



Fifth Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Municipal Affairs

Chairperson
Mr. Denis Rocan
Constituency of Gladstone



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

Member	Constituency	Political Affiliation
ASHTON, Steve	Thompson	N.D.P.
BARRETT, Becky	Wellington	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave	Kildonan	N.D.P.
CUMMINGS, Glen, Hon.	Ste. Rose	P.C.
DACQUAY, Louise, Hon.	Seine River	P.C.
DERKACH, Leonard, Hon.	Roblin-Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary	Concordia	N.D.P.
DOWNEY, James	Arthur-Virden	P.C.
DRIEDGER, Albert	Steinbach	P.C.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry, Hon.	Lakeside	P.C.
EVANS, Clif	Interlake	N.D.P.
EVANS, Leonard S.	Brandon East	N.D.P.
FAURSCHOU, David	Portage la Prairie	P.C.
FILMON, Gary, Hon.	Tuxedo	P.C.
FINDLAY, Glen	Springfield	P.C.
FRIESEN, Jean	Wolseley	N.D.P.
GILLESHAMMER, Harold, Hon.	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KOWALSKI, Gary	The Maples	Lib.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
MACKINTOSH, Gord	St. Johns	N.D.P.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McALPINE, Gerry	Sturgeon Creek	P.C.
McCRAE, James, Hon.	Brandon West	P.C.
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McINTOSH, Linda, Hon.	Assiniboia	P.C.
MIHYCHUK, MaryAnn	St. James	N.D.P.
MITCHELSON, Bonnie, Hon.	River East	P.C.
NEWMAN, David, Hon.	Riel	P.C.
PENNER, Jack	Emerson	P.C.
PITURA, Frank, Hon.	Morris	P.C.
PRAZNIK, Darren, Hon.	Lac du Bonnet	P.C.
RADCLIFFE, Mike, Hon.	River Heights	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack, Hon.	Niakwa	P.C.
RENDER, Shirley, Hon.	St. Vital	P.C.
ROBINSON, Eric	Rupertsland	N.D.P.
ROCAN, Denis	Gladstone	P.C.
SALE, Tim	Crescentwood	N.D.P.
SANTOS, Conrad	Broadway	N.D.P.
STEFANSON, Eric, Hon.	Kirkfield Park	P.C.
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TOEWS, Vic, Hon.	Rossmere	P.C.
TWEED, Mervin, Hon.	Turtle Mountain	P.C.
VODREY, Rosemary, Hon.	Fort Garry	P.C.
WOWCHUK, Rosann	Swan River	N.D.P.
<i>Vacant</i>	St. Boniface	

THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Monday, July 12, 1999

TIME – 3 p.m.

LOCATION – Winnipeg, Manitoba

**CHAIRPERSON – Mr. Denis Rocan
(Gladstone)**

**VICE-CHAIRPERSON – Mr. Edward
Helwer (Gimli)**

ATTENDANCE – 8 – QUORUM – 6

Members of the Committee present:

Hon. Messrs. Cummings, Derkach, Tweed

Ms. Barrett, Messrs. Evans (Interlake),
Helwer, Rocan, Sale

APPEARING:

Ms. Rosann Wowchuk, MLA for Swan
River

WITNESSES:

Mr. Mike McCandless, McCandless &
Associates

MATTERS UNDER DISCUSSION:

Bill 25–The Municipal Assessment Amend-
ment Act

Bill 47–The Municipal Assessment Amend-
ment Act (2)

Clerk Assistant (Patricia Chaychuk): Order,
please. Will the Standing Committee on
Municipal Affairs please come to order. We
have a vacancy for the position of chairperson.

Are there any nominations?

Mr. Edward Helwer (Gimli): I would like to
nominate Mr. Rocan, the member for Gladstone.

Clerk Assistant: Mr. Rocan has been
nominated. Are there any other nominations?

Seeing none, Mr. Rocan, you are elected
Chair. Please come and take the Chair.

Mr. Chairperson: Before proceeding with
consideration of the bills, the committee must
proceed to elect a new Vice-Chairperson. Are
there any nominations?

**Hon. Glen Cummings (Minister of Natural
Resources):** I nominate the member for Gimli
(Mr. Helwer).

Mr. Chairperson: The honourable member for
Gimli has been nominated. Are there any further
nominations?

Seeing none, the honourable member for
Gimli has been elected as Vice-Chairperson of
the committee. Congratulations, sir.

This afternoon the committee will be
considering Bill 25, The Municipal Assessment
Amendment Act, and Bill 47, The Municipal
Assessment Amendment Act (2).

The committee had previously considered
Bill 25 on July 5, and had heard presenters to the
bill at that time. At the July 5 meeting, it was
agreed to defer the clause-by-clause
consideration of the bill. To date, we have had
one person register to speak to Bill 47, and I will
read that name aloud: Mr. Mike McCandless
from McCandless & Associates.

If there are any other persons in attendance
who wish to speak to the bill this afternoon and
who have not already registered, would you
please see the Chamber Branch personnel at the
back of the room to register.

In addition, I would like to remind
presenters that if they wish to hand out written
material to the committee that 15 copies are
required. If assistance is required to provide the
15 copies, please see the Chamber Branch

personnel at the back of the room, and the copies will be made for you.

