LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Tuesday, January 9, 1990.

TIME — 10 a.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

WITNESSES:

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

* * * *

* (1005)

Mr. Chairman: We will bring the committee to order.

Last night when we left off we did not finish with the Clause 13(1), but we did not go on to 13(2) either. We were dealing with the amendments on 13(1). What is the will of the committee this morning? Are we ready to deal with amendments on 13(1), or do we want to go on to 13(2) and come back to that 13(1), what is the will of the committee?

Mr. John Plohman (Dauphin): We have an amendment to 13(1)(b)(vii) and we have a revision to yesterdays; however, we do not have the copies available for everyone yet, they are being made right now. If you wanted to move ahead for a few minutes—

Hon. Jack Penner (Minister of Rural Development): We could then probably deal with the one that we left yesterday dealing with the conservation part of it.

Mr. Chairman: Okay. What number was that?

Mr. Penner: Mr. Plohman had indicated under Section 6, but I would recommend that we deal with it under Section 9.

Mr. Chairman: Would it be the will of the committee, we have another section regarding the lands so we could deal on Section 9. What do you call that?

An Honourable Member: It is the wildlife habitat or conservation.

Mr. Chairman: Right. The wildlife habitat or conservation area. I wonder, is it the will of the committee that we deal with that one now maybe, under Section 9.

Mr. Plohman: Mr. Chairman, since that is an amendment that is an endeavour to incorporate all three Parties' suggestions, I think we should have it circulated first and have an opportunity to perhaps look at it before we have it introduced here, and then move on. We can come back later.

Mr. Chairman: So we will go on then with Section 13(2). These things will be circulated and you can look at them. We will come back to them later then.

Clause 13(2) Change in ownership amendment—pass.

Clause 13(3) same conditions and requirements apply—Mr. Uruski.

* (1010)

Mr. Bill Uruski (Interlake): Mr. Chairman, on 13(3) could we have a bit of explanation on Section 13(3)? Just from an assessment point of view of how exactly—I mean it is written there, but I would like to hear the assessor's explanation of that.

Mr.Chairman: Mr. Brown or Mr. Minister, who is going to answer that?

Mr. Penner: Mr. Brown is going to answer that.

Mr. Bob Brown (Provincial Municipal Assessor): It would simply mean that if one of these circumstances arose, let us say two years after the reassessment year, you have constructed a new garage on your property, we would go in and value that garage, add it to the assessment rolls, but we would value it as if it had been built in the reference year. Its unit of measurement in effect would be the same as all other property on the assessment roll, it would as of the reference year.

Mr. Chairman: Does that answer your question? Good. Clause 13(4) Amendments apply and subsequent years—Mr. Plohman.

* (1015)

Mr. Plohman: If I am reading this correctly, it simply addresses the concern that people have raised that once a Board of Revison has made the decision, in fact, the assessor could change it back again immediately. We believe that he was right in the first

place, and this prevents that from happening by ensuring that the amendments apply for the full three years.

Mr. Chairman: Perhaps Mr. Brown could explain that, or the Minister?

Mr. Plohman: That is 13(4).

Mr. Brown: Could you ask that question again, I am sorry.

Mr. Plohman: Well, I just wanted to see if I was reading this correctly that this deals with any revisions that are made, or appeals that are made by Boards of Revision that they apply for the full three-year period, or is this dealing with something else.

Mr. Brown: This is dealing with something else. This is not dealing with appeals. This is dealing with activities that occur under 13(1) that the garage situation I mentioned, if we came in and assessed it, that assessment would stand till the next reassessment cycle.

Mr. Plohman: Okay, thank you.

Mr. Chairman: Shall the clause pass—pass.

Okay, we will continue then. Clause—Mr. Minister.

Mr. Penner: For explanation only. There will be, Mr. Chairman, an amendment I propose to Section 13, adding 6 and 7, which will conform with the amendment to Section 9, adding 7 and 8 and will say the same thing in 13. In other words, to add uniformity to both clauses.

Mr. Chairman: We will carry on with Clause 13(5), notice of an amendment—pass.

Clause 14 Errors and Omissions—oh, after 13(5) you want to put an amendment? We can do it later, okay. We go on to Clause 14 Errors and Omissions—

An Honourable Member: Hang on, we have an amendment.

Mr. Chairman: Okay. We have an amendment, that is being distributed, to Clause 14. Do you want to introduce it, Mr. Minister?

Mr. Penner: Yes. Mr. Chairman, I would propose

THAT section 14 be amended

(a) by striking out "or the City Assessor";

(b) by striking out the heading and substituting "P.M.A. may amend rolls";

(c) by renumbering the section as sub-section 4(1); and

(d) by adding the following as sub-section 14(2):

The City Assessor may amend rolls

14(2) The City Assessor may at any time, for the purpose of correcting an error or omission not described in subsection 13(1), amend an assessment roll.

(French version)

Il est proposé que l'article 14 soit amendé par:

a) suppression des termes "ou l'évaluateur de la Ville";

b) remplacement du titre par "Corrections au rôle";

c) substitution, à l'actuel numéro d'article 14, du numéro de paragraphe 14(1);

d) adjonction, aprés le paragraphe (1), de ce qui suit:

Corrections par l'évaluateur de la Ville

14(2) L'évaluateur de la Ville peut, à tout moment, modifier le rôle d'évaluation pour que soit corrigée une erreur ou une omission qui n'est pas mentionnée au paragraphe 13(1).

Mr. Uruski: Mr. Chairman, can I ask the Minister or his staff to indicate whether or not, in the case of an error or an omission on an assessment roll whether, if there may be some material impact on taxpayer should there be notice provided in the same way as notice was provided in the cases of appeals as to the reasons and the decision? I raise that in that context, perhaps this is not applicable but in the event that there is an error that basically, let us say they left off half of the property, it was an error. Should that property owner be notified because of this major change, so that when he gets his tax bill he is going to see a major revision made and did not know anything about it beforehand, and that is where I am coming from. This may not have perhaps some clarification in this area or explanation on this.

* (1020)

Mr. Penner: This Section deals simply for the purposes of correcting clerical errors and has really no impact on the values of properties.

Mr. Chairman: On the proposed motion of Mr. Penner to amend Clause 14,

THAT Section 14 be amended

(a) by striking out "or the City Assessor". Dispense? Dispense, with respect to both English and French texts. Shall the amendment pass—oh, Mr. Roch, I am sorry.

Mr. Gilles Roch (Springfield): Just for clarification here. This amendment does not change the intent of the original wording, is that what the Minister said a while ago?

Mr. Penner: It really does not change anything. It just clarifies that the city assessor amends his roll the same as the provincial.

Mr. Roch: The purpose then of the existing section, as well as the proposed one, is that if the assessor makes a mistake he can then go back and amend the rolls. How far back can they go presently?

Mr. Penner: This section deals only with the clerical aspect.

Mr. Roch: Just the clerical aspects, okay.

Mr. Chairman: Shall the amendment pass—pass.

Shall the clause as amended pass—Mr. Plohman.

Mr. Plohman: I wonder if the committee consider dealing with 13(1)(b), the amendment that we discussed earlier and is now available in terms of copies for the committee.

Mr. Chairman: Is it the will of the committee then that we revert back to 13(1) now? Okay.

Mr. Plohman: The amendment is being distributed. I will move the amendment dealing with the appeals.

Mr. Chairman: Just a minute until we get them all distributed, Mr. Plohman. Does this one take the place of last night's or is this one subsequent to it?

Mr. Plohman: Yes, we had tabled the amendment last night and, at this point, if it is in order to withdraw that amendment and substitute this amendment in its place.

Mr. Chairman: Fine. Okay. Carry on, Mr. Plohman, then.

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) in the case of assessable property that is residential property containing not more than 4 dwelling units, any significant factor that affects such property and that is external to the property,

(French version)

Il est proposé que l'alinéa 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 significatif qui influe sur les biens et qui est extérieur à ceux-ci, s'il s'agit de biens imposables constitués d'une propriété résidentielle comprenant au plus 4 unités de logement;

This amendment is designed to ensure that the concerns that we had initially with regard to broadening appeal are addressed without providing loopholes, if we want to call them that, or opportunities for large corporate entities particularly to appeal over and over again and cause a great deal of difficulty for the system, at the same time ensuring that the residential homeowner has that opportunity to appeal where external factors affect the property. I think, after discussion last evening, that it does deal with the issue that we wanted to address initially.

