part 2, Clause 2—pass; Clause 3—pass.

Part 3, Clause 4—Mr. Roch.

Mr. Roch: I want to clarify this here. When you say Clause 3, is that synonymous with Part 3 in the Bill?

Mr. Chairman: It is on page 11.

Mr. Roch: When you say Clause 3, it is the City of Winnipeg—

Mr. Chairman: That is right. Now we are on Part 3, Clause 4, which is the Provincial Municipal Assessor. Shall the clause pass—pass.

Clause 5, Duties of a Provincial Municipal Assessor—Mr. Roch.

Mr. Roch: Mr. Chairman, I would like to move an amendment at this point. I would like to move that—and before I want to move, I just want to make sure I have the proper procedure for moving an amendment. Is it moved and seconded by a committee Member and then put to a vote, or what is the proper procedure?

Mr. Chairman: We have to distribute it in both languages and debate it and then vote on it.

Mr. Roch: I would move, seconded by the Honourable Member for Selkirk (Mrs. Charles)

THAT Clause 5(1)(e) be amended by adding "related" before "duties".

(French Version)

Il est proposé que l'alinéa 5(1)(e) soit amendé par insertion du terme "connexes" aprés le terme "fonctions".

* (2030)

Mr. Chairman: Is that in English and French?

Mr. Roch: Yes. Mr. Chairman, when I was going through this Bill, I was not necessarily going through it in chronological order. After having passed my proposed amendments to Legislative Counsel, and I certainly, while I am at the Legislative Counsel, I certainly want to thank them for their patience and indulgence and the amount of work they put into this, many of the amendments came about because of a certain few major amendments that were made to the Bill which caused changes in other parts.

This particular amendment is to—it is relatively a minor one here, it is a housekeeping amendment. It is to ensure that the duties that are assigned by the Provincial Municipal Assessor are related to assessment. That is basically what the purpose of the amendment is. I believe there was concern on the part of the people who work within the department that they would be assigned to duties which are not within their area of expertise or indeed the area of job description.

Mr. Chairman: Mr. Plohman.

Mr. Plohman: Yes, I recall the presentation on this, and although I do not think that this would have been a problem, particularly insofar as assignment of duties, I do not think this amendment hurts. Therefore we feel that we could support it. It certainly clarifies, Mr. Chairman, the issue.

Mr. Penner: I respect the fact, Mr. Chairman, that the Honourable Member of the committee wants to amend this clause by adding "related" before "duties." But in fact there are times, and this section of the Bill was specifically drafted in the way it was, because there are times when people that actually perform the assessments of properties are in fact asked to do some other things, sometimes very, very limited in the differentiation of what the clauses are, but can in fact be sometimes not related to the actual description of the assessor or the job of the assessor. Therefore that clause was specifically drafted the way it was to allow for some other duties at times when there are times when people have time, some of the duties to be performed by the assessors.

So I would hope we could the leave the clause as is, which would allow for some flexibility of job description for assessors at a future date.

Mr. Chairman: Does the amendment pass—pass. Does the clause as amended pass—pass. Clause 5(2), Reporting exception for 1990—pass.

Clause 5(3), Powers of Provincial Municipal Assessor—Mr. Roch.

Mr. Roch: Thank you, Mr. Chairman. I would like to move

THAT Clause 5(3)(f) be amended by adding "at reasonable times and upon reasonable notice to the person in occupation," before "enter".

(French Version)

Il est proposé que l'alinéa 5(3)(f) soit amendé par insertion des termes "à des heures raisonnables et après avoir remis un avis raisonnable à l'occupant," avant le terme "entrer".

Mr. Chairman, the purpose of this amendment is that because in the past people have at times encountered—for example, if someone is in the middle of a haying season, or it could be a private owner in a town or city, and the assessor shows up and says, I want to see your property, people are expected to drop everything and just go out and show the property.

Now this may or may not happen at all times, but there are cases in which it happens. This is just a matter of respecting people's individual rights that there should be reasonable notice given to the property owner prior to the assessor showing up on his door to do an assessment.

Mr. Penner: Mr. Chairman, if it is the wish of the committee, I can ask our chief assessor to respond to that portion of the Bill and indicate why the Bill was specifically drafted the way it was. I believe the technical aspects of the Bill should be explained by Bob.

Mr. Bob Brown (Provincial Municipal Assessor): I will just explain the assessment branch policy. It is normal for the municipalities to give newspaper notice that assessors will be in the area in a certain week to come. So there is some public notice given.

It is also the policy of the assessment branch that when you call upon a home and the individual is not there, you leave a predesigned form on the door saying that the assessor called and would be pleased to have an appointment made to come back at the owner's convenience. If the owner is at home and for some reason is too busy to let the assessor in at the time, it certainly is the policy that the assessor would again invite an appointment to be made.

I do not have direct writing from the city assessor as to their current policy, but as a city ratepayer I know about two weeks ago there was a notice on my door from city assessment staff saying they had called and would be pleased to make an appointment to revisit my home. So I believe notice is traditionally given.

Mr. Roch: Therefore, if I understand you correctly, what you just said is that notice is traditionally given. It has been past practice to give notice, therefore there should be no objections having to it in the Bill.

Mr. Brown: I would clarify perhaps that administratively speaking, I do not think it is reasonable to make 500,000 appointments for the 500,000 properties as a matter of course, but only in those instances where either the homeowner is not home or is busy doing something else, would prefer not to be disturbed. Appointments can then be made at a convenient time. I would view it as a major slowdown, if you will, in the process if appointments had to be made as a matter of course for every property before visitation.

Mr. Roch: The amendment does not specify appointment, it just says: at reasonable times and upon reasonable notice to the person in occupation. Possibly then the notices which are being given now which have traditionally been given out could be considered reasonable time.

What I am trying to avoid is the—although I know of cases where people have showed up it was not a major inconvenience, but there is one specific case that I know of where a person was in the middle of harvest and all of a sudden he was expected, and I will admit that some people are possibly not as polite as others, to drop everything and go out with the

assessor and do his assessment. I do not think that would be very reasonable. I think in a case like that there should be some kind of protection in the Act where an individual is not obligated to just go out at the whim of a bureaucrat.

* (2040)

Mr. Brown: I would certainly agree that the practice to follow would be simply to inform the assessment office there was an unreasonable demand placed, and it would be dealt with, an unreasonable demand by the assessor for time would be dealt with.

Mr. Plohman: Mr. Chairman, I have not heard that this is a widespread problem in terms of the impact. The current practice on people—there has been the odd complaint I believe, but generally politeness and courtesy cannot be legislated; it has to be part of the educational process and training for assessors. The ability to communicate and relate well with the public is a very important part of their job and obviously one that the senior staff always has to be very conscious of in terms of making provisions for training and taking action where necessary if a particular individual is causing a problem as a result of the way he approaches his job, or her job. I think it is broader than something you can legislate and from the explanation given, in terms of the efficiency of the system, I think it is probably not required.

The "reasonable times" portion is something that has some merit, but maybe the chief assessor could give us an explanation as to the hours that people work in assessing property. Are there unreasonable demands made of the public at times?

Mr. Brown: In terms of the hours the assessors frequently, when they are reassessing urban communities, will tend to come in the evening hours because with both spouses working these days, it is found the evening hour is the more reasonable time. In cottage country, for instance, weekend inspections are frequent for the same sort of rationale. The cottage owners are there on the weekend.

I could certainly never guarantee there is not some unreasonable time an assessor might show up, but then again I would suggest that be dealt with on the individual merit of the case.

Mr. Roch: Therefore, if I understand you correctly, you are saying that someone shows up in evening because both spouses are working, and it is not convenient for those people at the time to have their property assessed, you are saying that the odds are that the assessor will come back at another time. Did I understand you correctly?

Mr. Brown: Yes.

Mr. Roch: Okay, well that is exactly what my argument is here, that I do not think it is being unreasonable for a tenant or a proprietor to give his consent. I do not see what the big problem is. It is not writing, casting in stone that you have to make 500,000 appointments. It is just saying that if you show up and the people at the property say it is not possible tonight, the assessor insists upon it, there is nothing right now in the Act which safeguards the rights of the property owner or the tenant for that matter.

Mr. Chairman: Mr. Minister, ready for the question?

On the proposed motion of Mr. Roch to amend Clause 5(3)(f),

THAT Clause 5(3)(f) be amended by adding "at reasonable times and upon reasonable notice to the person in occupation," before "enter".

Shall the amended amendment pass? No? All those in favour, say aye.

Some Honourable Members: Aye.

Mr. Chairman: All those against, say nay.

Some Honourable Members: Nay.

Mr. Chairman: In my opinion, the nays have it.

Mr. Roch: I would like to clarify the procedures for recording this vote, Mr. Chairman. I am asking for the procedures for a committee vote.

Mr. Chairman: The procedure we went through is the procedure used in the committee stage. Just a normal procedure for a committee, but if you would like we could have a show of hands and we do not name the people, then the Clerk would do a count, if you would like a count.

Mr. Roch: There is no process of a recorded vote in committee?

Mr. Chairman: No.

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Mr. Chairman: Mr. Taylor, on a point of order.

Mr. Taylor: On a point of order, I would suggest that shows one of the shortfalls of the provincial committee system and obviously an area that will have to be worked on when we modernize this system.

Mr. Chairman: Sorry, it is a dispute of the facts and it is not a point of order. We cannot deal with it now.

*****

Mr. Chairman: Now we go to Clause 5(3) of the Act, Powers of Provincial Municipal Assessor. Clause 5(3)—pass; Clause 5(4)—pass; Clause 5(5)—pass.

Clause 6(1) Regulations by Lieutenant Governor in Council—pass.

Clause 6(2) Regulations by Minister—Mr. Uruski.

Mr. Uruski: Before we leave Clause 6(1), can the Minister indicate when he will be announcing the

question of proration or proportioning the values as outlined in 6(1)? How will he be notifying Members of the Assembly, and when will that information be available?

Mr. Penner: The portioning is done by Order-in-Council, as you know, and the notification of what the portions will be should be done very shortly after, I would say within a couple of weeks, at least within a month of the time that this Bill passes, as soon as Cabinet can deal with that matter.

