LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS
Wednesday, January 10, 1990.

TIME — 3:15 p.m.

LOCATION — Winnipeg

CHAIRMAN — Mr. Edward Helwer (Gimli)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Connery, Cummings, Penner

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

WITNESSES:

Mr. Bob Brown, Provincial Municipal Assessor

Mr. Gerald D. Forrest, Deputy Minister

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

Mr. Norm Larsen, Crown Counsel (Legislation)

Ms. Shirley Strutt, Crown Counsel (Legislation)

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 to consider Bill No. 79. We last met Tuesday, January 9, 1990, at 8 p.m. to consider clause-by-clause consideration of the said Bill.

Last night we were faced with a number of proposed amendments that may or may not be out of order. However, I cannot at this time give you my rulings since Legislative Counsel has not completed their opinion. Therefore, this matter is pending until further notice. I suggest that we continue with this matter when Ms. Strutt, the Legislative Counsel, appears with their opinion.

Before we continue with this meeting, I would ask for guidance from the committee with regard to an adjournment hour today. What is the will of the committee? Mr. Roch.

* (1520)

Mr. Gilles Roch (Springfield): We are prepared to go till six o'clock tonight because it appears unlikely there will be any Private Members' hour in the Chamber, reconvene at eight o'clock and then till whatever hour it takes to deal with the Bill, and then have it dealt with at third reading tomorrow in the House.

Mr. Chairman: Okay, that would be fine. Mr. Plohman.

Mr. John Plohman (Dauphin): Mr. Chairman, I would rather see us, depending on how much progress is made in the next two and a half hours, go to 7 p.m. or 8 p.m. and complete it, if that was possible rather than come again at 8 p.m. tonight. I do not know if the Liberal Opposition and the Government would be amenable to that, but I would like to see us leave that adjournment date to see how we progress.

Mr. Helmut Pankratz (La Verendrye): Mr. Chairman, I believe we will have difficulty in meeting that suggestion. I think in our case, we would like to see us adjourn at 6 p.m. and if possible, reconvene then at 8 p.m.

Mr. Chairman: Okay. Mr. Roch first.

Mr. Roch: Unless there is some other matter which I am not aware of, Mr. Plohman's suggestion was quite reasonable. If we find we have made progress and within an hour or so we can finish it, that would be acceptable too, but if we seem to have a lengthy amount of items to deal with, I would just as soon adjourn at 6 p.m. and return at 8 p.m. We might even decide to just call it around that time. I do not know, I am willing to listen to the advice of the committee.

Mr. Chairman: We will take the advice of Mr. Plohman then and start and go as whatever, and if we think we should adjourn at 6 p.m., when we get to it, we will consider that. Is that okay? The will of the committee? Thank you.

We will continue with Part 8, which is the Revision and Appeal, Clause 35(1), Appointment of Board of Revision. Shall the clause pass—Mr. Roch.

* (1525)

Mr. Roch: Mr. Chairman, there has been a number of problems with the Board of Revision which has been brought to our attention. It was originally my intention to bring forth major amendments to address these shortcomings. However, we are also committed to having this Bill dealt with in accordance with the three-Party agreement. Therefore, if it is the will of the committee, I would be willing to just simply table the amendments which I was going to propose for discussion purposes.

Following the coming into force of this legislation, we intend to monitor the extent to which the legislation has accomplished its intent of reducing the appeal bureaucracy. We will also be monitoring the number of appeals made to the Municipal Board and the Court of Queen's Bench to determine the effectiveness of the various Boards of Revision. We intend to take these

proposed amendments to all local Governments for their input, which is essential. When this process has been completed, we may introduce amendments to the Act.

At this time I would just like to quickly outline some of the problems that have been identified by various members of the public to us in regard to the Board of Revision. There seems to be a high rate of appeal, high taxpayers and assessors. There seems to be a problem with Board of Revision members hearing appeals due to the fact that they have friends, relatives and neighbours in very small communities who may be sitting on these boards and may not be willing to hear those appeals.

There is a certain amount of burden too on the municipalities. It is sometimes difficult to find people who are willing to sit. This includes councillors, too. There are times there may be a lack of expertise of the people appointed and this applies, not only to rural areas, but to the City of Winnipeg's Board of Revision as well.

As well, there is a certain amount of financial burden to the local Governments because of per diems and other administrative costs. If there were a way of eliminating this level of bureaucracy, we would be saving those local Governments money.

Too, there is a very real concern in many cases where many people apply to the board with absolutely no intention of appearing, simply because they know they will be appealing to the Municipal Board or Court of Queen's Bench anyway, and they also are aware they have to go to the Board of Revision in order to achieve that.

So, rather than take up the time of the committee to discuss these amendments now, as I mentioned, I will be tabling them and we can have them for discussion purposes. Hopefully at some time in the future, if necessary, the Government will be co-operative in having this particular part of the Act, if indeed it becomes an Act, amended.

* (1530)

Mr. Chairman: Thank you, Mr. Roch. Mr. Pankratz.

Mr. Pankratz: Mr. Chairman, to the Minister, I would just like to ask him whether he would be able to indicate to us whether any parts of this Part 8, Revision and Appeal, has been changed or whether it is basically the same as the old Act. I think if there is any major change I just wish that he would then be able to highlight those.

Hon. Jack Penner (Minister of Rural Development): Basically the Part 8 is as it was. There are some minor revisions in it which we can identify for you if you would like, but the major part of the Bill is as it was. The Boards of Revision, the responsibilities of the Boards of Revision would remain as they are today.

Mr. Chairman: Mr. Roch, did you want to table your documents now or do you want us to continue?

Mr. Roch: Just continue at this point and I will make copies available.

Mr. Chairman: Okay. Thank you.

Mr. Allan Patterson (Radisson): Mr. Chairman, I do not if it is order, in the interest of time is it possible to approve blocks of clauses rather than individually?

Mr. Chairman: Thank you, Mr. Patterson. We can do blocks but in this particular case on Part 8 we have to do it page by page.

Mr. Patterson: Well, I consider a page a block.

Mr. Chairman: Okay. We will deal with Appointment of board of revision, Clause 35(1)—pass; Clause 35(2) Presiding member of board of revision—pass; Clause 35(3) Term of office of board members—pass; Clause 35(4) Appointment of secretary—pass; Clause 36 Duties of a board of revision—pass; Clause 37 Protection of board members—pass; Clause 38(1) Designation of board panels—pass; Clause 38(2) Presiding officer of panel—pass.

Clause 38(3) Panel has powers of a board—Mr. Minister.

Mr. Penner: I would like to move an amendment to that. The amendment, Mr. Chairman, is of a technical nature. I would move that Subsection 38(3) be amended a) by striking out Subsection 54(2) and substituting Section 1, and by striking out Subsection 54(4) and substituting 54(5). Sorry, I have the wrong one. Sorry, we will start again.

I would move

THAT subsection 38(3) be amended by striking out "subsection 54(4)" and "substituting 54(5)".

(French version)

Il est proposé que le paragraphe 38(3) soit amendé par remplacement des termes "paragraphe 54(4)" par "paragraphe 54(5)".

* (1535)

Mr. Chairman: On the proposed motion of the Honourable Mr. Penner that Subsection 38(3) be amended by striking out 54(4) and substituting 54(5) with respect to both the English and French texts. Shall the amendment pass—Mr. Plohman.

Mr. Plohman: Could the Minister just explain what the effect of this is? Is this just a technical mistake?

Mr. Penner: It is a technical mistake really. It is a correction of the—

Mr. Plohman: What was intended and what currently exists.

Mr. Penner: To conform with the various sections.

Mr. Chairman: Shall the amendment pass? Pass.

Mr. Roch: 54(4) which this section is amending, I just want to take a quick look at it.

Mr. Chairman: I am sorry, we cannot hear you very well here. Could you speak into the mike, please, Mr. Roch?

Mr. Roch: Is 54(4), it seems to be that—I am not sure if it is line with the base of this Bill which is to reflect market value. Can the—

Mr. Penner: Mr. Chairman, 54(5) refers to "Upon the completion of the revision process in respect of a year, the board shall report to council that the revision process is completed."

It just conforms that the sections refer to the various subsections in other parts of the Bill. The previous reference was a mistake and this just corrects that mistake.

Mr. Chairman: Okay, thank you. Shall the amendment pass—pass. Clause 38(3) Panel has powers of a board, shall the clause pass as amended—Mr. Plohman.

Mr. Plohman: Just a question, Mr. Chairman. Did the Minister have another—he said he had two amendments for 38(3).

Mr. Penner: No. I just had two—

Mr. Chairman: Shall Clause 38(3) as amended pass then—Legal Counsel.

* (1540)

Mr. Rob Walsh (Crown Counsel, Legislation): I need to explain a technical point here. The earlier motion the Minister read from included another amendment to subsection 38(3). That is a consequential amendment, consequential to a later amendment made in the Bill. It seemed presumptuous to assume that later amendment would be made and so the motion at this time is to amend 38(3) as already passed. This other amendment—it is hoped that the committee return to 38(3) and amend it, make it conform with an amendment that might or might not be passed at a later point. There will be others of that kind as well.

Mr. Chairman: Thank you. Shall Clause 38(3) as amended pass then—pass. Clause 38(4) More than one panel sitting—pass; Clause 39 Quorum of board or panel—pass; Clause 40 Compensation—pass; Clause 41(1) Annual sittings of boards of revision—pass; Clause 41(2) Secretary to give notice of sittings—pass; Clause 41(3) Content of notice of sitting—pass; Clause 41(4) Method of giving notice of sitting—pass.

Clause 42(1) Application for revision—Mr. Plohman.

Mr. Plohman: Mr. Chairman, I have an amendment that I would like to propose here.

Mr. Chairman: Can you distribute it, please, Mr. Plohman?

Mr. Plohman: Yes, it is. This amendment is the following: I move

THAT subsection 42(1) be amended by striking out "or" at the end of clause (b), by adding "or" at the end of clause (c) and by adding the following after clause (c):

(d) a refusal by an assessor to amend the assessment roll under subsection 13(1.1).

(French version)

Il est proposé que le paragraphe 42(1) soit amendé par remplacement du point par un point-virgule à la fin de l'alinéa c) et par adjonction de ce qui suit:

d) le refus de l'évalateur de modifier le rôle d'évaluation en application du paragraphe 13(1.1).

This is further improving the appeal procedures or clarifying them to ensure that what is intended and is actually the right is in fact stated for those wishing to appeal. I believe this is the intent in any event, but this makes it abundantly clear that people have that opportunity. So we feel it should be included under this section as an additional criterion for an appeal.

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

THAT subsection 42(1) be amended by striking out "or" at the end of clause (b), by adding "or" at the end of clause (c) and by adding the following after clause (c):

(d) a refusal by an assessor to amend the assessment roll under subsection 13(1.1).

(French version)

Il est proposé que le paragraphe 42(1) soit amendé par remplacement du point par un point-virgule à la fin de l'alinéa c) et par adjonction de ce qui suit:

d) le refus de l'évaluateur de modifier le rôle d'évaluation en application du paragraphe 13(1.1);

with respect to both the English and French texts, Clause 42(1) as amended—pass; Clause 42(2) No revision of railway rates—pass.

Clause 43(1) application requirements—

Mr. Penner: I have an amendment to propose.

Mr. Chairman: Okay. 43(1)—Mr. Minister.

Mr. Penner: Mr. Chairman, I would move

THAT subsection 43(1) be amended:

(a) in the French version, by striking out "puor" and substituting "pour";

(b) by striking out clause (b) and substituting the following:

(b) set out the roll number and legal description of the assessable property for which a revision is sought;

(French version)

Il est proposé que le paragraphe 43(1) soit amendé par:

(a) remplacement, au paragraphe introductif, de "puor" par "pour";

(b) remplacement de l'alinéa b) par ce qui suit:

(b) indiquer le numéro du rôle et la description cadastrale des biens imposables visés.

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

THAT subsection 43(1) be amended:

(a) in the French version, by striking out "puor" and substituting "pour";

(b) by striking out clause (b) and substituting the following:

(b) set out the roll number and legal description of the assessable property for which a revision is sought.

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

Mr. Plohman: Mr. Chairman, no substantial change here, just simply clarifying what was intended in the initial—

Mr. Chairman: Again, same as the previous amendments.

Mr. Plohman: I do not think it is quite the same, it is more clear wording of what was intended.

Mr. Chairman: Mr. Plohman, that is exactly right. Okay, clarification. Shall the amendment pass—pass.

Clause 43(1) shall the clause as amended pass—Mr. Plohman.

Mr. Plohman: Yes, I have an amendment to 43(1), it is being distributed.

Mr. Chairman: Okay, Mr. Plohman.

Mr. Plohman: Yes, I move

THAT clause 43(1)(d)(i) be amended by adding "or causing it to be delivered" after "delivering it".

(French version)

Il est proposé que le sous-alinéa 43(1)d)(i) soit amendé, dans la version anglaise seulement, par insertion des termes "or causing it to be delivered" aprés les termes "delivering it".

End of amendment in both the French and English versions.

The purpose of this amendment is to simply clarify that an individual does not have to physically deliver the application but could have it delivered or mailed; in other words, so that it is received. I think that is what is intended, it is a very technical perhaps minor point but, nonetheless, I think, important one.

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

THAT subclause 43(1)(d)(i) be amended by adding "or causing it to be delivered" after "delivering it" with respect to both the English and French texts—pass.

Clause 43(1) as amended—pass; Clause 43(2) Non-complying application not to be considered—pass; Clause 44(1) Notice of sitting to applicant—pass; Clause 44(2) Notice of sitting to third party—pass; Clause 45(1) Notice of rescheduled sitting—pass; Clause 45(2) Adjournments of sittings—pass; Clause 46(1) Absence of party at revision hearing—pass; Clause 46(2) Board may dismiss where applicant absent—pass; Clause 46(3) Assessor to attend revision hearings—pass; Clause 47(1) Party may testify or call witnesses—pass; Clause 47(2) Subpoena powers of secretary—pass; Clause 47(3), Board may call witnesses—pass; Clause 47(4), Service of subpoena, summons or order—pass.

Clause 48, Failure of witness to appear: penalty. Shall the clause pass—

Mr. Plohman: Mr. Chairman, this is the identical penalty as at present?

* (1550)

Mr. Penner: I am sorry. Would you please repeat it?

Mr. Plohman: Clause 48, is that the same penalty as at present? Why would you put the penalty in the statute as opposed to just making it possible to have that done by regulation? Since you are revising the Act, the standard practice is now generally to have the amounts of fines stipulated in regulation instead of the statute.

Mr. Penner: This is, Mr. Chairman, a new section of the Act and therefore identified in this manner.

Mr. Plohman: It is not a very satisfactory explanation, but it is not perhaps significant enough to move amendments at it at this time. I do not see that, since it is a new amendment, it necessarily has to have the amounts stipulated in the Act as opposed to by regulation.

Mr. Penner: I understand what you are saying.

Mr. Harold Taylor (Wolseley): I have a question on the same point, Mr. Chairperson. To the Minister, what is the penalty for the offence under the old Act?

Mr. Penner: Mr. Chairman, the amount, staff advise me, was the same under the old Act.

Mr. Taylor: How long has that amount been fixed at the $100 amount?

Mr. Penner: There were, I believe, revisions in 1985 which established the amount.

Mr. Taylor: How does the Minister propose to amend the amount as time goes on?

Mr. Penner: I think the Honourable Member raises a good point. If the amount in fact is specified under the Act, it is only the enact of the Legislature that can change the amount. If it in fact is specified by regulation, then of course the Order-in-Council can change the amount and set the amount. Therefore this amount would remain in effect until such a time as the legislative body of this province would decide that the amount should be changed. So it would stay in effect as long as the Legislature or the Government would want it to remain in effect.

Mr. Taylor: I guess then that we are looking at this as being a transition piece of legislation and not the be-all and end-all in tax assessment reform. We can assume that we will see it revised before 1993 is up.

Mr. Penner: '85 assessment;'85 penalty.

Mr. Chairman: Clause 48—pass; Clause 49(1), Attendance money entitlement—pass; Clause 49(2), Liability for attendance money—pass; Testimony under oath or affirmation, Clause 50(1)—pass. Mr. Roch.

Mr. Roch: Are we on 51(1)?

Mr. Chairman: No, we are at 50(1).

Mr. Roch: Bracket 1. Okay. Sorry.

Mr. Chairman: Clause 50(2), Administration of oath or affirmation—pass.

Mr. Penner: I have an amendment for 51(1).

Mr. Chairman: Clause 51(1). Mr. Minister.

Mr. Penner: I have an amendment for 51(1). The amendment comes as a result of testimony heard before the committee by a presenter, and this reflects the reference made to this section. I would read it to the committee or distribute it to the committee.

Mr. Chairman: Yes. Let us distribute it. Go ahead, Mr. Penner.

Mr. Penner: I move

THAT section 51 be struck out and the following substituted:

Recording of evidence
51(1) Where a party at a hearing requests that the hearing or part of the hearing or the testimony of a witness testifying at the hearing be recorded, the board conducting the hearing may direct, by order, that the hearing or part of the hearing or the testimony of a witness be recorded by a person appointed by the board, with or without production of a transcript copy of the recording.

(French version)

Il est proposé que l'article 51 soit remplacé par ce qui suit:

Enregistrement des témoignages
51(1) Sur demande de toute partie à l'audience, le comité qui instruit la requête peut rendre une ordonnance par laquelle il enjoint à une personne qu'il nomme d'enregistrer les débats en totalité ou en partie ou un témoignage et de produire ou non une copie de l'enregistrement.

Liability for cost of recording
51(2) Where a board makes an order under subsection (1), the board may, at the time of making the order or after deciding upon the application, charge against the party who requested the recording the costs or a part of the costs of:

(a) recording the hearing, a part of the hearing or the testimony of a witness, including the cost of the services of the person appointed to make a recording;

(b) producing a readable transcript of a recording; or

(c) making copies of a recording or a transcript.

(French version)

Coût de l'enregistrement
51(2) Le comité qui rend l'ordonnance visée au paragraphe (1) peut, au moment où cette ordonnance est rendue ou aprés avoir statué sur la requête, condamner la partie qui a demandé l'enregistrement à la totalité ou à une partie des dépens relatifs à:

a) l'enregistrement des débats en totalité ou en partie ou d'un témoignage, y compris le coût des services de la personne nommée afin d'effectuer l'enregistrement;

b) la production d'une transcription lisible de l'enregistrement;

c) la fourniture de copies de l'enregistrement ou de la transcription.

Mr. Chairman: On the proposed motion of Mr. Penner that Section 51 be struck out and the following substituted—

An Honourable Member: Dispense.

Mr. Chairman: Dispense, with respect to both the English and French texts.

Mr. Plohman: Yes, from my understanding, what this simply says as per the representation that was made that if the board decides to record of their own volition then the charge could not be made against the individual. However, if the individual wanted it recorded, then the board may assess the charges.

Mr. Penner: That is correct.

Mr. Chairman: Shall the amendment pass? Pass. Clause 51(1) as amended—pass; Clause 51(2) Liability for cost of recording—pass; Clause 52 Board may view property-pass; Clause 53(1) Burden of proof on assessor—pass.

Clause 53(2) Burden of proof on applicant—Mr. Plohman.

Mr. Plohman: Mr. Chairman, there was a presentation by the Home Builders Association that seemed to suggest there is a change in onus here, reverse onus. Is this the clause or is it the next—does it also pertain to this clause? I understand the next clause, for non-cooperation, was one that I did want to see whether the Minister was preparing any amendments, because it is definitely a change from the current procedure. This particular one is not changed. Is that correct?

An Honourable Member: No.

Mr. Plohman: Okay. Pass.

Mr. Chairman: Clause 53(2)—pass. Clause 53(3) Burden of proof for non-cooperation—Mr. Plohman.

* (1600)

Mr. Plohman: Yes. Under Section 16, Assessor may demand information, the individual has so many days, 21 days, to provide that. If he does not co-operate, then what this particular section is saying now is that there is a penalty for that and that the individual applicant would have to prove his particular position as opposed to the assessor.

It was stated to the committee, I believe, that this was an imposition on an individual that currently does not exist with regard to Section 16. There was some concern raised about that. I do not have the exact transcripts in front of me as to the precise concerns, but I would assume from the questioning and the discussion at that time that the Minister would have asked the staff to look at what was being presented. Can the Minister then indicate now whether he has an explanation as to why this change is justified in view of the concerns that were raised?

Mr. Penner: I could, I suppose, for the benefit of the committee ask staff to give you their views of why the changes are justified. I think it has to do with the operations of the board and the ability of the assessor to reasonably be able to access and inspect property. Would you, Bob, give us your view of—

Mr. Bob Brown (Provincial Municipal Assessor): The Act, as you know, requires the assessor to determine the value of all property, provides the assessor with the authority to request information to assist the assessor in doing that, previously had a penalty clause if one failed to do that.

The new Act proposes that, where a ratepayer refuses to provide information necessary for the assessor to do his or her job, if that person then chooses to appeal, the burden of proof switches to them. Since the assessor was required to make a judgment without any information to help him make the judgment on, it seemed inappropriate that he would have to prove that he had made the right judgment, so the burden of proof was suggested to switch to the appellant.

I believe the concern, as I recall from the presentation, was that this could be used for devious purposes, if you will, by flooding the appellant with requests for information at the appeal process, thereby discouraging him from appealing. To comment on whether that sort of thing was— -(interjection)- Trust me, as they say.

Mr. Plohman: I am not familiar, not being a lawyer, with the process of discovery. What were the concerns that the individual lawyer representing the Homebuilders Association, from your understanding, said at that time as to the unpleasantness of this becoming a process of discovery.

Mr. Brown: As I recall his presentation, he said lawyers perhaps use discovery to flood their opposition, so to speak, with requests for information to slow down or discourage the process and suggested, to my recollection, my employers did it, assessors might tend to use it for the same sort of purpose, and he saw it as a similar provision.

Mr. Plohman: As I recall, Mr. Chairman, that he was also concerned that this would slow the process down as opposed to expediting something that we want to happen rather quickly.

Mr. Brown: I think he felt, it had that opportunity, if the assessor chose to use that way.

An Honourable Member: But it would not, would it?

Mr. Brown: No.

Mr. Plohman: If you do not have another amendment, I wanted to get an explanation out of respect for the presentation that was made. It was made with some conviction. I share the concerns about slowing down a process that we want to be undertaken expeditiously in everyone's interest.

I think it is important that this kind of commitment is on the record in terms of the desire of all parties to expedite this process and not use this kind of provision for requesting information that would be onerous and cause delays. At the same time, if that were to be the case, I guess we would hear evidence of it from the public and it would have to be dealt with at some future time.

Mr. Chairman: Mr. Brown, you have another comment?

Mr. Brown: I just might also add, it can equally be argued that without the information it may slow down the process even more in that the Appeal Board without information will take considerably longer to deliberate its judgment than it would if the information was brought forward. I can make the commitment, certainly it would not be used for devious purposes or to slow down the process.

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

Mr. Penner: Just very similar to that. It is our intention to make sure that this new legislation and actions taken under this new legislation are able to be done as expeditiously as possible and to the benefits of all Manitobans. Thank you.

Mr. Chairman: We will continue with Clause 53(3), shall the clause pass—pass.

Clause 54(1) Panel reports to board. This is where we have an amendment. Mr. Minister.

Mr. Penner: I have quite a substantial amendment, Mr. Chairman, to this section, and I was just going to distribute this section of the amendment.

Mr. Chairman: Mr. Minister, whenever you are ready.

Mr. Penner: At the hearings, Mr. Chairman, there was reference made to the ability of panels to make decisions instead of reporting back to the boards and the boards then making the decisions. This amendment deals with the concern raised.

Order by board or panel
54(1) After hearing an application, a board or, where the application is heard by a panel, the panel, shall, by order,

(a) dismiss the application;

(b) allow the application and, where applicable, direct a revision of the assessment roll,

(i) subject to subsection (3), to raise or lower the assessed value of the subject property, or

(ii) to change a liability to taxation or the classification of the subject property;

as the circumstances require and as the board or panel considers just and expedient.

No action except on application
54(2) A board or panel shall not exercise a power under subsection (1) except as a result of an application.

No change if fair and just relation
54(3) A board or panel shall not change an assessed value where the assessed value bears a fair and just relation to the assessed values of other assessable property.

Panel report to board
54(4) After a panel makes an order under subsection (1) in respect of an application, the presiding officer of the panel shall report to the board with respect to the application.

Mailing of board or panel order
54(5) After an order is made under subsection (1), the secretary shall, by registered mail, send to each party and, where the secretary is not also the municipal administrator, to the municipal administrator,

(a) a copy of the order; and

(b) a statement informing the party of the rights of appeal available under section 56 and the procedure to be followed on an appeal.

Board report to council
54(6) Upon completion of the revision process in respect of a year, the board shall report to council that the revision process for the year is completed.

Revision of assessment roll by assessor
54(7) Where an order is made under subsection (1) directing revision of an assessment roll, the assessor shall revise the assessment roll accordingly.

(French version)

Il est proposé que l'article 54 soit remplacé par ce qui suit:

Ordonnance du comité ou du sous-comité
54(1) Aprés instruction de la requête, le comité, ou le sous-comité si la requête est instruite par ce dernier, peut rendre l'une des ordonnances suivantes:

a) rejeter la requête;

b) accueillir la requête et, s'il y a lieu, ordonner la révision du rôle d'évaluation:

(i) sous réserve du paragraphe (3), en vue de l'augmentation ou de la diminution de la valeur déterminée des biens visés,

(ii) en vue de la modification de la classification des biens qui font l'objet de la requête ou de l'assujettissement de ces derniers à l'évaluation.

Exercice des pouvoirs
54(2) Le comité ou le sous-comité ne peut exercer les pouvoirs visés au paragraphe (1) à moins qu'une requête n'ait été présentée.

Absence de modification
54(3) Le comité ou le sous-comité ne peut modifier la valeur déterminée que est juste et équitable par rapport aux valeurs déterminées des autres biens imposables.

Rapport au comité
54(4) Aprés que le sous-comité a rendu, au sujet d'une requête, l'ordonnance prévue au paragraphe (1), le président du sous-comité fait rapport de la requête au comité.

Mise à la poste
54(5) Aprés que l'ordonnance prévue au paragraphe (1) a été rendue, le secrétaire envoie à chaque partie et, dans le cas où il n'est pas également l'administrateur municipal, à l'administrateur municipal, par courrier recommandé:

a) une copie de l'ordonnance;

b) un document qui avise les parties de leur droit d'interjeter appel de l'ordonnance prévu à l'article 56 et la procédure d'appel.

Rapport au conseil
54(6) Le comité fait un rapport au conseil dés qu'il a terminé la révision du rôle d'évaluation.

Révision par l'évaluateur
54(7) L'évaluateur révise le rôle d'évaluation conformément à l'ordonnance qu'il a reçue en ce sens.

* (1610)

Mr. Chairman: On the proposed motion—do you want to discuss it first, Mr. Plohman?

Mr. Plohman: Yes. I had a motion dealing with the report of the panel and decision by a board that is contrary to a panel's recommendation. As the Minister will recall, I believe Mr. Mercury suggested that it was not in the interest of the rights of an individual who is appealing if the panel were to make a recommendation, the board to overrule that and to change it without hearing the appellant. Does this address that conern? It does not seem to. What it simply says is that they can appeal to another body, but it does not address the issue of a board making a different decision than the panel recommended.

