



First Session — Thirty-Second Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE
on
**MUNICIPAL
AFFAIRS**

31 Elizabeth II

Chairman
Mr. A. Anstett
Constituency of Ste. Rose



MG-8048

VOL. XXX No. 1 - 8:00 p.m., MONDAY, 28 JUNE, 1982.

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Monday, 28 June, 1982

Time — 8:00 p.m.

MR. ACTING CLERK, R. Willis: We have a quorum. The first order of business is the election of a Chairman. Do I have any nominations? Are there any other nominations? Hearing none, I would ask Mr. Anstett to take the Chair.

MR. CHAIRMAN, A. Anstett: The Committee will come to order. We have four bills before the Committee this evening, Bills No. 32, 33, 50 and 63.

BILL NO. 33
AN ACT RESPECTING THE ASSESSMENT
OF PROPERTY FOR TAXATION IN
MUNICIPALITIES IN 1981 AND 1982

MR. CHAIRMAN: We have a list of delegations on Bill No. 33, An Act to Amend An Act Respecting the Assessment of Property for Taxation in Municipalities in 1981 and 1982. Our usual practice has been to hear delegations first. I take it that's your will and pleasure that we should begin to hear the delegations. Is that agreed? (Agreed)

The Clerk is distributing a copy of the list. For those in the audience, the order of delegations is Mr. Michael Mercury, Mr. David Pearlman, Mr. Harry Peters, Mr. R.O. (Bob) Douglas, Mr. G.D. Lowry, Mr. Abe Arnold, Mr. Lloyd McGinnis, Mr. Donald McCarthy, Mr. Lorne Dyke and Mr. Roy Evans. We'll take them in that order.

Mr. Michael Mercury, please. If you have copies, Mr. Mercury, the Clerk will take them and distribute them.

MR. M. MERCURY: Mr. Chairman, I have copies of certain material which I would like to distribute to the members of this Committee.

Mr. Chairman, and members of this Committee, I am appearing before you today on Bill No. 33 which I submit ought more properly be entitled as an Act taking away the rights of property owners situated in the City of Winnipeg to appeal their tax assessments because that is the pith and substance of Bill 33 which extends Bill 100. In other words, Bill 100, which was enacted two years ago, now intended to be extended by Bill 33 takes away the democratic right of every taxpayer in the City of Winnipeg to appeal his taxes.

I'm appearing today, Mr. Chairman, on behalf of a number of persons. I am appearing on behalf of the Downtown Winnipeg Association which represents 160 business firms in downtown Winnipeg and I've circulated to the members of this Committee a list showing the firms which the Downtown Winnipeg Association represents.

Now I am also appearing as counsel to a number of business firms who appealed their 1981 and 1982 tax assessments and we're told by the courts that they had no right to appeal because that was the effect of Bill 100. I'm also appearing on behalf of a number of clients of the law firm of Aikins, MacAulay and Thorvaldson of which I'm a partner. I've been asked to speak on behalf of a number of these clients, and just

to mention a few, the owners of the Northstar Inn, the owners of the Paris Building, Famous Players Ltd., the T. Eaton Co. Ltd. and Monarch Life Insurance Co. All these persons, who I am representing, Mr. Chairman, are opposed in principle to Bill 33 because it denies the fundamental right of a taxpayer, of his right to redress a wrong before any tribunal whether that is a board of revision or a court of law.

The question I ask this Committee and this government is this - it's a very important question and I get worked up about it because I happen to be a lawyer and I happen to feel for the principles of justice. One of these principles is this: Is it the intention of the Government of Manitoba to continue to deny a taxpayer in Winnipeg his democratic right to appeal his taxes, whether that person is an owner of commercial or residential property? That's the first question. Is that this government's intention, because that's exactly what Bill 33 intends to do?

There's a second intention that I ask be stated. Is it the intention of this government to perpetuate a discrimination against a property owner of city lands as opposed to owners of property in rural Manitoba? Because in rural Manitoba, the property owner has a right to appeal his tax assessments. In the City of Winnipeg no property owner has a right to appeal his tax assessments. Now that strikes me as a fundamental wrong which has been going on for the last two years, which people have not wakened up to that fact, and this Bill 33 now purports, intends to extend the denial of one's right to appeal.

Let me give you some background on this particular matter and why we firmly oppose Bill 33. In 1981 a number of property owners on Portage Avenue became alarmed at the high taxes that they were paying. The Downtown Winnipeg Association commissioned a study to be done by the Montreal Trust Company to investigate the complaints and we thought that these property owners may be just complaining because business was bad, but we commissioned the Montreal Trust Company to do a study because vacancies were occurring, examination of properties, rentals, vacancies were occurring at a very alarming rate.

What did we find? To our great surprise we found that there appeared to be some very very gross inequities; gross inequities with the result that many established businesses were going bankrupt; businesses were leaving and old buildings, such as the Paris Building, were on and is now on the auction block. The Paris Building is up for sale on June 30th of this year. I need not point out to you the disastrous effect that this has had on Portage Avenue. So what did these people do? They appealed their assessments; Eaton's, The Bay, everybody appealed their assessment because they thought there was a wrong. So they went to the Board of Revision and at the Board of Revision the City Solicitor got up and he recited Bill 100 to the Chairman of the Board of Revision, which is the only place you can go to appeal your assessments, and he said you're without jurisdiction, you have no right to appeal, you can't hear these cases, you don't have a right to appeal, good-bye. Your assessments,

whether you like it or not, are frozen until the end of 1982. Now, this came as a tremendous shock to a lot of these people. So the board was ready to hear these appeals and these taxpayers were then confronted with an application by the City of Winnipeg Solicitor going to the court to determine whether in fact the legislation, Bill 100, which is now sought to be extended by Bill 33 did in fact deny the taxpayer his right to appeal.

Page 1 of the material, I ask you to look at this. These were some of the highlights of the study that we saw. The Clarendon Hotel land was and is assessed today at \$30.11 a square foot; the North Star Inn at \$25.01; and the Mall Hotel at \$14.74. You might say, what's wrong with that? In the abstract, nothing, but they've had the mill rate. The Winnipeg Inn, \$2.95; the Holiday Inn, \$4.36; the Fort Garry Hotel, \$2.80; and those three hotels are complaining that they have high taxes and I know they do have high taxes but if those are high, the first three are in orbit. Look at the office buildings, Bank of Montreal Building, Portage and Hargrave, at \$39; the Kensington Building, \$25.40; the Paris Building, which is on the auction block and you can pick it up for \$1.2 million this Wednesday, the 30th, \$21.89. Look at the Richardson Building, the pivot of Winnipeg, \$11.55 - talking land; Bestlands, \$1.18; Wawanesa Mutual, \$2.56; Mercantile Bank, \$5.65; Imperial Broadway Towers, \$4.64; Manufacturers Life \$4.53. All right?

These people went to court and the judge said this and this is the order which is appended to this material. On page 1 of that order you have a list of all these property owners, taxpayers. They're too numerous to list, but people who've been paying taxes in Winnipeg for generations, some of them.

It says upon the application of the applicant, the City of Winnipeg, that the Board of Revision be prohibited from proceedings, honour and respect of certain complaints made to the said Board of Revision by the respondents and so forth:

1. It is ordered - I underline this - that the Board of Revision of the City of Winnipeg be prohibited from hearing complaints made by the respondents to the said Board of Revision pursuant to Section such-and-such of The City of Winnipeg Act.

2. It is further ordered that the Board of Revision is estopped. That's legalese for saying, is prevented, can't hear, by Bill 100 from considering any amendments of valuations for assessments in respect to the respondent's complaints to the Board of Revision.

So you have these taxpayers and not just these taxpayers, but there are other taxpayers this year who wanted to file their complaints. They filed complaints and they were told by the Board of Revision, we can't hear you; there's a court decision pending. That decision of Wilson, J., which you see there, was appealed to the Court of Appeal and a week ago last Thursday, Justice Matas, speaking for the full Court of Appeal, handed down his decision and said, "I agree with Justice Wilson." It's implied, if you want your rights, you want to re-assert your rights, go back to the law-makers who took them away.

Now, why we are very concerned, Mr. Chairman, and Mr. Minister and members of this Committee, is that we are not in a sense here - yes, we are dealing with a subject matter of assessments - but we are

dealing here with a very fundamental, democratic right which every citizen in this province and in this country has; and that is the right that if he feel aggrieved or wronged, whether that wrong is perceived or real, that he has a right to go to some tribunal and say look, I have a wrong, I want to appeal an inequity.

If you read the legalese of Bill 100 and the legalese of Bill 33, that won't leap out at you, but the courts have now interpreted Bill 100 and Bill 33 which is now extending the provisions of denial of one's right to appeal which is to the Board of Revision, of course, indefinitely, that takes away one's democratic right.

Mr. Chairman, I'm looking at you and all the members of this Committee and if you live in the City of Winnipeg let me say to you that if you get your tax bill in 1983 and you don't like it, it's going to be too late. If you want to appeal your assessment next year and this bill goes through, neither you nor any of your neighbours or any property owner, whether commercial or residential in the City of Winnipeg, will have that right to appeal. I say that is so fundamentally wrong, it is beyond all sort of reason as to why in this free society we allow this. Now, I don't want to deal with a motherhood issue because it sounds like grandstanding, but it is a motherhood issue and you'll give me some leeway here to talk about this Charter of Rights that this government endorsed whole-heartedly. We are living in a free and democratic society and we take pride in that and we have recently witnessed as Canadians from all parts of Canada the fact that we have now enshrined in the Charter of Rights those democratic principles in which we all believe.

Now I got from Pierre Elliott Trudeau - I think you all did - a document called this Charter of Rights. There's going to be a great deal of litigation over it, but I'd like to refer to some sections in this Charter because I do think that Bill 100 and Bill 33, which extends Bill 100, violates the spirit of this document. For the record, let me just quote a few paragraphs here.

Paragraph (7) under the heading, Legal Rights: "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof, except in accord of the principles of fundamental justice." What does fundamental justice mean? All lawyers will tell you fundamental justice is the right to appeal a wrong according to the laws of natural justice to an impartial tribunal. "Everyone has the right not to be subjected to any cruel and unusual treatment." Unusual treatment - why are the taxpayers of the City of Winnipeg treated differently from the taxpayers of rural Manitoba?

Paragraph 15(1): "Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination." Aren't we entitled to appeal the way other people are?

Section 32(1): "This chapter applies to the Legislature and the Government of each province in respect of all matters within the authority of the Legislature of each province." The authority over property and civil rights - fundamental justice. If you read that Order, which the court pronounced, it says that "the Board of Revision of the City of Winnipeg be prohibited from hearing complaints." The Board of Revision is a stop by Bill 100. That tells me in no uncertain terms that

neither you nor I can appeal what I consider to be a perceived wrong.

So I ask you also, and I've appended material, an editorial which appeared in today's Free Press. I'm sure most of you have read it. If you haven't read it, I've taken the liberty of xeroxing today's editorial and it's entitled "Disappearing Rights." Paragraph two at the bottom it says - and I agree wholeheartedly with the editors; I think we all agree wholeheartedly - "The aim of government should not be to press ahead in the old ways until the courts tell them to stop. It should be to draft new legislation and harmony with a spirit of Canada's renewed Constitution." Bill 33 doesn't do that.

Third paragraph from the end: "What the legislators must remember is that their job is not necessarily to make the work of the authorities less burdensome. Every time a bureaucrat is inconvenienced, the freedom of the individual and the protection that individual enjoys under our Constitution is diminished. It is very convenient for the Assessment Department not to have to face the music that there may be people who question their judgment. It's very convenient for them and it's very convenient for bureaucrats to hide under the skirts of the elected representatives of the people and get them to believe that if they do certain things it's going to create chaos. But we elect the legislators to exercise certain fundamental judgment and rights, and one of those rights and one of those judgment calls is the right of a taxpayer to redress a wrong." He's got to have that right and this is what you're doing with Bill 33, as the court says, they are prohibited from proceeding, prohibited from hearing complaints. Since when in a democratic society does law come in to say that you can't appeal?

I say to you and I appeal to your good conscience, Mr. Chairman, members and Mr. Minister, why should any government be afraid that justice may be done through the appeal process. What do we have to fear by the appeal procedure? Surely governments should be setting standards; surely civil servants should be made to account for their failure to perform their statutory duties.

The law of this province says it's your Act, your law; but the city assessor every three years has a statutory duty to revalue property in the City of Winnipeg and there are other statutory duties for the provincial assessors. In 1957 was the last time the assessor of the City of Winnipeg ever performed a statutory duty; 1957 should have had eight valuations done in that time. There have been six governments. Who is watching that assessor to do his duty?

Taxpayers are led to believe that those statutory officers are doing their work; that's what we're paying them for. They look at the books, they read the legislation and they assume that statutory officers appointed by this Government by Order-in-Council are doing their homework. Why do we let them get away with it? Surely we taxpayers have a right to ask for an accounting and if they're not going to do their duty to set the record straight and to do the equalization, then that responsibility falls upon the taxpayer himself and he has the right to go to the Board of Revision and say, "Look, the statutory officer didn't do his job. I want you to do his job. That's why we have these appeal provisions."

Now we're saying to the taxpayer, "It's okay, Mr. Assessor, you didn't do your job." But now that these people want to appeal we're now going to take their right of appeal away from them - not only my right, everybody's right in this room if you're living in Winnipeg.

