

MUNICIPAL AFFAIRS COMMITTEE
10:00 a.m., Tuesday, May 7, 1974

CHAIRMAN: Mr. J. C. Gottfried.

MR. CLERK: May I have your attention, please? The first item of business on this meeting will be the election of the chairman, if it's your will and pleasure to proceed with the meeting. If that is true, then may I have nominations for the office of chairman?

MR. JOHANNSON: I nominate Mr. Gottfried.

MR. CLERK: Mr. Gottfried.

MR. DEREWIANCHUK: I'll second it.

MR. CLERK: Are there any further nominations? Hearing none, I would ask Mr. Gottfried to take the Chair.

MR. CHAIRMAN: Order please. The first item of business will be the establishment of the quorum effective for this committee. There are 12 members. We will now entertain a motion to that effect.

SOME MEMBERS: Seven members?

MR. URUSKI: I so move.

MR. JOHANNSON: I second it.

MR. CHAIRMAN: Are you ready for the question?

MOTION carried.

MR. CHAIRMAN: The bills that have been set before this committee, that have been referred to this committee for consideration for this morning, are the following, and I'll read them for the convenience of committee members and those on the floor.

The first is Bill No. 2, an Act to amend the Department of Urban Development and Municipal Affairs.

The second one is No. 3, an Act to amend The Local Government Districts Act.

No. 4, an Act to amend The Municipal Act.

No. 21, an Act to validate Bylaw No. 719 of the City of Thompson.

No. 30, an Act to amend The Municipal Assessment Act.

No. 32, an Act respecting The City of Brandon.

No. 38, an Act to amend the City of Winnipeg Act.

No. 45, an Act to amend an Act to repeal an Act to validate and confirm a certain agreement between The Town of Dauphin and the Rural Municipality of Dauphin.

Now I'd like at this point to know if there are any delegations in the audience that will be presenting briefs this morning, or any individuals who have briefs on any one of these bills. If so, I would ask you to kindly come forward to the microphone and give your name to the Clerk.

MR. A. C. MATTHEWS: My name is Matthews, and I'm here to represent the Rural Municipality of Dauphin on - I've forgotten the number of the bill. 35? 45.

MR. CHAIRMAN: The name Matthews?

MR. MATTHEWS: Yes. A. C. Matthews.

MR. HAWKINS: E. W. Hawkins, Q.C. representing the Town of Dauphin on Bill 45.

MR. CHAIRMAN: E. W. Hawkins. Bill 45. Are there any others?

MR. LENNOX: Mr. Chairman, my name is D. C. Lennox. I'm representing the City of Winnipeg and would like to make representations in respect to Bill No. 38. I believe also Councillor Yanofsky, and possibly Councillor Wankling and Councillor Mercier may also wish to make representations, and I would ask that they be noted.

MR. CHAIRMAN: Yes. That's D. C. Lennox will be speaking on Bill 38; possibly Councillor Yanofsky, Wankling and Mercier.

MR. LENNOX: Thank you.

MR. CHAIRMAN: Are any of these representations being made from people out of town? I imagine the Dauphin ones will. And I think, if it's the pleasure of the committee here, to hear these first, I think it would be most fitting that we do so. Does the committee agree to that? (Agreed) Fine. Then I'll call on Mr. E. W. Matthews to make his presentation on Bill No. 45. Do you have any written briefs?

MR. MATTHEWS: I beg your pardon?

MR. CHAIRMAN: Do you have any written briefs to circulate amongst the members?

MR. MATTHEWS: Yes, I have. I've invited . . . to distribute these briefs to the

(MR. MATTHEWS cont'd) members of the committee.

Now Mr. Chairman and gentlemen, before I proceed with the presentation of the brief on behalf of the Rural Municipality of Dauphin, I want to say that I have with me the Reeve of the municipality, Mr. Potoski, one of the councillors, Mr. Shewchuk, and the Secretary-Treasurer, Mr. Wallwin.

