LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS
Tuesday, December 19, 1989.

TIME — 10 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Helwer, Edward (Gimli)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Cummings, Glen (Ste. Rose du Lac, PC)
Findlay, Glen (Virden, PC)
Penner, Jack (Rhineland, PC)
Charles, Gwen (Selkirk, L)
Evans, Laurie (Fort Garry, L)
Helwer, Edward (Gimli, PC)
Pankratz, Helmut (La Verendrye, PC)
Plohman, John (Dauphin, NDP)
Roch, Gilles (Springfield, L)
Taylor, Harold (Wolseley, L)
Uruski, Bill (Interlake, NDP)

APPEARING:

Meyer, Peter - Private Citizen
Smith, Winston - Regional Counsel, Canadian Pacific Limited
Olmstead, Kevin - Manager, Property Taxes, Marathon Realty Co. Ltd.
Olyniuk, Rhine - Canadian National Railways
Nugent, Ross - on behalf of Administrations of: Grace General Hospital, St. Boniface General Hospital, Seven Oaks General Hospital, Concordia General Hospital, Victoria General Hospital, and Private Citizen
Ryplanski, Frank - Vice-President of Finance, St. Boniface Hospital
Sloggett, Peter - Assistant Executive Director of Operations, Victoria General Hospital
Hayes, Jim - Assistant Executive Director, Grace Hospital

WITNESSES:

Walsh, Rob - Drafter, Crown Counsel (Legislation)
Bailey, Ann - Amendments Drafter
Perry, Val - Amendments Drafter
Nantel, Michel - Translator
Carnegie, Gordon - Monitor of Amendments - Advisor to Committee
Fuller, Anna - Assistant to Deputy Minister.
Elliott, Marie - Director of Research and Systems
Hamm, Robert - Land and Property Classification Co-ordinator
Flood, Dianne - Lawyer, Legal Services, Department of Justice

MATTERS UNDER DISCUSSION:

Bill No. 79, The Municipal Assessment and Consequential Amendments Act.

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Clerk of Committees (Ms. Bonnie Greschuk): I have before me the resignation of Mr. Pankratz. I will read it to you at this time. I, Helmut Pankratz, do resign as Chairperson in Municipal Affairs Committee, December 19, 1989.

As Chairperson of the Standing Committee on Municipal Affairs, the floor is now open for nominations. Are there any nominations? Mr. Pankratz.

Mr. Helmut Pankratz (La Verendrye): I would like to nominate Mr. Ed Helwer.

Madam Clerk: Are there any further nominations?

Mr. Harold Taylor (Wolseley): I move that the nominations cease.

Madam Clerk: Okay. Since there are no further nominations, will Mr. Helwer please take the Chair?

Mr. Chairman: The Committee on Municipal Affairs is called to order. Bill No. 79 is to be considered today. It is our custom to hear briefs before consideration of the Bill. What is the will of the committee? Agreed.

I have a list of persons wishing to appear before this committee. Mr. Michael Mercury, Councillor Al Golden, Mr. Peter Meyer, Mr. Winston Smith, Mr. Kevin Olmstead, Mr. John Duda, Mr. Rhine Olyniuk, Mr. Ross Nugent, Mr. Jack Fotheringham, Mr. Terry Turcan, Mr. Gordon Lawson, Mr. Les Balneaves, Mr. Earl Geddes, Mr. Dave Brown, Mrs. Dorothy James, or Mr. John Cook.

I understand that Mr. Jack Fotheringham from the Manitoba Seed Growers, and Mr. Earl Geddes of the Keystone Agricultural Producers association would like to speak this evening. Are there any other presenters who would like to speak this evening rather than this morning? Is it the will of the committee to let these people speak this evening?

Should anyone present wish to appear before this committee, please advise the Committee Clerk and your

name will be added to the list. If any of the presenters have written presentations, please pass them on to the Committee Clerk.

Does the committee wish to impose a time limit on the length of public presentations? No? Okay. Mr. Pankratz.

Mr. Pankratz: Would it be the will of the committee to adjourn at twelve o'clock? Twelve thirty?

Mr. Chairman: What is the will of the committee? Twelve thirty? Mr. Plohman did you have something to add?

Mr. John Plohman (Dauphin): Yes, I think, Mr. Chairman, depending on where their briefs are at, the presentation . . . in between 12 and 12:30, on completion of a presentation.

Mr. Chairman: Okay, we normally adjourn at 12:30. We will be reconvening tonight at 8 p.m., to hear the balance of the presenters. Since the committee does not wish to impose time limits, may I ask that all presenters keep their comments brief because we have a number of public presenters wishing to speak today. Thank you for your co-operation.

Now I would like to call the first presenter, Mr. Michael Mercury. Mr. Plohman.

Mr. Plohman: Mr. Chairman, I do not think that we should be asking presenters to keep their comments brief. I think that they should have an opportunity to make their comments as detailed as they feel they need to make their point.

Mr. Chairman: Okay, thank you. Mr. Michael Mercury. Here? He is not here. We will call the next person who is Councillor Al Golden. He is not here either. Mr. Peter Meyer.

Mr. Peter Meyer (Private Citizen): I became No. 1. I am probably the scaredest of the bunch and the most unfamiliar of them all, but I will try it anyways. I will wait—just pass this out.

Mr. Chairman: You can start, Mr. Meyer, and she will pass them out.

Mr. Meyer: Well, I like what Mr. Plohman said. I do not think you can rush this. I agree with Mr. Plohman on that, you know. This is something that is going to affect landowners for many, many years, and to rush through something like this is absolutely ridiculous.

I will start with my letter here. This letter will try to explain some of the concerns I have with Bill 79, the new Assessment Act. As I have some farm land within the City of Winnipeg, which is presently taxed at approximately $75 per acre—now, I would correct that, with the school tax, off it drops down maybe to about $70 or $65, roughly. Anyways, it is a way up there, which is about 10 times higher than the land the same type is taxed in the Municipality of Springfield, where farm land is taxed at approximately $7.50 per acre.

* (1010)

Apparently when the City of Winnipeg was amalgamated with the surrounding municipalities the city also was granted special permission to tax farm land strictly on an apparent land value as arrived by surrounding properties, regardless of what the surrounding properties are zoned as. This problem should have been dealt with when the city first became totally amalgamated.

Consideration should have been given to the fact that when the city was granted this total amalgamation, they would ultimately be given control over thousands of acres of farm land, which would not be needed for housing for many, many years.

Over the past several years, as our tax on farm land grows considerably in proportion over the other municipalities, we were always told that the Weir Report would solve this inequity, but when the Weir Report was tabled, I believe in the early '80s, we had a change of Government and the new Government somehow neglected to deal with the problem.

Now that we are getting a new assessment Act this problem must be dealt with. I believe that it is in the best interests of the province and the city that farm land, which is not needed for many years for development, should be used to grow one of life's most essential necessities, namely food.

Farm land must only be taxed in accordance to the crop that can be grown thereon. I believe that one of the best ways to achieve this would be to place a limit of 50 percent of the rental value as a tax on farm land. Enclosed you will find a letter from the City of Winnipeg stating that the present rental value for lands throughout the city was approximately $16 per acre. This rent is arrived at by a schedule attached to this letter.

This limit could be set every time the land is assessed by having the previous year's value. I must say, I got the girls here to make copies of this for me, and somehow they got page 2 of my letter and they got the City of Winnipeg between that. So if you just remove that City of Winnipeg one and we go on to page 2 of the letter.

I believe this formula could also be used as a guide in other municipalities. Some municipalities are allowing many farms to be subdivided into five- and two-acre lots, which I believe is very good, as not everyone wants to live in the city. Farmers in those areas that prefer to keep their land for farming could also see a substantial rise in their assessments. There must be some way that will permit those who want to keep farming to do so without unreasonable tax bills. Consideration should also be given to farmers who have chosen to leave some of their land in bush. I believe that farm land that has been left in bush should not be taxed, or taxed at a very low rate.

We are constantly hearing environmental concerns because all our land is cultivated. Incentives should be given to those who would leave some of their land in bush. For many years many of us who owned farm land in the City of Winnipeg have been unjustly taxed. This farm land has not cost the city one cent in services,

such as snow removal, fire protection, ambulance services, et cetera, nor did this farm land benefit from such things as concert halls, arenas, or stadiums.

The money that the city has reaped by over-taxing this farm land is like stolen money. I believe that the province should order the city to reimburse those, who own farm land and who are grossly over-taxed, any monies that were charged in taxes that exceeded the rental value of the land. It is hard to understand that in today's society one can buy a lottery ticket and win a lot of money and pay no tax on the winnings, yet if you own farm land in Winnipeg and are growing food, you must pay a lot more money in taxes than you can get from your crop, just in case some day you may be able to sell your land at a profit. Then you will have to pay land transfer tax, capital gains, and very likely the GST.

That is one of my main concerns about this Act. It seems that the Weir Report has been pretty well ignored in this new Act. Just a couple of years ago I was speaking to the Deputy Minister and he told me, in fact he gave me a copy of the Weir Report, and he said at that time, well, these are the things that we are going to be putting in place. We will get more to that later. I will not read all this, but here is the way the city arrives at farm land which they own in the City of Winnipeg, that is, like around the South End pollution control, around the Brady Road landfill, Charleswood lagoon—they have hundreds of acres there.

* (1015)

So they get this schedule here and they figure it out according to the price of grain. The only thing they do here, which I find is very corrupt, is that they do not use—based on the previous year's taxes for city lands in the Rural Municipality of Springfield—they do not use their own farm tax schedule. Mine would be $60, $70 an acre. Well, they would have to add that to the rent, you see. So what they do in this case, they go next door to Springfield, where the taxes are probably ten times lower, and so instead of using their own schedule, they use a neighbouring municipality's schedule, so they can sock us with a high tax.

The next page is No. 2. This is a page from the old assessment Act, where, when the land was assessed, considerations were given to rental value. When the assessor assessed land, he looked at the type of soil and annual rental value, which in his judgment the lands are reasonably worked for the purpose of which they may be used.

That is the old Act. The new Act apparently ignores the rental value completely. The only thing that the new Act mentions, on page 22 of the new Act, is that businesses will be taxed on a rental value. If you want to turn to page 22 of the new Act, that is what it says, that businesses will be taxed at a rental value, or at least the rental value will be taken into consideration. Page 22—the assessor shall make business assessments on the basis of an annual rental value—that is page 22, No. 17.

I do not know if this means that this Government is going to cave in to big business and abandon the farms or what, but there is no mention in this Act of a rental value for farm land. I think here is something that is unbelievable almost, for a group like the Government that we have here, where there are so many farmers, that they should be familiar and they should be sensitive to these things.

