Second Session - Thirty-Seventh Legislature

of the

Legislative Assembly of Manitoba

Standing Committee on Municipal Affairs

Chairperson
Mr. Tom Nevakshonoff
Constituency of Interlake

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Seventh Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Thursday, June 28, 2001

TIME – 6:30 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Tom Nevakshonoff (Interlake)

VICE-CHAIRPERSON – Mr. Schellenberg (Rossmere)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Ms. Friesen, Hon. Ms. McGifford, Hon. Mr. Selinger

Messrs. Aglugub, Derkach, Laurendeau, Maguire, Martindale, Nevakshonoff, Schellenberg, Mrs. Smith

Substitutions

Mr. Faurschou for Mrs. Smith at 9:50 p.m.

APPEARING:

Hon. Jon Gerrard, MLA for River Heights
Mr. David Faurschou, MLA for Portage la Prairie

WITNESSES:

Bill 31 – The Municipal Assessment Amendment Act

Mr. Rick Weind or Paul Moist, Canadian Union of Public Employees, Local 500
Mr. Jae Eadie, Councillor, St. James Ward, City of Winnipeg
Mr. Brian Moore, City Assessor, City of Winnipeg
Mr. Henri Dupont, KPMG
Mr. Jim Baker, President and CEO, Manitoba Hotel Association
Mr. Antoine Hacault, Private Citizen
Mr. John Petrinka, Norman Commercial Realty Ltd.

Bill 32 – The City of Winnipeg Amendment Act

Mr. Jae Eadie, Councillor, St. James Ward, City of Winnipeg
Mr. David Sanders, Director, Real Estate Advisory Services, Colliers Pratt McGarry

WRITTEN SUBMISSIONS:

Bill 32 – The City of Winnipeg Amendment Act

Mr. Joe Masi, Director of Policy and Research, Association of Manitoba Municipalities

Bill 34 – The Municipal Amendment Act

Mr. Joe Masi, Director of Policy and Research, Association of Manitoba Municipalities

Bill 31 – The Municipal Assessment Amendment Act

Mr. Henri Dupont, KPMG

MATTERS UNDER DISCUSSION:

Bill 31 – The Municipal Assessment Amendment Act
Bill 32 – The City of Winnipeg Amendment Act
Bill 34 – The Municipal Amendment Act
Bill 38 – The Local Authorities Election Amendment Act
Bill 43 – The Auditor General Act
Bill 48 – The City of Winnipeg Amendment (Pensions) Act

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Mr. Chairperson: Good evening. The Standing Committee on Municipal Affairs, please come to order.

This evening the committee will be considering the following bills: Bill 31, The Municipal Assessment Amendment Act; Bill 32, The City of Winnipeg Amendment Act; Bill 34, The Municipal Amendment Act; Bill 38, The Local Authorities Election Amendment Act; Bill 43, The Auditor General Act; Bill 48, The City of Winnipeg Amendment (Pensions) Act.

In our meeting this morning the committee agreed on several points of information as

follows. It was agreed to consider public presentations in the following order; Bill 38, Bill 31, Bill 32, and we did hear all registered presenters this morning to Bill 38. Presenters who do not appear when called will be dropped to the bottom of the list and called again after all presentations have been heard. Finally, it was agreed to allow 15 minutes for presentations and 5 minutes for questions and answers.

I will read the names of the persons who have registered to make presentations this evening. Bill 31: Rick Weind or Paul Moist of CUPE Local 500; Councillor Jae Eadie, City of Winnipeg; Henri Dupont, KPMG; Jim Baker, Manitoba Hotel Association; Antoine Hacault, Private Citizen; John Stefaniuk, Private Citizen; John Petrinka, Norman Commercial Realty Ltd.; Bill 32: Councillor Jae Eadie, City of Winnipeg; and David Sanders, Colliers Pratt McGarry.

If there is anybody else in the audience that would like to make a presentation and has not yet registered, you may do so with staff at the back of the room. For the information of presenters, please be advised that 20 copies of any written versions of presentations would be appreciated. If you require assistance with photocopying please see our staff at the back of the room. Finally, as a courtesy to the individuals on our list waiting to present, are there any suggestions as to how late the committee should sit this evening?

Mr. Doug Martindale (Burrows): I would suggest that we try to hear the presenters and do clause by clause of all the bills, but perhaps we could canvass the committee at midnight and see how much progress we are making if we are not finished by then.

Mr. Chairperson: Is that agreeable to the committee? *[Agreed]*

Bill 31–The Municipal Assessment Amendment Act

Mr. Chairperson: We will begin with Bill 31. The first presenter, Rick Weind or Paul Moist of CUPE Local 500. Mr. Weind, do you have written presentations?

Mr. Rick Weind (Canadian Union of Public Employees, Local 500): Yes, I do.

Mr. Chairperson: Please proceed.

Mr. Weind: Thank you, Mr. Chairman and members of the committee. We are pleased to have an opportunity to make this presentation.

CUPE Local 500 represents the 5000 inside and outside workers in the city of Winnipeg and more specifically the approximately 140 line workers in the Assessment Department. We have been involved in market value assessment since its inception. All members of the department were asked for input into this brief and many responded.

We can summarize our views as follows: Firstly, in 1996 Bill 43 originally gave the various boards and courts the ability to raise or lower taxes. The Scurfield report, which was commissioned by the City of Winnipeg, endorsed the proposed amendments of Bill 43 with some minor qualifications. This provision was not one of them. He did not have any concerns with that. At the time the knowledgeable members of the assessment and appraisal community were aware of the implications of that provision. The legislation passed without a lot of concern in that respect.

Our second point is that the ultimate authority to raise or lower assessments rests with the impartial review boards and courts. These decisions are based on evidence presented at these hearings by both parties. The final decision as to the market value of a property is not an arbitrary decision made by a bureaucrat. Any restriction on the review panel to make a decision irrespective of who files the appeal erodes the intent of the legislation to determine market value and equitably distribute the tax burden. The province of Manitoba is, to our knowledge, the only jurisdiction where the boards do not have this power.

Our third point centres around the legislation and how it has been interpreted. One of the mandates of the Assessment Department is to establish market value. We give the definition of market value and we give the fair and equitable provisions of the act. That is basically what guides how we come up with assessments.

Of the two requirements, the courts have determined that market value will be the prime determinant in assessing properties and that assessments will be fair and equitable when properties are assessed at market value. We

include some of the decisions that have confirmed this view.

With the Marion Holdings decision and the Rideau Towers decision, the courts have emphasized that when we do the initial assessment, we do a mass appraisal. That is we come up with a generic technique for looking at all the properties in the city of Winnipeg. We come up with methodologies for valuing residential properties, commercial properties, industrial properties and the like.

* (18:40)

That is fine, the courts have said at the initial stage, at the Board of Revision level. When we go to the Municipal Board, the board finds that that is fine for undertaking the initial reassessment. The assessor must assess all properties in a municipal corporation and is so charged with an onerous task. In dealing with apartment blocks alone, there are 1800 apartment blocks in the city of Winnipeg. It is unreasonable to expect the assessor would be able to do site inspections for each of these properties.

So when we get to the Municipal Board level, the process becomes more finite, and we do a site-specific valuation on each property. We look at each property and the specific characteristics relating to that. The board quotes that later on.

So the Assessment Department works within the guidelines set down in the legislation and subsequent interpretations by the court. In light of this decision, if after the mass appraisal new evidence comes to light which indicates a change in assessment, the board should be able to raise or lower the assessment based on the evidence before it, and we quote portions of the Rideau Towers decision which, again, emphasizes that point.

Counsel for the city assessor points out that the methodology used in arriving at the initial assessment figure is a mass appraisal method which is applied to a very large number of assessable properties. That same mass appraisal system is used to justify the assessment at the Board of Revision level, but when the matter is further refined by an appeal to the Municipal Board, a site-specific analysis of the property is conducted.

So we have a situation where the process has evolved, where we have to do a mass appraisal at one level, site-specific. We will look at a property and we will make recommendations downward, but we should also be able to make them upward. There are a number of reasons why after the mass appraisal, when we are at the Municipal Board level, why we can increase or decrease or make a recommendation. We do a site inspection of the property, we have misinterpreted, or incorrect income and expense information originally submitted is wrong. Often information is not submitted to the department until an appeal hearing is filed or scheduled.

So, based on that evidence that comes to light after the fact, we typically make recommendations to go down, but the court should have the ability to look at our evidence and raise the assessment as well.

In keeping with the guidelines in the vision statements we quote at the beginning, we support the move to a more current reference year. Right now we are at a four-year cycle. It would probably be beneficial to evolve to a two-year cycle. That has to be a process of evolution, though, as I said, and done over time.

The fifth point is the Assessment Department is and should only be concerned with establishing market value as defined in the act. If, as indicated, information comes to light after the fact, the assessment should be raised as well as lowered. Assessors routinely recommend reductions to the board, and the city assessor frequently signs certificates of agreement lowering assessments. All citizens should be concerned that market value is achieved. If that means assessments be lowered or raised, then all concerned citizens will benefit.

Our sixth point is very important to us, and I think it is the nub of some of the concerns here. The only enhancement of power contemplated by this legislation is that of the independent, impartial boards or courts. I am not getting any more power as an assessor. I am analyzing evidence. I am presenting evidence. The board takes it or leaves it.

Our seventh point kind of relates to one of the first points, where we feel we are the only

jurisdiction, that the courts or panels do not have the authority to raise or lower assessments. We believe that the province of Manitoba is the only jurisdiction where the burden of proof affecting assessment is on the assessor. Well, that is fine. We are not going to argue that. That is not before us here, but let us make the playing field level. The obligation of the assessor should be to present all evidence, be it for increasing or decreasing assessments. The boards and courts should be allowed to make these adjustments irrespective of who has filed the application for revision.

We do support this legislation, but we make the following observation: In keeping with the commitment to fairness and establishing a more current market value system, we suggest this legislation be enacted and come into effect for the 2002 reassessment.

So again we appreciate the opportunity to appear before the committee to present our views. We present them in good faith and hope they are considered when the committee is making the recommendations. Thank you.

Mr. Chairperson: Thank you for your presentation, sir. Questions from the members of the committee?

Hon. Jon Gerrard (River Heights): I just would ask for clarification on the coming into effect for the 2002 reassessment. The bill, as currently written, would come into effect on January 1, 2002, which would meet, I gather, what you are looking for. Why would you not have it come into effect as soon as it is passed, for this year's assessment?

Floor Comment: As we understand it, the whole–

Mr. Chairperson: Pardon me. First of all, Mr. Weind, for the sake of the Hansard, I want to identify you as Mr. Weind and not as Mr. Moist, and then I have to recognize you before you speak as well. So, Mr. Weind.

Mr. Weind: Through the Chair to Mr. Gerrard. The legislation, as we understand it as written, comes into effect January 1, 2002. The Board of Revision hearings and notices are going out July 16, I believe. The Board of Revision hearings and the appeals will be filed prior to that date. Any appeals that are filed prior to January 1, 2002, in the legislation coming into effect will fall under the old legislation, so we would like the legislation enacted as soon as possible.

Mr. Chairperson: Any further questions?

Mr. Gerrard: You are saying it should be enacted. I mean if it were passed in the next couple of weeks, before the July 16 date.

Mr. Weind: Through the Chair to Mr. Gerrard, I am not sure of the logistics, but we would like it enacted for the 2002 reassessment so that the appeals that are filed for 2002 roll can be covered under this new legislation.

Mr. Chairperson: Any further questions?

Hon. Greg Selinger (Minister of Finance): Thanks, Rick. We had a representation earlier this morning that the ability to raise as well as lower an assessment could be used as a tactic by people such as yourself, assessors, to intimidate people into not appealing. Would you care to comment on that?

Mr. Weind: Through the Chair to Mr. Selinger, I believe you are referring to the prior presentation. I believe Mr. Sanders kind of answered that question because he was asked a question of whether this was a predatory system or a money-making system, and he made the comment that the only changes to assessments are based on recommendations by assessors and changes that the board finds fair and just.

Well, nothing is changing under this legislation. If I make a recommendation to lower it, my motive is proper market value. If I make a recommendation to raise something, my motive is the same, fair market value. It is the same with the boards and courts. Their motive is to find market value based on the evidence presented before them. So it is not a question of intimidation, it is simply a question of market value. I do not really know where that is coming from.

Mr. Selinger: Let me just pursue it a little bit more. Part of the rationale that it might be a form of intimidation or could be used as such was that

reasons did not have to be provided for why the value would be lifted. The person whose property was affected did not have to get the rationale for why it should be lifted, but it is sort of hanging out there. I think that was part of the rationale that Mr. Sanders put before us this morning. Do you wish to comment on that? Should there be a rationale that goes along with a recommendation to lift or lower an assessment, Mr. Chair?

Mr. Weind: Through the Chair to Mr. Selinger, again as Mr. Selinger has pointed out, the Municipal Board briefs are exchanged 15 days ahead of time. Prior to that, it will be in that brief 15 days prior to the hearing. If we see something in there subsequent to what the board, the legislation allows for 10 days for us to make, and we present our evidence. We show our briefs to the appellant and to his agent and to the board beforehand so they know why.

The other issue is that this applies basically to the tax agents, and most people know the value of their property and there is a range. It can go up. It can be lower. It can be higher. So, in terms of intimidation and not knowing why, our methodologies are pretty straightforward, and we do exchange information as per the boards and if this legislation is passed, as per the legislation.

Mr. Selinger: Just for greater certainty then, are you saying that if somebody's assessment is going to be raised, you have to give them the explanation and information as to why you are doing that before they show up at the hearing?

Mr. Weind: Through the Chair, we exchange briefs 15 days prior. The 10 days' notice will give that information and we have rebuttal evidence.

Mr. Marcel Laurendeau (St. Norbert): How many properties do you think you would be talking about, Mr. Weind, that would be involved in this or during that reassessment time?

Mr. Weind: Are you asking me how many properties will be appealed, Mr. Laurendeau? I do not know. The last time we had 15 000 properties that were appealed. I would assume that is, you know, I do not have a crystal ball. I do not know, 15 000, I think, would be the high end.

* (18:50)

Mr. Laurendeau: In your experience as a city assessor–I take it that your role is city assessor at this time.

Mr. Weind: No, I am not the city assessor. I am an assessor for the City.

Mr. Laurendeau: Yes, you are an assessor for the City. Thank you for correcting me. But in your role, how many of those 15 000 would you say would be needing to be increased in value, the ones that are being appealed?

Mr. Weind: I could not hazard a guess.

Mr. Laurendeau: Would you, as an assessor, have ever looked at that in the past, seeing as you did have the ability to look at it under the existing legislation?

Mr. Weind: I cannot remember specifically making a recommendation to increase some, but I know it was discussed with appellants from time to time. I may well have, but I do not remember it. I certainly made a lot more recommendations to reduce than I ever did to increase.

Mr. Laurendeau: What would you think the reason for this legislation would be then? What is it giving you the ability to do that you have not already got the ability to do? You have already, I understand, you said that you have the ability to increase now. Maybe I misunderstood you, but you seem to, that is the way I took it, that you have already the ability to increase assessments today.

Mr. Weind: I thought you were talking prior. When Bill 43 originally came in we had a window there where we were increasing assessments or making recommendations to increase. That window closed. Subsequent to that we do not make recommendations now to increase assessments.

Hon. Jean Friesen (Minister of Intergovernmental Affairs): Thank you very much for your presentation. At the moment what

assessors are doing is a fair number of cross-appeals. What I am wondering is if you recognize what is the difference in this bill between a cross-appeal and the onus that will now be on you to provide greater information and timing much more advanced or more advance notice to a home-owner or to a business owner than you had in the past. Have you recognized the differences in obligations on the assessor and do you see any problems with this?

Mr. Weind: I am not entirely sure how many properties we are cross-appealing these days, but I know with the 10 days that will make a difference, but we do not hide anything. If we are going to go to court with evidence we are bound to show it one way or the other. I do not see that as a particularly onerous task for us. I mean, whatever requirements are to show evidence beforehand or exchange briefs, that is what we do, and it is the same for both parties.

Ms. Friesen: I think there was some confusion in the earlier discussion about the changes in the assessor's role. What this does, I mean it does have requirements for you to give information ahead of time, which in many cases you have, but perhaps not always. But essentially what this does is alter the power of the boards, not of the assessor. It enables the boards to raise or lower, as they can in other provinces, the nature of the assessment. Is that your understanding of it?

Mr. Weind: Absolutely. Our point No. 6 is the only enhancement of power contemplated by this legislation is that of the independent boards and courts. So this does not affect me at all. I come up with the evidence and the board makes the decision.

Ms. Friesen: The City of Winnipeg has taken a proactive role, let us say, this time around, in assessments. We are all relatively new at market assessments in Manitoba. We are in our second phase now. The City has developed preliminary assessment notices and then has held open houses, has had information on the Web. It has been, I think, a more citizen-friendly process than perhaps it has been in the past. Given the nature of the web I think that has helped it. Do you have a sense of how those open houses have been received? Do you think it will reduce the number of differences between assessors and taxpayers? Are you able to sort some of the things out that you might not have been able to before?

Mr. Wiend: Through the Chair, ultimately the test will be in the number of appeals we get. Myself, I am open to anything that reduces the number of appeals and makes the process more transparent. I think that did accomplish that. Again we will see how it translates, but I think it was helpful to both parties. I have heard, probably, more positive than negative feedback on it.

Mr. Chairperson: We are out of time, but I will allow Mrs. Smith one question.

Mrs. Joy Smith (Fort Garry): Thank you. I just have one question. Have you talked in general with the public? Is the public generally aware of this new change in assessment, because it is my understanding at this point in time that, number one, there is a great deal of assessments going through, and number two, the assessments are lower. If they are appealed and accepted, the assessments usually come back lower. Do you feel the citizens here in Winnipeg are aware that this legislation could, when they appeal, raise their assessment on their properties? Are they generally aware? Do you have any evidence the public is aware of the ramifications of this legislation?

Mr. Wiend: In my experience, my belief is that probably a lot of people are not aware of it. Probably most people are not aware of it. The average home-owner, this is not going to affect them. This does not have a whole lot of effect on the average home-owner, the average taxpayer. This is going to impact more on commercial properties, industrial properties, the tax agents and the lawyers. I do not see this as having a big impact either way in terms of the average home-owner or the average taxpayer. And, no, I have not heard any comments from them, from individual home-owners.

Mr. Chairperson: Thank you very much, sir, for your presentation.

I call on Councillor Jae Eadie, City of Winnipeg. Mr. Eadie, do you have written copies of your presentation? You may proceed, sir, when you are ready.

Mr. Jae Eadie (Councillor, St. James Ward, City of Winnipeg): Thank you. Mr. Chairman, I am going to ask for some guidance from you and from the committee. I am also here to speak on Bill 32 which comes some time later this evening. I wonder if you, through the committee, would indulge me the opportunity to make my brief presentation on both bills while I am standing here at this podium right now. I am not reading that written submission in full. I am just going to hit the highlights of it, but I am obviously in your hands.

Mr. Chairperson: Is there leave of the committee that Mr. Eadie present on bills 31 and 32? *[Agreed]*

Okay. Mr. Eadie, you have leave.

Mr. Eadie: Thank you very much. Mr. Chairman and committee. First of all. on Bill 31. as I have said, I have submitted sort of a written brief. I am not going to read it through. You will be able to read it. I am going to hit just a couple of highlights. I, first of all, want to indicate to you on behalf of the City of Winnipeg that we do support the amendments that are proposed in Bill 31. We believe that a properly administered assessment system ensures the equitable distribution of costs of government to citizens and the system should ensure fairness and equity for all taxpayers by allowing the appeal tribunals to establish accurate market values on appeal. Those tribunals should be able to move assessments up or down, or leave them unchanged, based on whatever evidence is presented to the appeal tribunal at the time.

Others have mentioned, and I notice it was mentioned in second reading debate on this bill, that Manitoba is the only province in Canada that does not allow this process to happen in the assessment appeal process. Our own department has also retained independent analysis of the assessment process throughout Canada and has confirmed that Manitoba indeed is the only province without this ability in the appeal process.

* (19:00)

So we being the City of Winnipeg are of the view that the legislation that is being proposed is certainly not unfair; it is fair, but it should come into effect, not on January 1, 2002, it should come into effect on the day this bill receives royal assent so that the application of this bill can be made during the current reassessment process that is under way in the province of Manitoba and not have it actually come into effect in the next process four years down the road.

This is not a new request, by the way, as you know, and members will know that this request is a rather old request of the City of Winnipeg Council. The previous government did consider this very same request, got almost to the point of passing legislation and then got cold fee and withdrew it.

However, from the City's perspective, we are happy to see this back. We think that, again, this is a fair process. I can tell you that if, in fact, this bill is passed and does become effective immediately for this reassessment, certainly our Assessment Department has plans to start publicizing this entire process and the procedures almost as soon as possible.

We can put information on our Web site. We can do public information advertising, and we can certainly include the process for assessment appeals, as we do when we send out our reassessment notices in the formal sense perhaps later on in July. So there is lots of opportunity for government–and that is municipal government–because this is a Manitoba bill to inform their citizens regarding the rules and processes and regulations regarding assessment appeals.

So, from the City of Winnipeg's perspective, we do not think it is going to take five or six months in order to inform the public. We can be ready and willing and certainly are able to make the public in this city very well aware of what all of the rules and regulations are around the reassessment process, and we can use all manner of media for information purposes and can get that information out so that people can understand it.

There are comments in here about some of the statements that were made earlier this morning by Mr. Sanders. I am not going to repeat

them for you. We have made some comments in the brief.

By the way, I am accompanied here today by Mr. Brian Moore, the City Assessor. If there are questions of a technical nature, I do not pretend to be able to answer them, and with your indulgence, Mr. Moore is here to answer any sort of technical questions or mechanical questions that I am not capable of answering.

I am simply going to sum up my remarks on this bill, Mr. Chairman, by indicating that the City of Winnipeg is supportive of the concept of the amendments because we believe that the appeal process for citizens should benefit all citizens, but we believe that the changes should come into effect on royal assent or in time for this year's, 2001, reassessment and should be in effect prior to January 1 of 2002.

I am going to end my presentation on that. As I say, you have a more detailed brief. If you want, I will move right on now to Bill 32, unless you want to do the question period now. I am in your hands.

Mr. Chairperson: First, we will deal with questions for this bill, and then we will move on to the next one. Questions from the committee, Mr. Derkach.

Mr. Leonard Derkach (Russell): Mr. Eadie, in your presentation, you make statements such as Manitoba is the only province where an appellant has no risk in appealing.

Now, as an elected person of a residential area, what you are saying to your constituents here is that they should have a risk when they go forward to appeal their assessment. Now, I can hardly believe that statement from someone who is elected who would say: My constituents should have a risk when they go to appeal an assessment which they think is too high.

I find that statement almost unbelievable, but, nevertheless, I will allow you to explain that statement.

Mr. Eadie: Mr. Derkach, it is you putting words in my mouth. The City of Winnipeg believes that the assessment appeal process should be fair to all citizens, and that is why we believe that it is only right and proper in any appeal process.

This happens in other venues, as well, that when you take the opportunity to appeal, you have to realize that in this process–which is fair and independent of government intervention, I might add, contrary to statements that were made at second reading debate which I found offensive–the appellant, the citizen should have the right to expect a very fair process. It is up to the assessor to prove in that process that the appellant's assessment is accurate. How accurate that is will depend on the evidence presented to the appeal panel.

So I have not made the statement that you have attributed to me.

Mr. Derkach: I am only reading the statement that is made in your brief, Mr. Eadie, and I will read it again: The current legislation is unfair.

That is not our statement. That is your presentation, where you are saying Manitoba is the only province where the appellant has no risk in appealing.

Then you go on to say Manitoba is the only jurisdiction, which is true and for good reason, in Canada where the onus is on the assessor to prove the assessment is correct rather than on the appellant proving that the assessment is wrong.

Now, Mr. Eadie, it is the jurisdiction of–whether it is the Province or the City of Winnipeg who, in fact, hires the professional people to assess the properties. It is my understanding these people are trained to assess these properties in an accurate way. As a taxpayer, I am not trained in that field. Therefore, I come before the appeal tribunal as Joe Public, citizen of Winnipeg, or Manitoba, who is requesting that consideration be given to relook at my assessment to ensure whether in fact it is not too high, because in my very, I guess, unscientific approach to research I seem to feel that my property is overassessed. So I do not have the powers of a large battery of lawyers and assessment people to be able to argue my case, but now I am faced with the prospect that in fact I could have my property adjusted upward because the assessor could very easily come

forward and say, well, you know, we did make a mistake here but that property should be assessed in a higher manner. That is not why I am appealing my assessment.