* (1025)

Mr. Chairman: On the proposed motion of 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) in the case of assessable property that is residential property containing not more than 4 dwelling units, any significant factor that affects such property and that is external to the property.

With respect to both the English and French texts, shall the amendment pass—Mr. Uruski.

Mr. Uruski: I just want to place on the record in light of some of the comments which were made last night and in the press this morning. I guess that I for one should be the least sensitive in terms of some press reports. I want to indicate to Members that it was not our intent to leave any opportunities or door openings for an appeal process of large corporations. I think that, once we had the discussions last night between members of staff and ourselves as Members of the committee, a compromise was able to be reached. We are pleased at that, and I want to thank Members of the Government side and members of his staff who helped Members through this whole process. But it was not our intent to leave major loopholes.

Mr. Chairman: Thank you, Mr. Uruski. Mr. Patterson.

Mr. Allan Patterson (Radisson): Mr. Chairman, as I understood it last night, I had an amendment which was being processed, and I thought it was going to be brought up this morning. I was not aware that Mr. Plohman was carrying on with this residential amendment, but I think the two could be fruitfully put together because it is more or less a matter of semantics.

First of all, whether the factor is significant or not is immaterial. Whether it is a significant change in the property value is the point so that the word "significant" does not have to be applied to "factor," and neither does it have to be applied to the change in the value because if we look at the final sort of paragraph in 13(1)(b), it just says the assessed value of the property is not the same as the value in the assessment roll. So whether we consider it significant or not is immaterial. I would propose—

* (1030)

Mr. Chairman: We have an amendment on the floor now. We cannot accept another proposed amendment at this time until we deal with this one.- (interjection)- Okay, so you are making this an amendment to an

amendment. Is this, Mr. Patterson, what you intend, an amendment to an amendment?

Mr. Patterson: Well, yes.

An Honourable Member: To Mr. Plohman's amendment.

Mr. Patterson: Yes.

Mr. Chairman: Have you copies for us?

Mr. Patterson: Not as an amendment to Mr. Plohman's amendment, as an amendment to 13(1)(b).

Mr. Chairman: Then we have to wait with yours; we will deal with Mr. Plohman's amendment first. Mr. Roch, did you have a comment?

Mr. Roch: I just wanted to make the comment: I believe, in reading this, it seems to clarify what the intent was of the committee last night. If I understand correctly, last night the whole discussion revolved around making sure that individual taxpayers were able to appeal their assessments, although the Minister seemed to think that was quite the opposite. But I also would like to point out, put on the record, that if the Government was truly, truly serious about wanting to go into as updated assessment as possible, our amendment which would have changed this Bill to provide for annual assessments, would have eliminated the need for such an amendment, and every year taxpayers, regardless of who they are, would have been able to appeal their assessments.

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

Mr. Penner: I am not quite sure whether I should raise this in regard to the amendment that is being posed by Mr. Plohman. I have no great difficulty with the amended way that Mr. Plohman is indicating we should deal with this section. However, I think I should point out that if we want to indicate clearly that all property owners, residential property owners are included, then we should also recognize that there are others living in either apartments or condominiums who might be similarly affected, and that we need to probably give some recognition in that regard to this Bill.

I recognize full well that leads us into larger property, larger building types and the effects of the assessments on those larger buildings in this regard. I just want to raise that awareness with the committee, that those property owners will also, or could also, be affected by external factors within close proximity of their property.

Mr. Plohman: Mr. Chairman, I guess we have to draw the line somewhere, from what was discussed last night in terms of the large commercial operations, and once you get into apartment blocks, that is what you are dealing with. That is why we limited it to four-plexes. It could have been limited to duplexes or just single-family detached or whatever you want to call them, but I think it was important that we try to cut it at a reasonable level. Now there may be some challenges to that, that it is discriminatory, and perhaps that may happen, but I think it is a reasonable way to compromise on this.

Mr. Chairman: We will deal with the amendment to 13(1) as presented, as it is. Shall the amendment pass—pass.

We will deal with Clause 13(1) then, Amending assessment rolls. Shall Clause 13(1), as amended, pass—Mr. Patterson.

Mr. Patterson: I want to propose an amendment to the amendment.

Mr. Chairman: You want to propose an amendment to 13(1)?

Mr. Patterson: Yes, to Clause 7 here that has just been passed.

Mr. Chairman: Do we have the copies? Are they distributed?

Mr. Patterson: Oh, there are copies here not relating to, that do not have anything to do with residential property. Can we just have a break here for a few moments?

Mr. Plohman: I would just propose that we move on to other clauses and then have an opportunity to have this redrafted and circulated and then we deal with it.

Mr. Chairman: That will be fine. So we will leave Clause 13(1). Then we will not pass Clause 13(1).

We will go to Clause 15, Errors do not affect validity. Shall the clause pass—Mr. Roch.

Mr. Roch: I would just like some verification here. If the assessor has made an error, who is liable?

Mr. Chairman: If the assessor makes an error, who is liable, is that the question?

Mr. Roch: Yes, that is the question, for clarification purposes.

Mr. Chairman: Mr. Minister or Mr. Brown, who would like to answer that?

Mr. Penner: I am really not quite sure what the Honourable Member is referring to. Maybe what I could do, if it is the wishes of the committee, is refer it to legal counsel, and ask legal counsel to give us an opinion on the question.

Mr. Roch: What I am concerned about here is that if the assessor has made an error, I am just wondering if the individual has to pay the tax even if an error has been made. It says: "Errors do not affect validity." It says: "does not invalidate the roll or affect the liability of a person to pay taxes in repect of assessed property listed in the roll." I just want to make sure a person is not paying taxes which he would not be liable to pay.

Mr. Penner: This section again is similar to a previous section which indicated the ability to correct errors, and this deals with the validity of an assessment roll where an error, whether it be typographical or other, could be indicated on the roll, but it would still not invalidate the roll or the taxes payable. It would still imply that the owner of the property would have to pay the respective taxes applied to the property, and that the roll would retain its validity.

Mr. Roch: What if it is an error by the assessor? It does not specify here that it is a typo. It says an error or omission.

Mr. Chairman: Just a minute, Mr. Roch. I wonder if you could pull your mike a little closer, we cannot hear you up here.

Mr. Roch: What if it is not a typo, what if it is a case of the assessor made an error and the taxpayer gets a certain bill, an assessment notice which may not be all that significant, but it is not picked up and it goes on for years and years. Who is liable? i mean right now the way the system works, the assessment branch can go back a certain amount of years if they have made a mistake. Is that same protection there for the taxpayer?

Mr. Penner: It is my understanding that the same provisions would be provided and are provided to the taxpayer if there are mistakes made and it can be proved. The taxpayer would have the same provision for correction.

Mr. Roch: This does not say that specifically here. Is there any place in the Bill that it says this?

* (1040)

Mr. Penner: I think it is implied that it is the responsibility of a taxpayer to read both his tax notice as well as the assessment notice and ensure himself within a given year that there are no mistakes. If there are questions, he has the ability to question the assessor and ask for corrections, amendments to be made, and that is clearly indicated in this Bill. Those provisions are clearly stated in this Bill, that those provisions are there. On the other hand, this gives, in my view, the assessor the right to make corrections to the roll, but in other words, also states that the roll remains valid, and in due course the corrections can be made to the roll.

Mr. Roch: You said that it is up to the individual taxpayer to ensure that his assessment is correct and to use whatever processes are available to him just to rectify that if it is not correct. But this seems to say—and I could be wrong, and correct me if I am wrong—that the same does not apply to the assessor. Does he have to ensure that his assessment is correct as well?

Mr. Penner: Yes. It goes both ways. If you go to the next section, 15(2), for instance, it indicates clearly—and it says, "Nothing in this section affects the right of a person to make an application for revision of an assessment roll under subsection 42(1)." So, yet again, the two sections imply the same for both parties, for both the assessor and also the individual.

Mr. Chairman: Mr. Taylor, did you have a question?

Mr. Harold Taylor (Wolseley): Yes, Mr. Chairperson, to the Minister, or to Mr. Brown, either would suffice. In 15(1)(b)(i) and (ii), it would appear that errors on the part of the officials would be sanctioned and the tax is liable to be paid, nothwithstanding due process was not followed. I am more than a little concerned with that. If that is what the intent of the clause is, then I would like that on the table. If it is not, then a clarification will be required and possibly even an amendment by the Government to clarify the intent, because the intent is not at all clear, nothwithstanding what we have heard already. I think it is something that is definitely required here, that it be absolutely clear what the authors of this clause were trying to do on this.