Anyway, I will try to get back to this. From page 2, here is a copy from the Weir Report where it says that many farmers felt that rental value of land better indicated the productive value of the land. In the Weir Report this was recognized as a very important factor. As we were made to believe in the Weir Report, that lands around the city would be taxed on your productive—this is a page of it here in this No. 2, and page 3 in there. This is again a copy from '68 or '69 from a summary of the Weir Report, that the lands qualifying should be taxed in their productive capacity. They would also attach a kind of speculative value to this land, so if you did cash in some day you would have to pay for five years back.

I thought this was pretty fair as I can understand Governments need a lot of money, and this would be one place to grab a bit. It is not applied in many other areas of life. This I could accept at least, that if you did sell it some day you would fork over what you should have been paying in taxes as if it was valuable property. This I could accept. This again has been totally ignored in the new assessment Act.

Number 3 has the tax bill a part of the land that I own. There is a 23 acre piece. I own some more beside it, but on this 23 acre piece you have to pay $1,716 in taxes.

If you will page over, this land here is marked with an "x" on this little map here. That land has no roadway. It does not cost the city one cent in services, not a cent, yet you have to pay such a high tax.

Not only that, this land is situated in south St. Vital. On the one side of it there is what they call highway commercial. That land is valued at $7,500 per acre, and some of it has $3,500 an acre. I do not understand why they did that, because that is—those of you who are familiar with it, the Guertin Brothers property is taxed at $7,500 an acre and the Co-op Implements next door, which has exactly the same thing, is taxed at $3,500 an acre. There must have been some political interference to get this down. I do not know what happened, but it is exactly the same land, and this is quite a familiar thing.

Then I have the pamphlet here that is printed by the Manitoba Government, which explains how farm land is taxed. This method is described in this pamphlet, and it is a fair method. It is the old method where they consider the type of soil, rental value and everything else. If you will notice way back on the bottom, that does not apply to the City of Winnipeg. Winnipeg taxpayers are—I better watch my language—but that is what happened to them.

* (1020)

On the next page we have a schedule of what you could make. We have a promise from Herold Driedger

from the Liberals where he was going to be elected he said, "Farm land within the Winnipeg jurisdiction which is used as farm land, should be taxed as farm land. When elected, whether in Government or in Opposition, I pledge to work towards this goal." I thank the Liberals for that. I think we need that.

Then it tells you—well the next one is not very important. We will go to page 5. Here is something I think does not really only deal with the City of Winnipeg, although I think it is very important for surrounding Winnipeg. I have just drawn a little example. Now your land is going to be taxed, as far as I can understand from the assessors, on previous sales. So we take a five-mile radius or whatever, and we say this property sold for $1,000 an acre, this sold for nine, this sold for eight and this sold for 15. We are going to average that out and your property is valued at $1,000 an acre.

They are not going to take into consideration—it seems to me, what I could find out from phoning the assessors, there will be no consideration of what you could grow on the land or how much of it is stony, swamp or bush. It is just going to be done the same as it is in Winnipeg now. In Winnipeg it does not matter if you can grow oats, barley or vegetables, it makes no difference—we look at your value.

In fact, I will tell you one funny thing. Just a few weeks ago I was trying to find out from the assessors how the next assessment is going to be. Is it going to be higher or what? Oh, they said, it will most likely be higher yet. We were talking for a while and one assessor said to me, you know it looks like you will have to start growing marijuana to pay your taxes. He was just joking, but the man realizes that you cannot grow a crop on that land and pay the taxes out of it. That is what he told me. He said you may have to start growing marijuana.

Here we have an example where land around a guy's place—No. 5 example just demonstrates how the new assessment Act will penalize landowners who have not cleared all their lands. The owner of Parcel B does not wish to sell his land at this time. There are guys in the country who do not want to sell their land, and I do not blame them.

He does not merely value his land at an apparent dollar value. He has lived there a long time, and his land is like a part of him. He would sooner leave half of his land in bush for future generations. When his land is assessed his land will be assessed at the value of what land has been sold for in the area. Because he has only cleared half of his land he will be paying twice the rate of taxes per acre on cleared land as his neighbour who has cleared all of his land.

Apparently, the new assessment Act only considers the apparent dollar value of land. No consideration is given to environmental concerns.

Under the present system we have now, if a guy does not clear all his land and he has places where it is swampy and it is just so, so, he says, well I could clear it, but I would sooner leave it there. The assessor is going to assess him on the cleared land, basically. He may pay a little bit on the bush and the swamp, but he basically is going to be assessed on the cleared land.

Under the new Act this is gone. It is strictly—especially if you get people from the city—and I am not saying we should stop people from the city buying land, I think it is good. People from the city are going out and they can buy a 20 acre piece here or a 40 acre piece here.

I could show you a piece of land near St. Adolphe that a guy just recently paid $97,000 for 20 acres of land, because he wants to build a nice house there. Who says the next time an assessment is made farmers in the area are going to—you get three or four of these places in the district—see their assessment is going to go—now I realize in the municipalities that are not in Winnipeg they may be able to smooth this over a little bit. I do not know how, but in the City of Winnipeg this is exactly what they are looking for.

This guy buys a five acre lot for $50,000 and this guy buys this for $50,000 and you are in the middle, your land is worth a fortune because some day you might sell it for that.

I have come to the final thing, so it did not really take that long. I do agree that farm houses should be taxed. Even though I am going to be paying tax on my house, which I am not now, that is one thing I agree with, just as strongly as I disagree with the city and the way they tax. You have to look at things. To tax a workingman's house next door—he is going to work, I am farming. I think we should both pay tax on our house. There is nothing wrong with that. There may also be some justification to tax farm buildings. Because of today's farming methods, we can have very large poultry, hog, greenhouse, or mushroom operations on a very few acres of land. However, I believe a lot more information should be acquired before this is implemented. Some farm buildings are used only for a short time of the year, while others are used all year.

* (1025)

Will this require a lot of high-paid assessors travelling around the country measuring every little pig pen and chicken house? You know how this goes. The Government might spend $100 to send this assessor out, and he is going to add three dollars on your tax bill. The price of assessing may in some cases be more than what you are going to get back. So I think there has to be a lot more discussion, a lot more information on these things.

Take a dry year, and the granaries are all empty. Do you have to pay taxes? A guy quits with hogs—does he have to pay taxes on the hog barn? I have some greenhouses. Some greenhouses we only use for two months of the year. Are you going to pay taxes on twelve months of the year or two months of the year? See, all these different things have to be considered.

I just have a couple of general comments. I would like to see less Government, and that Government take a much tougher—I think the real problem with our tax system is that our Governments are growing and our cities are adding, getting more complicated and bigger

and bigger. The money has to be pulled out of the system somehow. So I think the big answer really is to get these costs down in Government and cities and things. The smaller municipalities have done a marvellous job. They are not swimming around in red ink. They have kept it pretty clean. But you take the cities and the Governments, they are drowning in red ink and they are always thinking of ways to suck money out of the taxpayer. That taxpayer is just going to take so much.

I would like to see less Government and much tougher Government. There is something here the committee should also consider. The committee could also consider if it would be better if each Party represented in the House could appoint someone to the Municipal Board. I do not know how these board members are presently appointed, but apparently it is the Government who has patronage appointments—or what they are, I am not sure. If every Party could select somebody to represent them on the Municipal Board, this would keep things—that way if there was an apparent injustice, their concerns would be brought to the Government a lot sooner.

Perhaps the Municipal Board could be given more power. At the present time they do not seem to have the power to make a significant change. I took these concerns to the Municipal Board and they readily admitted that this is impossible and unfair. You have a copy of it there, I believe, and you can read it sometime.

They readily admitted it is wrong, but they said, because our hands are tied with the Assessment Act and the Winnipeg Act, we cannot help you. Why does the Government have a Municipal Board if it cannot make a significant change? These boards cost a lot of money. I am sure they get pretty good pay, these guys. They spend a half a day listening to my arguments and cannot do anything for you anyway. Here my taxes are going up to pay these guys. This is just an example. I think this is something you should look into.

However, if there was a limit placed on the amount of tax per acre, this would eliminate a lot of hearings by the board. If all is said and done—and let the municipalities and the city assess whatever you want—but when it comes to your taxes you are going to tax at, say, 50 percent of the rental value. In most places right now the rental value would be much higher than that. This would be one way to solve a lot of inequities.

Finally, one of the most important questions the committee will have to deal with is: is it fair to tax a landowner so high that he must sell his land long before it is actually needed for development? That basically sums up what I have to say.

Mr. Chairman: Thank you, Mr. Meyer. Just stay there for a moment, please. Are there any questions from any of the Members of the—Mr. Minister.

Hon. Jack Penner (Minister of Rural Development): First of all, Mr. Meyer, I congratulate you for bringing your point forward very forcefully. I think the issue you raise, the value of taxation or value of farmland within the urban shadow in this province, has been a concern to myself and others in Government for many years. The farm community has certainly voiced its opinion many times over in this area.

However, when we sit down and look at the various ways in which other jurisdictions have tried to deal with this matter, it becomes very evident that it is not a simple matter to look at a formula or some sort of a system that could be applied, which would bring equity to this matter of taxing farm land within the urban shadow area. So some of the suggestions you have made, we have in some ways considered. There is one that you have made that we have not considered, and we will take that under consideration when we discuss the final forms of the Bill. Again, thank you very much.

Mr. Taylor: Mr. Meyer, it is with interest I noted your comments about the problems of assessing buildings. You made reference to those farms in which, because of the nature of the farming, many buildings are required. You also made reference to the fact of a farmer changing his practices, and not using buildings that had once been used for the farming operation because he had changed what he was doing. Or, for example—you used an interesting one—a granary in which it maybe just was not successful that year. It was a bad year, so the building sits empty. Have you any suggestions to this committee as to how we might better deal with the issue of taxation of buildings, as opposed to what is in this proposed Act right now?

* (1030)

Mr. Meyer: Well I have thought of it, but I think that is a very difficult one. I would say one thing: whatever, keep it fair. If you are going to tax them, then make sure you are going to tax everybody. Do not start singling out one area. I will tell you just a quick little story. Quite a few years back, in the Municipality of Springfield, was a guy by the name of Mr. North. He had a big mushroom operation. Somehow the councillors there, they could not leave him alone. They said you are not a farmer. You are growing mushrooms, you see, and he was really successful. He was so successful that he did not know we have a plant to grow them, but when he had a surplus, he was canning mushrooms right here in Manitoba.

It is hard to believe today, when you go to the store, all your mushrooms are canned in Taiwan, but he was canning mushrooms right here in Springfield. But, because of the tax hassles, he finally scrapped his whole business and he moved to Iowa. He set up a good place there. I have not been in touch with him for many years, I do not know how he did out there, but apparently he was singled out in his area. They said we are going to tax you on your buildings because you are growing mushrooms, but we are not going to tax the guy with the chickens because he is a farmer.