Mr. Uruski: Mr. Chairman, will there be a session informing Members prior to the announcement, or what is the intent of the Government with respect to the portioning provisions in this section?

Mr. Penner: I am sorry, I did not hear this.

Mr. Chairman: Would you like to repeat that, Mr. Uruski?

Mr. Uruski: I am asking the Minister, what is the Government's intention on informing Members of the Assembly? I mean this is an area that is left solely to the Government's discretion, looking at impacts and the whole process. What I would like to know as a Member as to what the Government has in mind. Are there going to be sessions with municipalities? Are there going to be sessions with MLAs when they reach that decision because obviously this is a very crucial section with respect to the whole question of assessment and how it is going to impact on municipal ratepayers. That is certainly one of the most, in my mind, delicate sections and its impacts on Manitobans.

Mr. Penner: You are certainly correct that this is an important part of this legislation, and it is also important that Executive Council deal with this matter rather quickly, in establishing the portions of the classes. Therefore, in order for the calculations that are required under the Act to meet municipal assessments and allow municipalities to proceed with the calculations and the budgeting process, this would have to be dealt with fairly soon. It is our intention to make those announcements, make them public as soon as we have the ability. As soon as this Bill is passed we have the ability to deal with this at Executive Council.

Mr. Uruski: Mr. Chairman, is the Minister prepared to give an undertaking that all the relevant data in which the Government has made its decision will be made available to Members of the Assembly?

Mr. Penner: I am not quite sure what the Honourable Member is referring to when he talks about all the respective data in the due course of making the decision. If you want to expand on that—

Mr. Uruski: Mr. Chairman, we have received information, as much as the Government has been able to provide for us on the question of the area of apportionment. We have not been able to get enough information to see the impact of the shift within classes, although we have basically had to take the word of the Government and the bureaucracy to say, look, this is what we think will occur from the analysis we have now.

Obviously, the Government will want to have a bit more information before it starts making its decisions. All I am saying is, will the Minister give us the undertaking that once you have made that decision, the same information that you have been given by the bureaucracy to make your decision will you provide to us, so that we have the ability to assess your decision-making in a way that at least we know how you have arrived at that decision?

Mr. Penner: Mr. Chairman, I think I made it clear to all committee Members, as a matter of fact all Members of the Legislature, that I have been willing, and was going to be willing, to share all the information and brief all Members of the committee and the Legislature on the various aspects of the Bill. We have, as you know, passed on significant amounts of information—the various computer runs that we have done on various properties throughout the province, trying to determine how they would affect the various properties, whether they be dairy producers or livestock producers and others.

Also we have attempted to do some runs on what the impacts would be to the various municipalities, or properties within municipalities, to try and find whether there would be the shifting that you refer to.

It becomes very evident that we are not able to do any final calculations until we have been allowed to, after passage of the Bill, establish the portions and then do some calculations, and as soon as those are available they will be shared with the municipalities, as well as all Members of the Legislature. That will be open information, certainly.

* (2050)

Mr. Uruski: Mr. Chairman, I have the Minister's undertaking that the data he will be presenting to Cabinet, once Cabinet has made its decision, will be available to Members of the House. Is that correct?

Mr. Chairman: Mr. Minister, is that correct?

Mr. Penner: Yes, that is correct.

Mr. Chairman, there will be a slight amendment proposed to this section of the Bill a little later on, reflecting an amendment that will come when we make an amendment to Section 17, 17(1) I believe it is.

So with the concurrence of the committee, I would suggest that we leave this section, hold this section open and deal with it when we deal with Section 17(1), and an amendment that we are going to be proposing. If the amendment passes, then we would like to propose an amendment to this section.

Mr. Chairman: Is this to 6(1) then, Mr. Minister?

Mr. Penner: Yes.

Mr. Chairman: We already passed that one. We will just come back to it. We will go on. Mr. Taylor.

Mr. Taylor: Mr. Chairperson, it was with interest I heard the question by the Member for Interlake (Mr. Uruski). Could the Minister be a little more specific about when he expects to come out with the portioning that is to be done in Cabinet? The goal, I understood, of this committee by a three-Party written agreement was to attempt to have this through the House, including Royal Assent, by the 15th of this month.

Given that there has been the co-operation in that fashion by the two Opposition Parties and an agreement signed by the three House Leaders, I would suggest that in the same vein it would be reasonable to ask the Minister to the nearest half month when he expects to be dealing with this matter. Late January? Early February? Late February? I think something a little more specific would be in order. I think the Minister is probably capable of giving us that.

Mr. Penner: Mr. Chairman, it will be largely dependent on what we do with this Bill in committee, in other words, what kinds of amendments are brought forward and what kinds of changes are forced by the amendments. It will depend on whether we have to make some changes and how we do calculations and all those kinds of things. So it is largely dependent on the passage of this Bill and how relevant the changes are to the Bill or what changes they in fact would direct before I can indicate clearly when you can expect the portions to be set and publicized.

I simply am not able to say at this time whether it would be two weeks from now, whether it would be a month from now or six weeks from now, depending largely on what we do with this Bill.

Mr. Taylor: Mr. Chairperson, other than improving the Bill, I do not think we will be doing anything dastardly to it. I would ask further questions specifically.- (interjection)- Of course, it is a sincere undertaking.

Section 6(1)(a) is another matter which will be left with the Lieutenant Governor in Council. That is the prescribing of assessment rate schedules for railway, roadways and pipelines. This is of interest to many, many municipalities. This is one in which I cannot see, I would be very surprised in fact if there will be, impact by amendment on that particular area. It is also an area where I would suggest the approach to it is long overdue for review. I think the railroads are anxious; so are the municipalities.

Can the Minister give us an undertaking of when he expects to be able to bring forward recommendations to Cabinet to discuss this matter and put forward a schedule?

Mr. Penner: Mr. Chairman, the line of questioning is somewhat interesting to me. I reflect on the statement which was made by the Leader of the NDP Opposition (Mr. Doer) in the Legislature when he was debating the Bill. He indicated clearly, he said this Bill is like a Rubik's Cube. You cannot deal with one section in isolation, that if you pick out one and make major changes to one, you affect many parts of this Bill. So I think we need to be very careful when we make amendments to this Bill that we do not throw the whole thing out of whack and cause some major concerns, not only in the department, but also in many parts of Manitoba as to how assessments can in fact be dealt with.

So the question you ask, simply the answer would be that I do not know how to deal with that question in isolation or how to answer it in isolation.

Mr. Taylor: Yes, just to follow up on that, Mr. Chairperson, on the hypothetical situation that there are no significant changes as it impacts railways and pipelines, when would you propose to bring forward a series of schedules after having had discussions with the operators of both?

Mr. Penner: Again, as soon as the legislation is passed and we are sure of what the impacts of the legislation will be on the various sectors, we will make announcements. Thank you, Mr. Chairperson.

Mr. Chairman: We will continue on Clause 6(2) Regulations by Minister. Mr. Minister.

Mr. Penner: I would propose, Mr. Chairman, that we add Clause 6(3) -(interjection)- yes, but that we add a section called 6(3).

Mr. Chairman: Just a minute, do you have a point of order?

POINT OF ORDER

Mr. Roch: Yes, a point of order, if we are on 6(2), I believe we are on 6(2), it has been voted on? The Minister wants to have 6(3), we should deal with 6(2).

Mr. Penner: Okay, but 6(3) changes 6(2) and rather than an amendment to 6(2), it is going to be another section which is 6(3).

Mr. Roch: Mr. Chairman, not knowing what 6(3) is, I was intending to propose an amendment 6(2).

Mr. Chairman: Okay, we will deal with 6(2) first then, Regulation by Minister. We will deal with 6(2) then, and we will deal with the amendment, with the 6(3) later. Go ahead. Mr. Roch.

*****

Mr. Roch: I move

THAT Clause 6(2)(d) be amended by adding "related" before "duties."

(French Version)

Il est proposé que l'alinéa 6(2)d) soit amendé par insertion du terme "connexes après le terme "fonctions".

That keeps it consistent with the previous amendment that was passed by this committee when we met at Clause 5(1)(e).

Mr. Chairman: We have to wait until it gets distributed here so we can all read it.

* (2100)

Mr. Roch: I am sorry Mr. Chairman.

Mr. Chairman: On the proposed motion by Mr. Roch to amend Clause 6(2), with respect to both English and French texts, that Clause 6(2) be amended by adding "related" before "duties."—pass. Shall the clause as amended 6(2) pass—pass.

Okay, we will deal with Clause 6(3) which is being distributed. Okay, on the proposed motion by Mr. Penner—

Mr. Penner: That we add section or Clause 6(3) and

THAT section 6 be amended by adding the following subsection with respect to both English and French texts.

Retroactive regulations for 1990
6(3) A regulation made under this section may, for purposes of assessments for 1990, be given retroactive effect and come into force on January 1, 1990.

(French Version)

Il est proposé que le projet de loi soit amendé par adjonction, aprés le paragraphe 6(2), de ce qui suite:

Effet rètroactif des règlements
6(3) Tout réglement pris en vertu de présent article peut, aux fins des évaluations prévues pour 1990, avoir un effet rétroactif et entrer en vigueur le 1er janvier 1990.

Mr. Chairman: Shall the amendment pass—Mr. Roch.

Mr. Roch: Yes, I just want to note for verification that Section 98, given the fact that the Bill says this Act comes into force in January 1990, is that not covered or is it?

Mr. Penner: It just conforms this section of the Bill with the rest of the Bill.

Mr. Chairman: Shall the amendment pass—pass.

Mr. Penner: Mr. Chairman, we have another similar situation that we had here a few minutes ago, that there is a section in 6(2) which will need to be amended once we have amended 57(3). Again, with the concurrence of the committee—that we refer back to this section later and deal with that section in concurrence with the proposed amendment that we are putting forward.

Mr. Plohman: Just on this Section 6(1),(2), actually we are on (2), but I wanted to ask a question just before I—or 6(3), in this area on 6 describing per class of accessible property. Can the Minister indicate whether he is intending to bring in an amendment dealing with wildlife habitat or some such subclassification or classification in this Bill?