I'm at a loss for words as to why after six Provincial Governments we haven't had a proper assessment. You know, two World Wars were fought in less time if you stop to think about it. Does that indicate gross incompetence, negligence? What are taxpayers getting in return for their money? Does that amount to a denial of rights, favoritism, lack of political integrity, lack of courage? We might lose some votes here; we might pick some up here but we might have a lot of noise here. Now, I'll be a couple more minutes.

I hear the excuse and it's a very lame duck excuse, "Oh well, the Weir Commission. It's all because of the Weir Commission and his report. We have to consider the Weir Commission Report." That's another hoax which is being foisted upon all of us about the Weir Commission Report. I have read the Weir Commission Report and I made a submission to the City of Winnipeg on behalf of the Downtown Winnipeg Association about the Weir Commission Report.

The Weir Commission Report is a report which purports to revolutionize the tax assessment system in this province. Up until now we're talking about, for example - just a couple of examples: land at full value; buildings, two-third's value; agriculture buildings, exempt. Weir says, "Go to full market value." Weir says, "Let's go at buildings full value." Weir says, "Go to market value." Weir says this, Weir says that and this Legislature will debate ad infinitum the pros and the cons of the Weir Commission Report.

Whether you adopt all, whether you adopt some or whether you adopt none, that's your prerogative; you can debate that ad infinitum, but in the meantime there is a system presently in existence. There is a tax system. When we pay our taxes today, there is a system and there are appeals provisions in that system. What you have done is you have lifted the appeal provisions in effect from that system; you have taken them out and you say, "We're going to put these on the shelf, we're going to postpone it indefinitely, giving us time to think it all out." In the meantime, property owners are being denied the right to appeal. In the meantime, the owners of the Clarendon Hotel are assessed at \$30, the Winnipeg Inn at \$3 and you wonder why people are screaming to renovate downtown.

We're spending \$100 million of your money, the city money and Federal Government money, all in total, to do something for the downtown. You know you don't have to do much if you'd just allow the people, give them the law to which they're entitled. Therefore I submit, Mr. Chairman - it was bad enough that we had Bill 100 - Bill 33, which has the effect of extending Bill 100, continues to deny the taxpayers of the City of Winnipeg, all taxpayers, a right to appeal their assessments and that's wrong. What is particularly wrong is that for some reason or other, the bureaucrats will let you know why, they give rural Manitobans the right to appeal but they deny that right, under Bill 33, to the taxpayers of the City of Winnipeg. I think that's wrong and that should not proceed.

Monday, 28 June, 1982

Mr. Chairman, I think it's wrong in principle and I would respectfully request Mr. Adam, the Minister, to withdraw that bill.

Thank you.

MR. CHAIRMAN: Are there any questions from the Committee for Mr. Mercury?

Mr. Adam.

HON. A. ADAM: Thank you, Mr. Chairperson. Mr. Mercury, I thank you for your presentation and I take it that you're certainly not impressed with the recommendations of the Assessment Review Committee.

MR. M. MERCURY: There are some that I would take issue with, but you and I, Mr. Minister, can debate those ad infinitum. There are political consequences to those; you are politicians here and I understand the political realities.

I can give you my thoughts on the Weir Commission, but perhaps this isn't the time for it. What I'm saying is that, while we are debating this, there are people who are going bankrupt, people have a right to redress a wrong and I say let them appeal. What's so wrong about redressing a wrong before a tribunal?

HON. A. ADAM: Mr. Chairman, there were two recommendations in the report in regard to extending the freeze which was introduced by the previous administration in their wisdom. There's a problem out there and we are well aware that there are inequities and that they must be addressed as soon as possible. We are very well aware of the problems that are out there and I believe the previous administration, as well, recognized the problems that crept into the system over the years under the present system.

I believe that is one of the reasons because some of the local governments - I suppose probably the City of Winnipeg - requested that the freeze be put on and the previous administration, in their wisdom, commissioned a report to do a review on the entire assessment in the Province of Manitoba. We now have the report before us which was supposed to have been presented to us shortly after the new year. My interpretation of shortly after the new year would be sometime in January. The report was not received until April which is four months after the new year, which did not give us sufficient time to bring in legislation at this Session.

What we have indicated would be that, first of all, if we are to improve the system under which all these inequities crept in, we have to do a thorough review of what has been presented. Now there have been many, many briefs presented to the Weir Committee and what I have asked my staff to do is to study the report, an in-depth study of it. For your information, we are also doing assessments based on the recommendations at the present time. We are going to do a number of assessments in rural Manitoba and in urban areas in order to be fully aware of what the implications are of those recommendations so that we know what we are doing and so that we are not creating problems for the future, but we are eliminating them. We have to allow staff time to be in a position to administer any changes that we are going to implement.

I don't want to go into the report section-by-section.

I don't think that would serve any purpose here. The way we have worded the present legislation allows, by Order-in-Council, that the freeze could be lifted within a year, two years, whatever is required to bring in the legislation and plus allow the staff to put in place mechanism or the administration to carry out the legislation that we're bringing in. Therefore, we have said that we will study the report, that members will be briefed, Cabinet will be briefed and Members of the Legislative Assembly will be briefed. Then we will be able to have some feedback; we will hold hearings later on this summer, perhaps in the fall and that we'll be able to advise the local government and groups like your association that you represent here, exactly what is going to happen or what should we be implementing in that recommendation.

We do want to move ahead as soon as possible to rectify the inequities that have crept into the system which we don't like, which you don't like and which nobody likes, the previous administration either. But we want to do it in a way that is as expeditiously as possible, but also in a prudent manner so that we don't build in a worse system than what we have now. But I would ask you, sir, before I terminate my questions, I presume that when Bill 100 was introduced, you made a presentation then, did you not?

MR. M. MERCURY: No, Mr. Minister, it's a funny thing about Bill 100. That Bill 100 came into law in July and the time for appealing your assessments, the notice was put in the papers in February before the bill even came into existence. In February there always appears every year a little notice in the paper that says the assessment roll is prepared, if you want to appeal your assessments you have to file a letter of complaint to the Board of Revision sometime in March, about mid-March.

This law came into effect after the time when all rights for appeal had expired and the government took the position, well, people who didn't appeal their 1980 assessment are out of luck. Well if you would have told me in July, if you would have told me in February that if I couldn't appeal my assessments this year, that I wouldn't be able to appeal them for all subsequent years, that's after the fact and that again runs contrary to the principles of natural justice. Let me tell you something else. We've had Vancouver people come to Manitoba wanting to buy Manitoba property.

A case in point was the owner of the North Star Inn; he bought the North Star Inn and he has properties in Vancouver. He bought the North Star Inn, started to renovate it, looked at his tax bill and he looked at the Winnipeg Inn's tax bill and they said, "My God, this is something that's crazy here." This was a year-and-a-half ago. He said, "Appeal the assessments." He didn't own the property in 1980; he got it in 1981 and now he wanted to appeal his assessment he finds that the door is slammed on him. There was another Vancouverite came into Winnipeg, he looked at the Paris Building; that was up for sale. He tried to make the thing go; he's going to lose about \$1 million. He wants to look at his taxes and appeal his taxes and he says, "My God, what's happened here." People coming into Manitoba and they find this situation that there's a freeze on, they find that intolerable.

Now, it's one thing to debate the Weir Commission and whether you're going to change the system, but in the meantime you're collecting taxes under an old system and there are appeal provisions under that old system. You can change your system, but if you've got one in place there's still appeal provisions under that system. We've got a Budget coming down tonight. No one ever suggested that because we may change the tax laws in the future we're considering maybe Carter's coming of tax reform, but you can't appeal the law as it presently exists. That's convoluted logic and I don't follow that one moment. We can debate the pros and cons in certain aspects of the Weir Commission Report ad infinitum and I'm saying to you, take your time on that.

But today buildings are assessed at two-thirds value, land at full value, not at market, and there's a system in place. Why can't we, if those are the rules, appeal according to the rules that you are collecting the taxes on? If next year, the year after or the year after that, you change it and you say look it, you're going to pay on full value, that's fine; but in the meantime when you're collecting taxes on partial value and under this system, fine, let us appeal under that system; you're collecting the taxes.

HON. A. ADAM: Yes, the fact remains that whether the bill came in July or too late for the appeal process, Mr. Mercury, there was a bill there that said we are going to take the right-of-way to some people, the right of appeal.

MR. M. MERCURY: All of them in Winnipeg, but it doesn't say so; but it's been interpreted as that now.

HON. A. ADAM: Why was no representation made then as is being made now? That's what I don't understand.

MR. M. MERCURY: Mr. Adam, the fact of the matter is that there are very few people who are sophisticated in this community to recognize the effect of that bill. As a matter of fact, Mr. Nugent and I argued against that bill in court because we didn't think it went that far. The bill talks about maintaining a level of value; that doesn't mean freezing an assessment. The City of Winnipeg argues that maintaining a level of value means an actual freeze on every particular piece of property. We argued unsuccessfully in a Court of Appeal that meant that if the city assessor had a level of value of downtown property at 50 percent of market then we, the complainants, would have a right to come into court and ask to enjoy that same level. If we were at a higher level, we would have a right to complain; in other words, we weren't upsetting the whole assessment system. We said, if you're assessing this fellow on that basis, we want the same. Why should I pay his taxes?

Court of Appeal and the City Solicitor tell otherwise and they said you can't appeal your assessment. I can't appeal my house taxes; that's what it means. Nobody in Metropolitan Winnipeg can appeal his house taxes unless you tear down the house or unless you put an apartment block on it or unless you have some agricultural lands and you zoned it C2. But nobody in Winnipeg and the fact of the matter is that

when I say this to this Committee, you're probably shocked to hear this, that you can't appeal you own taxes and if you talk to the Chamber of Commerce, who read this, they weren't aware of it either. You talk to all property owners, real estate people and people who have vested interests, who own property, they're amazed at this; but when the word comes out that this government intends to continue taking away your right to appeal your house taxes, I can tell you right now that there is going to be a hue and outcry. There would be a hue and outcry. That's just so wrong.

HON. A. ADAM: I want to advise you that should the bill be proceeded with, it will only be on as long as it's necessary to bring in another system to replace the system that we have now. We intend to move as speedy as possible.

MR. M. MERCURY: Mr. Minister, can I just make one comment on that. I appreciate that, but let me say this, every year the reevaluation of properties in Winnipeg has not been done. The political problem has grown and it will grow and it will grow and it's growing and successive governments have been very reluctant to tackle this problem simply because of the fact that it does have serious political consequences. Governments have shied away from it and the former City Assessor shied away from it. The chickens have come home to roost now and we see bankruptcies and foreclosures. When you have that divergence and it keeps growing and growing and growing and the mill rate escalating and escalating and escalating, finally the revolution is going to come when you're going to say we've got to equalize this. Those people who haven't been paying their fair share are going to scream and the question is, when are they going to be told what is the reality. The longer you keep it in abeyance, the longer it goes on. I'm saying that the easiest way, I think, for any political politician to get out of this mess is to let the court settle it, let the Board of Revision do it; it's them. You don't like it, appeal it. If they appeal and settle, that's fine, because it's going to take a great deal of political integrity and guts to stand up and say, "Let's be fair."

HON. A. ADAM: We're going to attempt that, Mr. Mercury.

MR. M. MERCURY: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. McKenzie.

MR. W. McKENZIE: Thank you, Mr. Chairman. Mr. Mercury, you recognize in this legislation - I've been here since 1966 - the review of the assessment practice was long overdue in the province. There was certainly need for us to tackle it and it's a difficult problem. I can certainly associate myself with your concerns that you're expressing to this Committee tonight, that somehow the legislature should grant the people of this province the right to appeal their assessments until the new Act is proclaimed, if and when that date comes forth. I can't recall Bill 100 and I think you gave us some answers why there maybe were no representations from the public. I wasn't on this Committee, I don't think, when Bill 100 was

brought forth.

How can we as legislators now correct this alleged discrepancy? What would you suggest that we do in this Committee tonight?

MR. M. MERCURY: What I suggest that you do in this Committee is to let the bill - it was inaccurately called a bill - it should've been called an Act, not a bill. People talk about a bill and they think it's a bill presently being debated and I think that's not being fair with the public. Call it an Act; it's an Act to freeze assessments. It's an Act to take away the rights of appeal; it's to suspend appeal rights. That's what it is. That was passed at the urgings of Walter Weir because the City Assessment Department had done its homework in 1975 and did what it had to do and they have the assessment roll fixed. It's there. Ask any assessor; it's there. It's there to be implemented.

Walter Weir said in his first report to you, to the Conservative Government at that time, just go easy on this, if I introduce this, there could be political consequences. It was a political document. I'm not talking politics. I'm saying to you that bill was there for a limited time, 1981-1982. We swallowed those inequities for 25 years plus two or 25 years - now a quarter of a century. We say let the bill die. So what happens if it dies? Let's see what happens if it dies.

Next year, you'll probably have the same property owners on Portage Avenue appealing and there were 13 other taxpayers in the City of Winnipeg appealing. There were some 72 properties, plus 13. That wasn't a massive amount of appeal. Portage Avenue property owners were the ones and you can see the discrepancies here; they cry out for justice. What'll happen is, it'll go before the Board of Revision, and the Board of Revision may adjust them and adjust those frontages on Portage Avenue - not the side streets - just the Portage Avenue frontages between Colony to Notre Dame, that's all. They have the right to appeal those assessments and the Board of Revision will correct it. Now, if you want to take your time in debating whether in future you should allow values to be at current market values or whether they should be at a different standard or whether you should assess a building at a full value or at two-thirds value, that's fine, take your time on that. But in the meantime there are certain people here who are being damaged. They're being severely damaged. Mr. Ron McCrae who spent over a million dollars, he's losing a million dollars and he's also been sued on his covenant. You're destroying this person. He came from Vancouver.