Mr. Penner: Yes, this addresses the concern raised by Mr. Mercury and follows very closely the recommendation made by him. We do not feel that it is appropriate, where the panel would be able to make a decision, to send the applicant back to the board for another hearing.

Mr. Plohman: Mr. Chairman, could the Minister just point out where it states that the board cannot make a contrary decision to the panels recommendation? What gives effect to that?

Mr. Penner: Maybe what I should do is ask Legal Counsel to explain the entire meaning of this section. That might expedite the procedure.

Mr. Walsh: I believe the Members questions are answered, at least I certainly hope they are, by the words found in 54(1) where it reads at the opening, "After hearing an application, a board or, where the application is heard by a panel, the panel". Sub (2) says "A board or panel shall not exercise a power under subsection (1) except as a result of an application".

The intent being that it is only the body that hears the application which can exercise the power under Subsection (1), as opposed to the panel, as I understand the Member's concern, hearing the matter and then someone else deciding it.

Mr. Plohman: It does not say that though. In 54(2) it says, except as a result of an application, not of hearing an application. In essence they could have a written application which is all the board would get under the current process, the original application that was provided by the individual.

The panel would have heard it but the board would still be dealing with that application, technically. If that is the case and that is the intent, then I would think that we should have that wording: except as a result of hearing.

Mr. Penner: That is certainly, Mr. Plohman, the case, and also the intent of the amendment.

Mr. Plohman: I appreciate the intent, I am not sure if it is the case. I just want to ask advice as to whether it is abundantly clear, or whether in fact it could be made more clear without harming the amendment.

Mr. Penner: I would again ask counsel to give us their opinion as to whether there is clarity in this section to indicate that.

Mr. Walsh: The only answer I could give apart from the text, is to say that it is a fundamental proposition of law, natural justice, that a body hearing a matter is the body that decides it. That is reinforced by the language of 54(1), in my opinion, which gives powers to the board which the board can only exercise after hearing an application.

The board does not have the powers under 54(1), unless it hears the applications, or a panel has those powers, if it should hear an application.

Mr. Plohman: Yes, I think that by referring—by saying under Subsection 1, and in there it references hearing, it does do what has been stated. I would not reference the natural justice or whatever was referenced, because obviously it has not been the case over the last number of years, since the complaint was that panels were hearing applications and boards were making opposite decisions in some cases. Natural justice was not being done.

Mr. Chairman: Thank you. On the proposed—Mr. Roch.

Mr. Roch: I would like to move

THAT the motion to amend this section 54, by the Honourable Mr. Penner, be amended by striking out subsection 54(3).

Mr. Chairman: Okay, you have a subamendment then.

Mr. Roch: Right. Mr. Chairman, the—

Mr. Chairman: Just wait until we get it distributed here. Okay, Mr. Roch.

Mr. Roch: The current 54(3) in the Minister's amendment reads the same as the previous one, which was 54(4) before the amendment, where it says a board or panel shall not change, and it says value, where the assessed value bears a fair and just relation to the assessed value of other assessable property.

That says, because an area was all assessed wrongly, therefore each and every assessment was wrong. Therefore it is fair, it is okay. I think it must not just bear a fair and just relation. I think they have to be assessed properly. This has ramifications on the amendment that was passed yesterday in regard to dual assessments. If, for example, a certain value is put in for development purposes and another one for agricultural purposes, and then there is a change when the land is sold or it is rezoned, it could have ramifications at that point. Just because it is a fair and just relation to the assessed values of other assessable property does not ensure that the property was assessed at market value.

Mr. Penner: It is my view, Mr. Chairman, that the Section 54(3) is really the essence of this entire Bill. It refers very clearly to the assessed values, which bears

a fair and a just relationship to the assessed values of other assessed properties.

We have indicated clearly all along that it is our intent, by the introduction of Bill No. 79, to do exactly that, to add much clearer reference to the fairness and the justness of the values of properties in regard to each other in assessment years, and therefore allowing a much fairer and better way for municipalities to apply levies against those properties for taxation purposes.

If we remove this section of this Bill or of this amendment which was previously written into the Bill, it would be my view that it would virtually destroy the intent of the Bill. Therefore, I would strongly recommend to committee Members to reconsider and also to Mr. Roch to reconsider the proposition that we in fact amend the amendment by the removal of Section 54(3).

Mr. Roch: What I am trying to get at here—and maybe the proper way to do it is a change of wording—is that the intent of this Bill is to reflect market value. Here it refers to assessed value. This particular subsection is entitled, No change by board if fair and just relation. I read that as being, the possibility exists that if none of the values are necessarily market values, only fair and just in relation to each other, it is acceptable to the board. I am saying that they must not just be fair and just in relation to each other; they must in fact be fair and just in relation to the market values.

Mr. Penner: Well, I—

Mr. Roch: Maybe, if I can just finish. Maybe, rather than striking out, it can be amended by—I am just trying to decide in discussion right now—it can be changed to reflect assessed market value. Because there will be a definition of market value in the definitions.

Mr. Penner: Mr. Chairman, again I want to indicate that we should be very careful how we word some of these sections that in fact allow the assessors some room in determining the values of some of the properties in assessing some of the properties. I think we had indicated clearly our intention to clarify "market value" as an amendment under the Bill and that has been done or will be done when we deal with the first section of the Bill.

Again, the wording here bears a direct relationship to that subsection which will be part of the Bill and will clarify what "assessed values" are. Therefore it would appear to me that to write in "market values" here might in fact detract from the Bill and tighten areas where a board might want to make changes because of outside factors, would in fact not be able to do so.

* (1620)

Mr. Roch: What do you mean by not be able to do so because of outside factors? What kind of outside factors?

Mr. Penner: We spent a considerable amount of time, Mr. Chairman, yesterday debating an amendment to the Bill which would allow for some external factors to be used to determine by an appeal board, by the appeal process, whether the value of the assessment was in fact correct or not.

Now if we define this section, directing the assessments and/or the boards or panels to look at market value only without being able to weigh the other external factors that we amended the Bill to allow yesterday, then I am not quite sure what we accomplished by doing what we did yesterday.

Mr. Roch: Well, it seems to me that yesterday the reason for allowing those external factors to come into play was because they have an effect on the market value of the land, indeed on the value of the land. So the Minister to me is now contradicting what I have said. I have said that—

Mr. Penner: No. Not at all.

An Honourable Member: Are we going dancing?

Mr. Penner: Mr. Chairman, I am not trying to contradict at all what the Honourable Member is saying. All I am saying is that I think we need to be consistent when we are moving amendments or proposing to move amendments to this Bill, and to allow the Act to be consistent throughout.

Mr. Roch: Why would this make it inconsistent?

Mr. Penner: If the Honourable Member would look at Section 18 of the Bill, which states, "Presumption of validity of assessment," the section reads: "Notwithstanding any other provision of this Act, an assessment is presumed to be properly made and the assessed value to be fixed at a fair and just amount where the assessed value bears a fair and just relation to the assessed values of other assessable property."

That is clearly directed, by this Bill, to the assessor; that is clear direction. Now we are saying exactly the same thing to the boards and panels. It is that same direction under this section. So it is as I said before, this attempts to be consistent throughout the Bill. It adds a measure of consistency.

Mr. Roch: The concern that I have is if there is a whole area which is wrongly assessed. Now, it may come out that the tax bills are all similar, because the assessed value is not correct. But if it is an area which is within the urban shadows, at one point in time there is a change in the use of that land, a change in zoning, therefore there are five years in which we can go back to tax it. If the values are not correct, the taxes collected will not be correct either. How does the Minister intend to deal with that?

Mr. Penner: I think I have explained myself and the intent of this section fairly clearly, and I do not know what more to add to clarify any further the intent of 54(3), other than just saying that I believe that a panel has all the rights of the board under this amendment and is able to assess and decide whether the assessed value bears a fair and just relationship to the assessed

values of other properties. If it does not then it has all the powers to change that value.

Mr. Roch: Whether they were assessed rightly or wrongly.

Mr. Penner: Whether they were assessed rightly or wrongly, that is not taken away here at all.

Mr. Roch: So if the assessment was wrong it does not matter.

Mr. Penner: If the assessment was wrong, the panel has the right to make that change.

Mr. Roch: But if they are fair and just in relation to the other wrongly assessed properties, then it is okay.

Mr. Penner: If it is fair and just in relation to the general assessment of the province—yes, certainly.

Mr. Plohman: Just to pursue that a little bit further, because it is in the current revision, this section, you had it in 54(4) already. So it is not changing from what was in the Bill. The Member may have been going to amend it in any event. Just to relate it to the amendment we made on agricultural property for agricultural purposes, the dual system, would this override that in any way? Would there be any confusion or could it say, with the exception of that? In that particular case it is not assessed in a comparative way with other property that might be used normally if we are just using market value. It is for agricultural purposes. So there might need to be some clarification in how this applies to that situation.

Mr. Penner: I believe, Mr. Chairman, that under the amendment that was made to allow for the dual value, or the use value, there was consideration given of that which would indicate clearly that it would be dealt with other than by this process. So that clarifies that the recognition of the dual value system is clearly stated there. That must be made by the assessor or by the panels.

Mr. Plohman: So in that case, they would be able to appeal if they did not feel it was fair in relation to other agricultural properties—

Mr. Penner: Exactly right.

Mr. Plohman: —in the area, and that is clearly outlined, that process, and there are no rights taken away as a result of this.

Mr. Penner: Not at all, no.

Mr. Plohman: I think that is the key point in relation, Mr. Chairman, to what the Member for Springfield (Mr. Roch) was raising. I do not agree with his concerns, because obviously that is what we want, a comparison with other assessable property. The only thing I would think is perhaps it should not be left so open-ended. What we really mean is assessable property that is normally used for comparative purposes in arriving at fair assessment. We are not just talking about any assessable property. It is again perhaps a moot point, but it seems that there could be more clarity to referencing assessable property, relevant assessable property or whatever; it is not just any assessable property.

Mr. Penner: It is my belief that that is one of the reasons for the establishment of the market value, that the Bill would actually direct fairly clearly the establishment of the base, of the market-value base and that would determine the fairness in relationship to the assessed values of other assessed properties. So I can if you will Mr. Plohman ask our chief assessor, our Provincial Assessor to add further clarity to it if you so wish.

* (1630)

Mr. Plohman: Well, that may be helpful, I just want to ask one other question, and that is that there is no necessity to reference the definition of value in doing that, in this section. That is understood in the Bill right through.

Mr. Penner: That is part of the Bill.

Mr. Roch: More clarification of the Chief Provincial Assessor.

Mr. Chairman: Okay, Mr. Brown, would you like to explain?

Mr. Brown: I was going to clarify the point by Mr. Plohman. One of the advantages certainly of the market-value assessment is a ratepayer should be able to compare his property to any property, be it commercial, residential, or whatever, anywhere in the province, because from here on, everybody will be measured at the same point in time at 100 percent of value. So whereas before you might have had to restrict your comparison to similar properties in a location, now if you can make a case that a high-rise building ten blocks away has not been assessed at full value, at 100 percent, and yours has and therefore they are not carrying some of the tax burden and you are having to make it up, that comes with the market-value system, everyone being measured at the same time. Everyone should be able to demonstrate that they are at 100 percent of value and if they are—

An Honorable Member: It has to be in the area, does it not, I mean—

Mr. Plohman: I am interrupting the questioner, I would just like to clarify. There is no real relevance to comparing a piece of property in Winnipeg with one in Dauphin.

Mr. Brown: I am not suggesting they would have the same value, I am just suggesting that they should all be at 100 percent of value, and to the extent that somebody is not at 100 percent and you are, then you are potentially carrying more than your share of the tax burden for the provincial Education Support Levy for instance, a province-wide tax.

Mr. Plohman: But we are dealing with assessable property that is used for comparative purposes in arriving at that assessment. It is in the area or vicinity. It is not just anywhere in the province.

Mr. Brown: Ninety-nine percent of appeal cases would try to compare with similar properties in the area, that is true.

Mr. Plohman: Mr. Chairman, I think it will work. I mean obviously I think there again there could be more clarification, but you can add thousands of words to everything I guess, but is this wording used in the current act?

Mr. Roch: If I understand correctly what the Assessor has just said, to assess 100 percent if we have a farm in a transitional zone or the urban shadows and everything else gets zoned residential, how does one know that that particular farm is assessed properly at 100 percent, or vice versa, if it is basically all farming and you have one area which is allowed to be zoned residential, how does one go back?

Mr. Brown: It is the task of the assessor to determine full value of property no matter what its use, no matter what its zoning, I mean that is his job, to take all of those factors into account that help determine value, and then under the use value amendment that was made for those that are slated for use value, only the agricultural elements would be taken into account in determining value.

Mr. Roch: But not necessarily be at 100 percent value then.

Mr. Brown: Not for the use value assessment, correct. The use value assessment in an urban shadowed area presumably would be less than 100 percent of value, which is the purpose of that amendment.

Mr. Roch: So if a building is rezoned to something other than agricultural and there is nothing to compare with in the area, how does that particular person know that he is being assessed at 100 percent of value if the place is not for sale?

Mr. Brown: His assessment notice, the annual assessment roll will show the 100 percent value of his building, no matter what the zoning may be and then it is up to him to judge whether it has been accurately determined, and the burden of proof is on the assessor to prove that he has measured it correctly at 100 percent of value, regardless of zoning or anything else.

Mr. Roch: But there is no other place in the area where he can measure with a just and fair relation because he would be the only one there; the rest would still be zoned agricultural.

Mr. Brown: Well, one of the difficulties of assessment generally is that there is not always tons of information around to help even the assessor determine value, to say nothing about the ratepayer. Likewise, and this gets into the fair and just relationship, if you are in a reasonably remote part of the province the market information available may be very minimal in determining and helping the assessor even determine value. He does so to his best judgment and then it is up to the ratepayer and the appeal bodies, if need be, to see if he has done it properly, and that frankly gets to the point of one of the reasons the fair and just relationship is there, is for the appeal bodies, where market information is sketchy, to assure themselves that, on the basis of the information available, the assessor within that municipality at some remote distance has placed all the properties in the fair and just relationship, one to another, because that is really what assessment is about in order to properly allocate taxes.

Mr. Roch: That being the case then I feel that a board or panel should have the power to change an assessed value.

Mr. Plohman: I do not agree with the motion that the Member for Springfield (Mr. Roch) has put forward because I think this is the fairer and most just way to deal with this whole issue and we have to have some guidelines for not only the assessor, but also the Boards of Revision. One of the arguments made for discarding the Boards of Revision by the Liberals in their proposed amendments that were tabled, I believe, was that one of the reasons is that the people that are doing it are not trained in many cases, or find the job very obscure and undefined. This provides greater definition for council to deal with these issues and they have to follow those guidelines. We do not want them gerrymandering around with all kinds of other things that might come up of a political nature, or whatever they might be at the local level.

So, clearly there has to be the strict guidelines applied and that is why I think this is the only way to go in terms of the jurisdiction of that board.

Mr. Roch: If we are going to keep the Board of Revision placed as is, then they have got to have certain powers and if a person is appealing his assessment and he does not feel that it is fair and just I think the Board should have the power to make that change.

Mr. Chairman: Okay, so you want your amendment dealt with.

Mr. Roch: Correct.

* (1640)

Mr. Chairman: On the proposed motion of Mr. Roch, that the motion to amend Section 54 by the Honourable Mr. Penner be amended by striking out Subsection 54(3) with respect to both English and French texts.

Shall the amendment pass—defeated.

What is the will of the committee? All those in favour? All those against? In my opinion the Nays have it.

We will go on to Mr. Penner's amendment now. On the proposed motion of Mr. Penner

THAT Section 54 be struck out and the following substituted:

Order by board or panel
54(1) After hearing an application, a board or, where the application is heard by a panel, the panel, shall, by order,

(a) dismiss the application;

(b) allow the application and, where applicable, direct a revision of the assessment roll,

(i) subject to subsection (3), to raise or lower the assessed value of the subject property, or

(ii) to change a liability to taxation or the classification of the subject property;

as the circumstances require and as the board or panel considers just and expedient.

(French version)

Il est proposé que l'article 54 soit remplacé par ce qui suit:

Ordonnance du comité ou du sous-comité
54(1) Aprés instruction de la requête, le comité, ou le sous-comité si la requête est instruite par ce dernier, peut rendre l'une des ordonnances suivantes:

a) rejeter la requête;

b) accueillir la requête et, s'il y a lieu, ordonner la révision du rôle d'évaluation:

(i) sous réserve du paragraphe (3), en vue de l'augmentation ou de la diminution de la valeur déterminée des biens visés,

(ii) en vue de la modification de la classification des biens qui font l'objet de la requête ou de l'assujettissement de ces derniers à l'évaluation.

Clause 54(1)—pass; the clause as amended—pass; Clause 54(2) amendment-pass; clause as amended—pass; Clause 54(3) No change if fair and just relations amendment—pass; clause as amended—pass; Clause 54(4) Panel report to board amendment—pass; clause as amended—pass; Clause 54(5) amendment—pass; clause as amended—pass; Clause 54(6) amendment—pass; clause as amended—pass; Clause 54(7) amendment—pass; clause as amended—pass; this with respect to both the English and French texts.

We will go to Clause 55(1) Revised assessment rolls final—pass; Clause 55(2) Amendment process saved—pass; Appeal Process, Clause 56(1) Appeal to Court of Queen's Bench—pass; Clause 56(2) Appeal to Municipal Board—pass.

Clause 56(3) Simultaneous appeals—Mr. Plohman.

Mr. Plohman: In all of these appeals, is there any deviation from the current practice in terms of the jurisdiction of the bodies for appeal?

Mr. Penner: I will let the Chief Assessor answer it.

Mr. Brown: Is the general statement about items that go to Municipal Board versus Queen's Bench versus Court of Appeal and so on? Not to my knowledge and not by design. I will just confirm that with the counsel maybe.

Give me about two seconds here as I check my notes.

Mr. Plohman: I am just wondering whether there were any areas where there are, obviously, inadequacies and changes made in terms of appeal to Court of Queen's Bench as opposed to Municipal Board.

Mr. Brown: There are no changes of that nature. The items the Municipal Board did consider, they continue to consider; and the liability aspect that Queen's Bench used to consider, they would continue to consider.

Mr. Plohman: That is really what I wanted to know.

Mr. Brown: Points of law will go on to the Court of Appeal if need be, as before.

Mr. Penner: This section of the Act was revised in 1985, so it is a fairly current section of the previous Act. Therefore, no revisions have been made.

Mr. Patterson: I just noted under 56(1) and 56(2) that the references to 54(2) are now 54(1) under the amendment.

Mr. Walsh: There will be a motion presented to the committee, which you might call a catch-up or catch-all motion, authorizing Legislative Counsel to make the appropriate cost reference corrections that flow from the amendments made to the Bill. This may be one of them, and I think that we can take care of it at that time.

Mr. Chairman: Thank you, Mr. Walsh. Agreeable? Clause 56(3), Simultaneous appeals—pass; Clause 56(4), New hearings on appeals—pass; Clause 56(5), Right of appeal lost—pass; Clause 57(1), Appeal procedure to Municipal Board—pass.

Clause 57(2), Appeal notice to Municipal Board. Shall the clause pass?

Mr. Penner: I would propose an amendment here, Mr. Chairman. I would move

THAT subsection 57(2) be amended—we are just distributing the bill—by striking out clause (a) and substituting the following:

(a) sets out the roll number and legal description of the assessable property that is subject of the appeal; and

(French version)

Il est proposé que le paragraphe 57(2) soit amendé par remplacement de l'alinéa a) par ce qui suit:

a) indique le numéro du rôle et la description cadastrale des biens imposables qui font l'objet de l'appel;

Mr. Chairman: And (b) is included in that one?

Mr. Penner: (b) follows as currently written in the Bill.

Mr. Chairman: On the proposed motion of Mr. Penner, that subsection 57(2) be amended—just a minute. Okay, Mr. Roch.

Mr. Roch: Are you reading it first?

Mr. Penner: I just did.

Mr. Roch: I see. I just want a clarification to know exactly what the purpose of the amendment is here.

Mr. Penner: The amendment is, Mr. Chairman, to clarify the procedure, to spell out clearly that it sets out the roll number and legal description of the assessable property, which under the old section just simply states, "identifies the assessment or the assessable property". This sets out the roll number and the legal description. It just clarifies it.

Mr. Roch: It makes it specific as to—

Mr. Penner: Yes, as to what exactly is—

Mr. Chairman: Mr. Plohman, did you have a comment on it?

Mr. Plohman: No, just to say that it is to make it consistent also with the earlier amendment, the same wording for the same purpose.

Mr. Penner: Exactly.

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

THAT subsection 57(2) be amended by striking out clause (a) and substituting the following:

(a) sets out the roll number and legal description of the assessable property that is the subject of the appeal; and

and it includes (b) with respect to both English and French texts.

Shall the amendment pass—pass; Clause 57(2) as amended—pass.- (interjection)- 57(2) is okay.

We will deal with 57(3), Security for costs on appeal. Mr. Minister.

* (1650)

Mr. Penner: Mr. Chairman, I would move

THAT subsection 57(3) be struck out and the following subsection substituted:

Filing fee on appeal
57(3) When filing a notice of appeal under subsection (2), the appellant shall pay the applicable filing fee prescribed under The Municipal Board Act.

(French version)

Il est proposé que le paragraphe 57(3) soit remplacé par ce qui suit:

Droit de depot
57(3) L'appelant qui dépose un avis d'appel en application du paragraphe (2) paie le droit de dépôt prescrit en application de la Loi sur la Commission municipale.

Mr. Taylor: What happens to those fees? They are originally called security. Security has an intent, the intent being to perform. If somebody is going to appeal, and they put down a security deposit, the idea being is that they are there to appear. That is my understanding of security. Now we are calling it a fee which is usually just a form of revenue generation.

Mr. Penner: These fees, Mr. Chairman, are designated to offset the cost of the board or other such vehicles used from time to time of a similar nature.

Mr. Taylor: Yes, Mr. Chairperson, then what happened before when it was called security? Was it not a deposit that was returnable upon performance, or returnable upon success?

Mr. Penner: What happened in the past, Mr. Taylor, is as you described. They were set aside, and, upon success of an applicant, they were returned to the applicant. Under this new section, under this amendment, the fees would be retained by the board and used to offset the cost of the operation of the board.

Mr. Taylor: That then, if I understand the Minister to say, is notwithstanding the decision—in other words the appeal lost or the appeal successful—in either case it is a fee that is being retained, and this is a form of revenue generation we are seeing initiated here. Is that correct?

Mr. Penner: That is correct.

Mr. Roch: Therefore, if someone files an appeal they pay a certain amount and it is non-refundable, even if they are successful.

Mr. Penner: That is right.

Mr. Roch: That is not fair. Is there no means in there, no provision anywhere in the Act where the fees can be refunded to the appellant if they are the victim of an injustice, which is more often the case than not?

Mr. Penner: When a person appeals the decision of the assessor to establish the value of an assessment on a property there is a certain cost incurred by the board. It was deemed that those costs must be paid somehow, and that if the successful applicant in actual fact is successful then of course he has for a very small sum of money, in my view, been able to re-establish his or her assessment, and if in fact is not, then there probably should be no difference.

The current fee that is being charged for application by the board is $15 and has been used as you have described, has been previously set aside in a fund, and if there was success of the applicant then it was returned

policy of the board, or the policy was to return that amount to the applicant. However, if it was not, then the applicant was charged a fee. This would simply apply the fee to every applicant whether successful or not.

Mr. Roch: This fee, I presume, is prescribed by regulations.

Mr. Penner: The fees, Mr. Roch, yes, are established by regulation.

Mr. Roch: Therefore the fees can change, and in fact, the successful appellant is being charged for the assessor's mistake. You said it has been board policy to return them, but I would be far more comfortable if it was stated somewhere in the Act that they would be refunded if the appellant is successful. It would be fair and just. They should not have to pay for the assessor's mistake if they are successful.

Mr. Penner: Mr. Chairman, it is actually probably beneficial to all of us to go through this process section by section, because it indicates clearly to us where what has been identified under the Bill. If Mr. Roch and the committee Members would take the Bill and go to Section 60(1), it indicates that after hearing an appeal, the Municipal Board may by order dismiss the appeal, allow the appeal, and direct a revision of the assessment roll subject to Subsection (2) raise or lower the assessed value of the property, change the classification of the subsection property, or as subject to Subsection (3) award costs against the party as the circumstances require and as the board considers just.

Then under 60(2) the board shall not change an assessed value where the assessed value bears a fair and just relationship of the assessed values or the other; and then 60(3) In making an award for costs under Clause (1), the Municipal Board shall take into account the payment made by the appellant under subsection 57(3).

That is very similar, or as was contained in the old Bill, which allowed them to refund the money. This is the same thing.

Mr. Roch: Can the Minister show me where it obligates the board to refund the money where the appellant is successful?

Mr. Chairman: Ms. Flood is going to explain the amendment here.

Ms. Dianne Flood (Crown Counsel, Civil Legal Services): Mr. Chairman, generally costs in an action are your costs of proceeding and would include such things as filing fees, and may even be as broad as including things like your costs of your lawyer. So if someone is successful, the Municipal Board may order costs against the other party, which would be the Provincial Municipal Assessor who would then be obligated to pay those costs. They would consider under the following subsections the costs which have been paid as a filing fee.

It is discretionary and it is up to the board, as an independent tribunal, to determine if costs are appropriate in each and every case. There may be cases where someone is successful, but because of their conduct in carrying out the application before the Municipal Board, that costs should not be awarded in their favour.

* (1700)

Mr. Roch: I am talking specifically about the fee here which is prescribed by regulation. What I am saying here is that if a certain fee is paid to file the appeal, and the appellant is successful, that there should be a provision in this Act for this fee to be refunded. I do not agree that the taxpayer should be paying for the assessor's mistake. Obviously, if the appellant is successful, the assessor was wrong, but yet this Act does not obligate the Board or the Government to refund that fee. It is $15 now. It could be $50 five years from now, who knows, $500.00.

Mr. Chairman: Have you something to shed some light on here, Mr. Plohman?

Mr. Plohman: I just wanted to add that I think there should be a separation of the two and what Ms. Flood is talking about is something involving costs, and there should be a separation between the fee and the cost. The fee should be automatic. Other costs should be discretionary.

Mr. Chairman: Okay, we have the old Act here. Mr. Minister is going to read us the old Act to see what the difference is here.

Mr. Penner: Mr. Chairman, maybe it would help if I would, for the record, read the part of the old Act that deals with the applicant and the notice of the applicant and the appeal and the accompanying payments.

It says that the appellant's notice of appeal shall be accompanied by payment of costs in the amount specified in the regulation, and that payment shall be taken into account by the Municipal Board in dealing with the cost of the appeal. Upon expiry of the time of the received notices of appeal the clerk shall forthwith forward to the Municipal Board a copy of each notice of the appeal received. The Municipal Board shall upon receipt, receiving copies of the notice of appeal appoint a date and time and place of hearing the appeals and shall so notify the clerk. The clerk shall mail out notices of the date and time and place.