Mr. Penner: Yes.

Mr. Plohman: Can the Minister indicate, Mr. Chairman, in what section he intends to bring it forward, because I have an amendment that would follow 6(3)? It would be 6.1(1 to 3), dealing with that issue, and I do not want to pass up the opportunity to introduce it unless I am certain that there is a similar such amendment that the Minister intends to bring forward in another section. So I would have to ask the Minister then to provide some information on that issue at this time.

Mr. Penner: Basically, Mr. Chairman, what we intend to do is clarify the assessment process that has to do with non-productive lands, either wetlands or bushlands, and how those assessment processes are done and what values are applied to some of these lands.

Mr. Plohman: Mr. Chairman, is the Minister saying that it would spell out the guidelines for how this land is assessed, plus how portions would apply to that particular land that would be so designated as wildlife habitat, as a percentage of agricultural land, for example? In what section would he propose to bring that forward?

Mr. Penner: Basically, the portions or the apportionment or the classification of that land would be agricultural land. So it would be a Class 3 land and the apportionment of the lands would be similar to the apportionment of the agricultural lands.

However, there is a formula, which would remain in place, that has been used by the department over numerous years to lower the assessed amount on a given acre of non-productive land or wooded area that would remain in effect. We would like to clarify that under this Act and ensure property owners that in fact they are receiving those reductions through the assessment process, and clarify how those numbers are arrived at.

Mr. Plohman: I have two questions. One still has not been answered, that is, what section would that apply to? Secondly, what would be the formula of agricultural land? What percentage or what would the ultimate result of that formula application be for wildlife habitat?

Mr. Penner: Again, the amounts of assessed values might vary from zero to whatever values might be applied in given areas, recognizing that some of the wooded areas or creek beds, those kinds of things, are pastured in many areas and that there is in fact values to these set-aside areas other than simply just wildlife. So there is a variation of this through the assessment process that is used. I think that needs to be clarified to the individual property owner, and in a way that is clear once and for all, through the notices on the assessment or an attachment to the assessment notice, spelling out how this is done, and how these values are arrived at, and what values are actually attached to the given property.

Mr. Plohman: Am I correct to understand then that the section of amendment will not deal with the details? It will only enable or require that information to be present on the notice. So, in fact, Mr. Chairman, the Act itself will not have reference to the clause, to the terminology, "wildlife habitat."

Mr. Penner: The Act in fact could make reference, could spell out how, but in reality it can be done under regulation to clearly indicate what the amounts will be.

Mr. Plohman: It is not a matter of whether the Act could do it. I know it could do it if we decide that it should be done. I am asking the Minister whether he intends to introduce an amendment that will in fact do it, and in what section does he intend? If it is not drafted, and he is not ready with it, perhaps I should introduce my amendment at this time and then have it discussed at the committee at this particular time, and some explanations given.

Mr. Chairman, I would like to have that amendment circulated at this time, and I could move it and then we could have it tabled if it is necessary after the Members have looked at it.

Mr. Penner: The amendment that I was talking about is not ready at this time.

* (2110)

Mr. Plohman: Mr. Chairman, I would like to move

THAT the following be added after section 6:

Interpretation
6.1(1) In this section, "agricultural purposes" means use for the production of primary agricultural and horticultural products, including flowers, shrubs, trees, honey and furs and includes fallow land and pasture land or the part of such land that is used solely for those purposes.

Classes of property
6.1(2) — In making a regulation under Clause 6.1(b), prescribing classes of assessable property, the Lieutenant Governor in Council shall, among other classes, prescribe a class of property known as Farm Property made up of the following subclasses:

(a) agricultural property, consisting of land or a portion of land that is used solely for agricultural purposes, and buildings or part of buildings that are used solely for agricultural purposes; and

(b) wildlife habitat property, consisting of undeveloped, unimproved, vacant or abandoned land that

(i) is not usable for agricultural purposes, or

(ii) is set aside specifically and solely for wildlife purposes or as woodland.

Assessed value for wildlife habitat property
6.1(3) A regulation under Clause 6(1)(c) shall, for property that is wildlife habitat property, prescribe a percentage of assessed value that is no more than one half of the percentage prescribed for agricultural property.

(French Version)
Il est proposé que le projet de loi soit amendé par adjonction, aprés l'article 6, de ce qui suit:

Définition
6.1(1) Pour l'application du présent article, les termes "fins agricoles" s'entendent de l'utilisation en vue de la production de produits agricoles et horticoles de base, y compris les fleurs, les arbustes, les arbres, le miel et les fourrures. La présente définition vise également les biens-fonds en jachére ainsi que les pâturages ou la partie des ces biens-fonds et de ces pâturages qui est utilisée uniquement à ces fins.

Catégories de biens
6.1(2) Au moment de la prise du réglement visé à l'alinéa 6(1)b), le lieutenant-gouverneur en conseil établit une catégorie de biens dénommée "biens agricoles" et composée des sous-catégories suivantes:

a) les biens agricoles qui consistent en des biens-fonds ou en des parties de bien-fonds qui sont utilsés exclusivement à des fins agricoles, ainsi que les bâtiments ou les parties de bâtiments qui sont utilisés exclusivement à ces fins;

b) les biens servant d'habitat pour la faune et consistant en des biens-fonds qui n'ont pas été mis en valeur, qui n'ont pas fait l'objet d'améliorations, qui sont vacants ou qui sont abandonnés et qui, selon le cas:

i) ne sont pas utilisables à des fins agricoles,

ii) sont réservés expressément et exclusivement pour servir à des fins fauniques ou à titre de régions boisées.

Valeur déterminée
6.1(3) Le réglement visé à l'alinéa 6(1)c) prescrit, à l'égard des biens servant d'habitat pour la faune, un pourcentage de valeur déterminée qui n'est pas supérieur à la moitié du pourcentage prescrit à l'égard des biens agricoles.

This amendment, Mr. Chairman, uses definitions including agricultural purposes and agricultural property from the current regulations which are gazetted in the April 25, 1987. The definitions and wording are taken right from those regulations which currently exist.

So I do not think they should be inconsistent with any terminology that the Government may wish to use in this area, and what it simply does is provide an incentive to people to retain land or to turn land for use as wildlife habitat. As I think was provided to us in presentations which were made, a number of people feel there should be some incentive in this area. I think this provides the incentive both in terms of the criteria that is used to provide the assessment, but also in the apportioning later on, that it cannot be at greater than 50 percent. It can be anywhere less than that. So the incentive would be there for people to retain bushland or wildlife habitat or other swampland for a natural wildlife habitat, or even to revert some land that is marginal in nature back to wildlife through this process, and there would be an incentive for them to do so.

I put it in at this particular section because it seems most appropriate to have it follow the prescribing of classes of assessable property as outlined in 6(1).

Mr. Chairman: Okay, on the proposed motion, Mr. Plohman.

THAT the following be added after Section 6:

Interpretation
6.1(1) In this section, "agricultural purposes" means use for the production of primary agricultural and horticultural products, including flowers, shrubs, trees, honey and furs -(interjection)-

Mr. Plohman: As read in French as well?

Mr. Chairman: With respect to both English and French—text, right. Mrs. Charles.

Mrs. Gwen Charles (Selkirk): Thank you, Mr. Chairperson. I just wanted to ask a question of the mover of this motion, in that we, as well, have another section on an amendment that I think would comply with the intent of this quite well. But in his motion he refers to woodland set aside specifically and solely for wildlife purposes or as woodland. I just wanted clarification in that no way that would be seen as someone with a forestry lot for the purpose of forestry, in that it would not be set aside as a natural woodland. Just to clarify and put it on the record that our intent of what we are meaning here is not an agricultural woodland but a natural habitat, a woodland of natural growth.

Mr. Plohman: Clearly if there is further clarification needed in the definition of woodland then that could be added as an amendment, but what we are looking at, of course, is the natural pristine nature of woodland as it might be found, or tampered with, by human beings over a period of time, and it is not meant to be a wood lot used for commercial purposes or any other purposes. Woodland and wood lot seem to be two different kinds of terms.

Mr. Penner: Mr. Chairman, I guess the way this section is worded leads me to voice some concern. I question, I suppose, those Members around this Table that represent areas or municipalities that have a significant area such as this, that are now assessed and that municipalities use as a base for taxation purposes, what the effects to those various municipalities will in effect be over the long term.

I guess I would ask that we maybe hold this amendment for a short time to give us some ability to discuss this more fully. I would like to discuss this with staff, and get their views on what the impacts might be to some areas and some municipalities in regards to this, before we put this into being.

I think there are probably other ways to address this issue that might not have as large an economic impact on the various municipalities in this province, especially in those areas that have large areas of wilderness type, pasture land type properties in their municipalities.

Mr. Plohman: Well, I think pasture is excluded from these agricultural lands. In any event, there are, as I recognize, many ways to accomplish this. The objective is to encourage the retainment of wildlife habitat or bushland for environmental reasons, so I am not adverse to having an opportunity for the Minister to have his staff look at this further.

However, I do not know that ultimately we would buy the economic impact in this particular case unless it was extremely high, because that is what we want, an incentive there. If there is not as great an economic impact there is going to be less of an incentive to do it. We have to remember that in order to accomplish the objective we are after, there is going to be an economic impact. Hopefully it will not be a major portion of any municipality's land and therefore will not have a major impact on their rolls and their mill rate.

Mr. Chairman: Mr. Charles, did you have a comment on this? Mr. Minister.

Mr. Penner: Well, I guess the question I have then of the committee is where should the cost lie? Should the cost be borne by individual ratepayers within a given municipality, or should those costs be incurred by all taxpayers in the province, when we look at legislation such as this? I think this has a real impact on some municipalities, and I think we need to consider that and be aware of that before we concur with this kind of an amendment.

I certainly would ask the consideration of the committee to allow us some time to give some consideration to other means of dealing with this than by the imposition of these kinds of financial burdens on given municipalities. Although I do not disagree with where this Bill is leading us, I think this is a good recommendation and indicates clearly our concerns for those areas that have wildlife potential. But I just caution that we make consideration of those municipalities within the fringes of undeveloped areas.

