



**Second Session - Thirty-Sixth Legislature**

**of the**

**Legislative Assembly of Manitoba**

**Standing Committee**

**on**

**Municipal Affairs**

*Chairperson*

*Mr. Mervin Tweed*

*Constituency of Turtle Mountain*



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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Sixth Legislature**

**Members, Constituencies and Political Affiliation**

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**LEGISLATIVE ASSEMBLY OF MANITOBA  
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS**

**Thursday, October 3, 1996**

**TIME – 9:30 a.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Mervin Tweed (Turtle Mountain)**

**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Derkach, Gilleshammer, Hon. Mrs. Vodrey

Ms. Barrett, Messrs. Evans (Interlake), Laurendeau, McAlpine, Ms. Mihychuk, Messrs. Rocan, Struthers, Tweed

**MATTERS UNDER DISCUSSION:**

Bill 11–The Court of Queen's Bench Surrogate Practice Amendment Act

Bill 43–The Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act

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**Mr. Chairperson:** Good morning. Will the Standing Committee on Municipal Affairs please come to order.

This morning the committee will be considering Bill 11, The Court of Queen's Bench Surrogate Practice Amendment Act; and Bill 43, The Municipal Assessment Amendment Act, The City of Winnipeg Amendment and Assessment Validation Act.

Previously, this committee had met on September 25, and at that time the committee heard presenters on Bill 43. At that time, in lieu of commencing clause-by-clause consideration of the bill, the committee agreed to defer

such consideration until a future meeting of the committee.

To date, we have not had any persons registered to speak to Bill 11, and I will now ask if there is anyone in the audience, any persons in attendance, wishing to make a presentation on Bill 11? Seeing none, is it the wish of the committee to proceed with clause-by-clause consideration?

**An Honourable Member:** Clause by clause.

**An Honourable Member:** On Bill 11?

**Mr. Chairperson:** Yes. My next question would be in which order did the committee wish to proceed, and I understand that we will start with Bill 11.

**Bill 11–The Court of Queen's Bench Surrogate Practice Amendment Act**

**Mr. Chairperson:** On Bill 11, The Court of Queen's Bench Surrogate Practice Amendment Act, did the minister responsible have a brief opening statement?

**Hon. Rosemary Vodrey (Minister of Justice and Attorney General):** Mr. Chair, as honourable members will recall, Bill 11, The Court of Queen's Bench Surrogate Practice Act is in fact a fairly minor bill. The bill will amend subsection 47(1) by changing the \$5,000-limit for administration of an estate under an administration order to \$10,000. This change reflects the inflationary increases in the dollar value set in the legislation. I have no further remarks at this time. Thank you very much.

**Mr. Chairperson:** I will ask the critic from the opposition party if they have a brief opening statement.

**An Honourable Member:** No.

**Mr. Chairperson:** Thank you. I guess we will move on to the bill. During the consideration of a bill the

Preamble and the Title are postponed until all other clauses have been considered

Clause 1—pass; Clause 2—pass; Clause 3—pass; Preamble—pass; Title—pass. Bill be reported.

\* (0940)

**Bill 43—The Municipal Assessment Amendment,  
City of Winnipeg Amendment and Assessment  
Validation Act**

**Mr. Chairperson:** On Bill 43, The Municipal Assessment Amendment, City of Winnipeg Amendment and Assessment Validation Act, does the minister responsible have a brief opening statement?

**Hon. Leonard Derkach (Minister of Rural Development):** Yes, Mr. Chairman, I do have a brief opening statement. First of all, I would like to indicate that Bill 43 is intended to increase the cycle of assessment by one year and, although the bill does not put a sunset on the extension, the long-term objective of the department of government is to compress the cycle of assessment rather than to leave it extended for an indefinite period of time. So when in fact this assessment period is over, we will be re-examining the bill and will be looking at compressing the cycle from the current four-year period. It was always the objective to compress rather than to extend the assessment cycle.

In addition, Bill 43 also brings forward some areas of streamlining assessment in allowing assessment to proceed in a logical way and giving time for boards of revision to hear appeals in a logical time frame and then allowing, of course, the municipalities to be able to set their budgets in a more accurate way.

With those few comments, I am prepared to go through the bill clause by clause.

**Mr. Chairperson:** Thank you, Mr. Minister. Does the critic from the official opposition party have an opening statement?