Secondly, before I proceed with the brief, I would like to have directions from this committee as to the procedure which we will follow, because I understand that the Town is here represented by counsel, and of course there will be a brief presented on behalf of the Town. Now I made available to counsel for the Town of Dauphin this morning a copy of the brief which we intend to present on behalf of the Rural Municipality. I have not received, nor has the Reeve or the Secretary-Treasurer received a copy of whatever briefs the Town of Dauphin intends to present, so at this stage, although we can anticipate to some extent what the arguments on the Town are going to be, we do not have before us the actual presentation which they intend to make. And I would like to suggest as a form of procedure, that I will present the brief on behalf of the Rural Municipality, following which the Town of Dauphin will be given an opportunity to present its brief, and by reason of the fact that we do not know what the full argument of the Town is going to be, notwithstanding the fact that we have some anticipation in that regard, that I be given an opportunity on behalf of the Rural Municipality to present rebuttal argument.

MR. CHAIRMAN: What is the will of the committee with respect to his request?

MR. JOHANNSON: Mr. Chairman, on the point of order, the regular procedure has always been that a person or delegation presents their brief and, following that, committee members ask questions of clarification, but there is no such thing as cross-examination or rebuttal in this committee.

MR. MATTHEWS: I'm not asking for an opportunity to cross-examine, Mr. Chairman. That will be the privilege of the members of the committee. But there will be arguments raised, I am sure, by the Town brief which we would like to have an opportunity to meet, and this is why I make this request, because it seems to me that not knowing what the argument of the Town is going to be, that we ought to have an opportunity for rebuttal.

MR. SHAFRANSKY: Mr. Chairman, there is no provision. You make your presentation. The committee members may ask questions of clarification, but there is no opportunity for -- you have to state your case.

MR. MATTHEWS: Pardon?

MR. SHAFRANSKY: The fact that you're appealing and the fact that you've presented the brief to the other members, that is entirely your business, but you present your case and there is no opportunity for a rebuttal as you are saying.

MR. MATTHEWS: Do I understand you to say, Sir, that I will have an opportunity to ask ?

MR. SHAFRANSKY: No, you will not.

MR. MATTHEWS: All right. Well this is . . . Well, whatever the ruling of the committee is, but it seems to me that the Rural Municipality is going to be placed in a somewhat disadvantageous position in this regard. We want to present the facts, and if the facts as presented by the Town are not in agreement with our thinking, I think we should be given an opportunity to offer some clarification. However . . .

MR. CHAIRMAN: Well, Mr. Matthews . . .

MR. MATTHEWS: . . . you gentlemen set the rules.

MR. CHAIRMAN: Yes Mr. Matthews, the procedures laid down by the members, by the two committee members there, are the procedures that have been followed in past committees and they'll be adhered to today. You'll have a chance to present your brief and to be questioned by the committee, and that's as far as it goes, each one in their turn.

MR. MATTHEWS: All right. May I . . .

MR. CHAIRMAN: Mr. Matthews, we don't set the rules. The rules have been set in long practice for a long period of time, and that's the rules we follow by.

MR. MATTHEWS: Well now, if I may, Sir, ask this question. Do your rules also make provision for the filing of a supplementary brief?

MR. PAWLEY: Mr. Chairman, I would think, though the rules would not provide for a formal rebuttal, I don't think any member of this committee would want to prevent somebody from distributing any material afterwards that they want, any of the parties to a bill, and thus

(MR. PAWLEY cont'd) I would think that Mr. Matthews or the Town of Dauphin might wish to provide committee members with any further argument in writing, by letter or otherwise, prior to the final reading of this bill in the Legislature. I would see nothing adverse to the rules of the House in doing that.

MR. CHAIRMAN: I'd like to thank the Minister of Municipal Affairs for his remarks there. I believe they're quite justified in this case, and I think we should proceed with the brief you have and get on with the work of the committee.

MR. MATTHEWS: Very well. Mr. Chairman, gentlemen, I set out, or we set out in the first part of the brief, a bit of the history with respect to the bill, the residual provisions of which we want to have repealed. In 1911, under Chapter 1 of the Statutes of Manitoba, the Town of Dauphin was authorized to construct and operate a system or systems of Waterworks, Main Trunk Sewers and Outlet and Sewage Disposal Works. This is a long time ago.

The Town was authorized at that time to supply water to any persons or places in the Rural Municipality. The Rural Municipality of Dauphin did exempt the Town from taxation to help it get established.

In 1933, the Town of Dauphin took steps to have legislation passed to assure the Town of tax exemptions. A bill was introduced in the House by Mr. Robert Hawkins, counsel for the Town.