Mr. Roch: Mr. Chairman, leave for clarification purposes. We had a similar amendment that was going to be proposed under Section 22(1). Would it be in order at this point to possibly table this potential amendment, so it can be considered in the same context and brought back at the same time as this one, or what would be the proper procedure, or should I wait till we get to that particular section and propose it and then it can be dealt with at that time?

Mr. Helmut Pankratz (La Verendrye): Mr. Chairman, I think by reading over this proposed amendment I must concur there are some good points in this.

Mr. Roch: Point of order, Mr. Chairman.

* (2120)

Mr. Chairman: On a point of order, Mr. Roch.

Mr. Roch: I just want to know, I did not get a reply to my answer for clarification there from the Chair.

Mr. Chairman: It is up to the mover to table it, I believe.

Mr. Plohman: I am prepared to have this tabled and considered tomorrow. Before I do, I have one—following

this the Member for Springfield (Mr. Roch) may wish to table an amendment for the consideration of the committee, but I would be prepared to move that this be tabled, if that is appropriate procedure.

Just to outline though, before it be held over till the next sitting, that what we are talking about, and I want to be sure there is no distortion of this for the information of the staff and Minister, that this is land that is not usable for agricultural purposes, a pretty broad definition there, and is set aside specifically and solely for wildlife purposes or as woodland. All of that pasture land that is bushland which is used for pasture does not apply, because it is used for agricultural purposes. That is right. So it does not apply. This would be a very narrow interpretation. Where it would be, there would be a very strong case have to be made for this to apply as a wildlife habitat. I just wanted to make that clarification for the Minister before he starts talking about this tremendous impact on so much property. I do not think that farmers could get away with that, applying it that way, okay?

Mr. Chairman: Thank you. Just a minute. Did you make a motion to table then, Mr. Plohman, or do you want to discuss it more fully here?

Mr. Plohman: Whatever, held over until tomorrow's sitting if that is appropriate, that is what I would move.

Mr. Chairman: Okay. Mr. Cummings.

Mr. Cummings: Mr. Chairman, on the same point. In co-operation with the Member for Dauphin (Mr. Plohman), perhaps we should have the Member for Springfield (Mr. Roch) put his on the Table now as well. We can discuss all three variations of this tomorrow.

Mr. Chairman: Fine. Mr. Roch.

Mr. Roch: Mr. Chairman, the reason I was asking for clarification a while ago is because mine amended Subsection 22(1). Is it appropriate to table it at this point, in any case?

Mr. Chairman: To put it on Table at this time, yes.

Mr. Roch: What is the procedure, to read it out, or to just simply table it?

Mr. Chairman: You can read it, yes.

Mr. Roch: I move

THAT Subsection 22(1) is amended by adding the following after Clause 1

(m) is undeveloped or vacant farm property that

(i) is not used for agricultural purposes, and

(ii) is maintained for the purposes preserving or restoring the quality of the natural environment.

(French Version)

Il est proposé que le paragraphe 22(1) soit amendé par insertion, aprés l'alinéa 1), de ce qui suit:

(m) ils constituent des biens agricoles qui n'ont pas été mis en valeur ou qui sont vacants et qui

(i) d'une part, ne sont pas utilisés à des fins agricoles,

(ii) d'autre part, sont conservés en vue de la protection ou du rétablissement de la qualité de l'environnement.

I would move that this be considered along with the other amendment and be brought back for consideration tomorrow.

Mr. Chairman: Okay, we will deal with these both tomorrow morning at the next sitting.

We will go on to Clause 7(1) Certification of Assessments by Minister—pass; Clause 7(2) Certification as Act of Legislature—pass; Clause 8 Levy for Assessment Costs—pass.

Part 4, Assessment Process, Clause 9(1) Assessments Every Three Years—Mr. Roch.

Mr. Roch: Mr. Chairman, I would like to move

THAT Subsection 9(1) be amended as follows:

(a) by striking out "three years" in the heading and substituting "year"; and

(b) by striking out "third" before "year following 1990."

(French Version)

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

a) suppression du terme "triennales" dans le titre du paragraphe;

b) suppression du terme "trois" aprés le terme "ans".

Mr. Chairman, the purpose of this amendment - (interjection)-

Mr. Chairman: Okay, Mr. Roch, go ahead. I am sorry.

Mr. Roch: Okay, I am sorry. I was just trying to give a brief explanation as to the purpose of this amendment. The purpose of the amendment is that general assessments would be done every year instead of every three years, because the whole intent and purpose of this whole Bill is to keep assessments as current as possible. I think that by having the assessment done on an annual basis, as opposed to every three years, would solve a lot of the problems that have been brought up as far as the appeal process, as far as the keeping it updated, as far as keeping market value as current as possible. It is done in other jurisdictions. I do not see why it cannot be done here.

Mr. Chairman: This amendment is out of the scope of the Bill because it changes the fundamental principle of the Bill, so we cannot allow this amendment.

Mr. Roch: You will have to clarify. What do you mean, it is out of the scope of the Bill?

Mr. Penner: First of all, the additional costs that the province would incur by having to assess the total province every year would be quite substantial. Therefore the Bill would be out of order because it does impose monetary expenditures to the province as well as to the municipalities.

The second one is that it really diverts the whole purpose of this Bill. It really takes away from the intent of the whole Bill, which is to establish an assessment base year, to apply various assessments of properties in following years between assessed years. Those are the two basic reasons. The one basic reason for the establishment of this Bill and the imposition of the additional expenditures would be quite significant to the province.

* (2130)

Mr. Roch: Yes, I just do not seem to understand why there would be any significant expenditure. I understood that is why we went to a system of computerization, to be able to have the assessment on an as updated basis as possible. It is done in other jurisdictions, Mr. Minister, and apart from the possibility that significant costs, to use your words, might be incurred, I would like to know where those costs are. I mean, are assessments not done on a periodic basis annually in any case?

Mr. Chairman: Mr. Roch, I am afraid that is out of scope. The ruling we got from the staff here and the Clerks—

Mr. Roch: You are the Chairman; you are the one that makes the ruling.

Mr. Chairman: That is right. I am afraid I will have to rule that out of order.

Mr.Taylor: I wish to address this matter, Mr. Chairperson. We are not dealing here with a new piece of legislation; we are dealing here with an amendment to existing legislation, as far as I am concerned. What we have is a change in the existing situation by the introduction of this clause. I would suggest that this amendment proposed by the Member for Springfield (Mr. Roch) makes this collection of amendments more consistent with the existing Municipal Assessment Act of the Province of Manitoba. It is germane to the subject matter before us this evening, that with which we have been having hearings for days with the public on the matter.

What we have here is an introduction in the form of Clause (9)(1), which is nothing less than a three-year freeze. It is an enshrining in legislation of a freeze, the sort of thing that we have had nothing but problems with for some two dozen years in this province. It is something that I think a lot of people find unpalatable. It is hardly going along with what the capabilities of administration are today. It is very much a step backwards in the province.

I would suggest very strongly, and I would implore the Minister's co-operation on this matter, particularly in that the original legislation drafted a year ago, and prior to its presentation in draft form in private to UMM, to MAUM, to the City of Winnipeg, did not contain this freeze aspect in it. I would implore him to reconsider and make it a position of Government policy to offer the best possible tax system to the ratepayers of Manitoba, be they rural or be they urban dwellers. It is quite within the capabilities of a modern administration to do just that. I would hope that is what we will see coming out of this piece of legislation. So in reiterating, I would suggest very strongly that it is germane to the matter, it is very pertinent, and it is what Manitobans are due.

Mr. Chairman: Mr. Cummings, did you want to speak?

Mr. Cummings: Mr. Chairman, I would only remind the Member for Wolseley (Mr. Taylor), while he says that nothing was indicated in discussions with municipalities in the City of Winnipeg that assessment would be anything other than annual. Any communications that I had a year ago with the municipalities and the city indicated in those discussions that going to a regularly designated reassessment was the accepted approach. It was one they deemed responsible, and it was within the capabilities of the branch to produce that assessment.

For three years—we are talking about 1985 for this upcoming tax year. So very quickly we will be moving from a six-year delay, which was previously for some 20 years space, down to three. So it is a considerable progression in the current status of the assessment and not an unreasonable process for the province to move into. I guess, as the Member implores us to move to a single-year reassessment, I would implore him to consider the ramifications of that and consider the very positive aspects of getting it down to a three-year in relation to what we have had to deal with.

Mr. Penner: Mr. Chairman, I respect the intent of the proposed amendment, although I reiterate what I have said before that it does impose a financial commitment to the province. Therefore, in my view, it should be ruled out of order on that basis.

However, if we are going to discuss the amendment, then I would suggest that through the assessment process you need to establish a general overall value within a given year. Once you have done that, then you have added the equity and fairness that we have talked about so many times in regard to the Bill. Whether you move that whole area up or down, every year is a matter of consideration but again would bear considerable cost to the taxpayers and the municipalities of this province.

If we want to impose those kinds of costs, then I think we need to give serious consideration to the impact of those costs and ask the municipalities whether they in fact want to bear those costs. Now, if we are satisfied that the equal assessment within a given year and the ability for individuals to appeal those assessments on an ongoing basis is adequate, at least for the interim, every three years until we are able to devise a mechanism that will allow us to ratchet it

upwards—although it is somewhat doubtful whether you could ever bring it to the current year, but as close as we can—give the department that leeway and then establish the base, first of all, and work from that base.

I think Vancouver, or B.C., is a prime example of what has happened there. They had the three-year, first of all, moved to the two, then moved to the one, and now have moved back to two. They have simply found the one-year base not adequate time allowance for the whole process to be established.

Therefore, I guess, I am pleading with the committee to concur with what has been brought before you in draft legislation, pass it the way it is and allow for the establishment of the every-three-year or the base year, and then reassess at every third year. If it is possible, in the future, bring that level up closer to the current value as the process through computerization or whatever mechanisms we can use as we modernize to bring it as current as we can.