**Ms. Becky Barrett (Wellington):** Mr. Chair, yes, I do have a brief opening statement. It will not be quite as brief as the minister's, and I will explain that. In discussion with various groups, particularly those in the

city, I came up with a series of amendments to Bill 43. Subsequent to that, I have had meetings with the minister and his staff and have determined that my amendments, for a variety of reasons, would not be acceptable to the committee, the majority members of whom are government members, so instead of going through them one by one and producing the amendments that would be voted down, I would like to briefly outline the content of the amendments and, by that method, put on record some of our concerns, and, hopefully, as the minister said, he will be re-examining the contents and the functioning of Bill 43 with a view to compressing the cycle in the future, that he will also look at the functioning of Bill 43 in the light of the concerns that my amendments were to address. So if I may briefly explain the amendments that I would have put forward.

The first is requiring, rather than allowing, the Board of Revision or the Municipal Board to not consider any information that was substantially at variance with information provided at the original hearing. This amendment would force appellants to present the most accurate information possible at the original assessment hearing rather than, as has happened on occasion, holding back information in the hopes of getting a better or a lower assessment on appeal.

Secondly, requiring that properties owned by railroad companies but leased to other entities be assessed in the name of the railroad company rather than in the name or the names of the lessees. This would require the assessment to be delivered to the registered owner, the railroad company, who would then be responsible for apportioning the assessment cost among its lessees. My understanding is this is currently done with multiple properties such as Polo Park and Portage Place.

The third one would have been requiring, rather than allowing, the Board of Revision or the Municipal Board to dismiss an application for appeal if the appellant does not appear at the scheduled hearing. Currently many appellants institute a number of appeals and then do not appear.

Fourth, placing the burden of proof at a Board of Revision or Municipal Board hearing into the amount of an assessment on the applicant for appeal rather than on the assessor. Currently the burden of proof for property classification or taxation liability and an appeal rests with

the applicant. The applicant on an appeal should also have to make the case for why the assessment is incorrect, and that was in discussion with the minister. The reason for that not being dealt with lies in the fact that in many cases, particularly residential appeals, the Assessment Department is in the role of the professional, whereas the person who is appealing, particularly in residential situations, is less professional—or has less information at their hand. I think there that perhaps a distinction between residential and commercial assessments might be looked at in the next little while.

Finally, requiring the board of appeal to list in writing the reasons for its decision on an appeal. Currently the Municipal Board is required to list the reasons for its decision, but the—I am sorry, it is the Board of Revision. The Board of Revision does not have to. This amendment would increase the accountability of the Board of Revision and also help clarify for the Assessment Department areas where they may be deficient in their assessment procedures. The reason for this not going through was the potential for further delays in appeals if the Board of Revision has to give written reasons.

There is a concern around timeliness, but I do hope that in this particular case that we will look at it again and see if, perhaps, the reason would not have to be in writing but could perhaps orally be given. The concern here is that if there are problems in the assessment process, it would be helpful for the Assessment Department to have that information earlier rather than later; and, if there is a way to allow the Board of Revision to give those reasons while not clogging up the system, then we should look potentially at some of those changes later on.

Again, just to say that I hope the government will monitor the situation very carefully, and we certainly will to see if there are other changes that could be made to make the process even better. Thank you.

**Mr. Chairperson:** We thank the member.

The bill will be considered clause by clause. During the consideration of the bill, the Title and the Preamble are postponed until all other clauses have been considered in their proper order by the committee.

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

**Mr. Derkach:** I have an amendment. I will just wait for it to be circulated, Mr. Chairman. I move

THAT the following be added after section 3 of the Bill:

3.1 Clause 13(1)(b) is amended by striking out “or” at the end of subclause (vi) and adding the following after subclause (vii):

(viii) the closure of the whole of a building or structure in which a commercial operation was carried on, where

(A) the commercial operation was, before the closure, the only commercial operation on the property,

(B) at least one year has passed since the closure, and

(C) the only use made of the building or structure since the closure is the storage of personal property or fixtures that were used in the commercial operation, or

(ix) a change that causes a building or structure on the property to no longer conform to the requirements of subclause (viii);

**[French version]**

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 3, de ce qui suit:

3.1 L'alinéa 13(1)b) est amendé par adjonction, après le sous-alinéa (vii), de ce qui suit:

(viii) de la fermeture de la totalité d'un bâtiment ou d'une construction où étaient exercées des activités commerciales si:

(A) les activités commerciales étaient, avant la fermeture, les seules activités commerciales qui avaient lieu sur les biens,

(B) au moins une année s'est écoulée depuis la fermeture,

(C) depuis la période de fermeture, le bâtiment ou la construction ne sert qu'à l'entreposage des biens personnels ou des accessoires fixes utilisés dans le cadre des activités commerciales,

(ix) d'un changement qui entraîne la non-conformité du bâtiment ou de la construction se trouvant sur les biens avec les exigences du sous-alinéa (viii);

**Motion presented.**

\* (0950)

**Mr. Chairperson:** I must advise the committee that the amendment is procedurally out of order on the grounds of Beauchesne's Citation 698.(8)(b) which states that an amendment may not amend sections from the original act unless they are specifically being amended in a clause of the bill before the committee. However, if there is a unanimous consent from all members of the committee, the committee can agree to consider the amendment in spite of its procedural shortcomings. Is there unanimous consent?

**Some Honourable Members:** Yes.

**Mr. Chairperson:** Any debate on the amendment?

**An Honourable Member:** No.

**Mr. Chairperson:** Amendment—pass; Clause 4—pass; Clause 5—pass.

Clause 6(1).

**Mr. Derkach:** Mr. Chairman, I do have an amendment here. I move

THAT subsection 6(1) of the Bill be struck out and the following substituted:

6(1) Subsection 42(1) is amended by striking out "A person, including an assessor," and substituting "A person in whose name property has been assessed, a mortgagee in possession of property under subsection 114(1) of The Real Property Act, an occupier of premises who is required under the terms of a lease to pay the taxes on the property, or the assessor".

**[French version]**

Il est proposé que le paragraphe 6(1) du projet de loi soit remplacé par ce qui suit:

6(1) Le paragraphe 42(1) est modifié par substitution, à "Toute personne, y compris l'évaluateur, ", de "La personne au nom de laquelle un bien a été évalué, le créancier hypothécaire qui est en possession d'un bien en vertu du paragraphe 114(1) de la Loi sur les biens réels, l'occupant de locaux qui est tenu, en vertu des conditions d'un bail, de verser les taxes sur le bien ou l'évaluateur "

**Motion presented.**

**Mr. Chairperson:** Is there any debate?

Amendment—pass; Clause 6(1) as amended—pass.

Clause 6(2).

**Mr. Derkach:** Mr. Chairman, when we went through committee hearings, this was one issue that was of concern to many members who make presentations. In consultation with the opposition critic, it has been decided that we would like to make an amendment here. So therefore, I move

THAT subsection 6(2) of the Bill be struck out.

**[French version]**

Il est proposé que le paragraphe 6(2) du projet de loi soit abrogé.

**Mr. Chairperson:** Amendment—pass; Clause 7(1)—pass; Clause 7(2)—pass.

**Mr. Derkach:** Mr. Chairman, I have another amendment.

I move

THAT the following be added after section 7 of the Bill:

7.1 Clauses 54(1)(a) and (b) are repealed and the following is substituted:

(a) confirm the assessment; or

(b) change the assessment and direct a revision of the assessment roll accordingly,

(i) subject to subsection (3), by increasing or decreasing the assessed value of the subject property,

(ii) by changing the liability to taxation or the classification of the subject property, or

(iii) by changing both the assessed value of the subject property and its liability to taxation or its classification;

**[French version]**

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 7, de ce qui suit:

7.1 Les alinéas 54(1)a) et b) sont remplacés par ce qui suit:

a) confirmer l'évaluation;

b) modifier l'évaluation et ordonner la révision du rôle d'évaluation en conséquence:

(i) sous réserve du paragraphe (3), en augmentant ou en diminuant la valeur déterminée des biens visés,

(ii) en modifiant l'assujettissement à l'impôt des biens visés ou la classification de ceux-ci,

(iii) en modifiant à la fois la valeur déterminée des biens visés et l'assujettissement à l'impôt des biens ainsi que la classification de ceux-ci.

**Motion presented.**

**Mr. Chairperson:** Again, I must advise the committee that the amendment is procedurally out of order on the grounds of Beauchesne's Citation 698 which states: "An amendment may not amend sections from the original Act unless they are specifically being amended in a clause of the bill before the committee." However, if there is unanimous consent from all members of the committee, the committee can agree to consider the amendment in spite of its procedural shortcomings.