I would caution you, if you are going to make something, then make it fair. Maybe the Government should hold off with taxing buildings for a few years. I really do not think there is enough information. You take the plant business now. I only grow plants, I only

use greenhouses to grow plants, to plant out in the field. That is all I use them for. One of them I might use for three months, but mostly, maybe a couple of months. Other guys are using greenhouses for 12 months of the year, growing poinsettias and flowers and stuff. There is a big spread there.

A lot of gardeners in my position, they say, hey, we do not want to grow any plants any more. We have a hard time to get labour, already it is borderline. We can import them from the States, many times. They grow them in Texas in the field, grown plants, and they import them cheaper than the guy can grow them here himself. You see, if you are going to place too much tax on some of these things, some guys are going to say, whoop, that is it for that.

I have seen this happen with so many different vegetables that guys say, whoop, we do not grow that no more. It takes too much labour, costs too much. Wholesalers bring it from the States. That is it for that one. This could happen the same with some greenhouse operators.

Mr. Chairman: Mr. Plohman, you had a question?

Mr. Plohman: Yes, I want to first of all thank you, Mr. Meyer, for your excellent presentation and points that you brought forward to the committee today. I think that you have made some excellent points, particularly with regard to the problems of assessing crop farm land that is under development pressures for urban or recreational purposes.

As you mentioned, the Weir Commission, which did its work some eight or nine years ago, but which has not been implemented up to this time, because of other factors that had to be prepared in order to bring forward a major reassessment—as is being done now, a major assessment Bill—the Weir Commission recognized the problem and suggested a two value system for agricultural land that is under development pressures: one based on the actual market value, going rate, whatever, for residential, whatever a person could sell it for; the other based on the productivity, location and soil value, and so on, of the land for agricultural purposes.

Keeping in mind that the assessment branch uses a number of criteria to determine the value of farm land, do you think that system could work as suggested by Weir? What you have brought in is another option, an idea, dealing with rental value as opposed to a simple assessment of the land based on its productivity for agricultural purposes. What you are doing, Mr. Meyer, is in fact suggesting another option but you are not discarding this—

Mr. Chairman: Just a minute, Mr. Meyer, we will give you an opportunity to answer as soon as Mr. Plohman is done.

Mr. Plohman: But you are not discarding the suggestion that the Weir Commission made about their way of accomplishing this?

Mr. Meyer: Oh no, I would be all in favour of that. I think that is very good. Good suggestion.

Mr. Plohman: Do you feel that the five-year penalty is appropriate then, if a person is going to sell it for development purposes, that they would pay back retroactively an assessment or taxation at the higher value for a five-year period?

Mr. Meyer: I think the five-year period would be fair.

Mr. Plohman: Mr. Acting Chairman, and to Mr. Meyer, would you feel that there could be a 10-year payback for land that is prematurely rezoned for speculation purposes on the basis that the individual feels they may be able to sell it for other purposes down the way, but continue to use it for agricultural purposes? If the land use changes—say it is used for industrial development or residential—the retroactive payment should be 10 years as opposed to five years? Should it be higher in that case as Weir suggests?

Mr. Meyer: I think if you consider the rate of growth, what we are seeing, five years is a lot. We see as it gets bigger it is like a circle, it spreads out a little slower in each area. The five-year pretty well takes care of that, I would imagine, but regardless, even if it was a 10-year, as long as we can get some relief of some kind, somehow, from these kinds of taxes. To keep this system the way it is, to me it is totally unfair.

I do not think there is another segment in society that gets taxed in this way. If you pay income tax, it is on your income. This is the only case I can see where you are taxed at some future gain that you may have. You may not—things may turn around. I could show you land in St. Vital that was subdivided for houses in the 1920s, which did not get serviced until well on into the 1970s. Sometimes we think things are going to really boom, like at one time they tell, oh, Winnipeg is going to grow like Chicago. In fact one guy got a piece of land subdivided close to Niverville in the 1920s, because he thought the city was going to grow up to Niverville. We do not know what is going to happen.

Mr. Chairman: Thank you, Mr. Meyer. Mr. Plohman.

Mr. Plohman: Yes, I just wanted to ask the presenter—Mr. Meyer, I agree that we have to encourage farmers to keep their land in agricultural use, and I think we also have to encourage wildlife habitat or bushland, woodland to remain in its natural state as well, and not to penalize farmers who want to retain land in that state.

How do you think we should value woodland or bushland? Do you think it should be on a percentage of the agricultural value perhaps? You said it should be very low or not at all. Do you think a certain level, a percentage could be placed in the Act to ensure that it could not be valued at higher than a certain percentage of agricultural land, say 20 percent or 50 percent, not higher, but lower?

Mr. Meyer: I would say considerably lower, especially considering, these days, the environmental concerns. People want to see some land left in bush; considering for wildlife, they want to see some land left for wildlife. Some places are swampy, not that suitable for

agriculture anyway. I think it should be a very low rate. Mind you, you see if there was a limit placed on your rental value and the guy has a hundred acre piece, and it is half bush and half crap, well, his rental value on the total acreage is going to be about half of that of the guy who has a hundred acres cleared next door. This would also assist this guy to leave some land in bush.

Mr. Chairman: Thank you, Mr. Meyer.

* (1040)

Mr. Plohman: One more question, in the interest of time. We could have a long discussion on some of these issues. I believe that the current assessment process reflects the fact that there would be bush land on that land. It would not all be assessed to be the productivity of that portion that is agricultural land at that time. So it already reflects the lower value of a system, but there has to be another system put in place, I think, and we will be proposing some changes in that regard.

I wanted to ask you this, Mr. Meyer. Do you think that rental value could be used for agricultural buildings as well, considering the fact that some are used for portions of the year and some are used to earn revenue for the whole year? Would there be some value to considering the same as for commercial purposes, since it is in the Act and you use that analogy, so perhaps it could be used as a basis for agricultural buildings as well?

Mr. Meyer: Yes, that would be worth considering, I think. I guess there are many angles that could be considered to determine the value on farm buildings, but I am just concerned that a lot of these things are just hanging on already, and putting a little too much tax, the guy is going to say goodbye. Whatever is done, keep it as low as possible and keep it fair.

Mr. Gilles Roch (Springfield): Very briefly, Mr. Chairman. I agree with you, with the points that you have brought out, that farm land should be taxed as farm land. I would go on further to say, regardless of where it is located. Certainly basing assessment in the city on rental value also for that matter is a good one.

You have one point, in your presentation here, where you mentioned in regard to the cultural groups that it would probably be better if the various Governments would abandon the grant-giving process. I take a little bit of issue with that and I would go the other way around. I would suggest that when Governments do grant an exemption to certain groups for whatever reasons, they should possibly be giving grants in lieu of taxes to those local authorities, because ultimately it is the local Governments, whether it be the city or the towns or rural municipalities which end up having that loss of revenue.

If the provincial or federal Governments for that matter decide that a certain organization should be exempt from property taxes, and they do not provide those grants in lieu, do you not agree then that it places a greater burden on those who have to pay property taxes?

Mr. Meyer: I think if you are going to give a grant or let one group free of taxes, you are opening the door for a whole host. I know in the new Act they have listed a group that will be exempt. You know, anybody who is familiar with the Constitution, where the law is supposed to be fair to all and equal for all and equal protection for all, I am sure that we are going to see some cultural groups that are going to say, hey, if you are going to get it, I am going to get it.

I have talked to some people in the municipalities, and they say they have an ever increasing line-up of people wanting a grant for a hockey team, a grant for this one is going there, and that one is going there. I think it is time that the Government should say, well, look at it, we are in the business of governing and the people, if you need help with something, get the people to look after these things. I do not think the Government should necessarily become involved with all the grants, and if they are, well, they have to do everybody.

Mr. Chairman: Okay, I guess there are no further questions. Thank you very much for your presentation, Mr. Meyer.

Mr. Meyer: Thank you very much, gentlemen.

Mr. Chairman: Our next presenters are Canadian Pacific Limited and Canadian National Railways; Mr. Winston Smith, Mr. Kevin Olmstead, Mr. John Duda, and Mr. Rhine Olyniuk. Who is going to be the spokesman therefore?

Mr. Winston Smith (Canadian Pacific Limited and Canadian National Railways): Mr. Chairman, my name is Winston Smith and I will be the presenter of the CP Rail submission. With me is Mr. Kevin Olmstead of Marathon Realty, the managers of CP Rail property, and Mr. John Duda of the properties group of CP Rail. Also with me is Rhine Olyniuk, who is representing Canadian National Railway. When I finish my submission, then Mr. Olyniuk will have a few words to say.

Mr. Chairman: Thank you, let us just carry on then.

Mr. Smith: There will be before you a submission of CP Rail, and I would commence at the first page. I am going to go through the submission.

We would like to thank the Chairman and Members of the committee for providing us this opportunity to bring forward the concerns of CP Rail in regard to Bill No. 79, which you are considering. You will know CP Rail as Canada's national private sector railway, which has been serving the people of Manitoba for over 100 years.

At present, in addition to the service provided to Manitoba shippers, CP Rail provides direct employment for a very large number of people in the province. CP Rail understands the need for the Bill under consideration and the need for it to be passed quickly. We wish to bring to your attention two aspects of the

Bill which would have a negative affect on the railway, and the amendment of which would not in our view defeat the intent of the Bill.

At present the railway is working hard to maintain and improve the level of service it has offered the shippers of Manitoba and other provinces. However, severe competition from highway carriers operating on public infrastructure and increasing taxes placed on the railway by Governments in Canada are imposing financial constraints on the company's ability to invest in new services and equipment.

Our goal in the proposed amendments we will be discussing is to ensure that the assessment of railway property will take into account its unique nature and be seen in the light of fostering ongoing vital rail service in the Province of Manitoba. It is within this context that we raised the following concerns for your consideration.

CP Rail has two concerns. The first one I will deal with is section 42.(2) of the Bill, and the other concern relates to the definition of "railway roadway" found in the definition section, Section 1. Section 42.(2) reads, "A board shall not consider an application for the revision of an assessment rate schedule prescribed under clause 6.(1)(a). CP Rail is of the view that this section which removes a right of appeal, as it were, is detrimental to both its interests and the interests of the Province of Manitoba. Until now, CP Rail's right-of-way has been assessed on the basis of miles of trackage throughout the province. The rate has been fixed by statute in the existing Act, and of course CP Rail presently has no right of appeal or review of such rates.

* (1050)

When the Manitoba Assessment Review Committee, headed by the former Premier, the Honourable Walter Weir, raised the question to the railways as to their position with regard to the suggestion the rate structure be deleted from The Municipal Assessment Act and established by regulation, authorized by Order-in-Council, CP Rail responded. It said that it had, and I quote from the letter that was sent, a written submission, no objection to the removal of Section 23.(3), the statutory mileage rate section, of The Municipal Assessment Act, and the fixing of the mileage rates by regulation.