Mr. Chairman: We will ask Mr. Walsh to comment on it.

Mr. Rob Walsh (Crown Counsel, Legislation): Just to explain what the purpose of 15(1) is really, it is an attempt, a curative provision, if you like, to avoid the process interfering with substance. In other words, if it should happen by virtue of an error on the part of the assessor, or he had a bad day for whatever reason, he did not do what he was required to do. As a result, someone who should have been named on the roll as the taxpayer was not named; notwithstanding that error, the roll is still a valid roll. Secondly, the liability of the true taxpayer remains the liability of the true taxpayer. You are not off the hook by virtue of the fact you were not named in the document. So the operative word here, if I may point out, is the word, in my view, "affects".

It does not make your situation any better or any worse by virtue of any error that may arise on the part of the assessor. That is reinforced by 15(2), which means to say that, if you believe there is an error of some kind in the assessment roll or in your assessment, you have all the rights of this Act to make application for revision as, of course, applies in a number of other circumstances as well.

It is a curative provision to try and avoid people saying, ha, you did not name me in the roll, so therefore I do not have any liability; or saying, gee whiz, you somehow named the property, described it wrong, so I am somehow off the hook. No, you do not get off the hook that easily, so to speak. That is the intent.

Mr. Taylor: I think that helps. I would like to take it just a little bit further then. Given the circumstance that somebody was left off the roll, totally in error, the work was done, and the assessors know what the taxes should be, and I do not think there is any question that the ratepayer should pay.The thing to me in this, is this in any way going to be punitive on that taxpayer who is missed in error? It is an innocent error on the part of the assessor, but so is the ratepayer innocent in that he will not have received notice, but is liable; therefore, he does not pay because he has not received

notice. All right? And all of a sudden the long arm of the tax collector reaches out and starts shaking his shoulder, saying, where is our money? What I would be worried about is that this would lead to the situation whereby a taxpayer, in innocence, just a part of the system, was not aware of full taxes or was not aware of taxes levied at all and therefore may be punished, if you will, for not having received the notice.

I would suggest maybe the curative could be clarified slightly in saying, where due notice is not given, due notice will be given, the payment will be delayed, and there will not be penalty. Now, if something like that is contained elsewhere in the Act and can tie in, then I am reassured. But right now it leaves the door wide open, saying, notwithstanding you did not know, you are liable and, of course, if you do not pay, there are penalties involved. I would not want to see that meter start ticking on somebody who is just caught.

Mr. Penner: I think the Honourable Member raises a good point. We would all like to see our neighbours share equally in our liabilities. However, this section does not refer to tax notices. It refers only to assessment notices, as this Act does. This is an assessment Act really and so it refers only to the assessment notices and corrections or errors and amendments to the assessment process. Therefore, any errors, corrections, or omissions on the assessment notice can be corrected.

Mr. Taylor: Mr. Chairperson, to the Minister, then in the situation where a ratepayer either does not receive a correct notice or does not receive a notice of assessment whatsoever and there is a time limitation on the ability to question and the ability to appeal that tax assessment, how do those provisions apply to a case like that? Does the person miss, for example, the time of appeal because of non-assessment or incorrect assessment? How is the taxpayer protected in that sense?

Mr. Penner: If I understand the question correctly, Mr. Chairman, the question is, what happens if a person does not get a notice? As you know, assessment notices are not sent out by registered mail and, if the assessment notice has not been picked up or somehow delivered to the individual, nothing changes. Just because an individual has not received an assessment notice in his mailbox, or in his possession, still implies that the assessment stands until or/and if when, the individual appeals an amount and asks for a correction in errors recognized, or the assessor indicates that there is an error or omission. Then this section allows the correction to be made. This section does not deal with the lack of the ability to ensure delivery of an assessment notice to an individual.

Mr.Taylor: Mr. Chairperson, the point is that if the assessment notice is not sent—and I thought there was some limitation on when the appeal is available to a ratepayer to get information to challenge the assessment that is being levied against their land and buildings—and because they have not been sent a notice by the assessment department, they therefore miss that window. Is there a curative available for the ratepayer to do a late appeal of an assessment because they were never even mailed an assessment notice?

Mr. Penner: I am not sure what the answer should be, except to say that I do not think that the assessment department or Board of Revision has any guarantee or whether we could guarantee somehow the delivery of the assessment notice to the individual. I suppose anyone can claim at any given time that they have not received the assessment notice and therefore have missed their opportunity to appeal their assessment if they so desire, but I am not sure whether we could devise any ironclad method of ensuring that an individual would be notified other than by the process that is currently being used.

* (1050)

Mr. Taylor: Yes, the matter is clarified. I cannot say that I am happy when I hear the clarification, however, so we are in the situation that a ratepayer could have been legitimately assessed, but they are not in knowledge of that in any way through normal communications, and through error or negligence or both on the part of officials of the assessment department of the province or the city, they could be in a situation with a total lack of knowledge of their own circumstances.

It would appear that the remedy here is to ensure that everybody pays their fair taxes where there has been an assessment done, but there does not seem to be any remedy available for the taxpayers themselves. I do not find that fair, quite frankly, and it is a case of the bureaucracy will win the day and woe betide the person that misses out on something like this.

I would suggest a solution that might be available that would not take away from what is being considered here, to make certain that the assessment roll will stand and therefore the taxes will be collectible, would be to add in a provision that, as of last night with the unfortunate decision to go along with a three-year tax freeze, we have a tax context, an assessment context, whereby there will be a benchmark year applied, or a reference year as some call it, for a three-year period.

In that the same benchmark is applied over the whole of that duration, then I would suggest to the Minister to very seriously consider the ability to appeal the benchmark year at any time during the three-year period, and just leave it wide open. That way, although we will be five years behind this year, and six years behind next, and seven years behind on our benchmark by the third year, there will be then at least the ability to appeal it, and just do not put a provision on it.

What will happen is you get further from the start year 1990, you should have almost no appeals, I would suggest, of the benchmark, but at least it would then allow for the fact that somebody had missed a window on appeal and is not caught through no error of their own, possibly an error of the Canada Post Corporation and their Red River carts. But that is something we all contend with.

Mr. Penner: First of all, Mr. Chairman, the assessment notices are mailed to the individual where the values

of the assessment have changed and are also advertised through the public media in a very general sense. Therefore, it is my view that the assessment department makes every effort to ensure that an individual has been notified of the assessment process.

On the second point that you raise, as far as ensuring that individuals do have the right to question the value of their property at any given time, it is there. It is clearly provided for under the Act, that any individual can appeal the decision of the assessor in any given year. It is not quite correct, Mr. Chairman, that we refer to a freeze of values as such, although everybody recognizes, in order to maintain a sense of fairness to everybody, that you assess properties in a given year.

That is what this legislation is all about, this new legislation: to ensure that all property owners in the province will be assessed in one year, not as we previously did, in a series of years on a rotating basis, never knowing where you are going to be at a given part of any given part of the province. Therefore, this time around we are going to pass legislation which will provide the opportunity for the assessment department to set a standard value for all properties. It will not take away the individual's rights to question through the appeal process; that will be maintained. It is very clearly stated in the Bill that that individual's rights will be maintained.

Therefore, I believe, and if I did not do so—Mr. Chairman, I want to make it quite clear that I am also a taxpayer and would have great difficulty even recommending something that would limit the rights of the individual, because I also consider myself an individual taxpayer in this province, and therefore want to maintain and ensure that those rights are maintained under this Bill.

Mr. Taylor: I am pleased to see that the Minister feels he is one with us on this. Maybe the question then is, can the Minister, to end this, point out then, for our clarification and edification, where in the Act is the ability to appeal the reference year at any time? My understanding was that it can only be appealed during 1990. If that is not the case, then fine, that makes quite a difference.

Mr. Penner: An individual has the right to appeal his property's assessment during any given year, including the so-called reference year. In 41(1) it is clearly stated. It says very clearly that the board will sit every year, including the reference year, to hear representation by individuals in questioning, and allow for the questioning, for the appealing of the values that have been applied to their property.

Mr. Helmut Pankratz (La Verendrye): I think, though, what we are referring to in 15(1) is a failure on the part of an assessor or other official. If I have understood the discussion correctly, then the onus still stays with the person whose property has been assessed, and no onus is put on the assessor. Am I correct?