Although Manitoba is the only jurisdiction in Canada, I think over time it has been shown that it is for good reason that we in fact have a system where the onus has to be on the professional people and the professional body to ensure the assessment is correct. I simply argue this from the point of the ordinary citizen who does not have a great deal of choice when it comes to assessment and paying property taxes.

Mr. Eadie: I assume, Mr. Chairman, somewhere in there, there was a question. I certainly agree, and I think all of my colleagues at City Hall will agree that assessors, wherever they are, whether it is in the City of Winnipeg or the Province of Manitoba, have an obligation to do their very, very best to get the assessment right the first time, but there are appeals that happen and that is where the opportunity arises to actually focus on an individual piece of property. Where that focus is on that property, if it has been proven in that process that the general assessment was inaccurate, then obviously that information is dealt with in an independent panel and the panel makes the decision it feels is the best possible decision.

I guess that is the risk for any property owner, Mr. Chairman, but one must ask the question: Why is Manitoba so out of sync with the rest of Canada? Every other province in Canada follows a different process. I have travelled all across this country. I know municipal leaders in every city in this province, and we do talk a lot about assessment processes because it evolves and it changes rather rapidly, almost everywhere else except here. You have to ask the question: Why is Manitoba out of sync with what is happening in the rest of the country? Where it does not appear that people elsewhere feel the process in their jurisdiction where this bill is trying to head is unfair.

Mr. Derkach: Mr. Eadie, I go down to your last point on your first page where you say up to now the appellant has had the unfair advantage. The worst case on the appeal from the appellant's point of view is that the assessment is maintained. In other words, if the tribunal determines the assessment is too low it cannot be raised to the proper market value unless there is a counterappeal by the assessor. Mr. Eadie, is it not correct that, in fact, if through the appeal process the tribunal does determine the assessment is too low the onus then goes back to the assessor to file a counterappeal in order to be able to protect him or herself, or for that matter the true market value of the property?

* (19:10)

Mr. Eadie: The present process? Yes, that is correct.

Mr. Derkach: So, having said that then, there is fairness in the system in that there is opportunity to raise the assessment by a simple cross-appeal by the assessor.

Mr. Eadie: Yes, there is, under the present legislation. Only it involves yet another step, and I suppose another time-consuming process, which may or may not be all that significant, depending on your point of view, but this process envisions that these matters should be dealt with right at the first instance with the appellant and the assessor and all other interested parties in the room with full knowledge of all of the details of the assessment that is under appeal where they can deal with each other right there, one time, hopefully, not taking it to another step.

Ms. Friesen: I wanted to clarify the exchange that you just had, because your brief also says: The assessor, under the present conditions–those are my words; I have added them–but the assessor is not made aware of the appeal until after the appeal application deadline, thereby precluding the assessor from filing targeted counterappeals. The only alternative is for the assessor to appeal all assessments prior to the deadline which, I understand, is what has been happening and is what you say here. So I am trying to clarify the exchange we just had.

Mr. Chairperson: Sir, would you recognize yourself for the purpose of Hansard. First of all, we have to have leave from the committee that you speak. *[Agreed]*

Mr. Brian Moore (City of Winnipeg): My name is Brian Moore. I am the city assessor for the City of Winnipeg.

Mr. Chairperson: Your name, I did not quite catch it.

Mr. Moore: Brian Moore. M-o-o-r-e.

Mr. Chairperson: Okay. Proceed, Mr. Moore.

Mr. Moore: Under the current system, the major alternative that we have is to appeal all assessments once the assessment roll is returned to ensure that the courts have the ability to increase assessments on the off chance that the small percentage of properties that do get appealed, are appealed. That is the only avenue that is currently available to the assessor to ensure that there is an ability for the tribunals to increase an assessment upon appeal as a result of the Valley Gardens decision.

The current situation is, as is stated in the councillor's presentation, that the Assessment Department is not made aware of appeals by individuals until after the appeal deadline is finalized. So, we cannot make targeted appeals to cover the potential that the assessment should be increased when we get into the situation where we have an opportunity to investigate the particular aspects of individual properties on a site-specific evaluation perspective. The only avenue that we have then is to do a broadcast appeal, which obviously we do not want to do, because that adds cost to administration and it does exactly what everyone is concerned about the assessor doing and that is intimidating the taxpayers. That is the last thing that we want to do.

Ms. Friesen: This may be addressed first of all to Mr. Eadie. I am going again from his presentation where he says that Manitoba is also the only jurisdiction in Canada where the onus is on the assessor to prove that the assessment is correct, rather than on the appellant proving that the assessment is wrong. I wondered if the City was aware that that principle does not change under this bill. It is because the context of how this is written suggests that you believe that it is changing, but that principle remains.

Mr. Eadie: Yes, that is clear.

Mr. Selinger: I just want to clarify under the current situation you cannot do a counterappeal until after the appellant has filed their appeal and by then the deadline has passed, so you are forced into a situation of almost a pre-emptive mass counterappeal and then you withdraw all the ones that you do not think are relevant or not being contested. Is that the current situation?

Mr. Moore: That is the only option that is available currently to the assessor to cover off all appeals, to do a broad appeal of all properties or groups of properties.

Mr. Selinger: That would seem to me to be an unfortunate process because it would create anxiety with a number of people that may not have any issues at stake that they want to contest with the City Assessment Department or Board of Revision.

So my question is: Under the proposed legislation would you have to make available to appellants the reasons why you would be considering raising the assessment before they showed up at the appeal, or would they be "ambushed" when they arrived there?

Mr. Moore: As Mr. Weind pointed out earlier, particularly when you get to the higher levels or to the Municipal Board, there is an exchange of information that by regulation has to occur prior to the actual hearing. This is 15 days prior. As has been indicated, this legislation indicates, and that is by the rules of the Municipal Board by the way, that the assessor has up to within 10 days of the actual hearing to indicate that they are going to be seeking an increase in assessment.

The rules of the board may have to change, to change that exchange of information. That is a regulation sort of thing that is not ours. There is a bit of a conflict there in process. We, as we have done, for example–and I do not know if any of you took advantage of the open-house process; what we went through in the open-house process, a process that we go through within the appeals, where we make available to the taxpayer sales information, physical characteristics of properties comparable to theirs that we have based their value on. We do the same thing when we are looking for an increase and then we say we think the property should increase, and here is why. It is really not an ambush. It is an exchange of information. We

just do not get these sorts of things by asking. Mr. Chair, we have to prove a point and provide information.

Mr. Chairperson: Last question, Mr. Selinger. Time has just expired.

Mr. Selinger: I have to make this a really good question then.

The other point that was raised in the brief this morning that was concerned about this legislation was that the 10-day notice period sort of speaks to the issue of having the letter in the mail, but the recipient, the appellant, might not actually get that letter until very close to or a couple of days before the actual appeal hearing is scheduled. Is that a concern?

* (19:20)

Mr. Moore: There may be odd instances where that happens. I cannot say that there will not be. But during this process there is usually ongoing communication between the appellant and the assessment authority, be it the City or be it the provincial Municipal Assessor's Office. So there is an ongoing exchange of information.

Generally speaking, I mean, what happens now even without this 10-day provision, the assessor makes the taxpayer aware that the evidence would indicate that an increase is warranted. What the notification is about is the formal written notification that the assessor is going to be seeking an increase. It does not speak to the informal discussion that constantly goes on through the appeal process with the exchange of information.

Bill 32–The City of Winnipeg Amendment Act

Mr. Chairperson: Thank you for your presentation, gentlemen. Now, for the sake of the record, Councillor Jae Eadie of the City of Winnipeg will make his presentation on Bill 32, The City of Winnipeg Amendment Act. Do you have a written brief, sir?

Mr. Jae Eadie (Councillor, St. James Ward, City of Winnipeg): No, I do not, Mr. Chairman. I am just going to skip through my notes very quickly.

Mr. Chairperson: Okay, proceed when ready.

Mr. Eadie: Thank you again, Mr. Chairman, and members of the committee for your indulgence on Bill 32. I want to indicate at the beginning that the City of Winnipeg certainly appreciates that the amendments that are contained in this bill are now coming forward, as they do provide some additional improvements to what is a very outdated act. At this juncture I am going to put in my editorial and commercial comment to indicate that the City of Winnipeg is requesting that the provincial government bring forward to the Third Session of this 37th Legislative Assembly the complete rewrite of The City of Winnipeg Act. The drafting has long ago been completed. It is now time to move forward with a brand-new act that will restructure our city's municipal government for the 21st century.

However, having got my commercial out of the way, I will get directly to Bill 32 to go through very quickly the points in the bill. One of the items in the bill will allow City Council to pass a by-law to establish urban tax credits to encourage and assist in the construction, renovation or preservation of buildings within an area designated by Council. This is an amendment that the City had requested some time ago. I am here to indicate that we certainly support the amendment as here, but with one change.

The bill states that the tax credit by-law must expire in five years. That has caused us a concern, but I understand that legal counsel between the two governments have gotten together and that amendment will be coming forward to delete that requirement. We certainly have the capability within the City to review our by-laws and make changes from time to time. But putting a statutory requirement there would cause problems in the application of this particular section of the by-law. So we appreciate that particular change, which I understand will be modified.

We are also supportive of the amendment that would allow the City to use monies collected from frontage levies to be dedicated to the repair of residential streets and sidewalks. We have been on record for a number of years as a municipal government that we would like this

flexibility. We are very supportive of this particular change, which will certainly help us in our ongoing struggle to try and catch up with the infrastructure deficit that exists in residential areas.

The bill also concurs with the City of Winnipeg request that the business tax assessment cycle correspond to the property assessment cycle. We think that is common sense and we appreciate that one. Finally, the bill amends the act to change the regulations for the drawing of electoral ward boundaries at each redistribution every nine years by, among other things, amending the present population deviation, which is currently 10 percent, plus/minus 10 percent, to up to 25 percent.

This particular recommendation is in line with recommended changes that were suggested by the Electoral Boundaries Commission in 1999. The current 10% tolerance level is far too restrictive. It does not enable boundaries commissions to try and keep neighbourhoods and communities intact in one electoral district. It has been extremely difficult to do that and if–well, obviously most of you or probably none of you were at any of the public hearings that took place with the Electoral Boundaries Commission–you will know that that was a very common complaint amongst many private citizens who attended those hearings, with the electoral commission being hamstrung, as it will, with a 10% tolerance figure. We have electoral districts proposed that simply separate communities all over the place or tie-in communities together that really do not make any sense. There is absolutely no common community of interest. One of the requirements in the act and with boundaries commission reviews is to try and keep historical neighbourhoods together as much as you possible can.

This amendment is simply a common sense amendment. It allows a boundaries commission to change to use the tolerance figure of up to 25 percent in order to try and keep the municipal electoral districts as whole as possible, if you will, insofar as the historic neighbourhoods and communities are concerned.

There was one further change that we asked in this regard. It is not in the bill but I am going to bring it forward and ask you to consider it as an amendment. That was the right in conjunction with the boundaries review process every nine years, the right of City Council to determine at that point in time the number of members who will compose City Council. Right now the act specifies the number of members, except for the mayor, shall total 15. We believe, as a city government, that we should have the right to consider the number of members at each redistribution process every nine years, just as you have that right as a Legislature every ten years for provincial redistribution to determine the number of seats that will compose the Manitoba Legislature. We think that is a legislative right that should be conferred, not only on the City but on all municipal governments, but I am speaking now for the City.

I have suggested to both the previous minister and to this minister if that particular amendment was also included in the act, if you want to have a level of comfort, you can put in a range, a minimum-maximum range. In terms of numbers, I have suggested a minimum of 12, a maximum of 24, which would leave your total membership which includes the mayor at an odd number of members, so that the incidents of tie votes might be further reduced, but I think minimum of 12, maximum of 24 is something that we have suggested is not unreasonable. The duly elected members of the Winnipeg City Council, every nine years when the redistribution process is under way, should also be able to make a determination as to the total number of members comprising the City Council, just as you do here every 10 years with the Legislature. I mean, that is a decision we would be accountable for, obviously. We are elected and we would be accountable for that. I think we are grown up enough to know what is real and what is not.

In closing on this, I would ask you to consider adding that as an amendment, along with the others, and enabling the new ward boundaries commission that will be struck to go forward with a new set of rules, and perhaps a different number. I cannot predict that, but at least allow that flexibility to exist and let Council make those decisions.

Mr. Chairperson: Thank you, sir. Questions from the committee?

Mr. Leonard Derkach (Russell): Thank you very much, Mr. Eadie. I have a question as it relates to the variation quotient of 25 percent. I certainly understand the issue with regard to keeping communities together as much as possible in their boundaries, but if you allow for a 25% plus or minus quotient that means that one ward in the city could potentially be 50 percent higher in population than another ward, as I would understand it. That seems to be a fairly significant variation in size in terms of councillors representing populations. Now that may not be necessarily a bad thing, but I just wanted to ask the question whether or not this has been considered and whether or not this is still acceptable to City Council.

Mr. Eadie: Mr. Chairman, it certainly is not out of anybody's mind on that. Our administrative staff are currently engaging the technicians to begin the process of another boundaries review, and there are various scenarios that can be developed, including the type of scenario that could arise.

Please be reminded that the bill and the legislation says up to 25 percent. It is not fixed at 25 percent. It is an up to 25 percent. So it allows a considerable amount of flexibility to a boundaries commission, as they should have, and I think as is available provincially and federally to those boundaries commissions to be as flexible as they can. So it is an up to 25 percent, and certainly we are cognizant of those types of concerns and it is an issue that, certainly, a new boundaries commission will be very well aware of as they go through the mechanics of trying to redraw electoral districts, and hopefully redraw electoral districts based on a number that Council has determined is the correct number to have, subsequent to the next election.

So there are all kinds of scenarios that can be developed there, and we are not unaware of some of those potential difficulties in terms of overrepresentation versus underrepresentation.

* (19:30)

Hon. Jean Friesen (Minister of Intergovernmental Affairs): It is not so much a question as a comment.

Councillor Eadie, you and I and other city councillors have spoken frequently about the need to move on The City of Winnipeg Act. Let me say again that, yes, that is important, but it is a big task. It is also a task that I think is evolving–the mayor's big city conference. I think there are certainly some new questions emerging around cities that I think were not there, necessarily, in the kinds of streamlining of the legislation that has been done in draft form. So I am aware of the need to move on that and that it is a big task, and it is one that we want to do, obviously, in conjunction with the City.

As part of that, I take your other point that cities should have the right to determine the number of councillors that they have. You did not say so, but there are comparable powers within The Municipal Act for other municipalities in Manitoba to do that within a certain range. The difference in The City of Winnipeg Act, obviously this is nothing new to anybody, but the difference is, of course, that so much of The City of Winnipeg Act talks about the number of people on committees and the nature of needing a majority, et cetera, so there are ripple effects through it which there are not in other municipalities. So it is something that is a little more complex to deal with, even to simply adopt the same principle.

So it is something that I think we would want to look at in the context of the larger review of The City of Winnipeg Act, whatever movements we are able to make on that.

Finally, what I wanted to comment on was the percentage of deviation that has been spoken of here, and there are members who have concern and spoke at second reading. Mr. Loewen is not here, but he certainly spoke about it at second reading. It is a legitimate concern. You do not want to have wards that are too unbalanced, one from the other, but setting boundaries and ensuring historic communities is the other side of that balance, too, to ensure that. This is what we are trying to do, as I know you recognize, by enabling, and it is enabling.

It is up to 25 percent. It may be anywhere up to that, and I just wanted to put on the record that Halifax, Ottawa, Toronto, Calgary all allow a deviation in their municipal boundaries of up

to 25 percent. I do not actually have information on whether they go the full 25 percent and what the range of differences might be, but, certainly, that is not uncommon in large cities across Canada. Obviously, I would expect that there are strong reasons for that, for developing cities, as well as for cities that are seeing shifts in population.

I just wanted to thank you for making your presentation and for looking at some longer-term issues, as well as some of the flexibility that I think we may be offering to the Boundaries Commission around this.

Mr. Eadie: If I may and very quickly. First of all on the major rewrite, the minister will know that whenever I get an opportunity I am going to be talking about it because it is one of our top priorities as a city government, and, indeed, much of the work has been done, and we want to move forward sooner rather than later.

The minister is right when she talks about what is happening in the municipal world across Canada today, Mr. Chair. It is changing very rapidly. Municipalities are certainly the engines of economic growth. Certainly large cities are, and we have to be able to keep up to the times and have the tools that are necessary to do so without having to come here every year or so, getting piecemeal changes.

So we are on board with that. Sooner rather than later is sort of our motto and our battle cry, if you will. We are certainly prepared to work together to that end, hopefully quickly.

The change in the number of electoral districts, we would prefer that it happened during this redistribution process. We within the City of Winnipeg, the political element, can certainly deal with our political structure and the committee structure as we always have.

The Cuff report, which eventually was adopted in legislation in The City of Winnipeg Act in 1998, has provided a lot more of that ability to the City to determine its committee structure and all of that. The ability to change numbers of elected members is not going to cause a problem that we cannot overcome, no different than whatever the situation might exist in this place every 10 years if the total number of members changes, which, by the way, it has not in 52 years. I could talk about that, too.

Regarding the tolerance level, the minister is right. The act specifies up to. By the way, elected officials are not drawing boundaries these days. It just is not done. We have independent boundaries commissions, who, I think, are well equipped with technical staff to take into account a number of these concerns with overpopulation, underpopulation of wards and neighbourhoods, et cetera, and then hear what the public has to say about the draft results.

I think, basically, that is my comment. I think we are in sync in a lot of this, and a little bit more nudging on one thing will help us out a lot, too.

Hon. Greg Selinger (Minister of Finance): Thanks, Councillor Eadie. How long have you been requesting the change in the frontage levy to allow more flexibility in the application of those resources?

Mr. Eadie: I think it goes back eight or nine years, maybe a little less than that. It has been since, I think, the mid-'90s anyway. I do not have the specific date. I could not bring all my files with me, but it is some five, six, maybe eight years ago.

Mr. Selinger: Another question I wanted to ask on the population base: Would you agree that this might be valuable for older neighbourhoods, which tend to be the ones generally that depopulate somewhat, to retain their character and their voice at the civic level as opposed to them losing their voice through rigid variations being imposed or narrower variations being imposed as cities change and expand?

Mr. Eadie: Yes, I generally agree. What is being sought in this amendment is the flexibility to try and retain the historic, the older. I represent one, as well, and I am not here for my own self-interest, but, sure, what we are seeking is the flexibility to a boundaries commission to try and keep historic neighbourhoods together. It is a requirement. It is a mandate to a boundaries commission in The City of Winnipeg Act now. I think it is also a mandate provincially under your

own electoral act when you deal with this every 10 years. But it is certainly a mandate in the city of Winnipeg for a boundaries commission, and this helps to give a commission the kind of flexibility they need and, as well, to respond to concerns that were raised by private citizens during this very recent process in 1999.

Mr. Larry Maguire (Arthur-Virden): Two quick snappers, Mr. Eadie. Thank you for your presentations. On the lighter side, just for the record, were you recommending that there be fewer or more MLAs?

Mr. Eadie: Actually, Mr. Chairman, I think I worked out the numbers one time. If you use the process that we have to go through, there should be about 42 of you in this place. I will not tell you whether 57 is the right number, except it has not changed in 52 years, and I think there is something wrong with that picture. But that is something that, 10 years from now or at the next redistribution, those of you who are here will get to worry about.

Mr. Maguire: Hopefully, Mr. Chair, the population changes, and we can maintain the 57 we have with the increase.

Mr. Eadie, in your experience, in asking for an increase in the variance from 10 percent to 25 percent, and notwithstanding what I have heard in regard to other cities that are working off a 25% variance, in your experience have you seen any need in Manitoba to move that high, or would a smaller percentage have been workable? In other words, have you seen any examples of where it would have needed to be higher than 15 percent, say?

Mr. Eadie: I will only try to speak for what I have been able to experience and understand within the city of Winnipeg, that 10 percent does not work. You cannot make it work and also comply with other requirements, even in the current legislation about the communities and that sort of thing; 10 percent does not work. Up to 25 percent, and I stress, and it is in the bill in section 6(3.1), it is up to 25 percent. So it allows considerable flexibility. The boundaries commission may feel that 21 percent provides just the right balance and maintains the integrity of communities and all of that sort of thing. Perhaps 16 members might be better than 15. Then you really have a perfect picture, I do not know. But it is up to 25 percent, so it allows considerable flexibility, and that is really what we are seeking here, is the flexibility not the rigidity of the current proscriptive legislation. It just does not work anymore. It may have worked 10 years ago when this change was first enacted, but it is long out of date today.

* (19:40)

Bill 31–The Municipal Assessment Amendment Act (Continued)

Mr. Chairperson: Thank you, Mr. Eadie. Time for your presentation has expired. For the sake of clarity, we will now return to Bill 31, The Municipal Assessment Amendment Act, and I call Henri Dupont of KPMG. Mr. Dupont, do you have a written presentation of your brief?

Mr. Henri Dupont (KPMG): Yes, I do.

Mr. Chairperson: Mr. Dupont, you may proceed when you are ready.

Mr. Dupont: Mr. Chairman, honourable members, my name is Henri Dupont. I am the credit appraiser with KPMG and a senior manager of the property tax division. We specialize in professional representation of owners of properties with respect to assessment appeals. I am a professional in the business. I have been appraising for 20 years. I have done over 2500 appeals over the last 10 years, and I have represented some of the largest clients shown there.

I appear today in opposition of sections 4 through 10 of Bill 31. My opposition arises in large measure from my sense of personal experiences with individuals from both the City of Winnipeg assessment and the provincial municipal assessor.

I believe my experiences should help the committee make their decision on the bill. I am gravely concerned about the proposed changes. You would have the potential to unfairly and unreasonably compromise taxpayer rights. The proposed changes, generally speaking, stack the

deck in favour of the assessor at the expense of taxpayers' rights. It is also my firm belief that Bill 31 is flawed and entirely unnecessary.

I will explain why there are flaws to it, but next is that it provides the assessor with unbalanced powers to request an increase at either the Board of Revision or the Municipal Board appeal. The result is the fairness of the appeal process is now in jeopardy. I would respectfully remind this committee that it is particularly important that the legislation not only be correctly awarded, but equitable in its treatment of all citizens of this province as this legislation will undoubtedly be subjected to judicial scrutiny. I will explain a bit further later on, but whatever right is given to the assessor to ask for an increase should be given also to the taxpayer to ask for a decrease. That is the main thing, that it has to be balanced that way.

The assessor currently has the right to appeal any assessment, as does the owner or the taxpayer. They have the same right as the taxpayers now. In fact, the assessor for the city of Winnipeg exercised this right on a myriad of properties during the 1994 general assessment when the City of Winnipeg Property Assessment Department filed applications for revision on all properties within the city of Winnipeg for all assessments in excess of $1 million. They filed a blanket appeal.

In Winnipeg, the assessor who holds the file appeals against their reality assessments at the Board of Revision on many selective assessments in anticipation of taxpayer appeals and, in one particular case I am aware of, against a number of business assessments solely in anticipation of appeals from one individual tax agent.

In essence it is saying: If you appeal, we are going to go after you. We are going to try to match the appeal, counterappeal. They had the problem of trying to find out who was appealing. Therefore, they did the blanket appeals, Mr. Chair. However, that indicates to me they did not think these assessments were not correct. In 1994 they placed these assessments themselves. This is our assessment, then they filed appeals against them. It is not because they want to correct under assessment. It is solely to counteract any appeals from the taxpayer on the off chance that it is underassessed or as a way to get back at those people that dare to appeal.

The Municipal Assessment Act was amended in 1996. Among those amendments was the authority which allowed the board to increase an assessment. These amendments are still in the act.

During the period of time between the 1996 amendment and the Valley Gardens case in 1998, which I will address in a moment, the assessors again regularly threatened to seek increases at hearings if appeals were not withdrawn. Part of my business is, with appeals quite often you talk with assessors before the threats of increase, even if they do not threaten, it is implied, it is there. If they give you a notice that we may increase, it is there. You have the implied threat, if not the real threat.

Mr. Chair, virtually every single appeal to the Municipal Board that I was involved with between 1996 and 1998, they had an assessor request an increase in the assessment. There used to be a time where I could negotiate with the assessors before going to the Municipal Board. The last go-round, virtually no negotiation, virtually everyone they asked for an increase. It was a bit funny to see the appraisal reports come in from the assessor because we were wondering how they were going to ask for an increase. It came, and they had all sorts of ways, very inventive sometimes, but usually with large amounts of increases, which gave us an extra risk.