Obviously it was contemplated at that time that as far as CP Rail was concerned, mileage rates, but in any event, "provided of course that the rates are established according to regulatory procedures authorized by Order-in-Council, and adjusted only when reassessment occurs throughout the province." CP Rail went on to say, "If our suggestion is acceptable to the committee and ultimately by the province, we would appreciate the opportunity to consult with the appropriate authority when further changes to the mileage rates are contemplated."

Accordingly, as referred to in proposed Section 42(2), the assessment rate schedule will be prescribed by Clause or Section 6(1)(a) which says:

"The Lieutenant-Governor-in-Council may make regulations

(a) prescribing assessment rate schedules for railway roadways and pipelines:"

If the assessment rate schedule is so prescribed by regulation, CP Rail recognizes it has no right of appeal, nothing very different than the present statute. The assessment rate schedule will be prescribed by regulation, and I know of no authority which would provide CP Rail with any right of appeal against such schedule. Therefore, it is CP Rail's submission that Section 42(2) is not required; it should be removed from the Bill. CP Rail has no right of appeal against the statutory rate mileage in the present Municipal Assessment Act, and even without Section 42(2) will have no right of appeal against the assessment rate schedule to be enshrined in regulation under the proposed legislation.

The problem CP Rail sees with leaving Section 42(2) in the new legislation is the removal of any opportunity, in our view, of negotiating an assessment rate schedule for classes of railway roadway which do not specifically fall within the classes which we understand will be prescribed. For example, the proposed classes, which will be based on millions of gross tonnes moving along a line being assessed, do not include a line of railway over which there are not gross tonnes moving or an abandoned line. In addition, there may be other lines of railway about which CP Rail may wish to negotiate as they do not technically, in the railway's view, fall into the classes to be established by regulation.

Taking an abandoned railway roadway as the example, it may be that the assessor assesses the line using the last class of gross tonne miles in the prescribed schedule as the basis for applying a rate. Since no gross tonnes move over this railway roadway, it is conceivable CP Rail could argue there is no statutory authority for the application of any rate prescribed in the regulation. If successful, there would be no assessment of that railway roadway.

CP Rail's position before you today is it recognizes that such an abandoned railway roadway should be assessed using a rate, but if the only prescribed rate is one based on some gross tonnes moving on the line, the rate will be unreasonable and onerous. What remedy does CP Rail have other than perhaps attacking an assessment where there is clearly no authority in statute? Section 42(2) as presently drafted says CP Rail shall not apply for a revision of the prescribed assessment rate schedule. CP Rail does not wish, nor can it, apply for a revision of the prescribed assessment rate, but it certainly will want to contest the application of a rate to a line of railway which is not technically covered by the prescribed classes. Therefore, to repeat, Section 42(2) is not necessary to prevent CP Rail from appealing a prescribed assessment rate. It cannot anyways, but it does not want this section used to prevent it from attacking an assessment which uses the wrong class of railway roadway.

Although it is CP's submission that Section 42(2) is absolutely unnecessary and should be removed from the Bill, if for some reason not apparent to CP Rail the section should remain, it is our position the section should be amended to read as follows:

"No review of rates

42(2) A board shall not consider an application for the revision of any rate set forth in an assessment rate schedule prescribed under Section or Clause 6(1)(a)."

The amendment suggested will prohibit CP Rail from appealing any assessment rates which are prescribed in the regulation passed pursuant to Section 6(1)(a). However, it will not provide CP Rail with any avenue of relief should the problem I have illustrated earlier arise, i.e., the abandoned railway roadway.

We recommend to this committee there also be enshrined in this legislation the right to negotiate with the assessor a new class and assessment rate for such a class. Such a right—I am referring to "of negotiation"—was enshrined in The Local Improvement Act of Saskatchewan as a result of discussions with the railways and Marathon Realty Company Ltd. representatives.

In Saskatchewan, CP Rail was concerned with being assessed by a municipal council for a local improvement which, in fairness, was not a benefit or was a reduced benefit to the ownership of the railway land against which the assessment was made. Recognizing this, the Saskatchewan legislature accepted the principle of the right of negotiation and incorporated the right in statute. Section 20(2) provides for council entering into an agreement with the owner of the land "for the purposes of providing for a reduction in the amount of the special assessment sufficient to make the total fair and equitable, having regard to the location, value and benefitted area of the land, right-of-way or grounds."

Section 20(3) then provides for the procedure to be adopted in the event an agreement under Section 20(2) cannot be reached. Where council does not enter into such an agreement, the owner may petition, within the time limit, the Saskatchewan Assessment Commission "to adjudicate in the matter, and the Commission may thereupon order the council to enter into an agreement in accordance with the terms and conditions prescribed by the Saskatchewan Assessment Commission."

* (1100)

We propose similar provisions in Bill 79 by adding, to Section 42, Subsections (3) and (4) as follows:

"42(3) In the case of railway roadway which does not fit the prescribed assessment rate as defined in Section 6(1)(a), the assessor may enter into an agreement with the railway company for the purpose of defining a class of railway roadway and fixing a rate applicable thereto, having regard to the gross tonnes moving thereon or lack of same or having regard to any other special feature which distinguishes such railway roadway from those prescribed in the assessment rate schedule.

42(4) Where an agreement under Subsection (3) cannot be reached or where, upon application by the railway company, the assessor does not forthwith enter into such an agreement, the railway company may, within 30 days after the date of publication of a Notice of Assessment of any part or section of the subject railway roadway, petition the Municipal Board to adjudicate in the matter, and the board may thereupon order the assessor to enter into an agreement in accordance with the terms and conditions prescribed by it."

Those two sections, I might point out, are parallel. Obviously they are not quoted from the Saskatchewan Act, because the Saskatchewan Act was dealing with the local improvements.

It is of course obvious, and it remains CP's position that Section 42(2) is not required and should be removed. However, whether Section 42(2) is removed or simply amended in the manner suggested earlier, it is our submission that CP Rail must have the recourse provided for in the proposed Subsections (3) and (4) I have just quoted. Subsections (3) and (4) are Subsections which do not rely on the existence or lack of same of Section 42(2). It just simply sets up a negotiation and agreement procedure.

Definition of "Railway Roadway"

Turning now to CP Rail's second concern, the Section 1 definition of "railway roadway," we recognize the intention of the Legislature to include in the definition all stationary railway operations-related equipment used in the operation of a train over a line of railway. For example, the definition includes, among other things, signals, signal towers, radio towers and grade crossing protective devices. CP Rail supports this intention but submits the definition must be expanded to encompass equipment which is used today.

Legislative requirements under various transportation Acts impose upon the railways the need to continually update and maintain high standards of safety and environmental protection. For example, at the time the present Municipal Assessment Act established the definition of "railway roadway and superstructure thereon," there was no equipment such as "hot box or dragging equipment detectors," equipment which is now standard stationary equipment along railway roadways or lines. In addition, the railways themselves are continually developing new equipment and installing it along or near their lines to better facilitate the operation of their trains.

All of the stationary and permanently installed equipment is a necessary component to the safe and efficient operation of trains over railway roadway, and in our submission must be included in the definition of railway roadway. Accordingly, CP Rail requests railway roadway be amended to include such equipment by insertion after the words, quote, grade-crossing protective appliances, the following words: hotbox and dragging equipment detectors and other stationary equipment appliances or machinery used in the operation of trains.

In conclusion, on behalf of CP Rail, we wish to thank you for considering the issues we have raised. Our suggested amendments, we feel, will make this Bill more

effective in its application to assessment of railway roadway. It will permit negotiation and agreement on railway roadway not covered in the classes in the prescribed assessment rate schedule. It will avoid possible conflict with the assessor in assessing, perhaps without statutory authority, those railway lines which fall between the cracks, as it were. We will have a definition of railway roadway which encompasses the equipment used today on modern railways.

Mr. Chairman and Members of the committee, thank you very much.

Mr. Chairman: Thank you, Mr. Smith. Are there any questions for Mr. Smith from the committee. If not, thank you very much. Mr. Plohman.

Mr. Plohman: Yes, I just want to ask Mr. Smith whether the current system of assessing railway roadbeds is a discouragement or an encouragement, or does it have no effect on the decisions to abandon rail lines?

Mr. Smith: The present method of assessing railway roadways establishes a cost which is taken into consideration in determining whether or not a railway roadway is economically feasible or not. So it does definitely play a role. A concern of the railway is to ensure that the assessment under the new scheme reflects the fact that it is not a revenue-producing line.

Mr. Plohman: Mr. Chairman, the current system would retain a higher cost even after the rail line is abandoned to the railway than what is being proposed here?

Mr. Smith: I am not sure I can answer that. Just let me check, Mr. Plohman. Mr. Olmstead, who deals with the daily numbers, may have a comparison. Our problem is that we have an idea of the prescribed rate schedule, but I do not know whether or not we have been able to develop the actual numbers. Mr. Olmstead, can you answer Mr. Plohman?

Mr. Kevin Olmstead (Canadian Pacific Limited and Canadian National Railways): We have not seen the rate schedule in its entirety. All we know of is what the rates will possibly be for active lines, and that was our concern in submitting this.

* (1110)

Mr. Plohman: So, Mr. Chairman, the primary concern in here is not just a right of appeal, but the high cost of lines which have been abandoned by the railway.

Mr. Smith: That is correct. That is correct, the cost of taxation being one element of it. But the high cost of operating their lines is a consideration in the decision to abandon.

Mr. Plohman: However, Mr. Chairman, the current system would discourage abandonment, therefore, because it would not be any advantage to the railway to abandon that line if it is going to continue to be taxed or assessed at the higher rate as if it was being used.

Mr. Smith: The present system—that is the current Act?

Mr. Plohman: Yes.

Mr. Smith: And the statutory rate system? We suspect the statutory rate would be lower than the new Act, but again that is subject to check with numbers when they actually come out. That is correct. So, the present system I think, Mr. Plohman, your point is, is more of an encouragement to—or it keeps the costs of the line at a lower amount than the new Act might.

Mr. Plohman: Mr. Chairman, the new Act would, in your mind, result in higher costs to the railway than the present system and would offer, if anything, a deterrent to abandonment, not an encouragement?

Mr. Smith: Mr. Plohman, the proposed Act, which we believe will increase—it is difficult for us to have any idea what the costs are going to be—but if it proposes to increase or if it will, in effect, increase the cost of operation along that particular line, it will not act as a deterrent. It will be a point that the railway would have to consider in whether or not it has an economic line. If it does not, it will commence the process of abandonment.

Mr. Chairman: Thank you, Mr. Smith. Mr. Plohman.

Mr. Plohman: Mr. Chairman, the way I understand it, your concern is that it would continue to be taxed at the higher rate, so really it would be no advantage to abandon it, because you are still going to have to pay the cost anyway for the higher assessment. What you want to do is, of course, avoid those costs after it is abandoned and have it reduced, based on the fact that it is no longer earning any revenue.

Mr. Smith: That is correct.