There is no reference made under the old Act of returning any portion of the fee charged. It is, as counsel has stated, normally a practice by the board in considering those fees. It is not mentioned under the old Act. There is no reference made to return.

Mr. Roch: The whole purpose of this Bill is to reform it and now is a good time to add another reform to make sure that the fee is refunded to the appellant if they are successful. I am prepared to move an amendment to that effect.

Mr. Chairman: Mr. Taylor was next.

Mr. Taylor: Mr. Chairperson, there is a definition that is in most people's minds on security, and it is something

that is put forward and returned normally. If we have a problem under the existing Act, I for one would not want to be a party to making the situation worse as what it appears that it is. The legal counsel in her response talked about what the board has done from time to time on awards.

The issue of costs here, that they may return, is quite often from my understanding the same as that in a court. It often does not include, in fact most often does not include, legal costs nor other costs incurred in getting there: in lost work time, in the preparation costs, photocopying and typing, and printing and all those sorts of things that people who do not have access to this sort of thing could incur. What we may end up with is we could end up with a successful appeal, the board not award very much in the sense of return, and I just think it is one of those cases of it adds insult to injury, quite frankly.

Mr. Chairman: Mr. Patterson, did you have a comment? Are you finished, Mr. Taylor?

Mr. Taylor: No, I am not. The fact that it is to be prescribed as a fee takes it further down the road in the likelihood of there not being a return. It is a fee. It is a revenue source to cover costs. I think, without being totally facetious, I could keep a straight face and make a suggestion that there be a fee levy when things go the other way then, and the assessors could cough up. Let us not be too onerous on the ratepayer here. Maybe the legal counsel could confirm that return of legal costs and other incurred costs is not what one would call the usual or the most common set-up or history of awards by the board.

Mr. Penner: Mr. Chairman, for the purpose of clarification of procedure in matters such as this, might I ask counsel to give us an opinion as to what normally might happen.

Ms. Flood: Mr. Chairman, if I might indicate first off, the amendment provides that the appellant shall pay the applicable filing fee. The appellant would include the Provincial Municipal Assessor if it were the Provincial Municipal Assessor who is appealing. So not only would the taxpayer have to pay when they appeal but the Provincial Municipal Assessor would in fact have to pay if he were the appellant.

Secondly though, what is proposed parallels what is done in the court system. You pay an application or a filing fee on filing your court documents, which if you are successful, is included in the award of cost in favour of the appellant.

A security for costs in court usually are a separate matter and you can have an order for security of cost which is unusual where you think that the party who is bringing the action against you will be unsuccessful and you will have an order of costs in your favour, which you do not believe that they have enough monies available for you to satisfy that order. It is to protect. It is a different context and perhaps the original wording in the Bill as indicated by the motion inappropriate, because it is not really being used as security for cost, because the cost to the Provincial Municipal Assessor, the practice generally at the Municipal Board is costs are never awarded in favour of the Provincial Municipal Assessor if we are successful.

There is no cost for which security is being given, because there are no costs that are generally awarded in our favour for which we are trying to make the appellant put up security. One of the reasons why often filing fees are charged is to avoid frivolous or vexatious, and again if they are successful there may be an order for costs if the board feels it is appropriate, which would include the return.

Mr. Taylor: The example given by legislative counsel, that in the case of successful court cases the costs are awarded to the successful party, that is quite often the case in Manitoba, is each pays their own cost too. There is much in the court records on that.

The other point I would raise is what has been the track record of the municipal board where there has been a successful appeal for there to be an award of costs, which would include more than the present you are calling a security deposit, but in any case and in this proposal to become a fee other than, so that it would include travel costs, research costs, preparation of the actual documents and, if necessary, legal fees. Is that a common thing where the board would actually award that full range of costs? I am not aware that it is but I look to hear the advice here.

Mr. Chairman: Ms. Flood, did you want to answer the question?

Ms. Flood: Mr. Chairman, I am trying to remember in the cases where we have been unsuccessful, you are correct, that it is rare for the Municipal Board to order any of those types of cost. I am trying to recollect in cases where the appellant has been successful, what it is the practice of the board to order. It is my recollection that they do not—with the practice right now, I think that they may order the return of the filing fee. By the same token they will never award costs, or they award costs with the same frequency against appellants which are unsuccessful in favour of the Provincial Municipal Assessor.

Mr. Taylor: Thank you, that is what I suspected it was.

Mr. Chairman: Okay, we will deal with the amendment. On the proposed motion of Mr. Penner:

THAT subsection 57(3) be struck out and the following subsection substituted:

Filing fee on appeal

57(3) When filing a notice of appeal under subsection (2), the appellant shall pay the applicable filing fee prescribed under The Municipal Board Act.

(French version)

Il est proposé que le paragraphe 57(3) soit remplacé par ce qui suit:

Droit de dépôt
57(3) L'appelant qui dépose un avis d'appel en application du paragraphe (2) paie le droit de dépôt prescrit en application de la Loi sur la Commission municipale.

* (1710)

Mr. Plohman: Do we have any idea of how many appeals there are before the Municipal Board in a year, and how many that are successful? Just so I get an idea how many cheques would have to be issued, $15 cheques, if we were to propose that this be refunded upon successful appeal.

Mr. Penner: There are, Mr. Chairman—I can give you some round numbers, or some numbers for a number of years. In 1984 there were 44 cases heard before the Municipal Board. In 1985 there were 54 heard by the Municipal Board. In 1986 there were 80, and in 1987 there were 45.

An Honourable Member: Successful ones?

Mr. Penner: These are cases heard before the board. I do not have the numbers as to which ones might have been appealed.

Mr. Plohman: Mr. Chairman, in light of that information, I do not think it would be so onerous upon the Government to issue a refund in instances where it is successful. The fee is $15 now. It may be more in the future. Why does the Minister not just consider adding a few words to his amendment which would simply say, which shall be refunded upon successful appeal? We are not dealing with thousands of cheques here, or millions or anything, we are dealing with fifty or a hundred or maybe a couple of hundred at most.

Mr. Penner: Just in addition to what I said a little while ago in reference to the amount of the number of cases heard, in 1987 there were 45 by the Municipal Board and there were another 160 heard in the City of Winnipeg. So it would make the total number 205.

Mr. Plohman: Just to clarify, we are dealing with a Municipal Board here.

Mr. Penner: Yes.

Mr. Plohman: We are dealing with appeals to the Muncipal Board. If this applies also to appeals to other boards—we are not talking about Boards of Revision here; we are talking about the Municipal Board.

Mr. Penner: That is right. This is just Municipal Boards. I can also give you some numbers on Boards of Revision—

Mr. Plohman: I do not need that. We are talking only about Municipal Boards. I know this is a financial matter, and the Minister may just want to add those words himself.

Mr. Penner: I really do not wish to make an amendment to the amendment in that fashion. I think it is fairly clearly dealt with under Section 60 of the proposed Act. Therefore I think it would be somewhat repetitious. I think it allows clearly that if the board so chooses, it may refund those funds, as it does now.

Mr. Patterson: Mr. Chairman, right now we have in process of being photocopied an amendment, such as this, to the amendment. We would like to present it.

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

Mr. Pankratz: I am satisfied. If the Minister indicates that it is in the Act—we have all put our comments on the record. I am sure that the Minister in haste would deal with it so it would not be acted upon. I feel confident that the way the amendment reads, and with the explanation that the Minister and his staff have given us, that the board will basically refund the fees. That is basically what we are arguing about. In the old Act it also did not state it so distinctly, and it was always refunded. I think the same practice will take place.

Mr. Chairman: Okay, I have read the amendment with respect to both English and French texts. Mr. Taylor.

Mr. Taylor: Mr. Chairperson, the Member for Radisson (Mr. Patterson) just mentioned to you that legal counsel is in the process of photocopying an amendment to the amendment. Surely you are not going to move on this clause at this time, given that notice. Could we move on to the next one and then deal with that when it is back in our hands?

Mr. Chairman: Is that the will of the committee? Okay, we will leave Clause 57(3) then and go on to Clause 57(4). When this amendment comes, we will deal with it.

Clause 57(4), Municipal board to set appeal hearing with notice—pass; Clause 57(5), Notice of appeal hearing. Shall the clause pass—Mr. Minister

Mr. Penner: I have an amendment here, Mr. Chairman, that I would propose.

Mr. Chairman: Okay, we will deal with the Minister then. Mr. Minister, you can go ahead with your amendment.

Mr. Penner: Mr. Chairman, I would move

THAT subsection 57(5) be amended by striking out clause (b) and substituting the following:

(b) the roll number and legal description of the assessable property to which the appeal relates;

(French version)

Il est proposé que le paragraphe 57(5) soit amendé par remplacement de l'alinéa b) par ce qui suit:

b) le numéro du rôle et la description cadastrale des biens imposables visés par l'appel;

Mr. Chairman: On the proposed motion of Mr. Penner that Subsection 57(5) be amended by striking out clause

(b) and substituting the following: (b) the roll number and legal description of the assessable property to which the appeal relates, with respect to both English and French texts, shall the amendment pass—pass. Shall Clause 57(5) as amended pass—pass.

Mr. Roch: Mr. Chairman, I now have the copies for the committee Members for the proposed amendment that I wish to make and the Minister's amendment.

Mr. Chairman: Okay, we will back up to Clause 57(3). Are they distributed?

Mr. Roch: They are being distributed, Mr. Chairman. I would like to move

THAT section 57 be amended by adding the following subsection:

Appeal fee refund
57(3.1) Where an appellant is successful on an appeal, the filing fee paid under subsection (3) shall be refunded to the appellant.

(French version)

Il est proposé que l'article 57 soit amendé par adjonction du paragraphe suivant:

Remboursement du droit de dépôt
57(3.1) Le droit de dépôt prévu au paragraphe (3) est remboursé à l'appelant qui obtient gain de cause en appel.

Mr. Chairman: On the proposed motion of Mr. Roch that Section 57 be amended by adding the following subsection: Appeal fee refund, Clause 57(3.1)—Mr. Plohman.

Mr. Plohman: Yes, I was just away from the table a moment. Did the amendment to 57(3) proposed by the Minister already pass?

Mr. Chairman: No, it has not.

Mr. Plohman: Then this is not in order because this is a subsequent amendment because it deals with a different number. Therefore, the other one should be voted on first and this one presupposes that one would be passed.

Mr. Chairman: No, 57(3.1) is a new amendment to the amendment. 57(3) is the amendment.

Mr. Plohman: There are two motions here, Mr. Chairman. I think we should deal with the first motion, 57(3), and then deal with the second motion which is the one that Mr. Roch has just put forward.

* (1720)

Mr. Chairman: You are right, Mr. Plohman. Sorry.

We will go back to Mr. Penner's motion first which I have already read. Shall the amendment pass—pass.

Now we will go on to the amendment by Mr. Roch with respect to both English and French texts. Shall the amendment pass? We hear a nay. All those in favour, please signify. You are voting on Mr. Roch's amendment to allow the appeal fee refund. All those in favour.

Mr. Plohman: It really is not in order.

Mr. Chairman: Mr. Plohman, you had a question first? -(interjection)- Okay. All those against? I guess the yeas have it. Mr. Minister, do you want a recorded vote count?

Mr. Penner: No, I think we have voted on it. I think there was clear indication by the committee what the will was. What I would like to indicate to committee that what—

Mr. Chairman: Before we go to that I want to finish this subsection. Clause 57(3) Security for costs on appeal, as amended—pass.

Okay, sorry Mr. Minister, go ahead.

Mr. Penner: Thank you, Mr. Chairman. All I would like to do is put on the record that it is my view that we have set somewhat of a precedent here in indicating clearly that the board must refund to successful appellants, whether they choose to or not, and that is a precedent that has not been established before. I just want that clearly on the record that precedent has now been established by this committee.

Mr. Taylor: I think when Parties are putting their position in the record after a vote, I think I would like to say on behalf of our caucus and the people that have worked on this whole issue of municipal assessment and the reform thereof, that we are very pleased to be a party to the setting of that precedent because I think to do otherwise adds insult to injury. When people have to go forward in this way to get justice and equity in their assessment situation, whether in their business, or their home, or whatever it might be, then I think it is only fair that the fees should be returned or waived in this fashion and I am very pleased that the vote has gone this way.

Mr. Chairman: Okay, we will continue with—Mr. Plohman.

Mr. Plohman: Mr. Chairman, the Minister made a comment after and I feel that I should have an opportunity to make a comment as well with regard to his statement about a precedent. I would say that precedents are not always negative and in this particular case it ensures that the out-of-pocket costs initially, at least for filing of an appeal, for a successful appellant will be returned, and that is fair and just I think. It should not be left to the discretion of the board, how eminently fair they may be. Under those circumstances, if the board wants to award other costs they can certainly do that, but that fee—and it is small at this point but the principle is there—should be refunded and that is why I support this. I think it is a just and fair amendment.

Mr. Penner: I do not want to take issue with the fairness or not, I just want to indicate clearly that the amendment

established that the fees will be paid to both parties, to the appellant, whether it be Government or a private individual the fees will be returned.

Mr. Chairman: Okay, we will continue with clause— Mr. Roch.

Mr. Roch: I would just like to point out that the Minister says it could be the appellant or the assessor. But in the case of the assessor, the Government being itself, so it would be the Government refunding itself. It is from the left pocket to the right pocket. It is interesting to note that all the five Conservatives Members on this committee voted against the people on this one.

Mr. Chairman: We will continue with Clause 57(6) Posting of notice of appeal hearing—pass; Clause 58 Assessors to attend appeal hearings—pass; Clause 59(1) Adjournment of appeal hearings—pass; Clause 59(2) Municipal Board Act powers apply—pass; Clause 59(3) Appeal hearing in absence of party—pass; Clause 59(4) Dismissal if appellant fails to appear—pass; Clause 59(5) Burden of proof on appeals—pass.

Clause 59(6) Burden of proof for non-cooperation— Mr. Plohman.

Mr. Plohman: Mr. Chairman, just to clarify, I raised the issue about the burden of proof for non-cooperation in a previous section dealing with Boards of Revisions, I think. I should have raised it here and I just wanted to put that proper because that is the section that was identified by the solicitor for the Manitoba Home Builders Association where he felt it was carrying it too far in terms of burden of proof. I think the explanations will probably be the same that Mr. Brown gave them previously but, in fact, 59(6) was the section that I think he was primarily concerned about during the presentation.

This carries that burden of proof right through the Municipal Board and perhaps might be viewed as somewhat unfair by some, but I accept the explanations that were given.

Mr. Chairman: Thank you. Clause 59(6), Burden of proof for non-cooperation—pass.

Clause 60(1), Order by Municipal Board—Mr. Roch.

Mr. Roch: Due to the amendment that was passed by the committee a while ago amending Section 57, consequential to that, I would like to move

THAT clause 60(1)(c) be amended by striking out "subject to subsection (3)."

Mr. Chairman: Mr. Roch, can you pass the amendments out, please?

Mr. Roch: I assume they are being distributed by staff.

Mr. Chairman: Just wait, we do not have them yet.

Mr. Roch: I am reading it out. You wait.

Mr. Chairman: Okay, Mr. Roch.

Mr. Roch: Mr. Chairman, may I ask why every time an amendment is being moved by a private Member we have to wait until it gets distributed, whereas the Minister can start reading right away?

Mr. Chairman: That is not right. We have been—

Mr. Roch: You have not been consistent.

Mr. Chairman: Yes, we have. We did not have them up here, so we could not read them. Mr. Roch, carry on.

Mr. Roch: Okay, Mr. Chairman. I move

THAT clause 60(1)(c) be amended by striking out "subject to subsection (3)."

(French version)

Il est proposé que l'alinéa 60(1)(c) soit amendé par suppression du passage "sous réserve du paragraphe (3)."

And the Chairman shall read it in both languages too.

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

THAT clause 60(1)(c) be amended by striking out "subject to subsection (3)", with respect to both the English and French texts—pass.

Shall Clause 61, Order by Municipal Board as amended pass—Mr. Plohman.

Mr. Plohman: Does that mean that (c) would read "award costs against a party"?

Mr. Chairman: Yes.

Mr. Plohman: Thank you.

Some Honourable Members: Pass.

Mr. Chairman: 60(2) No change by Board if fair and just relation—pass.

Clause 60(3) Payment of security for costs to be considered—Mr. Plohman.

Mr. Plohman: It would seem that this should then be deleted. There is no other need, I would just like to get legal opinion as to whether that is the case. If it is, then Mr. Roch will move an amendment to delete it.

Mr. Penner: We agree this can be deleted. I would move that we delete this section.

Mr. Chairman: On the proposed motion of Mr. Penner, that subsection 60(3)—Mr. Roch.

Mr. Roch: Mr. Chairman, on a point of order. Mr. Penner made the motion and it was not being distributed, so you are not being consistent. I waited for mine to be distributed before I made the motion.

Mr. Chairman: Does everyone have a copy of the amendment?

Mr. Roch: No, it is mine. I was waiting for it to be distributed as per your instructions before I made the motion, but if Mr. Penner wishes to move it, he is very welcome.

Mr. Penner: Go ahead and move it. I do not wish to move it.

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

Mr. Taylor: If this amendment passes and we eliminate 60(3), should there not be a part added onto it that affects the number changes subsequently? Is that automatic?

Mr. Chairman: That is automatic I believe, Mr. Taylor. Thank you. Mr. Roch.

Mr. Roch: I move that subsection 60(3) be struck out.

(French version)

Il est proposé que le paragraphe 60(3) soit supprimé.

* (1730)

Mr. Chairman: On the proposed motion of Mr. Roch that subsection 60(3) be struck out with respect to both the English and French texts, shall the amendment pass—pass.

Now that 60(3) has been deleted, it has been passed. We will go on to Clause 60(4) Board may direct assessments redone—pass; Clause 60(5) Directions on assessments to be redone—pass.

Clause 60(6) Reassessment as of before delivery of rolls—Mr. Plohman.

Mr. Plohman: Is the Minister planning to eliminate Clause 60(7) then, or 60(6), or neither? Or will he explain why they are both necessary then, because they seem to try to say the same thing in two different ways? I have an amendment that would remove 60(7) as being redundant. However, I would like to hear an explanation as to why they are both necessary, or if they are not both necessary, whether the 60(7) could be removed?

Mr. Penner: Mr. Chairman, I think in order to explain it properly, I am going to ask counsel to give us an explanation of those two sections.

Mr. Plohman: Could I just for clarification say that it is 60(6) that I would be removing?

Mr. Chairman: Mr. Walsh, do you want to give us an explanation of this?

Mr. Walsh: In the heat of the moment, as it were, looking at these two provisions, I recall asking myself the same question. I also recall getting a convincing answer as to why they are both there but, as I sit here now looking at them, I cannot recall what that was. I would venture that 60(6) is addressed to the question of delivery, and that the assessment had to be made clear, that an assessment being redone was nonetheless taking place as if it took place prior to the delivery of the assessment rolls. The delivery of assessment rolls by an earlier provision being the point at which these assessment rolls become final and binding.

I think that was the issue being addressed there, but again my recollection is not strong. 60(7), of course, is similar to an earlier provision in this Bill, in another context, where you do an amendment to an assessment by reason of a change of whatever—you apply the same conditions back to the same reference year.

Mr. Plohman: However big your recollection is, do you recall then from that explanation, because I could not determine that they are both necessary? Would one of them do it?

Mr. Walsh: My recollection is that both were necessary. That is not to say, however, on reflection and further study we might find there is to some extent a redundancy. At this point I would be reluctant to acknowledge or concede the point.

Mr. Plohman: Since I do not believe they—maybe they will do some harm if there is a contradiction in them by some lawyer. At this particular point I will not move the amendment. Just leave it.

Mr. Chairman: Okay. We will continue. Thank you.

Clause 60(6), Reassessment as of before delivery of rolls—pass; Clause 60(7) Same conditions and requirements apply—pass; Clause 60(8) Reassessments apply in subsequent years—pass; Clause 60(9) P.M.A. and City Assessor to be heard—pass; Clause 61(1) Mailing of order of Board—pass.

Clause 61(2) Revision by municipal administrator—we have an amendment?

Mr. Penner: Mr. Chairman, I would move that—

Mr. Chairman: Just wait till we get it distributed. Okay, Mr. Minister, the Bill has been distributed. You may proceed.

Mr. Penner: I have permission now—

Mr. Chairman: Go ahead. You may proceed.

Mr. Penner: With the permission of the committee then, I move

THAT subsection 61(2) be amended by striking out "municipal administrator, after receiving a copy of the order, shall" and substituting "municipal administrator of the subject municipality or, in the case of the City of Winnipeg, the City Assessor, shall, upon receiving a copy of the order,".

(French version)

Il est proposé que le paragraphe 61(2) soit amendé par remplacement des termes "L'administrateur municipal

qui reçoit une copie'' par ''L'administrateur municipal ou, dans le cas de la Ville de Winnipeg, l'évaluateur de la Ville, sur réception d'une copie''.

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

THAT subsection 61(2) be amended by striking out ''municipal administrator, after receiving a copy of the order, shall'' and substituting ''municipal administrator of the subject municipality or, in the case of the City of Winnipeg, the City Assessor, shall, upon receiving a copy of the order,''

with respect to both the English and French texts—pass.

Clause 61(2) Revision by municipal administrator, as amended—pass; 62(1) Appeal to Court of Queen's Bench—pass; Clause 62(2) Content of appeal documents, parties—pass; Clause 62(3) 28-day limitations—pass; Clause 63(1) Appeal to Court of Appeal—pass; Clause 63(2) Leave to appeal—pass; 63(3) Apply for leave within 30 days—pass; Notice, 63(4)—pass; 63(5) Court of Appeal decision final—pass.

We go on to Part 9, Miscellaneous and Transitional, Clause 64 Offence and penalty—Mr. Roch.

* (1740)

Mr. Roch: Yes, I would like to move an amendment to this section.

Mr. Chairman: Okay, Mr. Roch, you may proceed.

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

THAT section 64 be struck out and the following substituted:

Offences
64(1) Any person who

(a) refuses or fails to supply information or documentation as required of the person under this Act; or

(b) hinders, obstructs, molests or interferes with or attempts to hinder, obstruct, molest or interfere with an assessor or a person authorized by the assessor in the exercise of a duty or power under this Act,

is guilty of an offence and is liable to a fine not exceeding $25. for each day that the offence continues.

Exception
64(2) No person is guilty of an offence under subsection (1) if that person refuses entry to an assessor who requests entry at an unreasonable time or without giving reasonable notice to the occupant of the property.

With respect to both the English and French texts.

(French version)

Il est proposé que le projet de loi soit amendé par substitution, à l'article 64, de ce qui suit:

Infractions
64(1) Commet une infraction et est passible d'une amende maximale de 25 pour chacun des jours au cours desquels se continue l'infraction quiconque:

(a) est tenu de produire des renseignements ou des documents en application de la présente loi et qui refuse ou omet de le faire;

(b) gêne, empêche, moleste ou tente de gêner, d'empêcher ou de molester un évaluateur ou une personne autorisée par ce dernier dans l'exercice de ses fonctions en application de la présente loi.

Exception
64(2) Ne constitue pas une infraction en application du paragraphe (1) le fait de refuser l'entrée à l'évaluateur qui demande d'entrer à une heure indue ou sans avoir donné un préavis suffisant à l'occupant.

Mr. Pankratz: Well, in a case of this nature, what we need now to address what is ''reasonable time'' and also ''reasonable notice.''

Mr. Roch: Yes, Mr. Pankratz. Mr. Chairman, through you to Mr. Pankratz. I think that it has been the standard practice as it was said a few days ago by Mr. Brown, therefore, this just enshrines into the Act that an assessor can just show up on your doorstep and demand that he can go in there and assess your property at this point in time. However, once reasonable notice has been given there is a penalty for refusing such.

Mr. Plohman: Mr. Chairman, just by way of refusing to do this, this section, as it is written, says he is guilty. There is no trial or no judgment made. Simply if he refuses he is guilty.

Now the amendment requires interpretation and, I guess, I would wonder how it would in fact apply. If the individual said that this was unreasonable, is he then not guilty immediately? -(interjection)-

Well, I think it might be confusing in terms there might be a better way to do this at some other point, because I just do not know who the onus of proof would be on and who would have to pay the costs for determining whether this person is guilty at that point.

Mr. Roch: Mr. Chairman, 64(1) that I propose is the existing No. 64 and 64(2). Is that the one you are questioning as to what is reasonable?

An Honourable Member: Yes.

Mr. Roch: Reasonable would be what the judge, hearing the matter, finds is reasonable. I mean, if it was deemed that there was something unreasonable, charges would have to be laid. If the assessor has called or sent out a card, left one or two or three cards as per procedure explained by Mr. Brown the other day, I would suspect that would be considered reasonable notice. If however, as in the examples I said the other day, as well, which a case that did in fact happen, someone shows up in the middle of the harvest and says I am here to assess

your property, and the farmer, or the individual, whatever the case may be, is expected to drop everything and go.

An Honourable Member: Oh, I understand that.

Mr. Roch: Okay. Do you understand?

Mr. Plohman: What I am asking about is that the individual then would have to appeal the fine that he has been hit with for every day that he was guilty of this offence. He would have to appeal it and undertake court action before he could get redress from this. So the onus would be on the individual then to prove that the assessor was not being reasonable.

It is quite an onerous process at that point.-(interjection)- That is what he would have to do because in fact there is no trial. He is just guilty of the offence, and I would ask the Minister how the fine would be assessed initially? -(interjection)- Well, it says: is guilty and is liable to a fine. How does that apply? How would that be undertaken, Mr. Chairman? -(interjection)- I am asking now about 64(1) as opposed to 64(2). I want to know how this fine applies, and I think the appropriate person to answer this is the Minister or his staff.

Mr. Penner: If it is the will of the committee, I would ask legal counsel to reply to the question.

Mr. Walsh: Mr. Chairman, if I understand Mr. Plohman's question, 64(1) in the proposed motion is an offence provision and, as such in a provincial statute, is governed by The Summary Convictions Act in this province. That statute sets up the procedure. The procedure is one in the nature of a criminal proceeding, although it is not a criminal offence as such, sometimes called quasi criminal, but in the nature of penal provision, the usual protections and rules would apply. There would be a trial of course and the presumption of innocence, et cetera.

Mr. Plohman: I just said he is guilty, so.

Mr. Walsh: Provincial offences are customarily often just simply stated in those terms, and The Summary Convictions Act kicks in.

Mr. Chairman: Mr. Minister, did you want to add some comments?

Mr. Penner: Mr. Chairman, I am simply not clear on the last part of the amendment, what Mr. Roch would deem to be reasonable notice.

Mr. Roch: I said it before and I will say it again. The purpose here is if a person is going to fined, is going to be punished for refusing, therefore there is a certain sort of onus on the taxpayer, on the property owner, on the individual citizen, to co-operate with the Assessment Branch. I believe the reverse should be true as well. What do you deem to be reasonable? I think the practices that Mr. Brown outlined the other day are reasonable. But it does not mean that each and every individual hired by the assessment branch will be reasonable.

I think if an assessor shows up at your doorstep and demands to assess your property then and there, there is nothing in the Act to prevent that. The assessor may think that he is being reasonable because he shows up at seven in the evening and someone is home. Then he goes and lays charges. I would say that possibly Legislative Counsel should describe or give an opinion as to what reasonable is. I found the procedures outlined by Mr. Brown the other day to be quite reasonable. Does it mean they are followed all the time though?