This practice on the part of the assessor required us to report the potential risk of proceeding with any particular appeal to our client and that a decision would have to be made regarding proceeding with the appeal or withdrawing it, and that forces us to assess that particular risk. In virtually every case, we continued with the appeal and, to the best of my recollection, only one appeal resulted in a modest increase with all others resulting in reductions or confirmations of the existing assessments.

This indicates to me that, almost without fail, the assessor's request for an increase was found to be unreasonable and overly aggressive.

It is a tactic. It is tactical on their part to ask for an increase whether it is merited or not. It is better for them if they do that. It does not take much to understand that it is to their benefit, doing that.

Our experience with the assessors and the appeal process during this time was that they regularly and unfairly threatened and attempted to intimidate the applicants as a tactical device to discourage proceeding with appeals. I have been personally threatened many times that if we do not settle or withdraw, they will go for an increase. Many times, they do not say it in a very threatening way. They say: Oh, by the way, and the offer, if you do not settle, is gone, and they walk away. If you do not take what we offer, you could be facing an increase. So that is there at all times, and the assessor will use it to his advantage. The risk of an increase is very real to the people who appeal. It is very real to my clients. So it does not matter whether the assessor has a good basis. Even if they have a 10% chance of an increase we have to weigh that.

As a consequence of the mass appeals by the City of Winnipeg assessors in 1994 and the changes in legislation in 1996, there was potential for an increase for most appeals from '94 to late '98. Because I do commercial appeals, I was involved in mainly those of a million and over. In 1998 the Valley Gardens decision was issued by the Court of Appeal.

I mentioned the 1996 decision of the Orange Properties also. It is highlighted there. It says that it is to give both parties equal access to the Board of Revision and the benefit of rights and procedural safeguards set forth in the statutory scheme. That is my emphasis.

The next page is equal access and benefits of the safeguards and the procedures that are necessary. In the Valley Gardens case, Judge Huband wrote that the procedures for applying for a revision to the Board of Revision and the procedures for a further appeal to the Municipal Board were designed to guarantee procedural fairness, including protection from a side-wind demand by the assessor without prior notice for an increase in the assessment.

It is reasonable, and I would suggest imperative, that both the assessor and the taxpayer are treated equally under the legislation, neither party having an unfair advantage over the other. In our view it is not appropriate to allocate additional rights to only one party in the appeal process, in this case the taxing authority.

I do not show it here, but I will give you an example. When we go to the Board of Revision we get a decision. Let us say we get two-thirds of what we are asking. There is a third left, and we say, okay, we will not appeal any further. The assessor can file the appeal and we have the same problem. We do not know about the appeal until after the deadline.

* (19:50)

So in that case there would be only an appeal at the Municipal Board with the right to increase. There would be no right to decrease because there was no appeal by the taxpayer because we did not know. If we had the right to the 10-day notice also, which the City is appealing, okay, we want to ask for the right to decrease. Then we go in front of the board and there is an increase and decrease. So the 10-day notice has to be given to the taxpayer. Instead of saying the word "assessor," you should just say the word "respondent," because if we appeal, the City is the respondent or the assessor is the respondent, but if the City appeals or assessor, we become the respondent. So the respondent should have a right to that. If you do not have that, it is totally unbalanced.

The main problem with the potential of assessment increases is that the assessor has historically used it to intimidate taxpayers in an attempt to have the taxpayers withdraw appeals or not file one due to fear. There is no doubt in my mind that the assessor will continue this practice if the bill is unchanged. It is, in my view, highly unlikely that the assessor will simply file the proposed 10-day notice at the Board of Revision in each and every instance of an appeal for the sole purpose of intimidation.

Now, Mr. Weind said that the home-owners were not affected, but if 15 000 appeals are filed, 14 000 from home-owners and the rest from professionals, if they receive a letter in the mail for seeking an increase, a lot of these 14 000 will withdraw or have a risk. So the simple fact they send that notice will intimidate people.

At the formal hearing before the Board of Revision, they may not seek an increase but rather simply state they filed a notice as a precaution. We have not had time to study the matter, and we just filed a notice in case we wanted to increase it. That could happen. If they do file, it will happen often, because they are not usually prepared at the first board. So meanwhile many appeals will simply and quietly have been withdrawn and the assessor will have produced the desired result.

How can you diminish the potential for abuse by the assessment authority? Even if they do not want to abuse it, the fact they give notice, it will intimidate people. That is there. The assessor should not be granted the unbalanced power to unilaterally ask for an increase. There should be some restrictions or penalty for assessor abuse. Under the proposed system, many taxpayers must pay a filing fee for an appeal to the Municipal Board of between $50 and $500 per roll number. It is $10 per $100,000 of assessment, minimum of $50, maximum of $500.

Now, the assessor will pay nothing for the 10-day notice. So the way it is now at the Board of Revision, all the taxpayers have to pay their 500 bucks. The assessor comes along and they file a 10-day notice, no charge. That is totally uneven also. Why should one party have to pay, the other party not have to pay?

The thing is also that the assessor's appeal is often tactical. They do not know whether they are underassessed or not. They are just doing that as a way to counter another appeal. If you had attached a fee, then you say you have to be serious to file an appeal. You tell the assessor if you know for a fact that it is underassessed and you really want to proceed, pay your fee like everybody else, because if they are going to have to pay $50 per appeal for 10 000 appeals, it is going to cost them. So you cannot just give them a power that can intimidate. Make them pay. The fact that they pay $500, maybe not that much for a big commercial, but it will make them think twice; only file if you think there is a case.

This, again, is unfair as it would be a cost to the taxpayer and not for the assessor. The final fee to the Municipal Board is refundable if the appeal is successful. So, if the assessor is successful, they can get their money back. That fee is not meant to pay for the cost but as a deterrent, Mr. Chair, against frivolous and aggressive appeals. That fee is there against taxpayer appeals which could be frivolous or aggressive.

So history and my experience has shown that taxpayer appeals are serious, whereas assessor appeals are, more often than not, used as a tactic. A fee should definitely be attached to the filing of any 10-day notice in order to ensure that the intimidation tactics be kept to a minimum.

The cost structure should at least partially diminish the potential for abuse. A cost structure for any type of appeal, a 10-day notice or a normal appeal will mean that the assessor or taxpayer would actually believe in a real case rather than it being a tactic only.

Under the present legislation, the assessor has the right to appeal whenever they thought the assessment was too low. This, in my view, is the ample authority and further right for an increase would be the same as the assessor filing appeals on all properties, whether they would be deemed high or low. This would result in frivolous appeals on the part of the assessor for the sole purpose of intimidating taxpayers.

Another disturbing aspect of Bill 31, it allows the board to increase the assessment beyond the original assessment. In contrast, under The Municipal Assessment Act as it now exists, in a previous ruling of Orange Properties, this was not possible unless the assessor had filed an appeal against the original assessment at the Board of Revision. So this proposed amendment would change that.

Part of the principle is that the taxpayer should know the case it has to meet, so when there is a criminal charge against somebody, the defence lawyer knows the case he has to meet, and he tries either to bring it down or to contest it. The prosecutor does not change–oh, I may change my charge against it. It is not a moving target. You know the case you have to meet. So this is the same thing. There should be an assessment. We know we have to meet that case,

either try to bring it down or contest it and not have the assessor say it is a moving target.

We believe the assessor has four years between general assessments, and that should be ample time for them to come up with a proper assessment.

Mr. Chairperson: Order. Mr. Dupont, I am sorry. Your time to make your presentation has expired.

Mr. Marcel Laurendeau (St. Norbert): Could I ask Mr. Dupont exactly where he was in his presentation, what page?

Mr. Chairperson: Mr. Dupont, where were you exactly in your presentation?

Mr. Dupont: Page 4.

Mr. Chairperson: Page 4. Third paragraph?

Mr. Dupont: I was down to the second last paragraph.

Mr. Laurendeau: I wonder if we might have leave to allow the rest of his presentation to be taken as read.

Mr. Chairperson: Do we have leave? *[Agreed]*

Mr. Laurendeau: It will be printed as it is printed. It will be printed in Hansard as you have written it, and we will make sure we read it.

Mr. Dupont: Right. Okay.

Mr. Chairperson: Okay. Let us go to questions.

Mr. Leonard Derkach (Russell): Thank you, Mr. Dupont. Mr. Dupont, you present an argument as a professional who acts on behalf of taxpayers who are appealing their assessments. Although I understand your position, I want to ask a question as it relates to a vested interest that you might have in your view of assessment.

Sitting here as a former minister of Rural Development who had some responsibility for assessment, I cannot help but appreciate your presentation in terms of being on the side of the taxpayer. I understand that you derive your income from the appeals that you take forward, but, on the other hand, I have to also have some feeling that the taxpayer needs to be treated fairly and at least be able to act on a level playing field when it comes to appealing his or her assessment.

So I want to ask you whether or not this is a view that is held by the people that you represent, or is this basically a view that is held by you as professionals? In other words, have you consulted with people, the taxpayers, on this issue, and is this the view that you are getting from the people that you perhaps have consulted with?

Mr. Dupont: I did not consult with any of my clients. I have talked to a few of them about this. I have told them I had to come here to make a presentation, and they wished me luck, et cetera, but as far as actually a formal survey, no.

Mr. Derkach: Mr. Dupont, from your dealings with taxpayers in the province, is it fair to say that taxpayers would view this piece of legislation as tipping the scale in favour of the assessment branch and in favour of government, rather than in favour of putting some fairness and some equity into the way they are treated when they go to the appeal board?

Mr. Dupont: Yes, I believe the purpose of this is to remove underassessments in the system. However, the lack of legislation does not cause underassessments, Mr. Chair. Assessors do. They place them. Those who are underassessed do not say anything. They are quiet. Only those who appeal are the ones this legislation will affect, so it does not affect the underassessments. You are not hitting the problem head-on. The problem is here and you are hitting over there, so that does not help remove the underassessments in this system. It just helps intimidate.

(20:00)

Mr. Derkach: One statistic you gave us which troubles me is found on page 2, where you say: In fact virtually every single appeal to the Municipal Board that I was involved with between 1996 and 1998 had an assessor request an increase in the assessment.

Now we heard from Mr. Weind where he indicated his only interest and the interest of

assessors is to arrive at a fair assessment based on market value. Yet this almost flies in the face of that statement when you indicate to us that in those two years every assessment that you were involved with had the assessor file for an increase in the assessments.

Mr. Dupont: Yes, there has been a change in the way the assessor deals with taxpayers, because there was a time when I could negotiate most of the time before the Municipal Board, and that has stopped. Part of that is, I guess, the Assessment Department is using this new weapon to their advantage. If they can get a few cases where we are hit with increases, it will make us think twice, so all guns against the professionals like us, to make us get hit a few times and make us think twice. As a tactic, it is something the assessors have tried to use, with some success, because we have to weigh all risks.

Mr. Chairperson: I am sorry, Mr. Derkach. Time has expired. I will allow Mr. Laurendeau one question.

Mr. Laurendeau: Thank you very much, Mr. Chair. Monsieur Dupont, how many of your cases that you have put in place that you have taken over the years have you lost and seen increases on? You said you have taken in 2500 cases.

Mr. Dupont: There were a large amount of these cases prior to '94 when there were cross-appeals, so they were not subject to increases. Over all, very low. Ten, twenty, because we tend to file appeals on properties where we think there are cases, so it is unlikely there will be a case for the assessor to ask for an increase. We choose which ones, and those that are underassessed we do not appeal. We tell our clients: There is no case here. Do not bother us.

Mr. Chairperson: I will allow the minister one question.

Hon. Jean Friesen (Minister of Intergovernmental Affairs): Mr. Dupont, thank you for the presentation. I think, as you are looking at your experience, one of the things that you have hit on, and I think your exchange with Mr. Derkach illuminates this, that at the moment the only way the board can have the authority to set a just assessment is if the assessor cross-appeals. What we are having is a lot of cross-appeals. Cross-appeals are made difficult for both the citizen and for the municipality, because there is one finite deadline. If the citizen files his appeal at, let us say 4:29 p.m., the assessor then has only one minute to determine whether he is going to appeal on that particular one or not. What we have had is a lot of cross-appeals in order to enable the Board to set a just price, if I can call it that.

I am wondering if your assumption is that the board must have that right to set the just price, or do you not believe that? What we are trying to do here is not to change the role of the assessor, not to change the power of the assessor, but to give the boards that basic responsibility they have in every other jurisdiction to set the just price, something which affects all taxpayers. If someone is undertaxed, then somebody else is bearing that burden. So what we are trying to do here is to protect the nature of the taxation system, as well as the rights of every taxpayer.

Mr. Dupont: I understand the principle of fair is fair. I understand that to be the principle and that maybe in 10 percent of the cases that principle will come into play. The rest of the time, it is an intimidation tactic. It stops people from appealing. It stops people from continuing their appeal. It makes people settle what they should not settle with the assessor. It is the fact that it is something hanging over them, a potential hammer. Therefore, you get a bit of justice 10 percent of the time. You get injustice the other 90 percent of the time. If the Assessment Department sends 10-day notices to all 15 000 appeals at the Board of Revision, they will have the result of people withdrawing their appeals because they are scared.

An Honourable Member: We will give the minister leave to ask a question.

An Honourable Member: The minister can have leave to ask another question.

Mr. Chairperson: Is it the will of the committee that we give leave to the minister to ask an extra question? *[Agreed]*

Proceed, Honourable Ms. Friesen.

Ms. Friesen: Thank you. One of the difficulties in the whole cross-appeal system that has been brought to my attention is that once the assessor has filed a cross-appeal there is no withdrawal possible under the present legislation, and that under what we are proposing here a withdrawal is possible by the citizen, and again there is much more flexibility, advance notice, level playing field. Everybody has the facts on the table. They know there is going to be an appeal before the actual deadline. There is a much greater clarity to the situation and more flexibility. Is that how you understand it? Have we made that point, and would you accept it?

Mr. Dupont: I believe the 10-day notice would be less onerous than the cross-appeal, because then the taxpayer, if he withdraws, it dies. The other way around, the taxpayer can withdraw but the assessor can continue, and a taxpayer could be stuck in an appeal defending himself. So it is less onerous that way.

As far as the 10-day notice, it is kind of meaningless at the Municipal Board, because everybody has been saying it is 15 days anyway and 10 days is less notice than before. At the Board of Revision, usually that is where you find out there is no prior exchange; that is where you find out that the assessor wants the increase. So a 10-day notice there would be helpful at that board. It would not be helpful at the second board.

Mr. Chairperson: Thank you, Mr. Dupont.

I now call upon Mr. Jim Baker, Manitoba Hotel Association. Mr. Baker, do you have a written presentation? Thank you, sir. You may proceed when ready.

Mr. Jim Baker (President and CEO, Manitoba Hotel Association): I am Jim Baker, the President and CEO of the Manitoba Hotel Association. By way of background, prior to my association with the Hotel Association, I was a chartered accountant in private practice for over 25 years. During that time I was involved with many business evaluation engagements and have completed several courses in the area of valuation, Mr. Chair.

In the two years since being in my current position, the matter of property tax assessment has been one of the priorities of my position. I have been a member of the advisory committee on hotel property taxes since its conception and have met with City of Winnipeg Assessor Brian Moore and with the provincial assessing office on several occasions. The purpose of those meetings was to gain an understanding of how these two offices view and administer the property tax assessment of Manitoba hotels.

In short, I have determined there are fundamental differences in approaches, not only between the Province and the City of Winnipeg, but also between other provinces and jurisdictions in other provinces. In short, there is not one accepted method of assessing property taxes on hotels.

The history of assessing in this province is one of inconsistency and appeals. We are now at the beginning of an assessment cycle, and this week some hotel properties have received notification of their proposed assessments, assessments that are 100 percent to 400 percent greater than the last assessment. If these assessments hold true, the added tax will eliminate any profit potential and seriously impact on the going concern of many properties, Mr. Chairperson, especially rural properties.

Any amendment that gives more power to the assessor will contribute to increased appeals and will seriously aggravate an already confrontational relationship between assessor and property owners. I believe this proposed bill will give the assessor more power, insofar as the assessor will be able to request an increase at either the Board of Revision or the Municipal Board.

I apologize I have not been able to fully analyze the proposed bill, given the short notice of this committee hearing and my personal schedule and other hotel matters relating to our industry. My interest was heightened, given this week's release of the staggering preliminary assessments. My recommendation is that this bill be deferred to the next sitting of the Legislature, which would give stakeholders such as the hotel owners an opportunity to provide more information to the Government.

That is my presentation.

* (20:10)

Mr. Chairperson: Thank you, Mr. Baker. Questions from the committee?

Mr. Derkach: Mr. Baker, thank you for the presentation.

With regard to assessments, you have probably been involved in some appeals in the past, where, on behalf of your property, or others in your profession, you have appealed it before the Board of Revision. I am wondering whether or not you sensed, in any of those experiences, that there was an imbalance in terms of the fairness of the system, where the advantage was to the taxpayer or the appellant.

Mr. Baker: In clarification, I am not a hotel owner. I am the paid person in the business. I have, successfully, appealed personally in my residential. I have appealed on behalf of commercial clients. I have attended at appeals for hotel owners. As I mentioned, I have participated in the last year on an advisory committee on taxing of hotels. I have been in contact with 100 hotels on this matter, and there is a genuine feeling that, because of the complexity of property taxation, in general, the weighing is certainly in the assessor's hands.

Mr. Derkach: Mr. Chair, one of the issues that keeps coming back to us at this committee is the fact that the assessor does not have the ability to file an appeal until after the deadline. So it puts the assessor at a disadvantage in terms of being able to file an appeal, or counterappeal, when a taxpayer files an appeal. I have always held the view that it is the assessor who is the professional, and we, as elected people or ministers and also people in the city, depend on our assessors to ensure that the assessment is accurate, or as close to accurate as is possible.

In cases where there might be error, we give the opportunity to the ratepayer, the taxpayer, to appeal on the basis of equity and fairness. If, in fact, the assessor cannot counterappeal until after the deadline, would you not think it would be fairer to simply move that deadline, or remove it, to allow for the assessor to be able to appeal or counterappeal after the deadline for appeal, so that it would correct that problem which the assessors seem to feel we have today?

Mr. Baker: My concern and attention are not to the detail of deadlines and timing. Mr. Moore from the city assessing office just previously mentioned that the 10-day limit might give rise to some change required at the Municipal Board, and those are technicalities that I know have to be worked out. Indeed, I would think that would have been worked out at this point in time.

My specific interest is the methodology of assessment, which has given rise to, I feel, unfair assessments and inconsistency in assessing practice. So I am trying to evade your question, because I do not feel qualified as to the technicalities of the timing. However, I do rely on people such as Mr. Dupont, who spoke previously, who have been active in the technical filing of appeals. That has not been my role.

Mr. Derkach: One last question, Mr. Chair, and I thank you for your indulgence. Mr. Baker, I know that, throughout the province, it appears there has been a fairly significant increase in assessments right across the board this year. As you indicated, in some hotels, it is as much as 400 percent. If, in fact, this legislation is passed, do you think it would discourage some of these property owners to file appeals?

Mr. Baker: When it comes down to a 400% increase, or a 100% or a 30% increase, there will be appeals regardless of what this legislation does. That is the point I am making, Mr. Chair: That the assessment, the preliminary assessment, has appeared to be totally unfair and inconsistent with past practice.

Mr. Larry Maguire (Arthur-Virden): I guess the previous presenter, Mr. Baker, indicated there were four years for the assessor. He has all the tools available to him, and everything to do the assessment and to make the assessment. I am wondering if you would agree that it seems onerous for the assessor, who has the tools to do the assessment, who has four years to do the fine-tuning, also then has this jurisdiction to be able to levy the same kind of an appeal, as well, after the fact.

Mr. Baker: Well, the situation now is, of course, that they have the technical expertise, the

software and the bodies. The advisory committee, I believe the purpose of that being formed by the City of Winnipeg assessing department was to try to reduce the number of appeals. We at the Hotel Association took the approach that if there was a clear methodology, indeed, a manual such that property owners, and I am speaking specifically for hotel property owners, where a property owner could take the manual and work through their situation, they would know what their assessment would be within a certain range. The situation right now, if you are going to build a new hotel you have no idea what your taxes are going to be, absolutely no idea.

Ms. Friesen: Thank you for the presentation, Mr. Baker. I take the point that your concern is about the nature of assessment and consistency wherever possible. Obviously, that is the goal that municipal governments as well as the provincial government would be aiming for.

The hotel issue is not one I am familiar with. It is certainly something that in the longer term we can look at and talk to you about. What I am going back to is your paper, where it says "any amendment that gives more power to the assessor." I wanted to reiterate that this bill does not give more power to the assessor. What it does is give different powers to the boards of revision and to the tribunals, the Municipal Board to raise as well as lower. Because they do not have that at the moment, the only way that they are enabled to have that is by a cross-appeal from the assessor. It seems to me that there are a number of unfairnesses inherent in the cross-appeal process. It is now frequently done at the very last minute so that the citizens when they appeal do not necessarily know until the very last minute that there is going to be a cross-appeal by the assessor. What we are trying to do here is to level that playing field and to say, yes, 10 days advance notice, a minimum of 10 days advance notice. At the Municipal Board it will be more. In advance you will know what the playing field is going to be.

In addition, the present legislation proposed when a cross-appeal is set in motion it cannot be withdrawn. It sets in motion a series of events, which in the end neither party may want. What we are doing there is offering the flexibility for withdrawal. What we are trying to do is to make it more fair, advance notice for the citizen of what they are getting into, advance notice on the facts, all in advance of any actual appeal taking place. The purpose of this being to enable the boards, as they have in every other province, the ability to raise or lower, which they do not have now. Again, the intent there is to make sure that citizens, individuals, businesses are paying, as close as we can, the right amount of taxation, because if someone is paying less than they should be, then someone else is taking up that burden. That is the goal that we are trying to get to and to make it a fair and open process. At the moment it seems to me that there are ways that that can be improved and that is what we are trying to do.

* (20:20)

Mr. Baker: With respect, 10 days, 12 days, postal disruptions, they present problems. Whatever day it is, is not going to solve the problem. The power in the hand of assessors is–I was going to be subtle but it is not that subtle. I have been witness to it. I have had first-hand incidents related to me. It is very clear that, for example, these exaggerated assessments, the staggering assessments that came out this week, are a negotiating tool. I firmly believe that no one would possibly accept a 400% increase in property tax assessment. I feel that it is a tactic toward settlement. I had better take it because if I do not I will be in significant more problems.

Specifically, many of the hotel owners are not sophisticated people when it comes to property tax. They will get sophisticated with these types of increases, but a 10% increase, a 20% increase or, you know, grumble, how am I going to find that money for that. So that it is a subtle power that vests in the assessor and primarily in the advantage they have for the preparation. The demands for information from hotel properties have increased significantly. Full disclosure of financial statements, personal interviews those are all happening. The hotel owners are sitting having to wait for some deadline. An example is that the assessments for residential properties were available on the Web, which we have heard here is an ideal way of getting the information out. I think it was March 31, when the commercial properties were to go

on the Web and they have yet to appear. The latest date we have is they will appear after the notices go out. Again, and I know I am going back over the same ground. I am saying before you consider some tinkering like this, look at the real system, look at the real problem and let us work on it. This will tilt the scales perhaps in a minor way, perhaps in a subtle way, but there is an underlying problem that must be addressed.

Ms. Friesen: There is one further point I wanted to make, because you did indicate that you felt that perhaps many people were not aware of this. One of the parts of this bill is that it does not come into force until January 1, 2002. It is an area where we thought people needed advance notice and to be aware that changes were coming which were essentially changes that had been debated before and introduced before and let us give people a fairly reasonable heads-up time on this. So that is one part of it.

I do want to say for the record, and you are not the first person to raise this, to talk of intimidation by assessors, I find that very disturbing. I think I should say that for the record, that is not how we as a Province, I do not speak for the City, but I am sure that no jurisdiction wants their public servants to be seen in that way. I am not questioning your judgment on this. I think you may represent a considerable body of opinion, but I do want to say that that is not the perception that we want to see for public servants. We anticipate that all assessors are working towards fair and equitable assessments to the benefit of all the taxpayers. That is our principle. If there are individual cases, then I think we do need to look at that. I want to thank you for putting that on the record, but I do think it is also incumbent upon me to respond to say what indeed we do expect of civil servants.