Does the committee wish to use time limits for the hearing of presentations this afternoon? What is the agreement of the committee?

An Honourable Member: No limit.

Mr. Chairperson: No limits? No time limits? Okay, no time limits. We shall now proceed with the hearing of public presenters. I will now call on Mr. Mike McCandless from McCandless & Associates. Welcome this afternoon, sir.

Mr. Mike McCandless (McCandless & Associates): Thank you, Mr. Chairman.

Mr. Chairperson: Do you have a written presentation to distribute to the committee?

Mr. McCandless: No, Mr. Chairman. Thank you for the opportunity to speak to you about Bill 47.

First of all, to explain our interest in the matter, McCandless & Associates is a law firm specializing in municipal law. We act for the Rural Municipality of Lac du Bonnet and the Town of Grand Rapids who have passed by-laws requiring the assessment of personal property having to do with hydroelectric generation and transmission and telecommunications. So we are here on behalf of our clients.

We would like to urge the committee to reconsider the bill and recommend that it be withdrawn. The legislation under which the municipality passed these by-laws has a long history in this province. For all of this century at least, and before, Manitoba municipalities have had the power to place on the tax roll what is called personal property.

The actual implementation of this kind of power has been spotty and varied. Historically, for example, in the Lac du Bonnet area there was a by-law up until the middle-'50s taxing the wires, poles, transmission lines, equipment of the Winnipeg Electric Company. There have been various by-laws taxing other kinds of equipment, including gravel crushing equipment.

* (1510)

If you look at The Municipal Assessment Act today, you will see several kinds of equipment which are automatically assessed for personal property taxes without a by-law, including oil and gas production equipment. This power has been around for a long time.

When The Municipal Assessment Act was re-enacted in 1990, the power to tax personal property remained in effect. There is a list of property exempted from this power. It does not refer to hydroelectric transmission and generation equipment; it does not refer to telecommunications equipment. There is a suggestion that there was a mistake in the legislation with respect to hydro properties since all other Manitoba Hydro property is exempt from municipal and school taxation.

With respect to telecommunications equipment, the issue would not have arisen, because at the time Manitoba Telephone System was a publicly owned company exempt from school and municipal taxes under its own legislation. With the privatization of Manitoba Telephone System, those exemptions have disappeared. The legal regime with respect to municipalities' power to tax has never changed. The only thing that changed was the status of Manitoba Telephone System as a taxpayer.

In municipalities that we represent, and these are small rural municipalities, they are always looking for ways of increasing school and municipal revenues for the benefit of their other taxpayers. They believe that these properties impose burdens on municipalities and for that reason they are entitled to tax them. The legislation allowed them to tax these properties.

At the end of 1996, the Town of Grand Rapids, which had other issues with Manitoba Hydro, passed a by-law which would place these properties on the roll, equipment having to do with hydroelectric transmission and equipment having to do with telephone. One year later the Rural Municipality of Lac du Bonnet passed the same by-law. In all that time, the municipal assessor—

Mr. Chairperson: Order, please.

Point of Order

Mr. Tim Sale (Crescentwood): Mr. Chairperson, members opposite have had a continuous sort of conversation about something which I am sure is important, but I think they both have R.M.s and municipalities in their jurisdiction that all have a very serious concern here about this legislation. I would appreciate it if you would ask them to have their conversation away from the table.

Mr. Chairperson: I thank the honourable member for Crescentwood. I was just writing them a note asking them if they wanted to carry on a conversation to do so outside the Chamber. They have received a note, I believe, and by the expression on their faces, I believe now that they will come to order.

* * *

Mr. McCandless: Since the beginning of 1997, the provincial municipal assessor has had a statutory duty to place these properties on the roll, which he has failed to fulfil. In the spring of this year, the municipalities went to court asking for an order that the property be assessed. Manitoba Hydro intervened on the grounds that it claimed to be exempt from the personal property taxation. Manitoba Telephone System has no part in the proceedings, and there is no suggestion, either from the provincial assessor or Manitoba Telephone System, that it is exempt from these taxes. As a matter of fact, the chief executive officer of Manitoba Telephone System wrote a letter to the assessor this summer raising the issue, actually asking that the issue of how Manitoba Telephone System would pay municipal taxes be addressed, making certain suggestions but in no way asking that it be given any kind of an exemption.

With respect to Manitoba Hydro, the court proceedings have been adjourned for the purpose of negotiations between these municipalities and Manitoba Hydro. There is a tentative settlement of this issue which will require the municipalities to repeal the by-law as it affects Manitoba Hydro property. The matter will come up before the Court of Queen's Bench again in September, and we fully expected that we would have a settlement with Manitoba Hydro before

that date. This legislation would appear to interfere with our negotiations and our litigation and adversely affect any benefits that our municipalities are fully expected to receive. We ask therefore that the legislation not affect our clients for that very reason.

Another thing I wish you to understand is that it is our view that this legislation is simply not necessary. We have heard the reasons for passing the bill, and they appear not to be convincing. The assessment and taxation for municipal and school purposes of utility property is a very complex matter. There are many, many issues that need to be addressed now that this kind of property is going to be assessed and put on the roll. And make no mistake, this kind of property is going to be taxable. There is no way that Manitoba can have a different legal regime for taxation of this kind of property than all of the other jurisdictions in North America. So that will happen.