Mr. Plohman: Mr. Chairman, I just want to indicate that although this amendment is a goal that we all would like to see achieved, we also have to recognize—

POINT OF ORDER

Hon. Harry Enns (Minister of Natural Resources): Mr. Chairman, excuse me, on a point of order.

Mr. Chairman: Yes, Mr. Enns.

Mr. Enns: Mr. Chairman, I believe it would be appropriate for the committee to establish whether or not the proposed amendment is in order. I have no objection to debating the proposed amendment, if in fact it is accepted by the committee. But it seems to me the committee could use its time more expeditiously and not debate a matter whose legitimacy is being questioned.

Could we not establish, in the first instance, whether or not the proposed amendment is in order? If it is not in order, then of course the debate ought not to proceed. Thank you, Mr. Chairman.

An Honourable Member: Did the Member have a point of order?

Mr. Chairman: Yes, the Member has a point of order. It is out of scope. It is out of scope because it changes the fundamental aspect of the Bill so that it is out of order. If my ruling wants to be challenged—

An Honourable Member: Can I speak to the point of order?

* (2140)

Mr. Chairman: No, I am sorry, because it has been ruled out. I cannot allow that.

An Honourable Member: You said it was a point of order.

Mr. Chairman: You can go on a new point of order, if you like. Mr. Roch, on a new point of order.

Mr. Roch: A point of order, if it is a new point order that is fine. If the issue here is the scope of the amendment, and the Minister has said it is possible to eventually go as B.C. has done from three to two to one, I do not see what the problem is. I do not see why the amendment cannot be discussed if it is felt that whatever reasons—

Mr. Chairman: No, sorry. You do not have a point of order, Mr. Roch. Mr. Taylor, on a new point of order.

Mr. Taylor: A new point of order. It would appear that one of the ways to possibly resolve this and move on to other matters tonight would be to pick up on something the Member for Lakeside (Mr. Enns) voiced, and that would be a referral of the amendment to a Committee of the Whole for an opinion as to its appropriateness. I believe, if I moved a motion to that effect it would be in order.

Mr. Chairman: No, I am sorry, we could not allow that now, Mr. Taylor. It is out of order. We will go on.

Mr. Taylor: Mr. Chairperson, I would like an explanation how a motion of referral is out of order.

Mr. Chairman: There is no such thing as a motion for referral in a committee. I am sorry, I ruled your point of order out of order.

Mr. Taylor: Yes, I have had a clarification as to the terminology to be used. The terminology to be used is an appeal by the ruling of the Chair of the committee to the House. I believe that motion would be in order, Mr. Chairperson.

Mr. Chairman: Mr. Taylor, I have ruled this amendment out of order because it is out of scope. We cannot have another motion to change my ruling. If you would like to challenge my ruling that is up to you, but I am sorry, this one is out of order. We will carry on.

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Mr. Chairman: We will go on to 9(1), Assessments every three years—pass; Clause 9(2), General Assessment applies for three years—pass; Clause 9(3), Annual assessment rolls after 1990—pass.

1990 Assessment Roll, Clause 9(4)—Mr. Plohman.

Mr. Plohman: Can the Minister indicate his interpretation of "as soon as practicable"?

Mr. Penner: As soon as we are able to calculate them after the passage of this Bill.

Mr. Plohman: Well, the Minister always gives very in-depth explanations to questions we ask him about how this is going to proceed. It is a serious question as to what his anticipation is, if he could give a kind of ballpark figure from the passage. Suppose this is passed within the next couple of days, what work is involved in preparing this information to make it available? How much time is required to do that?

Mr. Penner: I think it would be reasonable before indicating and having to be held accountable later on in the House as some Members around the committee Table have known to do, within about two, three months.

Mr. Plohman: Yes, that is pretty good, thanks.

Mr. Chairman: Clause 9(4)—pass; Clause 9(5), Effect of delivery of assessment rolls—pass; Clause 9(6) Notice of an assessment—pass; Clause 10, Property in boundary highways—pass; Clause 11(1), Name in which property assessed—pass; Clause 11(2), Assessment of right, interest or estate—pass; Clause 11(3), Improvement assessed against occupier—pass; Clause 11(4), Property leased from railway—pass.

Clause 11(5), Improvements included in assessment—you have an addition?

Mr. Penner: I have an addition to—I would like to add Section 6 and Section 7, to 11, which would read:

THAT section 11 be amended by adding the following:

Classification of Properties
11(6) In doing an assessment, an assessor shall classify the property being assessed in accordance with the prescribed classes of property.

(French Version)

Il est proposé que l'article 11 soit amendé par adjonction de ce qui suit:

Classification des biens
11(6) L'évaluateur classe les biens évalués selon les catégories prévues par réglement.

In other words, conforming with the classes. Then:

Allocating assessed values
11(7) Where property being assessed falls within two or more prescribed classes of property, the assessor shall allocate the assessed value of the property to the classes in portions that, in each case, reflect the part of the assessed value attributable to the portion of the property falling within the class.

(French Version)

Évaluation proportionnelle
11(7) Dans le cas où les biens évalués entrent dans plus d'une catégorie, l'évaluateur divise la valeur déterminée proportionnellement selon les différentes catégories auxquelles appartiennent les biens.

It conforms with the portioning and the classification of the Bill.

Mr. Plohman: Could the Minister explain why he is bringing in these amendments to this portion of the Bill at this time?

Mr. Penner: The addition of these classes is simply because of an oversight in the drafting of the Bill, and we deem them to be required to make sure that this section conforms with the rest of the Bill, with the classification and the portioning.

Mr. Plohman: Mr. Chairman, just for clarification, the actual classes of property are not listed in this Bill, are they? In what section are they, if they are? I do not believe they are.

Mr. Penner: No, they are not.

Mr. Plohman: They are indicated in Regulation and defined in Regulation, nine classes.

Motion presented and carried.

Mr. Chairman: Clause 12(1), Adding real owners to rolls, shall the clause pass—

Mr. Penner: Just a minute, I have an amendment to this one.

Mr. Chairman: Yes, Mr. Uruski.

Mr. Uruski: Can I ask the Minister to explain 12(1)? What does that really mean? It is my understanding that in terms of the assessment process the titled owner is the one who is on the roll. Now, if that is the case, is there someone else, by legal definition, a real owner, over and above a titled owner? Can the Minister explain that?

Mr. Chairman: We will get an explanation right away, Mr. Uruski.

Mr. Penner: If you look, Mr. Chairman, on Page 9 under Definitions, there is a section dealing with real owner which says, "land other than land that is used for a roadway"—I am sorry—the " 'real owner', in respect of land, means a person who is the beneficial owner of the land and includes (a) a purchaser under an agreement for sale, (b) a person who, under a trust, is entitled to become the registered owner at some future date, and (c) a person on whose behalf the registered owner holds the land as an agent."

Mr. Chairman: Does that answer the question? Clear as mud?

Mr. Uruski: Mr. Chairman, I am assuming by that definition that the real owner's name may actually change in the process if the deal falls through or whatever. So there may be a change midstream in terms of the rolls.

Mr. Penner: And it gives the municipality a clear indication as to whom to send the assessment notice to.

* (2150)

Mr. Chairman: On the proposed motion of Mr. Penner,

THAT Subsection 12(1) be amended by adding "or, in respect of land in the City of Winnipeg, to the City Assessor" after "municipal administrator".

with respect to both the English and French texts.

Shall the amendment pass—pass; shall the clause as amended pass—pass.

Application to add name to rolls, Clause 12(2)—pass.

Clause 12(3), Municipal administrator to make entry on rolls, shall the clause pass—Mr. Minister.

Mr. Penner: I have an amendment to Subsection 12(3). I move

THAT subsection 12(3) be amended
(a) by adding "or the City Assessor" after "municipal administrator"; and

(b) by adding ", in the case of a municipal administrator, the municipal administrator" after "the subject land and".

(French Version)

Il est proposé que le paragraphe 12(3) soit amendé par:

(a) insertion, aprés les termes "L'administrateur municipal", des termes "ou l'évaluateur de la Ville";

(b) insertion, aprés les termes "du bien-fonds et", des termes ", dans le cas de l'administrateur municipal,".

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Mr. Plohman: On a point of order, Mr. Chairman, we just passed 12(3), I believe.

Mr. Chairman: No, we were on 12(3). We did not pass it yet. We passed 12(2). We are on 12(3).

Mr. Plohman: Oh, I guess we just want this process to move along so nicely.

Mr. Roch: We are moving along so fast here. If we go through a section which is inadvertently passed and someone wants to make an amendment, how does one go back to it?

Mr. Chairman: We will back up if it is an inadvertent missing . . . . It is up to the committee really, but we will try to accommodate everybody here. If there is an error by somebody missing something, we will try to accommodate them.

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Mr. Chairman: On the proposed motion of Mr. Penner

THAT Subsection 12(3) be amended
(a) by adding "or the City Assessor" after "municipal administrator"; and

(b) by adding ", in the case of a municipal administrator, the municipal administrator," after "the subject land and".

with respect to both the English and French texts. Shall the amendment pass—pass; shall the clause as amended pass—pass. That is 12(3).

Clause 13(1), Amending assessment rolls—Mr. Roch. Oh, we have an amendment here first to deal with Mr. Roch. We will deal with this one first.

An Honourable Member: Which one?

Mr. Chairman: We have one here being distributed by the Minister.

Mr. Roch: Is that the proper protocol, the Minister first?

Mr. Chairman: Did you have an amendment also here?

Mr. Roch: Yes, I did, Mr. Chairman. What is the normal procedure?

Mr. Chairman: Well, we should deal with the Minister's amendments first.

Mr. Roch: Now we do not know—you recognized me first.

Mr. Chairman: Okay. We will deal with Mr. Roch's first, and then deal with this one. Is yours ready to distribute?

Mr. Roch: To expedite matters, we will deal with the Minister's amendment first and then—

Mr. Chairman: Okay, good. Thank you. The Honourable Minister, do you want to read your amendments?