Another person who bought the Northstar Inn. That's just two examples that I personally am aware of. So let it die; it was meant to die at the end of 1982. Let it die.

MR. W. MCKENZIE: Mr. Mercury, in your comments you mentioned the Montreal Trust study. Is that public information?

MR. M. MERCURY: Well, it's not public. I have a copy here and you can see all the discrepancies here. You'll see . . .

MR. W. MCKENZIE: We have parts of it here tonight, I guess, have we or . . . ?

MR. M. MERCURY: I just got some glaring examples, but I have the whole copy. I've got a copy here and you can look at it.

MR. W. MCKENZIE: Oh, I'm just wondering, Mr. Chairman, if I may, if members of the Committee could be favoured with it of the study for to help us.

MR. M. MERCURY: Sure, I have lots of copies.

MR. W. MCKENZIE: Well, give it to the Clerk. The Clerk, he'll look after it. That's all the questions I have, Mr. Chairman.

MR. CHAIRMAN: Thank you very much, Mr. McKenzie. Any further questions?
Mr. Gourlay.

MR. D. GOURLAY: Thank you, Mr. Chairman.
Mr. Mercury . . .

MR. CHAIRMAN: Mr. Gourlay, could you pull the mike over just a bit please?

MR. D. GOURLAY: . . . I appreciate the time you've taken to relay some of the serious problems that Bill 100 has created to many of the business people in Winnipeg and also the proposed Act of Bill No. 33 to freeze the assessments and right of appeal indefinitely.

I gather from your comments that the Weir Commission recommendations could be implemented by letting Bill 100 die as you say at the end of '82 and not continuing on with any kind of a freeze. Now, what kind of problems would you foresee that creating in view of the fact that the Weir Commission has recommended another extension of one year?

MR. M. MERCURY: I didn't realize that the Weir Commission was recommending a further extension of one year. I don't know on whose recommendation this Bill 33 was; it certainly wasn't the City of Winnipeg. It wasn't their recommendation; it would have to be the administration or this government. But there has to be the government, of course, there is no reason why the appeal procedures ought be suspended pending your deliberation of a new system. There's an old system in place.

Take your time on the Weir Commission. Study it, discuss it, debate it thoroughly; go back to the people and ask them what they think about this, etc. But, sooner or later, you're going to have to face the music that you're going to have to correct these inequities. There are some inequities in downtown; there are other inequities in the City of Winnipeg. You give that right of appeal to the people living in rural Manitoba today. You didn't take it away from them, but you took it away from the people in Winnipeg, all property owners in Winnipeg, residential property owners in Winnipeg.

And I say, you can continue to debate Weir, but that's got nothing to do with the existing system allowing the appeal procedure to go forward under the existing system. It may cause some bureaucrats some work. It will cause bureaucrats work, but I'm not here to speak for them.

Monday, 28 June, 1982

MR. D. GOURLAY: Well, I can appreciate what you're saying, Mr. Mercury. Am I reading you right in that you were saying that the Weir Commission recommendations can be implemented and that the actual assessment freeze in a sense could continue, but the right of appeal should be another issue?

MR. M. MERCURY: No, I am saying . . .

MR. D. GOURLAY: They're one and the same thing, are they not?

MR. M. MERCURY: No, they're not. Well the . . .

MR. D. GOURLAY: The way the courts have looked at it.

MR. M. MERCURY: The courts have now said to the taxpayers of Winnipeg, you can't appeal your assessment. That's what Justice Wilson's order says. The Board of Revision which is the only place you can go to appeal an inequity, they are prevented. Justice Wilson is clear. You got a copy of the order to prevent it from listening to that. All right, that's what Bill 100 does. And I say, why put that roadblock in the way?

So it means that there might be, the Board of Revision may have to listen to some appeals. So what? It may mean that some of the city assessors will have to come down and explain things. So what? What if they bring in the new assessment which they have, bring it in. So what? But you can continue to debate Weir.

I don't know, Mr. Gourlay, if you live in the City of Winnipeg, perhaps you do, I'm not sure where you live. But it certainly would strike you wrong, would it not, if one year you finally got fed up, you thought your taxes were high, times are tough and you'd better start investigating this tax? So you start snooping around and find out what your neighbours are paying and you look at the value of his house, the value of that person's house and you say, by God, I think I'm over-paying. I'm paying his taxes; I'm going to file an appeal. Now, you may be wrong, but surely you have that right to go and complain. That's all I'm saying.

MR. D. GOURLAY: I appreciate the cause that you're bringing forward tonight and I don't have any further questions at this point.

MR. CHAIRMAN: Are there any further questions from the Committee?

Mr. McKenzie.

MR. W. MCKENZIE: One more, Mr. Chairman, if I may. I'm sure, Mr. Mercury, you're familiar with the Weir documents that are now on our desks. The legislative requirements that he spelled out in this report, he mentions the three types of legislation required to implement the Committee's recommendations, can you support that part of it, the first three?

MR. M. MERCURY: I must confess that I'm not familiar with that document in that detail.

MR. W. MCKENZIE: Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you.

Mr. Adam.

HON. A. ADAM: Just a point of clarification to Mr. Mercury. The reason that the freeze was introduced by Bill 100 by the previous administration was because of the interim report. It was presented by the Weir Committee.

In their first interim report, it was recommended that the freeze be extended because of the fact that they did not feel that they could complete their work within the required time that would enable the Government of the Day to come forward with changes. I think that's the reason why Bill 100 is there.

We're faced with the same problem of having to look at and study the recommendations in order that we put something in place that will remove all these inequities in the future, not only for a year or two, but for years to come, if possible. That is the reason why we are proceeding cautiously, so that we want people out there to understand what's happening as well.

MR. CHAIRMAN: Mr. Mercury.

MR. M. MERCURY: Well, I would say I wasn't aware of Weir's recommendations. I wasn't aware that Bill 100 was going through and I think, accepting them in the first place was wrong. I think the Legislature did a great disservice to the taxpayers of Manitoba by accepting Weir's recommendations.

Weir said in his report that if the city assessor goes ahead and brings his assessment, he's supposed to do it every three years. If we let him do his duty, you know what's going to happen? We're going to have a shift, he says to the government, of taxation from urban to rural. Being a rural-oriented government, I can see politics entering into this at somebody's expense. I've read his report, his recommendations. There's going to be a shift in taxation. Oh boy, we can't do that, there's politics here. He was a former Premier of Manitoba. He could feel the pulse of things.

Well, all right, if I were a politician, I might be concerned about those things, but I'm a taxpayer and I've got my taxpayer's hat on and I say where's the justice in that?

MR. CHAIRMAN: Any further questions?

Mr. Plozman.

MR. J. PLOZMAN: Yes, Mr. Chairman, is it your understanding that the City of Winnipeg is not in favour of an extended freeze on this Act, extension of Bill 100?

MR. CHAIRMAN: Mr. Mercury.

MR. M. MERCURY: My understanding - I spoke to the Executive Policy Committee - I got a very favourable reception. I was told later that I heard Mr. Norrie being quoted as saying that there's got to be a limitation put on this.

Well, I don't know if I accept that because we've had a two-year freeze. Now the bill is intended to perpetuate this indefinitely. If the bill goes forward, perhaps the government in its wisdom by September - because it's Order-in-Council - if you read the bills, they cancel a bill at any time. Now, that could mean before the end

of this year. I would like to think that the government would not extend the provisions of Bill 100. But what you're doing, gentlemen, with all due respect, is losing sight of what I perceive to be a very fundamental, democratic right of every citizen in this province; that is, the right to redress a wrong, whether that wrong is real or perceived. So you're going to have to wrestle with principles of justice here.

Now, that may cause inconvenience to the politicians. It may cause some inconvenience to the administration, but I say to you and I appeal to you all, your sense of fairness, what does that really matter when we're dealing with fundamental principles? We don't live in Argentina; we live in Canada. We live by a rule of law, the right of redress.

I know of no case where people have been denied access to the courts or any tribunal, except in emergency situations. We saw it when they brought in The War Measures Act in an emergency. This isn't an emergency. So you really have to answer your question here. Are we, on one side, going to convenience ourselves with the problems that the administration may have or the politicians may have on one hand, with the principle of justice on the other hand that says that everybody's got a right to be heard? That's what you have to settle in your own mind.

MR. J. PLOHMAN: Yes, Mr. Chairman, I would just like to ask the gentleman whether he believes that the City of Winnipeg has so many inequities in the assessment structures as it now is that if this appeal procedure were to be opened up again at this time that it would indeed tie up the board and only go through a few cases and certainly couldn't get to all of the appeals that would come before it? Would you feel that would be the case?

MR. M. MERCURY: Yes, No. 1, I don't think that would be the case; and secondly, I say, so what? If there is a wrong, just because we're going to tie up the courts for a long period of time, somebody's going to say to me I haven't got a right to be heard. Where am I living? So what? If they didn't do their duty for 25 years, they're damn well going to listen to me. Let them stay night and day, and night and day, because I'm paying their taxes and they have those jobs because of taxpayers. If they're not doing their job, then we should fire all of them.

If you extend a freeze, why have an Assessment Department in the first place? Why do we have people at Fort Street? They haven't done an assessment eight times in 25 years. They should have done it eight times; they haven't done it at all. Now, we've given them a holiday for '81, '82 and indefinitely. Why not let them go? What are they doing? So I don't care and I'm not sympathetic with the answer, well, you know, we might tie up the courts. It might throw everything into chaos. Justice is being done and sooner or later it's going to be done and it better be done by the courts or the Board of Revision rather than have all the politicians in Manitoba besieged by letters with taxpayers and everybody saying what are you doing to me, my taxes have gone up, etc., etc? So I don't care; that doesn't appeal to me. They can sit there and they can justify their lack of doing their duty. It's about time they started to work.

MR. J. PLOHMAN: One final question. Would you believe then, it seems to me that you do agree that there are an awful lot of cases that would come forward, that pressure from the City of Winnipeg may have had something to do with the original freeze in the first place?

MR. M. MERCURY: No, I'm saying to you that my gut feel is that I asked Miss Carol Ives today, who is the secretary of the Board of Revision, how many assessment appeals did you have this year which you couldn't hear because of Bill 100, apart from these Portage Avenue property owners? The answer was 13. Thirteen, that's all. You can check it yourself; 13 people besides the property owners who got the butt end of justice in this case that went to the Court of Appeal. Thirteen have had their rights denied; they said we can't go forward. Those 13 have a right to be heard.

MR. CHAIRMAN: Mr. Adam.

HON. A. ADAM: Mr. Mercury, I appreciate your comments and your concerns. Given the fact that, say we proceed with Bill 33 in its present form, do you think that is a satisfactory way to proceed now? I know that you're opposed to it. You'd like to see it withdrawn, but given the fact that we go forward with it, is it satisfactory to you that we're sincere in wanting to change the system and we will be addressing the problem as soon as possible? Are you satisfied with the bill as it is?

MR. CHAIRMAN: Mr. Mercury.

MR. M. MERCURY: Mr. Minister, I am very convinced in your sincerity and the sincerity of everybody in this room. That is not the issue. I know the previous government and this government is trying to do something in an area which is rather sophisticated and most people in this room know very little about, except perhaps the Deputy Minister and his assistant. I don't mean any disrespectful to you, Mr. Minister, but assessments are very very difficult to understand. I appreciate and all of us here, all these taxpayers that I represent, appreciate that you are sincerely trying to do the right thing and I'm only trying to assist you because I recognize you have a political problem too and I say that the best way to handle that is to allow these appeals to go forward in the future. The world isn't going to come to an end and if somebody has to stay a few days over or if some judge is going to have to listen to this, so be it. I appreciate your sincerity; there's no question about that.

MR. CHAIRMAN: Mr. Adam.

HON. A. ADAM: The recommendations gave us two alternatives. One was to extend the freeze for one year and the other one was to extend it up to 1987. Okay?

MR. M. MERCURY: Oh my goodness, oh my goodness.

HON. A. ADAM: I chose to leave it open-ended in the event that we could not have everything in place

within one year and not wanting to come back with another bill asking for another extension. That's really the idea behind having it open-ended, but given the fact that we will probably be going ahead with this bill, do you think that it's satisfactory the way we've got it worded; that's what I'm trying to get now. I know that you're opposed to it.

MR. M. MERCURY: Well, I'm opposed to it in principle and when you say 1987, I can tell you right now I would embrace the bill as it presently stands rather than have it in 1987, unless of course we get at the same time some commitment from the government that they're going to close the Assessment Department because they won't have anything to do.

HON. A. ADAM: Thank you very much.

MR. CHAIRMAN: Any further questions?
Mr. McKenzie.

MR. W. MCKENZIE: Thank you, Mr. Chairman. Mr. Mercury, these assessment practices on downtown land, how long has that been going on - the Clarendon and Winnipeg Inn - have you any idea how long?

MR. M. MERCURY: 1957. Let me tell you something about that. 1957, we remember Portage and Main supported a parking lot and a Coca Cola sign. Remember that, Portage and Main, where the Richardson building is? Where Trizec now is, we had the old CPR building. It wasn't very good land, but a lot has taken place. There is a change and there is a form of tax freeze down there now keeping those assessments in place.