Mr. Plohman: Mr. Chairman, I just wanted to ask whether the railways see any deterrent in the system to negotiate agreements in any event. If they wanted to negotiate, what is to stop you from negotiating with the Government on this issue? If you reach an agreement, then they can always bring in legislative changes to reflect that agreement.

Mr. Smith: Mr. Chairman, in looking at the Act, the assessor has certain statutory authority to develop an assessment on a piece of roadway, and he has, as I understand it, Mr. Plohman, five classes of property. The lowest class I believe is five million gross tons per mile moving. That indicated that there is gross tons moving. If there is an abandoned line, you have no gross tons moving. We may take the position, hey, wait a minute, there is no authority. There is nothing stopping us from going and negotiating. The difficulty is whether or not there is statutory authority in the assessor to be able to make some sort of deal. What we are saying here is, this provision or suggested amendments will give them that statutory authority.

Mr. Penner: Maybe, Mr. Chairman, for clarification I should indicate that there is not the ability for the

assessor to make those kinds of decisions through negotiation. However, there is ample provision within the Act to allow the railways to sit down and negotiate with the Government. It is also within the ability within the Act to allow the assessor to make recommendations to this Government for changes.

In other words, if you deem that there is a need to set another class which could, for that matter, be a zero class, there is nothing stopping the railway and the assessor from sitting down and discussing that possibility. If you can agree, there would be nothing stopping the assessor from making that recommendation to Government for consideration.

There is, however, I think another area that I think might answer a question that Mr. Plohman (Dauphin) had before, and that is the amount of revenue generated now from lower use lines. They could be branch lines or other—it is also a part of the consideration of the new Bill. There are variances that are going to enter into this, which is a change from the previous one, as you know. So there are some changes which, in my view, will make it more preferential to retain some of the lower use lines, and will probably bring down some of the tax on some of the lower use lines than from where they were before.

Mr. Smith: Mr. Minister, thank you very much for the comments.

Our concern however is, although there may be avenues for negotiation, the process that we propose really sets a formula or a schedule to come to some arrangement or agreement on those lower revenue lines.

You definitely have, in framing the legislation the way you have with gross tonne mileage, or revenue, moving on those lines clearly recognized that some lines are high revenue lines and others are low revenue lines and taxed accordingly. We have no difficulty with that principle.

It is just that we always know we have an open door to negotiate with Municipal Affairs and with assessments and so on, but in this particular case there is clearly a need, in our submission, to enshrine that type of negotiation in a process so there are no long delays.

We come to you in year one, in 1989 or '90, and say this line we have been indicating to you is not producing, it is really stopped, there is nothing on that, there are no shippers along that line, and so on, and can we talk about it, and we would like to talk about it then and not five years later.

Mr. Bill Uruski (Interlake): Mr. Chairman, to Mr. Smith, in your brief on page 5 you talked about the process of negotiation and that there is the right of negotiation in Saskatchewan. Does the right to negotiation there, with the assessor, lead to an agreement with the province, or lead to an agreement with the municipality in which the line is located?

* (1120)

Mr. Smith: Under that statute it is the negotiation, actually, with the Municipal Council, and it leads to an agreement with the Municipal Council on the tax treatment of the land in their municipality. If there is no agreement they slip over to the Saskatchewan Assessment Commission who will then dictate the terms of the agreement once they have heard the case.

It is not the assessor. We have transposed—that is why I said it was a parallel drafting of legislation. It is the assessor who is the person we deal with here, either the city assessor or the provincial assessor, as far as railway lines are concerned and dealing with the classification of property. We transposed it to deal with an assessor.

Mr. Uruski: Just for information, Mr. Chairman, can Mr. Smith indicate whether there have been variances in the types of agreements that have been reached, and have there been any agreements reached in the Province of Saskatchewan?

Mr. Olmstead: Yes, there has been over the years. Last year we entered into two agreements with two separate municipalities. On the frontage they have had legislative changes too, which control the amount of the agreement we can enter into.

The main reason—maybe I can clarify why this was asked for, because obviously with the railway you have a great amount of frontage so this way we had a procedure where we could go in before the actual frontage rates were set. So if they reduced our frontage by 90 percent they could readjust that in their rates over the municipalities. It would not be a loss in revenue to them if we just appealed through the normal process.

Mr. Uruski: Were there any discussions, agreements or negotiations involved in the question of abandonment or lines that were not being used, or is there anything—I am assuming these amendments that you are proposing not only deal with frontage but also deal with lines which may, in the future, not be used.

Mr. Smith: Mr. Chairman, the section in Saskatchewan deals with station grounds, right-of-way and frontage, really on a frontage basis, whereas here we are dealing with roadway, that is a line of railway. We are not dealing at all with assessment of station grounds.

Mr. Chairman: Thank you. Would the person from the Canadian National Railways like to add some comments now?

Mr. Rhine Olyniuk (Canadian Pacific Limited and Canadian National Railways): Mr. Chairman and Members of the committee, as far as Canadian National Railways is concerned, we did not prepare a draft or anything like that. We are in full support of the suggestions CP Rail has made as they pertain to Section 42.(2) and also the definition of railway roadways.

Mr. Chairman: You are Mr. Olyniuk?

Mr. Olyniuk: That is correct.

Mr. Chairman: Thank you. Are there any questions for the representative for CN—if not thank you very much.

Our next presentor is Mr. Ross Nugent on behalf of the administrations of the Grace General Hospital, St. Boniface General Hospital, Seven Oaks General Hospital, Concordia General Hospital and Victoria General Hospital, as well as a private citizen, Mr. Nugent.

Mr. Ross Nugent (Administrations of Grace General Hospital, St. Boniface General Hospital, Seven Oaks General Hospital, Concordia General Hospital and Victoria General Hospital; as well as Private Citizen): Mr. Chairman, Mr. Jim Hayes of the Grace Hospital and Mr. Frank Ryplanski of the St. Boniface General Hospital are both present today, as well.

This brief arises out of appeals that were taken by a number of the hospitals this year against assessments of the land in the City of Winnipeg that they occupy as the sites of their hospitals. It is presented on behalf of St. Boniface General, Victoria General, Seven Oaks, Grace General and Concordia General Hospitals. They request an amendment to Bill No. 79, to achieve a tax regime that will be equitable for all hospitals in the Province of Manitoba.

It is our hope that the Government will see fit to incorporate these amendments to the Bill, at this stage, to address the concerns that will be mentioned.

These are our complaints and our requests.

1. Real property assessment of hospitals has created very substantial taxation inequities among them in the following way:

(a) Each hospital's land is valued on the basis of the lands surrounding it. As development has occurred, often attracted by the hospital's existence there, land values in the area have increased markedly. These increases are then attributed by the assessor to the hospital's land, notwithstanding that the use of the hospital land has not changed, that it is dedicated to hospital use and it does not share in general increases in market value.

(b) Any additional land acquired and held by the hospital for expansion purposes is assessed at full market value on the theory that it could be sold at full market value. This ignores the facts that, first, if the hospital did not acquire the additional land before the area developed it would later find itself able to expand its facilities only by acquiring developed land at very substantial cost in terms of both money and the destruction of community assets represented by that development; and second, The Manitoba Health Services Insurance Act, Section 70, and the Manitoba Health Services Commission policy prohibits the sale of the additional land for that very reason. Thus, hospital land not used and required to be held for future development is assessed as though it were currently available for sale for such uses as shopping centres, high-rise apartment dwellings or other intensive commercial uses. This may be in accord with assessment valuation theories, but does not seem to be in accordance with fact and common sense.

(c) The assessment and taxation of hospital lands, inasmuch as these relate to the development and value of the surrounding lands, is therefore uneven and inequitable and overlooks the fact that each hospital operates its facilities and services under The Manitoba Health Services Insurance Act, has its revenues regulated by the Commission and cannot be considered to operate in a commercial environment as assessors assume it must be deemed to do.

(d) The current land exemption, 4 acres, and the exemption proposed by Bill No. 79, 10 acres or 4.047 hectares, results in further taxation inequities among hospitals. Hospitals outside the City of Winnipeg are and will be adequately protected by the exemption, because their sites are relatively small.

* (1130)

In Winnipeg itself, however, these are the following situations: The Winnipeg Health Sciences Centre is fully tax exempt by its statute, The Winnipeg Municipal Hospitals are tax exempt because they are owned by the City, The Misericordia General Hospital has 3.92 acres and therefore is caught by the exemption, St. Boniface General Hospital has 21.34 acres, Grace General Hospital has 20.63 acres, Victoria General Hospital has 18.54 acres, Concordia General Hospital has 11.98 acres, Seven Oaks General Hospital has 23.35 acres.

All of those are in excess of the areas that will be covered by the proposed exemption.

As you will have noted, only the undersigned of all the hospitals in the Province of Manitoba are taxed, notwithstanding that in each of their cases the land held is solely for current hospital services and to provide necessary expansion capacity.

2. We are advised by our legal counsel that the effect of Bill 79, as it is currently worded, will be to assess and tax hospital buildings to the extent that they are situated on a site that exceeds an area of the proposed 10-acre site exemption. This apparently will come about as a result of the changed definitions of "hospital" and "real property" in the Bill, whereby the hospital buildings themselves, currently exempt, now will fall into "real property" and be subject to the 10-acre limitation.

We trust that this is a drafting anomaly and that the exemption clause may be redrafted to ensure that all hospital buildings continue to be exempt.

3. We request that the words "psychiatric facilities" be deleted from paragraph (c) of the definition of "hospital" to remove any doubt that the present exemption of those units situated in acute care hospitals will be continued.

4. If the hospital buildings will remain exempt with those changes, then our major concern is only with the assessment of hospital lands at values measured by market values of other lands in the area.

With the introduction by Bill 79 of the "market value system," we are advised that the entire property, land and buildings, is to be assessed at market value. We think that a hospital facility does not have a market value. None are bought and sold. There certainly is no income stream that would attract investor interest. That being the case, we think it is quite inappropriate and unfair that an assessor would try to ascribe a market value to the hospital's land as though the building and other facilities did not exist. Such an exercise does not seem to us to carry forward the Government's intention to introduce an objective standard of valuation or to demonstrate its commitment to fairness.

Having regard to the fact that all hospitals are assessed at different rates of value dependent on their location, that most hospitals will be fully exempt, that all hospitals operate under The Manitoba Health Services Insurance Act, where all budgets are strictly controlled and disposition of lands is entirely in the discretion of the Minister, it is our submission that the Government will only be able to achieve equity and fairness if all hospitals are treated not just uniformly, but effectively in the same way, by exempting not only hospital buildings but also all of the lands held by a hospital for its present and future requirements. We can see no reason why this should not be done. We trust that we need not underline the importance of the existence of the hospitals to the communities they serve. The most recent establishment of Seven Oaks General Hospital with the full backing of that sector of the City of Winnipeg, arising out of its perceived need for the services should suffice.

We respectfully request that you recommend that Bill 79 be amended accordingly.