Mr. Penner: I would move

THAT subsection 13(1) be amended

(a) by striking out the words that precede clause (a) and substituting the following:

Amending assessment rolls
13(1) Where, in a year for which a general assessment under subsection 9(1) is not required,

(b) by striking out "the property" in clause (a) and substituting "assessable property";

(c) by adding, in subclause (b)(iv), "or in the physical characteristics of property that is in close proximity to the property" after "of the property"; and

(d) by striking out "assessed" in clause (b).

(French Version)

Il est proposé que le paragraphe 13(1) soit amendé par:

a) remplacement, au paragraphe introductif, des termes "lorsqu'il est convaincu que" par le terme "lorsque";

b) remplacement, à l'alinéa a), des termes "les biens" par les termes "les biens imposables";

c) adjonction, à la fin du sous-alinéa b)(iv), des termes "ou de biens qui se trouvent à proximité de ces biens";

d) suppression, à l'alinéa b), du terme "déterminée".

MOTION presented.

Mr. Taylor: Yes, in debate on the amendment—

Mr. Chairman: Yes?

Mr. Taylor: I gather this amendment proposed by the Minister is to answer some of the criticism that has been registered whereby the impact of the freeze is that ratepayers would not be able to appeal their assessment, except if there were physical changes to their own property. What it does do is permit the appeal on the basis that there are physical changes to the property nearby. That would appear to be a partial solution from what I can understand of the Act and its limitations as now proposed. It still stops short of the ability of those to appeal based on just changes in the market aside from there being physical changes alongside their property.

In that sense, yes, it is an improvement. It is unfortunate that it does not go further and answer the total criticism. I would suggest a valid criticism that in this freeze—which is what it looks like we may be endorsing because the Government and the NDP have both agreed that they will not look at other than a three-year context—I am not only disappointed that we are not prepared, it would appear with the two other Parties, to move into modern times but there was not even the offering of the potential for a compromise which would see two years, for example.

In any case, the improvement is there. It is unfortunate the Minister has not seen fit to move an amendment that would be fully adequate to cover off the criticism.

Mr. Plohman: Mr. Chairman, I hope you are not just letting me, I thought I was on your speaking list; therefore, I have a right to speak next.

Other than the fact that the previous speaker, Mr. Taylor, did make some references as to the New Democratic Party's position on this three-year assessment versus one-year update for assessments, I agree with his position that this is not satisfactory to deal with the external factors as may be appealable, or should be as a result of the presentations that were made, because it does deal just with the physical aspects of nearby property. It may be that there may be other factors that involve nearby property other than physical changes to that property.

* (2200)

I believe that an amendment that we are proposing to add to this section will deal with that and I would table that amendment. I think it is very important that we all try to make this appeal section very strong for the reasons stated by the Liberals in their amendment earlier on, which he desired, as I tried to indicate when I was interrupted by a Point of Order, that we would like to see a one-year update for assessment each year, every year, but because of other factors we cannot perhaps move to that ultimate target and goal at this particular time. Then we have to ensure that there are adequate appeal procedures and they are available on a yearly basis or as often as is required because of factors that may affect property. I know that is cumbersome and it means additional hearings and so on, but at the same time it is more cumbersome to update assessments every year at this particular time.

In order to make this as democratic and accessible as possible for the people to feel that they have a fair hearing on their property, I think we have to make the appeal procedures as strong as possible. So I do not think this goes far enough. We are proposing that we add a section that would provide for any factor which affects property that is external to the assessable property and that would be added to this particular section as a Subclause (7) after the (6) that is there under Section 13(1)(b).

If the Minister wants to continue to have this amendment in there as well, that is fine. It does not hurt to have this one, but we would propose to strengthen it and he perhaps would want to be aware of that when he is proposing this amendment, and the Opposition Party as well, that we would propose to strengthen that amendment further than this. In light of that, the Minister may want to consider whether he wants to continue with this particular aspect of improving the appeal system.

Mr. Chairman: Do you want to table your amendment, Mr. Plohman?

Mr. Plohman: Yes I would, to make it available. I believe the Clerk has it. I will read it into the record, Mr. Chairman, with your indulgence and the committee's—

Mr. Chairman: Yes, Mr. Plohman.

Mr. Plohman:

THAT clause 13(1)(b) be amended by striking out "or" at the end of subclause (v), by adding "or" at the end of subclause (vi), and by adding the following after subclause (vi):

(vii) any factor which affects property that is external to the assessable property,

(French Version)

Il est proposé que l'aliné 13(1)(b) soit amendé par remplacement du point-virgule par une virgule à la fin du sous-alinéa (vi) et par adjonction de ce qui suit:

(vii) de tout facteur extérieur aux biens imposables et qui touche ceux-ci;

Mr. Penner: Mr. Chairman, I suppose I am at this point somewhat caught between two seas on this one. If you look at some areas and some towns in this province and when you look at the intent of this Bill, and that is to establish an overall base, an equitable base to allow for some measure of fairness to be applied to all property owners in the province, given that the process, the assessment process needs to establish a base, then I would argue that we need to be very careful that we do not open the process to such an extent that it would allow for virtually any property owner to change the value or to ask for changes in values of their properties in any given area at any given time.

That of course throws the whole intent of the Bill out of whack and does not allow for the maintenance of that fair evaluation of all properties at a given time. I think that the Town of Churchill is a prime example of what could happen in a given area. If you concur that the grain-handling facility at Churchill has declined substantially in value over the last year because of lack of turnaround, or lack of volume in the terminal, and therefore would accept the fact that the value of the property has decreased in proportion to the volume of grain that has gone through it, the federal Government could make an argument that we should decrease the value of that asset at any given year.

It would have a tremendous impact to the Town of Churchill and its whole base of funding the activities in the town and maintaining the services in that town. I think there is some danger in opening this section of the Act too widely to allow for the changes of "external" impacts, any external impacts, to this Bill. I make the case that we need to very carefully consider how widely we accept external impacts and what terminology we apply in the Bill that will not give that wide-ranging variation.

Therefore, the wording that we have used, I think, is really wording that we should consider because it defines it clearly enough and allows for some external effects although within proximity of the property. I leave that for the consideration of the committee.

Mr. Plohman: Mr. Chairman, I would have to ask the Minister then, I understand what he is saying, although I do not think that there would be widespread abuse of this. People would have to hire lawyers perhaps in many cases if they want to go through the bother of preparing their presentation. It is quite an involved process, and I do not think that people would just go ahead and appeal tomorrow afternoon for the fun of it type of thing.

I think that, as I said earlier, we have to protect against those intangibles that might occur in an area, whether it be something that has happened in Lynn Lake with the property values declining because of the closure, or dangerous goods being stored nearby, which is not something that necessarily requires a physical change to that property. It could be existing buildings being changed use. There may be such things as one of the presenters mentioned, an abattoir, for example, being located nearby or maybe a goose farm. I heard of one case in the area near St. Andrews. There are all kinds of intangibles, and it means that people would have a case.

We are dealing here with an assessment that is made every three years and therefore a possible delay of two years before they could have some justice. I think we need to put this kind of safeguard in here and try it. If there is widespread abuse of it and the system cannot accommodate it, and it is plugged up and there is a real problem, obviously the Legislature would have to move quickly to change it. I believe we have to give this a try in the interest of assuring that there is equity in the system and justice and seems to be that kind of justice for the public in terms of appeal.

Mr. Penner: Well again, I ask that the Committee very carefully consider wording such as: any factor which affects property that is external to assessable property. That sort of wording is very broad and would lead me to believe that probably large corporations could very easily make a case and would want to use that clause to make a case to value or revalue property.

Therefore, I would ask the—and another one that we might consider is a drought condition such as western Manitoba is now experiencing, which leads to the decline of property very quickly. The case might well be made that the drought condition might affect and allow for the reassessment of a given property within a given municipality at any time like that if you allow for the broad-based assessment factors, any factor, to impact in this area.

I would suggest to you the wording that we have used allows for the external within close proximity changes to the assessable property, and therefore, I think is adequate.

Mr. Plohman: Mr. Chairman, just on a point of procedure here. Are we dealing with the Minister's amendment at this particular time? It is on the floor formally, so my amendment is not formally on the floor at this particular time. I raised my amendment so the Minister would be aware of what we are proposing, but it does not conflict with his amendment. We are saying his amendment does not go far enough.

We would still propose, once you have dealt with his amendment, a further amendment, perhaps some wording change might help the Minister with this in terms of any factor, something like a significant non-recurring factor—which has been suggested by the Member for Selkirk (Mrs. Charles) to me and perhaps others may find this acceptable—which might be less open as the wording that we have proposed but yet much broader than what the Minister has proposed because he is dealing only with physical changes to neighbouring property. That does not go far enough, as far as we can see.

* (2210)

Mr. Chairman: Both amendments are on the Table. The only thing is we have to deal with them one at a time. We will deal with the Minister's first and then yours. If that is the wish, we will—

An Honourable Member: Yes.

Mr. Chairman: On the proposed motion of Mr. Penner—Mr. Uruski.

Mr. Uruski: Mr. Chairman, I suggest we deal with the Minister's amendment and then go on with the other one.

Mr. Chairman: Yes. On the proposed motion of Mr. Penner

THAT subsection 13(1) be amended

(a) by striking out the words that precede clause (a) and substituting the following:

Amending assessment rolls
13(1) Where, in a year for which a general assessment under subsection 9(1) is not required,

(b) by striking out "the property" in clause (a) and substituting "assessable property";

(c) by adding, in subclause (b)(iv), "or in the physical characteristics of property that is in close proximity to the property" after "of the property"; and

(d) by striking out "assessed" in clause (b).

(French Version)

Il est proposé que le paragraphe 13(1) soit amendé par:

a) remplacement, au paragraphe introductif, des termes "lorsqu'il est convaincu que" par le terme "lorsque";

b) remplacement, à l'alinéa a), des termes "les biens" par les termes "les biens imposables";

c) adjonction, à la fin du sous-alinéa b)(iv), des termes "ou de biens qui se trouvent à proximité de ces biens";

d) suppression, à l'alinéa b), du terme "déterminée".

Mr. Chairman: Okay. With respect to both the English and French texts—pass.

Now we will deal with Mr. Plohman's. On the proposed motion of Mr. Plohman, that clause—Mr. Plohman.