The Town, of course, at that time, having had by an agreement obtained a tax exemption, wanted to secure itself in almost perpetuity that it would have the benefit of this tax exemption notwithstanding the passage of time and changed circumstances, and so the bill was introduced and enacted. The Rural Municipality was opposed to the passage of this Act, but nevertheless the Act was passed and it imposed a sum of \$700.00 per annum on Waterworks, Main Trunk Sewers, Outlet and Sewage Disposal Works, and exempting the Rural Municipality of Dauphin from taxation in the Town.

At that time, the Town of Dauphin owned some property within the corporate limits of the Town, owned an office building, its municipal offices, and subsequently acquired a couple of vacant lots for the purposes of storing some of the bridge and building material.

The Town of Dauphin supplied water and sewer outlet to one home in the Rural Municipality but refused to extend it to adjoining homes. In 1943, by Chapter 6 of the Statutes of Manitoba -- I'm sorry. The Act was repealed and a new agreement was validated. By Section 2 (1) of the new Act, the Town of Dauphin was to install sewer and water to certain properties in the Rural Municipality, properties immediately adjoining the boundaries of the Town. There were only, I understand, one or two or three areas, small areas at that. The agreement also provided that the Town of Dauphin would undertake some fire protection within certain areas of the Rural Municipality.

The Town also undertook, under that agreement, to provide a rest room, rest room facilities, within the Town limits for the convenience of the residents of the Rural Municipality.

The other sections of the agreement and the Act refer to liability of the Town and tax exemptions. At that time, subdivided residential properties on all sides of the Town were within the boundaries of the Rural Municipality.

In 1951, by Chapter 78, municipal boundaries were changed, and an assessment of \$192,270 or 4.32 percent of the total assessment of the Rural Municipality was transferred to the Town of Dauphin. This meant a loss of revenue to the Rural Municipality of approximately \$17,000 annually at the rate then prevailing.

In 1962, by Chapter 90, there was a further boundary extension, as a result of which an assessment of approximately \$180,000, or 4.1 percent, was transferred to the Town at a loss of revenue to the municipality of over \$10,000 annually, at the rate then imposed.

In the years 1966 and 1969, further boundary changes were made, and more assessment was lost to the municipality.

Due to changes of boundaries, the estimated loss of revenue to the Rural Municipality has been, up to 1972, approximately \$390,000.00. This was done with the consent of the Rural Municipality because the Councils of the Rural Municipality did not wish to see any impediment on the progressive development of the Town. The exemption from taxes cannot be justified in addition to the concessions resulting from boundary extensions.

I want to add something here at this point, gentlemen, to explain how these boundary extensions happened to come about. They came about mainly as the result of people in the Rural Municipality within the immediate boundaries of the Town of Dauphin asking for water and

(MR. MATTHEWS cont'd) sewer services. There were several of these areas, and as soon as a resident of the Rural Municipality asked for water and sewer services, the Town would say, "No way are we going to provide water and sewer services to anyone in the Rural Municipality. If you want to have these services, approach the Rural Municipality to consent to a boundary extension, and if the boundary is extended so that your property will come within the Town limits, we will then provide you with that service."

And in this regard, I want to read into the record so that there is no doubt as to the accuracy of what I am saying, a copy of a letter to Mr. J. L. Bremner, Area Engineer, Hudson Bay Railway, Canadian National Railways, Dauphin, dated February 2, 1971, a letter from the Secretary-Treasurer of the Town of Dauphin, Mr. Day, a copy of which was sent to the Secretary-Treasurer of the Rural Municipality of Dauphin, and that is how we come to have this letter.

The letter to Mr. Bremner reads: "Your letter of January 11, 1971, requesting sewer and water extension service to proposed yard office building on CNR right-of-way in the west yard, has been presented to council. In viewing the situation, council became immediately aware of the fact that the proposed location lies within the boundaries of the Rural Municipality of Dauphin and not within the boundaries of the Town. This matter is pointed up due to the fact that council has a long-standing policy whereby no extension of sewer and water system would be connected to properties lying outside the boundaries of the town limits. Council has suggested in my reply to you that I might note that the railway may consider applying to the Rural Municipality of Dauphin to have the said lands included within the boundaries of the town in order that such services could then be provided."