I think there should be some prior protection in the Bill for individuals. I mean, whose side are we on here?

Mr. Patterson: I think it is neither necessary nor desirable to have terms such as this specifically defined in the legislation because they are open to some interpretation. As I point out, the analogy—same thing a few days ago—would in this case be up to the judge to decide after listening to the case from each party, just in the same way as with unjust dismissal, or just cause for dismissal which has been left up to, in some cases, the courts or the administrative tribunal of the arbitration board.

* (1750)

Mr. Penner: I am still a bit miffed by the amendment. I read 64 as proposed under the new Act, and it says this: where a person refuses or fails to supply information, information or documentation as required of the person under this Act, or regulation, the person commits an offence.

The new proposed amendment to the amendment indicates that we should strike out that section and say: refuses or fails to supply information or documentation as required of the person under this Act, hinders, obstructs and (b) hinders, obstructs, molests, interferes or attempts to hinder, obstruct, molest or interfere with an assessor or a person authorized by the assessor in the exercise of a duty or power under this Act, is guilty of an offence. It then goes on under 64(2): and then without giving reasonable notice.

I am not quite sure whether we are confusing what 64 was intended to do. I think 64 simply asks for documentation and information; it does not ask for entry or inspection of premises or properties. Therefore, I guess, I have looked long and hard at this, and I have been trying to determine what we are attempting to do here. It appears to me that we have two issues confused.

One is entry an inspection of property, and the other one is, as 64 states, the request of information that would be requested by the assessor. Simply the request of information and documentation. I am not quite sure whether this in fact does not confuse or change the intent of 64 substantially.

Mr. Roch: The purpose of this amendment is because, I believe it was Section 53(f), Section 53(f) allows the provincial municipal assessor—it says: the provincial municipal assessor may enter and inspect real property or improvements for purposes of an assessment. Here

in this section it just, you are correct, says, as proposed in the Bill 79: documentation only.

With this amendment it provides protection to the taxpayer from an unreasonable assessor under Section 53(f), but if on the other hand the property owner does not co-operate in a reasonable fashion, it provides the same penalties as for refusing documentation. It is pretty straight forward. If you cannot understand that, you have a problem.

Mr. Chairman: On the proposed motion of Mr. Roch, that Section 64 be struck out and the following substituted: Offences, 64(1)—Mr. Plohman.

Mr. Plohman: It has been read, so I would just ask the Minister and his staff why they would not—what I see now, in looking at this more closely, of course, is that it is completely different. The typed copy, I thought was lifted from the Bill but obviously it is quite different. It deals with a fine for something completely different in addition to what was there before, information or documentation. Now, it is not necessarily bad to have a fine for this other issue either, which is hindering or obstructing or molesting, or whatever. Is there any provision for a fine for anyone who does hinder, obstruct, molest or interfere with an assessor? Is there no desire to have that kind of protection by assessors, or do they get protection from other laws that deal with assault and so on?

Mr. Penner: I find this interesting because I am probably as you are— the longer I study this and read this, I find this is in exact opposite to what the Honourable Member of the Liberal Party was arguing before. He was arguing for the protection of the individual and here we establish a fine in protection of the assessor. I am rather confused by this amendment.

Mr. Plohman: What I asked then is, and I got from the shaking of heads, that the assessors do not believe they need this kind of protection, that there should be a fine for that kind of conduct. Now if that is the case then I do not see any reason why we would want to put that in. I think it was put in there to provide some balance to this amendment in order to put the other part in which is the exception.

I think it is very clumsy and difficult to handle. Probably the exception here is in the wrong place. Wording which would make sure that assessors are reasonable in the way they conduct their business should have been introduced in a different section completely. I would be open to at least looking at reopening another section if that is what the Liberal Opposition wanted to do, but I do not think they have it in the right place now because they are actually adding another penalty here that seems unnecessary.

Mr. Chairman: Mr. Taylor.

An Honourable Member: Mr. Roch.

Mr. Chairman: Well, Mr. Taylor was first.

Mr. Taylor: Mr. Chairperson, two points. First of all, there was indication at times in the hearing process that there were problems with the carrying out of assessment, and that was part of the motivation to ensure there was protection there. If we hear through Mr. Brown that this is something that they do not require, that they feel they have everything adequate, while we would be surprised, we would be prepared to withdraw.

On the other hand though, there is another point that I wish to bring out, is that some time back—and this is to the Chairperson—Mr. Roch brought up the point that he would like Legislative Counsel to the Table to give an explanation to all Members of what "reasonableness" meant from a legal viewpoint and how it was an operative term. I think the Chairperson missed the fact that he had made that request, because I know I can still hear a couple Members saying they are not sure what that means. I think it would appropriate on the first point if we could hear from Mr. Brown, and on the second point if we could have Mr. Carnegie to the Table to explain the concept of reasonableness.

Mr. Chairman: Mr. Carnegie, did you have have some comments? Mr. Plohman.

Mr. Plohman: Yes, as much as I would like to hear the concept of "reasonableness" I really do not think that is the issue here as far as I am concerned, any longer. It is not the problem that I have with this amendment.

Mr. Chairman: Ready for the question then?

Mr. Roch: If Mr. Plohman is suggesting that he would be willing to support it if it were in a different section, we would be prepared to do that.

Mr. Plohman: What I said is that I think I made my statements and our Party's statement clear on this the other day when we discussed this issue earlier in the Bill, where the explanation that was given by Mr. Brown satisfied me that there was a reasonable approach. So I felt this did not have to be dealt with any further.

What I said a few moments ago though is that if the opposition Liberal Party wanted to introduce it in another section, I would be amenable to them at least having that opportunity to make the case. I am not saying that we would support it at this particular time. I do not think we would because I do not think it is necessary.

Mr. Chairman: Question? Mr. Taylor.

Mr. Taylor: With all the noise going around the table, I did not hear—or maybe he did not speak good, but I did not hear a comment from the provincial assessor on my question.

Mr. Chairman: Mr. Brown, would you like to answer the question?

Mr. Brown: Of what? The explanation?

Mr. Taylor: The question, Mr. Chairperson, to repeat, is: does the provincial assessor see a benefit to what is being suggested in Section 64(1)(a) and (b)?

* (1800)

Mr. Brown: Mr. Taylor, we have never found it necessary in the past, and I guess I would be a bit leery to have this in the Act for fear that with its availability we might find ourselves where, if I might, either an assessor had a bad day or a ratepayer had a bad day, or worse, they had one jointly, at the same time and place. If they knew of this part of the Act existing, we might find ourselves with an assessor coming and saying, I want someone prosecuted for this. I would rather rely on the present practice of letting them get along on their own.

Mrs. Gwen Charles (Selkirk): I just would like to give an example, and perhaps Mr. Brown would be able to comment whether it is covered anywhere else in the Act. I recall, from past experience, of one example where the assessor presumed by some evidence, certainly not by definitive evidence, that a household had at least one apartment in the basement and could not gain access to that house to give that information. There was quite a long debate over whether that was or was not a fact. It caused a lot of problems on our town council.

I just wanted to ask whether anywhere else in this Act there is a requirement for a householder, given reasonable time, to force under reasonable time constraints an assessor to come into a house to be able to assess the house?

Mr. Penner: I believe that there is adequate protection given under the Act, and we have read it. I will ask staff to respond to you directly and give you their view of the Act.

Mr. Brown: There is a provision in Section 53(f) where the assessor may enter and inspect real property or improvements for purposes of assessment. So the legal authority to do so exists. The policy of the assessment branch, and now there would be regulation power available to me as well, is that the assessor never forces that issue. He has the legal authority, but if access is denied then there is later recourse where a burden of proof can shift to the appellant if the information was not made available for the assessor to help him do his job. He would still have to make an estimate on your example of the value of a basement. I think the avenues are available.

Mr. Chairman: Ready for the question? Mr. Roch.

Mr. Roch: Given the comments made by Mr. Plohman and Government Members, it appears that they are not favourable to this amendment. Given the comments by Mr. Brown, if the (b) part under Section 64(1) were removed, it would be more acceptable to committee Members.

An Honourable Member: Let us vote on it.

Mr. Chairman: I have read it already. On the proposed motion of Mr. Roch—Mr. Plohman.

Mr. Plohman: Mr. Chairman, Section 64(2) would just be totally out of order if (b) is removed because it makes reference to that. So you cannot fiddle with that in that way; it has to be approved or not approved, I think, at this point.

Mr. Chairman: Section 64 with respect to both the English and French texts, because I did have it read before. Shall the amendment pass?

An Honourable Member: No.

Mr. Chairman: All those in favour, please signify. All those against? In my opinion the Nays have it.

The hour being shortly after six, what is the will of the committee at this time?

Mr. Plohman: Mr. Chairman, in terms of proceeding, we do not have a lot of amendments, we have one area yet and I do not know what the Liberals have insofar as the amendments, or the Minister, but we could move forward with the rest of the Bill quite quickly. It is a matter of where we are with the other issues on the exemption sections—21, 22 and so on—where we wanted legal opinions. If we cannot get that today on all of those issues, then we should try and finish this and adjourn and reconvene tomorrow when we could deal with that last section, or those last sections that are a subject of legal counsel's opinion as to whether they are in order or not.

Mr. Penner: Mr. Chairman, I am given to understand that by eight o'clock we could have those opinions. If it is the wish of the committee we could either adjourn now until eight o'clock and then reconvene or, if it is the wish of the committee to sit through until eight o'clock and deal with the other sections of the Bill, I would be willing to ask staff to bring in supper so we could eat here as we go along.

Mr. Taylor: Mr. Chairperson, I think the Minister has brought out the main point, that the full expectation is that the legal opinion will be ready by eight o'clock. We will be able to deal with those matters that were giving us a problem last night. My hope is that we are going to see this piece of legislation completely dealt with at the committee level by late tonight.

Mr. Chairman: Yes.

Mr. Taylor: I am open to suggestion as to how we might achieve that. I thought maybe we might break for the balance of the time until eight and go on from there. If the wish of the committee is instead that food and drink are brought in, we eat here at the table as we go, well maybe that is not such a bad suggestion.

Mr. Plohman: I think if we are going to come back and these opinions are not going to be ready until eight, then we might as well break now and come back at eight and go as long as it takes to finish.

I just want assurances that all of the issues that were referenced to legal counsel will be dealt with, that we will not end up with just partial information because, if that is the case, I would like to work through, finish everything we have on our Table, and then deal with

that when it is available, whenever that may be. Are we going to have an opinion on all of the amendments for exemptions, not just some of them?

Mr. Chairman: Yes, we will have an opinion by eight o'clock on all of the outstanding issues I believe.

Mr. Plohman: I would suggest that we adjourn, Mr. Chairman.

Mr. Chairman: Thank you Mr. Plohman. Mr. Cummings.

Hon. Glen Cummings (Minister of Environment): I would concur with Mr. Plohman's suggestion and the earlier suggestion of Mr. Taylor that we adjourn until eight, but come back with the understanding that we will attempt to finish. However, I say that knowing that I have a committee change that I would like to propose before committee rises, if that can be accomplished.

Mr. Chairman: Okay, Mr. Patterson, you had a question?

Mr. Cummings, did you want to—is it for yourself, the committee change?

Mr. Cummings: I am asking leave of the committee to be replaced by someone else for the evening sitting.

Mr. Chairman: That is fine. You will have to resign and then appoint someone else to take your place.

Mr. Cummings: Can I send that to the committee at eight then?

Mr. Chairman: Yes, you can do it now or do it at eight o'clock, whichever.

Mr. Plohman: Mr. Chairman, I would assume from this that normally when the House is sitting we make the changes in the House; so if we make an exception at this time, what we are saying is that, any time during the committee sitting tonight, depending on how long it goes, we would allow flexibility in terms of changing Members, and if we have that agreement, then I would agree to this. Because it may be that there may need to be some changes tonight as well.

Mr. Cummings: I am not going to set additional precedents so that we can have revolving chairs around the committee Table. I will be here.

Mr. Chairman: Okay, committee rise.

* (2000)

RECESS

Mr. Chairman: Okay, we will bring the committee to order. Order, please. Since we have the ruling from Legislative Counsel, is it the will of the committee we deal with this first, or shall we finish the book first?

An Honourable Member: Well, it might have a lot to do with how co-operative we are. No, I am just kidding.

Mr. Chairman: We know you are, John.

Mr. Plohman: Maybe we should get the ruling and deal with that first.

CHAIRMAN'S RULING

Mr. Chairman: Okay, I will give you the ruling and they are going to pass out a letter for information. This is the Chairperson's ruling.

I am advised by the Law Officer of the House, who has reviewed the effect of the amendments provided to her in this committee on January 9, 1990, that the proposed amendments do not contravene the provision of the constitution that requires a Royal Recommendation on Bills for the appropriation of any part of the public revenue but, with the exception of Mr. Roch's proposed amendments to narrow tax exemptions by rounding down references to hectares in Clauses 22(1)(d) and (g), all of the proposed amendments contravene Rule 53(1) of the Rules, Orders and Forms of Proceeding of the Legislative Assembly of Manitoba which requires that Royal Recommendation on any Bill or amendment that has the effect of imposing any new or additional charge upon the public revenue.

Because the amendments have the effect of reducing the amounts payable to municipalities under the scheme contemplated by Bill 79, they also have the effect of increasing the amount of a charge on the Consolidated Fund under The Social Allowance Act and require a Royal Recommendation. Accordingly, I do not withdraw my ruling with respect to Mr. Plohman's amendment to Clause 21, and I would rule accordingly with respect to other amendments of this nature that may come forward.

Mr. Plohman: Are you circulating your statement, or is that based on the opinion by Ms. Strutt?

Mr. Chairman: This is based on the opinion of Ms. Strutt, yes.

Mr. Plohman: Before we move on, Mr. Chairman, we may want some time to consider this letter since we just got it, this opinion. I just wanted to ask through you, Mr. Chairman, to Legislative Counsel whether this opinion included precedents for amendments by Opposition to exemptions in previous years.

* (2010)

Mr. Chairman: Ms. Strutt, do you want to take mike 6 maybe. Mr. Plohman, we will get Ms. Strutt to answer that question.

Ms. Strutt: Mr. Chairperson, in response to that question, I consulted fairly liberally with the Clerk of the House, the procedural expert (Mr. Remnant), here in the preparation of this opinion and read as much as was possible in the time that was available, which I know all Members recognize was not a great deal of time. There was not time to review a large number of precedents from the Manitoba Legislature. Therefore,

I relied on the observations of Mr. Remnant in that respect.

Mr. Plohman: Did you, Ms. Strutt, consider the Private Members' Bill dealing with the certain bible college that was passed in the Legislature introduced by the Member for Emerson (Mr. Albert Driedger) a couple of years ago and passed, insofar as its precedent-setting status.

Miss Strutt: No, I did not. The Act to which the Member refers was an Act to permit an exemption in, I guess, The Municipal Assessment Act. Actually, I think I am going to withdraw because, now that I am thinking it through, I realize the point you are making. I am sorry, I was misunderstanding you.

Mr. Taylor: Mr. Chairperson, first of all, the document you read is that a précis letter of what we have before us or what is that?

Mr. Chairman: No, it is my ruling on the proposed amendments, Mr. Taylor.

Mr. Taylor: Mr. Chairperson, is that ruling one that came after the reading and digesting of the four-page letter from Ms. Strutt.

Mr. Chairman: The ruling was written by Ms. Strutt after her studying the Bills, as she explained, and studying the different examples that she has looked at. Am I right, Ms. Strutt?

Ms. Strutt: I believe you have adopted it as your opinion in the sense that I suggested that you did not continue to—

Mr. Chairman: That is right, but I did adopt it as a ruling, as the Chair's ruling.

Mr. Taylor: Yes, Mr. Chairperson, I have to say that I thought what you were reading from was the same document and so, as you were reading, I was looking through these four pages trying to say, where is Mr. Helwer reading this from? Would you mind terribly reading the summary again, please, because it may preclude any further questioning on my part.

Mr. Chairman: I have no problem. I will read it again.

I am advised by the Law Officer of the House who has reviewed the effect of the amendments provided to her in this committee on January 9, 1990, that the proposed amendments do not contravene the provision of the constitution that requires a Royal Recommendation on Bills for the appropriation of any part of the public revenue but, with the exception of Mr. Roch's proposed amendments to narrow tax exemptions by rounding down references to hectares in clauses 22(1)(d) and (g), all of the proposed amendments contravene Rule 53(1) of the Rules, Orders and Forms of Proceeding of the Legislative Assembly of Manitoba which requires a Royal Recommendation on any Bill or amendment that has the effect of imposing any new or additional charge upon the public revenue.

Because the amendments have the effect of reducing the amounts payable to municipalities under the scheme contemplated by Bill 79, they also have the effect of increasing the amount of a charge on the Consolidated Fund under The Social Allowances Act and require a Royal Recommendation. Accordingly, I do not withdraw my ruling with respect to Mr. Plohman's proposed amendment to Clause 21, and would rule accordingly with respect to other amendments of this nature that may come forward.

Mr. Taylor: Then what we had was the presentation of an opinion that said that this type of an Act and amendments to this type of Act require a Royal Recommendation. The fact then that the amendments that were before us last night and were tabled for opinion do not seem to have a Royal Recommendation, does that make those amendments non-constitutional, or unconstitutional, I should say?

Mr. Chairman: We will ask Miss Strutt to answer that, please.

Ms. Strutt: As the ruling of the Chair indicated, the amendments do not contravene the constitutional requirement. In the opinion, I have set out the specific provision of the constitutional requirement and, giving it a relatively narrow reading, it applies to a Bill that expressly appropriates money, or an amendment that seeks to appropriate money, which these amendments do not. However, the amendments, all of them, because of this connection between the reduction of revenue to the municipality and unnecessary charge to the Consolidated Fund, do breach the Rule of the House that requires a Royal Recommendation.

Mr. Taylor: Following through on that, the effect of the amendments, yes, would be to reduce somewhat, although not large amounts, but somewhat, the revenues that would accrue to the municipalities under the provisions of this Act. Those funds which would have been there and which, if the amendments went through would not be there are non-appropriated funds and as such, I believe, therefore are not coming from what is called, federally, the Consolidated Revenue Fund, and in this province the Consolidated Fund, which is the general pot of money for Government to operate from. They do not come from there. Therefore, the question in my mind is, is it in that case those aspects of the Act, do they also then require a Royal Recommendation?

Ms. Strutt: The basis of the connection with the Consolidated Fund is on page 4 of the letter, in about the third paragraph, and maybe I will just read it.

Pursuant to Subsection 11(1) of The Social Allowances Act, the Minister of Finance is required to pay out of the Consolidated Fund in every year, an amount equal to 80 percent of the amount by which the municipality's cost of providing social assistance exceeds an amount equal to a levy of one mill on each dollar of the equalized assessment of that municipality. Under Bill 79, the term "equalized assessment" becomes "total municipal assessment" and is defined to exclude the value of property that is exempt from taxation.

Therefore, a new exemption in Bill 79, or a broadening of an existing exemption, will mean that the total

municipal assessment is lowered in municipalities where the exempt property is located. If the total municipal assessment is lowered, the Minister of Finance is obligated under The Social Allowances Act to pay a greater amount out of the Consolidated Fund to the municipality, which means that, just by virtue of these amendments, there is an automatic obligation under the other Act. It is right in the statute that it requires him to pay out that fixed amount, and that amount is going to increase because of the framing of the Act.

Mr. Taylor: Can Miss Strutt address the aspect of school levies, the education support levy in particular, vis-a-vis that same opinion? Does that in any way vary her opinion, or does it not come in, or what would be the effect of an implication or impact from such an amendment on school levies and hence from that a similar compensatory requirement on the part of the Minister of Finance (Mr. Manness).

Ms. Strutt: Mr. Chairperson, I did not have sufficient information about how those monies actually flowed to build them into this opinion. But the fact that there is this existing situation is sufficient to require Royal Recommendation on the amendments without a proliferation of other examples.

* (2020)

Mr. Taylor: Mr. Chairperson, the reason for my question is that the assessment applies in two ways; one for the support to the municipalities for basic municipal services they provide, and the other is that it also is a way of determining the school taxes that are payable as well.

So the reason I was raising it is to say that if we have something, and it would appear here there is a direct impact on the Consolidated Fund as it applies to municipal assessment and hence taxes collected by a given municipality, is there or is there not a parallel then for the situation vis-a-vis school taxes?

Ms. Strutt: Perhaps, Mr. Forrest or Mr. Brown would speak to that point. I am sorry, maybe you could repeat the question? I am thinking that perhaps one of the people responsible for the content of the Act would have an answer better than—

Mr. Taylor: Mr. Chairperson, the matter I raise is that the interpretation we have received from Legislative Counsel is indicating that because under The Social Allowances Act the Minister of Finance is required to compensate municipalities out of the Consolidated Fund, the equivalent amount of those dollars that are exempt, and a broadening of the exemption will mean, therefore, more dollars taken from that fund.

What I wish to find out is if there is a parallel as it relates to support to school boards. In other words, if an exemption did not apply to a municipality's levy but applied to a school board's instead, is there a piece of legislation which says that therefore the Minister of Finance or maybe the Minister of Education would have to compensate the lost amount to the school board?

Mr. Gerald Forrest (Deputy Minister of Rural Development): Mr. Chairman, in answer to Mr. Taylor's question, the provision in The Social Allowances Act is very clear, and it is a mandatory provision. With respect to the grants that are paid from the Department of Education or the Public Schools Finance Board to school divisions in Manitoba, it is not mandatory but it is by convention.

Mr. Taylor: Mr. Chairperson, then what I heard the Deputy Minister say is that there is not a statute that requires it, but it has been practice in Manitoba to compensate.

Mr. Forrest: Mr. Taylor, there is a statute that provides for the authority to pay a grant. However, the grant is at the discretion of the Treasury Bench.

Mr. Taylor: In that case then, if there were exemptions like these applied then only on one side of the equation, not the municipal but the educational side, can it be construed that there is therefore a charge, in effect, resulting against the Consolidated Fund or not?

Mr. Forrest: In my opinion, yes, there is a charge.

Mr. Taylor: Would I have the same concurrence or not from Ms. Strutt on that?

Ms. Strutt: I think that where there is not an expressed provision that we can point to in the statute requiring the payment, it is more difficult to make that argument.

Mr. Taylor: The last question I have relates to the reality of the amendments which were proposed last night and tabled for opinion, some seven of them. The question is, are any of them ones in which there would be application—if the amendments did not come forward, therefore there would be no exemption and school taxes would be paid? Whereas, if the amendments did come into force, there would be exemptions to school taxes paid? Is there an applicability in this context or not?

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

Mr. Brown: I, at least, perceive there may be some confusion here. Maybe it is only me who is confused. I do not believe the question of school taxes versus municipal taxes is an issue under the Act that Ms. Strutt quotes, The Social Allowances Act. I do not, at least, perceive the connection in that regard there. There is question, as Mr. Forrest said, regarding whether or not there is a draw on Consolidated Fund to offset school taxes. That is more permissive than mandatory, but the Act that Ms. Strutt quotes, The Social Allowances Act, has to do not with a question of municipal versus school. I do not see the connection there, frankly.

Mr. Taylor: For clarification, Mr. Chairperson, if one looks at the proposed resolutions as numbered in the letter, okay, on page 2, which would be No. 3, No. 5, No. 6 and No. 7, those are the ones that come clear to me as maybe. Are those items that would be required to be taxable in favour of school boards?

Mr. Chairman: What do you mean, Mr. Taylor, by your question really?

Mr. Taylor: The question is, Mr. Chairperson, can school boards levy taxes against shelters? Can they levy them against the type of farm buildings that was proposed in 5, on heritage buildings and against the types of lands that we were talking about regards nature preserves or natural environment? That was the question.

Mr. Brown: They would all be taxable for school purposes, yes, certainly for special levy school purposes. There are two school levies.

Mr. Taylor: Mr. Chairperson, to finalize the position that I am putting forward, that if then exemptions were put forward in the fashion for 3, 5, 6 and 7, that they would only be exempt for school taxes then that could not be construed as being a charge against the Consolidated Fund. Would that not be true?

Mr. Chairman: Would you like to ask your question one more time, Mr. Taylor, and then they will try to answer it.

An Honourable Member: I am not exactly clear on what you are getting at.

Mr. Taylor: Mr. Chairperson, I will try once more to get across the point I was making. We have the initial position that those proposed amendments, if we were talking in a municipality context, do result in a potential charge against the Consolidated Fund, because under The Social Assistance Act the Minister of Finance (Mr. Manness) would have to make up the difference of the exemptions.

So I carried the argument along on the parallel thing, whereas municipalities collect taxes on behalf of school boards, because the school boards do not have their own civil servants to do that function. In effect it is a school board levy we are talking about, it is not just a municipal levy divided in two. There are two distinct functions going on there. The question was, therefore, is there the potential for the referenced ones in the letter, 3, 5, 6 and 7, for there to be an exemption as it relates to school taxes and not be a charge on the Consolidated Fund? I think I am hearing that is the case.

Mr. Plohman: I wanted to add to that question, maybe you could go over it. What we are dealing with here is real property partial exemptions, 22(1), which exempts other than for local improvements, so it only exempts from school taxes.

Mr. Chairman: You are talking about 22(1)?

* (2030)

Mr. Plohman: Yes, as opposed to 21 which is general exemption. There is no difference in the treatment by the legal opinion and I am saying that perhaps on that basis it deals with the issue that Mr. Taylor is mentioning and should have been some differentiation between the two types of exemptions.

Mr. Penner: Let me try and answer Mr. Taylor's question first. If I understand Mr. Taylor correctly he is wanting to know whether the exemptions identified under paragraph 3, 5, 6 and 7 on page 2 of the letter to Mr. Helwer, would be a draw on the Consolidated Fund. I suppose, having been on school board long enough, and if you delete the ability for a school division to derive revenue from a given property it would, therefore, reduce the amount of taxation that they would be able to collect and, therefore, might require the provincial Government to make up a larger degree of the funding to the school division, in order to retain its operability. In regard to that, in that assessment, I would suggest that it could be perceived to be a draw on Treasury.

Mr. Taylor: Mr. Chairperson, not disputing the Minister's position that it could be—I would not dispute that at all—a draw on the Consolidated Fund, it is not a requirement in law that it is a draw on the Consolidated Fund and I gather from that, and Ms. Strutt can confirm, but I would draw from that that therefore it does not require a royal recommendation and, as such, would be in order.

Mr. Penner: Mr. Chairman, I believe counsel has indicated that there might be a legal position that they might want to share with the committee. The Legislative Counsel has a legal position that they would like to share.

Mr. Walsh: It relates to what I understand to be the Member's argument, if I can call it that, to suggest that in effect if you isolate off-school taxes and have an exemption laying the school taxes there is no impact on the Consolidated Fund of a kind that should create a problem here.

I would draw the Members' attention to the last clause of subsection 22(1) which provides that an exemption from municipal taxation is enjoyed by any real property that is exempt from school taxes under subsection 23(1), and is exempted by a by-law of the municipality. The effect of this is to give to a municipality the capacity, by by-law, to give to a school tax exempted party also an exemption from municipal taxes which then kicks in with a charge upon the Consolidated Fund of the kind referred to in Ms. Strutt's letter.