If you look at the Province of Alberta, for example, we have a great deal of experience in assessing and valuing for local taxation purposes Alberta government telephone property, Alberta power property. It is an art how this property is valued and assessed for local taxation purposes, but it is done.

All of these issues have to be addressed. The letter from Manitoba Telephone System points out several alternatives for the way this property could be treated for local taxation purposes. For example, there is a suggestion that Manitoba Telephone System could pay a tax on gross revenues. Cable television companies pay local taxes on the basis of gross revenue. Centra Gas in the city of Winnipeg pays a tax on the basis of gross revenue. In other jurisdictions and in other places often these properties are actually valued in the ground and go into the rolls. In places where it is considered too difficult to be done locally, there will be state-wide or province-wide systems of assessment and evaluation.

Our clients agree that these issues have to be addressed, and there is plenty of time to address those issues. There are only two municipalities in the province that have passed these by-laws, the Town of Grand Rapids and the R.M. of Lac

du Bonnet. We cannot understand how these two little municipalities have brought Manitoba Telephone System and Manitoba Hydro to their knees, that they require protection from our clients.

There is an argument that if this gets around, all the municipalities are going to pass by-laws and put this property into the roll. If they did this tomorrow, there is absolutely no way that this property could be assessed until the year 2000. We have no information that any municipalities are prepared to do this. Our understanding is that the Association of Manitoba Municipalities has agreed that municipalities should not have the right to tax personal property of this nature and that consultations and studies should take place around this issue. We do not understand why that requires the Legislature to abolish the system that is already in place, the system that has existed for over 100 years, why our rights should be taken away to tax those properties retroactively because our municipalities had the vision to do it.

We do not think that this bill is necessary in order to allow the system to be examined. There is plenty of time to do that, and in the meantime two municipalities will be seriously adversely affected. They will lose revenues that they were expecting from Manitoba Telephone System. These revenues will not sound like much. We do not know how much MTS will have to pay under this tax to the town of Grand Rapids. It might be \$5,000. Five thousand dollars is a lot of money to the town of Grand Rapids, and they have in good faith, acted on a legislative regime that has been in place for a long time.

By the way, the Weir Commission who studied the system recommended that personal property tax be abolished. The Legislature did not implement that recommendation. They made a conscious decision to continue it. In good faith, they passed their by-laws. They asked the assessor to assess. The assessor has failed to assess. The assessor has recently told Manitoba Court of Queen's Bench that it intends to assess. This by-law retroactively takes away his duty to assess, and it retroactively takes away our client's opportunity to receive a little bit of extra revenue. In fact, we now believe that it is

too late to receive revenue for prior years. If the assessor does his job this year, our municipalities will receive one year's taxes on the property that they have been trying to tax for it, in the case of one municipality two and a half years and another one and a half years.

Our clients have been put to expense in getting the municipal assessor to perform his statutory duty, and the response has been: we are going to retroactively wipe you out. Our clients are being treated like a nuisance. We do not understand, therefore, why this bill is necessary. It cannot affect anyone except two small municipalities. It will not give any other municipalities rights that cannot be organized by the end of the year. These consultations are supposed to take place about how this property will be assessed, and we cannot understand why retroactively our municipalities should be punished for doing something they had a perfect legal right to do. Those are my remarks.

Mr. Sale: Mr. McCandless, through the Chair to you, would you agree that the province has had lots of opportunity to deal with this issue, given that they were warned in 1996 that the issue of taxation for MTS would be a serious issue that they ought to pay attention to?

Mr. McCandless: The by-law of the Town of Grand Rapids, the municipal assessor in his affidavit says that he received it on February 28, 1997. So the province has been officially aware of the situation for more than two years.

Mr. Sale: Mr. Chairperson, Mr. McCandless, what in your knowledge did the province do in regard to the information that it had over that period of time?

Mr. McCandless: This information is also outlined in an affidavit of the provincial-municipal assessor. The affidavit states that in February '97, he received a copy of the by-law. In January 1998, he received a copy of the Lac du Bonnet by-law.

In March of 1998, he asked for and received copies of Alberta and British Columbia legislation on the matter and then had meetings with MTS. This is in the year 1998. It is not mentioned in his affidavit, but the Town of

Grand Rapids around August of 1997 received a letter from the assessor stating that he would carry out the assessment.

* (1520)

Mr. Sale: Mr. Chairperson, were any reasons given to the Town of Grand Rapids or to yourself as to why that was not done?

Mr. McCandless: The reasons that have been explained to us were that this is a very complicated matter, it is difficult to assess this kind of property, we have no experience assessing it, and therefore we require more time and study.

Mr. Sale: Mr. Chairperson, was there any evidence that the province availed itself of, I would hazard a guess, at least 50 years and probably a hundred years of experience in neighbouring jurisdictions such as Minnesota, North Dakota. Alberta has had a long regime in this regard. Is there any evidence that they took any steps to improve the ability of the department to deal with an admittedly complex area, or did they just stick their head in the sand?