Since 1957, we saw Polo Park develop. The land under Polo Park is assessed at \$1.50 a square foot; the land under Eaton's store frontage is \$44 a square foot; the land under the Charleswood Shopping Centre is about 50 cents a square foot. I'm doing leases in my office and I can tell you that properties on Portage Avenue are getting about - well, there's a store there for rent that I'm aware of - that's \$6 net net and the assessed value of the land is \$15.00. Out at the Charleswood Shopping Centre, they're getting \$14 to \$20 net net net net net, if you all know what net net net net net means.

I can tell you at Polo Park that a friend of mine who has a shop there is paying \$55 a square foot on land that's assessed at \$1.50. In downtown Winnipeg, where you have land assessments ranging from \$15 up to \$44 and Eaton's corner is about \$60 a square foot, you don't get anywhere near those assessments. You take a look at the lands on Broadway here that have been assessed years ago at the rates that you see. You see all the development on Broadway. Land on Broadway and land on Portage Avenue is selling roughly per square foot at about the same amount and you find that the owners of the Kensington Building were forced to put up a building because of a fire, they're \$25.60 a square foot and the owners of, for example, the Imperial Towers are assessed at \$4 and something a square foot. And you are trying to rent out your building, you've got your competition down here and I'm not saying that this person down here is not paying enough in taxes. He probably is. He's

probably paying a heck of a lot in taxes. We're all paying too much taxes; but surely those few owners there, they have a right to redress.

The trouble with Portage Avenue, gentlemen, is this: all those buildings were put up long before, years ago, and none of them have any mortgages on them. If they had to service a mortgage, you wouldn't have any development. They would all be in foreclosure. We see what's happened to Mr. Golden's property. We see what's happening to the Paris Building. They're in foreclosure because they had mortgages on them. They can't afford the taxes.

Where old Zoratti's used to be and is down, that property has been vacant. It's for sale; it's land. That little piece of 44 feet of land, the taxes are \$15,000 a year. Ben Moss Jewellers, Portage and Donald, which is the bench mark for assessments in Manitoba, that property, the bench mark, the most valuable land in Manitoba in the City of Winnipeg, the heart, the basis, the pole for assessment is the corner of Portage and Donald. The Canadian Imperial Bank of Commerce was vacant, Ben Moss Jewellers was vacant and the owners of the property, Canuck Properties, had to pay for that little corner piece of property \$44,000 a year in taxes and it was vacant.

So the only people who would go to rent that property were people who wanted to put in an arcade, but the City threw up its hands - we're not going to allow arcades, not anymore. So on the one hand they say to the person, "Your taxes are high; we're going to bleed you to death. We don't care about you. We'll freeze your assessment and it's too bad. We're going to have to debate Weir; we're going to have to do all this." In the meantime you're dying, but at the same time we're not going to let you rent so you can get enough money to pay your taxes. Now, what logic is that? You go the City. They say, "It's too bad; it's the province." You go to the province and the province says, "Well, that's what the city wants." Then you get the other answer. They say, "Well, it's all the statutory officers, the assessors. We can't do anything with the assessor." So where are you?

I think the responsibility here lays with those who make the laws; those people are yourselves and I appeal to your sense of justice. We're not dealing with convenience of the administration of the Weir Commission. We're dealing with the fundamental principle of justice.

MR. CHAIRMAN: Are there any further questions? Hearing none, on behalf of the Committee, Mr. Mercury, thank you very much for appearing tonight.

MR. M. MERCURY: Thank you very much.

MR. CHAIRMAN: The next delegation is Mr. David Pearlman.

Mr. Pearlman.

MR. D. PEARLMAN: Thank you. Mr. Chairman, gentlemen, if I may, I'm in a similar predicament as Eatons and the Bay, so to speak, only my problems financially are a little different than their's. I'll give you an example.

I own a piece of property at Donald and Stradbrook, which is across the street from the Squash Club. I

decided that the taxes were too much on the land, so what I did was on April 6, 1981, I sent a letter to the City of Winnipeg Assessment Department telling them very briefly that I had received two tax bills but I had only had one Certificate of Title on the land and in my opinion, I was being taxed double and I wanted to appeal the assessment. Now, I received a letter back April 9, 1981, saying to the effect: too bad, you're out of time, come back next year. I asked them if they would please leave the letter on file and consider it as an appeal for the next year. They would not do so. They told me I would have to look through the newspapers, find out when the appeal was and come back again.

Now, very briefly what I did and I did launch the appeal. I launched the appeal this year and I did it on the basis in part that I had two tax bills. The taxes on one-half of the property were \$536.77; on the other half of the property, they were \$622.32. Now, I have actually complained about the taxes on the property for several years and because I have not been satisfied with the dealings with the City of Winnipeg, I haven't paid the taxes. I've kept it out of tax sale. The taxes owing on one-half of the parcel today are \$1,947.89; on the other half parcel, they are \$1,795.38. Now, I purchased this piece of property on or about 1970. At the time there were buildings on it - they've been taken off - and in 1970 the approximate valuation for the land was about \$1,000.00. Right now, I have on the land \$1,947 plus \$1,795 owing on taxes.

Now, I'm here to oppose the bill. I'm impressed by the Minister saying, "We're going to do it fast," and that's fine, except that I take the view, as did Mr. Mercury, it's not good enough fast. If you're to do it tomorrow, I believe that Mr. Mercury is right when he speaks about the Bill of Rights, that the bill is not legal. Now Mr. Mercury has gone to the Court of Appeal and has lost. He can on behalf of 160 businessmen go to the Supreme Court of Canada. I cannot, because I have no status in that action to do so.

Supposedly, if you pass the bill, I may be able to go to court and quash it upon the basis of the Bill of Rights. But if I were to do that, that's asking me to really get involved the way I have chosen to do it and you may find Mr. Mercury advising his clients to do it - not to pay the taxes. You can end up with a California tax strike. I don't intend to pay the taxes until this matter is rectified. Now, if you take 1 year, 2 years, 3 years, they are going to continue adding on to my tax bill what to me is an excessive amount of taxes.

Now, if you change the assessment three years down the line, five years down the line, I will not get any benefit for the reduced assessment at that time. Now, I first attempted to appeal, I was a few days out. I then, informed the City of Winnipeg that I wanted them to take a look at what I felt was comparable land also owned by me. It is smaller, but I wanted them to base it upon ratio and proportion. Let us assume that the amount of land is even a quarter. The other two pieces of land result in taxes of \$67.91 and \$42.03. The Assessment Department would not look at that. I went to the Assessment of the Board of Revision - the land that I'm referring to, owned by myself and my wife, is R3 - what they did was they gave me comparables dealing with C2. Now, I am dealing with the City of Winnipeg assessors and I feel that they're not dealing

in a fair manner.

These are the people and we have the city assessor who, in my opinion and I say this respectfully, was negligent for 25 years. Not only was he negligent, he had a whole department of assessors who were equally negligent. Apparently Section 158(1) of The City of Winnipeg Act says words to the effect that there is a statutory duty on the city assessor and the parties in his department to reassess. They haven't done this. I don't see where the Minister, with respect, is going to do things speedily with the present city assessor or with the assessors at the City of Winnipeg. If it is going to be done speedily, I suggest that an independent body be set up, that it not be the City of Winnipeg who do the reassessments.

I believe that the reason or the need for Bill 33, which goes farther than Bill 100, is because they have not performed their duties, and that the government apparently is prepared to condone the statutory duties and the neglect of 25 years and say it's okay.

I think that Mr. Mercury said that there should be a short title to the bill; a short title for this bill could be very well "A Bill to Overcome 25 Years of Neglect of the Statutory Duty and to Perpetuate Incompetency." Now, Mr. Mercury did deal with several aspects of the Bill of Rights and I believe that there are grounds for saying that Bill 33 doesn't comply with it.

The last part of the Bill of Rights is a statement by Pierre Trudeau stating very briefly, and I quote: "We must now establish the basic principles, the basic values and beliefs which hold us together as Canadians, so that beyond our regional loyalties, there's a way of life and a system of values which makes us proud of the country that has given us such freedom and such immeasurable joy." Signed P.E. Trudeau, 1981.

Now, I don't think it's very fair that I should have to pay all these taxes. There is another basis for saying that the taxes are too much. Now, all I did, was I went to the Land Titles Office across the street and they have documents there; they have books there setting out the assessment. Anybody can go and take a look at them. What I attempted to do is to show the differences in assessment and compare them to my properties. As I stated earlier, I have one title, two tax statements. The assessment for land on one, one-half is \$3,840; on the other, it's \$3,370.00. So the total is in excess of \$7,000 assessed value on a vacant piece of property.

Now, comparable or reasonably comparable property would be at 745 Lorette Avenue where the land is assessed at \$1,340; 773 Lorette, which appears to be equal, is \$700; 775 Lorette is also \$700; 925 Fleet is \$1,110; 926 Jessie Avenue is \$880; 917 Warsaw is \$940; 925 Warsaw is \$1,230; 686 Cambridge is \$1,630.00. Then, there's just a row number, care of the CNR railway, care of the Assistant Tax Commissioner, which is a piece of property in the area, \$1,250; 601 Stradbrook is \$2,830; 595 Stradbrook is \$2,830; 686 Dudley is \$1,260.00. Now, rather than just go through the rest of them, all I'm doing is a similar comparison to what Mr. Mercury did. He did it upon the basis of apparently square footage. I've done it on the assessment of reasonably comparable properties.

In my submission, my honest opinion is that I'm paying eight times as much in taxes as other compar-

Monday, 28 June, 1982

able properties. I have attempted on several occasions to appeal it. I have appealed it. I've gone before the Board of Revision knowing what they knew about the trial or the hearing before Mr. Justice Wilson. They said nothing. I knew nothing of it; I went before the board. Mr. Mercury was there; there were lawyers from the City of Winnipeg there and only after I made the submission, did they block me and say you cannot continue because there's a freeze.

I don't think it's fair and I say that if the present bill is legal according to the Bill of Rights, the way I will handle it is not to pay the taxes. You may not think it much if I don't pay the taxes on this one piece of property, but if I can make it known and others don't, the City of Winnipeg will have more problems with a tax strike than they will with the bill. That is my submission.

MR. CHAIRMAN: Are there any questions from the Committee?

Mr. Adam.

HON. A. ADAM: Mr. Pearlman, you mentioned that there should be a separate assessment body or board . . .

MR. D. PEARLMAN: Sir, if I may. I take the view that when the City of Winnipeg assesses my property and they get the taxes, they have a financial interest in getting the assessment up high and in principle of law, they become the judges in their own cause. Now, I've had difficulty with the assessors. They haven't been playing according to Hoyle. They've been playing games on giving me commercial assessments when they know I'm going before the board. When I give them properties to look at, which I feel are comparable, they refuse to look at them.

I think that if we could have an independent board set up by this government to deal not only with land in the City of Winnipeg, but all land, then at least there would not be a financial interest connected with the parties who make the assessment. There is that case now with the - not the Board of Revision, but the assessors - plus the fact that they haven't indicated that they are competent. They haven't performed their job for a quarter of a century.

MR. CHAIRMAN: Mr. Adam.

HON. A. ADAM: Mr. Pearlman, you mentioned that you had been before the Appeal Board. The last time, obviously, it was after the freeze.

MR. D. PEARLMAN: Yes, sir.

HON. A. ADAM: You have been before the board prior to the freeze?

MR. D. PEARLMAN: Prior to the freeze, yes.

HON. A. ADAM: Unsuccessfully?

MR. D. PEARLMAN: I attempted to go before the board last year and they said I was out a few days. I was before the board in 1974.

HON. A. ADAM: And not since then?

MR. D. PEARLMAN: No. If I may just make this point. I have been aware or had the feeling that the taxes have been out of line since Day One. The question is, why did I not go sooner. I did go in 1974, on part of the land. I didn't go after that because we had a buoyant economy, I didn't want to waste my time and I didn't know what the results would be; but we've come into an economic climate where it has become crucial. I have a vacant piece of land, the taxes are in excess of \$1,000 a year and I'm not able to move that piece of property readily under the present economic circumstances. I have to hold on and it's difficult to hold on at the rate of approximately \$100 a month when I get no services. There is no connected water or sewer to the land. I have a little piece of property that I can't do anything on at the present time. Things are not that good and I don't think I can continue to pay an excessive amount of taxes. The only way I can handle it is not to pay, let it go into tax sale and then redeem it with just enough money to keep it out.

MR. CHAIRMAN: Any further questions?

Mr. McKenzie.

MR. W. MCKENZIE: Mr. Pearlman, this bill that's before us, Bill 33, is amending it to subsequent years; there's no definite date on it. By the time that day arrives, you likely will not have that property unless you regain it by the tax sale that you suggested.

MR. CHAIRMAN: Mr. Pearlman.

MR. D. PEARLMAN: No, but what I will do, sir, is I will pay the taxes just before it goes at a tax sale each year. Now, the present interest on the tax bill is something like 18 percent, so what I do is I pay the one-year's taxes plus the 18 percent interest on the taxes in order to keep it out.

MR. CHAIRMAN: Any further questions?

Mr. McKenzie.

MR. W. MCKENZIE: Am I correct, Mr. Pearlman? Are there taxes in arrears on the property now that's in the amount of \$1,947 on the one parcel and \$1,795 on the other?

MR. D. PEARLMAN: Yes, sir. On one is \$1,947.89; on the other is \$1,795.38.

MR. W. MCKENZIE: Mr. Chairman, are there property buildings on the property that you mentioned, Mr. Pearlman?

MR. D. PEARLMAN: There are no buildings. It's vacant land.