Now this has the effect of giving to a third party the power to effect a charge upon the Consolidated Fund and I think there is authority, if you look into it, to suggest that it would fall in the same category as those cases involving 22(1) where clearly there is a direct impact on the Consolidated Fund.

Mr. Taylor: If I am hearing counsel correctly he is saying that if there is an exemption for school taxes for an institution, for example, a municipality could also provide the same exemption at their option, the authorization being by by-law, and I am not clear on the last part because I have some familiarity with that provision, and that the Consolidated Fund is then required to compensate? I thought the municipality, if they chose to do that, only could make the gesture, but were not necessarily compensated because it was at their option.

Mr. Walsh: It is not a case so much of compensation to the municipality from the Consolidated Fund. Rather

it is a case of a by-law under subclause (l) having the effect of triggering the provisions of The Social Allowances Act, as explained in Ms. Strutt's letter. It is not a case of compensation for the by-law itself. It is a case of the by-law serving as a trigger for application of an increase in the Consolidated Fund under The Social Allowances Act.

Mr. Chairman: Thank you. Mr. Plohman, or did you have another question, Mr. Taylor?

Mr. Taylor: Mr. Chairperson, having seen some of this operate previously within the city, and it was the specific exemptions we are talking about, these education exemptions, I was not aware that there was any compensation, and I use that work as a general term, it may not be the legal term. I mean makeup if you will, of monies whatsoever. If the municipality involved, whether it was a town, a R.M. or the City of Winnipeg chose to then do that, my understanding was that the only way they could get that quite frankly is if they made special application to the provincial Legislature for such. That was my understanding and I believe the Act has not been amended in the three or four years since I went through this with a charitable organization within the city. It was these very provisions of which I talk, that there was no ability to assume that it needed a special request to the Legislature which might or might not be responded to positively.

Now the counsel says that there is an actual linkage with The Social Services Act. I am a little surprised because that is contrary to previous legal advice I have had. Can you show us where that triggers in?

Mr. Walsh: I thought it was illustrated in Ms. Strutt's letter, the connection with Social Allowances Act. I will just take a look at that letter a second time here. I thought on page four, in the second complete paragraph, it refers to Subsection 11(1). Perhaps at this point I should, Mr. Chairman, refer the matter over to Ms. Strutt in response to Mr. Taylor.

Ms. Strutt: I am wondering, Mr. Taylor, if what you meant is the linkage that Mr. Walsh was referring to in Clause (l) of Subsection 22(1). I think it is, Mr. Walsh. The linkage there is that 22(1) establishes the exemptions, the categories where we were proposing to make the amendments.

Your question I believe related to whether those amendments could then go under the next section and just deal only with school taxes because that clearly did not affect the based equalized assessment, what is your defined term here? What Mr. Walsh is saying is that by virtue of Clause (l), the municipality could extend the exemption to the same categories of people and thereby, by passing their by-law, kick in this problem of The Social Allowances Act because of the fact that this whole exemption provision takes anybody under it outside the total equalized assessment and thereby increases the difference under The Social Allowances Act to the amount that is required to be paid by the Minister. I believe that is your point?

Mr. Chairman: Does that answer your question, Mr. Taylor?

* (2040)

Mr. Taylor: I think it does. What the counsels are saying is the extension of an exemption to the municipal context by a municipality by by-law, even though it is discretionary on their part, then does require the Minister of Finance to pay back in effect that amount which is exempted in parallel to what would be exempted for school taxes. Is that correct?

Ms. Strutt: I would not think it would necessarily be dollar for dollar. It would be whatever the result of the calculation was under this Act, based on what the total equalized assessment.

Mr. Plohman: I obviously do not fully understand this. What would happen if exemptions were proposed under Section 23(1), exemption from school taxes only? Would they be construed in the same way?

Mr. Chairman: Ms. Strutt or Mr. Walsh, who would like to answer that?

Mr. Walsh: If you mean to suggest, Mr. Plohman, that were 23(1) amended so as to provide explicitly that the party named enjoyed an exemption under 23(1) only, I think you would still be left with a problem with Clause (l) where the language there would also need to be changed to make it clear that it does not mean what it says. If you mean to isolate off some institution into the area of school taxes and keep it from coming under 22(1) you would need to deal with 22(1)(l).

Mr. Plohman: My understanding is that 22(1)(l) simply says that any of those properties under 23 may—where they are exempt or where it is permissible for the municipality to exempt by by-law, that would apply. It does not mean that all of these in 23 can be exempted by by-law from municipal taxes. So, therefore, there is no need to change 23(1)(l).

What Mr. Walsh is saying then is that exemptions introduced under Section 23(1)—and I would like to hear from Ms. Strutt on this. The argument that she has made for the other provisions under other sections in this legal opinion does not hold. She may have to consider it again, but the paper that we have before us, the opinion, is not applied to Section 23(1).

Ms. Strutt: Mr. Chairperson, Mr. Plohman is correct to the extent that the opinion is based on The Social Allowances Act and the fact that the total equalized assessment goes up or down and thereby the obligation of the Minister of Finance (Mr. Manness) goes up or down. If it is limited to school taxes, and if the information provided to me and to the committee is that we cannot establish a direct link with the charge on the Consolidated Fund, then that would be right.

However, I would like to suggest that, given the time that was available to prepare this opinion and look at a highly technical area of parliamentary practice and a highly technical area of statutory law, to now introduce this other matter would mean perhaps that further study of that should be done. I think what the Members are contemplating is perhaps moving amendments that they

feel on the basis of this would not require Royal Recommendation, but the rules of our House and the requirements for Royal Recommendations are very much based on the system of Government that we have. The ability of the Government to plan its finances, raise its monies, and spend its monies, is fundamental in our system. Therefore, I am certainly hesitant about providing an opinion, sitting at this table, on the basis of the new facts provided Mr. Plohman.

Mr. Plohman: Mr. Chairman, I appreciate the limited time that was available for such a complicated area and to provide an opinion, so that is why we have all the questions here realizing that it was very limited time. Therefore, there are probably areas that have not been researched, and there are areas of possible dispute, areas to refute on this. We may want to look at this again in third reading or report stage and decide whether there are some additional exemptions that we want to bring forward at that particular time from our point of view.

At this point in time, we have to accept the ruling as it is brought forward, with the caveat that we disagree with the Government's position on these exemptions. We certainly believe that they should be considering them for bringing them in themselves if we cannot introduce them.

I wanted to just ask one other question regarding 23(1) to Ms. Strutt, perhaps if she could provide some reflection on it. The education support levy is paid completely to school boards, to school boards totally. Therefore, if there is a reduction in that levy through an exemption, simply raise the levy and you can recover the money, so you do not have to impact on the Consolidated Fund. Therefore, I would say the argument is pretty strong that it does not impact on the Consolidated Fund.

Mr. Forrest: Mr. Chairman, just to clarify the issue for Mr. Plohman's benefit, that while it is true as an average taxpayer, but the province is also a taxpayer and any division we are obligated under section 797 of The Municipal Act to pay full grants in lieu. If the school assessment is substantially reduced and the mill rate is increased as a result of the exemption then we, that is the province's taxpayer, has a significant increased burden, and therefore, it becomes a draw on the Consolidated Fund.

Mr. Plohman: By way of a payment of grant in lieu and again that would have to be determined whether that kind of assessment is arm's length as it is to the Government could be used as a legal support for requiring recommendation from His Honour. That is ambiguous at this point, I would suggest, in terms of whether it does apply to the Consolidated Fund.

Mr. Forrest: Mr. Chairman, just for the sake of the record in case Mr. Plohman is going to examine the legislation, it is 799(1).

Mr. Chairman: Okay, thank you, I think then we can continue on Part 9 and then come back to get the areas that we missed. Is that the will of the committee? Will of the committee that we continue on to Part 9 and come back later to do the other sections that we missed.

Clause 64, offence and penalty—pass; 65(1), repeals, we are on page 48, Part 9, 65(1).

An Honourable Member: We have an amendment.

Mr. Chairman: You have an amendment to 65(1).

Mr. Penner: I move, Mr. Chairman, that we distribute the paper.

Mr. Chairman: Okay, Mr. Penner, you can present your amendment.

* (2050)

Mr. Penner: Mr. Chairman, I would move

THAT clause 65(1)(b) be amended

(a) by striking out subclause (v);

(b) by renumbering subclauses (vi) and (vii) ad subclauses (v) and (vi) respectively;

(c) by striking out "S.M. 1971, c. 105,"; and

(d) by renumbering the provisions of The City of Winnipeg Act, S.M. 1971, c. 105, referred to in clause (b), to reflect the numbering of the same provisions where found in The City of Winnipeg Act, S.M. 1989-90, c. 10.

Mr. Roch: Clarification here on (c) it says by striking out "S.M. 1971, c. 105," and yet in the Bill it says S.M. 1958, c. 86.

Mr. Chairman: You are looking at section (b) or looking at section (c).

Mr. Roch: (c).

Mr. Chairman: It is in (b) The City of Winnipeg Act, S.M. 1971.

Mr. Roch: Okay, okay, explanation.

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

THAT clause 65(1)(b) be amended by

(a) striking out subclause (v);

(b) by renumbering subclauses (vi) and (vii) as subclauses (v) and (vi) respectively;

(c) by striking out "S.M. 1971, c. 105,"; and

(d) by renumbering the provisions of The City of Winnipeg Act, S.M. 1971, c. 105, referred to in clause (b), to reflect the numbering of the same provisions where found in The City of Winnipeg Act, S.M. 1989-90, c. 10.

(French version)

Il est proposé que l'alinéa 65(1)b) soit amendé par:

a) suppression du sous-alinéa (v);

b) substitution, aux actuels numéros de sous-alinéa (vi) et (vii), des numéros (v) et (vi) respectivement;

c) suppression des termes "L.M. 1971, c. 105";

d) substitution, aux numéros des dispositions de la Loi sur la Ville de Winnipeg, L.M. 1971, c. 105, énumérées à l'alinéa b), des numéros correspondant aux mêmes dispositions dans la Loi sur la Ville de Winnipeg, L.M. 1989-90, c.10.

With respect to both the English and French texts—pass; 65(1) repeals as amended—pass; Application of repeals statute 65(2)—pass; Clause 66, existing enactments and by-laws—pass; Clause 67, pre-1990 assessment proceedings—pass.

Clause 68, Phase-in 1990, 1991 and 1992—Mr. Plohman.

Mr. Plohman: Mr. Chairman, the discussion revolved around the possibility of phasing-in over a certain threshold or compulsory phase-in by municipalities of the increases that may result to prevent undue hardship in certain cases. Situations arose, particularly in rural areas, where building-intensive farms might be subject to rather substantial increases, may result in large tax increases that are difficult for the individuals to absorb in one year without having been able to plan their operations for it.

There was some difference of opinion, but there seemed to be some acceptance of a Government initiative in this area. Has the Minister given some thought to providing a threshold above which there would be a requirement for phase-in of these increases?

We get into the concept of affecting the revenue of the municipalities, thereby, by two steps removed, affecting the province again, and therefore, under the legal opinions we have received today, possibly having amendments that require phase-in in this area being ruled out of order by opposition Parties. I would like to do that in any event, to at least put it on the table. I would ask the Minister if he has considered and is bringing forward an amendment that would require phase-in above a certain level.

Mr. Penner: Mr. Chairman, this clause is certainly an area that has given us considerable cause for discussion as to whether we should in fact make some provisions under the Act for either voluntary phase-in by the municipality as stated by this Act, or whether in fact we should put in place some mandatory provisions for phasing, even to the point of some sort of compensation by the province for the first while.

All those things have been discussed to quite some degree and length in committee and in other areas. However, when one looks at the reality of the province, specifically in the rural areas, it becomes very evident that if and when you would impose the phasing process, you would cause some significant difficulties for some municipalities. You could cause some significant gains by some and decreases by others.

Therefore it became evident—and I suppose I could use my own farm operation as an example. The buildings that we own are part of one municipality, and virtually all our land is situated in another municipality. By the reduction of the amount of the ESL we could have a significant gain or a reduction in the amount of taxes paid in the one municipality, whereby in fact by bringing on the taxation of buildings we could have a significant increase in taxation in the other municipality.

Therefore, if we imposed upon municipalities by legislation and indicated that they would have to phase, it would allow a farmer like myself, for instance, to go to the municipality where I live and where our buildings are located, and demand, as the legislation would demand, that they in fact phase in. In the other municipality in fact I would have a substantial gain. That is really not the intent of the Act.

The intent of the Act is to reduce the amount of ESL and to bring in an equitable position of taxation, farm buildings across the province, thereby adding a much greater degree of equity in taxation. We recognize that there might be some individuals or individual property owners who could have a substantial increase in taxation and therefore, in recognizing that, it was our intent to allow the municipalities in which these lands are located to consider by their own means whether they would want to impose an increased amount of taxation on some property owners in order to be able to alleviate the burden of taxation on others.

It was our opinion that it would best be left in the hands of the local officials who knew the areas and the situations better than anybody and could weigh whether an individual had properties in other areas or other municipalities, other jurisdictions, that would decrease the total amount of revenue paid by an individual. Therefore we arrived at the position where we should write the legislation in such a manner that would allow for the phase-in if the local authorities so chose to phase and that is why the legislation is written this way.

Mr. Plohman: I think the Minister has arrived at the wrong conclusion. We have seen some rather hard-nosed responses to questions on this by certain reeves and councillors that appeared before this committee. We know, just because the Minister cites his own case, that is not necessarily typical.

* (2100)

There may be all kinds of situations where, either within one municipality or within two or whatever, there are individuals who are hit extremely hard with the changes. Now the Minister is going to have to be responsible for that. He is going to have to live with that despite the fact that he has given the option to the municipalities to phase it. Ultimately it is going to come back to his desk in terms of this Bill. I say that it is in his interest and it is in the interest of everyone affected, in the interest of equity, because we are trying to undo something that perhaps has crept into the system over many, many years, inequities in the current system. It means, when we feel that we have to right

something that is inequitable, that we want to do it as quickly as possible and still do it in a reasonable way.

There may be individuals, particularly in the livestock business, who are going to be hit particularly hard with some increases and they are not going to be able to pass those on right away. They are in hardship already and the Minister is turning his back on those possibilities. He is just saying leave it in the hands of the municipal representatives who, we heard, in many cases believe that those who were going to have these large increases have been getting away with so much over the years and finally time has caught up with them.

It is not like they have been putting this in the bank, this difference, this benefit in the lower taxations, so that they can just come out and pay it now. Many are going to find themselves in a difficult situation and I think we have a responsibility to show some leadership to ensure the health of the livestock sector, of building intensive farms in this province and to do that on a wider perspective than the small scope of a municipal council will do it.

Therefore, I will introduce my amendment, Mr. Chairman, for consideration of this committee, because I believe that we have responsibility to take some action in this regard to ensure that there is phasing. Then we will leave it to the vote or to the chairman to decide on this particular motion. I would like to have a motion circulated before I read it.

Mr. Chairman: Thank you, Mr. Plohman. Mr. Plohman, go ahead. Yes, you can make your—

Mr. Plohman: I move

THAT section 68 be struck out, and the following substituted:

Phase-in 1990, 1991 and 1992
68(1) This section applies notwithstanding a provision in this Act or any other Act to the contrary.

Taxation increase of 20 percent or less
68(2) Where the general assessment done under subsection 9(1) for 1990 results in an increase in taxation that is 20 percent or less over the 1989 taxation year, whether in relation to separately assessed property or a class of property, the council may by by-law limit the amount of the increase in the taxation applicable for 1990, 1991 and 1992 on such terms and conditions as the council considers reasonable in the circumstances as set out in the by-law.

Taxation increase of more than 20 percent
68(3) Where the general assessment done under subsection 9(1) for 1990 results in an increase in taxation that is more than 20 percent over the 1989 taxation year and is more than $100., whether in relation to separately assessed property or a class of property, the council shall by by-law phase in the amount of the increase that is over $100., so that the amount of the increase is payable in equally graduated amounts in the 1990, 1991 and 1992 taxation years.

(French version)

Il est proposé que l'article 68 soit remplacé par ce qui suit:

Introduction graduelle en 1990, 1991 et 1992
68(1) Le présent article s'applique malgré toute autre disposition de la présente loi ou toute autre loi.

Augmentation de 20 percent ou moins
68(2) Dans le cas où l'évaluation géenérale faite en application du paragraphe 9(1) pour 1990 entraîne une augmentation de taxes qui dépasse de 20 percent ou moins les taxes prélevées en 1989, relativement à des biens évalués séparément ou à une catégorie de biens, le conseil peut, par arrête, limiter le montant de l'augmentation de taxes applicable à 1990, 1991 et 1992, selon les modalités et les conditions qui'il estime raisonnables dans les circonstances et qu'il fixe dans l'arrêté.

Augmentation de plus de 20 percent
68(3) Dans le cas ou l'évaluation générale faite en application du paragraphe 9(1) pour 1990 entraîne une augmentation de taxes qui dépasse de plus de 20 percent les taxes prélevées en 1989 et qui excéde 100, relativement à des biens évalués séparément ou à une catégorie de biens, le conseil doit, par arrêté, introduire graduellement l'augmentation en la répartissant, en montants égaux, sur les années d'imposition 1990, 1991 et 1992.

Mr. Plohman: What this says, Mr. Chairman, is that if there is over a 20 percent increase, the amount must be phased in by the municipality and if it is over $100, so it is not phasing of $20 or $15 or $10 or whatever, even if it happens to be over 20 percent increase. The Minister said that there would be instances where it would be a very small dollar amount. Now the figure of $100 is arbitrary, so is the 20 percent. It could be 30 percent, it could be 50 percent. The figure of $100 could be $200, could be $150, could be $50.00. I felt that $100 was a reasonable amount and I felt the percentage of 20 percent was a reasonable amount for one year. Remembering that a person who has maybe a 200 or 300 percent increase in his taxation is going to have to pay much more than 20 percent each year because it is only going to be three years and then he is going to reach the maximum. So we are not talking about limiting it to 20 percent or 33 percent, one-third per year on the existing base, but 33 percent of the increase under the new system—33 percent a year, or equal amounts. I think that is a reasonable way to proceed.

In three years we have got what we want in terms of the equity that we want in the system. In the meantime we do not have this major shock impact on building intensive farms and in other situations where there are going to be major increases as a result of this new Bill.

I think that this would be advantageous for the Minister to support. It would indicate that he showed some leadership in this area, that he is concerned about this issue, about the impact of legislation that he is bringing in, that his Government is bringing in, and he does not want to have these kind of harsh impacts and

he is going to ensure that there is not those kind of impacts. So that is the proposal that I have put forward, Mr. Chairman, for consideration of the committee and I would hope that the committee and the Chair and the Minister would find it within their reasoned thought to be a good amendment that they can support.

I would move that in French as well, Mr. Chairman.

Hon. Edward Connery (Minister of Co-operative, Consumer and Corporate Affairs): Just a point of clarification, Mr. Chairman. Where does the conflict of interest part become involved in this when you are a Member of a committee? That particular clause could significantly affect your own personal operation. Do you declare that and then not participate?

Mr. Chairman: I understand your question, Mr. Connery, but you want a ruling on this?

Mr. Connery: Well, as a Member of the committee, I am an official Member of this committee, but the area that they are dealing with, in our particular farm, is a very significant influence and I do not want to be caught in a conflict of interest down the road. I have not participated in the discussion, but as a Member of the committee I do not want to get caught tomorrow with somebody bringing it up before the Legislature that I was in conflict of interest.

Mr. Penner: In regard to whether we should in fact consider the amendment, there is some question, and legal counsel is meeting to assess, as to whether in fact this would impose a financial draw on the Treasury of the province, and whether it in fact could be ruled out of order.

* (2110)

However, while we are waiting for that opinion, it would be my view, after having listened to all the presentations that were made by municipalities, and we have heard many of them by the municipal organizations, both MAUM and the Union of Municipalities as well as numerous individual municipalities that have voiced their opinion on this Bill. It was only after extreme questioning by some individuals of this committee that some of the municipalities indicated they would see no harm in enforced portioning.

I believe there were one or two who indicated their preference for legislated portioning, but in the greatest majority the municipalities indicated their preference for the allowance of portioning to be maintained at the municipal discretion. I would believe that it therefore behooves the committee and the Legislature, the Government of the Day, to abide by the indication that the municipalities have indicated clearly to us, that we should in fact allow, through legislation, for phase-in, but not in fact pass legislation that would force all of them.

It is my view that in order to prevent the use of forced legislation to benefit quite a number of individuals who live on the boundaries of some municipalities, and there are many in the province who have the potential to benefit substantially because of forced phase-in. I would urge Members to strongly consider, in considering this amendment, the local authority and its ability to make decisions on local matters. This, I believe, is a matter for consideration by local authorities. As to the allowance to make decisions on their own taxation in their own municipality and their own revenue generation, no matter how they do it, or whether the shifting of those revenues should in fact take place, it is my firm belief that those provisions should be left with the local communities.

I believe that in the long term it serves local governments in a much more equitable way than if we in fact force local councils to make those decisions instead of allowing them to make those decisions.

Mr. Chairman: Mr. Plohman first, then Mr. Pankratz. Mr. Plohman.

Mr. Plohman: I think the Minister is taking a position that perhaps is convenient for the municipalities, but I think he has a greater responsibility. That is why I introduced this—because it is a safety net. It ensures that there is this equity, if municipalities do not see fit to ensure that it is under the present system.

It ensures that the changes that we are making, which have gone on for many years—and the Minister now seems to suddenly raise this concern about these tremendous inequities. They have been there for a number of years. We are taking substantial action, we believe, to change them, but not to introduce additional inequities. There are inequities when you thrust upon individuals substantial increases. You create inequities for a short period of time for those people.

You have to appreciate the fact that these people are going to have to absorb a substantial increase. I think we have to look at this from the individuals who are affected as opposed to being concerned as to whether municipalities in their entirety are going to like this or not. I think we heard enough from the municipalities to indicate clearly to us that they would accept a phase-in provision threshold. They would accept that. They would not object; they would not run rampant over the Minister. That was pretty clear during the presentations both from the Union of Manitoba Municipalities and MAUM, I believe.

I think that they reluctantly, or in a confused way, to be kind, said they preferred to be in local hands, but they certainly were not adamantly opposed. So I do not think the Minister should use that argument. I think what he should do is think about the individuals who would be impacted, and realize that in three years—and three years is a very short time in political terms. I am sure as teenagers and young people we thought three years was a long time, but as we get into our 40s, 50s and so on, three years go very fast, especially when you are in politics. Three years can just be a blink of time and it is gone, even less than that.

Mr. Chairman, I say that is correcting those inequities in a system fairly quickly without placing this shock of major increases on individuals who are facing enough shock, as we know, from the changing world that they

operate in, particularly in rural areas at the present time, with the hardships they have been faced with over the last number of years.

I cannot understand why the Minister would not want to ensure that this is the case when he has the opportunity. He has the opportunity right now to ensure this, and he wants to pass that opportunity by.

Mr. Pankratz: I want to put a few comments on the record on this point as well. First of all, I totally concur with the Minister on this point because I would wish that the Member for Dauphin (Mr. Plohman) would realize the inequity is basically with the way some of these have been paying. That is where the inequity is. If you are now—

An Honourable Member: Politics of revenge.

Mr. Pankratz: No, it is supposed to be fair and equitable to all. That is what we want to see put in place, and I think that is what the Minister is attempting to do. I think we can all go to our own municipalities and see where the inequity is very high.

I also found it interesting from the Member for Dauphin (Mr. Plohman) when he is now stating that it shall be phased in, and still when it came to the agricultural assessment portion of the agricultural land, that which is, in my opinion, an inequity which is applied already at the present time, he allows that to be deferred for a year until that comes into place, whereas—and he does not look at that as an inequity. Here when allowing the municipality to phase in on their own, that he indicates as being basically an inequity to some people. I just cannot quite understand what the Member for Dauphin is stating in this case, because you are now going to put an even greater inequity on some of these people who are today not getting the agricultural assessment exempted—

Mr. Plohman: A point of order, Mr. Chairman, the Member for Steinbach (Mr. Pankratz) is attributing motives and positions to me on a different section completely. We have all heard from the Department of Municipal Affairs that they would not be able to implement that section in 1990. Right now, it is implemented for 1991. The Minister stated that position, that is not my doing, so he should not say that I am content to do that. I wanted it done immediately, but I am told it cannot be done now, so attribute that to your colleague, not to me.

* (2120)

Mr. Pankratz: In that case, for the Member for Dauphin (Mr. Plohman), I would agree. If that is his position on it that he would have supported it if it could have been done, then I must agree with him then. In that respect, I would go along with it.

But what it is doing at the present time by not putting this assessment where it belongs immediately, is in some cases even creating a higher burden on some of the people who have an inequity at the present and have to live with it for another year. I would sure venture to say that I would wish that the members of the committee would see fit to go along with the way the Minister has it in the Bill. I think that is fair.

We heard a lot of members make their presentations, and a few made it very directly, if you decide to phase it in, make sure that the first year—right away they get a big portion of it. I think most of them were prepared to deal with it on the municipal level.

I would just like to pass those comments on to committee members, and I would wish that we would see fit to pass it the way it is.

An Honourable Member: I would like to respond to that.

Mr. Chairman: Before you do that I have to go back to Mr. Plohman's point of order. A dispute of the facts is not a point of order. I just had to get that on the record.

Ready for the question?

Mr. Penner: We are ready for the question.

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

QUESTION put, MOTION defeated.

We will go down to Clause 68, Phase-in 1990, 1991 and 1992. Shall the clause pass—Mr. Plohman.

Mr. Plohman: On that amendment, do we do recorded votes in this committee?

Mr. Chairman: In answer to Mr. Plohman's question, there is no such thing as a recorded vote, but there is a show of hands if you would like a vote in that manner.

Mr. Plohman: Mr. Chairman, I would like a show of hands on that vote.

Mr. Chairman: Thank you. All those in favour of sustaining the ruling of the Chair, please raise their hands.

An Honourable Member: What is the ruling of the Chair?

Mr. Chairman: All those in favour of sustaining the motion, please raise their hands.

Clerk of Committees (Ms. Bonnie Greschuk): Two.

Mr. Chairman: All those against, please raise your hands.

Madam Clerk: Five.

Mr. Chairman: The motion is defeated. Mr. Connery.

Mr. Connery: Because of the potential effects of it, somebody could say that my seat is now void, because

I was in a conflict of interest. I am not going to . . .

Mr. Chairman: Thank you, Mr. Connery. Can I get your attention, please? Mr. Connery has a concern about his conflict of interest. Beauchesne's 315 states that "the personal interests of a Member in a subject before the House must be a direct pecuniary interest, and separately belonging to the persons whose votes were questioned, not in common with the rest of Her Majesty's subjects, or on a matter of state policy."

(3) "The votes of Members on questions of public policy are allowed to pass unchallenged. Public bills are frequently passed, relative to matters such as Members' salaries, in which Members have an interest, but their votes, when questioned have been allowed."

So your votes in this case would be allowed.

Mr. Connery: Mr. Chairman, I want to put on the record that I did not vote on that amendment.

Mr. Chairman: We will continue. Thank you, Mr. Connery, for your comments.