Mr. McCandless: I do not have information about the efforts of the assessor besides the correspondence and affidavit that has been provided. I should tell you that the last word from the assessor was three days before our adjourned court hearing, where he stated that he would complete these assessments by the end of 1990.

Mr. Sale: Mr. Chairperson, does Mr. McCandless have any knowledge of visits of the provincial assessor and assistant deputy ministers to request or direct the two municipalities in question to withdraw their by-laws?

Mr. McCandless: Our information is that the assessor and an assistant deputy minister attended meetings of the councils of the Town of Grand Rapids and the Rural Municipality of Lac du Bonnet, I believe early this year, and also the Rural Municipality of Alexander, which also had a personal property tax by-law. They were asked to repeal the by-laws, being told that the province was studying this issue and wanted to

come up with a province-wide approach to taxation of these properties.

Mr. Sale: Mr. Chairperson, were they warned that if they did not withdraw, they would be legislated out of their ability to tax?

Mr. McCandless: The Town of Grand Rapids and the Rural Municipality of Lac du Bonnet's understanding from the meeting was that if they persisted and succeeded in enforcing their by-laws, that the province would or could pass legislation reversing what they had done.

Mr. Sale: Mr. Chairperson, perhaps Mr. McCandless does not know this, but if he does know, what is the status of the pipelines and infrastructure in the ground of Centra Gas at the present time in the rural areas? I know in the city he referenced a 1 percent of gross revenue tax. What is the status of the pipes in the ground outside of the city?

Mr. McCandless: I believe that they are assessed—and Mr. Graham, whom I notice here, could answer this better than I can—and go into the real property tax roll outside the city of Winnipeg. Inside the city of Winnipeg, I understand that Centra Gas, instead of that, pays a tax on gross revenues.

Mr. Sale: Mr. Chairperson, we can clarify that with the minister later, I guess, but I would also wonder if Mr. McCandless knows what the status of the TransCanada Pipelines with their various pipes is. I think they have at least two and maybe three main transmission lines across the province. What is your understanding of the tax status of those utility corridors?

* (1530)

Mr. McCandless: Well, those kinds of pipelines are defined as real property, and they go into the real property assessment roll at scheduled rates. The valuation is done in a schedule and a regulation prepared by the provincial municipal assessor, and a special portion, I believe, is applied to pipelines.

Mr. Sale: Mr. Chairperson, in McCandless's mind is there some kind of conceptual difference between a private telecommunications company

and a private gas transmission company in terms of the concept of real property that they use in the course of their business?

Mr. McCandless: Not in my mind, of course. In general, you will find through almost every jurisdiction in North America that these kinds of properties are assessed and valued at their value on an equal footing with other kinds of property. There is an argument that, for example, the Manitoba Telephone System or telecommunications property should be taxed at a lower rate than other property because it has less of a burden on municipal services, but that argument could apply to any kind of property. It could apply to Wal-Mart property.

Mr. Chairperson, the interesting thing about telecommunications property is that it uses public property, public rights of way for private purpose at no cost. For that very reason, it imposes a burden on municipalities. It also imposes a physical and real burden on municipalities just by being there. Municipalities have less of an opportunity to maintain, carry out construction of their own properties because it is there. In fact, the Federation of Canadian Municipalities is advocating that utility companies pay municipalities for the use of public roads. Interestingly enough, there is an argument that Manitoba municipalities have the right to impose those obligations on Manitoba Telephone System. The letter from the CEO of MTS to the provincial municipal assessor dated July 21, 1998, says—his concluding paragraph worries about this issue. He wants to ensure that MTS will not be subject to any form of double taxation where municipalities in Manitoba proceed to require MTS to pay user fees as a condition of granting MTS access to municipal rights of way.

That is why Manitoba Telephone System would probably want to pay municipal taxes.

Paying municipal taxes gives you certain rights. Also, municipal assessment and taxation are subject to rules about valuation, about appeal. It has to be uniform. More of a burden cannot be imposed on them than on other taxpayers. So municipal taxation is a benefit to municipalities. The question about burden is a

specious one when you think about school taxes. No factory, pipeline can be said to have a direct impact on school divisions. They pay school taxes on the value of the property. To say that Manitoba Telephone System should have special treatment because it imposes less of a burden on the municipality, there is no reason why it should have special treatment compared to any other kind of property owner that I can see.

Mr. Sale: I just have one other question, Mr. Chairperson. In Mr. McCandless's experience or in his professional judgment, is there a risk that companies now paying some form of taxation, whether it is on their real assets, such as we believe TransCanada Pipe, for example, is paying or Centra, in rural areas, who, when they see this legislation realize that another private company has a very different taxation status, will simply make an appeal based on whether it is natural justice or based on discriminatory treatment or rate of return? I am not a lawyer so I do not know how they would do it. Is there some risk that we set up two inequitable situations into which company A, private with assets, is taxed differently than company B, private with assets, and rather similar companies, both utilities, in some understanding of that term? Are we at risk that this is going to wind us up in further court challenges to basic fairness?

Mr. McCandless: I cannot say that we are at any risk of court challenge, and I cannot comment on your question about whether they would be raising this as an issue.

* (1540)

Mr. Chairperson: Any other questions?

Hon. Leonard Derkach (Minister of Rural Development): No, I just wanted to say thank you to Mr. McCandless for his presentation, and as always, we will certainly take into account the contents of your presentation.