MR. W. MCKENZIE: Vacant land. Mr. Chairman, I wonder, Mr. Pearlman, what we could do with this legislation that's before us tonight, Bill 33, to help you resolve your problem. What suggestion would you offer to us as legislators?

MR. D. PEARLMAN: With respect, I would submit that

it should be dropped. That will enable me to go back to the Board of Revision. I believe that I can lower the assessment to one-eighth of what it presently is. Let us assume that I do that. It won't help me in previous years. If I paid too much money for the last 10 years and I prove it, apparently under The City of Winnipeg Act, that will not benefit me. The only benefit that I can get is from today into the future, or alternatively from the 1982 tax bill into the future.

MR. W. MCKENZIE: That's all I have. Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Adam.

HON. A. ADAM: Mr. Pearlman, if we proceed with this bill, it's worded in such a way that it can be rescinded or lifted at any time.

MR. D. PEARLMAN: In Winnipeg as well, sir?

HON. A. ADAM: The way it is worded, that it can be lifted by Order-in-Council whenever we are ready to proceed with legislation in regard to assessment, is that satisfactory to you?

MR. D. PEARLMAN: Well it is not, because I don't believe that the bill is legal, period. I believe that it's in the nature of a penal statute dealing with taxation and that once someone cannot appeal an assessment, I think that causes the bill to be void. I want to be in a position of lowering the taxes now. If I want to sell the land and someone takes a look at the taxes, it causes me problems. Lower taxes would encourage them to buy it and build something on that property.

The question is how long can anyone hold on? Mr. Mercury deals with what I would have considered to be very wealthy people with big buildings on Portage Avenue and yet I don't think Mr. Mercury has to convince us that Portage Avenue is a disaster area. I've counted something like 15 vacant buildings on the north side of Portage Avenue and I believe 5 on the south side and that's only on the main floor. There are vacancies on the upper stories of these buildings. I'm on Portage Avenue in the Avenue Building next to the Paris Building. I know what's going on in that area.

Now if Mr. Mercury's clients, who are the most substantial citizens in the City of Winnipeg, are having problems, you can imagine what problems I or other small people have. It's no answer, as far as I'm concerned, to tell me, "Well, so the City of Winnipeg was negligent for 25 years, you have to pay for it and you're going to continue paying for it." Get another city assessor, get another Assessment Department, get somebody outside of the City of Winnipeg. I suggest that maybe you should ascertain the qualifications of the city assessor and the people who do this job. Possibly this time we can get somebody who knows what they're doing.

HON. A. ADAM: Just one last question. Did you make a presentation when Bill 100 was introduced?

MR. D. PEARLMAN: No, sir, I did not. I did not know of Bill 100, never heard of it. I don't know if they advertised it.

HON. A. ADAM: They must have. I can't be sure but . . .

MR. D. PEARLMAN: I never heard of it and can't believe it.

MR. CHAIRMAN: Any further questions, Mr. Adam?

HON. A. ADAM: No.

MR. CHAIRMAN: Any further questions from the Committee? Hearing none, Mr. Pearlman, thank you very much for appearing.

MR. D. PEARLMAN: Good evening.

MR. CHAIRMAN: The next name on our list is Mr. Harry Peters.
Mr. Peters.

MR. H. PETERS: Good evening, Mr. Chairman, members of the Committee.

I'm here on behalf of the Manitoba Bar Association. Specifically, I serve as Chairperson of the Civil Liberties subsection of the Manitoba Bar Association. I'd like to preface my remarks about Bill 33 by saying that I really had little time to put this matter before our general membership, but the gist of my comments tonight have been discussed by the executive of the Bar Association and agreed to by them and we're certain that our membership would concur with those comments. I must admit that I'm a little bit unprepared to speak on this bill tonight because of a misreading of the bill and a complete misjudging of its effect and import.

As Mr. Mercury said before me and most of my comments will echo his, sophisticated people read Bill 100 and didn't realize that its effect was to freeze the appeal process and tax assessments and I think to answer an earlier question, I feel that's probably why. People who read it initially didn't realize how the court was going to interpret it.

My initial reaction on reading Bill 33 was I better look at Bill 100, because Bill 33 doesn't tell you very much. You go to Bill 100 then and I'm afraid I wasn't reading it as carefully as I should - I wasn't looking for loopholes - and my initial reaction was, "Boy this is great. What are people complaining about? It's a tax freeze." And so about a week ago, I said, "Well, I don't think this is a Civil Liberties issue."

My reading of it is it's a simple tax freeze in a roundabout way. Assessment values will be frozen at 1980 and consequently due to inflation, there won't be any reassessments and taxes won't go up. I submit that in answer I think I'll be a little bit more charitable than Mr. Mercury. I have a feeling that Bill 100 was initially recommended on that basis. It would relieve some work that the city assessors had to do and they could address their minds to a revamping of the whole tax system. I don't think for one minute they had an idea that the courts would interpret it as Mr. Mercury has indicated.

I'm certain that Bill 33 was put forward under the same impression, that in a sense it would relieve administrators of doing day-to-day work while they got on with revamping the whole system. I think when

I hear that some persons are recommending that Bill 33 include a provision that extends the freeze till 1987, I seriously wonder whether those recommending such an extension are aware of the decision Mr. Mercury has referred to. This decision, I am advised by looking at it, only came down June 17th of this year.

I would recommend that those people, who made that suggestion that it be extended indefinitely as the bill presently suggests, I think that they should take a look at that decision and ask, "What's the recommendation now?" It's quite obvious that the Legislature has, in my mind, had its intentions frustrated by the courts. The courts have perhaps misinterpreted the best intentions of the last government and this government and now that we've got this decision, I think perhaps it's up to this Committee and the Government to say, "Hold your horses, we've got to look at this bill in a completely new light. We've got to look at it in light of this decision." I think that's what this Committee's job is. I'm glad Mr. Mercury's case came before the courts just in time to apprise this Committee of the bill and its true effect, because the bill is no longer the way I feel the Legislature intended it to be. It's the way the courts have interpreted it. You're hamstrung by that interpretation and that I think is what made me realize that this is a Civil Liberties issue.

Unfortunately, I left my Charter at home and I won't bore you. I didn't even have time to buy a new pair of shoes tonight. So anyways to be brief, I think the judicial interpretation has to cause some concern by this Committee. I feel that the bill has to be amended so that the provisions of The City of Winnipeg Act, which give a taxpayer the right of appeal, are not overridden by Bill 33 if it is the intention of your Committee to pass Bill 33, because I don't feel that was the intention of the Legislature, when they passed Bill 100, to take away the right of taxpayers to have a fair hearing in court. I think that some attention has to be paid to that.

So I'm appearing today on behalf of the Bar Association who briefly, I believe, would stand by the general principle that whenever a law takes away a right of appeal either directly or indirectly as this bill appears to be doing, it is the duty of lawyers to speak on that, to advise the public and to oppose that legislation. Accordingly, the recommendation of the Manitoba Bar Association, we take the view that Bill 33 be amended so that it does not override the provisions of The City of Winnipeg Act, which entitle a ratepayer to appeal an inequitable tax assessment.

Those are my comments. Thank you.

MR. CHAIRMAN: Thank you very much, Mr. Peters. Mr. Adam.

HON. A. ADAM: Mr. Peters, Bill 100, when it was introduced, was intended to impose a freeze.

MR. H. PETERS: Yes.

HON. A. ADAM: There were no other intentions. There were no other reasons for that bill. It was intended to implement a freeze until such a time as the Weir Report would be introduced to the government and that the government had time to deal with the recommendations in order to bring in an amendment

to The Municipal Act to remove the inequities that have built into this present system over the years. It wasn't to reduce taxes. It was just to give lead time, I suppose, to the government. Policy changes are necessary and administrative mechanisms have to be put into place to remove those inequities. Of course, it only affects the City of Winnipeg in the main because the City of Winnipeg has its own Assessment Department and rural Manitoba comes under the Provincial Assessment Branch.

MR. CHAIRMAN: Is that a question, Mr. Adam?

HON. A. ADAM: No, it's just as to clarification.

MR. H. PETERS: I'd like to reply to it, Mr. Chairman. By a freeze or a reduction in taxes, I meant that with the passage of time and the inflation of all other values, one thing that wouldn't change would be the evaluation, the value of property, if you see what I mean. The Assessment Department wouldn't come in and say, well, property has inflated in value so much, so your taxes are going up, not because of any improvements you've made on the property, but just because of general inflation. That's what I mean by saying that it appears to be on the face of it to me or did appear to be a sort of convoluted tax freeze. I still see it as a freeze of values based on 1980 rates that are fair. I did not, up until being apprised of the decision of the Court of Appeal, see it as being a bar to appealing unfair tax assessments, but that's the way the court has interpreted it and I'm, as a lawyer and as a taxpayer myself, stuck with that. I'm happy to say that I'm satisfied with the assessment on my house and it suits me fine but someone else, I assume there are lots of people who feel the way Mr. Pearlman does.

I'd also like to address the issue of the fact that this bill does only affect citizens of Winnipeg and, I believe, that's another civil liberties issue. Why are we being discriminated against? I feel it is discriminatory to take away a fundamental right which is the right to challenge the decision of administrators before a fair and impartial board or tribunal. And I think that right is being permanently abridged by Bill 33 and that is what we're here to talk about; those are our views.

HON. A. ADAM: Could I ask you the same question Mr. Peters? Did you make a presentation when Bill 100 was introduced?

MR. H. PETERS: No, and I don't even recall the bill passing through the Legislature. I don't think I ever even read anything about it but, as I indicated, I believe that was because of a general misinterpretation of the effect.

HON. A. ADAM: Bill 33 is an extension of Bill 100 which has been recommended by the Assessment Review Committee. An extension of the freeze has been recommended, as I mentioned to other people who made presentations, that Bill 33 is an extension of Bill 100 which was recommended by the Assessment Review Committee.

MR. CHAIRMAN: Is that a question? Are there any further questions?

Monday, 28 June, 1982

Mr. Plohman.

MR. J. PLOHMAN: Mr. Chairman, I noticed that Mr. Peters said that he feels that the courts have really largely misinterpreted the effect or intent of Bill 100 - that's your feeling. What section in Bill 100 do you feel the court interpreted as meaning no appeal? What section of that bill? Are you saying the whole bill or a particular section or line in there that deals with appeals? Are you familiar with the bill?

MR. H. PETERS: Yes, I am.

MR. J. PLOHMAN: Is it just a matter of the whole intent or are there some sections in there that deal with appeals?

MR. H. PETERS: It's actually just one phrase; I'm afraid I can't put my finger on it now. It's Section 4.1. It's the interpretation of the phrase "level of values" and the bill, as I understand it, freezes the level of values at 1980 values for the years 1981 and 1982. Mr. Justice Wilson and the Court of Appeal took that to mean whatever the level of values were in 1980, whether they were inequitable; those were the level of values that the taxpayer, the ratepayer, was stuck with. Now, I would submit that the general intent of Bill 100 could still exist and carry on if a notwithstanding clause was slightly modified. If you read Bill 100, there is a provision in there that says notwithstanding anything in The City of Winnipeg Act. Now that's what the Court of Appeal, that's what the courts have hung their hat on. They say that Bill 100 overrides anything in The City of Winnipeg Act.

So if you worded Bill 33 to say that section was more narrowly defined except notwithstanding The City of Winnipeg Act except for those provisions that give a ratepayer the right of appeal, then it's my feeling that the bill is tolerable - because it allows people who suffer inequities to still appeal. They would appeal back to 1980 rates or whenever the last assessment was done; they'd be stuck with those values. Their property would be assessed on the basis of other properties' values in 1980. So my submission is that I feel Bill 33 perhaps could go on as long as the citizen was guaranteed his right of appeal which is provided for in The City of Winnipeg Act because I think the intent of the Act when it was initially proposed was not to take away a ratepayer's right to appeal an unfair, inequitable tax assessment. It was meant to free the city assessors to do other business.

MR. CHAIRMAN: Any further questions?

MR. CHAIRMAN: Mr. McKenzie.

MR. W. MCKENZIE: Mr. Chairman, I have, Mr. Peters, before me the decision of Judge Wilson which Mr. Mercury referred to earlier. You mentioned another case that you referred to, an appeal case of another nature on the same subject matter?

MR. CHAIRMAN: Mr. Peters.

MR. H. PETERS: Well, that same case, Mr. McKenzie, was appealed to the Court of Appeal.

MR. W. MCKENZIE: Oh, that's the one we're not familiar with.

MR. H. PETERS: Well, it's the same parties and I don't think Mr. Mercury distributed the decision of the Court of Appeal, but basically it reiterates Mr. Justice Wilson's opinions and says he's right.

MR. CHAIRMAN: Any further questions from the Committee? Hearing none, Mr. Peters, thank you for attending tonight.

MR. H. PETERS: Good evening.

MR. CHAIRMAN: Our next delegation is Mr. R.O. (Bob) Douglas.

Mr. Douglas. Do you have copies of your submission Mr. Douglas?

MR. R. DOUGLAS: Mr. Chairman, members of the Committee, I'm pleased to have the opportunity to appear before you tonight on Bill 33. Mr. Chairman, we have made our views known in correspondence to Mr. Adam in opposition to this bill. The Farm Bureau was concerned about Bill 100 when it was introduced and was before your Committee and has consistently opposed that provision of the freezing of the level of assessment in the City of Winnipeg and has made our views known to the previous government and the present government. When Bill 33 appeared, it was of concern and we took the matter up with our people again and their position is that they're opposed to the provision of extending the freeze on the level indefinitely.