Let us proceed. Clause 69, reference to CCSM. Mr. Plohman.

Mr. Plohman: We completed Clause 68 then in its original form?

Mr. Chairman: Yes, they did.

Mr. Plohman: Just one last comment on that, Mr. Chairman, before we move on to 69. I just want to indicate to the Minister that by defeating that amendment he defeated an opportunity to ensure fairness in this area. When the tax bills come out in the spring, we are going to ensure that he is held accountable for the fact that these major increases take place, when he could have done something about it. I want that firmly on the record.

Mr. Chairman: Thank you, Mr. Plohman. We will go on to Clause 69, Reference in CCSM. Shall the clause pass—pass.

We will go on to Part 10, Consequential Amendments. CCSM c. C20, s. 16 repealed. Clause 70, shall the clause pass—pass.

Clause 71, CCSM c. C40, s. 10: Repeal and substitution. Shall the clause pass—Mr. Pankratz.

Mr. Pankratz: In my case, Mr. Chairman, I read this over. Is this similar to what was in the old old Act? Are we just changing it, or are there changes made in it? I think maybe that could be clarified.

Mr. Chairman: From what I gather, these are repealing the statutes that are changed. Mr. Walsh, can you explain to Mr. Pankratz or to the Committee what we are doing here in Clause 71?

* (2130)

Mr. Walsh: What is happening in the case of the amendment to The Centennial Centre Corporation Act is to redraft Section 10 of that Act, the section which presently allows for at least two things.

One is an exemption from taxation, and the other is payment of a grant in lieu of tax. The exemptions from taxation are being brought under this Act and being removed from the Acts that they are presently located in. There are several of them, and many of them you will see in this part of this Bill.

Rather than simply repeal part of a section, of course, we really need to repeal the whole section and then redraft it so as to preserve the grant in lieu part having removed the exemption from tax part. That is the case I might add, Mr. Chairman, with many of the others. I have not brought a copy of each of these Acts along with me here although they are available in this room. If members wish to verify that, I can do so if that is the wish of the committee.

Mr. Chairman: Shall the clause pass—pass. Clause 72 S.M. 1988-89, c.38, ss 2 and 4 repealed—pass; Clause 73—pass; Clause 74(1)—pass; Clause 74(2) Subsection 25(3) amended—pass; Clause 74(3) Subsection 26(1) amended—pass; Clause 74(4) Section 27 amended—pass; Clause 74(5) Section 36 repealed—pass; Clause 75(1) S.M. 1988-89, c. 39 amended—pass; Clause 75(2) Subsection 9(1) repealed—pass; Clause 75(3) Subsection 9(2) amended—pass; Clause 75(4) Subsection 9(4) amended—pass; Clause 75(5) Subsection 9(5) amended—pass; Clause 76 S.M. 1987-88, c.20, s. 8: repeal and substitution—pass.

Can we do them in blocks of clauses here? Say, we will do the balance of this page Clause 77, 78, 79 and 79 (1) and (2) there—pass. On page 53, Clause 79(3) to Clause 81(2)—pass; Clause 81(3) to 81(7)—pass; page 55 Clause 82 to Clause 87 inclusive—pass; Clause 88 to 90 on page 56 inclusive—pass; Clause 91(1) and Clause 91(2) on page 57—pass; Clauses 91(3) to 91(5)—pass; Clauses 91(6) to 91(11) on page 59—pass.

Clauses 91(12) to 91(15) on page 60—Mr. Plohman.

Mr. Plohman: We are passing a lot of things very quickly here without a lot of discussion. I just want the Minister to know if there are pitfalls in any of these areas or serious errors or concerns that are going to affect the people of Manitoba that we do not share in the blame.

Mr. Chairman: Shall the clauses pass—pass.

Mr. Penner: For the record, Mr. Chairman, I have seldom ever yet seen an Opposition accept blame for something that was passed by a Government.

Mr. Chairman: On page 61, Clauses 91(16) to Clause 97(2)—pass; Clause 97(3) subsection 15(2) amended—pass.

Part 11 Coming Into Force January 1, 1990, Clause 98—Mr. Minister.

Mr. Penner: I would propose an addition which would read 98(1) and 98(2).

Mr. Chairman: What is that again?

Mr. Penner: I would propose an addition which would read 98(1) and 98(2).

Mr. Chairman: Wait until they are distributed here now.

Mr. Penner: I would move that we distribute the amendment.

Mr. Chairman: Okay, Mr. Minister you may present your amendments. You are holding us up now.

Mr. Penner: I need to hold you up for a minute, you are going this fast, you are speeding. Mr. Chairman, what we would like to propose is that we strike Section 98 off the Bill and in place amend the Bill to read "Section 98(1) subject to subsection (2), this Act is retroactive and upon receiving royal assent is deemed to have come into force on January 1, 1990. 98(2) Proclamation subsections 9(7) and 13(6) come into force on a day to be affixed by proclamation."

Those other sections, the last two sections, of course, are the ones dealing with the conservation and the attachments to the assessment that was indicated by that amendment. It would allow the department and municipalities proper time to prepare tax notices that would give that indication as indicated by Subsections 9(7) and 13(6).

Mr. Plohman: Mr. Chairman, I think that this may be the sections dealing with the two-value system or is this only the conservation?

Mr. Penner: The Conservation Authority which indicated that we would clearly indicate to property owners the portion of land, the amount of land, that was reduced and by what amount it was reduced, in other words, what amount was assessed to those portions of land that were set aside as wildlife or conservation of lands.

Mr. Plohman: What is the department's intention here? Is this something that needs a month, two months, or this is something that they are planning for in 1991, or what is the current plan in that regard?

Mr. Penner: It is the full intention of the department to bring this into compliance by 1991.

Mr. Plohman: Would the Minister object to setting himself a target here and putting into the amendment, come into force on January 1, 1991?

Mr. Penner: Not at all. I would not object to that at all—very easily do that.

Mr. Chairman: Do you want to write it in?

Mr. Penner: Yes, we can write in "come into force by 1991."

Mr. Plohman: Am I giving him too much time? He seems so ready to accept it. I guess what I wanted to ask, Mr. Chairman, was if the department was planning on doing it before 1991.

Mr. Penner: It really, in essence, Mr. Plohman, cannot be done before the year 1991. If it could in fact be done before that, I would insist that the department do it, but in the calculations and the issuing of notices for taxation and the preparations of those would simply not allow—the designation of those areas, indicating what areas, would, in my view, take a substantial amount of time. Therefore it would not be possible to implement that before the year 1991.

* (2140)

Mr. Plohman: Mr. Chairman, by asking the Minister to put into the amendment January 1, 1991, we did want to inadvertently be delaying it. That is why I wanted that clarification.

Mr. Penner: It is fully our intention, even for this coming year, 1990, to indicate to taxpayers what the amount of reduction is on those properties. It does not allow for a time to indicate what the area of property is on a given piece of land.

Mr. Chairman: Order, please; order, please. Mr. Minister.

Mr. Penner: I would, in order to comply with committee proceedings, ask the committee's indulgence to withdraw the previous amendment that I read, and move a motion to read into the record a new amendment that would indicate clearly the year 1991.

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

THAT section 98 be struck out and the following substituted:

Retroactive: January 1, 1990
98(1) Subject to subsection (2), this Act is retroactive and upon receiving royal assent is deemed to have come into force on January 1, 1990.

January 1, 1991
98(2) Subsections 9(7) and 13(6) come into force on January 1, 1991.

(French version)

Il est proposé que l'article 98 soit remplacé par ce qui suit:

Prise d'effet à compter du 1er janvier 1990
98(1) Sous réserve du paragraphe (2), aprés avoir reçue la sanction royale, la présente loi est réputée être entrée en vigueur à compter du 1er janvier 1990.

Proclamation
98(2) Les paragraphes 9(7) et 13(6) entrent en vigueur à compter le 1er janvier 1991.

Shall the amendment pass—pass. Shall section 98, as amended, pass—pass. Mr. Taylor.

Mr. Taylor: Do we pass that in both official languages?

Mr. Chairman: With respect to both the English and French texts, yes. Thank you. Mr. Taylor.

Mr. Taylor: Mr. Chairperson, I am not sure if there was a correction made in 94, but there is a typo in the English text, and it should be caught now if it has not been. I think it is supposed to be The Universities Establishment Act.

Mr. Chairman: Order, please. Mr. Walsh.

Mr. Walsh: For the benefit of the Members of the committee, I am pleased to find that one of the members noticed this error in 94. It is being read. These will be taken care of by a Statute Law Amendment Bill that will be forthcoming. There are others. The committee need not take its time correcting them now.

Mr. Chairman: Is that the will of the committee? Thank you. We will go back now to 22(1), I guess. Clause 22(1) Real Property Partial Exemptions—Mr. Roch.

Mr. Roch: I believe I had an amendment on the table last night which you had ruled out of order, and then you withdrew your ruling.

Mr. Chairman: Which one is this?

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

Mr. Plohman: On a question to you, Mr. Chairman. Did we pass—

Some Honourable Members: Oh, oh!

Mr. Chairman: Order, please. We cannot hear.

Mr. Plohman: Was Section 21 passed?

Mr. Chairman: Yes.

Mr. Plohman: We have moved through parts of Section 22?

Mr. Chairman: No, we have started on Section 22(1). We have to go from Sections 22(1) up to 27. Does that answer your question, Mr. Plohman?

Mr. Plohman: Yes, thank you, Mr. Chairman.

Mr. Chairman: Okay. Clause 22(1) Real property partial exemptions—pass.

Mr. Plohman: I wanted to ask the Minister whether he had made any change of thinking on any of the exemptions on Section 22(1) insofar as the acreages and the various clauses there.

Mr. Penner: No, I have not. What I could do for consideration of the committee to maybe satisfy the members around the committee that we are somewhat consistent is to distribute an amendment that could be useful in bringing us to a position that we can agree. It basically indicates the areas that were referenced here both in metric and in acres. If you will, I can read one of the sections to indicate how they could read, and then we could consider it after that or distribute it after that, if you would like.

Mr. Plohman: What you would be saying: to a maximum exemption of 10 acres or 4.047 hectares.

Mr. Penner: Really, the way this reads is that, instead of hectares, it would just say 4.047 hectares. We would substitute that to read acres, to bring it to the standard measure, the imperial measure.

Mr. Plohman: Mr. Chairman, why did the Minister translate or convert these acreages into hectares in the first place then if he does not want some reference to metric measurement in this Act?

Mr. Penner: It was done during the course of the drafting of the Bill. When I read it, I have become quite used to the metric measure and the conversions of the metric measure in my daily dealings, and I really did not see any concern here at all in the expression of the metric measure in this Bill. To me, it is immaterial whether we use the full metric measure or a portion of the metric measure to indicate what in fact is the imperial measure and the indication of the areas that are indicated under this Act.

Really, when I read the draft of the legislation, it simply indicated what I already knew: the area it would be. Therefore, the language, as far as the metric, does not concern me at all, but I thought in order to satisfy the members of the committee I would be quite willing to change from metric to standard to give us a clear indication. You could even have both. It is immaterial.

* (2150)

Mr. Plohman: Mr. Chairman, notwithstanding that we disagree with some of the arbitrary sizes that have been established here, the issue of metric or not is one that most departments have dealt with in their Bills. Most of the Bills have been converted. Legislation is being converted to metric. I do not have a problem with that. However, others have raised it, and maybe the solution would be to have both, but not to go back to only acres in those areas, but to have both of those measurements there for each understandability. I would not object to that. I do not know what the Liberals feel.

Mr. Patterson: Since Canada is on the metric system now, I suggest that it be left as it is. By the 2015, when all or most of us here will be long underground, there will be a whole generation of people grown up that will be thinking metric. Sooner or later, it will have to be that.

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

Mr. Taylor: I feel that the legislation should remain in metric, and I would like an undertaking from the Minister that when we see any other pieces of legislation from him, it will be done in metric only and with proper use of the system.

Mr. Chairman: Okay, thank you, I hear you loud and clear. We will deal with Clause 22(1) Real property partial exemptions—pass. Clause 22(2) Farm Improvements exemption—pass.

Clause 23(1) Exemption from school taxes—Mr. Patterson—we have an amendment here first and then—

Mr. Penner: I would move, Mr. Chairman, that we distribute the amendment.

Mr. Chairman: Okay, Mr. Minister, would you like to present your amendment?

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

THAT subsection 23(1) be amended

(a) in clause (e), by adding "primarily" after "charitable organization"; and

(b) in clause (f) by striking out "1918 of the Second" and substituting "1918 or the Second".

Mr. Chairman: On the proposed motion of Mr. Penner, that subsection—Mr. Plohman.

Mr. Plohman: Mr. Chairman, can the Minister indicate why the "primarily" is being used to qualify this section. Is this as a result of representation made by organizations who consider themselves charitable, but only partially so? Are there specific examples that this would apply to now that it would not have applied to before that the Minister can give us?

Mr. Penner: Would you ask that again? I am sorry, I was not concentrating on the question.

Mr. Plohman: If you are going to consult with the staff, they heard it, and they could give you that advice regardless. But if you want me to repeat it—

Mr. Penner: Yes, I would like—

Mr. Plohman: Well, what I am asking is whether there was specific representation made by organizations that could not possibly qualify under the old wording, but by putting "primarily" there, because they are not only charitable organizations, they would now qualify for an exemption here? If so, can he give some examples of those organizations, and if not, why is he putting this in?

Mr. Penner: As the Clause (e) had been worded before, if the building would be used for any other purposes even once, it would become taxable or could have become taxable. If you add the word "primarily", then it gives some leeway in that regard.

Mr. Plohman: So previously there had to be some discretion used to bend the section a little bit. This will ensure that it is strictly in line with the law.

Mr. Penner: This is a new Act, and this—

Mr. Plohman: I know it is a new Act, but this exemption is not new, though the Minister may think it is new in many cases, this is old stuff brought in from the other Act. Maybe he is not completely aware of that in many cases, but it is.

Mr. Penner: I would concur. I once had an old friend of mine saying there were very few new pieces or things in this world, and I would for that reason, concur. That is the main reason, yes.

Mr. Chairman: Mr. Roch, did you have a question? Would you mind pulling your mike a little closer please. We cannot hear.

Mr. Roch: I have a point of order here, Mr. Chairman. I had a motion on the table last night, which was ruled in order by yourself, and it has not been voted on, yet we are on to the next section. I was consulting with legislative counsel when you just whizzed right through it.

Mr. Chairman: Would you like to repeat what you just said, again please?

Mr. Roch: I said I had a motion on the table from last night dealing with Section 22, which you ruled in order and it has not yet been dealt with and here we are on a different section.

Mr. Chairman: Are you referring to your amendment on 23(1)?

Mr. Roch: You got it.

Mr. Chairman: 22(1), or which amendment are you referring to?

Mr. Roch: The motion that was made yesterday, last night, in this same room.

Mr. Chairman: On what section is it, Mr. Roch?

Mr. Roch: 22(1), for the third time.

Mr. Chairman: 22(1). 22(1) is passed.

Mr. Roch: No, it is not. The amendment proposed last night and has not been voted on yet.

Mr. Chairman: Just a minute. Is it 22(1)(m) or 22(1)(d)?

Mr. Roch: 22(1)(d)(e)(f)(g)(h)(i). Some of them will be out of order obviously.

Mr. Chairman: Just a minute. It was covered in my ruling, Mr. Roch, and it is also covered in the letter that you received.

Mr. Roch: Mr. Chairman, I disagree. The letter that we all received says that (b) and (g), in the opinion of legal counsel, would be in order. Therefore, if you have ruled that out of order, I would respectfully challenge your ruling.

Mr. Chairman: If you would like to withdraw your original amendment and make a new amendment including only 22(1)(d) and (g). While you are doing that we will continue with—

Mr. Roch: As long as we can come back.

Mr. Chairman: —the amendment of Mr. Penner.

Mr. Taylor: Always being one who is interested in the concerns of veterans, I wonder why we have preclusions of certain wars and if the Minister or the staff could answer I would be very pleased.

Mr. Chairman: Are you talking about the amendment on 23(1) now, Mr. Taylor?

Mr. Taylor: Yes, I am speaking of the main motion actually, because the amendment clarifies—

Mr. Chairman: Can we vote on the amendment and then deal with the motion? Can we deal with the amendment?

Mr. Taylor: Fine.

Mr. Chairman: —and then we will deal with the motion.

On the proposed motion of Mr. Penner:

THAT Subsection 23(1) be amended

(a) in clause (e), by adding "primarily" after "charitable organization"; and

(b) in clause (f), by striking out "1918 of the Second" and substituting "1918 or the Second".

with respect to both the English and French texts—pass.

Now we will deal with Section 23(1) and we will back up to yours, Mr. Roch, which is 22(1) when you get your amendment ready. Is that okay Mr. Taylor? Is that clear? We are dealing with 23(1) right now, as amended.

Mr. Taylor: My question stands.

Mr. Chairman: Can you repeat your question, please. I do not think we could hear it up here.

Mr. Taylor: I see. I asked in all seriousness why this clause is written as it is and why are certain wars precluded. In other words, the veterans of those wars, why are they precluded from the benefit of this clause?

* (2200)

Mr. Penner: Mr. Chairman, if I understand the question correctly, the question deals with Sections (f) of 23(1), and the question is, why are the veterans of the two great wars indicated under this Bill? It is basically my understanding that it is the veterans of the First World War and the Second World War that have been able to, and have formed, legions, and it is these properties that are owned by these associations that are exempted, or indicated by this section for exemptions for their properties that they own and operate, are in fact exempted from taxation under this Act, and therefore the reference to those veterans of those two world wars.

Mr. Taylor: Mr. Chairperson, the reality of the matter is that we are having fewer and fewer veterans of those two wars who are in those associations. Now if it was not so far from the fact I would ask why are vets of the Boer War not included, but I guess there are not any of those around anymore. But the Korean War is not mentioned.

The fact of the matter is both the Army-Navy Club of Canada and the Canadian Legion have amended their membership rules to permit membership by what you might call veterans, in other words, people who have had military service but, in actual fact, did not engage in any conflict. That almost has become the majority of the membership.

My concern would be is that if we allow this to stand it will not be too many years when we are going to start having organizations because of definitional problems not qualifying. So I would suggest the way to get around this would be to specify the Korean War and/or other military services with the Canadian Armed Forces. It might be the way to get around this.

If the Minister understands what it is I am suggesting, then I would hope that he would accept, as a friendly amendment, the following:

THAT clause 23(1)(f) be amended

(a) by adding "war" before "veterans";

(b) by striking out "of the First Great War of 1914 to 1918, of the Second Great War of 1939 to 1945"; and

(c) by striking out "to a maximum exemption of 0.81 hectare".

The effect of that would be to include others.

If there is another way that the Minister sees to do the same, which would have the same effect, then I am quite prepared to see the amendment come forward in that fashion, because I am concerned that we have an old definition that has not been updated. That is again one of the problems we have seen too often in this piece of legislation, and I do not think it was particularly good in the first place.

Mr. Penner: I would, Mr. Chairman, consider a recommendation to clean up the wording. I would consider a motion, or an amendment, to clean up the wording that would bring it into the 20th century, or 21st century, or into current status. However, I would not accept an amendment that would change any monetary use of values or indications of monetary change to this section.

I concur with you that I believe that if a bit of attention had been paid to the wording of this section, although it would not change the intent at all. The intent would remain as is, and, therefore, I agree that your suggestion is a friendly one and accept it as such, but if you would allow us to maintain it this way, then probably under a—

An Honourable Member: Report stage, tomorrow. We can get it done.

Mr. Penner: We could do it at a later date in amending it. An actual cleaning up some of the wording in this Act would be useful.

Mr. Taylor: In response to the Minister then, I would pick up on his suggestion by the deletion of the last portion of this proposed amendment of mine here, that would be to the deletion of (c). I believe the copies are about to be circulated. I would suggest in aid of some progress here that we move on to 23(1)(g) while this is reviewed by Members and by Legislative Counsel.

Mr. Penner: Mr. Chairman, counsel advises me that if we accept the wording that you have indicated by striking out "the First Great War of 1914 to 1918" and "the Second Great War 1939 to 1945" and leave the Bill or that section as is, then it could expand the exemptions under that part substantially and therefore would be deemed a monetary imposition on the Bill. That is the advice of legal counsel. If you might, Mr. Taylor, allow that I would ask counsel to give you their opinion of the proposed amendment.

Mr. Walsh: I would concur on what the Minister says, but I would like to add for the benefit of Mr. Taylor that—however, this motion, as I read it, would leave clause (f) largely void of meaning insofar as, if I understand the amendment correctly, it would read: is owned by or is held in trust for and is used by an association of veterans to the extent—

An Honourable Member: War veterans.

Mr. Walsh: Oh, I am sorry, I was not aware of the word "war". The motion I have does not—I am sorry, I stand corrected.

But I would certainly re-emphasize the Minister's comments.

Mr. Chairman: Mr. Taylor did you have some more comments?

Mr. Taylor: I certainly do. I would suggest that that interpretation is extremely narrow. It does not recognize what the make-up of the organizations is. That is my worry; they could be challenged. In the not too distant future—what you have now is that most of those organizations are reaching the point where their veterans who make up the membership are not the majority, and I am speaking of the veterans from the two world wars. Therefore you could have in effect an exceptional situation whereby the very people we are trying to give the benefit to will not qualify.

That is all I am trying to provide. It has nothing to do with getting an additional monetary benefit. It is in effect, in my view, a definitional matter. That is the only way I am coming at it. For example, when was the last time we actually had troops in what you would call active combat? 1953, at the cessation of hostilities on the Korean peninsula. Now since that time we have had thousands and thousands of military people in all sorts of United Nations engagements around the world. Those are the people who are making up the majority of the membership.

Mr. Penner: I do not want to argue the point that you make at all. As a matter of fact, I accept the point you make. But it is my view that the Bill deals with associations that were established by the membership of those two wars as veterans organizations.

* (2210)

Those veterans organizations still operate today, although I recognize fully that the membership of those associations is probably in large part, in some areas, members that were not part of the fighting of those two wars. But it is still those associations of those veterans of those two wars that are being recognized here regardless of what their current membership is. The recognition of the exemption to those associations or facilities that they own and operate is what is recognized in this portion of the Bill.

Therefore I suggest that the statement I made—and I indicated that if we remove the recognition of that, we would expand the possible areas of exemptions way beyond what is indicated here. Therefore I would ask that if you insist on maintaining your position, I would ask the Chair to rule whether the amendment should be considered in that regard.

Mr. Taylor: Mr. Chairperson, before the Chair does that, I will just give some further information. I ask whether the Minister is aware of the fact that the army navy club of Canada, the national organization, was founded 150 years ago, January 1, 1840. The oldest remaining unit of that organization, Unit 1, which happens to be in my riding, is in itself celebrating its 90th anniversary, and was created largely for Boer War veterans. So by definition I do not think they would qualify right now. I would hope we could modernize the language without having the impact that the Minister and staff suggest. I think that is a fair and honest attempt to improve the legislation. I would look for support and co-operation, quite frankly, on this initiative.

Mr. Cummings: Mr. Chairman, I do not think the Member for Wolseley (Mr. Taylor) or anyone else around the table has anything other than proper intentions in seeking amendment here. I agree with the Minister in the fact that it seems to refer to the association. My suggestion would be that rather than trying to develop a precise wording here tonight, we accept the previous suggestion of the Member for Dauphin, that we in fact seek clarification from the associations, how they wish to be preferred, and that that amendment be done in report stage.

Mr. Patterson: Yes, I would concur in what the Member for Ste. Rose (Mr. Cummings) has just said. I would point out that there certainly should be sufficient veterans and members of the various organizations within the Civil Service that there would be no trouble whatever in coming up with a suitable wording in short order.

Mr. Chairman: Okay -(interjection)- Thank you, Mr. Taylor. Mr. Taylor, could you withdraw this one at this time? When the new one is worded, they could put it under your name I guess or whatever?

Mr. Taylor: That would be fine. I was going to suggest just tabling it for their use then. I would table the motion as opposed to moving it.

Mr. Chairman: Thank you. Mr. Harper.

Mr. Elijah Harper (Rupertsland): I wanted to ask a question on Section (g). Can the Minister explain this section? I know it is in connection with Indian missions. I was wondering what he means with Indian missions, or whether he has examples of that.

Mr. Penner: I would ask staff to clarify what the meaning of Indian missions is in this section.

Mr. Brown: We made inquiries as to whether in fact there were any Indian missions still on the assessment rolls. I am under the impression that there were at one time Indian missions scattered around Manitoba. I am advised by the City of Winnipeg assessor that he still has one property that he has classified as Indian mission and exempted under this section. It is for that reason that the section was brought forward from the old Act intact.

Mr. Harper: Is it for a charitable or educational purposes? I would imagine that would be the case.

Mr. Brown: I have no personal knowledge other than the City of Winnipeg assessor must feel that, otherwise he would not have classified them under this section.

Mr. Harper: I guess there is some recognition for Indian people. I was just wondering whether an Indian organization could in a sense become an Indian mission for educational purposes. Is that possible?

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

Mr. Penner: Well, I am certainly not an expert as to what could or could not happen. It is certainly a thought that would occur to one if one let one's mind ramble for a while.

Mr. Chairman: Shall Clause 23(1)pass—pass. Mr. Roch.

Mr. Roch: Are we dealing with the Minister's amendment here, or is that coming back to the House?

Mr. Chairman: That is going to come back as amended. We are going to back up now to clause—

Mr. Roch: Oh, no, no. Mr. Chairman.

Mr. Chairman: Okay, let us go back to Mr. Roch's original—Mr. Roch.

Mr. Roch: Are we dealing with 23?

Mr. Chairman: No, we finished with 23. Back up to your 22(1).

Mr. Roch: No, no, no. I would like to propose an amendment.

Mr. Chairman: To what?

Mr. Roch: To 23(1). That is why I was questioning on 23(1). I would like to move

THAT clause 23(1)(i)—

Mr. Chairman: Can we get them distributed, please?

Mr. Roch: Yes, it is being distributed. I thought you already had your copy there. Sorry about that.

* (2220)

An Honourable Member: Mr. Chairman, we have approved 23(1)—

Mr. Roch: No.

Mr. Chairman: When we get a copy here, we will let you go, Mr. Roch. Thank you. Please present your amendment, Mr. Roch.

Mr. Roch: I would move

THAT clause 23(1)(i) be amended

(a) by adding "solely" before "for profit."

(French version)

Il est propposé que l'alinéa 23(1)(i) soit amendé:

a) par insertion, avant "à des buts non lucratifs", de "uniquement";

Mr. Chairman: Are you finished? Go ahead. Mr. Minister.

Mr. Penner: Mr. Chairman, I suppose I have some difficulty with this one. We just finished amending one section to allow some flexibility for organizations, that would not bring them into a taxable position for one act, for instance, a game of bingo or any profit-making type of a initiative. Here we are going to add "solely" before "for profit".

That would indicate to me that we are trying to tie up this section so tightly that it would not allow any type of activity to take place at any time under this section for those organizations that might from time to time use their facilities to raise even some money for their organizations and make a profit at it. This is exactly the opposite of what we just did.

Mr. Roch: This amendment is doing the opposite of what he has just said.