Mr. Chairperson: A comment, Mr. Baker.

Mr. Baker: Firstly, clarification, my comments towards that matter do not relate to the provincial assessing department. Secondly, the date, I think that date is appropriate, I mean, from the standpoint of notice and all that. Yes, I am not questioning that.

Mr. Maguire: Mr. Baker, once again, just a couple of quick questions. In your presentation you added some words of clarification at the bottom of one paragraph. You mentioned that in light of the staggering assessments, I think the word was "staggering" that you used, that were just released this week. I know you have looked at here 100 percent to 400 percent. Can you give us some examples of just the kinds of increases that have been there?

Mr. Baker: A property on Pembina Highway that was assessed at $800,000 previously is assessed at $2.7 million, with no physical change to the property. A downtown property that was previously assessed at $6 million is assessed at $20 million. In the last case, that would give rise to additional taxes of $800,000.

Mr. Maguire: I can see what you mean when you say it might negate any profit potential or certainly effectively reduce it to close to zero.

In short, there is not one accepted method of assessing property taxes on hotels in your statement here tonight as well. Can you give me any assurance or indication that you know how the system works that they do use for assessment, Mr. Baker?

Mr. Baker: It is an evaluation that by its very nature arrives at a range of value. So there is always going to be questioning. It is a very complex issue. In particular, in defence of the City of Winnipeg, that assessing department is going through a change where they are concentrating, or as a matter of fact, they are dedicating to a method of what they call the income approach. It is an approach that they have been phasing in, and it presents many challenges.

One of the major challenges is it starts by establishing a market value, meaning how much would I pay for your hotel to take it over, but what they are assessing is the bricks and mortar value. To arrive at that bricks and mortar value from a market value, there has to be some subtractions that some people call business value, some people call goodwill, some people call it management expertise. You cannot find a definition anywhere. In previous assessments it has been expressed by a 4% deduction. It is a very, very complicated situation, requires a lot of study.

The same situation as far as the hotels and the huge reassessment amounts has happened in Saskatchewan, which does not use the same system as the City of Winnipeg or the provincial assessing department. So I know that it is a very complicated issue, and it has a lot of decision components in it. I do not think you will ever get anything that is perfect, but what we are striving for is consistency and fairness. There cannot be consistency and fairness with those types of increases.

Mr. Chairperson: I am sorry, Mr. Maguire, we are almost out of time. I am going to give Mr. Selinger the next question.

Hon. Greg Selinger (Minister of Finance): My question, Jim, this advisory committee on hotel property taxes, are you finding it productive? Are you making progress in getting your concerns understood and heard?

Mr. Baker: Some parts of it have been productive, but I have found it at times an antagonistic exercise. We are dealing with people who are paid to do assessments and have instructions as to how to do it. On the other hand, we have people who have to pay the assessments and those positions are not always agreeable. I have found it frustrating from a standpoint that after approximately a year there has been no documented methodology that my members can look to, to try to do a self-assessment, and from that standpoint I am frustrated.

Going back, it is a very complicated situation, especially when there is a transition. Especially when, from my position, there are 200 hotels outside of Winnipeg and 93-odd inside Winnipeg and they are being assessed in a different manner. I am looking for one manner of assessment and it appears there is some dispute between the city assessing and the provincial assessing, and that adds to the problem that we are faced with.

* (20:30)

Mr. Chairperson: Time for the presentation has expired. Thank you, Mr. Baker.

I will now call Antoine Hacault, private citizen.

Mr. Antoine Hacault (Private Citizen): Hacault.

Mr. Chairperson: Got it. Sorry for mispronouncing your name, sir. I am of Slavic background.

I see you have a written presentation. So proceed when you are ready, sir.

Mr. Hacault: Yes, Mr. Chairman, thank you very much for allowing me to speak. I have listened with much interest to the presentations of other people which preceded me, so honourable minister, members of the Legislature, I will provide you with some background of who I am.

I am a lawyer at Thompson, Dorfman, Sweatman. I am a member of the Canadian Property Tax Association and have contributed to their monthly newsletter which deals with assessment legislation throughout the country. I note in passing, and I will deal with that later, I brought my manual with me because of the information that was brought, or appeared to be brought, that every jurisdiction has the power to determine fair assessment. My review of the manual, and I have a province-by-province tabulation in my manual, indicates that that information might be incomplete or incorrect, because for example in Prince Edward Island, the commission has the ability, and I am reading directly from the legislation, to hear and dispose of an appeal by either dismissing it or allowing it.

So it is directly related to an appeal and they can only dismiss it or allow it. I have not had a chance to review all of the legislation, but my cursory view of my binder dealing with legislation across Canada seems to indicate that information might be incorrect or have to be further studied.

I have been asked to speak in the past to councils of municipalities. I am also a member of the Manitoba Bar Association Council. I have been asked also to speak to the Arbitration and Mediation Institute, and I think that will be a point which might be relevant later on. I have acted both on behalf of municipalities and on

behalf of landowners with respect to assessment matters.

A preliminary point on the first page of my paper is an encouragement to this Government to make use of our association. At the Bar Council meeting that we had in Brandon a couple of weeks ago, we had directed our president, because a couple of bills were coming up and we had late presentations which would not be as thorough as if we had advance notice. We, unfortunately believe because we have a wide cross-section of members in our association, lawyers that represent the City, private individuals, et cetera, that we would be useful. In most cases we have volunteers that are willing to provide comments on legislation before it is passed as a bill or proceeded with. So on behalf of the Bar Association, I again communicate that request and leave the invitation open to consultation to us.

With respect to the last presentation made by the Hotel Association, in the context of this co-operation, Alberta for example, and I have all of their manuals, jointly with owners, assessors and appraisers have done manuals which are part of regulations, so it is a joint effort. It is not an effort just by the city assessor or otherwise. I guess that gets to my next point on page 2, that the obvious danger of proceeding with the bill which has basically been presented by one party with the input of only one party, is that it may result in unfairness to other groups which have not been consulted and maybe leave solutions that might not be otherwise considered.

Based on my experience, there has not been a comprehensive review of this act and there are a number of issues that should be or can be dealt with. For example, when I was speaking to municipalities at their conference, they expressed frustration at the inability to collect school taxes when there is a successful reduction. It is reduced. Not only do they have to remit the tax as the taxpayer remitted to them, but they then have to remit the school taxes which were remitted to the schools. They cannot recover those from the schools. That is a major problem for municipalities.

Another concern, and this is not always the case, but there seems to be some frustration that assessors do not, perhaps, have the time to prepare accurate assessments, and that the municipalities, with respect to some of the bigger items, are left with uncertainty for a couple of years as to what will really happen in their municipality.

With respect to the background, and I am getting now to the solutions. Is the solution really to give this last-minute appeal to the assessor, or should it be dealt with earlier? We have heard other presenters say, we used to have full co-operation. Sometimes, it still happens. I am not going to say it does not happen, but it depends a lot on the personality of the assessors that you are working with. Some people will be very forthright. They will provide and share with you the information that they have gathered, at your expense as a taxpayer. It is your information on your file. Some people will refuse to provide it until 15 days before the hearing, when they are required to provide it. That, I believe, speaks to where the solution ought to be.

I think the move to have all these meetings in rural Manitoba and some of them in Winnipeg–some of them were not able to be conducted with an open-ended approach–is a good approach, and, perhaps, is a solution which ought to be explored, more so than this kind of backdoor, or end, approach.

I get back to the three years to prepare an accurate evaluation. Prior to 1990, the assessment appeals were annual. So that, I will admit, put an awful lot of pressure on the assessor to come up each year with a valuation of the property in each year, as to what the market was. Moved away from that, and we said, we will give the assessors three years. They have three years to gather the information, make an accurate assessment, and, that, even though it is unfair to the taxpayer because there may be movements in the market, we will hold him to that, because we want the assessors to have enough time. Now it turns out that the 1990 legislation, which provided three years, was not sufficient. There was an extension, and now it is a four-year general assessment. So they have a further year to gather relevant information.

Now I know there are mass appraisals, but in each property owner for any significant type

of property, the assessor has a full fact sheet of all the physical characteristics of the property. So that when the hotel association comes, and says, this was subject to the assessment and it was $800,000 and it went up to $2.7, I do not know if those were the exact numbers, the physical characteristics on the file of the assessor have not changed. If they changed, there are building permits, and there are provisions in the act that require that to be put through, and those changes to be considered. But that fundamental information is there. So there is no reason, if you know all the site-specific information based on your file, that you cannot provide an accurate evaluation if you only have to do it once every four years.

I would submit that allowing these amendments would only encourage sloppiness and incomplete work by assessors. I would urge this Government to focus, rather, on full disclosure at a very early stage, and by that I mean mandatory. Right now, there is a reverse onus provision in the legislation that says if I, as a taxpayer, do not provide information of my property, I am penalized in the legislation and the way that the hearing will work. It will be automatically against me, and there will be penalties, even on the tax refunds. I will not get the full effect of them. But the reverse is not true. If I go to the assessor, and I want the information on my own property, and ask for it when I get my notice of assessment, unless I have a co-operative assessor, there is no penalty and no recourse for that ordinary taxpayer to have full access to that file and full access to the information used by the assessor to arrive at that assessment.

Going along those lines, all the information that is gathered by the assessor, either lease, data information, et cetera, Mr. Chair, that is all gathered through taxpayer expense. It seems rather unfair that the taxpayer cannot have access to that information, at a very early stage, and discuss in a reasonable way. When I get to arbitration and mediation, that is where the presentation to that group was wondering, well, why do we not have more informal meetings, and avoid all these appeals and full disclosure at an earlier stage?

* (20:40)

Windfall for the taxing authority, page 4 of my presentation. Courts–and I am not pulling this out of the hat. The way the system works is you have all these assessments. They are put into place. Once you have the assessments–and they start early. For example, for 2002 we saw they came out in the spring. Those have a chance to proceed through negotiations, through revisions, to be finalized. Once you have your assessment base finalized, then you fix the mill rate. Any increase over that kind of base of assessment, which is what is happening here after the fact, results in a windfall because, really, you are basing your budget on a known assessment. If you increase assessments, you are getting windfalls for the taxing authority. Courts have held that that is a major reason why we should not allow these things to come after the fact and later in the day when the whole process has already seen its logical progress.

With respect to allowing the assessor to appeal at any time, and I know, Madam Minister, that you have dealt with that in part, the assessor does have for every year the possibility to appeal. So for that year where you have your base and it has gone through the revision system, sure, there may not be an adjustment upward. But for the year following that, if the assessor feels that he made a blatant error, he did not do his work the first time or was not able to in the mass assessment appeal process, he can appeal the following year. For the next three years following in that general assessment appeal, there will be a fair assessment based on a decision.

That is why I get into the windfall situation and then the appeal situation in the following year, again, because when you have the appeal in the following year, if the assessor felt it was too low, you get the full assessment. You get the mill rate established on that full assessment and the system works. There is no need to tinker with it this way.

We have heard, and my experience generally shows it to be true, that assessors will only do an on-site inspection prior to the Municipal Board hearing. Now, what does that do, for all practical intents and purposes? There have been several cases that have gone through on major tax reductions, including some of

which I have been involved with, involving several hundreds of thousands of dollars that have only been heard two or three years after a relevant assessment, sometimes even more, at the Municipal Board level.

We are talking about businesses because we also heard that this will probably not affect very many residential properties for businesses. Auditors are going to have to report annually. They will say: What are your liabilities? Well, we do not have any claims outstanding, because the assessor has not filed one. He did not file one before the Board of Revision, he did not inspect the property. He did not file one this year because it is not before the Municipal Board yet. Three years later it is before the Municipal Board. He decides just before the Municipal Board hearing to do an on-site inspection, gives his 10-day notice, and then all of a sudden, what happens? It will be retroactive to two or three years back.

That was the case that I was involved in, Repap. Whatever the decision was by the Municipal Board three years later, because it is a valuation as revised, gets carried forward in each of the years from the date of the initial reference year that it was appealed. So a business could face a three-year increase as a result of filing an appeal three years down the road ten days before a Municipal Board hearing, not have any notice in writing until that time, and be faced with that uncertainty because he has something sitting before the Municipal Board on a reduction.

Mr. Chairperson: One minute, sir.

Mr. Hacault: Thank you. The system, in my submission, already favours the assessor. The taxpayer pays the assessor's wages to do a proper job on the assessment. The taxpayer pays for the legal representation before the Municipal Board for the assessor. There are no consequences or refund. The taxpayer has to pay if he does not have any knowledge for the appraiser or consultant, and the taxpayer, if he is foolish enough to hire somebody like me, has to pay somebody like me. So he is faced with all these costs and he has a very real decision to make, especially with that reference of a threat. If I can save $5,000 of property taxes, but to do a good job I have to hire an appraiser, I have to hire a lawyer, it is not worthwhile doing my property tax appeal. This would only tilt the scales further in favour of the assessor.

Thank you very much. I would be more than pleased to answer your questions as best as I can.

Mr. Chairperson: Thank you for your presentation, sir. I have Mr. Derkach, Mr. Selinger, and the honourable minister.

Mr. Derkach: Mr. Hacault, thank you for your presentation. I think perhaps when you are referring to the experience that you have had with assessors, and I hate to say this, it is largely with the city assessors, not necessarily the provincial assessors. I have to defend the provincial assessment branch, because I know the experiences we have had in my part of the world have certainly been very positive in terms of the relationship with the assessor, i.e., explanations, information being extended to the taxpayer long before it is necessary to use. I think that is an approach that perhaps I would encourage the minister to take up with the City of Winnipeg Assessment branch, if that is possible, because in the long run it is going to serve all of us better, in terms of taxpayers.

Mr. Hacault, I just want to ask you with regard to the appeal process, you have represented businesses, I am sure, of all sizes. It has been my experience that the assessment branch always has information that is more current and certainly has comparisons that business and perhaps even you as a representative of those businesses would not have. In your estimation, do you think a fairer system would be one where all the information is shared with everyone and then you can go forward with an appeal based on all of the facts that are laid out before you with the assistance of the assessor as well?

Mr. Hacault: Yes, definitely. That is why I suggest looking at this and perhaps deferring it and getting some input from other parties. I will agree with your statement. Even with the city assessors, it is not everyone who has that kind of approach. I am not going to say that they do, but it is a hit and miss. Some people will be very protective of their information, not want to share anything.

I would encourage, and in fact the courts and the whole system, people complain about costs. Well, as soon as you have to hire a lawyer and an appraiser–that is what you are going to have to do if you want to do a good job in front of a Board of Revision–you are going to incur costs. I would very much like to see as a comprehensive review of this legislation to have a mandatory disclosure by the assessor of all of his information at the outset as soon as there is a contact with the assessor so that there is then a meaningful discussion.

Mr. Derkach: Just one more question, and I know we are under time constraint, but, Mr. Hacault, would you agree that perhaps a better approach to the appeal process in this province would be a process that we could introduce through legislation where the assessor would sit down with the property tax owner and his or her representative, share all the information, and then, in consultation, would move as a matter of fact to support the taxpayer in an appeal, if in fact an appeal is warranted, or at the end of the day at least give the information to the taxpayer where the taxpayer would see very vividly that an appeal is not warranted.

Mr. Hacault: I would most certainly support that. Unfortunately, I think indirectly there is some subtle pressures put on assessors. This is not a criticism of them, but when they make an assessment and they provide a general assessment there is a subtle pressure on them to justify that they are right. They have made the assessment. To now change it is to admit they were wrong. That is a difficult thing. Some assessors have a greater ease to do that than others.

Mr. Chairperson: Mr. Selinger.

Mr. Selinger: I defer to the minister.

* (20:50)

Ms. Friesen: I just wanted to say I think there is general support for the assessor sharing the information with citizens as they prepare their presentations. I think there are some things the City of Winnipeg is doing now that the Province has done in informal ways before, and I think citizens are generally appreciative of that. We will probably see the results of that. Maybe not immediately this year, but down the line I think we will, both in citizens' attitude, assessors' attitude and the desire of everyone to get to the fairest possible number.

I would be repeating myself to comment on some other aspects of your presentation, but I thought that was a useful portion. You had raised the issue of P.E.I., and a previous presenter had raised the issue of Saskatchewan. I had said in introducing the bill it was my understanding that we were an anomaly across the country. So, when that was raised earlier, I did ask staff to check on this again, because it is such a rather startling situation, Mr. Chair. P.E.I., we did e-mail the appropriate department there and got this response. I am going to read it into the record:

On P.E.I., we have one appeal board, the Island Regulatory and Appeal Commission, which hears not only assessment appeals but also deals with other regulatory issues. The commission has three options in resolving assessment appeals: (a) dismissing it; (b) allowing it and directing the minister to vacate the assessment or make specific variations in the assessment; or (c) referring the assessment back to the minister for reassessment in accordance with the directions of the commission.

A final note is: We have had occasion on appeal to note that an error has been made in the original assessment and that upon review, the error was corrected and the assessment should be increased. The commission concurred and the assessment was increased.

There may be a difference there, perhaps, between practice and precedent and the written piece that you read out. I am not necessarily saying that the two are inconsistent but that, in fact, Mr. Chair, commissions do increase in other jurisdictions.

I will just finish with the Saskatchewan one since that was also raised. I am reading from the Urban Municipality Act, and it is a new section 255.5. It says: On any appeal to a Board of Revision, the Board of Revision may order the correction of errors in assessment relating to any grounds stated in the notice of appeal, and the assessor shall amend the assessment roll

accordingly, regardless of whether the resulting assessment value increases, decreases or remains the same.

So that was the basis on which I have been making these assumptions, and I stand to be corrected, but it seems to me that the situation where we are an anomaly at the moment may stand.

Mr. Hacault: Madam Minister, as I indicated, I have not had an opportunity nor has the municipal law subsection had an opportunity to review that matter fully, but each piece of legislation does have a specific, usually, section that deals with an error in the assessment.

But there is a difference between error in the assessment which is a specific authorizing section in most of the legislation and the situation that we have here before us. Most, I believe, and even this piece of legislation, at least the extract that I have, in P.E.I., indicates: On an application or an appeal, the following things may be done.

So that getting back to my initial part of the presentation, it would be normal for the subsequent years to have an application or appeal and then have that fair value determined, but I am not aware of any jurisdiction where it can be done much after an appeal and have kind of a retroactive effect. That I am not aware of.

Mr. Selinger: Thanks, Mr. Hacault. You have a strong presentation. I think you have made some good points, so rather than quizzing you on those points, I want to put the problem to you that I think this legislation was, in part, addressed to solve and see if you have any suggestions on how it might be addressed.

I think the issue that this legislation was, in part, trying to solve was risk-free appeals that put the City's property rolls or assessment rolls at risk. I am describing it that way because I think the perception was that if you could not have your assessment increased but only decreased, then on a contingency fee basis you could hire expertise, especially on more valuable properties, that would challenge the roll and put the rolls at risk.

I think that was one of the perceived problems presented to this Government by the City of Winnipeg, in particular. That has caused quite a bit of disruption to their ability to predict their revenues over the years.

I am sure you are aware of this because there have been some very notable headlines about the magnitude of some of the appeals that have been successful over the years, and I think that has been a driving factor behind this legislation.

So I think part of the intent of this legislation was to "level the playing field" in that regard, to ensure that people who were going to make an appeal did it on a reasonable basis, not a contingency basis or a speculative basis or a basis not founded on a good case. As you know, the Board of Revision is not necessarily informed by case law or necessarily consistent panels or necessarily people who have a lot of expertise particular to this area on a professional basis. I do not mean that in any derogatory way to the Board of Revision, but that is just the reality. They are a group of citizens who break into panels and review these matters. As you know, they are not bound by precedence on the rulings they make, necessarily, on an ongoing basis.

So, if given that characterization, do you have any suggestions on how that issue can be addressed to be fair to municipal governments as well as to taxpayers?

Mr. Hacault: That is a difficult question to answer. I am also a member of the National Parole Board, and I can tell you as a member of the National Parole Board, we do over two weeks of professional training each year.

I do not think the Assessment Department has that luxury. In fact, I know they do not have that luxury. I do not only do assessment work, but a lot of them lack some fundamental skills and perhaps knowledge.

I am not saying that to be critical of them. They do the best job they can with the training they have and with the information that they have. But I will just take one specific example. When I had done the Repap assessment appeal up in northern Manitoba, the tax dollars there to The Pas amounted to about $2 million. That is a

huge hit for a town like that. We had a fellow who was experienced in the sale of 30 or 40 pulp and paper mills. Unfortunately, the assessor did not have access to that expertise and did not have local expertise, so how in fairness could they be in a position to do a proper evaluation of that property?

I am just going to the source of how we get there, how we get to improper valuations, and then sitting down and talking, the enormous pressure that is on, I believe, assessors who then have given these values to the town of The Pas, to use that example, who have set their mill rates. Now Council is looking at them and says: What do you mean we are going to have a $2-million tax reduction? Do you guys not know what you are doing? So they are faced with the position that they have to justify their value. They cannot really back down.

Now I know there have been some advances in that. We have had somebody appointed to try and deal with all the major assessment appeals in rural Manitoba. I think those are all good things, but I think the solution that we are looking at is kind of a backdoor solution and not hitting the problem head-on as to giving proper resources to the assessors and allowing a proper process to occur in the front of the system as opposed to the back of the system where everybody gets frustrated because it happens two or three years later before the Municipal Board. It is not good for the towns, and it is not good for the taxpayer. It creates uncertainty for both of them with this kind of thing. Let us deal with the problem head-on at the beginning, not at the end.

* (21:00)

Mr. Selinger: I appreciate your frankness, because I know you are down here to represent a certain point of view as a person who handles appeals, but we do have a big challenge here because, as you explained in your example, for a town to lose $2 million of its revenue when it is trying to provide basic and important services to its citizens puts them in a terrible position, and it puts people's jobs at risk. So I would agree with you. We need better training and preparation up front, but do we not also need something to prevent, I do not mean this is a judgmental way, opportunistic behaviour that has no consequences. Like when you go to a court proceeding, you may have to pay costs, right? There is usually some instrument built into a set of rules or procedures that requires people to be reasonable. Is there anything that we can do here that you can see?

Mr. Chairperson: Mr. Hacault, briefly. We are already 10 minutes over time on this presentation.

Mr. Hacault: I apologize. The cost aspect is an interesting approach. It has been used in B.C., as I understand and I believe. Diane Flood, who used to be here, is chair of the Municipal Board. But, if you are going to do it, to be fair, it has to cut both ways.

I think if we look at the results of the Municipal Board and how often there are reductions and not appeals to increase, you would see that, I think, it is going to be more costly, because that is going to have to come out of taxpayers' pockets again. Ultimately, all you are doing is taking from this pocket and putting it in this pocket. It is a difficult situation. It is not one that is easy to understand.

So each time the assessor loses, are you supposed to take from this taxpayer's pocket and put it back into this pocket? If he wins, what are you supposed to do? If he is already incurring all these costs and he has to weigh the consequences of doing that, all his personal time, there are going to be disbursements. Even on a contingency basis, he has expenses; he has to be away from his business; he has to prepare that appeal. There are time consequences and practical cost consequences for everybody who decides to appeal, even though they use somebody on contingency. Quite frankly, some people on contingency, yes, they make huge dollars, but they provide a useful service. If the valuation was correct from the outset and there was proper support, I think there would be less of these successful appeals.

Mr. Chairperson: Thank you, Mr. Hacault. Very interesting presentation, sir, thank you. We will move on. We are well over time here. I call Mr. John Stefaniuk, private citizen.

Floor Comment: He is not here. He is from my office.

Mr. Chairperson: Okay. Mr. Stefaniuk's name will be dropped to the bottom of the list and called a second time at the end. Mr. John Petrinka, Norman Commercial Realty Ltd.

Mr. John Petrinka (Norman Commercial Realty Ltd): Good evening.

Mr. Chairperson: Mr. Petrinka, do you have a written copy of your brief?

Mr. Petrinka: No. I was in the building this morning, and I happened to wander into this room by accident. I was informed that I could make a few comments tonight.

Mr. Chairperson: Certainly, proceed, sir.

Mr. Petrinka: Being an old bachelor, I had lunch at the Salisbury House tonight, and I penned a few notes on this, which I am prepared to leave, but I am sure that Hansard will record my comments, fairly, squarely and, Mr. Chair, quite accurately.

Anyhow, having said that, I do have a tie, but I notice that my tie is narrower than most here, and given as how I have not worn a tie for about 12 years, I figured that I would go without a tie tonight rather than embarrass myself by dating it.