Mr. Chairman, if there is some other provision where it might be limited to a very limited time we would be willing to maybe live with that, but the farm community certainly isn't prepared to go on indefinitely with the matter of the level of assessment in the City of Winnipeg being frozen while our assessment continues to rise. The implication to us is that at some day in the future when there's a reckoning the City of Winnipeg will not come back to the same level as rural Manitoba or it will be difficult to do so. Thank you.

MR. CHAIRMAN: Are there any questions for Mr. Douglas?

Mr. Adam.

HON. A. ADAM: I'm wondering, Mr. Douglas, would you agree that the way the bill is worded that it can be lifted at any time by Order-in-Council.

MR. R. DOUGLAS: Yes, we agree that's a possibility, but we are very much afraid that's going to get extended indefinitely and we're not prepared to live with that.

HON. A. ADAM: Would you suggest that we proceed with the recommendations of the Assessment Review Committee and put it one year or seven years, up to 1987, which would mean five years from now?

MR. R. DOUGLAS: Mr. Adam, our position is that we don't want it extended at all but if you have to, one year is the absolute limit and certainly not to 1987.

Monday, 28 June, 1982

HON. A. ADAM: I wonder if I could ask you, since you're representing a farm group, Mr. Douglas, whether you support the recommendation of the Assessment Review that farm residents and some outbuildings be assessed and taxed.

MR. CHAIRMAN: Mr. Douglas.
Mr. Gourlay, on a point of order.

POINT OF ORDER

MR. D. GOURLAY: I think we're getting into debating the Weir recommendations and not addressing ourselves to Bill 33.

MR. CHAIRMAN: I think Mr. Gourlay's point of order with respect to the Minister is well taken. However, it may be possible that the Minister's question is somehow related to the bill, so perhaps we should hear him out.

HON. A. ADAM: Of course, Mr. Douglas does not have to answer but if he wishes to do so, it would certainly be helpful to the Committee to know the views of the Farm Bureau on that very very important issue.

MR. CHAIRMAN: To the point of order that Mr. Gourlay raised then, Mr. Adam, the rules with regard to comments being directly relative to the bill are very specific in committee and are very narrowly defined, so I have to respect Mr. Gourlay's point of order then, if the question is not somehow directly related to the bill.

Are there any further questions, Mr. Adam? Are there any further questions from the Committee?

Mr. Bucklaschuk.

MR. J. BUCKLASCHUK: Mr. Douglas, you had stated that you had opposed Bill 100, the City of Winnipeg freeze. Could you just clarify your reasons for your opposition?

MR. CHAIRMAN: Mr. Douglas.

MR. R. DOUGLAS: Mr. Chairman, the reason is that what we could see is the assessment in the City of Winnipeg being frozen at a level and rural assessment continuing to climb, because that's what is really happening in the present situation; then we could see down the road sometime a very difficult situation of trying to get back on to at least the basis we were in 1980. In fact, politically, we're not sure it's ever going to happen and that's why in the rural areas, once people understand what the significance is, they are very much opposed to it. The other part of that argument is that we've been kind of willing to live with it up until this point in time because there was the possibility of a committee report coming that might look at the total picture and we can deal with it in that context.

MR. J. BUCKLASCHUK: One of the previous spokesmen - I believe it was Mr. Mercury - had indicated that when the freeze was lifted there would be a further shift to rural Manitoba. Would you agree with that assessment?

MR. R. DOUGLAS: Mr. Chairman, that depends entirely upon your assumptions as to what, under the present system or under a new system, would happen. We have now operating under a new manual, Rural Assessment, of two years ago and under that basis I think the assumptions were incorrect and that wouldn't happen, but it's possible it could happen.

MR. CHAIRMAN: Any further questions from the Committee?

Mr. McKenzie.

MR. W. MCKENZIE: Thank you, Mr. Chairman. Mr. Douglas, did the Farm Bureau get a response from the Minister to your letters?

MR. R. DOUGLAS: No.

MR. W. MCKENZIE: Would you agree that maybe this Committee, if we were to leave the right to appeal, until the new bill is proclaimed - would that be satisfactory?

MR. R. DOUGLAS: Could you repeat that again?

MR. W. MCKENZIE: If somehow in this bill, we could change the subsequent years and put in an appeal section. Leave the right to appeal an assessment practice until the new bill is proclaimed, would that be satisfactory to the Farm Bureau?

MR. R. DOUGLAS: No, partly it solves it, but it doesn't change the level. The rural assessment level is moving up and is now at 1982 level. The City of Winnipeg is still at 1980. The appeal solves one part of the problem for the City of Winnipeg and those people who live therein, but it doesn't solve our problem.

MR. W. MCKENZIE: That's all, thank you, Mr. Chairman.

MR. CHAIRMAN: Any further questions from the Committee for Mr. Douglas? Hearing none, Mr. Douglas, thank you very much for appearing tonight.

The next delegate to the Committee is Mr. D.G. Lowry or Mr. Murray Sigmar.

MR. M. SIGMAR: Mr. Chairman, Mr. Minister, Committee members, my name is Murray Sigmar and I am the President of the Winnipeg Real Estate Board. I am appearing here this evening before you in that capacity.

The Winnipeg Real Estate Board is gravely concerned that the Legislature is considering enactment of Bill 33, a bill whose apparent purpose is to suspend in the City of Winnipeg in particular, and in part in other municipalities throughout Manitoba, the orderly reassessment of real property and appeals therefrom during an indefinite future.

Mr. Chairman, our board is aware that the Legislature is considering a report respecting municipal assessment in Manitoba and that in the future some changes in the manner or underlying principles of municipal assessment within this province may be implemented. To suspend the orderly operation of the assessment system within the province pending the implementation of that report or its rejection, as the

case may be, is to compound even further inequity and injustice to many Manitobans whose assessments are by the operation of Chapter 71, the Statutes of Manitoba, 1980, frozen at 1980 assessment levels without the right of appeal and without hope of reassessment.

We are of the opinion at the Winnipeg Real Estate Board that the necessity for these statutes arises at least in part from the failure of the City of Winnipeg to comply with the law requiring orderly and regular reassessment of real property within the city. As a result of that failure, many electors in the City of Winnipeg have been compelled to suffer continuing injustice and possibly unfairly, onerous real property tax liability.

Where assessments in a community are not subject to regular and ongoing review and reassessment, uncertainly as to the real property tax liability arises. A potential user of land within municipal boundaries, finding that land has not been reassessed for a substantial period of time, may well be deterred from making improvements to or developing that land and its improvements or purchasing land with improvements for fear that the ultimate tax costs of ownership may be very greatly increased by long, delayed assessment procedures.

The Winnipeg Real Estate Board fears that the undue and unlimited extension of the operation of the Act respecting the assessment of property for taxation in municipalities in 1981 and 1982 will act as a very significant deterrent to the development and improvement of real property within the City of Winnipeg. Our concern is not limited to commercial properties in the downtown area but indeed extends to the whole of the city and to the many incidences where resident electors in the city can and may be caught ultimately by significant tax increases resulting from overlong delay in the assessment review and revision process.

Mr. Chairman, members of the Committee, please recognize this bill for what it is - a suspension for an indefinite future period of time of the rights of property owners and taxpayers in this province and, in particular, in the City of Winnipeg. The inequity is compounded by the fact that the application of this particular Statute is uneven within Manitoba, affecting residents of the City of Winnipeg to a degree that it does not affect other Manitobans. It was sufficiently objectionable that such inequities should be imposed for a limited period of two years, but it is absolutely unacceptable that it should be continued and for an uncertain future period of time relieved only by possible suspension of the application of the Act by decree of the Cabinet.

So, Mr. Chairman, we respectfully submit that this bill ought not be forwarded to the Legislature; that this bill should be returned to the Minister and department from whence it came and that the inherent unfairness which it represents be brought to an end at once. Thank you.

MR. CHAIRMAN: Thank you, Mr. Sigmar. Are there any questions for Mr. Sigmar?

Mr. Blake.

MR. D. BLAKE: Thank you, Mr. Chairman, a question

to Mr. Sigmar, if he would care to express an opinion.

There has been some fairly strong criticism of the City of Winnipeg Assessment Department that we've heard this evening. Would you agree with that criticism to some degree?

MR. M. SIGMAR: Yes, I do.

MR. D. BLAKE: Thank you.

MR. CHAIRMAN: Any further questions Mr. Blake?

MR. D. BLAKE: No, that's fine.

MR. CHAIRMAN: Any further questions from the Committee?

Mr. Bucklaschuk.

MR. J. BUCKLASCHUK: Yes, it's a question about the first paragraph. You indicate that the purpose of Bill 33 was to suspend in the City of Winnipeg, in particular, and in part in other municipalities throughout Manitoba. Which municipalities are we speaking of?

MR. M. SIGMAR: Thank you, Mr. Chairman. I am sorry for these words in there, but I look at Article 4 here again that suggests, yes, all municipalities outside of the City of Winnipeg do have the right of appeal, so it is just the City of Winnipeg.

MR. J. BUCKLASCHUK: Another question on page 2. I'd just like some elaboration on this. The last four lines says, "A potential user of land within municipal boundaries, finding that the land has not been reassessed and so on," then you indicate, "or purchasing land with the improvements for fear that the ultimate tax costs of ownership may be very greatly increased by long, delayed assessment procedures." In that particular case, would it not be of benefit to the owner to have the freeze lifted as late as possible?

MR. M. SIGMAR: Thank you, Mr. Chairman. I think that if I hear the question right, I think that this goes on to deal with some of the property that was referred to by others that spoke here this evening, that developing that land and its improvements or purchasing land with improvements for fear that the ultimate tax costs of ownership may be very greatly increased by long, delayed assessment procedures. The thing is that the way we have received Bill 33 or the suggested implementation of Bill 33 that there is delay and people are not in a position to say when they are going to be able to know what the tax structure is going to be.

MR. J. BUCKLASCHUK: I'm still not too clear on that. I gather that what you're saying is that when a person purchases his land with improvements that the assessed value of that land would have been at 1988 assessment levels. Then when the freeze comes off they may be hit with a fairly substantial increased assessment.

MR. M. SIGMAR: I guess it could be going both ways. I think that there was a case referred to where a person bought property down on Portage Avenue is losing a

lot of money, tax assessments are very high, no right of appeal, can't do anything about it, of course, finds himself in a very very serious position.

Then the other thing is, of course, what is coming? The Assessment Department of course is not following necessarily any procedure here.

MR. CHAIRMAN: Are there any further questions?
Mr. Adam.

HON. A. ADAM: Mr. Sigmar, could you advise the Committee whether or not the Winnipeg Real Estate Board made a representation in opposition to Bill 100?

MR. CHAIRMAN: Mr. Sigmar.

MR. M. SIGMAR: No, I don't believe that the Winnipeg Real Estate Board - in fact, I know that the Winnipeg Real Estate Board did not. In questioning that, before I came to the meetings, was that they were really not aware of this. I guess at that particular time, if they were, it was possibly something that was being done that was temporary at that particularly time. I think I must say that really they did not present any brief; they did not speak to that.

MR. CHAIRMAN: Mr. McKenzie.

MR. W. MCKENZIE: Thank you, Mr. Chairman. Mr. Sigmar, you haven't referred to it in your brief, but may I ask you if in fact you checked to see if this legislation is in conflict with the Charter of Rights?

MR. CHAIRMAN: Mr. Sigmar.

MR. M. SIGMAR: Thank you, Mr. Chairman. I certainly would think it is. I have really found that it was great to be here this evening because of the gentlemen that have spoken ahead of me that have possibly put a lot more effort, time and study into this. I think that really where it boils down with the Winnipeg Real Estate Board and its members, of which we are a body of about 1,700 brokers and sales people, that we can't understand how this could continue. I think this is an opportunity for a government to recognize that this is totally unfair to have a tax system set up like this, an assessment, and no right of appeal. If there would have been always a right of appeal, they are not necessarily flocking to the doors; but I think that in Mr. Mercury submitting to this Committee some definite cases of inequity, it's just unreal that this should be happening in this day and age in the City of Winnipeg. I think that with our membership we just oppose this, that there should be no appeal for a little old widow over on Queen Street, if some tax assessor nails some heavy taxes on there, she has no right of appeal. She just has to go down, pay it and be told "pay or else." We think it's wrong.

MR. CHAIRMAN: Are there any further questions for Mr. Sigmar?
Mr. Bucklaschuk.

MR. J. BUCKLASCHUK: I have one further question. While I realize the main thrust here is your concern

about developing the orderly reassessment of real property and reimplementing the appeals procedure, at the bottom of the first page of your submission you deal with the failure of the City of Winnipeg to comply with the law requiring orderly and regular reassessment of real property within the city. From what we have heard from other persons this evening, it appears that it hasn't been working effectively for the past 25 years or so. What, if I may ask you, would be your suggestions for ensuring that the City of Winnipeg complies with the law as it was intended?

MR. CHAIRMAN: Mr. Sigmar.

MR. M. SIGMAR: I think that it will take this government or some other government in this province to suggest that they better clean up their act and possibly spell out to them what type of a job has been done in the last quarter century. It's, I guess, for many ordinary lay people and many people in business - they have no idea that the Assessment Department has not been following these procedures.

MR. CHAIRMAN: Are there any further questions for Mr. Sigmar?
Hearing none, thank you very much, Mr. Sigmar.

MR. M. SIGMAR: Thank you.