If this should be your considered view, that a blanket exemption would not be politically desirable, then we request that the area of land to be exempted by the Bill be increased from 4.047 hectares, 10 acres, to 10 hectares, 24.7 acres, to recognize and alleviate against the inequities shown by paragraph No. 1(d) above.

In concluding that, I would add that it would appear the original exemptions in the Bill, 4 acres growing to 10 acres were always intended to provide the exemption that is being asked for by the hospitals at this stage. What we want you to do is to recognize the areas that are required by these hospitals has grown with the years, and the exemption therefore should grow with the needed additions of property.

Mr. Chairman: Thank you, Mr. Nugent. When you started your presentation you mentioned some names and apparently the recorder missed those names. Could you give us those names again please, from the hospitals?

Mr. Nugent: There is Mr. Jim Hayes of the Grace General Hospital, Mr. Frank Ryplanski, R-y-p-l-a-n-s-k-i, of St. Boniface General Hospital.

Mr. Chairman: Thank you, Mr. Nugent. Just a minute please. Mr. Minister, Mr. Penner.

Mr. Penner: You indicate, Mr. Nugent, that some of the hospitals that you are representing own more land than what is prescribed under the Act. Are all the lands, for instance, St. Boniface General Hospital's now in use for hospital use or does St. Boniface own some lands that are not currently used for the hospital?

Mr. Nugent: Mr. Ryplanski, Mr. Chairman.

Mr. Frank Ryplanski (Vice-President of Finance, St. Boniface Hospital): Yes, all the hospital land is used for hospital purposes by the provision of the insured services, or in respect to providing accommodation for them to be accessible to the hospital.

Mr. Penner: Does that apply to all the hospitals listed here?

Mr. Ryplanski: I think some other hospitals may have—they should probably speak on their own behalf, but I think they have expansion capabilities that we do not have, we have a small triangle on the river and our expansion capabilities are not there, the same as the other ones.

Mr. Penner: The Bill was very consciously drafted in such a manner that would not allow blanket exemptions of any property owned by institutions. In other words, we wanted to make sure that there would be some restriction of amounts of property owned by institutions, and if there was a blanket exemption on the odd properties owned by institutions it would, in some cases I suppose, leave the door open to question as to whether they might enter into speculative investments on non-tax basis. That was one of the reasons really, why it was done this way.

I recognize, looking at these numbers, that the hospitals listed here—if all these properties are used for hospital facilities it certainly does provide an additional cost to those hospitals.

Mr. Ryplanski: The other thing in that respect with respect to the hospitals that are located in the quadrants in the province, Concordia and Seven Oaks, those properties were acquired by the province at the outset as being space required for the development of hospitals and were not acquired by the boards themselves, in the first instance but boards, particularly in Seven Oaks, the community board came in long after.

Mr. Chairman: Thank you, Mr. Ryplanski.

Mr. Taylor: Thank you, Mr. Chairperson, and Mr. Nugent, nice to see you again in delegation even if it is a different forum.

I have a question on this exemption matter related to land areas, and I am having a lot of trouble with the artificiality of the land exemption, quite frankly. I also am taken aback that there is normal taxation on institutions of this nature, I have to admit.

* (1140)

I want to put something to you though, as a representative of this group of city hospitals. What your view would be to, Mr. Nugent, a total exemption of all those hospitals with the exception of the lands or portion of lands or buildings or portions of buildings that are used for revenue generating enterprises? In other words, if there were businesses there being conducted, for example, by the hospitals outside of the normal mandate of the hospitals but used as a revenue source for those hospitals, or if they are operated by commercial operators for their own business purposes, again though with the goal being providing revenue to the hospitals on those lands or in those buildings until such time as those lands or buildings were required for hospital purposes. What would be your reaction to that?

Mr. Nugent: In the first instance, Mr. Hayes will speak on that in a moment if he may, Mr. Chairman. I would think that it is very difficult to know what is a hospital service at any given time. If there was to be a blanket exemption of hospital buildings and hospital lands there perhaps would need to be some means of determining what are hospital lands and which are simply additional lands somebody is using as a shield from taxation.

That is not the intention of the hospitals, as has been pointed out, on account of the fact that these lands were acquired and handed to the hospitals which then established boards to run them. So what appears to be a large area of land—for example, Seven Oaks was acquired by the city from, I think, the province and turned over to the board to manage, but if that kind of policing was needed perhaps there could be some provision that they would be hospital services as approved by the Manitoba Health Services Commission. Perhaps Mr. Hayes could enlarge on that if he may.

Mr. Jim Hayes (Assistant Executive Director, Grace Hospital): Yes, we would be open to the concept that you are raising. The only thing that comes to mind at the present time would be our parking lot, which is primarily just to recover the cost associated with providing electricity there. We do not have that type of thing happening at the present time, but if that were to occur, where we would have a business-type environment outside of The Health Services Insurance Act, that is something that could be contemplated.

I had one other point, if I may, in relation to the amount of land that we have. When you consider the buildings we have and again our parking lot and with the west-wing expansion of our facility, which was approved by the Government, we now really have no land left for expansion that we can see. We have already made, by way of letter, indication to the province and the city that the land immediately to the west of the hospital, across from Sturgeon, is of interest to us, and the city has acknowledged that we would have first opportunity if we were to expand further there.

I just make that comment by way of illustration to indicate that it is a nicely situated hospital as far as what you see around it. The land is used by the facility, and we do not have anything left that we could use to sell for gain so to speak, even if we ever did it would have to be with the approval of the Government through the Health Services Commission. There is no land left for development now at the Grace Hospital.

Mr. Uruski: Mr. Chairman, either of the three gentlemen who are here, I would just like to ascertain from them a couple of other features. Parking lots were mentioned as one of the uses that hospitals make of lands which are not on their building development. Are those parking lots now subject to the exemption if they are within the exemption in the Act, or are they assessed and taxed at the regular rate of parking lots, or whatever the Assessment Branch uses?

Mr. Hayes: My understanding, in relation to Grace Hospital, is that we have not been taxed as a commercial parking lot, that it has been included as part of the hospital's property.

Mr. Peter Sloggett (Assistant Executive Director of Operations, Victoria General Hospital): My name is Peter Sloggett. I am with Victoria General Hospital.

With respect to the parking lots at Victoria Hospital we have approximately two acres of our 18.5 acres for parking, and that is for both staff and visitors. Those two acres are owned by our foundation, and they are separate titles, so our 18.54 acres includes two acres which are owned by the foundation. That is our only commercial operation.

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

Mr. Uruski: They would then be subject to assessment and full municipal taxation at whatever rate is applicable.

Mr. Sloggett: I believe they are exempt at the present time.

Mr. Uruski: Mr. Chairman, some of the hospitals do maintain residences because they are teaching hospitals. Could anyone from the group comment as to how those buildings are treated in terms of The Assessment Act?

Mr. Nugent: They have been exempt, and under the Bill it is proposed to tax them.

Mr. Uruski: Would that proposal to tax the residences be notwithstanding the acreage exemption that is presently contained in the Act?

Mr. Nugent: They are not included in the definition of hospital any longer.

Mr. Uruski: Could the members presenting—would they have some impact of what that change would have on operating costs of those institutions?

Mr. Chairman: Who would like to answer that?

Mr. Ryplanski: I would. Currently our nurses' residence is covered by two-acre exemption. That means we would then have to pay the taxes on that exemption

unless the exemption of including hospital buildings would include the residence in the future, then we would still be able to maintain that level of exemption.

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

Mr. Uruski: Mr. Ryplanski, would the nurses' residence, in terms of operation, be a recoverable portion of your institution in terms of the rents charged to recover operating, or is that generally being used as a necessary support to keep people near the institution?

Mr. Ryplanski: It is a support. We do charge rents to the people who are using it, but we are recovering the monies that we are incurring right now. An increase would mean either an increase in funding from the funding agency or, in fact, an increase in rents to the people, and that may create problems, particularly with the problems in attracting people to that field right now.

Mr. Uruski: Would your institution have received—I am not sure—would you be aware of the way that the facility has been assessed? Is it being assessed at a commercial value or at a cost to reflect the cost of the building of that institution?

Mr. Ryplanski: Our hospital buildings are now exempt, but the land is being assessed at a market value. Given our location, across from The Forks and across from Main and Portage, our land value is considerably higher than the other hospitals and assessed at that value.

Mr. Uruski: Mr. Chairman, just to be clear, is it then the position of your group that regardless of the use of the land that the institution maintains the exemption be granted carte blanche on the entire land holdings of the institutions? Am I just getting it clear?

Mr. Ryplanski: Yes, that is where it is at.

Mr. Uruski: Would the institutions have any position with respect to having operations assessed and taxed that may be revenue bearing? Although the institution itself is a non-profit entity in terms of Manitoba's sense, whether those institutions which would bear revenue and be consumed in the entire budget, would they have a position as to having a differential approach versus the care-giving institution and revenue bearing in the case of, say, a parking lot or a residence in which they recoup all their overhead?

* (1150)

Mr. Ryplanski: With respect to operations outside of the insured services our mission and objective is that should there be any income that is earned, that goes to charitable works, and that would impact on the ability to do that.

Mr. Uruski: Mr. Chairman, what you are telling me, just so I understand, that any additional revenues may be used for, whether it be a nursing home or other caregiving, that your institution may not presently receive funding through public sources. Is that correct?

Mr. Ryplanski: That is correct.

Mr. Uruski: Mr. Chairman, maybe Mr. Ryplanski can give us examples of what actually occurs in using these additional revenues. Where would they be used in terms of your institution?

Mr. Ryplanski: In some instances it might be capital equipment, but in our circumstance we do have pastoral care that is not covered by the insured services that we provide, that type of funding.

Mr. Uruski: For patients in the hospital and the covering of staff costs, of hiring pastoral care to patients, or basically extending health care that is not normally covered by MHSC.

In terms of the acreage that hospitals have purchased, there is a provision under, you have made note in your brief under the Manitoba Health Services policy that there is no sale of land or additional land that you have purchased. Have there been any exemptions to that at any time in the past which would have lead the I guess narrow exemption that is presently contained in the Bill? Is there some reason by which one arm of Government has said, look, we are going to curtail you to your present site, and the acres that you have now should be taxed at commercial value? Is there any reason for that, and is that reason by virtue of some sales that were made in the past or for some other reasons?

Mr. Ryplanski: I am not sure I am going to answer the question, but we will try it and then we will see how it goes in this respect. I believe Government made a decision years back to put a provision in the legislation whereby they would authorize the sales, and that was probably to protect the health care that is being provided, that owners would not abandon their facilities and thus provide for some protection in that respect. I think that is probably the main reason, so that the continuum of health care would be there for the residents of Manitoba.

Mr. Nugent: If I could just add to that point, because I have talked to the people at the commission about that. They require the land be held for hospital services purposes because if it is let go for the sake of getting some money or something of that kind at the present time, then the cost of getting it back later, as will be inevitable, is a horrendous cost.