Now, nothing can be more clear as to the position which the town has taken with respect to residents living within the immediate area of the boundaries of the town with respect to these services.

Then I have also a copy of a letter which Mr. Bremner wrote to the Rural Municipality dated February 15, 1971, pursuing the suggestion made by Mr. Day and asking the Rural Municipality to consider the possibility of extending the boundary so that this property can be incorporated into the town limits, in order that this area may be serviced with water and sewer.

I'm sure that the town is going to argue: Well, we had an agreement; the agreement was entered into in good faith; we have carried out our terms fully as far as the terms of that agreement are concerned; now the Rural Municipality moves unilaterally to have this Act repealed, and the town is opposed because it is going to be injured. It's going to be injured because it's going to lose certain tax exemptions - the only residual provisions in the Act. In spite of the fact that the town has, or the rural municipality has over the years consented to the transfer of valuable property, the assessments of which I have already given you, resulting in additional tax revenue in thousands of dollars to the Town of Dauphin, and an equal loss to the rural municipality.

Now gentlemen, I think it goes without saying that the record of the rural municipality has been an admirable one as far as giving in to the Town of Dauphin in order to facilitate, because of the steadfastness with which the town held to its policy as far as providing water and sewer services is concerned, to residents in the rural municipality, so that these people may benefit, in spite of the loss or losses which were being incurred in tax revenues in assessment to the rural municipality. And furthermore, because these people take a realistic view, they did not want to stand in the way of progress, stand in the way of progressive development of the town, and when it seemed that it was the logical and the practical thing to do, they went along with it. What more can be asked of a council that acts in that way? I suggest to you that they acted reasonably, they acted properly, under the circumstances. All right, to get on with the brief.

By 1972, by reason of the boundary extensions, the areas previously in the Rural Municipality which the town had agreed to service with water and sewer, came within the Town Boundaries. So that those portions of the original agreement which required the town to service certain areas became meaningless, because these areas were transferred into the town. The result was that the agreement in effect became a nullity as far as the obligation of the Town in this respect is concerned.

The agreement of 1943 as confirmed by Chapter 7, having defined particular properties which it agreed to service, the Town has, since the agreement and boundary extensions,

(MR. MATTHEWS cont'd) consistently, persistently and steadfastly refused to extend any water or sewer services to any properties outside its corporate limits, notwithstanding that over the years, from time to time, residents of the Rural Municipality have requested that service.

At the present time there is only one rural home connected to the water supply line and that was done some years ago. That is my information, and that home is some 5 or 6 miles south of the Town of Dauphin and lies along the water line. It has no sewer service but they tied it into the water line. One single home in the rural municipality! That is my information. The rural municipality has a population of something like 3,000 people, in round figures, according to the last assessment. The Town of Dauphin has a population of, I don't know what the latest figures are. I haven't been home for a week; there may have been some developments in the last week. I understand it's between 9,500 and 10,000, and if 9,500 or 10,000 people can only provide a water service to one farmer in the rural municipality, I say that there's something wrong. But that's a fact. Whenever anybody asks for water or sewer they say, "We won't give it to you. If you want water and sewer you come in with us. Join us." That's the only alternative which is left to the rural citizens. All right.

All of the other matters covered by the 1943 agreement then, by reason of the passage of time and new agreements which were negotiated and so on, except the exemption from taxation provision, by 1972 became irrelevant and inapplicable by reason as I have indicated.

I refer specifically to the Fire Fighting and the operation of the Restroom. That's all gone by the board. There has been a new agreement for several years now between the Rural Municipality and the Town of Dauphin with respect to fire fighting. I believe that there was a new one negotiated just last year. The restroom provision is no longer applicable. That idea was abandoned 2 or 3 years ago. There was a time when the Rural Municipality contributed something to the Town for the maintenance of this restroom. Because of other facilities which are now available, or which became available, the restroom was no longer required and the whole idea was abandoned. So that's all gone out the window.

So by 1972 there was nothing left in that agreement with the exception of the exemption provision. By 1970, the result was that the entire agreement had outlived its usefulness prior to 1970. The only residual provision in the Act was the one dealing with exemption.

In December 1970 the Rural Municipality moved to have the Act, Chapter 7, S.M. 1943 repealed, and early in 1971 Bill No. 135 was introduced. I understand that that Bill went to Committee and died in Committee.