Mr. Plohman: I moved this in English only. I would like to move it in French as well, the French text. Also, I would ask the committee to consider an editorial change to the amendment in view of what was stated by the Minister. It could be moved by formal amendment to the amendment if the committee wished that to be the case, but the wording suggested was "significant non-recurring factor." I believe it is good wording which accomplishes basically what we wanted to do with this section.

Mr. Chairman: Do you want to put it in writing and pass it up here?

Mr. Plohman: Yes. What I would write is "significant usually non-recurring factor."

An Honourable Member: A non-recurring event, like the re-election of another NDP Government.

Mr. Plohman: Such as, for example, we see property values going down when the Conservative Government came into office in this province, and we will see them going up again if that was reversed. Even the Member for Morris (Mr. Manness) gets the point and recognizes it.

The motion will read—

Mr. Chairman: Okay give us a reading then, that is fine.

Mr. Plohman: —changes less substantial than we had proposed: (vii) any significant factor which affects property that is external to the assessable property.

Mr. Chairman: Okay, just a minute. We have to withdraw your original amendment and then present the new one.

Mr. Plohman: Consider it withdrawn.

Mr. Chairman: Okay.

Mr. Plohman: I will present this amendment in its entirety, Mr. Chairman.

Mr. Chairman: Yes, if you would please.

Mr. Plohman: I move

THAT Clause 13(1)(b) be amended by striking out "or" at the end of subclause (v), by adding "or" at the end of subclause (vi), and by adding the following after subclause (vi):

(vii) any significant factor which affects property that is external to the assessable property.

Mr. Chairman: Okay, they have to make copies of this now. It is just the one word that we are adding really. Do you want to discuss it now while we are waiting, Mr. Minister? We can discuss this here while we are waiting for the copies.

Mr. Penner: I ask the question of the committee, I suppose, what is the meaning of "significant." Does it mean that the world price of wheat must change to significantly influence the price of land? Does it mean that the volume of grain passing through Churchill must decline by half before it is significant? Does it mean that a corporation, Manfor, must only process half the logs it does today before we can significantly reduce the assessment? What is "significant"?

I believe that "any significant factor" is a very, very loose term to define what the assessed value should be of a given property within any jurisdiction, and therefore I suggest very strongly to the committee the consideration of the amendment that was moved by our Government in respect to this Bill is very adequate to deal and ensure that the appeal is adequately there.

Mr. Plohman: Well, Mr. Chairman, Section 13(1) provides that where, in a year in which a general assessment under subsection 9 was not required, an assessor is satisfied that, in respect of assessable property. So he has to make that or she has to make that determination as to that particular section. I think that by qualifying this particular phrase "significant," it ensures that frivolous appeals will not be the norm, because they will not be granted. They will have to demonstrate that there is something significant. At the same time, I am not going to get caught up in the semantics and meaning of words at this particular point. I think that the spirit of this particular amendment is what is important here.

We have heard numerous presentations that said that we have to protect the right of the public to appeal

the various assessments that they may have to deal with on their property, and we are dealing with a three-year period, as the Members have pointed out. We would like to move to one year, but we do not have that. In the absence of that, it is important that there is a better appeal procedure than has currently been the case. We can go back to previous amendments - (interjection)- and the Member for Springfield (Mr. Roch) says that we could have overruled the Chair on moving to a one-year reassessment from three, but we are dealing with money factors here that the Government has to introduce.

If they wanted to introduce that then we can encourage them, and we do encourage them, and we join with the Liberals in encouraging them to move to that. We could not move those amendments, and I think that the Liberal Opposition should make that perfectly clear and not continue to say that we could have overruled the Chair. That is strictly against the rules of the committee when we are dealing with money matters. So, I have to make that point clearly, that in dealing with the appeal, that is one way we can ensure that there is justice as current as possible for the public. As a result of the presentations I think it is very important that we try this, using the word "significant" there to ensure that frivolous objections or frivolous appeals are kept to a minimum. I think we should give this a try because it is in the public interest.

Mr. Chairman: Mr. Taylor first. Did you want to speak?

Mr. Taylor: Mr. Chairperson, I would like to reluctantly speak in support of this amendment. I say reluctantly because the amendment would not be necessary were we on an annual assessment system. I think it is very unfortunate that the Government is not proposing that and, quite frankly, is looking towards the convenience of the Assessment Department in the city and the province as opposed to what is fair for the ratepayers of Manitoba.

I think if the amendment had passed earlier, which would have made this a much more modern document, we would not need this. In that we do not have that reality, and we are going to institutionalize and enshrine in legislation practices of freezes that have been going on for some decades in this province and reintroduce it again unnecessarily, I will have to therefore support this amendment, because it is the only way that ratepayers will have the right to appeal, aside from those physical changes on their property or the physical changes alongside, which is now recognized by the recent Mr. Penner amendment. So I will be supporting this.

Mr. Penner: I again refer back to the phrase "any significant factor." I just have to wonder how courts, how the legal system would interpret that clause. It becomes a very unworkable, untenable situation. Maybe what I should do is ask some of our legal counsel to indicate to you what their assessment of that phrase is, if it is the will of the committee, to give their assessment or view of what the significance of this type of wording is.

Mr. Chairman: Okay, we will have Mr. Patterson first.

Mr. Patterson: Thank you, Mr. Chairman. Yes, this is somewhat legal. It is not practical to try to pin down terms such as this. We cannot cross every "t" and dot every "i", as soon as we try to do it you get into exceptions. This much like the term that is used in labour relations such as "just cause for dismissal."

* (2220)

What is "just cause"? We can think of many things that are obviously good cause and many that are obviously unjust, but there are those gray areas that if the parties cannot agree it goes to an impartial tribunal, the Arbitration Board, to make a determination.

In the same way with "unjust dismissal" which frequently goes to the courts, and it is decided there. So here we have the appeal process, and if it cannot be agreed between the property owner and the assessor as to just whether or not it is a significant factor, there is the appeal process to the tribunal which would be— what, the municipal board? I would therefore support this amendment.

Mr. Penner: Okay, we will ask our legal counsel for an opinion here.

Ms. Diane Flood (Crown Counsel, Civil Legal Services): Appreciating the Member's comments that not wanting to get caught up in semantics, it is a little difficult for me because as Legal Counsel, I am often involved in semantics, and that is what the court looks at. As indicated to this committee earlier today, the courts will look at legislation such as this and say that the Legislature must have clearly intended to say what they said, because the Legislature is always deemed to have done that by the courts.

A problem with perhaps using language such as "significant" is that it is not clear as to whom the factor or the effect, assuming it is in fact actually the effect that you are concerned with, to whom this significance must occur, because, of course, to everyone changes in their assessment are always significant, changes in their taxation are always significant.

If it is such that any change which a property owner deems to be "significant" may be appealed, it may affect the whole triennial system. If it is the intent of the committee to have a triennial system, to have it work, what you end up with then is one ratepayer appealing something and getting his/hers, saying that this is a significant change to me. The other ratepayers do not perhaps consider it significant to them, and you have one ratepayer having his/her assessment changed, proportionately different then than all the other ratepayers, which ends up with inequity which is something that the committee has said throughout that they want to avoid.

So, if it is the intent of the committee to add an amendment here, I would suggest that perhaps more definitive terms be used, if possible.

Mr. Plohman: I believe that this is necessary as a result of the information that we have gathered from the public, and I feel that if there is a difficulty with the

interpretation of this section, as time progresses, we will certainly expect to see it back here with some changes. We have to try as much as possible to make this section as open for the public as possible. I think that was a very major undertaking or concern that was raised, an undertaking that we have to make as a committee in improving this assessment process.

We are not satisfied with the appeal process, and "significant" will have to be interpreted, but I believe that it will be interpreted in the interests of the overall system as it develops and unfolds, and it will not result in unusual quirks, if I may use that term, in the system, but instead will establish justice in the system. For that reason, I believe, Mr. Chairman, we should try this as a significant improvement for the public.

Mr. Penner: I guess, Mr. Chairman, one last time. The whole attempt of this exercise in drafting new legislation has been to attempt to instill equity and fairness into the system. We concurred with some presenters that there was doubt whether the appeal was adequate. Therefore, I proposed the amendment that is there, that allows clearly for the appeal of an individual to be used and to indicate that the outside influence, within the immediate proximity, should be considered when the assessment of a property is appealed, and should be allowed.

Therefore, I suggest to the committee that those terminologies that we use there should be, and are, in my view, adequate and that the extent to which the proposal by Mr. Plohman, which has been put forward as an amendment, is going to open the whole process, in my view will lead to a much greater unfairness than what we incur currently under the current legislation, which we have deemed not to be adequate.

It is my view that this will broaden it significantly and allow for changes to occur virtually at the whim of individuals, and we will be into the appeal process continually. It will be the larger corporations that will have us in the appeal process continually and will challenge the impacts of outside influences to their properties, and that is what we are writing into the Act, and it concerns me.

Mr. Patterson: Mr. Chairperson, we have here an amendment to the amendment that we think would relieve some of the problems just mentioned. Instead of talking about a significant factor, really it is not the factor itself that is, or is not, significant, it is the effect the factor might have on the value of the property. So we amend that the clause read:

(vii) any factor which significantly affects property value that is external to the assessable property.

In both English and French.

Mr. Penner: You are protecting the large corporate bodies. That is what you are doing. I do not believe it.

Mr. Chairman: Okay, we will deal with the amendment of Mr. Plohman.

An Honourable Member: It is an amendment to his amendment.

Mr. Penner: I know, I know what it is.

An Honourable Member: A subamendment.

Mr. Chairman: We have to have it in writing.

Mr. Penner: I find it very interesting that the NDP and the Liberals will sit here and write legislation that will protect the huge corporations. I find that very interesting.

Mr. Chairman: Just a minute, if we are going—Mr. Roch.

* (2230)

Mr. Roch: If the Minister is saying that just because a person is not going to give the right to appeal to any individual taxpayer, the Minister is opposed to individual taxpayers having the right to appeal.

Mr. Penner: No.