Mr. Penner: I am sorry. Can you repeat that?

Mr. Pankratz: Mr. Minister, when I read this, "a failure on the part of an assessor or other official," and when I take the discussion that we had here today on this part, it seems to me that the discussion always lends itself on that the onus is on the assessed property, and never on the official who has made the error. I have to go along with what Mr. Roch and Mr. Taylor were questioning on this. If a notice does not come to me, for an example, let us say now the assessment notice, and I do not get it in the mail, which would state the date of court of revision, so to call it, and I have not received it, just as an example, there might be many more there, there might be even a miscalculation for that matter.

But just as an example, if, not receiving that notice, I do not appear at the Board of Revision, and I can prove to the municipality that I have not received this on time, by whatever means, is there any recourse that I would have appealing an error, at least what I would consider an error, or what the person would consider an error, made by an assessor? Because the way I read it and the description and the discussion I have heard today, the onus is always totally on the property owner.

Mr. Brown: Under Section 9(6), the assessor is required to send a notice to an individual whose property has experienced a change. So there is an onus on the assessor, certainly at the triennial reassessment, and then, in addition, at any other time something about that property has changed, to send notice. There is an onus on the assessor. The concern I hear being expressed—I mean the only resolution that would come to my mind is some form of certification that a notice has been received. That would be the only proof available that either the assessor made an error and did not send it, or the mails did not get it delivered, or that the owner chose to lose it somewhere. You need some sort of written proof that a notice has been sent and received. The cost of that sort of exercise would of course be very prohibitive.

The owner certainly, I would assume, keeping in mind this is an assessment notice, not a notice for tax liability, still will receive a tax notice through different legislation. If he misses the appeal date and feels he can prove to council that he has not received that notice, council at its discretion can adjust taxes for that year to reflect an error.

Mr. Chairman: Mr. Pankratz, did you have something to add to that?

* (1100)

Mr. Pankratz: Mr. Chairman, to Mr. Brown. Let us assume, and let me give you an example, that a certain property has been over- or under-assessed. The person in question feels he has not received notice of this assessment or whatever. The court of revision and his taxes—he has been paying taxes on an under-assessment of a property for three years. Can the municipality go back on those three years he has not paid the taxes? Is there a provision which will not allow that to happen?

Mr. Brown: Yes, the roll is considered final and binding if an appeal has not been made in that given year. If

in a given year you received your tax notice and felt your taxes were out of line and you realized, I never got an assessment notice, I should have appealed my assessment, but I did not get my notice, then you would have to appear before council, ask for an adjustment in taxes based on that fact. The next year, of course, you would have another avenue for appeal at the annual Board of Revision, and at that time you should come forward and appeal your assessment.

Mr. Chairman: Then we will continue on with 15(1), Errors do not affect validity. Shall the Clause pass—pass.

15(2) Revision of rights reserved—Mr. Patterson.

Mr. Patterson: I have the amendment to the amendment on Clause 13(1). You want to clear that up now or leave it until later?

Mr. Chairman: Perhaps, Mr. Patterson, we will deal with that when we get to the end of Part 4, if that is okay with you. Would you have your copies distributed, and we will deal with it when we are finished Part 4.

We will continue with Clause 15(2), Revision rights reserved. Shall the item pass—Mr. Roch.

Mr. Roch: Proposing amendments later on to the court of revision, I would like to reserve the right to come back to Section 15(2) as well as 9(6) because they all tie in together.

Mr. Chairman: Is that the will of the committee to give Mr. Roch the right to come to 15(2) if he wants to at a later time?

An Honourable Member: And 9(6).

Mr. Chairman: And also what? 9(6)? Because they are tied in together? Mr. Plohman.

Mr. Plohman: Whenever there is an amendment to subsequent sections that have implications for previous, it stands to reason they have to be changed if they are approved at that stage, so I do not know that any special permission has to be granted. That is a consequence of the actions we take at that time.

Mr. Chairman: Okay, we are dealing with 15(2) Revision rights reserved—Mr. Minister.

Mr. Penner: I would ask the permission of the committee to circulate two documents that we were referring to before, which deal with the conservation property, and they refer to Section 13 and to Section 9. Maybe I could ask Mr. Wolch to explain the legality of or why these circulations need to be made.

Mr. Walsh: I understand earlier that the Minister indicated he would be circulating amendments to deal with the matter discussed yesterday relating to the wildlife habitat or undeveloped land—different terms were used. The Minister's proposed amendment is that the notice of assessment reflect what portion of the land is conservation land and that is the term used in the Minister's proposed motion. That is an amendment to Section 9 which provides for a notice of assessment being sent out. A similar provision, I think, is required in relation to Section 13 which involves amendments to assessments and notice of amendments going out. I would think that, where the situation applies in the case of an assessment and notice of assessment, the same situation would apply in the case of an amendment of an assessment and notice of an amendment.

Mr. Plohman: Mr. Chairman, on a point of order, I am confused here. You just made a ruling that Mr. Patterson could not go back to make amendment to 13(1), and now we seem to have the Minister introducing an amendment before we are completing Part 4.

Mr. Chairman: No, this is just being circulated for information. It was earlier indicated it would be circulated for information. We are dealing with Section 16. Does that answer your question?

Okay, we will deal with Section 16(1) Assessor may demand information—pass; Clause 16(2) 21 days to provide information and declaration—pass; Clause 16(3) Inquiries at land titles offices by assessor—pass.

16(4) Information provided not binding on assessor—Mr. Uruski.

Mr. Uruski: May I have an explanation of the reason of 16(4). I can understand the assessor using all sorts of criteria in making an assessment, but why would we require the quotation that it is not binding on the assessment? It is a factor that is being considered; why would we need a clause in the Act saying this information that is supplied by land titles or the Crown lands branch is not binding? Why would we want a disclaimer in the Act? What is the rationale for that?

Mr. Chairman: Mr. Brown? Who would like to answer that? Mr. Brown.

Mr. Brown: This includes other individuals as well, other than Crown and LTO. Under 16(1) an assessor may demand that a person, including a Crown agency or Crown corporation—

Mr. Chairman: We are dealing with 16(1) or 16(4)?

Mr. Brown: I am just referring back to 16(1) to clarify 16(4).

Mr. Chairman: Does that answer the question? Okay, we will go on to Section 16(5) Cemetery statement on lots or plots—pass. Perhaps now, we are at the end of Part 4. Mr. Uruski.

Mr. Uruski: Before we leave 16(5), Mr. Chairman, I am assuming that, where there are communities or community groups that operate cemeteries, cemeteries are not assessed, are they? A plot of land? Is there a notice of assessment and a tax bill issued on the plots of cemeteries?

Floor Answer: The Chapel Lawn type.

Mr. Uruski: Okay, private holding. If the community group, and in a community may be two or three cemeteries, would there be separate titles and separate assessment notices issued to community groups? Are they exempted or are they taxed? That is one I am not aware of.

Mr. Brown: Municipally-owned property is of course exempt. So I mean municipally owned, managed cemeteries are of course exempt because they are municipal land. Other land that might be privately held, used for a cemetery, it would have its own title for the land and would receive a notice.

Mr. Chairman: That brings us to the end of Part 4, so we will revert back to 13(1) and deal with the amendment of Mr. Patterson now. Is that the wish of the committee? Will of the committee? Great. Mr. Patterson, would you like to move your amendment?

Mr. Patterson: I move

THAT clause 13(1)(b)(vii) as amended, be amended by striking out "significant".

(French version)

Il est proposé que l'alinéa 13(1)(b)(vii) amendé soit de nouveau amendé par suppression du terme "significatif."

Mr. Chairman: On the proposed motion of Mr. Patterson, to amend Clause 13(1)—Mr. Uruski.

Mr. Uruski: Could I have Mr. Patterson explain his rationale for removing the word "significant," in terms of that, because I have some difficulty with that. I would like his explanation of that.

* (1110)

Mr. Patterson: It is entirely unnecessary. If you look at the—following the amended Subclause (vii), you will notice it says the assessed value of the property is not the same as the value entered in the assessment roll. It is immaterial if there are other factors, significant or not, as long as the value of the property changes. There is no reason for having the word "significant" in; in fact it is a restrictive term.

Mr. Uruski: Maybe I am misunderstanding the whole process. The finding has to be that the value of the property has changed because of factors other than those in the legislation. Now, these are additional factors. Whether the law or the Legislature should consider external factors other than those considered by the assessor is what the debate was about.