They do allow the disposition of land that they cannot see will be required in the foreseeable future. They have in the case of I think perhaps it was Concordia. They allowed one parcel to be transferred for a dollar to a nursing home as being within the health care field, but it is restricted in that fashion and it is entirely in the discretion of the Minister as to whether it is that kind of a service that will be provided on the land. It cannot be disposed of for commercial purposes.

Mr. Uruski: Mr. Chairman, I am just looking for example at Seven Oaks which is the latest facility that has come on stream. I am either assuming that if the land was acquired from the province it would have been MHRC land or some other land banking the province undertook, and given that the acreage size as compared

to the actual physical structure that is on there is probably far larger, and given that it can only be used for health purposes I guess the request for the exemptions since it cannot be used for anything but health care giving, that the brief that is provided here does make some very valid case for just saying, these are the lands that are now within it. Rather than have an acreage, you are really suggesting that the lands there be kept as part of the institution and exempted as such, regardless of the use that may be there, provided that all the funds that are used are for caregiving.

Mr. Chairman: Who is going to answer that?

Mr. Sloggett: I think it is important also to look at Victoria. Originally Victoria Hospital was located on River Avenue. At one point they were contemplating—yes, just across the river—building on that existing site and during a period of years prior to 1964 they actually acquired properties in the adjacent area, houses, et cetera, with the intent of expansion.

Subsequent to that in 1964 the Rural Municipality of Fort Garry wished to attract a hospital to their area of the city. They put together with the board at that time this parcel of land which was made up of several pieces. The municipality in their wisdom at that time provided $350,000 toward the purchase of the property which at that time was its cost. I think it is important to indicate that the property was acquired with the future in mind, with the objective of having land available for future development so that you would not run into the difficulty of having to acquire land at a high commercial value, as was the case in River Avenue properties.

So I think the acquisition and holding of the land makes sense from a planning perspective. To tax it at commercial values becomes onerous to the hospitals who have to reduce other services to find this money. In the case of Victoria Hospital it is not a lot of money, it is about $35,000 a year more than we had, but that is one nurse. We had to find the money from within our global budget. Other things will suffer as a result of that, so it does not seem too make much sense to do it that way.

Mr. Uruski: Mr. Chairman, are there any present restrictions on hospitals in terms of acquiring more land. I say that in the sense—let us say the exemption grew or was left open to their needs. What is the, I guess, converse hold back? What reins are there on you from just saying, we are now going to be in the land development business, because maybe 50 years from now we are going to build an institution that requires 50 acres of land? Are there any constraints on the institutions now if the exemptions were raised from going ahead and meeting the maximum requirements?

Mr. Hayes: We are mandated to provide services covered by the Act, and we would not be in a position, I do not believe, to start acquiring what you are suggesting for that kind of endeavour. The example where we have asked the city for their consideration of the land just to the west of us, across from Sturgeon, would be on a case basis for providing services that we would not be able to otherwise provide now. I do not know beyond that though. Perhaps Peter or Frank could help me there.

Mr. Ryplanski: I would like to perhaps answer, because we are in a particular area and we are confined with the residences around there. Naturally there are two concerns; the City of Winnipeg has concerns as to what may happen in expansion, and they are always interested in our plans and they have zoning that they have to consider from time to time, but the other thing is that in St. Boniface there is the old St. Boniface residents association who also lobbies with us and lobbies with the city as far as development in that respect.

* (1200)

Mr. Uruski: Mr. Chairman, would the board of whichever hospital, if they were to purchase land, would they have to go to the Health Services Commission for approval before they were allowed, or is that an issue that they could deal with on their own?

Mr. Ryplanski: Perhaps I can answer that both from my experience at the commission and now at the hospital. The land requirements are strictly the responsibility of the owners of the institutions and as a result it is strictly in their—however, if they wanted to plan for some facilities on that, naturally they would have to have the commission's approval.

Mr. Uruski: Would the institutions be opposed to having, let us say that requirement on land be subject to approval by the Health Services Commission if the question of exemption was clarified?

Mr. Nugent: I am advised that would be satisfactory to the hospitals, Mr. Chairman.

Mr. Uruski: That is indeed very interesting, Mr. Chairman, and I thank the members for their response. I will leave that for now, and I wanted to get clarification of point three on page 3 of your brief as it relates to psychiatric facilities and the concerns that you have raised. Maybe I just did not catch your comments clearly. Perhaps you would clarify the reason for the removal of these and explain that to us.

Mr. Chairman: Who would like to explain that—Mr. Nugent?

Mr. Nugent: Mr. Chairman, I think it is more a question of not understanding what the Bill intends. Under the existing Act, hospital does not include an institution as defined in The Mental Health Act, taken that to be a mental institution that is operated separately from a hospital. Under Bill No. 79, under the definition of hospital, it reads this way, it does not include a building that is used as a psychiatric facility or institution as defined in The Mental Health Act, so they are going beyond the words, an institution, as defined in The Mental Health Act and including a psychiatric facility.

My understanding is that there are psychiatric facilities or units in some of the general hospitals, and their concern is that there might be a suggestion here that those would now become subject to assessment and taxation. We are not sure that is the case, but we want to raise it and say if that is the thought, we hope you will not proceed with it. Mr. Ryplanski has been considering this recently as well, and he may wish to add to that comment.

Mr. Ryplanski: That is correct. The concern is the fact that I understand the definitions are established by the federal Government and we have not been able to establish how they are—we have been trying to get information from the commission as to what a psychiatric facility would mean, and that is why we introduced it at this point in time because we are unsure whether it means that it would include a psychiatric unit in an acute care facility, and at this point in time it does not include that. We just had some concerns.

Mr. Chairman: Thank you. Mr. Uruski, before we continue, what is the will of the committee here? Shall we continue the questioning here, or we have one more presenter that would like to make his presentation before lunch. Are there more questions on this? What is the will of the committee here?

Mr. Uruski: Mr. Chairman, perhaps let us continue the questioning. Maybe there are not very many more questions, and then we will decide at that point in time. If there are, Mr. Chairman, I am not sure that we should be in a position that we should rush the process.

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

An Honourable Member: Let us hear one more.

Mr. Chairman: Okay, let us try to continue with the questioning and try to speed things up here, if we could, please.

Mr. Uruski: Are the facilities now, the psychiatric facilities within the institutions, I am assuming that they are now exempt as part of the health institution, and that the words, psychiatric facilities, if they were removed from there, would continue the present exemption in terms of the definition. Perhaps the Minister may want to clarify that point for Members just so that we do not get into a discussion on some tangent that may be easily explainable for Members of the committee.

Mr. Chairman: Who would like to answer that? Mr. Minister—Mr. Penner.

Mr. Penner: Well, Mr. Chairman, there was certainly no intent when drafting this Bill to cause taxation or assessment of those portions of hospital buildings that would be used for psychiatric care. It is only the separate facilities that are used and have been used, so there should be no fear there. If there is doubt as to the wording of the Bill, we can certainly take a look at that and clarify that to very clearly state that those portions of hospital now used for psychiatric care, be they rooms, would not be cause for taxation.

There is one other one that was raised before and that is, at least a question raised by Mr. Nugent, insomuch that it inferred that there would be or could be as the Bill is drafted now cause for concern re the taxation or future taxation of some buildings located on hospital-owned property. Again I want to indicate that it is not the intent of the assessment Bill to cause additional taxation on those properties that are used for hospital care on properties owned by, on land owned by hospitals. If there is a question as to the drafting of that portion of the Bill that needs to be clarified that certainly again can be accommodated. I understand here from legal counsel that might in fact be questionable as to the current drafting, and we will look at that and clean that up.

Mr. Chairman: Thank you, Mr. Penner. Okay, Mr. Cummings has a question here.

Hon. Glen Cummings (Minister of Environment): I think my question has been answered. Basically, what you are saying or requesting is that you would like the existing amount of land that you have exempt from taxation. The trouble we had when drafting of course was whether or not you make an exemption up to the maximum or whether you try and strike what is deemed to be a reasonable amount of property. Obviously you have some concerns with that ground that we tried to find.

Do you have a recommendation to us about whether you feel that exemptions should be limited to the amount that you present here, or do you think that you want to stand by your suggestion that it should be 25 acres across the board and put some limiting factor on there for expansion. One of the concerns I suppose that we had, where there are a number of smaller hospitals obviously that do not need that much land, but if you put a maximum figure out there it does expose some communities to potential misuse of that exemption.

That is really the problem we had. I think I have maybe heard an answer that you gave to Mr. Uruski earlier that would be satisfactory, but I would like you to expand on that just briefly.

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

Mr. Nugent: I think these areas are going to change all the time. For example Mr. Hayes has told your committee, Mr. Chairman, that Grace is looking for additional land at the moment across Sturgeon Road. They have 21, almost 20.5 acres now, and they could approach that, so whatever amount that you put in here will be subject to change, just as the hospitals have grown over the years.

* (1210)

The hospitals' position is that they think that whatever is being used for hospital purposes ought to be exempt. If that requires some kind of a control, if there were to be any fear that hospitals' lands being exempt would somehow fall into the clutches of somebody who could make a dollar out of that by using their exemption,

that would not be the intention or the practice or policy of any of the hospitals. If some kind of a control or requirement over that—then, as they have said already, supervision of the acquisition of lands by the commission would be a satisfactory means of ensuring that the exemption was not abused.

Mr. Taylor: Mr. Chairperson, I am hoping I could obtain a clarification, because I think I heard two differing opinions from the delegation. The first one, in response to my question of the proposal of complete exemption on all lands, that I put on the table, the exceptions being that which would be revenue-bearing. I got some sort of a positive response, but much later in questioning the response that came from another Member of the committee was to the effect that operations such as parking lots were not revenue-bearing but only cost recovery. That in any case any monies that should be derived from operations like foundations would be put into things such as the extension of cares beyond that which is authorized by the Health Services Commission. That leaves me at a bit of a loss, because I distinctly heard two things.

The other thing I wanted out on the table is that, knowing rates charged in parking lots, they are well beyond cost recovery. They are revenue-bearing. I just want the picture clarified. The other thing is, I am aware of hospitals that have land available for long term, such as the Seven Oaks—nothing wrong with that, in fact, I believe very strongly in the creation of public land reserves for very important institutions. But there is the ability to use the land not on a sale basis but on a leasehold development basis, if the known factor is 10, 20, 30 years before the land is actually required for the hospital use.

The other thing I am aware of is one hospital that rents out space for shops, a bank, doctors' offices. This is outside of the normal realm of what is in a hospital in the sense of health care. Those are revenue-producing. It is with those sorts of things in mind that I posed that first question. I would just really get a clear view of what the delegation is saying to us today.