Is there agreement? [agreed] Shall the amendment pass? Pass.

Clause 8—pass; Clause 9—pass.

**Mr. Derkach:** Mr. Chairman, I have another amendment.

I move

THAT the following be added after section 9 and within Part 1 of the Bill:

9.1 Subsection 60(1) is amended

(a) by repealing clauses (a) to (c) and substituting the following:

(a) confirm the assessment; or

(b) change the assessment and direct a revision of the assessment roll accordingly,

(i) subject to subsection (2), by increasing or decreasing the assessed value of the subject property;

(ii) by changing the classification of the subject property, or

(iii) by changing the assessed value and the classification of the subject property;

(b) by adding ", and the board may award costs against a party" after "just and expedient".

**[French version]**

Il est proposé que le projet de loi soit modifié par adjonction, après l'article 9, dans la partie 1, de ce qui suit:

9.1 Le paragraphe 60(1) est modifié:

a) par substitution, aux alinéas a) à c), de ce qui suit:

a) confirmer l'évaluation;

b) modifier l'évaluation et ordonner la révision du rôle d'évaluation en conséquence:

(i) sous réserve du paragraphe (2), en augmentant ou en diminuant la valeur déterminée des biens visés,

(ii) en modifiant la classification des biens visés,

(iii) en modifiant la valeur déterminée et la classification des biens visés;

b) par adjonction, après "approprié, ", de "condamner une partie aux dépens et ".

#### Motion presented.

**Mr. Chairperson:** Again, I must advise the committee that the amendment is procedurally out of order on the grounds of *Beauchesne's Citation* 698(8)(b) which states: "An amendment may not amend sections from the original Act unless they are specifically being amended in a clause of the bill before the committee." However, if there is unanimous consent from all members of the committee, the committee can agree to consider the amendment in spite of its procedural shortcomings.

Is there unanimous consent? [agreed] Shall the amendment pass? Pass.

Clause 10—pass; Clause 11—pass.

**Mr. Derkach:** I have yet another amendment, Mr. Chairman.

I move

THAT the following be added after section 11 and within Part 3 of the Bill:

#### Validation of assessment for 1997

11.1(1) The assessment of property for 1997 made in accordance with The Municipal Assessment Act, as amended by the Act, is hereby declared to be valid and binding on all persons affected by the assessment, and no person may challenge the assessment on the ground that this Act was not in force at the time of the assessment.

11.1(2) For greater certainty, subsection (1) applies to any assessment that is the subject of an application for revision, whether or not a decision is or has been rendered.

#### [French version]

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 11, dans la partie 3, de ce qui suit:

#### Validation de l'évaluation de 1997

11.1(1) L'évaluation de biens pour 1997 qui a été faite conformément à la *Loi sur l'évaluation municipale*, telle qu'elle est modifiée par la présente loi, est déclarée valide, lie les personnes qu'elle vise et ne peut faire l'objet d'un recours en révision fondé sur le fait que la présente loi n'était pas en vigueur au moment de l'évaluation.

11.1(2) Le paragraphe (1) s'applique aux évaluations qui font l'objet d'une requête en révision, qu'une décision ait ou non été rendue.

#### Motion presented.

\* (1000)

**Mr. Chairperson:** Amendment—pass; Clause 12(1)—

**Mr. Derkach:** Yet another amendment, Mr. Chairman—[interjection] No, this is just housekeeping. I move

THAT the section heading of subsection 12(1) of the Bill be struck out and "Validation re railway roadways" substituted.

#### [French version]

Il est proposé que le projet de loi soit amendé par substitution, au titre du paragraphe 12(1), de "Validation—chemins de fer".

**Mr. Chairperson:** Amendment—pass. Clause 12(1) as amended—pass; Clause 12(2)—pass; Clause 13—pass.

**Mr. Derkach:** Mr. Chairman, I have a final amendment. I move—

**Mr. Chairperson:** Do we have copies?

**Mr. Derkach:** Mr. Chairman, I will read it. I would like to move

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

**[French version]**

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

**Mr. Chairperson:** Amendment—pass. Preamble—pass; Title—pass. Bill as amended be reported.

The time now being 10:05 a.m., committee rise.

**COMMITTEE ROSE AT: 10:05 a.m.**