Having said that, I am relying on some testimonial evidence tonight, and I prepared a few notes here that I would like to read into the record. I am going to take off my glasses here so as I can read. Well, first of all, I should thank the minister for having this hearing. Thank you very kindly, and to the members of the committee, thank you for participating. I am hopeful that my comments will be germane to your discussion here today.

I am a real estate broker and a former member of the Board of Revision for four years, and I have been in this business now for some 13 years. I am not a lawyer. I am not an appraiser. I am a real estate broker. *[interjection]* Difference. I might be acquainted with the point situation with traffic tickets, okay, but anyway we muddle through, and we have happened to have done some good work over the years.

I am going to read now from the notes that I prepared here at about 5:30 this evening. For as many ways as the MAA is deficient, that is The Municipal Assessment Act, there is none more glaring than the identity crisis that has developed regarding who the assessor actually is.

I believe this tack I am taking tonight is similar to the tack that was taken back when I was on the Board of Revision. If you appealed your assessment on the basis of cost, which it was in those days and it still is, it is a modified market approach, it is still cost, you had no chance of winning the appeal. You either came in with market value and you hoped that you got somebody on the Board of Revision that had some experience with market value, and they might hear you, because the unfortunate part about the Board of Revision, for all its declaratory value of being at arm's length to City Council, there are a number of people who take it upon themselves to reflect the value that they hold themselves in dealing with the issue. In other words, they are not required to provide a reason why they dismiss the application.

This is extremely important because, when you go further on to the Municipal Board, regardless of what they or timing that you are playing with, with this bill it all becomes irrelevant when you are confronted with the fact that you are now having to appear before another board that says that it is all a new approach, but unfortunately it is not. The fact that it was appealed before the Board of Revision, rejected, the likelihood of it being rejected at the Municipal Board is quite strong.

Anyhow, to continue with my comments, I would just like to reread that opening paragraph because this is extremely important to what follows: For as many ways as the MAA is deficient, there is none more glaring than the identity crisis that has developed regarding who the assessor actually is. In the flight to professional designation, the AAOM, which is the assessor and his designation today, there has been an attempt to marry the assessor with the more professional designation; that is the appraiser. There is an ongoing program between the AAOM and the Appraisal Institute of Canada to develop this program. They are hoping there

will be a minimal difference between the two, I guess, eventually.

There are those in both assessment departments who strongly aspire to the latter designation and in so doing seek to obliterate the line between mass appraisal and the fee appraisal for specific properties. This is extremely important. There is this strong aspiration, okay, which is still differentiated between the mass appraisal and the specific site of fee simple appraisal. The former valuation deals with the general reassessment of properties for the purpose of establishing an equalized value by which a mill rate is to be established to set municipal budgets.

Inherent in this valuation is the lack of the principle of substitution or more commonly known as highest and best use and still further value added for a specific property. A case in point would be the adoption of the department and the acquiescence of the Board of Revision to accept as a C1 value for land on North Main Street at $10 per square foot. This value is established by two sales, and only two sales, in the reference here for a McDonald's restaurant in a small strip that includes a liquor store among others. The acceptance of this value would suggest that, without any feasibility analysis, there could exist through the length and breadth of North Main Street a McDonald's on every corner. That is what they are asking you to accept. This myth is perpetuated by virtue of the Board of Revision having the power of dismissal. That is, they are not obliged to report the reasons or reasoning for their decision. This obviously has an impact, as I said earlier, at the Municipal Board.

* (21:10)

This is quite interesting because I used to keep track of the appeals before the Board of Revision. I am not sure whether or not my sitting on the Board of Revision had anything to do with this or not. Who knows? I used to keep track of the appeals before the Board of Revision and then before the Municipal Board. At one time, when I first started, I was 0 and 8 at the Board of Revision. In other words, out of 8 appeals, I had won none at the Board of Revision.

In the same appeals before the Municipal Board, I was 8 and 0. What caused this change? Did I have additional information? I do not think so. Was the information presented different than the first instance? I do not think so. What is wrong with this picture? That is what I am asking.

Point of summary: The assessor in mass appraisal has the elements of present and permitted use but not potential available in his general reassessment, and this was upheld in *Burnaby v. Sears*, in B.C. not a few years ago. It held very strongly that the appraiser and a planning department person put evaluation on their surplus land as $19 million. This is without any feasibility analysis as to what the two million square feet of additional office space was going to contribute to the change in the surrounding community. The appraiser differs from an assessor in that his work is a fee-simple appraisal guided by the inclusion of potential in order to fully describe the full value of the property. It is this difference that the assessor would husband unto himself for the purpose of achieving the highest and best use that everyone keeps alluding to but technically is impossible to achieve.

This is where I differ with everything else that was said today that I have listened to, which was very good. The presentations were excellent but nobody has mentioned the fact that there is a difference between the assessor and the appraiser. It is a big difference. One must include potential; the other must exclude it. This is why you will never ever have this business of– let me read on.

What this bill does is allow the assessor to usurp his primary function: The general reassessment. He wishes to conduct an assessment within an assessment. If this be the intention of Government, then why bother with the general reassessment? Why bother?

The above would revisit the intent of the department to pursue what they got slapped on the wrist for re the Wellington Crescent local area reassessment. The courts said very clearly that the assessor had exceeded his authority/ jurisdiction. Now they have come to you to endorse their tactics of intimidation. Not every-

one has the resources to hire Mr. Mercury to defend these positions or these properties.

I am going to present testimonial evidence that I know supports the above assertions. I lost somewhere between $15 million to $20 million of appeals in 1998 in the car industry. I could not assure them that their appeals would not be affected in an upwards manner. This was the sequence of events: In the old days, you sat with the assessor to review your material. There was an unwritten position that everybody was to sit down and exchange information seven days prior to the hearing at the Board of Revision. One could tell at a glance whether the Assessment Department was fair and equitable with the exchange. If it was not, you dealt with a difference of opinion by either certificate or the Board of Revision, Mr. Chair. So it was a non-confrontational kind of situation. Today, every time you come to the Assessment Department, it appears that unless you get somebody that you have known for a long time, it is: We cannot do anything for you.

In 1998, this no longer happened, this collegial approach. Now you contacted the department a month, plus or minus, prior to the hearing. The assessor was always too busy, notwithstanding the rule of disclosure, seven days prior to the board, to provide information regarding the appeal. In fact, a general response was–and I can provide names. They must have had a canned speech similar to the telephone marketers. They were too busy, too busy until a couple of days before the board, wherein they would state: John, I believe we are going to stand pat with what we have got. In fact, a quick review and answer, if you appeal, is that we are going to be asking for an increase. As agent for the property owner you are obliged and obligated to report this development. Subsequently the appeal would be quietly withdrawn.

I had a couple that cost me dearly, where the assessment was actually appealed and the department carried out its threat. Particularly with the cost approach, the Board of Revision, because of no obligation to justify their decision, and I repeat, particularly because of the cost approach, accepted the tactics of the department all in the name of market value. Everybody keeps confusing cost approach and market value. There is a way to achieve market value through the cost approach, but the indicators, the market indicators, have to be so strong, which are yet to be developed. Anybody from the Assessment Department will tell you that the upcoming commercial assessment in 2002 is in big trouble, big trouble because of the fact that it is so weak because of the market indicator development deficiencies.

Which comes back to what was earlier indicated. The embarrassment of an unattainable highest and best-use value added, when potential is clearly impossible to identify in a mass appraisal. It is clear to identify this in a mass appraisal, highest and best-use.

Let me close by saying, and I am going to skip that, because that is getting a little bit too close to the bone. I will leave this with you. You can read into it later.

I find comical that the AMM is mentioned in the same breath as the City of Winnipeg, and I really sincerely say that, that is, in support of this legislation. These are the same people who would ostensibly wish to be consulted regarding 129 000 municipal tax reductions when they are in full support of a national holiday at a cost of several million dollars to the taxpayer. These are the same people who wish to be consulted when they were totally unaware that the City or their provincial office provided a municipal tax exemption that they now wish consultation for.

The City of Winnipeg's agenda is somewhat more clear, if my information is correct, and I am talking about information from the assessors with the City of Winnipeg. Their actions have nothing to do with the required fairness and equitability proscribed by the act. It would appear that, given the deficiencies of the commercial realty assessment, then there is little choice but to adopt the same policy that was so successful in 1998: intimidation. I say this with some degree of not only trepidation, but I have come to realize in my dealings with both departments over the last few years that there is no accountability. Your Assessment Department can write anything that they want to. They are totally unaccountable for whatever it is that they write. If they sandbag, if they pile the bags 10 feet high, you have to keep going for another ladder of 12 feet.

Now having said that, I really resent what Mayor Murray is attempting to do. Mr. Chair, we have a problem with business in this community locating here, and if they were only to understand that what Mr. Murray is doing here is penalizing business by virtually attempting to intimidate them out of appealing. This is similar to, very similar to, and I read with some disgust–

Mr. Chairperson: One minute, sir.

Mr. Petrinka: Yes, sir. It will not take me 30 seconds. I am used to dealing in 30-second sound bytes in the hallway here.

I read with disgust today, the city police department referring to this photo radar thing. Okay, when there was an article in Saturday's paper from San Diego that clearly indicated if you just increase the yellow light by one second it reduced the incidence of accidents by 90 percent. I am tired of people writing reports. I only ask you one thing. As politicians, please be aware of the reports that you get. Ask for the upside as well as the downside. If you do not get both, then how can you make a decision? If people are providing you with information that you refuse to read, then let it be on your head.

Mr. Chairperson: Thank you, sir, for your presentation. Questions from the committee?

Mr. Derkach: Mr. Petrinka, we have heard tonight from presenter after presenter after presenter that the element of intimidation is strong and alive as it relates to the Assessment Department. I am presuming that the presenters were referencing the City's Assessment Department, because I have not heard that from the provincial assessment side, in the rural communities at least. So I think there has to be a differentiation here. I am not sure which one you are referring to.

Would it not seem more practical, and I know the minister has been listening carefully to this, and this must give her some concern, for us to take this legislation off the table, and look at a practical approach, whereby taxpayers and assessors would be given the opportunity, as Mr. Selinger, the Minister of Finance says, or indicated, where the information could be shared on a fair and equitable basis, and then a joint decision, in most cases, could be made, arrived at, as to whether, in fact, an appeal is warranted. But that the latitude would always be given to the taxpayer to proceed with an appeal, since he is the individual, she is the individual who really sustains the system in terms of providing the needed dollars for the services that our municipalities deliver?

* (21:20)

Mr. Petrinka: I would agree with you, Mr. Derkach. I have an appeal before the board right now on business tax. There has already been a court decision on it, okay? Yet they are referring it back to their legal department for–I do not know, maybe they are going to rehear it again, maybe they are going to take it to court again. I am not a lawyer. This is one of the deficiencies in my approach. I can handle things up to a point, and this is where I then have to go to Mr. Hacault, as we did with the German Society one.

The answer to your question is the collegiality, the kids that did the $250-million debacle, which Mr. Greg Selinger was part of. The politicians wanted to see a quick turnaround, so they did the residential first. The business approach to doing the appeal was so weak. I sat on boards where I had to kick the guy under the table, because they were ravaging the assessor, and that is another point in case. You have the assessor that comes to defend his appeal; his information was not prepared by him, it was prepared by somebody else.

We had the shopping centres. Why they did not take it to the appeal board? We lost $2.5 million clearly on evidence that was based on a sale. Why was it not pursued? I have no idea. But you have a situation right now where the kids that did the job back in that $250-million debacle, they did a good job. With what they had to work they did a good job. Today you are losing people in the Assessment Department with the City of Winnipeg. Twenty this year; twenty last year. They have not replaced anybody. Where are you going to get performance?

You are talking about market value. Market value does not rest on a four-year cycle. It rests on a one-year cycle. You keep referring to B.C.

Well, then, look at B.C. B.C. refers on a one-year cycle, and they treat it fairly. Even with your own legislation, 326 as opposed to 208, the city of Winnipeg. One can go back in the year that the mistake is found, plus one year. The other can go back the year that it is found, plus two years. I had this with the West Kildonan Curling Club. He unabashedly said to me: You are either going to take the $200,000 that was there on the old building, plus the $250,000 that the barn cost. They added the two together. This is the cost approach.

I have appeal after appeal after appeal on the cost approach, which says very clearly, that the Appraisal Institute of Canada says very clearly, and this is what the Board of Revision, including the Municipal Board, fails to recognizeis that there has to be some check and balance here. It is called the assessment-to-sales ratio. They refuse to acknowledge it. This is how we went from cost approach to market approach. We started doing ASR ratings, okay? If it was plus or minus 10 percent, we dismissed the appeal. If it was 30 or 40 percent, we dealt with it. Yes, Sir.

Mr. Chairperson: Time for questions has expired. Does the committee grant leave for Mr. Derkach to ask another question? *[Agreed]* Proceed, Mr. Derkach.

Mr. Derkach: Just one. I thank the committee. Mr. Petrinka, it seems to me that this afternoon and this evening we have heard an overwhelming amount of evidence against the proposed changes to this bill. I am wondering whether or not the people that you have represented would favour an approach perhaps that is made in Manitoba, where, in fact, there is a more consultative approach to arriving at the correct assessment, rather than the adversarial approach that we are setting up for ourselves through this legislation.

Mr. Chairperson: Mr. Petrinka.

Mr. Petrinka: I keep forgetting the Chair. I am sorry. You are so far away. My eyesight is failing, and I can barely see you there. Yes, that is the case. In fact, the first day I was on the Board of Revision, my old friend, Bud Irving, okay, who was the chairman of the board at the time, was saying: What are we going to do with the 15 000 appeals? Well, what we will do is we will talk to the Assessment Department upstairs and we will let them handle it. We will let them talk to people, okay? I was a civil servant at one time, and I used the words "civil servant." I was a servant in the employ of the public, and I delivered my services in a civil way.

You do not find that today with all people. It is not just relegated to the civil service. We find that sort of life thing happening throughout life today. There is not quite the old stiff upper lip and British attention to service, okay? At that time, as well as today, we had a situation where we got into an argument as to whether or not this should be done by virtue, or by way of the Assessment Department dealing with it.

I argued that you have civil servants that are sensitive to the issue, and civil servants that will, just like some people, go into the police business. They have a little bit of a problem, psychologically, and they want to push people around. I have seen it happen, okay, and that is what we have here. We have a situation that Mr. Hacualt alluded to earlier, and Mr. Dupont alluded to earlier. Mr. David Sanders had a great presentation, and that is the situation. Scrap the whole thing. Talk to the people who are in the business.

The assessors have a vested interest here. You have only heard from them. If you want to get into some of the other stuff that you might not want to hear publicly, and on record in Hansard, let us sit down and have a discussion that includes somewhat more than 15 minutes. We could have a nice, nice session some afternoon if you would like.

Mr. Chairperson: Thank you, Mr. Petrinka.

Mr. Petrinka: You are more than welcome, and I really appreciate being here. I cannot tell you how happy–I had to come back to the building today–for stumbling into this. It was very, very informative.

Mr. Chairperson: Thank you, sir.

Bill 32–The City of Winnipeg Amendment Act (Continued)

Mr. Chairperson: Now we will move over to Bill 32, The City of Winnipeg Amendment Act.

I call David Sanders of Colliers Pratt McGarry.

Mr. Sanders, do you have a written presentation? You do? Okay, proceed when you are ready, sir.

Mr. David Sanders (Director, Real Estate Advisory Services, Colliers Pratt McGarry): Mr. Chairperson, honourable ministers, members of the committee, the material being distributed is the same as the package that was distributed this morning, but in case some of you may not have brought them back with you, my comments with respect to Bill 32 are found commencing on page 17 of the materials.

Mr. Chairperson, in the case of Bill 32, my request is to speak only with respect to clause 5 which amends section 181(1) of The City of Winnipeg Act to render the current 2001 business assessment roll valid.

Obviously, you need to approve a change for 2001. However, what, in fact, you are doing is making it a four-year cycle permanently. and I do wish to register my opposition to the continuation of the four-year cycle in the future.

If you are interested this evening, I would be pleased to explain how this four-year cycle is completely dysfunctional, economically dysfunctional in that it exacerbates the swings in real property values, the actual market values, actual prices of properties by raising them higher and then forcing them lower than would otherwise be the case. It also results in situations such as this taxation year, when taxes in 2001, and tomorrow they are payable, are still levied based on market values of the 1995 reference year which is now six years ago. That is a very long time, certainly in the commercial-industrial investment marketplace.

There is absolutely no good reason why Manitoba cannot move towards the annual cycle now in force in many other provinces. I still chuckle when I think of the remarks of Michael Mercury when the City was asking that the cycle be moved not only to four but to five years, when he remarked down the hall that the whole Second World War was fought in less time than the city assessor wanted to prepare an assessment here.

But I would go on to say that the city assessor might say, yes, but the generals had more resources than he does, and I would support the remarks made earlier by Mr. Hacault, that perhaps more resources are indeed required for this function. The fact is if I had an asset that produced over a billion dollars in revenue every year, I might invest a little more in taking good care of it, and I would certainly support that.

Just carrying on, on page 17 in my brief, I did want to draw your attention to provisions of The City of Winnipeg Act which define how business assessments are determined in the city of Winnipeg. I am only going to refer to one because this is an immediate and current problem. Business assessment in the city of Winnipeg is done in a manner which is quite different from the rest of the province. In fact, there is no business assessment in a good many parts of the province other than in Winnipeg. But Winnipeg has one, and it is defined specifically in The City of Winnipeg Act and particularly in section 177 of that act.

I have handled appeals of Winnipeg business assessments for some five years now. I began out of curiosity and then out of horror, as a white knight, and now, frankly, as a significant part of our business, because there are extremely serious problems with the City's business assessment roll. I do strongly recommend that everything to do with the Winnipeg business assessment be reviewed from top to bottom before the next general assessment is prepared for 2002. I would have said earlier: If there is going to be another business assessment in Winnipeg, but since here we are in June now, I presume there will be.

* (21:30)

In the meantime, it will be extremely helpful to assessors and taxpayers alike if the Province would amend section 177(1) of The City of Winnipeg Act, amend it at all simply to better define what it is that is an annual rental value, because the truth of the matter is the present legislation is extremely gray. It authorizes the assessor to exercise a discretion in determining what will constitute a business assessment. It is impossible for taxpayers to figure out what that

is, except on an appeal and only after the assessor tells them what they have chosen to do.

I would suggest, as an example, if you were to amend that section of the act to read, as I have indicated here, that "the annual rental value", that is, the business assessment" of premises assessed shall be equal to the market net rent for those premises in the reference year", which is a specific term which has a specific meaning which is required and is used for the purpose of developing the realty assessment of those properties, no additional work required. It is something which is already known, plus the assessor's standard occupancy costs for heat. electricity, water and air conditioning where applicable, a concept, a notion and a methodology which is well understood and is fairly applied throughout the city, then I think we would have, at one stroke of a pen, the likelihood of pretty much fair and just business assessments in the city of Winnipeg.

The present legislation does not clearly define costs of occupancy. I can tell you as a result of now years of appeals at the Board of Revision, the Municipal Board to the Court of Appeal, we are still faced with a situation in which some 7 percent of all business taxpayers who are the regular retail tenants of just the seven major regional shopping centres in the city are in fact being discriminated against and assessed at rental rates which are $2 per square foot higher specifically, and precisely that amount, than they should be if they were prepared in the same manner and in a fair manner in relation to the 93 percent of other business premises in the city of Winnipeg.

I would be happy to explain further, but my brief on this subject is literally a foot thick and I will not take up your time with that tonight. I can tell you there are 900 taxpayers out there who are overassessed by that amount specifically. So far, the assessor, the boards and the Court of Appeal, who does not want to consider the facts, will not fix it.

Mr. Chairman, given the brevity of this presentation, I hope I can just take the liberty to say I have enjoyed listening to the presentations and the questions, discussion and comments of others with respect to the more general issue of assessment within Bill 31. I am very concerned that, based on a recent comment by the Minister of Finance (Mr. Selinger), the motivation for Bill 31 means it should perhaps be named something different again. That is an act to protect local government budgets from the incompetence of assessors and boards by maintaining unfairly high assessments. That was the logic of the presentation which, I take it, the City made, rather than to correct the assessments to make them fair, ideally, the first time or certainly when they are discovered.

I would like to say very quickly I believe that Councillor Eadie and the city assessor simply and completely proved my point this evening. The City advised they cannot wait to get on the Web and tell all the taxpayers that if they dare to file an appeal they will now face the risk of an increase. That is what he said. Is that going to reassure everyone that assessments will be fair? I do not think so. Is there a single taxpayer here supporting this bill? I can tell you none of my North End residents are going to support it, and they will understand it. I can guarantee you that.

You did hear the city representative say, it is very clear, they have no interest in correcting assessments which they know to be wrong, high or low, using all the powers that they have, including the same powers the taxpayer has. Their only focus, the only thing they talked about, was finding a way to be able to meet a taxpayer's appeal with their own appeal of that same assessment. In fact, that has been their practice. When they have filed appeals, only of appeals filed by taxpayers, who after all are people who think they have a case to seek a decrease, and the assessor has clearly shown no interest whatsoever in filing appeals of assessments which the department well knows to be low.

I have given examples in my brief which I did not have a chance to read. The hearing that I just concluded in the last two days I find is a prime example. The Assessment Department was certainly of the view, based on full exposure of a property in March of last year, that the assessment was far lower than they thought was appropriate. They did not file a regular appeal under section 42(1) last summer. They could have, they did not. The taxpayer filed an appeal.

We just had a hearing. The assessor's value is twice my value. They cannot seek an increase. Who is responsible for that? It is the responsibility of the incompetence of the Assessment Department who will not address it is their job, will not seek fair assessments and seek only to protect their incompetence and inability by attempting to discourage appeals which would lay it bare. I am sorry, I just find the whole thing unreal. Thank you.

Mr. Chairperson: Thank you for your presentation, sir. Questions from the committee?

Mr. Leonard Derkach (Russell): Thank you very much, Mr. Sanders. You worry me–

Mr. Sanders: I am trying very hard to worry you. When the minister is saying–

Mr. Chairperson: Order. Is that your question, Mr. Derkach?

Mr. Derkach: No, it is not. I will continue. You worry me because from all the presentations we have heard today, I have not heard one taxpayer come forward and indicate any degree of support for any of this legislation. Yet in other bills we have heard before committees this year, we have had many instances where supporters of the legislation have come forward, either voluntarily or otherwise, but today we see not a single ratepayer come forward to support this approach to assessment.

The reason I say you worry me is because I hear overwhelming evidence here which indicates there is a skew in terms of the element of fairness in favour of the assessors in the city. I guess my question to you is: Is there a better approach to this rather than introducing legislation like this, from your point of view?

Mr. Sanders: A couple of points. First of all, frankly, having made the point that there are no taxpayers here supporting this bill, in my view other than the people in this room I do not know that very many people know about this bill. I have not seen any report on it in the newspapers or on television. The press have not picked up on it. I think the best answer is that most people simply do not know it exists. After the hearing today it is quite likely that many people will know about this bill, and then you may have some indication of the extent to which individual taxpayers think it is a good idea or not. But frankly, I would be surprised if any individual taxpayer, whether commercial or residential, who would find merit in this.

It is perhaps not surprising that the supporters of this bill are apparently the municipal governments, who, of course, have very real concern about the stability and validity of their assessment base and their tax base. My point, which I am getting a little emotional about at this point now, is that the solution is not to maintain unfairness through preventing appeals, inquiries free and from flow of information and discouraging it, which is what this bill does. I mean, do not kid yourself; that is what this bill does.

* (21:40)

A far better thing, which, of course, is to devote the resources and the training and the computers and whatever it takes to arrive at a fairer assessment as soon as possible before it is taxed by the City and to have expeditious procedures for review and appeal and correction which minimize the delays which then result in the grief that frankly municipalities particularly but also school divisions suffer. That is where the efforts should go. I think, as others have said, those who would have some knowledge in this field would all be only too happy to participate and co-operate in doing that.

I do wish that I could dispel the notion that somehow those of us who are professionals in the field are somehow bringing about unfairly low assessments. You may recall this morning I made the remark about being an officer of the court and pursuing truth first. It so happens, this afternoon, that I had occasion to write the Municipal Board to ask the board review a decision because I have found that the board erred in assessing some 20 of my clients for business assessments lower than I believe they intended to, and I have asked the board to review that. I believe that is what any lawyer should do and indeed any professional consultant would do and indeed any reasonable taxpayer who is seeking a fair and just assessment would not disagree with, and I do not expect my clients to disagree with me on that. We will be seeking to appeal that decision because we think it is wrong, but at this moment I believe it is written

in error, and I have a duty to draw it to the attention of the board.