Mr. Roch: Is he suggesting that individual taxpayers and big corporations are synonymous? The Minister is making all kinds of allegations here from his seat, and I am starting to resent them, quite frankly. If you want this Bill passed, you better smarten up.

Mr. Chairman: Order. We are dealing with the amendment of Mr. Plohman. Does the Liberal critic, Mr. Patterson or whoever, have an amendment? Would it be the will of the committee that we have a five minute break. The Minister would like a five minute recess.

We will adjourn for five minutes. We will return at twenty-two minutes to eleven.

RECESS

Mr. Chairman: We will continue with the discussion on the amendment by Mr. Plohman until the new one is ready. The Honourable Minister.

Mr. Penner: Thank you, Mr. Chairman. I think it might be useful for the committee to hear the provincial assessor give his views on how he sees this clause, and the way it is being proposed for amendment. Bob, would you—

* (2240)

Mr. Brown: Mr. Chairman, I thought perhaps I could toss out some scenarios for the sake of the committee as to how, in administering this section as proposed, situations might arise. I would give three examples. These are all semi-hypothetical with real communities.

The Port of Churchill, for instance, is a single industry town to the extreme, dominated by the port. There is currently a debate between my office and the federal Government regarding the assessed value of the port. There is agreement that the true value of the port has gone down, and therefore the assessed value should go down significantly for the Port of Churchill.

Our response to the federal Government, though, is that as the Port of Churchill—literally the port facility—goes in Churchill, so goes the value of the rest of community. In fairness to all other ratepayers in Churchill, if we are to reassess the value of the port as per the federal Government appeal so to speak, then we should also be reassessing the entire community of Churchill because their values are directly affected.

If we arbitrarily, or if the courts arbitrarily, lower the port's assessment through appeal, then the other ratepayers in the community have to pick up the lost revenue, even though their values would have gone down, but they did not appeal.

The second scenario coming down the scale from the extreme somewhat might be a community like The Pas with the Manfor operation there. Value of all property in The Pas is certainly affected to some extent in relation to the forestry industry. If Manfor chose to appeal in a given year in-between reassessments, seeking a reduction on the basis of an external market factor, a worldwide factor, there might be legitimate claim for Manfor to be lowered by the courts as well.

The argument we have taken before the courts in the past, and would continue to take, is that all properties in The Pas must be measured at that same relative time and, if Manfor went down, then that has an immediate impact on all other property in The Pas. That property, rightfully for equity's sake, should also be reassessed at that time, but unless they appealed, would not be.

It gets more complicated to my mind once you hit a community which is not dominated by a single industry. A place the size of Portage, for example, where you have some fairly large industries, the Campbell's and that sort of operation, where it is harder to measure the impact on the whole community of Campbell's. Any sort of large industry, presumably under this section, would come forward whenever they felt market conditions affected their property, rightfully so, seeking an adjustment, but to my mind putting them out of equity therefore if such reduction was granted with the other properties in the town which did not have the foresight or the expense or whatever to appeal.

The reverse can apply, but I suppose you could have faith in Government staff that it would not apply. The assessor also has the right of appeal. Presumably the assessor would exercise some judgment in bringing out appeals for reverse scenarios of those. Those are some of the difficulties that I, at least, would have administering a fairly simple phrase or word like "significant." For the committee's consideration.

Mr. Plohman: I just wanted to ask, on the examples that Mr. Brown gave, do they deal with depreciated value or something over and beyond that in terms of the value of the port? Obviously the value is going to go down, are we talking about a significant drop because the federal Government has chosen not to handle as much grain through the port in the last year? Is that the kind of factor or what are you talking about?

Mr. Brown: There are three factors that normally comprise depreciation: physical depreciation, which is the simple aging of the structure; what is called functional obsolescence or depreciation; and economic obsolescence. Economic is an external factor affecting the property in question.

So in the case of the Churchill or the Manfor examples that I gave, it would be economic obsolescence that the appellant would come forward and claim. A functional obsolescence, the third one available to them, really says that the design of their facility has become outdated compared to their competitors in the industry and, therefore, they require extra depreciation.

Mr. Plohman: So under those circumstances, there would not be someone else to represent the other side to say that facility is very efficient, and therefore, is not functionally obsolete?

Mr. Brown: I mean, presumably, we would try to defend the assessment, but in my Churchill scenario, for instance, we would certainly agree that the value of the port has gone down. Our argument to the Government of Canada is that if that has gone down, which we agree that its value has, so has all other property in Churchill, and you should not be arbitrarily lowering the port without asking for a reassessment of all of Churchill. We cannot disagree if we think the appellant is right. I cannot just disagree for the sake of maintaining an assessment that we would agree today has now been dated.

* (2250)

Mr. Plohman: In any event, I would not necessarily agree with that scenario. I think the value should be going up in years to come for various reasons in terms of grain transportation but that is another issue. I wanted to just say, would the issue be dealt with insofar as your major concerns here if we limited this to residential owners?

We are dealing here with the vast majority of the public out there and a concern that they have an opportunity to appeal and maintain their homes at the assessment that is most realistic as often as possible. I think that is what we are trying to get at here. If we were to limit this then to residential homeowners, primarily the concerns that we have in this area, would the Minister find the same kinds of problems and to the same degree?

If he did not, perhaps we should consider looking at this tomorrow or we could, at this point in time, just table the amendment and bring back perhaps a revised version at the next sitting.

Mr. Chairman: We have Mr. Patterson first.

Mr. Patterson: Mr. Chairman, the discussion with Legislative Counsel, the amendment will have the word "significant" removed, but first of all, I would just—unfortunately I was speaking with Legislative Counsel when Mr. Roch replied to the Minister and I did not hear all that was said.

I want to express my extreme umbrage of the diatribe the Minister came out with about us looking out for

the big corporation rather than the little guy. As a matter of fact, what is in my mind in all of this was the residential homeowner or the small businessperson or farmer, whatever. So let us get that clear on the record.

At any rate, the amendment that will be coming forth is just to say that any factor that is external to the accessable property, which effects property value—

Mr. Chairman: Mr. Patterson, before you introduce your amendment, we are still—

Mr. Patterson: I am not introducing it. I am just mentioning what it will be when it is introduced. At any rate, it is pointed out that the following section or Subsection 6, it states right here, the assessed value of the property is not the same as the value other then the assessment roll. So it does not even have to be what we might or might not call "significant." It is not the same, so we do not have to address that.

Mr. Penner: First of all, I would like to apologize to the Liberal Opposition and to Mr. Patterson for offending with the reference I made to the amendment impacting to a large degree, large industries or large corporations. All I did and all I intended to do was to indicate clearly to the committee my reservations about the amendment as put forward, and the impact that it would have and how it could be applied, and in my view, could be applied in a large part to the major companies or corporations, large properties. That is still my view. I just want to clarify that, and that if we had passed or would want to pass the amendment as written, as brought forward, that was my view that is what we would be doing by that amendment. If I need to apologize, I do so.

Mr. Chairman: Mr. Plohman, do you want to—

Mr. Plohman: With the consent of the amendment to the amendment, the mover of the amendment to the amendment, I would propose that this matter be held over until the next sitting for reconsideration.

Mr. Chairman: Is that the— Agreed. Okay. We will go on to Mr. Plohman.

Mr. Plohman: Yes, I have another amendment to this section, that I do not think is—that this other change was a prerequisite to, so I would like to move it.

It is: I move

THAT clause 13 be amended by adding the following after subsection 1, Application for Amendment. It is being distributed.

Mr. Chairman: Do you want to—Oh, it is being distributed. One more here.

Mr. Plohman: Application for Amendment 13(1)(1). A person in whose name property is assessed who is of the opinion that any of the circumstances referred to in Subsection 1 exist with respect to the property may apply to an assessor to amend the assessment roll in accordance with that subsection, and the assessor shall within 60 days of receipt of an application, (a) amend the assessment roll or refuse to amend it, and (b) give written notice to the applicant of the decision taken under Clause (a).

The purpose of this is to make it absolutely clear, Mr. Chairman, that an individual has the right to expect a decision from the assessor on the assessment roll, whether he will amend it or not amend it and written notice to that effect. That would make it possible then for the individual to appeal if they so desire. That is not clear in the current wording.

Mr. Chairman: On the proposed motion of Mr. Plohman

THAT Clause 13 be amended by adding the following after Subsection (1):

Application for Amendment
13(1.1) A person in whose name property is assessed who is of the opinion that any of the circumstances referred to in Subsection 1 exist with respect to the property may apply to an assessor to amend the assessment roll in accordance with that subsection, and the assessor shall within 60 days of receipt of an application,

(a) amend the assessment roll or refuse to amend it, and

(b) give written notice to the applicant of the decision taken under Clause (a)

(French Version)

Il est proposé que l'article 13 soit amendé par adjonction, après le paragraphe (1), de ce qui suit:

Demande de modification
I3(I.I) La personne au nom de laquelle les biens sont évalués, qui est d'avis que l'une des circonstances mentionnées au paragraphe (1) existe à l'égard des biens, peut presénter une demande à l'évaluateur pour que celui-ci modifie le rôle d'évaluation conformément à ce paragraphe. L'évaluateur doit, dans les 60 jours qui suivent la réception de la demande:

a) modifier le rôle ou refuser de le modifier;

b) donner un avis écrit au requérant de la décision prise aux termes de l'alinéa a).

Shall the amendment pass—Mr. Plohman.

Mr. Plohman: I would just like to move that in French as well.

Mr. Chairman: Yes. Shall the amendment pass—pass. No problem there. Yes, Mr. Uruski?

Mr. Uruski: Yes, perhaps given the time of day, would it be agreeable that we meet tomorrow morning as planned, at ten?

Mr. Chairman: Could we perhaps finish Section 4, we only have another few to go or—Section 13—to page 21. We are on page 18, the bottom of page 18.

Mr. Plohman: I move that the committee rise, Mr. Chairman.

Mr. Chairman: Okay, committee rise until—we will resume at 10 a.m. tomorrow. Is that at the will of the committee? (Agreed)

Committee rise.

COMMITTEE ROSE AT: 10:58 p.m.