If we are about to allow any factor to be the determinant, that the value of the property should go down, then that really in my mind opens it up. At least the debate around here was whether the factor be significant, and when we discussed this, whether it be a storage of PCBs in a neighbourhood, or a 7-Eleven next to a home that the homeowner's value has been affected, that was the rationale that the committee here used for using these factors to determine whether an appeal could be held and these factors could be used.

Perhaps Mr. Patterson, in his analysis, says the value has changed. The property owner is arguing that the value should be changed, not that the value has changed. The assessor may say the value has not changed, and the property owner is saying, here is the reason why I want the value to be changed, as I understand the debate that occurred last night. The reason that the committee here was speaking of, it had to be significant for the homeowner.

I am a bit at a loss whether we would want to say that any factor be the determining factor in allowing for the value to change. Not that the value has changed because that is not what we are debating. The value has not changed in the mind of the assessor, it has not changed. The property owner says, my value has changed and I want you to change it, and here are the significant factors to change it.

That is where I misunderstood, and we are not on the same wavelength on this amendment. That is why I think the word "significant" was being used by the Member for Dauphin (Mr. Plohman) in proposing that amendment.

Mr. Patterson: Mr. Chairman, the Members might recall when I first started discussing this word, it is not whether the factor is significant; it is whether the value has changed significantly. It was pointed out to me last night by the Legislative Counsel that they say the word "significant" is utterly unnecessary; it is redundant, because it just says the assessed value of the property is not the same as value in the assessment roll. We are saying right here it does not matter if it is significant or not, it just says it is not the same.

If, by virtue of any factor, the individual's assessment and thereby his or her taxes change to the extend that they feel significantly hurt in the pocketbook, they will squawk.

An Honourable Member: Take it out, it does not matter. Either way it works.

Mr. Patterson: Yes.

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

THAT clause 13(1)(b)(vii), be amended as amended by striking out "significant" with respect to both the English and French text.

Shall the item pass? All those in favour answer in the yea.

Some Honourable Members: Yea.

Mr. Chairman: All those against.

Some Honourable Members: Nay.

Mr. Chairman: In my opinion the nays have it. The motion has been defeated.

We will continue with Part 5, Assessments, Clause 17(1). Mr. Plohman.

Mr. Plohman: Mr. Chairman. I think that we were going to go back and do 9 and 13, however—and I was going to raise that, but I do not think it has to be done at this particular time. We may want to discuss it at caucus so I would just like to see us leave it if we can at this time, move on to 17 and come back to this later.

Mr. Chairman: Is that the will of the committee? Fine. Okay.

I am sorry, we have to back up to Clause 13(1) and pass that clause as amended. Clause 13(1) Amending assessment rolls as amended—pass.

Clause 17(1) Assessment at Value. Shall the clause pass?

An Honourable Member: I have an amendment.

Mr. Chairman: Okay, we have an amendment here.

Mr. Penner: Is this mike on? Yes, it is. I would propose

THAT section 17 be amended by adding the following subsections after subsection (1):

Farm Property: agricultural purposes
17(1.1) Subject to to Subsection (1.3), a registered owner of farm property may request an assessor to determine the assessed value of the property on the basis of its use for agricultural purposes and where so requested, the assessor shall thereafter, and for so long as the property is used for agricultural purposes, determine the assessed value of the property in relation to the applicable reference year, solely on the basis of use for agricultural purposes.

Application of Farm Property assessed value
17(1.2) Where, in a year for which a general assessment under Subsection 9(1) is not required, an assessed value is determined under Subsection (1.1), the assessed value applies in the years that follow the year in which the assessed value is determined, until, but not including, the year of the next general assessment under Subsection 9(1).

Agreement with municipality
17(1.3) Subsection (1.1) applies only where, in a written agreement with the subject municipality, the registered owner of the property agrees to pay to the municipality, upon a change in the use of the property to a non-agricultural purpose, an amount of taxes that represents, in respect of the years to which assessment under Subsection (1.1) applied and that immediately precede the year in which the change in use occurs, the difference between the taxes that were levied in respect of the property on the basis of an assessment under Subsection (1.1) and the taxes that would have been levied had an assessment under Subsection (1.1) not applied, to a maximum of five years.

Endorsement on tax certificate
17(1.4) A municipality shall not issue a tax certificate in respect of property to which an agreement under Subsection (1.3) applies without stating on the certificate that the property is the subject of an agreement under subsection (1.3).

Lien on land and collection
17(1.5) Where, under the terms and conditions of an agreement under Subsection (1.3), a registered owner of farm property becomes liable for payment of an amount of taxes in respect of the farm property,

(a) the amount of taxes is a lien upon the land that forms part of the farm property and

(i) the lien has preference and priority over other claims, liens, privileges or encumbrances in respect of the land, other than a claim, lien, privilege or encumbrance of the Crown,

(ii) the lien does not require registration against the land to preserve it,

(iii) a change in the ownership of the farm property or a seizure by a sheriff, bailiff, landlord does not defeat the lien;

(b) the municipal administrator of the subject municipality shall add the amount of taxes to the taxes shown on the tax roll to be charged and levied against the farm property; and

(c) the municipality may collect the amount of taxes in the same manner in which taxes upon the farm property are collectable under The Municipal Act or, in respect of the City of Winnipeg, under The City of Winnipeg Act, and with the like remedies.

Prescribed terms and conditions
17(1.6) An agreement under Subsection (1.3) is deemed to include such terms and conditions, if any, that the Lieutenant Governor in Council may prescribe in respect of such agreements.

* (1120)

(French version)

Il est proposé que l'article 17 soit amendé par insertion, après le paragraphe (1), de ce qui suit:

Biens agricoles - fins agricoles
17(1.1) Sous réserve du paragraphe (1.3), le propriétaire inscrit de biens agricoles peut demander à un évaluateur d'évaluer les biens en fonction de leur utilisation à des fins agricoles. L'évalauteur qui reçoit cette demande évalue les biens, par rapport à l'année de référence applicable, exclusivement en fonction de cette utilisation et tant que celle-ci dure.

Valeur déterminée des biens agricoles
17(1.2) Lorsque, dans une année pour laquelle une évaluation générale en vertu du paragraphe 9(1) n'est pas nécessaire, la valeur des biens est déterminée conformément au paragraphe (1.1), et la valeur déterminée s'applique aux années qui suivent l'année pour laquelle cette valeur est déterminée, en excluant

l'année pour laquelle l'évaluation générale est faite aux termes du paragraphe 9(1).

Entente avec la municipalité
17(1.3) Le paragraphe (1.1) s'applique uniquement dans le cas où, par entente écrite conclue avec la municipalité intéressée, le propriétaire inscrit du bien convient de payer à la municipalité, si le bien n'est plus utilisé à des fins agricoles, un montant qui représente, à l'égard des années visées par une évaluation faite en application du paragraphe (1.1) et qui précédent immédiatement l'année au cours de laquelle le bien n'est plus utilisé à des fins agricoles, la différence entre les taxes qui ont été prélevées à l'égard du bien en fonction de l'évaluation faite en application du paragraphe (1.1) et les taxes qui auraient été prélevées sur le bien, pendant une période maximales de cinq ans, si cette évaluation ne s'était pas appliquée.

Endossement d'un certificat de taxes
17(1.4) Une municipalité ne peut délivrer un certificat de taxes à l'égard de biens pour lesquels une entente visée au paragraphe (1.3) s'applique, sans endosser le certificat d'une mention indiquant que les biens sont soumis à cette entente.

Privilège
17(1.5) Lorsque, selon les modalités et conditions prévues dans l'entente visée au paragraphe (1.3), le propriétaire inscrit de biens agricoles devient redevale du paiement des taxes à l'égard de ces biens:

a) le montant de taxes constitue un privilége sur le bien-fonds qui fait partie des biens agricoles et:

(i) ce privilége prend rang avant les autre réclamations, priviléges droits ou charges à l'égard du bien-fonds, autre que ceux de la Couronne,

(ii) ce privilége se conserve sans enregistrement,

(iii) un changement de propriétaire des biens agricoles ou la saisie par un sherif, un huissier ou un locateur ne peut invalider le privilége;

b) l'administrateur de la municipalité visée doit ajouter le montant de taxes aux taxes inscrites sur le rôle de taxation et imposées sur les biens agricoles;

c) la municipalité peut percevoir le montant de taxes de la même façcon que les taxes sur les biens agricoles sont perçues en application de la Loi sur les municipalités ou, relativement à la Ville de Winnipeg, en application de la Loi sur la Ville de Winnipeg, et les voies de recours pour leur recouvrement sont les mêmes.