Mr. McCandless: Thank you very much.

Mr. Chairperson: On behalf of the committee, Mr. McCandless, I want to thank you very much for your presentation and taking the time to answer the questions. Thank you, sir.

Is there anybody else wishing to speak to the bills? No.

Is it the will of the committee to proceed with the clause-by-clause consideration of these bills? [agreed]

Is there agreement from the committee that any amendments that may be proposed today are considered to be moved with respect to both the English and French languages unless otherwise noted? [agreed]

Bill 25—The Municipal Assessment Amendment Act

Mr. Chairperson: Does the minister responsible for Bill 25 have an opening statement?

Hon. Leonard Derkach (Minister of Rural Development): No, Sir.

Mr. Chairperson: None. Does the critic have an opening statement?

Mr. Clif Evans (Interlake): No.

Mr. Chairperson: I would like to thank the honourable member. During the consideration of a bill, the preamble and the title are postponed until all other clauses have been considered in their proper order. Shall Clause 1 pass?

Excuse us a minute. We are going to recess for 30 seconds.

Clause 1—pass; Clause 2—pass; Clause 3(1)—pass; Clause 3(2)—pass; Clause 3(3)—pass.

Shall Clause 4(1) pass?

An Honourable Member: No.

Mr. Chairperson: No. Clause 4(1) is not passed. Shall 4(2) pass?

An Honourable Member: No.

Mr. Chairperson: No. Clause 4(2) is not passed. Shall Clause 5 pass?

An Honourable Member: No.

Mr. Chairperson: Clause 5 is not passed. Do you want another 30-second break? Clif seems to know what is happening. Just keep on, Clif? You tell me when to stop. Shall Clause 6 pass?

An Honourable Member: No.

Mr. Chairperson: Clause 6 is not passed. Shall Clause 7 pass?

An Honourable Member: No.

Mr. Chairperson: Clause 7 is not passed.

Clause 8(1)—pass. Clause 8(2)—pass.

Mr. Derkach: I move

THAT Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this Committee.

[French version]

Il est proposé que le conseiller législatif soit autorisé à modifier les numéros d'article et les renvois internes de façon à donner effet aux amendements adoptés par le comité.

Mr. Chairperson: We have an amendment proposed by the minister. Is that agreed? The amendment is accordingly passed.

Preamble—pass; title—pass. Bill as amended be reported.

* (1550)

Bill 47—The Municipal Assessment Amendment Act (2)

Mr. Chairperson: Does the minister responsible for Bill 47 have an opening statement?

Hon. Leonard Derkach (Minister of Rural Development): No, I do not.

Mr. Chairperson: Does the critic have an opening statement?

Mr. Clif Evans (Interlake): No.

Mr. Chairperson: And now the honourable member for Swan River.

Ms. Rosann Wowchuk (Swan River): Mr. Chairman, I would just like to say a few words about this bill before it goes forward.

I had the opportunity to just recently visit with people in Grand Rapids and had an opportunity to discuss their concerns and what they were attempting to do, and they explained that they were looking for ways to raise revenue for the community. Anybody who knows Grand Rapids knows that it is a very small community with a low tax base, and they have been for some time trying to get the municipal assessor to do what had been outlined in the by-laws that have been passed. They at that time explained to me that because they were not getting any action on it, they had it before the Court of Queen's Bench and were looking for a resolution to this matter.

They were looking to have the ability to tax the properties in their areas and increase revenues, so when we saw this legislation come forward we were quite surprised that it would be coming at a time when there were two communities attempting to have this resolved and have a way to have taxes assessed on these properties. In fact, they were operating within the law, but the assessor was not carrying out his responsibilities.

When we first saw the legislation, as we looked at it we wondered what the implications were for other municipalities if the Manitoba Telephone System becomes tax exempt. What other service providers are going to also apply to become tax exempt, and what kind of loss of revenue is this going to mean for municipalities? If cable companies are going to look at this legislation and will be exempt, is there loss of revenue?

Certainly, when we look at the information put forward to the courts, the Manitoba Telephone System was not looking for a tax exemption. The applications that they had made to have rate hikes was based on the assumption that they would be paying taxes. We wonder what the implications of this legislation will be to other municipalities, whether there is going to be loss of revenues to municipalities while

private corporations have the opportunity to increase their profits. Certainly this looks like legislation that has been put together very hastily and could come back to cause many problems for government.

When we talked to the Association of Manitoba Municipalities, there had been very little consultation. In fact, they were not even aware that the hearing on this bill was on today, so for some reason we are putting legislation forward which will cause hardship for some communities. As the previous presenter indicated, two small communities like Grand Rapids and Lac du Bonnet trying to resolve their tax problem or the ability to raise some revenue should result in the government bringing legislation forward that will make a private company, Manitoba Tel, now a private company, tax exempt. This is something that the government should have been thinking about when they were privatizing Manitoba Telephone. I know that there was much discussion on that whole issue, and I know that there were issues raised as to whether or not there would be tax implications with the sale of Manitoba Telephone System, and here we see the government now bringing legislation forward that will exempt Manitoba Telephone.