Mr. Derkach: Mr. Sanders, is the business tax appeal process the same as it is for the general tax appeal process? *[interjection]* So it is the same. So the business assessment side would then undergo the same approach in terms of the proposed Bill 31 as a general tax appeal would?

An Honourable Member. I do not think your response was on because the Chair did not recognize you.

Mr. David Faurschou (Portage la Prairie): Excuse me. Just a point of clarification. I did not hear Mr. Sanders' remarks coming through the mike from Mr. Derkach because I do not think you recognized him.

Mr. Chairperson: Mr. Sanders, would you repeat your answer, and my apologies; I did not recognize you.

Mr. Sanders: And my apologies for continuing to not wait for you, Mr. Chair. I believe the question was would the same procedures apply for business assessment. The quick answer is, I believe, by and large, yes.

Mr. Faurschou: In regard to the firm which you represent here, you obviously have many areas of jurisdiction that you can draw upon for comparison. So I value your opinion significantly on that point. You are effectively appealing to this committee to not proceed with this legislation obviously, but are you offering a more concrete solution based upon an experience in other jurisdictions?

Mr. Sanders: I think this particular bill does nothing to help but makes things worse. I am certainly most interested in assisting in any way I can in helping the Government to arrive at improvements in the legislation. I do not take it for granted that the practices of other jurisdictions are necessarily a guide to what we should do here in Manitoba. I think if you spoke to the chairman of the Board of Revision in the city of Winnipeg, for example, he would be relatively proud of certain things that are good about our process here, and not want to move to other jurisdictions.

In terms of the things that I would seek to fix within the legislation, there are some very severe problems with the legislation, which has been amended piecemeal over the years. We have two pieces of legislation. I quote in my brief Mr. Justice Kroft of the Court of Appeal, who just scratched his head and said: Here we go again with all these ambiguities between these legislations. When will somebody fix it?

There are serious problems, and I mentioned in my written brief that I have not discussed a number of cases where the City has taken positions at the Municipal Board, or in court, which all are directed towards minimizing, reducing or preventing the right of appeal on the part of the taxpayer–runs through the whole thing, and which are being pursued or supported by the Municipal Board because of the lack of clarity in the legislation.

Since I did not actually mention it, let me give you a very prime example. When the legislation was amended to restrict the right of appeal, the government of the day was persuaded that tenants should have the right to appeal realty assessment. The minister may recall this. The particular language in the act says that an occupier of premises, who is liable under the terms of a lease to pay the taxes on the property–but the intent was that tenants have an interest and they could pay. Well, that is now being interpreted by the Municipal Board that, unless the occupier pays all of the taxes on the property, they are not entitled to appeal. So all tenants who do have an interest, and who pay the majority of commercial taxes are now excluded from a right of appeal of these assessments by that Municipal Board decision, based on that, perhaps, unclear wording, which I wish you would fix in this bill if it goes ahead. That would be very helpful. There are all sorts of things like that.

My North End clients were at the court of the Municipal Board, and we were waiting for a decision of the Municipal Board as to whether or not the provisions of section 13.1(4) and (7), which apply to residential properties, and result in the mandatory requirement that the assessor make changes in assessments between cycles if these events occur, whether they will have any meaning at all; the fundamental basis of their appeal and we are waiting for the Municipal Board decision on that. The City, of course, is opposing it, and arguing that those sections

cannot and will not apply or are, in effect, a nullity.

We think the Legislature intended that they mean something, and it will be interesting to see what the Municipal Board does with it. Whatever the decision is, it will probably have to go to the Court of Appeal, because one party will want to pursue it further. That confusion, that lack of clarity, is the responsibility of this Legislature and that act. It is because of the lack of attention by this Legislature to these issues that all of us are spending our time going in these circles. So let us not forget that.

Mr. Chairperson: Thank you, sir. Time for questions has expired.

For a second time, I will now call John Stefaniuk, private citizen, on Bill 31. I see he is not present, so his name will, accordingly, be dropped from the list. That concludes the list of presenters I have before me. Are there any other persons in attendance who wish to make a presentation? Hearing none, is it the will of the committee to proceed with clause-by-clause consideration of these bills? *[Agreed]*

Are there any suggestions as to the order of consideration for these bills?

Mr. Marcel Laurendeau (St. Norbert): We will start with 31, because I want to get the amendments tabled, and then we will stand it down.

Committee Substitution

Mr. Laurendeau: Mr. Chair, with leave of the committee, I would like to make the following membership substitution, effective immediately, for the Standing Committee: The honourable Member for Portage la Prairie (Mr. Faurschou) for the honourable Member for Fort Garry (Mrs. Smith).

Mr. Chairperson: Does the committee grant leave that the Member for Portage la Prairie replace the Member for Fort Garry on the committee? *[Agreed]*

* * *

* (21:50)

Mr. Chairperson: Back to the order of the bills. Has there been any agreement or consensus of the committee which bill to–*[interjection]*.

Mr. Derkach: Mr. Chair, I think there is agreement that Bill 31 should be postponed in terms of the clause by clause at this time.

Ms. Friesen: Mr. Chairman, I think our preference is just to look at it at the last, today. Let us leave it till of the time and then look at it. I am just getting some advice on some of the amendments that are being proposed by the Opposition. So if we could leave it until the end of this cycle, then we will look at it and then we will decide what to do.

Mr. Chairperson: Okay, then we will proceed with Bill 32. Is that acceptable? *[Agreed]*

If there is agreement from the committee, during the consideration of these bills 31, 32, 34, 38, 43 and 48, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

Bill 32–The City of Winnipeg Amendment Act

Mr. Chairperson: Does the minister responsible for Bill 32 have an opening statement?

Hon. Jean Friesen (Minister of Intergovernmental Affairs): Mr. Chairman, I do not have an opening statement, but I do want to draw your attention to the fact that there is a committee amendment prepared on this bill.

Mr. Chairperson: Does the critic from the Official Opposition have an opening statement? *[interjection]* No. We thank the members.

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

Clauses 1 to 3–pass. Shall clause 4 pass?

Ms. Friesen: Mr. Chairman, this is where we have the amendment.

I move

THAT the proposed subsection 138.4(2), as set out in section 4 of the Bill, be struck out.

This is also submitted in French.

[*French version*]

Il est proposé que le paragraphe 138.4(2), énoncé à l'article 4 du projet de loi, soit supprimé.

Mr. Chairperson: It has been moved by the honourable minister Friesen

THAT the proposed subsection 138.4(2), as set out in section 4 of the Bill, be struck out.

The amendment is in order.

Ms. Friesen: Mr. Chairman, this is to respond to the issue that was raised by Councillor Eadie and by the City of Winnipeg on the issue of including a review in the requirements. The City, I believe, has advice that having a five-year termination sunset-review type of clause, and I am putting those terms generally, puts them at risk in bringing in such kinds of programs. I am not sure that is a universally held view, but nevertheless the City felt unable to proceed with what is otherwise I think a widely supported change, and that is the enabling of tax credits for buildings in designated areas.

I can see there is some puzzlement here. What is actually being withdrawn here is the section in 138.4(2) which says that a by-law passed under subsection 1 expires 5 years after the day it is passed, unless the Council in the fifth year reviews the program and approves continuation of the by-law. That is what the City of Winnipeg said. It made it difficult for them to actually introduce and to have some certainty for owners of these buildings if there was to be a termination, a potential termination, the five-year review. That is the advice that they have received, so we have on that suggestion removed that review.

Mr. Chairperson: Amendment–pass; clause 4 as amended–pass; clauses 5 to 7–pass; enacting clause–pass; title–pass. Bill as amended be reported.

Bill 34–The Municipal Amendment Act

Mr. Chairperson: Bill 34 is under consideration. Does the minister responsible for Bill 34 have an opening statement?

Hon. Jean Friesen (Minister of Intergovernmental Affairs): No, Mr. Chairman.

Mr. Chairperson: Thank you, Minister. Does the critic from the Official Opposition have an opening statement?

Mr. John Loewen (Fort Whyte): No, Mr. Chair.

Mr. Chairperson: Thank you. During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Clauses 1 to 3–pass; clauses 4 to 6–pass; clauses 7 and 8–pass; clauses 9 to 11–pass; enacting clause–pass; title–pass. Bill be reported.

Bill 38–The Local Authorities Election Amendment Act

Mr. Chairperson: Move on to Bill 38. Does the minister responsible for Bill 38 have an opening statement?

Hon. Jean Friesen (Minister of Intergovernmental Affairs): Mr. Chairman, I have no opening statement on this, I think we had a good discussion around the table and with a number of presenters on this. It is a difficult issue, and I think all parties here are resolved to find a good solution. This does not go as far as some people would wish. I think what I said in my discussion was that to go further immediately affects the rights of people who have not yet been consulted, and I am reluctant to do that at this stage, although I recognize the need to conduct those reviews.

Mr. Chairperson: We thank the minister. Does the critic from the Official Opposition have an opening statement?

* (22:00)

Mr. Leonard Derkach (Russell): Just a few remarks, Mr. Chair, if I may.

I do have a few comments which I would like to make with respect to this bill. One of the issues of this bill is, of course, the Winchester problem that municipalities are certainly cognizant of. This bill does not address that issue. It

does move somewhat in at least giving advance notice as to who the non-resident owners of property are for election purposes, but this does nothing to address the issue of people who wish to put more names on a title by virtue of selling an interest in property and that way allowing for an election to be skewed.

Mr. Chair, I have to tell you that I lived through the process as minister, and it is a very disconcerting issue to all of us, I believe, because there is potential for tremendous abuse if in fact the issue is not addressed.

I welcome the comments of the minister who indicates that by the fall of 2002, when municipal elections will be held, she will have legislation in place to address the issue. It is for that reason that I make my comments. I believe that, because this does nothing to address the issue, perhaps, instead of trying to apply a Band-Aid to a gaping wound, we should look at how we could address this problem in its entirety.

I think that the minister has a bit of a dilemma because I know how difficult it is to withdraw a bill, but I think in the spirit of trying to do the right thing, we as a party would certainly support the minister in doing a comprehensive review of the matter, consult with the local authorities, with interest groups, and then bring forward comprehensive legislation that, indeed, addresses the entire issue.

I do not believe that the minister will find that we would be obstructing that kind of an approach in any way. As a matter of fact, I would give her high marks for taking that approach because I think in essence, it will address some of the local problems that we now face. I understand the issues. I represent the area that has the LGD of Park in it which has, indeed, a problem in another way, and so, therefore, I see the problem in just moving ahead with a patchwork approach. I know the problems of Dunnottar and I know the problems of the beach properties and the recreational properties, and yes, I believe those people need to be consulted with and together, somehow, we need to come up with a solution, but it has got to be long term. So, for that reason, I ask the minister and her department to take a second look at this legislation and let us examine whether or not we can live with what is currently in the legislation and then do a comprehensive review whereby a long-term solution is sought and found for the problems that we face. Thank you.

Mr. Chairperson: We thank the member.

Mr. David Faurschou (Portage la Prairie): I have just got a question the minister could answer. In relationship to an individual that has a name on their ballot at a particular polling station and then is unexpectedly taken ill and is in the hospital, would they be able to vote under the legislation for the municipalities under this act, being that the name already exists on the poll roll and yet the individual is then in the hospital? I ask this question on the premise that the federal elections act was changed and all persons that went into the hospital after the 22nd of November were prevented from voting because they were not on the hospital list and could not be sworn in.

Ms. Friesen: Just to answer the question, it is a difficult situation. If you anticipate that you are going to be ill, which is not usually the case, then obviously you can use the vote by mail and the extended provisions that have been asked for and that we are providing would be effective. There are, depending upon when you have been hospitalized, polls that are at the hospital just as there are in federal and provincial elections, but again, part of that would depend upon the timing. I suspect in rural Manitoba as well you may be in a hospital which may not be your municipality of residence, so I am not quite sure how that would work, but hospitalization in each election, federal, provincial and municipal is a difficult situation. I think each jurisdiction tries to maximize the number of people who are voting. Obviously, that is what democracy is about, but it is not foolproof, particularly in the case of illness and being lodged in a hospital situation.

The purpose here is really–and I was glad you raised the reference to the federal situation which I think many people did see as unfair. What we are trying to do is to bring the situations at the polling stage in the voters list to be much more closely aligned, so that the federal, provincial and municipal systems are as close as possible, so that we have one system that people understand, one type of identification, similar kinds of principles. I mean, we

are not there yet, but nevertheless that is what we are trying to do.

Mr. Larry Maguire (Arthur-Virden): There has been a good deal of discussion on this bill today, already this morning through all the presentations that came, and I appreciate the fact that the minister is looking for some solutions on a long-term basis to this particular piece of legislation because it is a very difficult issue to deal with. I believe that there are some fairly straightforward solutions that could be helpful in the short term as well, as she well knows. I have spoken to her privately about those and with the Member for Fort Whyte (Mr. Loewen) when she gave us a very good opportunity to discuss this with her yesterday in her office as well, and I appreciate the briefing. We gave her a heads-up that there may be an opportunity to bring an amendment forward on this kind of a bill.

I understand her willingness in wanting to try to consult on this process and do that, and I certainly would not stand in the way of doing that. I encourage her, in fact, and the Government to go to the public and get more clarity on this particular issue.

However, I think that the compelling evidence that was brought forward this morning–and I guess we have to refer to the stack of material that was put forward on the record today from Land Titles–and a number of others that go right down to looking at a situation where somebody gets a vote for 23 cents worth of tax in a municipality, makes a very compelling case, I think, to put some change forward. I would concur with the Member for Russell (Mr. Derkach) that I would encourage the minister to set this aside and look at it as a first priority, perhaps, to come up with a more long-term solution, if you will, perhaps by the end of December this year, in the fall sitting, that we could do that, that there would be an opportunity to do that, because I think we really do owe it to the taxpayers out there to let them know what the rules are going to be for next year. If the six months is going to stay there, we do not have any problem with that, or I do not, particularly. I do not believe the people who presented this morning had either. We are not trying to change any of the present bill the minister has before us; it would be I think just a great opportunity to put some measure forward in the bill, whether it is the two-vote issue or not, to clarify it.

The reason I am so insistent on moving ahead at this time in this particular area is because I guess when you are looking at who has put out the most in this kind of circumstance I realize there may be some others who have owned property in time-shares or in condominiums, and we would like to check that out. I have referred earlier to the fact that in eight of the thirteen jurisdictions in Canada today they do not get a vote now anyway.

I also checked with one of our people in the building today to indicate what about this, and it just happened to be a person who already had a time share in the province of B.C. They indicated to me they did not buy the time share, never even thought of getting a vote in that area when they bought a time share. So I do not think people are going to buy or not buy a time share based on whether or not they are going to get a municipal vote or not. However, I am not so crass to say that I do not think they should get one. That would be the outside remedy in my mind in this particular solution.

I am still willing and looking at it to provide them with two votes in an undivided property, similar to what we were talking about this morning and was proposed by the two municipalities of Morton and Winchester and the members who came in this morning, Mr. Sexton, who of course lost one election, and Mr. Hathaway, who lost a second election. I do not think that is the issue.

I have known Mr. Hathaway all my life I guess because my mother grew up right between both of those gentlemen's farms in southwest Manitoba, north of Deloraine, and while Mr. Hathaway and I obviously do not vote provincially the same–*[interjection]* Obviously, the members on the opposite side do not know that Mr. Hathaway is the president of the New Democratic Party in Arthur-Virden–

* (22:10)

An Honourable Member: He must be a good man.

Mr. Maguire: He is a nice man. I would concur with the members on the opposite side. I have

talked to Neil many times in this regard on this particular issue. I feel very strongly that they have put forth a very good case. Mr. Hathaway is a very well-respected person in those areas, as are other members who have sought office in that area as well.

I think the key here is that the people who have been put out the most have been the ones who have, as came forward this morning, put $20,000 of their own money on the table in this particular instance to try to find some justice and democracy in this process. I believe it is the strength of individuals like these people who have come forward who are pillars in helping us around these tables to find what democracy really is and how it should be implemented and allowed to take place in our province. That is why I concur with them that, even though it may not allow all of the people on an undivided property to vote in some other areas and jurisdictions, we and they are seeing the latitude in being able to particularly allow two of them to do so. I concur with that and would certainly recommend to the minister to, as I said, withdraw this bill or, preferably, bring the amendment forward herself for parallel to what the B.C. government has already done where they only apply one vote on an undivided property in these kinds of circumstances.

I guess I feel the people, repeating myself, who would be the least put out in this particular circumstance would be those on the undivided properties today. I do not believe that we should put people in the position where they have to prove that the stick is the way to go in this, that they have to put up their own time and dollars to be able to determine whether somebody has taken part in, shall we say, a colourable offence, as two judges found out occurred in this particular circumstance.

It puts the onus on taxpayers, and many of them would say: Well, so what? We will let it go, because they do not want to spend $20,000 or take three years of their time to seek these kinds of things but, thank goodness, there are people of the texture of Mr. Hathaway, Mr. Sexton and others out there who have–Reeve Goethals, Reeve McCallum, who came forward this morning–the commitment to democracy to work on these kinds of situations and the fortitude to stay with them until they see them through.

I guess there are a number of other areas I could mention, but I think the idea of providing two votes to those and other undivided properties in the province of Manitoba would go a long way to complying with many of the situations in this province that are not unlike the municipality of Winchester.

Although it may well be known or thought of around this table as a rural agricultural municipality, it also has a good deal of the Turtle Mountains contained in it. It also is a resort community of Lake Metigoshe where there are a lot of cottages involved in it as well and, of course, if you are a permanent resident in those cottages–as I pointed out this morning, there are many permanent residences in cottages along Lake Metigoshe who obviously get a vote in the first place, so it is not an issue for them, but others who reside in Brandon and communities around and other municipalities around are of the position that they would only get two votes in this particular instance. As was mentioned by the members this morning, they took a look at all of the voting situations in the municipality of Winchester and two votes did not change anybody's ability to vote of the residents who presently live there today.

So I will leave that as opening remarks, I think, Mr. Chairman. I alluded to four o'clock. I do not want to stay here that long this morning, but I will leave that in the hands of the minister for the time being. I would urge her to perhaps take a look at this. I know that she is, and I would be if I was in her shoes, sensitive to studying it, but I think it is a broader issue. This is only one issue that could be brought forward and could be amended in future discussions as well, but I would urge her to look at that kind of an amendment at this time, and I would be very supportive of her continuing, as the City of Winnipeg, represented by a Mr. Eadie here this morning, made a comment. I believe he was representing the City of Winnipeg when he made the comments that he did not see a big problem with the two-vote structure. He also indicated we needed a wholesale review of the act.

I think we will continue to be on-side with the Government, to have a wholesale review of the act, but I would emphasize the importance of bringing forward a solution to appease the minds of every voter in Manitoba today in regard to where they will be at come the 2002 election, and they will know that sooner than later. Thank you, Mr. Chairman.

Hon. Greg Selinger (Minister of Finance): Are we ready to call the question?

Mr. Chairperson: Well, you had an opportunity to speak here. Honourable Minister Friesen, would you like to speak on this?

Ms. Friesen: I appreciate the advice the members have given. I know the Member for Arthur-Virden is speaking on behalf of his constituents who made presentations. I think that is important to hear that message in full.

I want to say that we are, as I have said before, committed to looking at the whole issue here, and in time for the 2002 elections. That is something, I think I have said a number of times, it is complicated. We do not want to do anything which I think takes away the rights of others without having discussed it with them. So that is the necessity I think for discussion on this.

I appreciate the advice of the members suggesting I withdraw this bill in order to go forward with a full review, but it is my view that this is not an either/or situation. What we are proposing here is not incompatible with the full review. I say that, and I notice, in addition, the member has suggested that, perhaps, I could introduce what I call the delegated vote process.

Again, I want to say that may be where we end up. I have said that to the member elsewhere, and I am not dismissing that solution by any means. It may be where we end up, but we do not know that yet. So, by not moving an amendment, I am not dismissing it by any means. It is an option. It is one that works in other provinces, and we will have to see if that is something that would work for all Manitobans.

I think the bill itself here contains, first of all, a provision which has been long requested by the AMM, and that is for the expansion of the time available for voting by mail, unconnected to the Winchester, requested before the Winchester events had occurred, and to deal with issues which had been faced by people having to deal with mail-in ballots from a number of municipalities. I know it has been seen by people in Winchester as connected, but it comes from a completely different source. It is something that the AMM and their member municipalities have asked for. They think that this will make the life of their CAOs, the returning officers, clearer and better. So we have proposed that, and they have supported it.

* (22:20)

A second part of that is the ability to add names to the list of voters on voting day. Again, it comes from a completely separate origin than the Winchester situation. I know the people in Winchester have seen it as connected, but I think they are also aware of the long-standing AMM resolutions on this and the support of the AMM for these changes. I would propose that we do proceed with those and that they are not incompatible with anything that we would do in a fuller review of franchise provisions.

The one change that we are proposing in here that changes the franchise is that we are equalizing the property franchise with the resident franchise. Again, this seems to me to be a matter of principle which affects people right across Manitoba and is an important principle. At the moment, a person who votes as a resident must have resided in the municipality six months. On the other hand, someone who intends to vote as a property holder need only buy property immediately before. So you must wait six months as a resident, yet as a property purchaser you can vote tomorrow, figuratively speaking. So what this does is to equalize that and to say that the person who purchases property must also have that six-month waiting period. Again, I think that is a matter of principle that does not affect what we might do in the future to deal with the specific issues that are raised in Winchester.

The third part of the act deals with removing the schedules from the act, providing for the forms to be prescribed by regulation and makes consequential amendments in The Public

Schools Act and The City of Winnipeg Act. Again, I think this would be unaffected by changes that we might make to the franchise, and I hope that we can, or in the enforcement section of the act that we have talked about earlier to deal with the issues that are raised by the Winchester case.

This, again, is something that both the City and the AMM have asked for, and I think everyone is asking for plain language around many parts of The Elections Act. We are, I think, moving slowly into that. So I do not think that is affected by the subsequent review of voting qualifications.

My preference is to proceed with this but taking very clear note of what has been said by people from Winchester. What has been said by their representative in the Legislature and by other members of the Opposition.

Mr. Chairperson: We thank the minister. During the consideration of a bill, the schedule, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Is that agreed? *[Agreed]*

Clauses 1 and 2–pass; clauses 3(1) through 4.

Mr. Maguire: I guess my compassionate plea to the minister earlier was not enough, but I tried. I would like to at this time put forth an amendment, Mr. Chairman.

The amendment would be

THAT the following be added after subsection 3(3) of the bill:

3(3.1) The following is added after subsection 5(5):

No more than two non-residents permitted
5(5.1) Notwithstanding any other provision of this Act, the right to be named in the list of electors under clause (1)(c) or (d) is limited to a maximum number of two persons in respect of each parcel of land referred to in clause (1)(c) or (d).

Written consent of majority required
5(5.2) If more than two persons would have, but for subsection (5.1), the right to be named under clauses (1)(c) and (d) in respect of a parcel of land, the enumerator or revising officer shall add to the list of electors the names of the first two persons who

(a) comply with subsection (6); and

(b) provide the signed consent of the majority of the other persons entitled to have their names added under clause (1)(c) or (d).

When consents are to be provided
5(5.3) The signed consents referred to in clause (5.2)(b) shall be provided to the enumerator or revising officer in each year in which the enumerator is required to make a list of electors under section 11.

Mr. Chairperson: Before I put the question, we have to go back to 3(1) and 3(2). *[interjection]* No, we are amending 3(3); therefore, we have to pass 3(1) and 3(2) before we deal with–

Clauses 3(1) and 3(2)–pass.

It has been moved by Mr. Maguire

THAT the following be added after subsection 3(3) of the bill:–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. The amendment is in order.

Mr. Maguire: Mr. Chairman, the issue before us has been somewhat outlined in my previous comments. This, I would like to put forward in regard to the issue of all of the municipalities in Manitoba in regard to undivided properties that may be affected by multiple listings of names on undivided properties in the province of Manitoba, in regard to who has the right to vote in a municipal election in any ward in Manitoba particularly.

It is clear that a Canadian citizen of the full age of 18 resident in any municipality in Manitoba has the ability to be a voter under the present act, and we would do nothing to impact the ability of those persons to want to be able to vote on this particular issue. That also includes,

just for a bit of clarification in regard to the numbers and letters that I referred to under these subsections that I am recommending that we add to this bill, sections (1)(c) and (d). These clauses indicate clause (c) is an owner of land which is assessed in the latest revised realty assessment roll, or (d) being a tenant or occupier of land whose name is entered on the latest revised realty assessment roll as the owner of a right, interest or estate in the land.