Modalités et conditions
17(1.6) L'entente visée au paragraphe (1.3) est réputée contenir les modalités et conditions que le lieutenant-gouverneur en conseil peut fixer à son égard.

Mr. Roch: Is the Minister going to provide additional information for an explanation? If I understand this correctly, and I think we need to hold it over so it can be studied, but the basic thrust of it is to provide protection for those agricultural lands which are under developmental pressure.

An Honourable Member: Exactly.

Mr. Uruski: Mr. Chairman, in 17(1.3), perhaps an explanation of the words "to a maximum of five years." Does that leave some discretion on council, or is there some reason for the words "maximum of five years"? It was my understanding that, when we discussed this issue, the retroactive payment would be for five years, not one way or the other, and maybe that needs some clarification.

Mr. Penner: Under the terms under which this is drafted, it allows for the provision that, if a young farmer or any farmer, for instance, acquires a property and wants to enter into this type of an agreement and one or two years later changes or sells the property to a developer, there would be allowances for the application to be one year or the two year or the three year or the four year, five year until he reaches the term of the five and then the five would apply. Understand correctly, if for instance a previous owner had an agreement under this same provision, and if that had been extended for the five years, the five years would apply.

Mr. Uruski: I do not know from legal counsel whether there needs to be some clarification of this because I understand the intent, and we do not disagree with the intent at all, but to me it leaves the impression that there is some discretion as to whether or not it is two years. I can understand that if you purchase the land and you enter into agreement, that you would only want the retroactive payment for the length of time, if it is under five years, to be only that period of time that you have been the owner. Then perhaps maybe that should be clarified in that section to say that it is five years unless the ownership is less than five years, and only for the period of time of the ownership.

We can pass it this way. That is the way it appeared to me, but the intent, we have no disagreement on that.

Mr. Penner: I think, Mr. Chairman, the intent is there, and I think it is clearly written in the Bill that they will provide for that, and I will ask legal counsel to clarify it for the committee just so that there is no confusion.

Mr. Walsh: Just one brief comment, Subsection (1.3) deals with the agreement between the registered owner and the municipality. It does not deal with any discretion that might or might not be exercised by any assessor or any other person.

The agreement must set out that he will pay the difference in the taxes for those years to which an assessment under Subsection (1.5), and that precede the year of the change to a maximum of five years. The agreement must set it out, that is the first point I would make in clarifying in the text here for the Members. Second, under (1.6), by regulation, the terms and conditions of the agreement can be amplified and

made clear so as to remove any textual inadequacy in the subject agreement which left a problem between the parties.

This provision is drafted so as to reflect what the agreement says and does not give to the assessor any power -(interjection)- or municipality, subject to the fact they may get the municipality to negotiate an agreement.

Mr. Uruski: That is essentially my point, that if there is a maximum of five years, while the assessor may not have any discretion, and the Lieutenant Governor in Council may prescribe the terms of ownership, nevertheless there is some discretion on council in terms of the agreement if they follow the general terms of the agreement, and maybe not, but I think counsel himself in his comments left it, at least an impression to me, he left it enough open that council may say, well, for you, John, we will give you three years and for you, Pete, we do not like you, we are going to give you five. We do not want that to happen. I leave that to the Government to make that decision, and if you feel that this will cover it, then I will accept that. I put my caveat, register my caveat here, our caveat here in that whole area.

Mr. Penner: It is clearly, to the Honourable Member, not the intent of this Government to allow for those kinds of variations to take place in it. I can assure you that we will make sure that municipalities do abide by the five-year term.

The other one is, I think it is only reasonable when you listen to the UMM in its presentation yesterday, to respect the wishes of the municipalities, to enter into some discussions with Government before the implementation of this provision. I think it is important that we consult with the municipalities and ask them exactly how they would see this Bill being implemented in a reasonable manner. I would allow them at least some input into those discussions.

Mr. Uruski: Mr. Chairman, just like there was no intent to leave a loophole for corporations last night, neither was there a loophole on the Government's part this morning.

Mr. Chairman: Just a minute, can we have a former speaker before you, Mr. Plohman? Mr. Patterson.

Mr. Patterson: All my questions have been addressed.

* (1130)

Mr. Pankratz: I would like some clarifications on this matter. One of them is, we were talking of one owner, and just maybe, Mr. Minister, you can clarify this. If one owner now and the land is transferred to the second owner and maybe even to the third owner, retroactive this is five years, am I correct?

Mr. Penner: Yes.

Mr. Pankratz: And as long as it stays in agricultural use?

Mr. Penner: Yes.

Mr. Pankratz: The retroactive assessment can go back for five years by the municipality?

Mr. Penner: That is right.

Mr. Pankratz: Does this pertain, Mr. Minister, only to a certain classification of land, or would this be on commercial or residential or whatever usage of land as long as the purpose is for agriculture?

Mr. Penner: If you look at the second line in 17(1.1), it indicates clearly, "a registered owner of farm property."

Mr. Pankratz: Mr. Minister, I need a clarification. So what you are indicating with that 17(1.1) is that this can be commercially zoned land, registered "farmer," registered owner of farm property?

An Honourable Member: That is it.

Mr. Penner: I think the question is a very valid one and also needs to be clearly stated. I think the provisions for clarification purposes, we would find under clarification as to what farm property means. The definition of farm property under the class would include agricultural land, regardless of how it is zoned. Farmable property, that would be the definition of farm property.

Mr. Pankratz: So, Mr. Minister, what you are stating then is that what Section 17(1.1), registered owner of farm property, it might be zoned R-3, it could be commercial and it could be zoned agricultural land which is used for agriculture?

Mr. Penner: It is my understanding that for clarification purposes the definition of a farm property is agricultural land used for the purposes of agriculture.

Mr. Pankratz: Mr. Minister, it does not refer to any kind of zoning whatsoever?

Mr. Penner: That is right. As long as it is used for the purposes of agriculture, it qualifies.

Mr. Pankratz: So, Mr. Minister, what you are telling me is that this land can be zoned commercial and used for farming and pay farm taxes on this land? Am I correct?

Mr. Penner: I want to be very careful as to what I say here because under the definition, agricultural land or farm property is defined as farmable property, in other words land used for the purposes of raising products or for the purposes of farming and does not refer to zoning.

Mr. Pankratz: Mr. Minister, as you know, I have raised this point with you before. I need clarification on this because I feel very strongly on this that if the land is not zoned for agriculture, if it is zoned for commercial or anything but agriculture, then the purpose is definitely upgraded for that different usage, and I feel very

strongly that any tax assessment advantage should only be granted on agricultural land, in my opinion. I would like to put that on the record for sure that I state that.

I feel that the Province of Manitoba has first of all jurisdiction on classification and then the municipalities have jurisdiction over zoning. We are here assuming that the properties will only appreciate. I think in all fairness, Mr. Minister, we have to look at this clause also that we are realizing that property values are going down and if we are putting on to certain assessments certain values on lands, that the reverse trend can take place and that there is also provision in this somewhere where that could happen that if the owner can prove that his value is not higher after five years than before, that he will not be all of a sudden left with a taxable portion when selling that agriculture land.

Mr. Penner: Again, the reference made here regarding farm property is farmable property. I think it is important, as I indicated to the Honourable Member for the Interlake (Mr. Uruski) before, that we sit down and discuss with municipalities and the jurisdictions that will be affected by this, and get from them an indication as to how they would like to see this applied; whether it should be applied to zoned other than agriculture properties, or whether it should be retained only for agriculture properties, zoned as agriculture. They were recognizing that you can zone a property and farm it for years after it is rezoned, but still can be farmed and is, in many cases, farmed for years.

I think there is a real area that needs to be discussed in depth with all jurisdictions before the implementation of this respective section.

Mr. Pankratz: I just want to, once more, hopefully I can address it in a proper manner to the Minister. I feel there is a great injustice done to this part of the Bill if we will allow anything but agricultural-zoned land to qualify for this exemption.

If a person, whoever is the owner of a certain parcel of land, wants to qualify for this exemption, he should have to rezone it back to agriculture, because agriculture is freezing land. It can be yet as rocky in some of our areas, and it is zoned agriculture. We know for sure that for the purpose of agriculture as defined, raising a product, you cannot do it. It is zoned in agriculture to basically freeze the usage of the land.