Mr. Plohman: Yes, I think what this amendment does is to allow organizations that operate for profit to also qualify under here. What it says here is that it is not occupied or used or operated solely for profit but as a community hall, so on and so forth. Any organization that is operating for profit as well as serving some of these others would qualify. Therefore I would not support this.

Mr. Roch: Yes, if I may clarify for the Member for Dauphin (Mr. Plohman) as well as the Minister. Many of these organizations, the community halls, the recreation areas, do make some profits. That is the way they sustain themselves.

Mr. Chairman: Mr. Brown, you would like to add something to this?

Mr. Brown: Could I, Mr. Chairman, indicate that I would ask staff to give us their view of what would be implied by this change.

Mr. Chairman: Before Mr. Brown gives his opinion—Mr. Roch.

Mr. Roch: The intent here is to permit those organizations which do receive income, or profit—whichever one you want to term it—to do so. I was of the opinion that by not having "solely" in front of "for profit" might restrict that. That is the intent of this amendment.

Mr. Brown: I quess I understand the intent now. Administering it I would view as extremely difficult. I believe, as Mr. Plohman was suggesting, the way "solely" would work, in my mind, in administering it is that you could occupy or operate it for profit 99 percent of the time. But if once a year you rented it out for non-profit, you would qualify for this exemption. It is not for me to judge whether that is what the committee wants or not, but anything in between and I appreciate—Mr. Roch you seem to want to qualify that somewhat. Anything in between I view as an administrative nightmare of trying to determine what percentage of the time you would find acceptable for profit versus non-profit.

Mr. Roch: I certainly do not want to create that type of situation or those types of loopholes. But how do we assure ourselves then that those community clubs which do generate profits for their own organizations are not restricted by the wording as it presently is in the proposed Bill?

Mr. Brown: I believe community clubs—you know, it talks about operated for profit. A community-owned club that qualifies under here is not operated for profit, as a private organization operates for profit.

Mr. Taylor: Mr. Chairperson, possibly we might not need that word, but I do want to ask Mr. Brown the following question. Is it because of increased operating costs—and we are talking about running costs and we are also talking about capital costs to get buildings built and improved, expanded, that sort of thing.

Community clubs have had to become rather more ingenious in finding ways to raise money. What some of them are doing now is they are still overall a non-profit organization, yes, but they have actually separated their functions into those that make minimal money or even lose to those that can actually be called profit centres. They are even going to the point, in some cases, of dedicating building space exclusively for those profit-centre activities. The profits from those, of course, go to the overall organization. They are viewed—and the bingo halls are the prime example, but there are a few others too—as being a separate profit centre within the community club.

The worry was, in that there seems to be an orientation more to that, that they might get caught, and this was the motivation for the amendment. So, if Mr. Brown or other senior staff can assure us that they do not see that as a problem in making sure these people qualify, because the overall organization is still non-profit, then that may allay our fears.

* (2230)

Mr. Brown: Mr. Taylor, you are probably more familiar with some of those facilities than I, because I presume they exist more in Winnipeg than they do in rural Manitoba. We have not faced that to a great degree, and I am not sure I can really comment as to how the City Assessor presently interprets this sort of section, whether he uses some discretion on that matter or not. So I regretfully cannot help you a whole lot, I am afraid.

Mr. Taylor: I just would wonder, say it happened in a rural community that had a community centre and was in the same bind and ended up coming up with an idea that they dedicated—I do not know—20 percent of the space, for example, to a function that was an ongoing function, the space was not used for other purposes, and they made a profit on that, in fact, a healthy profit. Then they poured those monies into the main organization to keep it afloat. How would he view it? Would he view it then as still a community club, because the dollars were kept within the main organization? If that is so, I would be quite satisfied.

Mr. Brown: I am not certain that I would give a very definitive statement. Each one could be different, I suppose. If there is a canteen, for instance, in a community club—when you say "dedicated" that would be one of the points you would have to look at. How have they dedicated? Have they done so by some sort of separate title or something?

If a canteen, as most community clubs have a canteen, we certainly would still consider it a community club, despite the fact the canteen was selling hot dogs and making a profit and so on, certainly.

Mr. Plohman: Mr. Chairman, would not these organizations be classified through some other mechanism as a non-profit organization and then therefore would qualify under this Act?

An Honourable Member: Yes.

Mr. Plohman: So the determining factor is not made in terms of whether they are profit or non-profit by the assessor, it is made by them registering themselves as a non-profit organization.

An Honourable Member: That is exactly right.

Mr. Plohman: So I do not see this being a problem.

Mr. Roch: Based on these clarifications, I am prepared to withdraw the amendment.

Mr. Chairman: You withdraw the amendment. Thank you.

We will return to 22 then. Mr. Roch's amendment. Do you have an amendment for 22?

Mr. Roch: Yes, I do, Mr.—

Mr. Chairman: Okay, while we are doing that, we will just make sure on 23(1). Clause 23(1)—pass. Okay, that one is complete.

Clause 23(2)—we are going to go back up and clean up 22(1), and then we will get there.

Mr. Roch, I am sorry that we cannot hear you down here, but what would you like to say?

Mr. Roch: I would move, Mr. Chairman, that Clause 22(1)(d) be amended—

Mr. Chairman: We have not got—

Mr. Roch: Well, you just asked me.

Mr. Chairman: We cannot hear you. I am sorry.

Mr. Roch: As soon as you could hear me, you told me to stop.

Mr. Chairman: Before you introduce this amendment, would you like to withdraw the one that you had from yesterday?

Mr. Roch: Oh, I see. Yes, Mr. Chairman. I withdraw the amendment that I made yesterday and introduce this one, which has now been distributed, which reads as follows:

MOTION

THAT clause 22(1)(d) be amended by striking out "4.047 hectares" and substituting "four hectares".

THAT clause 22(1)(g) be amended by striking out "8.09 hectares" and substituting "eight hectares".

(French version)

Il est proposé que l'alinéa 22(1)d) soit amendé par remplacement des termes "4,047 hectares" par les termes "quatre hectares".

Il est proposé que l'alinéa 22(1)g) soit amendé par remplacement des termes "8,09 hectares" par les termes "huit hectares".

MOTION presented with respect to both the English and French texts.

Mr. Plohman: I do not want to be picky, Mr. Chairman, but I will be. I do not have any problem with (g), although we are now going to have this Act in legitimate metric in some respects and in most clauses it is just a conversion of standard measure, acres to hectares, which I did not agree with, but that is what the Government has gone with. I do not agree in principle with what the amendment to (d) does, and I do not see the one for (e). So the Member is not suggesting that hospital size be reduced to four hectares from 4.047. I do not know why he would not be doing it if he is doing it for schools.

In any event, I think that the exemption should be broadened for school property and therefore would not support that one, because this is making that exemption, however marginal, less rather than more. On that principle, I cannot support that one.

Mr. Chairman: Mr. Minister, any further question? Shall the amendment pass? All those in favour, please signify by saying aye. All those against, please signify by saying nay. In my opinion, the nays have it.

Clause 22(1) Real property partial exemptions—pass; Clause 23(2) Farm Property exemption—pass; Clause 24 Contiguous land school tax exemption—pass; Clause 25(1) Right, interest or estate of occupier—pass; Clause 25(2) Occupiers of Crown land—pass; Clause 26(1) Proportionate building tax exemption—pass; Clause 26(2) Proportionate land tax exemption—pass.

Mr. Penner: I have an amendment to add, 26(3). I move, Mr. Chairman, that we distribute 26(3).

Mr. Chairman: Mr. Minister, would you like to introduce your amendment?

Mr. Penner: Yes, I would move

THAT section 26 be amended by adding the following subsection:

Hospital building exemption
26(3) In respect of real property that is used for a hospital, and that exceeds 4.047 hectares, an exemption otherwise applicable under clause 22(1)(e) applies in respect of a building that is located on the excess land where the building is used for a hospital.

(French version)

Il est proposé que l'article 26 soit modifié par adjonction, aprés le paragraphe (2), de ce qui suit:

Exemption relative aux hôpitaux
26(3) Dans le cas de biens réels dont la superficie dépasse 4,047 hectares et qui sont utilisés à titre d'hôpital, l'exemption normalement applicable en vertu de l'alinéa 22(1)e) s'applique aux bâtiments qui sont situés sur le bien-fonds excédentaire où les bâtiments sont utilisés à titre d'hôpital.

* (2240)

Mr. Plohman: Mr. Chairman, I believe that this goes some distance toward what we were asking for originally. I give qualified commendation to the Minister for moving some very small distance in that direction, so I would support this.

Mr. Taylor: Does this apply equally where now there had been exemption for a certain portion of hospital lands with a bound, a limit, in other words, to it that did not necessarily cover all the lands? I think there were three hospitals involved. It makes specific reference to "building that is located on the excess land." Now what if there are no buildings on the land? In other words, it is open reserve, it is parking lot, it is equipment storage. Then that land that is available for hospital use but does not have a hospital building, that is not covered by this. Is that correct?

Mr. Penner: Mr. Taylor, this is in reference to a request made by one of the presenters who appeared before the committee in clarifying that all buildings used by hospitals should be, in fact, clearly exempted from taxation. This section, this clause, in fact, does exempt buildings used by hospitals from taxation. It does exempt them from taxation.

Mr. Taylor: Mr. Chairperson, I think I recall that same presenter and it was a representative of the Manitoba Health Organization. They did not specifically say "hospital building"; they said "hospital property."

I asked a series of specific questions to lands that did not have buildings on them, because what they have had to do specifically in the city here was that when land is available they often will buy it in advance of an actual expansion, and they acquire the land, if you will, piecemeal. It is land that is not necessarily active in the sense of having a building on it, so I am trying to find out why you would not give a full exemption as requested by MHO.

Mr. Penner: The request for the exemption of the buildings used for hospitals and declarification of it, I believe, was done by Mr. Nugent. He indicated that there needed to be a recognition, a clear recognition, under the Bill that would clearly indicate that buildings used for hospital purposes should in fact be exempt and clearly indicated by this Bill that they were exempt. This amendment, in fact, does clarify that buildings used for hospitals, by hospitals, are going to be exempt, regardless of what land they are located on.

Mr. Taylor: Mr. Chairperson, the actual members of the MHO who were here specifically said "property." Now whether Mr. Nugent, in his later presentation, had the authority to speak for the MHO, I am not quite clear on that. The fact of the matter is when those gentlemen were here that morning in December they talked about property.

When I asked them what about if there was property that was not used—and I am not talking about parking lots, equipment storage, whatever, or landscaping—for hospital purposes, do you think then we should exempt that land because you might be using it for something else? They said in the odd case where it is used for other purposes, the revenues off those lands go directly into the hospital itself and, in effect, reduce the operating costs of the hospital that would be charged to the Government.

I really am at a loss why, that if you are going to move this direction, you would stop short and not give the total and complete exemption.

Mr. Penner: Mr. Chairman, this is not a further exemption of the properties of hospitals or lands. This is not the intention, to exempt further. It is just an attempt to clearly state that buildings used by hospitals for hospitals will be exempt from property. It is no further exemption. The intent is not to further exempt properties and what were originally indicated under the Bill.

We dealt and have passed under Section 22(1)(e) clearly with lands used for hospitals, and we passed that Clause (e) under 22(1) which clearly indicated that it would be 10 acres or 4.047 hectares of land. This only clarifies, Sir, the clear intent of the Bill to exempt all buildings used by a hospital for hospital purposes. That is the only intent of this amendment.

Mr. Taylor: What I would like to do is express my disappointment at the Minister's response to that. Obviously he was not listening to MHO and their needs.

Mr. Roch: I was wondering what happens to cases where there is a piece of land which is vacant and it is intended to be used for a hospital but there is no hospital on there yet. I can cite as an example the Village of Elkhorn which has been waiting for approximately 11 years now and do not yet have its hospital, and so therefore they have been forced to pay taxes on that land to date. Is there any way that the Minister could alleviate that situation and other similar ones?

Mr. Penner: Are you suggesting that the hospital now owns land beyond the 10 acres and that we should attempt to exempt that land that is not used for hospital or for other purposes now, that we should cause an exemption for that land?

Mr. Roch: Well, because the Governments previous and current have not yet granted the hospital, they are forcing them to pay the tax on that land. The purpose of their having purchased that land in the first place is to build a hospital. They would like to have it as soon as possible but they need the provincial Government approval.

Mr. Penner: Is the total amount of property owned by that hospital district more than 10 acres?

Mr. Roch: I am not convinced about that particular one, but I know there are some. If they are beyond 10 acres, they are having to pay—here you are saying in this amendment that if they have a building on it and it goes beyond 10 acres, they will be tax exempt. However, if they have more than 10 acres but there is no building, they have to pay taxes.

Mr. Chairman: Mr. Patterson, while Mr. Roch is reading that, would you like to ask your question? Mr. Patterson.

Mr. Patterson: Mr. Chair, I just need some clarification. You say "when the building is used for a hospital." Now does that mean a building has to have patients in it or could it be a laboratory?

Mr. Chairman: Your question, Mr. Patterson?

Mr. Patterson: Use for a hospital, as a hospital. What—I guess hospital is defined.

Mr. Chairman: It is explained in another clause there. Did someone want to answer that?

Mr. Brown: Hospital is defined in the definition section as follows: . . . hospital services, as defined in The

Health Services Insurance Act, are provided to persons who are ill or injured and includes (a)—

Mr. Patterson: Yes, I have the definition here, but then "such other buildings or parts of a building as are necessary and usual to the operation of a hospital." I will take an example of the recently completed research building in St. Boniface Hospital. That is very useful and so on, but it is not a necessary usual part of the operation of a hospital. Most hospitals do not have such a research building as part of their operations.

Mr. Chairman: Who would like to answer that? He is wondering if the St. Boniface Hospital is exempt, the research portion.

Mr. Patterson: The hospital functioned for years without it. Others do too.

Mr. Chairman: I am quite sure it is exempt, but Mr. Brown could perhaps confirm that.

Mr. Brown: I certainly have no personal knowledge whether it is exempt or not. I can only assume that it would be, but I have no idea.

Mr. Plohman: Mr. Chairman, it is precisely because of this confusion and the fact that other services are provided for patients and care of patients that are not strictly within the definition of hospital as contained here, as was explained by the representatives of the hospitals that appeared before this committee, that I had moved yesterday an amendment that was deemed out of order by way of the legal opinion on removing the acreage or hectares completely for hospitals and simply using the term—I raised this with the Member for Wolseley (Mr. Taylor), because he is interested in this issue—"is used for a hospital or for services to patients, staff or employees of a hospital". That would ensure that all services related to the hospital are included.

That is what I asked the Minister to consider, which he has not done. Clearly why I made my statements right after he made his amendment is that he had moved some distance. This clarification just ensures that any buildings beyond the 10 acres are included. As a further clarification, in some instances it may mean just a slightly larger exemption than is contained in the acreage maximum.

It is a very small step toward ensuring that all hospitals are treated equally in this province, not far enough in our estimation, but just a small step forward. I think he could do much better than that.

* (2250)

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

THAT section 26 be amended by adding the following subsection:

Hospital building exemption
26(3) In respect of real property that is used for a hospital, and that exceeds 4.047 hectares, an exemption otherwise applicable under clause 22(1)(e) applies in respect of a building that is located on the excess land where the building is used for a hospital.

(French version)

Il est proposé que l'article 26 soit modifié par adjonction, après le paragraphe (2), de ce qui suit:

Exemption relative aux hôpitaux
26(3) Dans le cas de biens réels dont la superficie dépasse 4,047 hectares et qui sont utilisés à titre d'hôpital, l'exemption normalement utilisés à titre d'hôpital, l'exemption normalement applicable en vertu de l'alinéa 22(1)(e) s'applique aux bâtiments qui sont situés sur le bien-fonds excédentaire où les bâtiments sont utilisés à titre d'hôpital.

Shall the amendment pass? Mr. Penner, I am sorry.

Mr. Penner: I would like, Mr. Chairman, to have the record show that the amendment was moved by Mr. Penner, not Mr. Taylor.

Mr. Chairman: Thank you, Mr. Penner. Mr. Taylor.

Mr. Taylor: Late at night, these things can happen, Mr. Chairperson, but no, I would not want my name associated with that amendment as it is structured.

I would like the record to note to this committee and to the Minister in particular, that on page 2 of the Manitoba Health Organization presentation, it indicates for example that under the present four-acre exemption, Misericordia Hospital fully qualifies at 3.92 acres, a very tight site. However, -(interjection)- no, I am using acres because that is what the present is—in the case of the new proposal, Concordia Hospital will almost be fully exempt. It has 11.98. The proposal is, if we use the imperial measure and that is what the facts are here before us, and I will continue to use imperial for a moment. They have 11.98, so they have got a 1.98 outside of the exemption.

In the case though of four other hospitals there is a significant impact. For example, Victoria Hospital, 18.54 acres, only 10 of which will be exempted, all right? Followed by Grace Hospital, 20.63 acres, it will have more than half of its land outside of the exemption. St. Boniface Hospital, 21.34 acres, more than half its land will not be exempt. Seven Oaks Hospital, newest one in the city, 23.35 acres, well over half will not be exempted.

Those are the points that I expected the Minister and his staff to have picked up. I heard the questions very clearly that were posed by the Minister and were posed by other Government Members at the time that delegation was in this room. I thought for certain, given the tone of the questions, that there was more than a little sympathy for the MHO on this matter than we would have seen, quite frankly, as a Government-initiated amendment, which would have seen 100 percent exemption for all hospitals in Manitoba. That was not to be the case. I wanted that in the record. I cannot say I am impressed by the responsiveness of the Government on this matter.

Mr. Chairman: Thank you. Clause 27 Contiguous land to multiple exemptions—pass. We will go on to Clause 31(4) Personal property tax exemptions. We will bring this back to order. Mr. Penner has an amendment to Clause 31(4).

Mr. Penner: I have, Mr. Chairman, before you an amendment to Section 31(4) which says that we would amend 31(4) "by striking out clause (c) and substitution the following:" I do not know if that is the correct spelling, but I would suggest that we use the word "substituting the following: (c) is farm produce or cordwood that is held in storage by a person who is not the producer of it and for the sole purpose of later shipment and sale; and (b) by striking out "or a steamboat" in clause (f)."

That is in response to a request made yesterday by the Honourable Member for Dauphin (Mr. Plohman).

Mr. Chairman: On the proposed motion—

Mr. Plohman: Clarify, Mr. Chairman, that I asked for an update of this section.

Mr. Chairman: That is what it is.

Mr. Plohman: Well, yes. Does farm produce deal with flour?

Mr. Penner: Yes.

Mr. Plohman: Under the definition of farm produce, it is processed goods as well?

Mr. Penner: Yes.

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

THAT subsection 31(4) be amended

(a) by striking out clause (c) and substituting the following:

(b) by striking out "or a steamboat" in clause (f); and

(c) is farm produce or cordwood that is held in storage by a person who is not the producer of it and for the sole purpose of later shipment and sale.

(French version)

Il est proposé que le paragraphe 31(4) soit amendé:

a) par substitution, à l'alinéa c), de ce qui suit:

b) par suppression des termes "et les bateaux à vapeur" l'alinéa f);

c) les produits agricoles ou le bois gardés en entreposage par une personne qui n'en est pas le producteur et aux seules fins de livraison et de vente;

Shall the amendment pass—pass; shall Clause 31(4) as amended pass—pass.

Order, please. Let us try to get this thing through as orderly as possible.

Clause 38(3)—Mr. Penner.

Mr. Penner: I have an amendment—

Mr. Chairman: Are they all distributed? Everybody has a copy? I thought they were distributed, I am sorry. Mr. Minister, would you like to present the—order, please. Mr. Minister, please.

Mr. Penner: I would propose, Mr. Chairman

THAT subsection 38(3) be amended by striking out "subsection 54(2)" and substituting "subsection (1)".

(French version)

Il est proposé que le paragraphe 38(3) soit amendé par substitution, aux termes "paragraphe 54(2)", de "paragraphe (1)".

Mr. Chairman: On the proposed motion of Mr. Penner that subsection 38(3) be amended—pass. Clause 38(3) as amended—pass; subsequently amended—pass. Mr. Minister would you like to present your amendment?

Mr. Penner: I would move, Mr. Chairman,

THAT subsection 65(2) be amended by striking out "1971, c. 105" and substituting "1989-90, c. 10".

(French version)

Il est proposé que le paragraphe 65(2) soit amendé par substitution, à L.M. 1971, c. 105", de "1989-90, c. 10".

Mr. Chairman: On the proposed motion of Mr. Penner that subsection 65(2) be amended by striking out "1971, c. 105" and substituting—Mr. Roch, did you have a question?

Mr. Roch: Did we not pass this section a while ago, Mr. Chairman?

Mr. Chairman: This is an amendment to Clause 65(2) on page 48.

Mr. Roch: Right. Did we not pass this whole section earlier in the evening? So we are going back to amend it? Is that what it is?

* (2300)

Mr. Chairman: I am sorry, I did not hear you.

Mr. Roch: This Section 65(2) which was passed for the committee here in the evening, we are now going back to in order to present an amendment. Is that correct?

Mr. Chairman: That is correct. This is the last one.

Mr. Roch: That is fine. I just wanted to know that.

Mr. Chairman: Shall the amendment pass—pass. Clause with the sub-amendment, as subsequently amended—pass.

Okay, we will go back and start on page 1 with definitions. Has everyone got the amendment from the

other day on assessed value? Do you have the amendment that was passed out on the 8th which deals with the definition of value? You have it there? Okay, if you have it we will get our Minister to present it. Mr. Minister.

Mr. Penner: I would like to move

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 or 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:

> "valueur" 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")

Mr. Roch: That is the definition of "value" for the purposes of this Act. I would like to ask how this will affect those parts of the Act where the land is assessed for agricultural purposes.

Mr. Chairman: Mr. Minister, did you hear the question?

Mr. Penner: Yes, I did.

Mr. Chairman: Would you like to answer it?

Mr. Penner: We have, Mr. Roch, a separate amendment that will deal specifically with that.

MOTION presented with respect to both the English and French texts.

Mr. Chairman: Shall the amendment pass—pass.

The next amendment—we will be distributing another—Mr. Taylor.

*****

Mr. Taylor: A point of order, Mr. Chairperson, what will be the way that we will operate here if we wish to make amendments in that there are no numbers in this section?

Mr. Chairman: It is part of the definition, and it probably gives a section or a page—

Mr. Taylor: Do we read the whole thing out, or—

Mr. Chairman: No. It just has to be—well, it depends on what kind of an amendment you have. If it is a definition of a word or a clause, just give us that portion.

*****

Mr. Chairman: We are distributing the definition of "assessed value." Did everybody get it? Okay, Mr. Minister, would you like to introduce it?

Mr. Penner: THAT the definition of "assessed value" in section 1 be amended by striking out "under subsection 17(1)" and substituting "under Part 5 or as revised on an application or an appeal under Part 8".

(French Version)

Il est proposé que la définition de "valeur déterminée", figurant à l'article 1, soit modifiée par remplacement des termes "visée au paragraphe 17(1)" par les termes "faite en application de la partie 5 ou révisée par suite d'une requête présentée ou d'un appel interjetée en application de la partie 8".

I think that deals, Mr. Roch, with the inquiry you just made about the dual assessment of land.

MOTION presented and carried, with respect to both the English and French texts.

Mr. Roch: Yes, Mr. Chairman, I would like to move an amendment here.

Mr. Chairman: Do we have a copy?

Mr. Roch: Yes.

Mr. Chairman: Not yet. Sorry, we do not have a copy yet, Mr. Roch. Okay, Mr. Roch, please proceed with your amendment.

Mr. Roch: This amendment would be on page 5. I would move

THAT the definition of "hospital" in section 1 be struck out and the following substituted:

> "hospital" means a building that is owned and operated by a non-profit corporation and in which hospital services, as defined in The Health Services Insurance Act are provided to persons who are ill or injured and includes
>
> a) the offices and facilities of municipal or provincial government health or social service programs where the offices or facilities are situated in the building.
>
> (b) such other buildings or parts of a building as are necessary and usual to the operation of a hospital.
>
> (c) a building used as a psychiatric facility or institution as defined in The Mental Health Act, and
>
> (d) a building that is owned by the hospital and used as a residence for hospital medical staff,
>
> but does not include a building that
>
> (e) is used as a hospital and is owned or operated by the Government of Canada, or

(f) is an institution that is owned or operated by The Sanatorium Board of Manitoba;("hôpital")

(French version)

Il est proposé que le projet de loi soit amendé par substitution, à la définition d'hôpital à l'article 1, de ce qui suit:

"hôpital" Bâtiment que posséde et dirige une corporation à but non lucratif, dans lequel des services hospitaliers au sens de la Loi sur l'assurance-maladie sont fournis aux malades et aux blessés. Sont inclus dans le présente définition

a) les bureaux et les installations qui sont situés dans le bâtiment et qui offrent des programmes municipaux ou provinciaux de santé ou de services sociaux;

(b) les autres bâtiments ou les parties de bâtiment nécessaires au fonctionnement normal d'un hôpital;

(c) les bâtiments utilisés comme établissement ou institution psychiatrique au sens de la Loi sur la santé mentale;

(d) les bâtiments qui appartiennent à l'hôpital et qui sont utilisés comme résidence par le personnel hospitalier médical.

Sont toutefois exclus de la présente définition

(e) les bâtiments utilisés à titre d'hôpital et appartenant au gouvernement du Canada;

(f) les institutions que posséde et dirige la Commission des sanatoriums du Manitoba. ("hospital")

In respect of both the English and French texts.

* (2310)

Mr. Roch: Definition as proposed in Bill 79 is that it would not include a building that is a psychiatric facility, and my amendment adds that particular section, and it also adds that the buildings which are used for the residences of people who are training to go into the medical field. This amendment reflects the wishes of the people in the health community.

Mr. Chairman: It appears we will have to get a ruling on this one, Mr. Roch. It appears that it is a money expenditure and we will have to get our—I will ask Mr. Larson, the Legislative Counsel, for an opinion on this, Mr. Roch.

Mr. Norman Larsen (Crown Counsel, Legislation): Mr. Chairman, it appears to me that C & D being new and expanding the definition of a hospital in effect expands the exemptions available under the Act and, therefore, it appears to be out of order.

Mr. Chairman: Would you like to withdraw it at this time, Mr. Roch?

Mr. Roch: No. If the Government is opposed to this let them be on the record as such.

Mrs. Charles: I would like an explanation by the Government of why a psychiatric facility or mental hospital is not covered as an exemption.

Mr. Chairman: Mr. Minister, would you like to explain it?

Mr. Penner: I am not sure whether the Chairman would be receptive to an introduction of an amendment that we were going to propose dealing with this very section that would, I think, add some clarity to the mental health centres and mental health facilities that were housed within hospitals, as we had indicated previously. So if it would be the will of the committee I could propose, or put on the Table for consideration our proposal for an amendment to this section prior to dealing with the amendment that was posed by Mr. Roch.

Mr. Chairman: Would that be satisfactory Mr. Roch, just hold it until such time as we get ours presented? Thank you.

Mr. Minister would you like to present your amendment?