MR. CHAIRMAN: The next person on our list is Mr. Abe Arnold, Manitoba Association of Rights and Liberties. I don't see Mr. Arnold at the present time.
Mr. Lloyd McGinnis, Winnipeg Chamber of Commerce. Is Mr. McGinnis here?

Mr. Donald McCarthy, Monarch Life Insurance.
Mr. Mercury.

MR. M. MERCURY: Mr. Chairman, Mr. Donald McCarthy could not make it tonight and he asked me to convey his apologies. He's the Secretary of the Monarch Life Insurance Co. That building is in appeal and they went to appeal their assessments this year and they were told they could not appeal their assessment. It came as a shock to them that they were frozen out.

Mr. Roy Evans has asked me to make a statement . . .

MR. CHAIRMAN: Mr. Roy Evans was on our list for Eaton's of Canada.

MR. M. MERCURY: That's right, Mr. Roy Evans is the Chief Assessment Officer for the T. Eaton Co. and he's headquartered in Toronto. He had asked me to see that his name got on the agenda. He wanted to come out but unfortunately due to short notice he wasn't able to come, but he did want to make a statement to this Committee. So the T. Eaton Co. wanted to have their own man here to make a statement because they view this very seriously.

Mr. McCarthy, the Secretary of the Monarch Life and there's another person, Mr. Lorne Dyke, Canartech, who used to be the Deputy Minister of Industry and Commerce once in this government, who is also the Chief Officer of the Boeing of Canada Co. here is now with Canartech. He asked that his name be put on the agenda. Unfortunately, he was out of town today

and notice was not adequate for these people and I can understand that, but they asked to have the right to address this Committee and I'm just conveying the message that was given to me. Unfortunately, the schedule - they just couldn't be here.

MR. CHAIRMAN: Mr. Mercury, we are sorry that more notice is not always possible, but thank you very much for conveying their regrets and their concern about the bill.

MR. M. MERCURY: Is this Committee going to continue with these hearings on Bill 33 or is it terminating tonight?

MR. CHAIRMAN: The Committee will terminate at the last call for delegations. I will call the names of those who are absent one more time, other than the three you mentioned, and then we will begin clause-by-clause consideration if that's the will of the Committee. That's the normal practice.

MR. M. MERCURY: Thank you.

MR. CHAIRMAN: Thank you.

Once again, Mr. Abe Arnold. Mr. Arnold.

Mr. Lloyd McGinnis. Mr. McGinnis.

Gentlemen, that concludes the list of delegations who gave an indication they wished to appear before the Committee on the bill. What is your will and pleasure?

Mr. Gourlay.

MR. D. GOURLAY: I was wondering if we could recall Mr. Douglas from the Manitoba Farm Bureau back for one or two questions with respect to his comment just when he was here previously.

MR. CHAIRMAN: That's of course up to Mr. Douglas if he's willing to answer further questions. It's certainly the Committee's prerogative to recall him. Is that your will and pleasure, to recall Mr. Douglas? Agreed? (Agreed)

Mr. Gourlay.

MR. D. GOURLAY: Yes, it was with respect to your comment, Mr. Douglas, about the reassessing in the rural municipality or the rural part of Manitoba where the rural municipalities and urban centres were being assessed at 1982 levels. I'm just wondering if you could further explain that comment.

The assessments were frozen and the assessments that are taking place in Manitoba as I understand it are based on the 1980 values, that were used in 1980, are still being used at the present time. You made a comment that the unfairness of Bill 100 is that the municipalities are being assessed at 1982 levels.

MR. R. DOUGLAS: Yes, I think I understand that to be the case and then what you do after you do your 1982 is you do your equalized assessment. But I don't think there's a municipality in rural Manitoba that isn't beyond six years, eh? The provincial Act provides reassessment every five years, within five years. We have municipalities reporting to us that they have had two assessments in the last three years and being

reassessed this year again.

My contention is from the rural areas that we are a great deal more up to date in the rural assessments than the City of Winnipeg. I've been one of the critics of the City of Winnipeg assessment procedure and how far it's out of date. I've had difficulty getting people to accept that or understand. They thought I was being a critic representing rural areas; where the real problem is, is in the city. Now, it only comes into play when you apply a tax, like on the foundation levy, across the total province but it does mean quite a few dollars. I didn't bring the figures of the assessment in '80-81. We don't have '82 yet, but we've got assessments going on in '82 now.

MR. D. GOURLAY: The reason I wanted you to come back was just a matter of clarity in that the assessments that are being undertaken in rural Manitoba since Bill 100 was passed is continuing on the same basis as those municipalities that were assessed in 1980. So the factors that are being used represent the same values that were used in those assessments prior to Bill 100. Of course, there's 100-and-some odd municipalities outside of the City of Winnipeg where the City of Winnipeg is one municipal area.

MR. R. DOUGLAS: Yes, but, Mr. Chairman, I think I understand - you're using the new manual in rural areas and you're not using that - if we were doing Winnipeg, we don't even have a new manual. Even at its 1980 level, certainly, you've always got to be somewhere behind, eh? But the value of Winnipeg, we're using 1957 values in Winnipeg on buildings. Then we take three-quarters of the assessment in Winnipeg and two-thirds in the rural to try and make it equal. I don't think it's equal at all.

MR. D. GOURLAY: I don't dispute the fact that the rural part of Manitoba is further ahead on their assessments than the City of Winnipeg. The fact is, I think, that it should be on the record that there's no change taking place today than what was in place in 1980, when the municipalities were being reassessed in 1980.

MR. B. DOUGLAS: Mr. Chairman, my contention is though that we're more up-to-date and therefore we're closer to the current level of assessment where the City of Winnipeg hasn't changed.

MR. D. GOURLAY: Well, all I'm saying is that was known at the time Bill 100 was brought in.

MR. B. DOUGLAS: Yes and I think I'm appearing here opposing any further extension of it.

MR. D. GOURLAY: I just wanted to get this on the record. I thought it may have left the wrong impression when you said that when the assessors in the province are going out and doing municipalities in 1982, they're using updated values since Bill 100 was passed and I don't think that's a fair statement. I don't think it's accurate.

MR. B. DOUGLAS: I'm not sure I can argue with you on that on the value, but the value and the assessment

is more up-to-date in the rural area and therefore the assessment, when you come to do assessment in the province under the foundation levy, the rural area is paying more relevant to the city than if the city wasn't frozen as it was in 1980. We've done the figures for 1981. We didn't do them for the current year, but we could go back and you take your educational program, run it across the province, see how many dollars are involved and it's quite a lot.

MR. CHAIRMAN: Are there any further questions for Mr. Douglas?

Mr. Gourlay.

MR. D. GOURLAY: I think that covers the points that I wanted to raise.

MR. CHAIRMAN: Thank you very much, Mr. Douglas. Are there any further representations from persons whose names were not on our list with respect to Bill 33? The other three bills before the Committee are Bill No. 50, An Act to amend The Crown Lands Act and the Municipal Assessment Act - is there anyone here wishing to make representations on that bill?

Bill No. 32, An Act to amend the Municipal Act - is there anyone here wishing to make representation on that bill?

Bill No. 63, An Act to amend the Credit Unions and Caisses Populaires Act - is there anyone here wishing to appear on that bill?

Hearing none, that would appear to conclude our representations. Gentlemen, how do you wish to proceed for clause by clause?

BILL NO. 50 - THE CROWN LANDS ACT AND THE MUNICIPAL ASSESSMENT ACT

HON. B. URUSKI: Mr. Chairman, I wonder if I could have the indulgence of the Committee. I have staff here if there are any questions with respect to Bill No. 50 - a relatively short bill, but if that would be agreeable to the Committee?

MR. CHAIRMAN: Is that your will and pleasure?
Mr. Plohman.

MR. J. PLOHMAN: Mr. Chairman, I don't think there's any reason why we have to keep those people here. I think we should deal with that. That's my feeling.

MR. CHAIRMAN: Bill No. 50, An Act to amend The Crown Lands Act and the Municipal Assessment Act, Clause 1—pass; Clause 2 on page 2—pass; Clause 3—pass; Preamble—pass; Title—pass. Bill be reported.

What is your will and pleasure with regard to the other three bills - numerical order?

BILL NO. 32 - AN ACT TO AMEND THE MUNICIPAL ACT

MR. CHAIRMAN: Bill No. 32, An Act to amend The Municipal Act, Section 1 through Section 6, inclusive—pass.

I'm advised by Legal Counsel that there's a correction in Section 7(0), the last line thereof. Apparently there's been a typographical error, so it should read

"fire fighter or a driver." The word "adviser" comes out and "a driver" goes in, if we can make that change. So it would read "a volunteer fire fighter, a driver or attendant of an emergency vehicle." Is that agreed?

Section 7 as amended—pass; Section 8 through 14, inclusive—pass; Preamble—pass; Title—pass. Bill be reported.

BILL NO. 33 AN ACT RESPECTING THE ASSESSMENT OF PROPERTY TAXATION IN MUNICIPALITIES IN 1981 AND 1982 (Cont'd)

MR. CHAIRMAN: Bill No. 33, An Act to amend an Act respecting the Assessment of Property for Taxation in Municipalities in 1981 and 1982 - Mr. McKenzie.

MR. W. MCKENZIE: Mr. Chairman, I wonder if the Minister is proposing any amendments in light of the court ruling that Mr. Mercury put before the Committee tonight?

MR. CHAIRMAN: Mr. Adam.

HON. A. ADAM: No, Mr. Chairman.

MR. CHAIRMAN: Mr. Banman.

MR. R. BANMAN: With regard to the court ruling, has the Minister considered allowing the people that are affected within the City of Winnipeg to appeal at 1980 levels?

HON. A. ADAM: No, Mr. Chairman, it would be pretty difficult to have a freeze and also have an exemption to the freeze.

MR. R. BANMAN: In light of the serious inequities which are building up within the City of Winnipeg and in light of the bill which is before us, which really doesn't set any final date with regard to resolving this outstanding issue, and really what we've got before us is a phrase called "and subsequent years" which appears through the Act, what is the Minister's feeling with regard to people that have been affected and obviously, as we've heard tonight, are really being put in a very unfair advantage not even being given the right to appeal the problems which they're faced with.

HON. A. ADAM: Yes, we are aware of the problems that are inherent in the present system, Mr. Chairman, and the bill, as it is now proposed, allows the Government to proceed as quickly as possible. The bill may be rescinded by Order-in-Council when the staff is able to prepare legislation and have mechanisms in place to administer the intent of the legislation. Those inequities that exist at the present time existed when the previous Bill 100 was introduced.

MR. R. BANMAN: I guess the difficulty that we have, as legislators in this case is with the phrase, "and subsequent years," Mr. Chairman. This really gives the Minister the power, if he likes, to drag his heels on this matter for another three or four years without anything happening. Having said that, I guess I'll pass

it over to one of my colleagues over here.

MR. CHAIRMAN: Mr. Gourlay.

MR. D. GOURLAY: Thank you, Mr. Chairman. The Minister has indicated that there's no way they can consider the right of appeal of some of the cases we heard used as examples tonight. There's no way that an appeal can be considered, using the 1980 levels?

MR. CHAIRMAN: Mr. Adam.

HON. A. ADAM: Mr. Chairman, I think it's something that I don't think would be acceptable to the City of Winnipeg.

MR. D. GOURLAY: Notwithstanding any other details of the freeze, but it seems that certainly some consideration could be given to the right of appeal without jeopardizing the whole process.

HON. A. ADAM: Bill 33, of course, in the main is here, as was Bill 100, because of the inequities in the City of Winnipeg, the problems that were faced there. We've heard the representations and I don't think we could proceed to make exceptions for certain properties, even though those inequities are there and we recognize they are there. I don't think we could proceed without the City of Winnipeg being consulted on making those exemptions. We intend to proceed as soon as possible to deal with the problems that exist out there and that is why we did not want to tie ourselves to a period of years as recommended by the Weir Committee; rather, to allow Cabinet to have the flexibility to move more expeditiously as possible by giving Cabinet the authority to lift the freeze whenever legislation is prepared and that the department can administer the legislation.

MR. D. GOURLAY: Mr. Chairman, the bill as it reads, which says "and subsequent years," the Minister keeps saying they're going to move very quickly. However, by passing this type of bill, it also gives the right to government to do nothing, drag their feet at the same time and not really address themselves to the problems that certainly are very evident, as being adequately expressed tonight by several of the delegations. If the Minister is not prepared to consider some of the earlier suggestions, I have an amendment that I'd like to propose under Section 1 of the bill.

MR. CHAIRMAN: We are now debating Section 1, Mr. Gourlay. If you wish to propose the amendment, that's in order.

Mr. Gourlay.

MR. D. GOURLAY: I would move then that Section 1 of Bill 33 be amended by striking out all of the words in the last line thereof and substituting therefor the following: "therein and substituting therefor the word and figures 1982 and 1983."

MR. CHAIRMAN: It's been moved by Mr. Gourlay, the amendment as read. Is there any debate?

QUESTION put on the amendment, MOTION defeated.

MR. CHAIRMAN: Clause 1 - Mr. Blake.

MR. D. BLAKE: Mr. Chairman, I don't know what can be done to make this bill a little more acceptable. I'm feeling very uncomfortable with the sections in view of what we've heard tonight with the delegations that have taken considerable time in preparing their material, appearing before this Committee and indicating that the right of appeal has been denied the people in the city. Some of the inequities that he has pointed up where they have no possible means of redress and although the Minister assures they're going to act expeditiously, we've seen how fast governments act expeditiously on many many occasions in the past. I am feeling very very uncomfortable with the fact that I am going to pass this bill tonight and leave those inequities and leave those people, that are being aggrieved, no avenue for relief or at least for an attempt of relief. They are absolutely hamstrung. I am feeling very very uncomfortable and I don't see how I can support the bill unless there is some amendment.