Certainly, we can understand why a Crown corporation would be tax exempt, because it is a benefit to the people who own the hydro system. It is a Crown corporation; it is a benefit to everybody to have a different tax structure. But when you have a private company like Manitoba Telephone System given a tax exemption, you have to look at which other private company is going to be looking for a tax exemption. What is going to be the implication on Centra Gas which now pays real property tax? What is the implication going to be on TransCanada PipeLines? Should there be tax exemptions here?

We are going to see huge revenue losses for municipalities. On one hand, we are worried about high rate increases in telephone rates if Manitoba Telephone has to pay taxes. We have to look at the other side of the picture and see what the implications on municipalities are going to be if all of these other service providers start to look for the same kind of tax exemption

that Manitoba Telephone System will be given through this legislation. There are cable companies; there are many others.

So I think that this legislation was put forward very hastily, and the end result could be a lot of problems for future governments. It would have been much fairer to the people of Grand Rapids in particular and Lac du Bonnet when they had asked for these properties to be assessed, that the assessor had done their work, and then the government had worked with them in some way to ensure that they were able to address their concerns of raising revenue to provide services in their community, and bringing forward the legislation may not have been necessary had that been brought forward.

But the legislation is here, it is going to pass, and I think that we are going to see other problems that I am sure will create other problems and will have to be resolved through further legislation. So I would hope that the minister would recognize that communities such as Grand Rapids are looking to improve their tax base to provide services, and what has been created through this legislation may cause a lot of hardship for many other municipalities and loss of revenue. You may have opened a whole mess here that is going to have to be resolved in another way.

Mr. Derkach: I would like to indicate that, although I respect the member's comments with regard to this bill, the member should also know that the reason we are putting forth this bill is to ensure that when we address the whole issue of taxation or grants in lieu, whichever approach is taken in the future, that we consider all aspects of the telecommunications industry because, as the member knows, through competition there are many other forms of telecommunication that are coming into place right now. By simply addressing one facet of it, it does not give us a very good approach in terms of addressing the whole issue.

In addition to that, when you look at the specifics of two municipalities being able to, through by-law, assess the utilities in their municipalities, whereas other municipalities do not have that same advantage, then that puts a bit of a problem into the whole mix of how

municipalities are allowed to tax and raise revenue. As a matter of fact, in the Town of Grand Rapids, 82 percent, as I understand, of their total tax bill comes from Manitoba Hydro. So they are already receiving a significant amount of revenue from Manitoba Hydro through grants in lieu.

I think it should also be noted that the argument regarding the sale of MTS is not really valid because in this case we are looking not only at Manitoba Hydro, but we are also—or Manitoba Telephone, I am sorry—looking at both utilities.

An Honourable Member: A little Freudian slip there.

* (1600)

Mr. Derkach: Yes, Freudian slip. We are looking at hydro and telephone in terms of how they are taxed. So one is a Crown corporation, the other is a private company. So the issue of whether it is private or not really is a moot point, because in those two communities, Lac du Bonnet I think is seeking for permission to assess both MTS and Hydro utilities as well. So therefore, in both instances we are looking at the taxation of both utilities.

The member may also know that with regard to Centra Gas, the distribution lines with regard to Centra Gas is an issue where those lines at the present time are assessed. So therefore, in the industry, whether it is telecommunications or other services, we have a different situation that exists depending on what utility we are looking at. Therefore the review is absolutely necessary to be able to get some sort of semblance out of the way we approach assessment and taxation and payments of grant in lieu. Therefore I think it is timely that we did the review, probably one that results from the fact that two municipalities have already approached the problem that they have in their jurisdictions by passing by-laws. But we want to ensure that other municipalities are not disadvantaged and have the same opportunities, if you like, in the future to be able to realize, if in fact that is the decision at the end of the day, on the benefits of having those kinds of distribution lines and facilities in their jurisdictions.

The member may also know that at the present time MTS and Manitoba Hydro do pay real property tax on their buildings and on their sites. So it is not as if they do not pay any tax at all. So we are talking here about a very specific type of facility that comes under the personal property section of taxation.

Mr. Tim Sale (Crescentwood): Mr. Chair, does the minister not see a difference between the taxation status of a private corporation whose profits flow to its shareholders, its loaners of capital, versus a public corporation whose benefits flow to the public at large through lower rates or through better service or through some other mechanism?

Does he not see a contradiction here and recognize that that is precisely why companies like West Coast transmission and TransCanada Pipe and Centra have paid real property taxes on their assets while Hydro and MTS, while it was a Crown, did not? Does he not understand that that is the history, that Crowns are not taxed because the taxation theory behind that is that the value from the Crown flows to all people?

So it would be silly to tax ourselves for values we are already receiving, whereas the values of a private corporation flow at least in part to the owners, the profits, and therefore it makes all sorts of sense to impose some kind of right of use of public property, because the proceeds of that are flowing to private interests. That is not an argument for or against private ownership; it is just a recognition that since the beginning of utilities their taxation status has depended very largely on whether they were publicly or privately owned.

So is he not simply now setting up, rather than a clarification, a further confusion, that now we have a privately owned corporation benefiting from the same tax status as a publicly owned corporation while two other privately owned corporations have a different tax status. Surely he can see that he has not made things better, he has made them worse.