Mr. Sloggett: Mr. Chairman, I think our situations may be different in each of the hospitals to some degree. Whereas the Grace Hospital talks about parking on a cost-recovery basis, Victoria Hospital talks about parking on a revenue-generating basis. Victoria Hospital operates basically two revenue-generating operations. One is parking, the other is patient entertainment television, which is within the building and obviously situated on the land.

In our case, and not all hospitals are necessarily the same, these operations are run by our research foundation. The research foundation has a mandate to provide services for Victoria Hospital, period. Everything that it has and everything that it does eventually rolls back into the hospital.

At the risk of bringing this matter up again, our foundation, for example, paid over half a million dollars for a CAT scanner. That revenue was derived from parking operations, from interest income, from patient television rentals. So the funds that are generated in the ancillary operations, as they are called, if they are operated within the hospital purview, then they become offset revenue and they end up going back to the MHSC.

Several of the hospitals have chosen to separate out their ancillary operations as part of their foundations. Any money which is made in there is designated to be used for the purposes of the hospital. So we do not see any way that those commercial operations can be used to any other benefit. If the commercial operations such as the parking lots were subject to taxation, then the rates would either go up or they would stay the same and there would be less money available. So it may take a little longer to buy a CAT scanner.

Mr. Chairman: Thank you, Mr. Sloggett.

Mr. Hayes: I think Peter has clarified it very well for the Grace Hospital. I did make reference to the cost recovery aspect of the rates, and that is true, but we do get some revenue out of it as well, as Peter has explained. We are in the midst of forming a foundation. At the present time the revenue does not go to a foundation; it does go though to the hospital's means of providing for patient care. That is just a little supplementary to what we get from the commission and is used entirely for the services provided by the Grace Hospital.

Mr. Chairman: Thank you very much. If there are no further questions—Mr. Uruski, you have one question?

Mr. Uruski: Mr. Chairman, just to follow up on the question of the psychiatric facility. When you have read the definitions in the Act as contained on page 5, can you indicate to me how you interpret (c), (d), and (e) in terms of its impact on existing institutions? What conclusion did you come to in terms of the way that section is written?

Mr. Ryplanski: I referred to The Mental Health Act to see what psychiatric facilities said, and the statements kept referring to other things, other references. There was a section that listed particular facilities, being Brandon, Selkirk, and one in Eden, I think, in southern Manitoba, but it did not list facilities per se in that regard. But from talking to the Manitoba Health Services Commission, a psychiatric facility is defined by the federal Government, and it could include facilities. So we just wanted to make sure that the clarification was received before this was passed.

Mr. Uruski: Mr. Chairman, in terms of (e), is it your interpretation that if the institution is owned and operated by the Sanitorium Board of Manitoba, that that would not fall under the definition of a hospital? Is that correct?

Mr. Ryplanski: That is correct. I am not certain what that refers to, but I believe it refers to the facility in Ninette. I am not certain of that. The Sanitorium Board is not into that operation the way it was. That has changed.

Mr. Uruski: Mr. Chairman, and (d), in terms of "is used as the hospital and is owned and operated by the

Government of Canada," I am aware, for example, that the Percy Moore Hospital, when it was originally built on the Peguis Reserve, was jointly funded by the Government of Manitoba and the Government of Canada. Subsequently I believe that the Governments of Manitoba acquired the entire holding, and then it was then transferred to a board.

Would you be aware of other facilities in the province that are used as a hospital, but operated by the Government of Canada?

Mr. Ryplanski: Deer Lodge used to be, but it now is a community hospital within Winnipeg as well. There might be something on the bases. I am not familiar, I cannot really answer that question.

Mr. Chairman: Thank you very much, gentlemen. Mr. Nugent, did you want to make some closing statements?

Mr. Nugent: No, Mr. Chairman. I am the next person on the list.

You will probably hear a number of these comments later today. So I am not going to take a lot of time. I have made what could hardly be described as a brief, outlining what I consider to be defects in the Bill. I should tell you, by way of introduction of myself that I am a lawyer practising in the City of Winnipeg. For a number of years I have been involved in, amongst other areas of law, assessment law, with a lot of appeals. I am reading this Act, this Bill, and I am making this presentation from the standpoint of a taxpayer, as opposed to the standpoint of an assessor.

If I may just deal with them very briefly: they are one to five, quite simple. I was very distressed to see that the Bill, in Section 17(1), notwithstanding all the hype that we were going to have a system of assessment based on market value, did not deliver.

In fact, instead we have no definition, we just have a word to tantalize the courts. 17(1) says that the assessor will assess property at a value in relation to the reference year, and value over the years has been defined in many, many ways from assessor to assessor as suited his purposes, and allowed him to escape in any particular case. So we think it is a very unfortunate thing that now, having the opportunity and the expressed intention of bringing in a market value system, the Act does not state that to be the case.

* (1220)

My first request would be that Section 17(1) should not say that property will be assessed at value in relation to the reference year, but it should be assessed at market value as of the reference year. The reference year being the triennial year for assessment.

Now I am going to take some liberties here, because I have had an opportunity of attending a meeting of the municipal law section convened by Chairperson Miss Dianne Flood, at which Mr. Brown, the Provincial Assessor, was present. He gave us an excellent outline of what the Bill was and what it was not.

I was concerned, as were some of the others, that market value was not going to be there. I was equally concerned with the fact that the department, the Assessment Department, was of the view that it would be enough if they wrote a letter to the assessor, saying that they should do these things on a market value basis.

We think that does not provide the kind of guideline and the protection that a taxpayer is entitled to have. A thing that is important, an underpinning of this Bill as the definition of value, should not be dependent upon an administrative direction or guideline from the assessor, the Provincial Assessor, to those who are assessing under him. We think if that is to be the case, then it should be spelled out into the Act very clearly, just as the Province of Ontario has done it in its Act, with no bad effect.

I was told that one of the reasons was that lawyers could not agree on the definition of market value and, therefore, it was better not to mention those words, just use the word value. Of course you cannot agree on the word value either. I was quite surprised to find that lawyers cannot agree on the definition of market value, for two reasons. I have never heard any question about it at all, as to what it meant. It has been in your Expropriation Act since the year 1970. It has never been questioned there.

It is in Expropriation Acts right across Canada. It is in The Ontario Assessment Act, and although in any given case there is always a problem of trying to determine what market value is—and there may be various tests by which you determine market value and income market reconstruction, construction approach, and that sort of thing—there is only one definition of market value. So I do not know why that should not be in the Act.

So I say under this first heading, amend the Section 17(1) to say that assessments are going to be on a market value basis and second, put in the definition of market value. If you do not like the one that is in your Expropriation Act, which I submit is an extremely good one, then use the one that is in the Ontario Act: that it is a willing buyer, willing seller, and so on.

Secondly, I say remove the assessor's sole discretion to change assessment between reference years when physical legal conditions change. This arises out of Section 13(1), and in effect it says that in any year where the assessor is satisfied that certain things have occurred, for example, properties not on the roll "by reason of an error or omission in assessment, destruction or damage of property altered or new improvements," et cetera, then the assessor shall amend the roll.

Now there are some things in there that are to the advantage of the taxpayer, the assessed party, and it seems to me that there is no reason why this should be in the discretion of the assessor. It is quite easy to recast the section, as I suggest, in the brief to say that where those situations occur, the roll shall be amended. That will then provide the proper direction to the assessor to do it. He of course would have to be satisfied that it is the case before he would amend it, but if he fails to do it and it is still the case, notwithstanding he does not agree, the taxpayer will have the right to go

before the Board of Revision and the Municipal Board to make his/her case.

So we think that these kinds of things should not be left to administrative discretion. These are to some extent protections for the taxpayer as well as an opportunity for the assessor to add things to the roll. We want things the right—taxpayers have the right to take things off the roll when the circumstances are appropriate for that.

The third thing, and I am not sure how many people are aware of this—I know that I was not. I read this Act two or three times, and it never crossed my mind for a moment that the intention of the Bill was to freeze assessments for three years. They are going to be made on a triennial basis, and in between there is not going to be any change permitted.

Now we think that is completely unfair for the reason that things can happen in a three-year time span where assessed values will change. An assessed party should have the opportunity to say, well, wait a minute, notwithstanding the general level of markets stayed the same, my value has gone down. I want to appeal it, and I want to have the right to have my assessment changed. Now the objection that we heard to that being done was that it would introduce an element of unfairness. If everybody is assessed on the same basis in the triennial year, whatever that might be, and the next year somebody has an appeal and proves that property is assessed too high, it will be reduced.

I understand the department's position is that is unfair that some person should get the break. With respect, I differ from that point of view because the Act specifically provides that the assessment is not to be changed if it bears a fair and just relation to the amounts at which other properties are assessed. So a person cannot go in between the triennial assessments and get a break, and get an advantage over somebody else by proving his property is worth less.

He must do two things: prove that his property has declined in value and that it has now resulted in an unfair assessment, an unjust relationship between his assessment and the others. So the protection for the Assessment Department and the integrity of the assessment base of the municipality is found in the fair and just relation section. It is not necessary for the court to freeze the assessment for the three-year period. It is still assessed on the basis of values as of a triennial year, but changes in value should be permitted by way of appeal.

The fourth point is a small one, but it bothers me. Section 51(2)—and I have had this experience once, and I did not know whether they were helping me or they were threatening me. 51(2) says that a board of revision at any time can make an order that one of the parties will pay all the costs of transcribing the proceedings before it.

Now 51(1) says the board may at anytime during the hearing direct that the proceedings will be recorded and transcribed. That is all right if they want to hear it, if they want to know more about it, but I do not see why they should then go on and have the right to order the poor person, who happens to be there appealing, to pay their costs. A small point, but as I say, it is an implied threat which I think should be deleted. I cannot imagine why the public purse cannot pay the transcription proceedings that are set up by the statute.

The last one—and I am rushing because I know you have got two minutes before you leave. Point five, I say ensure the carry forward of an assessment that is revised on appeal by the Board of Revision or by the Municipal Board. At the present time, when an assessment is made and then revised on appeal, if you are not fast enough to make your appeal for the next year you find that your assessment, notwithstanding it might be reduced on appeal, is bumped back up because you have failed to appeal in the intervening year. I have suggested that to avoid all of the commotion that causes, the definition of assessed value in Section 1 be altered to provide that it includes the assessment as revised on the appeal under Part 8 so that the revised assessment will be carried forward, not the old assessment. That is it, thank you.

Mr. Chairman: Are there any questions to Mr. Nugent on any of his—if not, I thank you very much for your presentation, Mr. Nugent.

What is the will of the committee here, are we to continue? Unfortunately, we will be unable to continue with the rest of the presentations at this time.

We will be returning at 8 p.m. tonight to hear the balance of the presentations. We will hear presentations where we left off this afternoon. We will start with Michael Mercury at 8 p.m. tonight, and the remainder will continue in the order that they are listed.

We would like to thank you for your patience at this time.

The time being 12:30 p.m., committee will adjourn and return at 8 p.m. this evening to hear the remaining public presentations.