So clearly, Mr. Chairman, I think if the persons who have been involved in some of these cases in the past have felt that they were within their right to put 30, 40, 50 or 100 names on a particular undivided parcel of land. I know the minister does not find that acceptable. I know the members across the table in Government today find that a bit deplorable in regard to the impact and the potential of doing it anytime for purposes of gerrymandering, if you will, the outcome of an election.

* (22:30)

Now there are other reasons that individuals today put joint names of this sort on parcels of land, and some of them have to do with passing parcels of land from one generation to another. I know the minister is aware of that. We are not suggesting that we impact that at all for any reason at all or concern whatsoever.

We very clearly, however, feel the amendment that has been put forward and backed by our party, proposed by myself here, is one that would alleviate the kind of concern that happened, unfortunately, in the constituency of Arthur-Virden in the municipality of Winchester and I believe it is ward 4.

The amendment would alleviate this kind of unfortunate incident from happening again. I think one of the key issues of having these people come in and present to us this morning was the fact that they tabled such documents from the rural municipality of Winchester, their presentation by Reeve Roger Goethals entitled *Election Concerns*. It is unfortunate that the individuals involved–and I think they would feel that this needs to have some resolve, as well, because having seen this whole bill or this whole procedure take place, it was an unfortunate circumstance–it has cost some individuals some credibility in the rural area that I do not think they ever got into the process to have turned on them themselves. Clearly, the one party has admitted to selling these parcels of land, under section 42 I believe, for the purposes of doctoring, if you will, the outcome of votes in the municipal election. Section 42, I believe, finds the person guilty of a colourable offence. If the person is found guilty of a colourable offence for selling such parcels of land, it also makes the buyer, under section 43, guilty of being involved in a colourable offence as well.

I would like to draw the parallel to what this Government has already put forward under The Elections Finances Act, I believe it was Bill 4, where, in fact very much so, unions and corporations are not allowed to, and perhaps the Minister of Finance (Mr. Selinger) would be interested in this, put forth donations to political parties any longer. The parallel there is that if, in fact, such a donation was to be received, the party would be guilty of receiving a donation that they were not allowed to. Of course, the union or corporation is also guilty of making a donation that they are not allowed to either.

To carry it even further, individuals are no longer allowed to make a donation to a political party over the limit of $3,000 per individual. If that individual so happens to, let us say, make a $2,900 donation, wants to leave a little room, buys seven tickets for $15 events that are recorded and it actually gets up to $3,005, he or she is guilty of a breech of The Elections Finances Act under the present rules this Government has put forward in the province of Manitoba. So, therefore, the individual is guilty of an offence under that act in Manitoba.

Furthermore, the party that receives those donations is also guilty. So I say to the government of the day that what can possibly be good for the legislation that you have already put through under Bill 4 should surely be good enough to be placed forward as an amendment in this particular kind of a bill or an amendment that I have put forward.

Now I know that the minister wants to consult with all Manitobans on this issue, and I have talked to an awful lot of them in the last

two years. In fact, I have been at this for about two and a half years since this whole process actually began. I started running for election on February 1, roughly, of 1999. I have spoken to hundreds, if not thousands of people, not in every corner of Manitoba but on the phone in many corners of Manitoba and personally to thousands of electors and voters in southwest Manitoba, not just in the constituencies of Arthur-Virden, Turtle Mountain, Minnedosa, Brandon East and West, but all over southern and central Manitoba. I have spoken to people in Thompson, The Pas, Flin Flon, other areas in regard to this particular issue. Many of them are very, very concerned about how we can stop this kind of a situation from occurring anywhere else in Manitoba.

Mr. Chairman, you know sometimes that these things require a little bit of leadership. As somebody said earlier today, if you never try something, you will never make a mistake. I believe that, as politicians, we must try within our abilities to alleviate problems wherever we can, to provide advantages for Manitobans wherever we can. So that is what I am trying to do by bringing this amendment forward.

I am trying to say that we would not suggest that we should be as hard-hearted, if you will, as some of the jurisdictions in Canada are, whereby they have indicated that, in 8 out of 13 jurisdictions in Canada, they do not allow a non-resident landowner to vote in the area that the land has been purchased. All of the Maritime provinces, Alberta, and the three territories, Yukon, Nunavut and the Northwest Territories, do not allow a non-resident to vote at all. British Columbia, as I said earlier, is in the situation of being able to have one vote on a multiple ownership situation, on an undivided property, for a taxpayer, for a person, to come forward and vote. In so doing, the multiple number of landowners in that particular area, non-resident landowners, have to decide amongst themselves who is going to be the one that they put on the tax assessment roles to vote.

Now, I would suggest,I mean, they go further to say that should be put forward to the administrator in the voting jurisdiction, ahead of the vote, and that the actual vote of that individual must come into that office in a sealed container, I assume, prior to the election day. I do not think that is necessary as much, Mr. Chairman, as is the importance of putting the onus on the individuals to go ahead and decide who that voter is going to be, and make sure under their own onus, they are registered. That that voter is registered prior to election day. I have no problem with them being able to vote on election day.

However, in Manitoba, as I say, we are more compassionate, I assume, in our provision. I think the people, having come through the tough, difficult situation they have, could have very easily said, we do not want any non-resident voters to vote at all. But, as I indicated, the Rural Municipality of Winchester is very responsible in its actions. Mr. Chairman, they do have cottage owners in the Lake Metigoshe area in the Turtle Mountains, and an extremely fine resort it is. But they recognize that those who live there who are not permanent residents of the lake come from other areas of Manitoba, come from other areas of perhaps North Dakota or Saskatchewan.

* (22:40)

Those are the only areas that I know, personally, of others coming from, but there could be more. They recognize that if these people are going to make an investment, as others do in other areas of Manitoba, that, perhaps, we should recognize the fact that at least two of them should be able to vote.

Of course, that is what I am putting forward in this amendment tonight, the hour being about 20 to 11. I think my cohorts have obviously felt that there is lots of time, that they do not have any rush to get home, so I could go through all 21 or 33 of these documents here, and outline the individuals and who they are and why they voted, and the fact that this 20 foot wide, half-mile 1.21-acre piece of land has an assessment of $1,600 and tax value of $23.45, and that there are many of those and, as I would, if the member wants the township and range.

I mean, clearly this has been pointed out by the member this morning, the individuals this morning that came forward and said that some of these people reside in–there are addresses on

here of St. Albert in Alberta, Winnipeg, a great many of them, Waskada, Brandon; they are from all over. These are not residential areas near Winchester.

These situations lead us to say that I do not think we are putting a great imposition on any of these landowners to say that we will give you two opportunities to vote; very clearly if, and let us face it, it did happen. The judge found, as I have outlined the situation earlier, this individual, Mr. Sexton, to name him, had, on his own volition, at great expense–and he indicated $20,000 this morning and he has spent $20,000 on this. For whatever the differences were between the individuals in the region, your Government just awarded Mr. Sexton an award under Manitoba Conservation for the fine work that the Sexton family has done on what we call the island down in Whitewater Lake.

The environmentalists did not see that. We have a few moths floating around the room, Mr, Chairman. So I think that, therefore, on that side of it, I would say that Mr. Sexton has some credibility in his community, and there may be situations that he was not allowing a few things to be done, that certain individuals thought should be done. That is the democratic process. People are very much willing to run against each other if they have different views. That is the political process. That is democracy in this country. That is why we are all here. We are here to try and improve the situation for what we believe in, in the province of Manitoba, trying to make it better. These individuals were running against each other in the municipality of Winchester, trying to make it better. They did not believe in what someone was doing, tried to do something better, change it, and it is unfortunate, though, that two consecutive elections have been impacted by the outcome of this parcel of land and these undivided property votes.

So I think that very clearly the motion that we have put forward is very viable. I know, for the minister's knowledge, that the Association of Manitoba Municipalities has talked about this situation at their board meetings. It will be coming up again next week at their board meetings. I believe that there is no doubt in their minds that they see that this has to be fixed.

If you look at AMM's presentation that they made to us this morning, they urge the minister to include a number of other things in her outline of how this act should change. They also indicated to her that she, and the Government of Manitoba today, the New Democratic government, should. The Association of Manitoba Municipalities urged the NDP and this Government of Manitoba to find a solution to this outcome of the problem in Winchester.

Floor Comment: Should I get some more water for later?

Mr. Maguire: Please. I thought it would be valuable to bring to the minister's attention that in the contact that I had with them this afternoon, they were very much–*[interjection]* Thank you for reminding me. That is the Member for Dauphin (Mr. Struthers), so I will not dare drink that water. Thank you. The situation, I think, is serious enough that it warrants implementing this amendment in this bill at this time.

You are not going to come up with a situation of impeding very many people's ability to influence the outcome of an election, and yet they will have the ability to have a vote as they do not have the authority to do in eight out of thirteen jurisdictions in Canada as I have repeated. The minister indicated that the changes she has brought forward in the six-month ownership of the land ahead of time and the move from seven days mail-in ballots to fourteen days are compatible with the present act. I would agree with her.

I think that these amendments she has brought forward in Bill 38 are not going to be a problem. We do not have a big problem with them. I do not think that they are the solution, but I think that if she brought them forward–we are not asking for them and neither were the participants this morning asking to have them taken out of her bill–I would suggest to her that if she truly wanted to review the whole act, then why bring this bill forward in the first place? Why would you bring this bill forward without a solution to the problem for why you were bringing it forward? This is not addressing the problems of Manitobans out there today, and allowing it to happen six months ahead is just

saying get your act together, for want of a better word, a little bit sooner.

I find it deplorable actually if the minister thinks that six months ahead owning this land and being able to vote from seven to fourteen days ahead are worthy of bringing the bill forward and there are some other amendments in regard to compliance and that sort of thing, then why not include something that will solve this dilemma as well.

So, therefore, if the present amendments or the present reasons for bringing the bill forward are not incompatible with holding a review of the whole bill, then I submit that neither is including the amendment that I placed forward tonight. I know that 31 of 32 members on the Government side are accepting of this bill. I am just deploring this act, amendment, and I am imploring the minister herself to make it unanimous and support this process as well. *[interjection]*

I have no problem seeing this in print, Madam Minister. The minister is indicating that I may not like to see some of the words that I am saying tonight in print. I would say to her that I think if she feels this is not an approach to take, then does she think that many, many of these multiple ownerships who she thinks this is going to impact are going to come forward and voice very strongly after seeing the reason behind the amendment coming forward, that they will be asking her to change this? What would they come forward and say? We need three votes and not two? We are allowing two as opposed to one in British Columbia? Eight out of thirteen do not get a vote today?

* (22:50)

We are being much more soft, I guess, if you will, with the provision that I am bringing forward in Manitoba, and much more reasonable with the amendment that is coming forward in Manitoba tonight, under this, than we could otherwise be. I mean, about being practical people, trying to find a common-sense solution to an outstanding situation that I will say occurred because somebody took advantage of a situation. All I am saying is that this puts the onus back on individuals, that if they want to vote, they have to register as a non-resident landowner in a municipality in Manitoba.

I think the citizens of Manitoba, when they look at the common sense behind what we are trying to prevent happening here, would see that what we are trying to prevent by this amendment far outweighs any concern of the other multiple owners in Manitoba. We are not saying that we would not allow multiple ownerships in Manitoba, because, as I said in my opening comments, there are other reasons that the minister is well aware of for having multiple ownerships, intergenerational or family names on various pieces of land. We are not standing in the road of any of those other reasons for having multiple ownership on land.

Therefore, I would say that the situation that we are faced with today is a situation of wanting to look at solving a problem that has become very apparent all the way across the province of Manitoba. It has received much publicity. The *Brandon Sun* has had editorials on this particular concern and situation. I mean, the situation that came before the Association of Manitoba Municipalities annual convention in 2000; came from the Western District, sponsored by the R.M. of Winchester dealing with the topic of land ownership.

The Manitoba Department of Intergovernmental Affairs indicated that: THEREFORE BE IT RESOLVED that the Association of Manitoba Municipalities lobby the provincial government to address concerns over both multiple land ownership with undivided interests and the costs involved in pursuing a remedy under the present legislation, which, as we pointed out this morning, was extensive in this particular situation and, finishing this THEREFORE BE IT RESOLVED, with a view to having those concerns appropriately addressed at the legislative level.

Nowhere in this bill, or nowhere from AMM, have I ever seen a situation where AMM asked, and I could be wrong, for a situation to have these land purchases put in place six months prior to the voting date, or asked for an extension of the mail-in vote to go from seven days to fourteen days. But they have asked for the minister to come up with a means to address concerns over both multiple land ownership with undivided interests and the costs involved.

I believe that the amendment that I have put forward tonight very clearly addresses both of those. It addresses the situation of multiple ownerships, and how those undivided properties can influence the outcome of a vote. It very clearly would put the onus back on the individual taxpayer to get themselves registered as opposed to individuals, or even rural municipalities, to have to come out after the fact themselves and spend individuals' money to fight other individuals in their own jurisdiction. As a farm leader in western Canada, I have only seen that happen a couple of times in other jurisdictions; I could go on for many hours if we decided to get into that tonight, but I will not, because I think we can spend many hours on this one, just with the kinds of concern that there is in Manitoba with the proposal and request by AMM in this area.

I know AMM is made up of many jurisdictions around the province of Manitoba, and AMM has by-laws that allow them to look at certain resolutions coming forward so many months ahead. With respect, the people in Winchester, Reeve Goethals as well as others, were waiting for an amendment to come forward. I know that they had meetings with the minister, and I thank the minister for meeting with my constituents in Arthur-Virden and municipalities in those areas. I believe she met with Reeve Goethals. I know Mr. Sexton was with him as well. I do not know about the others. I would like to enlighten her, and I am sure she is aware, that they felt they had a very good hearing from the minister when they met with her. They came back and they felt, having outlined the two-vote situation to her in her office, that they were very well received and that they expected her to come forward with this kind of an amendment. I am just reiterating to her the conversation I have had with them. They were very thankful that she was going to do that, and therefore felt that maybe there was not the need for them to pursue this at the municipal level any further.

Having said that, when the bill came out and they received comments on it, and actually were asked for comments to be made by the *Brandon Sun* and others, they were very disappointed to know that there was nothing in this bill that would solve the voting problem and situation in southwest Manitoba. That really, really upset them, I can assure you, to the point where then they have had meetings themselves. The municipality has talked about other ways of solving this problem. Reeve Goethals has outlined concerns and means and supports the idea of two votes on undivided properties.

There were some suggestions come forward that perhaps a certain level of assessment might be viewed as a means of finding a solution to this for non-resident voters as well, but I believe that that is not the way to go, and if I had felt that it was I would have put that amendment forward. I think it is much more reasonable to say that two voters could get a vote on a situation like this and that they could very much carry on in regard to finding an amenable solution to this that would be acceptable to the majority, to I believe 98 percent, if not 99 percent, or 99.9 percent of all undivided property owners in the non-resident undivided property owners in the province of Manitoba. So there will be circumstances, Mr. Chairman. You never make 100 percent of the people happy with a situation, but I would say that leaving this act and this bill the way they are misses a valuable opportunity to alleviate a very clear problem that we have in The Local Authorities Election Amendment Act today.

I think that the situation that we are faced with is one where these people in this municipality, have been very disappointed by the minister in not having these kinds of amendments in the original bill and perhaps to her defence they should have come to her sooner. Perhaps I should have come to her sooner, but I will submit that they thought they had had a very good meeting with the department and with the minister, and I believe they did. I urge them and continue to support the idea of thorough review and putting other corrections in, as Mr. Eadie and others said today as well. I will go back to the process at the AMM meetings and district meetings. In order to get a resolution before AMM's fall annual meeting you must, or at least it is advisable, to bring a resolution forward to the district meetings.

Having said that these amendments have come forward, Mr. Chairman, the Rural Municipality of Winchester decided that they

would put forth a resolution to the district meeting, the western district meeting that I was at and that the minister spoke at a week ago last Tuesday, I believe it was, in Souris, but when they went forward to AMM's district meeting to do so, they found out that there is a six-week requirement to put the amendments forward to the district meetings, and they did not comply. They were four weeks or five weeks ahead, or they missed the opportunity then to do so. Given the fact that they had missed that opportunity, they still came forward with some discussion at this, certainly at their meeting, and they are quite prepared to bring this to the fall meeting in Brandon where the AMM's annual meeting will be held this year. I am sure that there will be discussion and much more attention to this bill at that time, particularly if the minister does not move on this bill prior to that time.

* (23:00)

Now, having said that, they have acknowledged that they would like to have a full review as well. We have the City of Winnipeg on side. I am sure that the municipality, with the City of Winnipeg being a part of the Association of Manitoban Municipalities now, that there would be no, and I know that Mr. Eadie is also on the AMM board, that there will not be any problem with coming forward with a full review of all the amendments of this act, and providing much more detail to it than what we have today. I think the situation we are faced with is one whereby we make many compelling arguments about the situation.

I only want to say if the minister has not got the drift of what I am trying to put forward at this point, I guess I can only urge her. I know I may be taking for granted that she does not like this amendment. I seek the Government to vote in favour of this amendment tonight, to make it a part of the act, of the bill, of Bill 38, The Local Authorities Amendment Act, that they would vote in favour of this amendment. As I have said earlier, our party would certainly move toward supporting the Government in regard to a full review of The Municipal Act.

So I think they have been wrapping up. I urge them to look at the words of Mr. Neil Hathaway in his presentation this morning when he says: I challenge you to go home this evening, look at your children or grandchildren, maybe stand at a window and watch as they run down the street, oblivious of the decisions you must make on their behalf.

It is time. He indicated: Defend democracy against those who seek to destroy it by simply doing "the right thing." Well, I would submit that sometimes that might be hard to define, Mr. Chairman, but in this particular instance, the opportunity to do the right thing would be to put an amendment in place that does not cost individuals time and never mind $20,000 of their own personal money to prove an offence colourable. I would urge that is there anything else at all that the minister could imagine to be more innocuous than trying to determine what the word "colourable" means in The Elections Act in Manitoba today. I mean it brings visions of crayons and a whole bunch of other things to mind when my children look at it.

Maybe just one of the more serious things we have to look at in reviewing the whole act is to make a clearer definition, and I would support the minister in that as well. I believe this particular situation of requiring leadership will allow the minister to make the proper decision. If she thinks I am running out of material, I have not read back all the briefs presented to her this morning yet.

I have not outlined any of these documents that outlined the value and the property and the small parcels of land and all of the individual–one-fifteenth of an acre, Mr. Chairman, one-tenth of an acre, one-thirteenth of an acre owned by two people in Thunder Bay. What could be more ridiculous than impacting the outcome of an election? What could be so valuable and what could be so harmful between two individuals that someone would go to the extent of wanting to influence the outcome of a little wee ward vote that would hurt them to have an impact on wanting to have an outcome on this particular situation?

You know, the Minister of Finance (Mr. Selinger) has indicated that it might have been the reason that I am here today, and I will take full responsibility for that. I would say there are those who might say why would Mr. Maguire be the one to bring this up. I would say this is a matter of putting on the record how to–let me

just say that two wrongs do not make a right and that credibility is an issue in democracy today in Canada.

Citizens question the credibility of, I think, all politicians today and perhaps when we see things that have been done recently in Ottawa in regard to the way increases in salaries were given in that jurisdiction and some other areas,let me just say that I bring this forward with a clear conscience, that credibility is an issue to all politicians today. I would think even the people who have been found guilty of these offences by two judges in a row would feel that some clarity needs to be put in place so this does not happen to them again either, so that they cannot get themselves in a situation where this kind of situation can happen to them again anywhere in the province of Manitoba.

As I said earlier, many times today, this is not to be seen as a Winchester issue. This can be seen very clearly as an issue for all Manitobans everywhere, and it could happen in any one of your jurisdictions, in the city of Winnipeg, in the rural municipalities of Manitoba, in Churchill, in Lyleton, in any place in this province. So I would wrap up by saying that, well, it is tempting to continue to impress upon the minister the need to make this change. I guess I am very well aware that she could have brought this amendment herself, and I would urge her that if she does not support this amendment tonight, to even do so in report stage or in third reading, prior to the final vote on this in the House, Mr. Chairman, because I believe if she were to consult with those people who she is very concerned about in this matter, she would find that once explaining the situation to them, her credibility would be raised greatly in the province of Manitoba if she and her Government would allow this amendment to come forward.

I know, and I thank her for taking a look at an amendment that has come forward from our side in regard to the bill this evening and you know, if she were to want time to do the same thing on this bill, we would certainly go home tonight and allow her to have that flexibility in doing so in that regard. So, Mr. Chairman, I think that having said those statements in the House here tonight in the committee that we are in, I would close by saying I would allow some of my other colleagues to speak on this particular amendment and allow the minister to go ahead along with her colleagues who are here in the House tonight, in the Legislature tonight, to make the decision on whether or not they want to take one more step towards finding a solution to a problem while they continue to look at reviewing the rest of the bill, the rest of this act. Thank you very much.

Mr. Derkach: Mr. Chair and Madam Minister, I think when one has listened to the presentations that have been made on this bill, you cannot help but wonder why the minister would have brought such an incomplete bill to the House. This bill does nothing to address the issue that is before us.

Mr. Doug Martindale, Acting Chairperson, in the Chair

It does nothing to address the problems of Winchester or the municipalities who have expressed a concern about this. Now it does address, partially, some of the concerns that were expressed by AMM and the minister has responded to a very small degree to some of the things that were raised at, I am sure, her meetings with the Association of Manitoba Muncipalities. But, Mr. Chair, this is not unlike the bill I spoke to earlier today and that was The Highways Amendment Act, and basically what it shows is that there has not been careful thought and consideration given to the issues that are out there as they pertain to this particular problem.

Now the minister can say, well, why did your Government not fix the issue, but she knows better because she understands that within that current legislation at that time there was no way that the issue could be addressed when you have a matter before the courts. So, Mr. Chair, we went through a period of time where individuals took this matter to the courts and matters which had to be resolved by the courts before proper action could be taken. Indeed, I think the decision came down in February, and subsequent to that the minister has moved on this issue. But, unfortunately, she has not moved far enough, and we have asked the minister to consider taking this bill off the table for the time being and coming back in the fall or next year with a more comprehensive bill which addresses all of the issues. Although she says

yes, she has to move forward and address the issues next year with either a new bill or amendments to the legislation, she does not need to move ahead with this legislation at this time because there is no election pending. The next general election for municipalities will be in 2002 and therefore the minister has time to address the issues that have been raised with her.

* (23:10)

Mr. Chair, my colleague the Member for Arthur-Virden (Mr. Maguire) has brought forward an amendment to this bill because the minister has indicated she is not in favour of removing the bill from the Order Paper at this time. So my colleague the Member for Arthur-Virden has brought forward an amendment which, in fact, is one that was endorsed by several of the presenters this morning, and the municipalities that are affected by it in that area, who indicated they would support an amendment which would allow for two individuals who have joint ownership of property to vote in a municipal election.

Mr. Chair, I think this is a reasonable approach. If the minister is still convinced she cannot remove the legislation at this time, her proposed legislation, then I would submit she should consider endorsing the amendment that has been brought forward by the Member for Arthur-Virden because, as she indicates, bringing in this bill does not preclude her from moving ahead with a more comprehensive review of the issue. I submit that including the amendment that has been brought forward by the Member for Arthur-Virden does the same thing. It does not preclude the minister from doing a more thorough review of the legislation in the next year.

So I ask the minister to consider either approach. I am sure that we on this side of the House would probably agree to either having this legislation set aside for this period of time or in fact an approach which would see the incorporation of the amendment that was brought forward by my colleague the Member for Arthur-Virden.

An Honourable Member: Well, let us see.

Mr. Derkach: Mr. Chair, the Member for Dauphin-Roblin (Mr. Struthers) says: Well, let us see. That is exactly what will happen, but I submit the people from the area, the reeves from that particular area, are going to know that we, as the Opposition, have tried to do everything we can within our power to ensure that a more comprehensive approach to this is done and, failing that, that an amendment is brought forward that will indeed address the issues that we heard addressed at committee presentation this morning.

Now, Mr. Chair, I have seen in the past, when we were in government, when recommendations came forth from presenters to a committee, we did, from time to time, move an amendment within the legislation that allowed for incorporation of ideas that came forth during presentation at second reading or at committee stage. So I do not think it is any embarrassment for the minister to incorporate this amendment at this time. I consequently appeal to the minister to use her better judgment and to take a very serious look at incorporating the amendment that has been brought forward by my colleague to ensure that indeed the issue that municipalities addressed this morning will be looked after.