Mr. Derkach: Well, Mr. Chairman, that is precisely the issue with regard to inequities in the system. That is why under this legislation we have committed ourselves. By passing this

legislation we have committed ourselves to review the entire issue as it relates to Manitoba.

If the member were to review the comments that I made with regard to this legislation, he would know that I have made a commitment as the minister responsible for this department to undertake a review of the way in which Manitoba Telecom, Manitoba Hydro are treated in terms of taxation on personal property, which is the lines and poles and distribution systems within the various municipalities. In addition to this, the various other methods of telecommunication that exist today will also be examined under this.

Now at the end of the day, the recommendations that come forward may in fact achieve what the member is saying. I am not in a position today to state that, yes, MTS will be taxed and Manitoba Hydro will be exempt from taxation. What I am saying is that we will have a review conducted of this entire issue, and then recommendations will be made and an appropriate approach will be taken after the review is completed. We can argue back and forth about the benefits of Manitoba Hydro to the general population, but my commitment is to review the entire matter and then to come back with decisions, and at that point in time I guess we can have our argument about whether or not we are taking the correct approach.

Mr. Sale: Mr. Chairperson, this is another one of those wonderful Alice in Wonderland situations where you have had three years since you knew you had a problem, three and a half years since you knew you had a problem. In fact the rhetoric of the Premier (Mr. Filmon) was that there would be no change in taxation status; there would be no additional costs; MTS would pay the full fare. In fact we see here today that you were warned of the problem three and a half years ago; you were told you had a problem with property taxation. It was even suggested to you in committee hearings—I think the honourable current Minister of Natural Resources (Mr. Cummings) was actually at those committee hearings—that we needed to have a task force to review this issue.

So three and a half years later, on the eve of an election, an unannounced review with an

unannounced chair and an unannounced date of completion and an unannounced set of resources, no terms of reference, nothing public, we are supposed to believe that you are now committed, Mr. Chairperson, through you to the minister, that the ministry is now committed to some kind of review, the objectives of which are not public, not clear, not written.

Where was this review announced? Who is on it? Who staffs it? When is it due? There is no review. That is simply covering up the fact that there was nothing done for three and a half years. You now have a mess, so you are acting in haste to try and stop the mess from spreading, because you did not act when you should have acted three and a half years ago to sort out a very complex issue that every jurisdiction in North America has to cope with.

We are now finally waking up to it, or the government is, in spite of the fact they were warned at the time, in spite of the fact Mr. Nugent pointed out the problems. He was fired for his trouble, and my guess is this government is going to be fired for their trouble in terms of not realizing what kind of mess they were getting into by not dealing with the taxation matters in a forthright and honest manner when they had the chance, and instead the ratepayers of Manitoba are going to be paying through the nose because they made a corporation private without telling people in an up-front and honest manner what the costs were going to be. In fact, they denied there would be any costs. We now know what Mr. Nugent meant by rate shock, was eight bucks a month for ordinary ratepayers, and if this legislation were not passed in haste at the end of the day, another \$6 per month for ratepayers, at Manitoba Telecom's own estimation.

This government was prepared to pass legislation three and a half years ago exposing ratepayers to \$14-a-month increases on the basis of no homework and no honesty with the people of Manitoba regarding the costs that were going to be imposed because this corporation would now be subject fully to all sorts of taxes. Now they know that they have to deal with this issue on the eve of an election, so hasty, short legislation is being put in place so that they will be able to go forward and say, no, you will not

have a \$6-a-month increase, because we have forbidden the company from having to pay property taxes, and we have forbidden our assessor from doing his job of assessing the property that is out there so that we can claim there is a review underway, in spite of the fact that we could not find a single person on that review. There has never been a review announced.

The Association of Manitoba Municipalities, when I talked to them today, said there were vague assurances of a review that might take place in the future. There was no time line and no resources, and they did not even know this bill was up before the House today. They were not consulted; they were not offered the opportunity to come here today. If they had not been called by our party today, they would not even know this bill was on the table, Mr. Chairperson.

So this legislation obviously has to pass because the government has got itself into a mess, and they were prepared to see the people of Manitoba facing \$14-a-month increases on their telephone bills, and yet to tell people there would be no such increases.

Now this minister wants three little paragraphs passed so that he will not face \$6 of that \$14 through his error in failing to deal with this issue three and a half years ago when in this very room this issue was on the table and was agreed to as an issue, but the government did not do anything about it because it was too darn embarrassed to recognize that they had simply not been forthright with the people of Manitoba and told them that, yes, the cost of privatization is serious rate shock, serious price increases, and they could be as high as \$14 a month. That is exactly the scenario we are facing today.

*(1610)

The Premier (Mr. Filmon) of this province misled the people, and so did the rest of the government by claiming that we would not be facing the increases that MTS in his letter of 1998 and many other letters in regard to their income tax liability have acknowledged is in fact the case. A doubling of ordinary telephone rates as at December 1996 is what this government

put the people of Manitoba in front of, Mr. Chairperson. Shameful.

Mr. Derkach: I guess we do not need any lectures from the member for Crescentwood, because when he talks about misleading he has been doing that consistently in the House for some time.