If you go to anything but agriculture, you are allowing a commercial value, or I should say, even a speculative value to put on that land, because it has different usages. It can be used immediately for different usages, whereas when it is zoned in agriculture it has only one usage that is allowed to it, unless the provincial planning and the municipalities allow the usage changed.

I would like to caution this committee that we address this fully before we approve something to this effect which would allow different zoned lands to qualify for this rebate.

Mr. Plohman: We had, Mr. Chairman, another amendment that would have dealt with this whole area of two-value system for farm land. I would like to circulate it for consideration by the Government before this committee passes this, particularly as it applies to the issue that is being raised by Mr. Pankratz dealing with land that is not zoned agriculture.

I had followed the Weir Commission recommendation which is that there is a bigger penalty, if you want to call it that, a recapture where this land has been zoned other than agriculture, and that the recovery period would be for 10 years instead of for five in those instances. I think that is appropriate where the zoning has taken place prematurely in a speculative way and is still being used for agricultural purposes. That individual then should have to pay when they finally do develop it, the taxes that should have been assessed and that land at the higher level, for a 10 year back period.

I think the Government could benefit from having some amendments to this proposal dealing with that situation where it is other than agricultural zoning. It still could apply, the reduced value, because based on use it is agricultural purposes. The penalty would reflect, and I call it a penalty perhaps advisably, but the realistic taxation that they should be paying should go back further in that instance, because they were anticipating selling for a higher price, that is why they rezoned it other than agriculture. I would circulate this, and I would suggest that the Minister and his staff take a look at whether they can incorporate some of the principles in this particular amendment.

Mr. Chairman: Mr. Uruski did you have a comment on that?

Mr. Uruski: No.

Mr. Chairman: Okay, Mrs. Charles, did you have something?

* (1140)

Mrs. Gwen Charles (Selkirk): Yes, further to what Mr. Pankratz is saying, as having been a town councillor in the Town of Selkirk, we have land within the town limits of Selkirk which is zoned agricultural-urban reserve, and I think the Government has to look at all these terminologies that are out there in the zoning, and how would land zoned agricultural-urban reserve be impacted by this clause, because is it agriculture, or is it urban reserve? In our town it is both, but would it be allowed under this section? I do not have the answers for this, but I hope the Government will provide enough detail and determination in answering these questions before we go further on it.

Mr. Penner: The question is a very valid one, the same with the previous question raised by the Honourable Member for La Verendrye (Mr. Pankratz). Therefore I believe it is so important that before this section of the Bill would be implemented, we enter into those kinds of discussions with respective communities and ask their opinion as to what should, or should not, be allowed, and what should be implemented under this section. Therefore, the wording is rather general in that area, not specifically defining what zoning applications

should take place. It refers to agricultural property, and the terminology used in the Bill is such that would allow us to discuss with the municipalities, if they can come to terms on given properties, and indicate to us what zoning requirements need be put in place, or maybe even deleted in some areas, to accommodate this then I think that we should accept that and entertain those discussions with the various jurisdictions.

Mrs. Charles: Just to further make my opinions public on this. I understand the dilemma that each level of Government will be going through because municipal Governments want to have control of future developments within their boundaries, or hopefully sometimes without their boundaries. At the same time you want to encourage the land to be used wisely and agriculture is usually a wise practice, and perhaps even land reserves set aside in town, to have that non-taxable. Farmers have that option, rather than developing it or putting it into land reserves and trying to enhance our community.

I just would really caution the Government not to move quickly on this, but to go through full impacts of it and make the communities, the municipalities—because I believe in many cases a lot of their development plans have been passed, over the last year or two, and perhaps their minds will be on development plans for the next few years—to make it known to them what type of problems they will be coming into. Because they are, in the true word, part-time politicians and they cannot focus long term; as willing as they usually are to do so, they do not always have that option.

So please go through it with them, the stumbling blocks they may come into without knowing what you are after, and without giving you the full information of how it will impact upon them.

Mr. Roch: Mr. Chairman, a little bit of clarification here. In the Minister's proposed amendment to his Bill, in (1.1), if I understand this correctly, the owner must request that the assessor to assess it at agricultural purpose.

Mr. Penner: What are you on?

Mr. Chairman: 17(1.1).

Mr. Roch: 17(1.1) in the Minister's proposed amendment that he circulated. Is he saying that the owner must request the assessor to assess it at agricultural value, or whether it is or it is not, is that what 17(1.1) is saying, farm property?

Mr. Penner: Yes, it does.

Mr. Roch: So in other words what the Minister is suggesting then with this amendment is that all farmers must request assessment for agricultural purposes. The need to clarify is only when it is under development pressure, is that correct?

Mr. Penner: All farmers must ask for a reassessment and ask municipalities to enter into an agreement under the definition of farm property. It means really that you ask the assessor to assess a given piece of property at its agricultural ability to produce. Really what that means is at a lesser value than what would be implied by the shadow of the urban impact.

Mr. Roch: So there is no other agency which will determine which lands are under development pressure. In other words, if you are living in the urban shadows—and I do not know if land is even supposed to be assessed at potential, its permitted or present use. But some farmlands are artificially high. What I am trying to get at is that, if you have a piece of land, the assessor is going to come along and, unless a farmer has specifically requested that this land be assessed at farm or for agricultural purposes, it shall not be assessed at that purpose. Is that what the Minister is saying?

Mr. Penner: That is what I am saying. Under the terms of the Bill, the onus is on the individual to indicate to a given municipality his or her intention to maintain or keep on operating a farm and retain the land for agricultural production, and enter into an agreement with the municipality indicating clearly his intention to retain that land for agricultural production, and thereby ask for a reduction of the amount of tax owing based on the level of value of the agricultural potential of that acre of land, instead of the investment, or the investment opportunity, or the developmental potential value of the land.

Mr. Roch: I kind of am of the opinion that I think that possible, rather than do it this way, it might be better if there were a parallel assessment being done—one based on its developmental potential, one based on its agricultural potential. To follow what Mr. Plohman has done, possibly, I have some proposed amendments on this particular section to clarify this. I, too, then would like to circulate what I was intending to propose, and possibly out of this some kind of a better, improved version of this section can come forward and can be studied at a later time.

Mr. Uruski: Mr. Chairman, the more I listen to the suggestions and the debate around the room, I guess I have to say that Mr. Pankratz has convinced me of asking the Minister and his staff to re-examine this whole situation. From the point of view of a) wanting to strengthen the position of the need for orderly planning, because what Mr. Pankratz basically has said, that if the municipality goes ahead and starts zoning land, the owner may not request it, but if the land is zoned, then the owner happens to be in a dilemma or in a predicament that he does not want to be in. He is going to be paying tax on rezoned land that he has not even asked for.

If he has asked for it, in the reverse, then he wants to sign an agreement. If in fact some of the provisions that Mr. Plohman has put forward and the need for re-examining those who prematurely rezone, and basically send the signal out to council that we want planning, because if you are going to create a real hodgepodge in your area, you are going to have a real mess, and mess in more than just from the planning perspective, it will be as well from the taxation perspective.

I do not believe, Mr. Chairman, that this committee—here is where I disagree with the Minister—or the Legislature should only talk about entering into an agreement with municipalities.

The Legislature should set out the principles it wishes to have embodied in terms of how it will act, the details of which could be subject to the negotiations with the municipalities. I do not believe—there may be municipalities that say: look, we do not want to impose a 10-year period for some premature rezoning that somebody will sit on the land and only pay—there may be developers who will say, I will be glad to pay five years of back taxes provided you let me rezone. We may not want that. We may want to say, that we are going, for you who have rezoned prematurely, we want 10 years.

* (1150)

The question of interest may come into play. We have not talked about interest. Should there be interest to be charged back five years, or 10 years, on the unpaid taxes? That is a question that maybe should be in the question of negotiations, but I do not believe that this committee should leave here without setting the principles that we would want to deal with in terms of which land and how it would be dealt with, the parameters of dual assessment.

I guess I am asking the Minister to maybe look at all those amendments, go back, have some discussion internally, and see whether some of the suggestions that have been made by Mr. Pankratz and Mr. Plohman, and others, to see whether we can come up with, and now have, for a change, all the legislative counsels who have been pulling their hair for each of us, and maybe work something out, that will deal with some of the principles around here, which would be acceptable to the Government, but yet leave enough flexibility in terms of the mechanics of how it is accomplished to the negotiations and regulations between the Government and municipal councils of implementation.