It will do at least one thing, Mr. Chair, and that is it will allow for any by-election that might take place between now and the general election of 2002 to include this kind of approach and perhaps eliminate the possibility of having the same problem re-occur that occurred in Winchester. We can keep repeating these issues time and time again and the minister can stay pat with her position, but I ask the minister to simply look at a more practical approach to this, to look at a way in which we can perhaps compromise on this issue because, as I said before, this is not an issue where we have different views in the overall scheme of things. I think the minister has indicated that in fact we may end up in the same position that we are today where the Member for Arthur-Virden (Mr. Maguire) has proposed what may be a solution at the end of the day. What I am saying to her is that perhaps she should try this and allow for this amendment to be adopted as part of the bill and to proceed with it until such time as she has had an opportunity to review the entire legislation, to consult with the players in the field, to consult with the affected groups, and then to move ahead in that way. I do not think that is a unreasonable request.

Mr. Chair, I can see why the Member for Arthur-Virden is passionate about this because it has caused turmoil in the municipality. It has caused turmoil between families. It has caused unrest in terms of neighbours and in terms of the community itself. The neighbouring municipality, the R.M. of Morton, I think we heard from them this morning, and they indicated that it is affecting their municipality as well. So this is not a matter that should be left for another time to be studied in order to bring forward a solution. Let us put the amendment in and allow it to work for at least the next year in case there are some by-elections. Then let us allow for a period of time when a more comprehensive review can be made of the entire process and then bring a more permanent solution to the problem.

We heard this morning from many presenters. We heard from people on both sides of the political spectrum, if you like. There were people who were there from our side of the House and of course members who were supporting the NDP, but basically the message was the same. The message was this is a problem that should be addressed, and it should be addressed now. Therefore, I appeal to the minister one final time to look more closely at what could be a solution here for the short term and then to allow herself the latitude to look at the long-term solution and to move ahead in that way.

Mr. Chairperson in the Chair

So, Mr. Chair, in closing, I simply want to indicate that, failing the minister removing this legislation at this time, I would, as a second step, favour the approach taken by my colleague the Member for Arthur-Virden for the interim to include the provision of allowing two individuals from any parcel of property to vote in a by-election, because that is all it is going to cover until a more permanent solution is found.

* (23:20)

Mr. Faurschou: I do not know if we have yet convinced the minister of our sincerity and our belief that this amendment that has been proposed by my honourable colleague from Arthur-Virden has merit. The minister is not acknowledging either yes or no. Therefore, I would like to put some commentary in regard to The Elections Amendment Act as it pertains to local authorities.

I understand that the six-month provision for ineligibility to vote is being extended to persons that just acquire property and yet do not take up residency. I think this is a wrong-headed way of going about this particular legislation to address a concern that we are all familiar with that has been described quite extensively by my colleague from Russell and my colleague from Arthur-Virden.

I will say specifically that personally I am very familiar with the ineligibility clause when one moves from one property to another. I, in fact, went and moved my family from the R.M. of Portage la Prairie to the city of Portage la Prairie and found I was ineligible, and my wife as well, to vote in a municipal election. I was very concerned that one such as myself would be declared ineligible, residing in Portage la Prairie proper my entire life, because I moved from one side of the jurisdiction to another side of the jurisdiction, that lo and behold, I am ineligible to vote. Excuse me. I have no comprehension who dreamed this up, because it made no sense to me then and it makes no sense to me now. Here you have, in this particular piece of legislation, extending it now to persons who purchase property which influences how that property is handled by a particular jurisdiction.

So, with those concerns, I leave that particular one with the minister. I hope that she can appreciate the six-month provision is wrong-headed and, in fact, should be removed from eligibility criteria when one moves and resides in a new municipality.

I also want to draw concerns to the effective assessment of properties and how it impacts upon individuals that we have discussed earlier this evening. In Portage la Prairie there have been parcels of property that have had intrinsic value that is not there to other individuals but is held by some individuals, and those individuals are willing to pay exorbitant amounts of money to acquire properties for value that only they see. So, effectively, property values are skewed. We have had two particular transactions of late in the R.M. of Portage la Prairie that are drawing a

great deal of attention, because of the huge dollar values that have been paid for properties that have now gone into the formula, which one will see in the next little while in assessment.

So it is really something that I want the minister to consider, that there should be some type of exclusion of dollar value on properties that are way out of line with the norm of the area in land value transactions when ownership changes.

I also want to say that the overall assessment formula that we use within the province here does not personally sit well with myself, because it encourages those individuals to effectively let their property depreciate. If one lets their property depreciate, effectively their assessment is reduced, and they pay less taxes based on property value and, essentially, still garner and receive the services the municipalities provide. On the other side, persons who look to improve their local community, and improve their property through investment, are penalized because the assessment rises and additional taxes are paid, yet there is no change in ownership. It is just an enhancement that we are penalized for. Then, once again, we have paid up front, through assessment and municipal taxation. Then, when in fact we do change ownership, sell the property and realize some of the investments we have made, the capital gains tax comes into play; and the Government, lo and behold, receives additional dollars after the fact.

So, for those persons wanting to invest and improve their properties, the tax man gets you coming and going. For that I am very, very disappointed. I think in a review of how municipalities receive their dollars for their services that we all want to receive, effectively, I think it is, again, wrong-headed, to that effect.

I am concerned in a number of different areas. I do want to put this fact on the record here as far as another, for instance, eligibility to vote. The last federal election, there were changes to the federal Elections Act that ended up preventing my mother, for the first time in her 70-odd years of life–she was prevented, by legislation, the right to vote. The only thing she did wrong was that she, unfortunately, had a heart attack on the 23rd of November. The voters list was constructed on November 22, and once the voters list was constructed, there were no changes under any circumstances, unless you did not appear on any voters list and you could demonstrate that very clearly.

My mother was on a voters list where she resided; however, now she was a patient of the Portage District General Hospital on the 23rd of November. She was still in the hospital on the 27th of November and, obviously, could not be discharged because of her condition and, therefore, was denied her right to vote in a democracy that I hold very near and dear to my heart–this land we know as Canada–because of legislation that is in place at the federal level.

Mr. Chair, I am not so certain The Local Authorities Election Act does not have that same provision in there. I would be really concerned in this situation. I will say my mother was not alone. There were more than 40 persons who were admitted to the Portage District General Hospital in that five-day period who did not have the opportunity to vote. If you take that, and extrapolate it across this nation of ours, there are thousands and thousands of people who were denied that very fundamental right we hold so near and dear in this democracy.

So, with the couple of points I had wanted to emphasize to all honourable members, I hope the minister has realized these are sincere remarks, and very much wanting on my part to be addressed. With the few short minutes that have been allowed me this evening, I would like to conclude my remarks this evening.

Mr. Chairperson: Is the committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: The question before the committee is the amendment moved by Mr. Maguire. Shall the amendment pass?

Some Honourable Members: Agreed.

Some Honourable Members: No.

* (23:30)

Voice Vote

Mr. Chairperson: All those in favour, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Nays have it. The amendment is accordingly defeated.

Clauses 3(3) through 4–pass; clauses 5 through 8–pass; clauses 9 through 10(2)–pass; clause 11–pass; clauses 12 through 16(2)–pass; clause 16(3)–pass; clause 16(4)–pass; clause 17(1)–pass. Shall clause 17(2) pass?

Ms. Friesen: Mr. Chairman, I move in both official languages

THAT subsection 17(2) of the Bill be amended

(a) *by striking out* "clause 2(a) and" *in the section heading; and*

(b) *by striking out* "Clause 2(a) and sections" *and substituting* "Sections".

[***French version***]

Il est proposé que le paragraphe 17(2) du projet de loi soit amendé :

a) par suppression, dans le titre, de "alinéa 2a) et";
b) par substitution, dans le texte, à "L'alinéa 2a) ainsi que les articles", de "Les articles".

Mr. Chairperson: It has been moved by the honourable Ms. Friesen

THAT subsection 17(2) of the Bill be amended

(a) by striking out–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. The amendment is in order.

Ms. Friesen: The purpose of this amendment is to correct some errors that crept in, in the drafting. They are technical changes, I am assured.

Mr. Chairperson: Amendment–pass; clause 17(2), as amended–pass. Shall the schedule pass?

Some Honourable Members: No.

Mr. Chairperson: No.

Ms. Friesen: I move in both official languages

THAT the heading of the Schedule to the Bill be replaced with the following:

SCHEDULE
(Section 14)

[***French version***]

Il est proposé que le titre de l'annexe soit remplacé par ce qui suit :

ANNEXE
(article 14)

This replaces "(section 9)". It should have read "(section 14)".

Mr. Chairperson: It has been moved by the honourable minister Friesen

THAT the heading of the Schedule to the Bill be replaced–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. The motion to amend the schedule is in order.

Amendment–pass; schedule, as amended–pass; enacting clause–pass; title–pass. Shall the bill, as amended, be reported?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of the bill, as amended, being reported, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Mr. Chairperson: On division.

Bill 43–The Auditor General Act

Mr. Chairperson: We will now move on to Bill 43. Does the minister responsible for Bill 43 have an opening statement?

Hon. Greg Selinger (Minister of Finance): No, I do not.

Mr. Chairperson: We thank the minister. Does the critic from the Official Opposition have an opening statement?

Mr. Leonard Derkach (Russell): No.

* (23:40)

Mr. Chairperson: We thank the member. During the consideration of a bill the enacting clause, the table of contents, the schedule and the title are postponed until all other clauses have been considered in their proper order. Is that agreed? *[Agreed]*

Clause 1–pass; clauses 2(1) to 3(3)–pass; clauses 3(4) to 7(2)–pass; clauses 8(1) to 8(4)–pass; clauses 9(1) to 9(5)–pass; clauses 9(6) to 10(2)–pass; clauses 10(3) to 12(2)–pass; clauses 12(3) to 14(1)–pass; clauses 14(2) to 15(2)–pass; clauses 15(3) to 16(3)–pass; clause 17–pass; clauses 18(1) to 19–pass; clauses 20 and 21–pass; clauses 22(1) to 23–pass; clauses 24(1) to 26(2)–pass; clauses 27(1) to 28(3)–pass; clauses 29 to 34–pass; schedule–pass; enacting clause–

Mr. Derkach: Before we pass this enacting clause, Mr. Chair, may I ask the minister a question with respect to section 2(2)?

Mr. Selinger: Yes, fine, I am willing to answer any questions.

Mr. Derkach: This has to do with the role respecting government policy objectives. Mr. Chair, I need a clarification on this because, as I read it, it says: "Nothing in this Act is to be interpreted as entitling the Auditor General to question the merits of policy objectives of government." Could I ask the minister for an explanation of this so that we can be a little more clear in our minds what we are voting for here?

Mr. Selinger: This bill gives the Auditor wider powers with respect to what sometimes we call value-for-the-money audits, although that terminology is not used in here. He or she is now able to look at programs, their objectives and their goals and the outcomes and see whether they match up, whether efficiency and effectiveness has been achieved. This clause was put in to ensure that in measuring outcomes in relation to objectives and goals that he or she does not try to substitute what they think the goals or objectives should be. That is clearly the domain of the Legislature and the Government.

Mr. Derkach: I guess I want to ask a question as it relates to an example that is before us in the House right now on another bill. That is the Hydro bill, which talks about equalizing rates across the province. Now, as I understand it, this would be a matter of policy. So, therefore, the Auditor would not have any comment that he could make on that policy. I am wondering how far that extends. I think that if you extend that premise, then the Auditor could also not comment on, I guess, the objectivity of reaching a rate for Hydro because now it has become a matter of policy rather than going through the Public Utilities Board.

Mr. Selinger: In that example, he would not be able to suggest that the policy objective of equalizing rates was inappropriate, but what he could do would then go in after that objective has been set or policy has been passed and see whether or not it has been achieved.

Mr. Derkach: So, if the Government were to then, through the legislation or through policy, establish that they wanted to equalize the rates across the province by naming a rate increase or decrease across the province, would that then be considered a policy, or would that be subject to the Auditor's comment because of the fact that in the province of Manitoba, the Public Utilities Board still comes under, I believe, the scrutiny of the Auditor-General?

Mr. Selinger: I believe the PUB does as a creature of legislation under Consumer and Corporate Affairs. I believe he could examine whether that legislation, the PUB legislation is being applied appropriately and effectively, and he could look at specific examples of whether it

was applied appropriately or effectively, but he could not question the Government's policy objectives. That is for public debate. Those are value questions. This clause, agreed to by the Auditor, is strictly intended to ensure that he does not encroach on the responsibilities that those of us who are elected inherit when we take on these posts.

Mr. Derkach: I do not disagree with the minister in this respect. I only needed the clarification as it relates to the example that I cited and I guess there are others as long as when it comes to the numbers and the rates and that sort of thing, that that is not something that is excluded from the Auditor's purview.

Mr. Selinger: The Auditor, in addition to his normal responsibilities of making sure that the numbers are accurate and fair, normal auditing procedures now would have additional powers to ensure that the policy was effective and efficient in its application. In other words, were the objectives reasonably achieved?

When you think about that, that is quite a large responsibility and puts us under more accountability, in effect, as legislators and administrators. The executive function of Government gets more scrutiny now. The administration of government gets more scrutiny. Of course, all auditors across the country are moving in this direction, but what we wanted to do was to ensure that the Auditor in looking at programs did not get into value judgments about whether those were good or bad programs with respect to their objectives.

An Honourable Member: That is not his role.

Mr. Selinger: That is right. That is our role.

Mr. Chairperson: No further questions.

Enacting clause–pass. Shall the table of contents pass?

Mr. David Faurschou (Portage la Prairie): I would just like to ask the question in regard to the term of office. Is this being standardized in regard to 10 years as a term of office? I question this on the basis of other officers of the Legislative Assembly such as the Ombudsman. This is not consistent with his term of office, nor is it consistent with the term of office for the Children's Advocate. Mr. Chair, I am concerned that we are getting all over the map here as far as terms of offices of the officers of the Legislative Assembly.

Mr. Selinger: This term of office is unchanged from the original legislation which we are reforming here, and, as a point of comparison, I believe that the provincial Ombudsman is 6 years. I do not know why there is a discrepancy there, but we saw no reason to change or reduce the 10 years. We thought we should just leave that as it is.

Mr. Faurschou: So we are consistent with what we have had in the past in the province; however, how does this compare to other provincial auditors insofar as this legislation has been presented to the House on the basis that we are trying to harmonize with other jurisdictions?

Mr. Selinger: I honestly do not know the difference. I think this is standard, but I could not say that for a certainty. Let me explain it this way. We did not think that we should go to a lesser term. I think this Auditor is about four to five years into his term, and I think that could have been interpreted by you or maybe the public as our attempt to try and perhaps not have this person continue. So we thought just leave well enough alone. The bottom line was 10 years. That has been the practice for 30 years since The Auditor Act was originally introduced, and we saw no reason to change that.

Mr. Faurschou: I just wanted to raise the point that I think that we should look to consistency in terms of office and review of performance within those terms of reference, as we have other officers that carry out very significant responsibilities for us as legislators.

* (23:50)

Mr. Selinger: I would suggest that the Auditor would have raised the issue if his term of office was in any way less than his comparables across other provinces. Your other thing about evaluating his performance, this legislation lets us audit the Auditor now in the same way he audits everybody else. We can now, through the Legislative Assembly Management Committee, require that a value-for-the-money audit be done of the effectiveness and efficiency of that office as well.

Mr. Chairperson: Table of contents–pass; title–pass. Bill be reported.

Bill 48–The City of Winnipeg Amendment (Pensions) Act

Mr. Chairperson: We will move on to Bill 48. Does the minister responsible for Bill 48 have an opening statement?

Hon. Jean Friesen (Minister of Intergovernmental Affairs): No, I have no opening statement on this. We spoke in the House.

Mr. Chairperson: We thank the minister. Does the critic from the Official Opposition have an opening statement?

Mr. Leonard Derkach (Russell): Nyet.

Mr. Chairperson: *[Ukrainian spoken]* We thank the member.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Is this agreed? *[Agreed]*

Clauses 1 and 2(1)–pass; clauses 2(2) to 4–pass; clause 5–pass; clauses 6(1) and 6(2)–pass; enacting clause–pass; title–pass. Bill be reported.

Bill 31–The Municipal Assessment Amendment Act

Mr. Chairperson: We now move on to Bill 31. Does the minister responsible for Bill 31 have an opening statement?

Hon. Jean Friesen (Minister of Intergovernmental Affairs): No, I think this has been spoken of in much discussion with presenters.

Mr. Chairperson: We thank the minister. Does the critic from the Official Opposition have an opening statement?

Mr. Leonard Derkach (Russell): No, I will defer to Mr. Laurendeau.

Mr. Marcel Laurendeau (St. Norbert): Mr. Chair, there will not be a statement, but we have prepared an amendment which I am prepared to table at this time to give the minister an opportunity to review before we get it to report stage in the House. We will be moving the amendment at report stage. So if I could table the motions at this time, both of them, and we will then get them to the Clerk and we will deal with them at report stage.

Mr. Chairperson: I thank Mr. Laurendeau for those documents. They have been tabled. We will move on.

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

Shall clauses 1, 2 and 3 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Voice Vote

Mr. Chairperson: All those in favour of passing clauses 1, 2, and 3, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my humble opinion, the Yeas have it.

Mr. Laurendeau: On division.

Mr. Chairperson: Clauses 1, 2, and 3 are accordingly passed, on division.

* * *

Mr. Chairperson: Shall clauses 4, 5(1) and 5(2) pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Voice Vote

Mr. Chairperson: All those in favour of passing clauses 4, 5(1) and 5(2), say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it.

Mr. Laurendeau: On division.

Mr. Chairperson: Clauses 4, 5(1), and 5(2) are accordingly passed, on division.

* * *

Mr. Chairperson: Shall clauses 6(1) and 6(2) pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Voice Vote

Mr. Chairperson: All those in favour of passing clauses 6(1) and 6(2), say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it.

Some Honourable Members: On division.

Mr. Chairperson: Clauses 6(1) and 6(2) are accordingly passed, on division.

* * *

Mr. Chairperson: Shall clauses 7 and 8 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Voice Vote

Mr. Chairperson: All those in favour of passing clauses 7 and 8, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Mr. Chairperson: Clauses 7 and 8 are accordingly passed, on division.

* * *

Mr. Chairperson: Shall clauses 9 and 10 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Voice Vote

Mr. Chairperson: All those in favour of passing clauses 9 and 10, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Mr. Chairperson: Clauses 9 and 10 are accordingly passed, on division.

* * *

Mr. Chairperson: Shall clauses 11(1), 11(2), and 12 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Voice Vote

Mr. Chairperson: All those in favour of passing clauses 11(1), 11(2), and 12, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Mr. Chairperson: Clauses 11(1), 11(2) and 12 are accordingly passed, on division.

* * *

Mr. Chairperson: Shall the enacting clause pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Voice Vote

Mr. Chairperson: All those in favour of passing the enacting clause, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Mr. Chairperson: The enacting clause is accordingly passed on division.

* * *

Mr. Chairperson: Shall the title pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of passing the title, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

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

* * *

Mr. Chairperson: Shall the bill be reported?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of reporting the bill, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it.

An Honourable Member: On division.

Mr. Chairperson: The bill shall be reported on division.

* * *

Mr. Chairperson: That concludes the business before the committee. Committee rise.

COMMITTEE ROSE AT: 12 a.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Re: Bill 32

Dear Minister Friesen:

The AMM has reviewed the proposed amendments to The City of Winnipeg Act contained in Bill 32: The City of Winnipeg Amendment Act. The AMM understands that this legislation will allow the City to provide tax credits to encourage and assist in the

construction, renovation or preservation of buildings within areas designated by Council. As well, the AMM understands that this bill permits frontage rate revenues to be used for the repair and replacement of residential streets and sidewalks, along with water and sewer mains.

The AMM supports this bill and we would appreciate this letter being forwarded to the appropriate committee for their consideration.

Thank you for providing this amendment to The City of Winnipeg Act.

Sincerely,

Joe Masi
Director of Policy and Research
Association of Manitoba Municipalities

* * *

Re: Bill 34

Dear Minister Friesen:

The AMM has reviewed the proposed amendments to The Municipal Act contained in Bill 34: The Municipal Amendment Act. The AMM understands that this legislation will amend The Municipal Act by providing that a regulation which forms, amalgamates, annexes or dissolves a municipality may contain provisions dealing with the setting of different rates of taxation based on access to municipal services. The AMM also understands that this bill will enable municipalities to provide tax credits for heritage buildings. As well, the AMM understands that this bill clarifies the definition of "municipal road" and making several administrative amendments.

We appreciate the amendments being legislated and hope that they will help municipalities meet the needs of their residents.

The AMM supports this bill and we would appreciate this letter being forwarded to the appropriate committee for their consideration.

Thank you for providing this amendment to The Municipal Act.

Sincerely,
Joe Masi
Director of Policy and Research
Association of Manitoba Municipalities

* * *

Re: Bill 31

Mr. Henri Dupont–Submission continued

I perceive that there are three reasonable alternatives to retain the current "level playing field."

Firstly, simply delete Sections 4 through 10 of Bill 31. There exists within The Municipal Assessment Act ample opportunity for the assessor to file applications for revision where he believes errors in his own work have been made. The assessor also has the statutory right to appeal from a decision of a Board of Revision where they are dissatisfied with a ruling of the Board of Revision. These rights that the assessor now has are nothing more or less than is granted to ordinary taxpayers within this province.

In an alternative, I suggest that you provide the taxpayers with the same powers as the assessor. Should the assessor file an application for revision, or an appeal to the Municipal Board, allow the taxpayer an equitable right by permitting them to file a written notice seeking a decrease.

A second alternative would be to implement, through statute, a filing fee for the 10-day notice based on similar cost for filing appeals at the Municipal Board. This fee should also be refundable if the appeal is successful. Further, because there is no cost to file appeals at the Board of Revision presently, and there is substantial potential of Assessor intimidation at that first level of appeal, a fee structure similar to the Municipal Board should be imposed for 10-day notices at the Board of Revision only, and not for "normal" appeals.

We should not forget that there is no fee for "normal" appeals at the Board of Revision in order to make the system open and easily accessible to all. The fees for the 10-day notices

should be applicable to both the assessor and the taxpayer.

Mr. Chairman, I urge you and the committee to give careful consideration to the serious ramifications of Bill 31. Intimidation and coercion of taxpayers who have the gall to believe their assessment are excessive cannot be the intent of this Government. But the passage of Bill 31 as it is now written will facilitate exactly that practice.

Bill 31 in and of itself will not reduce mistakes on the part of the assessor, or reduce the number of so-called underassessments. The assessment authorities themselves are solely responsible for errors in the assessment rolls. Bill 31, in its present form, will cause unjustified changes to the appeal mechanism and, in the process, will result in a gross distortion in the fairness of the appeal system.

To summarize, our suggested changes to Bill 31 are:

1. The taxpayer should also have the right to the 10-day notice provision.

2. There should be a filing fee for the 10-day notice based on the same cost for filing appeals at the Municipal Board. This fee should also be refundable if the appeal is successful.

3 Because there is no present cost to file appeals at the Board of Revision and there is a huge potential of assessor intimidation at that first level, a fee structure similar to the Municipal Board should be imposed for 10-day notices at the Board of Revision only, and not for "normal" appeals. We should not forget that there is no fee for normal appeals at the Board of Revisions in order to make the system open and easily accessible.

4. The fees for 10-days notices should be applicable to both the assessor and the taxpayer.

5. The assessment should not be increased beyond an original assessment. The assessment authorities have a statutory responsibility to provide the assessment rolls at particular times. That is the case a taxpayer has to meet. It should not be a moving target

In closing, I wish to refer to a portion of the statement made by the Honourable Jean Friesen, Minister of Intergovernmental Affairs, when she introduced Bill 31. The minister stated that "Bill 31 includes both administrative and fair procedures dealing with the appeal process."(my emphasis)

If that statement truly represents the intent of this Government, then this flawed legislation requires amendment to avoid bestowing upon the assessor new-found and one-sided powers.

I wish to extend my thanks to the committee for the opportunity to address you with some of the concerns we have regarding this legislation as it is proposed. It is my hope that you will give serious consideration to the issues I have raised here today, and will seriously contemplate providing taxpayers rights equal to those of the taxing authority to provide themselves with a fair and equitable assessment.

I would be pleased to answer any questions that the committee may have at this time.