Point of Order

Mr. Sale: On a point of order, Mr. Chairperson, I think the member knows that the attribution of "misleading" to an individual is unparliamentary, and that he should not refer to individuals before the committee. I think it is quite proper to talk about government misleading, but it is not proper to talk about individuals. I think the member knows that.

Mr. Derkach: You know, the arrogance of this individual is just absolutely astounding. He just made reference to the Premier (Mr. Filmon), and he used the term "misled." In response, I am indicating to him that if anyone is misleading Manitobans, it is the member for Crescentwood, and not the Premier of our province.

Mr. Chairperson: On the point of order raised by the honourable member for Crescentwood, the honourable member does not have a point of order. It has traditionally been ruled in this House and these committee rooms where you have to attribute the wording "deliberately misled." Therefore there is no point of order.

* * *

Mr. Chairperson: The honourable minister, to continue with his remarks.

Mr. Derkach: Mr. Chair, I should also point out, in reference to the issue, that indeed, if the member wants to talk about telephone rates and their going up or down, he should also examine the whole picture rather than just portions of it, because today Manitobans enjoy a very substantial advantage when it comes to long distance rates throughout the province and within the whole area of telecommunication.

But, you see, Mr. Chairman, the member chooses to pick his information very selectively.

We have seen that in the past from this member. He does that consistently. I think he is known well for his misrepresentation of the facts as they really are, both in the House and throughout the province.

I would have to say that, as it relates to this particular amendment, we have discussed this amendment with AMM, and AMM understand why it is that we are moving with this amendment. They agree with us, by the way, Mr. Chair, so the member should not credit himself with anything at all, because our working relationship with AMM has been very strong and continues to be that.

Mr. Chair, I also want to tell the member that, if he were paying the least attention to comments that are made in the House with regard to this bill, indeed I made the commitment in the House that I was going to be putting together a review of the taxation of MTS utilities, the lines, the Manitoba Hydro personal property items, as well as the natural gas distribution, so that at the end of the day there will be a consistent approach that is taken, something that this government is known for, in terms of taking a very sensible, practical approach when it comes to dealing with the way in which companies, individuals and municipalities are treated in the province of Manitoba.

Ms. Becky Barrett (Wellington): I would like to ask the minister about this study, if he has any specifics as to time, when it will start, when it will conclude, who will be on it, what the terms of reference are, and when we can have tabled for us that information.

Mr. Derkach: Mr. Chair, to the member, I would like to assure her that in the next short while we will be coming forward with a specific mandate, if you like, or terms of reference for the study.

As well, we will also be coming forward, I guess, informing the public and opposition as to who will be leading this study and under what terms of reference it will be done.

Ms. Barrett: Mr. Chair, could the minister be a little more specific in giving us a parameter of

what a short while means? Is it days, weeks, months, prior to the next election?

Mr. Derkach: Mr. Chair, I fully understand why the member would like to see the terms of reference and the people who will be involved in this, but I have to tell her that we do not have that ready at this point in time. In the next few short weeks, I would say approximately a month, I will have the terms of reference and the people who are going to be involved in this ready for the member.

Ms. Barrett: Mr. Chair, we are being asked here today, as are the rest of the people of Manitoba, to deliberate and pass on legislation that is predicated on—and the minister agrees that there are issues, very complicated issues, that need to be dealt with in this whole area of taxation and utilities, et cetera.

The minister has said that a study looking into this issue would be undertaken. So I just wanted to make sure, as we all do, that there is some kind of a time where we can hold the government accountable after which time saying—I mean, for the minister to say a month, that is very helpful, because then, if a month has gone by and there appears to be no action on it, then we know we need to do some pushing.

So I appreciate the minister—I know the minister cannot give a specific date or perhaps at this point terms of reference and individuals. I hope that the minister is expeditious in—[interjection] The member for Interlake (Mr. C. Evans) tells me that the next AMM meeting is in November. So it would be very helpful to have had the task force appointed, assigned and perhaps having, if not completed, done a fair bit of the work by that time.

Mr. Derkach: I thank the member for her comments. Indeed, the goal is to be able to get the review done in time so that we can put forward legislation that would address the entire

issue because we do not want to be putting municipalities on hold with respect to this issue for an indefinite period of time.

I cannot tell the member specifically how long the review will take at this point in time. Those are all issues that we are examining at the present time to determine how long the review would be required to take, but let me assure her that we will be moving ahead immediately. We are not going to delay this or put it on a shelf. We are going to be moving with this as soon as we can.

Ms. Barrett: Just a point of clarification, Mr. Chair. The current government may be instituting and starting this review, but I would suggest that the next government will be the ones and it will not be. The current minister will have changed his robe when the review is completed.

Mr. Derkach: Well, Mr. Chair, I do not want to be making any proclamations at this point in time. I am just assuming that the status quo exists and that we will continue to work because I think both the member and I agree that this is work that has to be undertaken. I am just making the broad assumption that the status quo will prevail.

Mr. Chairperson: I would like to thank all members for their comments on this bill.

During the consideration of a bill, the preamble and the title are postponed until all other clauses have been considered in their proper order.

Clause 1—pass; Clause 2—pass; Clause 3—pass; preamble—pass; title—pass. Bill be reported.

Committee rise.

COMMITTEE ROSE AT: 4:11 p.m.