I think we are all agreed that planning should be enhanced or at least encouraged, whether it is with a bit of a hammer or whatever terms you may want, we want to encourage planning. If we want to encourage planning, some moves in this area may be able to do it, and I think Mr. Pankratz has put his finger on some of the problem areas that could be solved by some of his suggestions.

Mr. Penner: Mr. Chairman, the Honourable Member raises some excellent points, as did Mr. Pankratz in his remarks. Both have indicated clearly that it is the wishes of the province to encourage in a very orderly fashion the development of the various communities in all of the Province of Manitoba, and therefore would not want to enter into a piece of legislation that would indicate otherwise.

Therefore, the legislation or the proposal for legislation, the amendment which we had drafted, is worded specifically for that reason, to allow us to enter into discussions with the various communities and get their input into how they would see, or want to see, the further development of given properties within their areas. I think agriculture properties are very much at the base of—and the retention of agriculture properties for as long a period of time as we possibly can for the production of agricultural products is our goal as a Government. Therefore, the section here, the amendment here, is written specifically to allow us to enter into those discussions, to hear all the various comments that are going to be made by the various jurisdictions before imposing via legislation, in a certain way, restrictions in the many areas that might well be applied, recognizing full well the issue that specifically Mr. Pankratz raises, and how it affects those property owners.

Hon. Glen Cummings (Minister of Environment): Mr. Chairman, I will keep my comments brief. If the understanding is that the three caucuses will take away the presentations that are here and try to come back at the next sitting perhaps with the compromise position.

I am encouraged that everyone around the table wants to deal with the issue. I am also encouraged by what Mr. Uruski said regarding the fact that this has or can have a direct impact on planning. That is really the concern that is out there, that in fact we are, through the present assessment taxation system, forcing land out of agricultural production in many cases—prematurely, in my opinion—in some areas into another use. The taxation system should try and recognize and acknowledge that. That is what this is intended to do; it was brought up by several presenters.

It is not a simple, it is a very complex problem. I suggest that no matter how hard we try, we may end up with what will be somewhat of a rough-and-ready solution. The assessment branch may in fact feel it is not capable of putting in what is deemed to be a perfect solution.

I can think of instances, Mr. Chairman, and I wish to put this on the record because it demonstrates the urgency that all three political Parties need to put their best foot forward on this one. The fact is that there is land out there that is being farmed whereby the taxes exceed almost, in recent years, the gross income off the land. I think that demonstrates the need to attempt to put in position an assessment that can be dealt with by processes outside of assessment. I think they have an opportunity here to use the assessment system to deal with something that is not in line with the desire that we all have, to make land use more relevant to the long-term objectives that we have for our communities.

Land kept in agricultural production around our communities is much more hospitable if you will—that is perhaps the wrong choice of words—but it is certainly much preferred to be used in that manner rather than to be left unused or to be put into subdivisions for industrial purposes that have perhaps consumed far more acres than might otherwise be the case, simply to get it out of agricultural practice so that it is in the hands of someone else who can more easily pay the taxes. I would like to see, if not this amendment, something very similar to it included in the Act.

Mr. Chairman: Thank you. Mr. Roch is next.

Mr. Roch: I am going to mention, Mr. Chairman—I want to be brief as well—it appears that, yes, there is a willingness amongst all committee Members to deal with this issue. There is a willingness to come back with a compromise solution. So I do not know if there is much warning belabouring a point too, too long until we see what the committee comes back with.

I just want to point out one item, and it is in my proposed amendment which I have circulated, that we have to seriously consider two people who have been on the farm for a significant amount of time, and we have used the amount 15 years. Should they be subject to the same penalties, if you can call it penalties, for having sold their land at a certain time? I just want to emphasis that point because there could be a difference between someone who has farmed for three, four, five years and someone who has farmed for a lifetime or someone in which the family farm is being passed on and they intend to continue farming.

Then eventually an urban area starts expanding, and it then really does not become a viable area to farm in. I do not know if in such a particular case they should be penalized. Possibly it may not be feasible for the assessment branch to work out those details. In any case, it is in the proposed amendment, and I think it is something that should seriously be looked at when a compromise amendment, so to speak, is arrived at.

Mr. Chairman: Mr. Roch—Mr. Pankratz, did you have a comment?

Mr. Pankratz: I would just like to make a few comments. For instance, we are talking of the agricultural usage. What this will do, the way I foresee it now, and I think this is something that we should safeguard, that the usage of the land is agriculture, but the zoning people will want to change, because once they have that zoning, it gives them an avenue for different usages again. When I read what it says here in 17(1.1), subject to Subsection (1.3), a registered owner of farm property may request an assessor to determine the assessed value—a registered owner of farm property.

Farm property to me is zoned agriculture. The minute that zoning is not agriculture, it is not farm property, in my opinion. Now I would definitely like to have a clarification on this because the usage might still be agriculture, but the farm property is only when it is zoned agriculture, in my opinion. I would sure like to see, Mr. Minister, if your legal staff or yourself are prepared to answer that.

* (1200)

The other point that I would like to make at this time when we are going to be reviewing the different amendments which I would sure want to study very closely—the land that is at the present zoned agriculture, let us not penalize it. Let us make the changes for it immediately this year, because we are here sitting in this committee to do fair and justice to the property owners that are affected wrongly today. Let us not, because of zoning and these other problems that are becoming part of this, penalize those whose land is zoned agriculture. I would wish that the Minister and his staff would at least see fit to make those changes for land that is zoned agriculture, at least immediately for 1990, and not delay that in the process. If he feels he needs additional time to clarify for the other types of zoning, that is something that can possible be dealt with. The land that is zoned agriculture I would wish he address in the year 1990.

Mr. Plohman: I believe the onus is on the Government and staff to bring back a proposal. I do not think that all the caucuses should be working; they can obviously discuss this if they wish. However, they are not going to come up with the wording.

I think the Minister has heard the concerns that have been raised. I would suggest he consider having a rewording that deals with the five years, making it clear that five years is what we want unless the owner has had it for less than five years at this point. Five years, hence it should apply in all cases. You register it as a lien against not only the owner of that time but the previous owner, so in effect after five years it should apply in all cases. It should be longer if it is rezoned from this point hence at the initiation of the owner, and perhaps only five years if the council does the rezoning and it is not the request. I do not know that an individual should be penalized ten years back if the council rezoned his land, and he did not ask for it. That is one principle that should be included, I would suggest to the Minister.

What we are really doing here, as others have said, is promoting good planning. We are encouraging agricultural land to be retained for agricultural purposes and agricultural uses. What we are doing is providing a carrot and a stick, an incentive by having lower taxation on that land to retain it in the agricultural use, and the stick where the retroactive payment comes in, where those people choose not to.

I think all of us agree with the principle, but the Minister, his staff and now the Legislative Counsel, who have all been working separately on this issue, should be able to try and draw those principles together and bring it forward.

Mr. Chairman: Thank you, Mr. Plohman. Mr. Minister, and then Mr. Cummings.

Mr. Penner: Mr. Chairman, I wonder if it would be the concurrence of the committee that I might ask Legislative Counsel for all Parties to join with me to try and put together a final draft in this regard. If some Members wish to sit in on that process, so be it, but at least that the Legislative Counsel might jointly put forward a draft for consideration for the committee.

Mr. Chairman: Mr. Cummings—Mr. Taylor.

Mr. Taylor: Mr. Chairperson, I think that is a very positive suggestion on the part of the Minister. I am not sure if we need to have representatives sitting in. We are confident that the issues on the table, the sentiments are there, some of it in writing. The legal counsel has heard it all.

I think that if the legal counsel is given adequate time to work on it, bring it back as would hopefully

then be a jointly supported amendment, I think that is great.

I would at this time, Mr. Chairperson, move adjournment. There are some matters pending this afternoon that require work of Members who are on this committee and that the reconvening be subject to the agreement later today of the three House Leaders.

Mr. Chairman: Is that the will of the committee? Okay, we will leave these amendments up to the Minister and his Legislative Counsel. This afternoon, or whenever we agree to meet again—

An Honourable Member: When the House Leaders agree.

Mr. Chairman: When the House Leaders agree. Okay, so committee rise.

COMMITTEE ROSE AT: 12:05 p.m.