Mr. Penner: Well, I would move, Mr. Chairman, if it does not contravene dealing with the other amendment, I would move

THAT the definition of "hospital" in section 1 be amended by striking out the text that follows clause (b) and substituting the following:

but does not include

(c) the Selkirk Mental Health Centre, the Brandon Mental Health Centre, or the Eden Mental Health Centre;

(d) an institution under The Mental Health Act;

(e) a hospital that is owned or operated by the Government of Canada; or

(f) an institution that is owned or operated by the Sanatorium Board of Manitoba; ("hôpital)

(French version)

Il est proposé que la définition d'"hôpital" figurant à l'article 1 soit amendée par substitution au passage qui suit l'alinéa b) de ce qui suit:

Sont exclus de la preésente définition:

c) le Centre psychiatrique de Selkirk, le Centre psychiatrique de Brandon et le Centre psychiatrique d'Eden;

d) les établissements au sens de la Loi sur la santé mentale;

e) les hôpitaux possédés ou dirigés par le gouvernement du Canada;

f) les établissements possédés ou dirigés par la Commission des sanatoriums du Manitoba.("hospital")

Mrs. Charles: Could the Minister tell me then if these are exempted under any other laws or Acts of the land?

Mr. Penner: I believe not. I do not believe that they are exempted in any other Act.

Mrs. Charles: I do not understand why an ill person, whether mentally or physically ill—why there is a segregation of the needs of these people? I just do not understand why you would exempt physically ill people, those in facilities that are made and projected for physically ill people, but tax people who are mentally ill. Is not ill, ill? I mean, why is there a difference in taxing people?

Mr. Penner: Mr. Chairman, I think for clarification, the Selkirk Mental Health Centre is owned by the province and, therefore, paid to the municipality full grant in lieu. So actually the cost of the exemption there by virtue of ownership is taken care of by the province and is not a loss to the municipality.

If we would exempt it under the Act, the loss would be due directly to the municipality. So the municipalities would lose the revenue that they are now gaining, and therefore they are dealt with in this manner. It is now the taxpayers of the total province who are picking up the exemption instead of just the community of Selkirk, for instance, or the City of Brandon—

An Honourable Member: The Member for Selkirk likes that?

Mr. Penner: Well, if she wants those exempted, we could certainly do that, but it would pose quite a loss of revenue to her community.

Mr. Chairman: Thank you, Mr. Minister—Mrs. Charles.

Mrs. Charles: Yes, that is what I had meant by asking whether it was exempted under any other Act, but I was not specific, so I understand. I had meant, by that question, whether it was covered in any other way. That was the failure of my question, I guess.

I would ask then, because we are doing this Act for the future, if the proposed Centre for Excellence will be also designed so that it will be covered by grants by the province. That is the Centre for Excellence for Mental Health that is proposed for downtown Winnipeg by this Government.

Mr. Penner: If it is owned by the provincial Government, it certainly would be, and it would enter into under the same terms and conditions that the Selkirk facility is exempted under. If it was owned federally, then of course it would come under the federal law and the federal Government would have to pay grant in lieu of.

Mr. Chairman: Thank you. Mr. Roch, you had a question?

Mr. Roch: Right now, currently, how are the property taxes of the Selkirk Mental Health Centre taken care of? By grants in lieu?

Mr. Penner: Yes.

Mr. Roch: So what is changing?

Mr. Penner: Nothing. Nothing changes. This portion of the Act, the amendment—

Mr. Roch: This amendment changes nothing?

Mr. Penner: Well, it only indicates that those portions of those hospital buildings that house mental patients will also be excluded from taxation or from assessment by virtue of this amendment.

Mr. Chairman: Okay. Mr. Plohman, did you have a question—Mr. Minister.

Mr. Penner: The only facility, I should mention, that is not exempted or paid grant in lieu on, is the Eden Mental Health Centre in Winkler, because it is owned and operated in part by the communities or the churches. Therefore, for that reason it is not exempted.

It is in my constituency. I have some difficulty, by virtue of provincial ownership, exempting facilities such as that. But I concur that there needs to be some other vehicle devised than this Act to make consideration of the taxation imposed on that facility.

Mr. Roch: If I understand the Minister correctly, by excluding certain buildings as proposed in the amendment or as was proposed in the original Bill 79, it in fact exempts those particular buildings from assessment?

Mr. Penner: Yes.

* (2320)

Mr. Roch: It says here the municipal or provincial Government health and social service programs' offices are located—these will be assessed.

Mr. Penner: I am sorry, I think I misunderstood your first question.

Mr. Roch: I asked, based on what he had just said a while ago that by not including these facilities which are described in your amendment, by not including them in the definition of a hospital means they are exempted from assessment.

An Honourable Member: No.

Mr. Roch: That is what he said a while ago.

Mr. Penner: This amendment clearly indicates that taxes will apply to the Selkirk Mental Health Centre, the Brandon Mental Health Centre, the Eden Mental Health Centre, and because the first two mentioned are owned by the province, the province will pay to the City of Brandon and the Town of Selkirk full grant in lieu of taxes, because they are owned by the province and they are provincial properties, therefore, are not exempted but are taxable properties but the province then pays grant in lieu to those communities.

Mr. Roch: Why then do the other hospitals not get grants in lieu from the province, as these facilities?

Mr. Penner: That is an excellent question. I guess it could be determined by some Government, or even maybe this Government, that we in fact want no exemptions to take place on hospital facilities that are owned by the province, and we would pay full grant in lieu but I believe that is already the case. However, it would mean to me then if we wanted to treat all health facilities or hospitals in this manner that the province would then in fact become owners of all those facilities, or would have to become owners and then they would be treated in this manner. That might at some time be a consideration, because in my view it would be a much fairer way of treating various taxpayers in various communities who now have to pay or bear the brunt of those exemptions within the communities, including the City of Winnipeg.

There are numerous large hospitals or facilities such as hospitals in this town that are exempted by virtue of this Bill. Therefore, the city or the towns that those facilities are in have to supply the services and are fairly costly services at some time. Maybe a Government of some future day might want to consider some way of bringing those facilities into a taxable position. The general public then at large would pay the grant in lieu of, and therefore bring into being a more equitable way of exemptions to those properties.

Mr. Plohman: Mr. Chairman, the reason, and the Minister can clarify this, that grants in lieu could not be paid for hospitals is because they are not owned by the province. They are owned by the hospital boards or by the municipalities, and therefore, there is no provision for grants in lieu, and that answers his specific question that was raised. If the ownership was to change or the criteria for grants in lieu were to change as to who could—and what basis they could be paid, then that could be done.

Mr. Chairman: Mr. Roch, would you like to withdraw your amendment then so we can proceed with this one?

Mr. Roch: Just on a matter of order. Do we have to deal with this one first before we go back to the other one or—

Mr. Chairman: No. We have to deal with yours, so if you would withdraw yours so that we could deal with this one, please.

Mr. Roch: Yes, Mr. Chairman, I would withdraw this.

Mr. Chairman: Thank you, Mr. Roch.

On the proposed motion of Mr. Penner

THAT the definition of "hospital" in Section 1 be amended by striking out the text that follows Clause (b) and substituting the following:

but does not include

(c) the Selkirk Mental Health Centre, the Brandon Mental Health Centre or the Eden Mental Health Centre;

(d) an institution under The Mental Health Act;

(e) a hospital that is owned or operated by the Goverment of Canada; or

(f) an institution that is owned or operated by the Sanatorium Board of Manitoba; ("hôpital")

(French version)

Il est proposé que la définition d'"hôpital" figurant à l'article 1 soit amendée par substitution au passage qui suit l'alinéa b) de ce qui suit:

Sont exclus de la présente définition:

c) le Centre psychiatrique de Selkirk, le Centre psychiatrique de Brandon et le Centre psychiatrique d'Eden;

d) les établissements au sens de la Loi sur la santé mentale;

e) les hôpitaux possédés ou dirigés par le gouvernement du Canada;

f) les établissements possédés ou dirigés par la Commission des sanatoriums du Manitoba. ("hospital")

With respect to both the English and French texts—pass.

Let us try to take them in order now. Mr. Minister, do you want to get it distributed?

Mr. Penner: Yes, I guess this is the reason, Mr. Chairman, that we decided before to do the amendments to the Bill first and then come back and do this section.

Mr. Chairman: Okay, Mr. Minister, would you like to present your amendment?

Mr. Penner: This definition, Mr. Chairman, deals with the powers of the panels and I would move

THAT the definition of "board" in Section 1 be amended by striking out "subsection 54(2) or subsection 54(4)" and substituting "subsection 38(1) or subsection 54(5)".

(French version)

Il est proposé que la définition de "comité", figurant à l'article 1, soit modifiée par remplacement des termes "paragraphe 54(2) ou 54(4)" par les termes "paragraphe 38(1) ou 54(5)".

MOTION presented and carried, with respect to both English and French texts.

Mr. Chairman: We are going in alphabetical order so we do not get them mixed up.

Mr. Penner: This one deals with prescribe.

Mr. Chairman: Mr. Minister, you can present it.

Mr. Penner: I would move

THAT section 1 be amended by adding the following definition in alphabetical order within the section:

"prescribed" means prescribed by regulation;

French version

Il est proposé que la version anglaise de l'article 1 soit amendée par insertion, dans l'ordre alphabétique, de ce qui suit:

"prescribed" means prescribed by regulation;

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

An Honourable Member: Could he just give us a physical description of where this is located?

Mr. Penner: I do not think you will find it, Mr. Chairman. I think we will add this and then you will find it.

An Honourable Member: So it is another definition coming somewhere between property and railway?

Mr. Penner: Between "portioned value" and "property."

An Honourable Member: So how come you all said, yes, when I said that.

MOTION presented, with respect to both English and French texts.

And will be found between "portion value" and "property" on page 8.

Shall the amendment pass—pass.

Mr. Roch: Mr. Chairman, I would like to move an amendment here.

Mr. Chairman: Just a minute, we are taking them in alphabetical order now. What have you got it on?

Mr. Roch: "Railway roadway."

Mr. Chairman: That goes under "R". We are working under—

An Honourable Member: I did not think we were that far yet.

An Honourable Member: Shall we deal with the railroad first?

An Honourable Member: No, we will do this one.

Mr. Chairman: Let us deal with Mr. Minister's first, on the reference year, which is located on page 10 - (interjection)- we are dealing with reference.

What is the wish of the committee? Which do you want to deal with first, railway or reference year? Railway? Okay, we will deal with railway.

Mr. Roch, would you like to present your amendment?

* (2330)

Mr. Roch: Mr. Chairman, I move

THAT the definition of "railway roadway" in section 1 be amended

(a) by striking out "cinder and" before "service"; and

(b) by adding "hot box and dragging equipment detectors and other stationery equipment, appliances and machinery used in the operation of trains," after "protective appliances,".

(French version)

Il est proposé que la définition de "voie de chemin de fer" à l'article 1 soit amendée par:

a) suppression des termes "de cendre et" avant les termes "de réparation";

b) adjonction, aprés les termes "dispositifs de sécurité des croisements", des termes "les détecteurs de boîtes d'essieu surchauffées et d'appareillage traînant et d'autre équipement fixe, appareillage et matériel servant à assurer la circulation ferroviaire".

Mr. Chairman: On the proposed motion of Mr. Roch that the definition of "railway roadway" in Section 1 be amended (a) by striking out "cinder and" before "service"; and (b)—dispense, with respect to both the English and French texts—pass. We will go on to the next one. Does everyone have a copy of "the reference year"?

Mr. Minister, would you like to present your amendment?

Mr. Penner: Mr. Chairman, I move

THAT the definition of "reference year" in section 1 be struck out and the following definition substituted:

"reference year" means, other than in subsection 17(2), the year following the year of the previous general assessment under subsection 9(1);

(French version)

Il est proposé que la définition d'"année de référence", figurant à l'article 1, soit remplacée par ce qui suit:

"année de référence" Sauf au paragraphe 17(2), année qui suit celle de l'évaluation générale précédente visée au paragraphe 9(1).

Mr. Chairman: On the proposed motion of Mr. Penner that the definition of "reference year"—dispense, with respect to both the English and French texts—pass.

Mr. Chairman: Mr. Minister, would you like to present your amendment?

Mr. Penner: Yes, I move

THAT the definition of "registered owner" in section 1 be struck out and the following definition substituted:

"registered owner" means, in respect of land, a person who

(a) is registered under The Real Property Act as an owner of land,

(b) where the freehold is not subject to The Real Property Act, is a grantee in a conveyance of land registered under The Registry Act, or

(c) is registered under The Condominium Act as an owner of a unit, as defined in The Condominium Act; ("propriétaire inscrit")

(French version)

Il est proposé que la définition de "propriétaire inscrit" à l'article 1 soit remplacée par ce qui suit:

"propriétaire inscrit" A l'égard d'un bien-fonds, la personne qui:

a) est inscrite à titre de propriétaire en application de la Loi sur les biens réels,

b) dans le cas des propriétés franches de biens-fonds non assujetties à la Loi sur les biens réels, est le cessionnaire aux termes d'un acte portant transfert du bien-fonds, enregistré en application de la Loi sur l'enrégistrement foncier;

c) est inscrite à titre de propriétaire d'une partie privative au sens de la Loi sur les condominiums. ("registered owner")

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

THAT the definition of "registered owner"—dispense, with respect to both the English and French texts—pass; Two more. Okay, everyone has a copy, Mr. Minister please proceed.

Mr. Penner: I would move

THAT subsection 6(2) be amended by striking out clause (c) and renumbering clauses (d), (e) and (f) as clauses (c), (d) and (e) respectively.

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

THAT subsection 6(2) be subsequently amended by striking out clause (c) and renumbering clauses (d), (e) and (f) as clauses (c), (d) and (e) respectively.

(French version)

Il est proposé que le paragraphe 6(2), soit amendé par suppression de l'article c) et par substitution, aux désignations d'alinéa d), e) et f), des désignations c), d) et e) respectivement. With respect to both the English and French texts—pass.

One more. We are ready for the next amendment, Mr. Minister.

Mr. Penner: Mr. Chairman, I would move that Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee.

Mr. Chairman: On the proposed motion of Mr. Penner, that Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee. With respect to both the English and French texts—pass; Section 1 which is definitions—pass; as amended—pass. Mr. Taylor.

Mr. Taylor: You are going, Mr. Chairperson, part by part now is that is what is going on?

Mr. Chairman: No, we did the Part 1 which is the definitions, we just passed that. Now we have to go back and do the title and what else.

Mr. Taylor: Just a moment, I just wanted a clarification first. Is the matter that came up and was relating to the definition of veterans organizations that will come forward in what fashion? Through the Chamber?

Mr. Chairman: Mr. Taylor, I believe you are correct there.

Mr. Penner: That is right.

Mr. Taylor: The other point is that, as the Minister moved amendment to Section 65 and then came back to it later Section 65, I would like to come back with an amendment in the same fashion for 22(2). This motion that I am about to present—

* (2340)

Mr. Penner: Before Mr. Taylor proceeds the only reason I came back was with a consequential amendment that conformed with the actions that we have previously taken to make sure that all parts of the Act would in fact conform to the amendments that have been made. We agreed to that. Therefore I would view that as simply a confirmation of amendments through the Act. They would in fact comply one section with the other.

Mr. Taylor: Thank you, Mr. Minister, for that information. I would like to reopen the clause and bring forward an amending motion—

Mr. Chairman: Just a minute, Mr. Taylor. Is it the will of the committee to reopen discussion on this item? It was explained by the Minister and we need unanimous consent here.

Mr. Roch: When the Minister brought that in, I asked specifically to you if this section had been passed. You said yes. Then I asked if the Minister was then coming back to amend a section which had been passed. You said yes, and that was all right. Now Mr. Taylor wants to do the same thing.

Mr. Chairman: That was when we were dealing with the amendments. We came back from the front of the sections and went through them all again. We dealt

with the ones that we had left yesterday or earlier today. Mr. Plohman.

Mr. Plohman: We agreed earlier that consequential amendments would be considered. In other words, when we went through clauses and we passed them. We agreed that we would reopen them if there were other amendments later on that had a consequence on those. This is an exception. It is quite different, I think, but in the interests of being co-operative and flexible, I think I would be prepared to hear them. I do not know what the Government side thinks.

An Honourable Member: I could, by way of explanation—

Mr. Chairman: Just a minute, Mr. Taylor. What is the will of the members of the committee? Can I have your attention please? What is the will of the committee? We need unanimous consent to accept this amendment. By leave we will accept it, okay. By accepting this amendment, so that it does not create a precedent for other Committees, we will listen and hear your amendment. Mr. Taylor.

Mr. Taylor: I should, by way of further explanation, let the committee know that this was a small part of a larger amendment that was impacted by the Legislative Counsel's opinion that came in and was in the process of being redrafted when we went by this. Just because of a backlog, we could not get it on the table. I apologize for the tardiness of that, but that was what was behind it.

The amendment I am about to propose I think would be in line with some of the matters that the Minister here has advocated, things that he has said both in public meetings in the House with regard to matters of making better use of our natural resources, being more environmentally sound, drought proofing the province, and the Land and Water Strategy Initiative. I will read the text in both English and French and then give a very short explanation.

I move

THAT the following be added after subsection 22(2):

Generators and pumps exemption
22(3) Improvements that are wind or water generators and pumps are exempt from taxation levied by a municipality, other than for local improvements.

(French version)

Il est proposé que le paragraphe suivant soit ajouté aprés le paragraphe 22(2):

Exemption s'appliquant aux génératrices et aux pompes
22(3) Les améliorations, autres que les améliorations locales, sous forme de génératrices et pompes à vent et à eau sont exemptées de la taxe municipale.

The matter before us would be something of this nature, would eliminate the consumption of fossil fuels which, quite frankly, aids in the greenhouse effect, something that this Government is on record as opposing.

The matter of impact—and I have to accept in advance that unless the Minister is prepared to consider this a friendly amendment and therefore adopts it himself, that it will be, by definition, out of order. I accept that point without question, given the opinion we have had earlier tonight. However, if we are going to move forward as a society and start encouraging people to use methods of generating power that are not pollution prone and do not create environmental problems, then I think we are not moving off the mark.

This motion is put forward in all sincerity as something that I hope could be embraced by all three Parties. The dollar impact, yes, is there. The dollar impact will be very, very tiny.

* (2350)

Mr. Penner: Mr. Chairman, I concur with what the Honourable Member said in respect to the section being out of order. However, regardless of whether it is out of order or not, I would like to comment on some of the things that the Honourable Member did say.

I concur that there are in some areas, and will be in some areas, situations where we might in fact want to, at some point in time, consider the removal of expenditures to the greatest degree possible in respect of some of the generation of power at the local level or for the purposes of moving water at the local level. Therefore I respect the intent of this attempted amendment.

I would caution, before we would accept an amendment such as this, I would want to ask or try and judge somehow what the long-term impact to various areas of the province might be by an exemption or amendment such as this. If we look at the simple term of pumps exemption, I could go to the Carberry area, for instance, and exempt every pumping facility today from taxation that is used for irrigation purposes or for movement of large volumes of water that might not be exempted by this Act. The ramifications and the implication to municipalities, local governments, in many areas is something that I would want to really consider and that Government would want to consider before this sort of thing might be accepted.

For that matter I would ask the consideration of the Honourable Member that we might at some point in future, after having properly assessed what the impacts would be, consider an amendment such as this, because I do have sympathy for this sort of an amendment, but simply would not want to impose that sort of unknown on the province at this time.

Mr. Taylor: Just to clarify for the Minister so we can wrap this up, the matter before you relates strictly to the context of equipment that is generating by wind or generating by water. In other words, and I think it does say that, it consumes no fuel. The other point is, this is intended not for a local government specifically. The thought would be it would be the individual farmer that would take advantage of it just like at one time,

we had significant numbers of wind-driven water pumps across the Prairies of which there are almost none left. It is that context that is in mind.

Mr. Penner: I respect that.

Mr. Chairman: Can I have your attention, please? On the basis of the Minister's representation that the effect of the amendment is to increase the charge on the Consolidated Fund, it is the view of the Legislative Counsel that the amendment is out of order and would require Royal Recommendation. I would have to rule the amendment out of order at this time.

Shall the Preamble be passed—pass; Title—pass.

Shall the Bill, as amended, be reported—Mr. Harper.

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

Mr. Harper: Just before the Bill is reported I want to put on the record I did ask the Legislative Counsel to provide me with a legal opinion on the exclusion of lands held in trust for Indians as to whether that is invalid by the Government, whether they have that authority. I would like the legal counsel at least to provide me whether they will be able to provide me with something at some point in the future. I know that it is a little late at this time to get an opinion, but I would appreciate a response to that letter that I had written today.

Mr. Chairman: I would like to ask Mr. Larsen to respond to that. Mr. Larsen.

Mr. Larsen: Mr. Chairman, the Legislative Counsel has asked me to acknowledge receiving Mr. Harper's request for an opinion and to put that on the record, and to advise you that we were not able, today, to consider it owing to the committee hearing, but that you will be hearing from our office in due course.

Mr. Taylor: I wonder, Mr. Chairperson, now that the work on this committee, on this matter, is about done, if we possibly have a total of the number of amendments that were brought forward.

Mr. Chairman: I do not think we have that at this time. Thirty seven amendments, Mr. Taylor, today.

We are still not finished here yet. Just a minute. Do not go away everybody we are not done here yet.

Shall the Bill, as amended, be reported? Okay. We have one more item, before I do that I want to ask the Minister for his closing statement.

Mr. Penner: Thank you very much, Mr. Chairman. First of all, I would like to thank all of the Members of the committee for having the patience, the endurance, to consider a Bill of this magnitude. I am given to understand that this is probably the largest Bill that has been before this Legislative Assembly in the last 10 years. I believe that the magnitude of the decisions that were made around this committee table and even with the amendments and changes that were proposed by and made by the Opposition Parties as well as Members of our Government to this Bill and reflecting the representation made by the various groups and individuals who had at heart the interests of Manitobans, specifically those that are governed by our rural and local Governments.

I respect very much the advice that was rendered by all in making this Bill come to fruition, because I believe it is Manitobans that have been looking forward to this kind of legislation for many, many years. I have said on a number of occasions that I believe that this is a golden opportunity for all Parties in this province to take credit for the good parts of this Bill and also to take some criticism for the bad parts of the Bill, if there are any. It is my firm belief that after the consideration that has been given to this legislation to date by all legislators that there are no bad parts left in this bill, that we have resolved those.

Therefore, I would like to thank all of you committee Members. Above all, I would like to thank my staff, because I believe that Gerry Forrest, Bob Brown, Marie Elliott, and their staff have spent the past 10 or 12 years dealing with this Bill and have been persistent and slogged along under two different levels of Government to in fact bring about assessment reform.

It is the dedication of all civil service to this end and this effort that I want to today recognize and congratulate. I do this from the bottom of my heart, because I have only been here and dealt with this matter for the last nine months but appreciate very much the amount of work and the hours that a number of you have spent many, many days in my office.

I think it is also fair to commend the legal counsel that has been involved in drafting this Bill although we amended many parts of it, but as the magnitude of the Bill has indicated, and the variety of issues covered under this Bill, it leads me to believe that even though we were encouraged to make numerous amendments, the magnitude of this could have lead to many, many more amendments. Therefore it is the credit of the legal community that has been involved in the drafting of this Bill that also should be congratulated.

When you deal with the various aspects of this Bill and recognizing how as I said before it impacts local governments, we must recognize when we heard the presentations made how responsible the local governments are and how responsibly people elect and pick the right kind of people who can in fact govern the affairs of local communities. I have faith, although the discussions around this Table have at many times in my mind somewhat questioned the ability of those local communities, that this assessment legislation will give them a much, much fairer base and an equal ability to apply taxation for the provision of services to all parts of Manitoba.

Therefore, again, I want to recognize the efforts of all of you and thank all of you from the bottom of my heart for the sense of humour that was maintained even through some difficulty periods around this Table. I want to indicate to you that it has been a real pleasure although sometimes tiring to be involved and leading this Bill through the Legislature to this point. Hopefully,

by Friday noon we will have for Manitobans a new way to assess property in Manitoba.

One more thing before I end. There is one person who I think needs recognition because he preceded me in our Government in my portfolio, and he is sitting here today. It was many hours, many times that I needed advice and I went to him, and I want to thank my colleague and a number of other colleagues around the Table for the assistance that they have given me on many times, and also the encouragement at times because some days I needed it. Thanks again. I would like to invite all of you up to room 330 after we adjourn here to—

An Honourable Member: For further discussions.

Mr. Penner: For further discussions, that is right.

Mr. Chairman: Mr. Roch, do you have some comments?

Mr. Roch: Mr. Chairman, I, too, would like on behalf of the Liberal Caucus to thank the committee Members, the staff members of the Department of Rural Development and various other departments which may have had input. I would also like to thank the Legislative Counsel, especially those who worked with us. They certainly do it with a large degree of objectivity and impartiality. It is most helpful especially with us in Opposition with limited resources.

I too hope that this Bill is the beginning of fairer assessment in Manitoba. We had planned to introduce numerous amendments which were ruled out of order. We feel a lot more can be done to improve it; however, it is a first step and I am happy to have been part of the process. So on behalf of my colleagues in the Liberal Party, I too wish to thank all of those involved.

Mr. Plohman: Yes, Mr. Chairman, I have some comments to make about the process and the Bill. I will try to make them as brief as possible considering the Minister's offer. We pray each day that we are going to accomplish it perfectly and I have made those comments a few times during the day. I do not think we have and we never will. We made some improvements in this Bill and I am pleased that we did not take the advice of the Reeve, I think from Rhineland, who said that it should be passed without an amendment forthwith.

We know that we have 37 amendments today. There were numerous on previous days, many of them introduced by the Minister himself, many of them introduced by the Opposition, many of them combinations of amendments that were introduced by the Opposition and the Government together, a joint effort. We improved the Bill in the area of definition of market value. We improved it with the two-value system. We improved appeal procedures. I think we improved it with the recognition of conservation lands, but there are areas that we did not make as many improvements as we would have liked, and we think in the exemption area we could have done more.

I think there is one area that tarnished the whole effort, and I think it has to be said. I want to join, first of all, in congratulating and thanking all of the staff who worked on this over the years in the Municipal Affairs Department and Legislative Counsel, but I have to say though, from the Minister's point of view, his effort is somewhat tarnished by the removal of a statute that existed in Manitoba for 117 years, that dealing with one exemption. I think it was done in less than the most optimal way, the most democratic way for the people that are affected. I speak of the exemption for Native lands. My colleague, the Member for Rupertsland (Mr. Harper) has fought on behalf of his people on that issue for some time. I think there could have been a better way to deal with that. We tried to have the Government do that. Unfortunately, the amendment was ruled out of order in that area, but I want to emphasize to the Minister that I think that one omission is a serious one in terms of how the Bill was developed.

Putting that aside—I just wanted to phrase that here because I think it is important—but to join with the Liberal Critic and other Members who worked on this Bill and all of the staff who have worked on this Bill as well. It is a very complicated area and very time consuming, many hours. I want to thank the Legislative Counsel who helped us with amendments and who gave a lot of time, Ann Bailey, and Jacqueline, what is your last name? I do not know. But I want to thank you for your efforts in helping us with the amendments, all of the staff for their work.

We hope this will work and will be improved over the years that come ahead.

Mr. Chairman: Thank you very much. Is it the will of the committee to report the Bill as amended? Agreed.

Committee rise.

COMMITTEE ROSE AT: 12:18 a.m.