The amendment that was just proposed would give some indication that there is at least only one more year for them to suffer, but as the bill is worded now, this can go on and on and on. The Minister can assure us all he wishes but we know the report, we know of its political implications and something has to be done, because it's been pointed out to us in no uncertain terms what is an apparent absolute mess in the City of Winnipeg assessment situation. That would be up to them to clean it up as quickly as possible.

I am feeling very very uncomfortable about passing a bill tonight that doesn't give those people some redress for their grievance on their assessment, when it is given to the people in rural Manitoba, but not to the citizens of the City of Winnipeg. I'm afraid there's going to be repercussions on it and what the results may be, I would have no idea. I just feel very very uncomfortable in seeing this bill passed in the form that it's in tonight.

MR. CHAIRMAN: Mr. McKenzie.

MR. W. MCKENZIE: Mr. Chairman, thank you. Can I ask the Minister if he or his department or the Government has studied the decision of Judge Wilson was referred to the Committee tonight by Mr. Mercury and then the appeal decision which came down, I guess, June. Has the Minister and the government studied those court decisions?

HON. A. ADAM: The staff has reviewed the results of the court proceedings, yes.

MR. W. MCKENZIE: Thank you, Mr. Chairman. Can the Minister advise the Committee now if in fact as has been alleged tonight in this Committee that this bill is in violation of the Charter of Rights in our country? Has that been studied? Can the Minister give me a legal opinion on that subject matter?

HON. A. ADAM: The information that I have from counsel is that it does not infringe on the rights . . .

MR. D. BLAKE: They said it was a payroll tax.

HON. A. ADAM: . . . Mr. Chairman, if I may proceed. The Member for Swan River indicated that the government perhaps could drag its feet. I want to advise the honourable member that we have met with the Union of Manitoba Municipalities and we have advised them how we are proceeding with the recommendations. We've also met with the Urban Association of Municipalities; we have advised them how we are proceeding and we have had positive response on the way we are proceeding. We are not dragging our feet. The Municipal Standing Committee on Municipal Affairs will be holding hearings to deal with the recommendations later on this year and legislation will be brought in as soon as possible, so we are not dragging our feet on this legislation whatsoever. I would ask if we were to follow the other alternative, the other recommendations that were in the recommendation, that is, to proceed up to 1987, I think that would be unacceptable. We think that we are proceeding in a better way; this bill gives us more flexibility. If things fall into place, we can proceed a lot sooner than later.

MR. W. MCKENZIE: Well, Mr. Chairman, I have difficulty now that I've heard the comments from the Minister because we have a court decision and an appeal court decision and the Minister is not prepared to consider them. He's not certain about the Charter of Rights, whether in fact the allegation has been before the Committee on two occasions tonight, if in fact this were in conflict with the Charter of Rights by passing this legislation. I certainly would like the Minister to give us a legal opinion on these before I can approve of this legislation that's before us at this time.

HON. A. ADAM: Well, Mr. Chairman, if this legislation contravenes human rights, so did Bill 100 which the honourable member was party to.

MR. W. MCKENZIE: Just in response to the Minister's comments, Bill 100 was tested in the courts recently and we have the decision of the courts before us. I don't know what he's talking about. He mentioned human rights, I'm talking about the Charter of Rights.

MR. CHAIRMAN: Mr. Gourlay.

MR. D. GOURLAY: I just wanted to clarify, Mr. Chairman, that the Assessment Review Committee came up with two alternatives, but they only recommended the one because the second one was to freeze the assessment until 1987. In quoting the last paragraph from the Committee's report, it says: "In the Committee's opinion such delay would be unacceptable to the public." So in a sense they were really only recommending the freeze be extended not later than December 31, 1983.

MR. CHAIRMAN: Mr. Adam.

HON. A. ADAM: That's precisely why, Mr. Chairman, we didn't proceed with the second alternative because we didn't think it was acceptable either and this allows us the flexibility to - the fact is that the report was intended to be presented to the Minister shortly after the first of the year. That did not happen; we did not

receive the report until April - which is not shortly after the first of the year - which should have been in January sometime. We received it four months after the first of the year which did not allow sufficient time to study the report and to bring in legislation to deal with those inequities that we know exist out there. Therefore the legislation is written in such a way as to give sufficient flexibility to staff to put the mechanism into place to administer any new mechanisms that we bring about to remove the inequities. If it has to go beyond the year, it may have to go beyond the year. We don't know that. If it can be done sooner, it will be done sooner.

MR. D. GOURLAY: Mr. Chairman, speaking for members of the Opposition, we cannot support Bill 33 the way it is printed and if the members are not prepared to vote for the proposed amendment then we will be opposing Bill 33 as it currently reads.

MR. CHAIRMAN: Mr. Plohman.

MR. J. PLOHMAN: Mr. Chairman, the Member for Roblin-Russell referred to the court cases and indicated that this was somehow a dramatic revelation to himself and I imagine to the Opposition that the original Bill 100 did not intend to eliminate the possibility of appeal. I see the Minister is busy at this time, I wanted to ask him a question.

Without going into the preface that I just made I would just like to ask the Minister, in his opinion, if the original Bill 100 was intentionally drafted to eliminate the possibility of appeal procedures in the City of Winnipeg?

MR. CHAIRMAN: Mr. Adam.

HON. A. ADAM: Yes, it was, in my opinion.

MR. J. PLOHMAN: Thank you, that would indicate, Mr. Chairman, it was in the Minister's opinion drafted intentionally. It was not a mistake or misinterpreted as was indicated today by some of the delegations that the original bill was indeed drafted intentionally to eliminate that appeal and procedure, and that indeed this Bill 33 does not change what was already in place under the previous bill.

HON. A. ADAM: That is my impression.

MR. CHAIRMAN: Mr. Blake.

MR. D. BLAKE: On that point, Mr. Chairman, Bill 100 was brought in for a purpose to allow the Committee to finish its report without being encumbered with changes after they had gained some figures, to have all of a sudden find out a few months later that they'd all been changed. It was brought in for that purpose and if the other one was there, whether it was intended or not, I certainly wasn't aware of that. But be that as it may, the way Bill 33 is now brought in does nothing to relieve that right to appeal; it does nothing to restore that right to appeal to the people of the City of Winnipeg who have that right as does every other citizen of Manitoba and for subsequent years this could go on infinitum.

It could be 1992 and these people of Winnipeg still have no right to appeal and their taxes could be out of whack if conditions keep on the way they're going. We don't know just where the country is going to be a couple of years from now and it's just inconceivable that right could not be restored to those people in this bill; it would solve 90 percent of the problems that we're having in our discussions here tonight.

MR. CHAIRMAN: Clause 1—pass. All those in favour of Clause 1, please say aye; all those opposed, please say nay. In my opinion the ayes have it.

MR. GOURLAY: Could we have that recorded on division?

MR. CHAIRMAN: On division.

Clause 2, on division—pass; Clause 3, on division—pass; Clause 4—pass; Clause 5—pass; Preamble—pass; Title—pass. Bill be reported. Do members want a count out?

A COUNTED VOTE was taken, the result being as follows:

Yeas, 5; Nays, 4.

The Bill is passed to be reported to the House.

BILL NO. 63 - THE CREDIT UNIONS AND CAISSES POPULAIRES ACT

MR. CHAIRMAN: The next bill is Bill No. 63, An Act to amend The Credit Unions and Caisses Populaires Act. Section 1—pass? I'm advised by Legal Counsel that there may be an amendment to Section 1, so I'll proceed through item by item till we reach the amended sections.

Section 118.1(1)—pass; Section 118.1(2), there's an amendment. Do we have a member to move the amendment?

Mr. Bucklaschuk.

MR. J. BUCKLASCHUK: I'll move, seconded by the Member for Dauphin, that the proposed Subsection 118.1(2) of The Credit Unions and Caisses Populaires Act, as set out in Section 1 of Bill 63, be amended by striking out the word "his" in the first line of Clause (a) thereof.

MR. CHAIRMAN: Is the amendment clear? Striking out the word "his" in the first line of (a)—pass; Section 118.1(2) as amended—pass. The balance of Clause 1 which is page 2—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass.

Mr. Banman.

MR. R. BANMAN: I have one question of the Minister. Section 142(1), Section (e) and Section (f), in those sections, you're virtually precluding anyone that has taken a very active part in a credit union or caisses populaire, i.e., a director or an officer of a credit union or caisses populaire from being appointed to this board. Is the Minister saying in this section that if a person resigns from that position when he or she is appointed by the government to the stab. fund that they will be eligible, or in other words are you saying at this point that it would be a conflict for that person

to hold down his or her position as a director of a credit union once they are sitting on the stab. fund? Is that the intention of this section?

MR. CHAIRMAN: Mr. Adam.

HON. A. ADAM: Yes. We're trying to indicate here that the membership of the Stabilization Board will not be in a conflict-of-interest position; that they are completely independent. Particularly so, if it is a credit union that's in a deficit situation.

MR. R. BANMAN: Well, the difficulty I have in this, the way I read it and this is why I'm seeking interpretation. I would hate to have members of credit unions, or directors of credit unions, or officers of credit unions, or even for that purpose in Section (f), an auditor of a credit union, because we have a lot of people that are very knowledgeable in the field of credit unions being disqualified by virtue of being active in the credit union system because I think that's where you're going to have to draw some knowledgeable people from those systems.

So all I want is the Minister's assurance, that should the chairman of a credit union board and is the type of person that he's after, that would not disqualify that person from being appointed to the board and that upon being appointed to the board that he or she would then resign their position and that, indeed, is what the intent is of the Act.

HON. A. ADAM: I think, Mr. Chairman, that section is clear. We don't want anyone that's going to be in a conflict position; in other words, to be on both sides of the issue, particularly where it applies to a credit union that's in a deficit position. We're trying to make the Stabilization Board independent, certainly from the Central. That is the intent of that section there.

MR. CHAIRMAN: Mr. Blake.

MR. D. BLAKE: Yes. In Subsection (b), "A person who is of unsound mind or has been found so by a court in Canada or elsewhere," if he has not been found so by a court, who is to decide if he is of unsound mind?

HON. A. ADAM: Well, I think the people that we are interviewing and have suggested, I think, are all of sound mind.

MR. D. BLAKE: Mr. Chairman, are they the ones that decide then that the person that's going to be appointed is of sound mind then.

HON. A. ADAM: Mr. Chairman, I'm sure that when I announce the membership of the Stabilization Board, I think that the members opposite will be very very pleased with the appointments. Many of them, I'm sure, are members that are familiar to the members opposite and I intend to announce their names very very shortly.

MR. D. BLAKE: Well, that wasn't the point of my question, Mr. Chairman. If a person got nominated for that Board, I would assume that he must have something going for him to get that far along the road; but is the

Monday, 28 June, 1982

Minister now saying that Committee will sit and interview that person, decide he is not of sound mind and eliminate him from being nominated to that Board or elected to that Board?

MR. CHAIRMAN: Mr. Adam, did you wish to reply?

HON. A. ADAM: No, there will be nominees presented by the system, but the only change there is that the government will be making the five appointments, rather than in the past where there was one member from the department who sat on the Stabilization Board and the four other members were nominees from a list presented by the system; whereas now there will be recommendations by the system, but they have to be acceptable to the government.

MR. D. BLAKE: Well, Mr. Chairman, it's not that important. The point I was making is that I think it's redundant to have the first portion in there. A person who is of unsound mind and has been found so by a court would - it says "or has been" - but what if he hasn't been so found by a court? Who is to decide if he is unsound?

MR. CHAIRMAN: Mr. Ashton.

MR. S. ASHTON: Yes, I was wondering if the Minister could explain to us the meaning of (c) "A person who is not an individual?" I think most of us could visualize people who are of unsound mind or under 18 years of age, someone who's bankrupt, but what is "A person who is not an individual?"

MR. CHAIRMAN: Mr. Adam.

HON. A. ADAM: Section (c) is a person who is not a company. That's what the intent is there.

MR. CHAIRMAN: Is that all, Mr. Ashton? Any further questions on Clause 4, Section 142(1)?
Mr. Bucklaschuk.

MR. J. BUCKLASCHUK: I wonder if the Minister could clarify that Section (b) again. What was the purpose? Is that a formality or . . .

HON. A. ADAM: Well, it's in the Part 2 of the present Act under incorporation, Section 4, that reads: (a) is less than 18 years of age; or (b) is of unsound mind and has been so found by a court in Canada or elsewhere; or has the status of a bankrupt; and — (Interjection)— is of unsound mind and has been so found . . .

MR. CHAIRMAN: Mr. Adam, if I heard you correctly and the interjections of members of the Committee, I'm getting the feeling that Section 142(1)(b) should read: "A person who is of unsound mind and has been so found, etc."

HON. A. ADAM: Yes.

MR. CHAIRMAN: Does someone wish to move that amendment or is that just a technical change we can allow legal counsel to make?

142(1)(b) as amended—pass; 142(1)—pass; 142(2)—pass; Clause 5—pass; Clause 6—pass; Clause 7—pass; Clause 8—pass; Preamble—pass; Title—pass. Bill be Reported.

Gentlemen, that concludes the business before the Committee. I'll entertain a motion for the Committee to rise.

Committee rise.