In 1972 the Municipality again initiated the introduction of a Bill to repeal Chapter 7. Bill No. 22 came before the Legislature, and after second reading was referred to this committee. After hearing representations from both parties, the Committee amended the bill and it was enacted as amended.

Now I want to refer to the amendments. I don't know whether members of the Committee have the actual amendments. They are important. Bill No. 22 was amended in Committee.

MR. SHAFRANSKY: You have a Mr. Pawley there. Which Mr. Pawley are you referring to?

MR. MATTHEWS: The gentleman sitting over there, the Honourable Minister of Municipal Affairs. Now what happened in Committee when this Bill came before the Committee was this: that the Committee agreed to the repeal of what was left in the Act, but to substitute for the exemption provisions, an amendment in two clauses. Section 3 subsection (1) read: "Any water distribution line or sewage connection pipe or underground pipeline installed in connection with the water and sewer system for the Town of Dauphin, shall be exempt from all taxes levied by the council of a municipality." And subsection (2): "Structures, including dams, sewage lagoons, water treatment plants and other buildings, erected by the Town of Dauphin in connection with the water and sewer system, shall be exempt from all taxes levied by the council of a municipality, except to the extent of the valuation of the land on which the structure is located."

Now I presume that the intent, the purpose of this amendment is clear to all members. Briefly, it simply said this: that any water lines, sewage lines, lying underground, shall be exempt from taxation. Any structures above ground, including dams and so on, sewage lagoons, shall be exempt from taxation, except the land, which is subject to taxation. This is 1972.

Now let me go on with the brief. I get ahead of myself here.

The intent of these amendments was expressed by the Hon. Mr. Pawley in his statement

(MR. MATTHEWS cont'd) in the Legislature as recorded in Hansard of July 19, 1972, at pages 4347 and 4348.

Now I will read the full text of Mr. Pawley's remarks in the final hours of that session, about 10:30 in the evening as I recall it, with respect to this bill, which then went back to the House for Third Reading. Mr. Pawley said:

"Mr. Speaker, this Bill, as mentioned by the Member for LaVerendrye, has been before the Committee of Municipal Affairs now for a period of two years, and real earnest effort has been made by both the R.M. and the Town of Dauphin to resolve their differences. The members of the Committee have given a great deal of thought and effort, as well, through this two-year period, in order to attempt to assist the municipalities to come to a resolution. They have been unable to do so and, as a result, the Bill has been approved as amended. It was amended in committee by the addition of wording which made it a fact that in the future the criteria that would be established insofar as the assessing of properties by the R.M., owned by the Town of Dauphin, would be on the same basis as well as all other properties that would be assessed under the provisions of the Water Supply Board. So that in fact, for example, the lands upon which the structures, the lagoons, the water treatment plant are located, owned by the town, would be assessed for taxation purposes. On the other hand, the underground pipes would continue to be exempt from taxation, as they have been up to the present time.

"The major point is, Mr. Speaker, that the Bill, as amended, will make the situation pertaining to the Rural Municipality and the Town of Dauphin exactly the same as in every other town and municipality in the province," and I emphasize those words. "I would like to say this is clearly our intent, and I would also like to add to that, that if it should be found that in some small way or other there is a detail missing and that intent is not recognized, then it would be my desire to rectify it in the future if that intent was not realized."

I agree with the intent, as expressed by the Minister, that this amendment, or these amendments would place the rural municipality in its relations with the Town of Dauphin on exactly the same basis as every other rural municipality in its relations with any other municipality, whether urban or rural. But the course of events have proven otherwise. This is why we are here. The intent of those amendments has not been carried out, and I'll tell you why. I'll tell you what has developed in the intervening period which has made it impossible to make these amendments applicable with the result that the intention of the amendments would be carried out, namely to put the municipality of Dauphin on the same footing, the same basis, as every other rural municipality in the province.

It is significant, and I refer to the bottom of Page 3 of the brief, it is significant that at that time the Town was actively considering the construction of a new water supply system. Various surveys had been conducted in 1970 and 1971, feasibility studies were undertaken, and negotiations were in progress between the Town and the government of Manitoba for financial assistance. Indeed I understand that grants were made available for the surveys and the feasibility studies.

At the time Bill 22 was before the Legislature and this committee, it appeared that the project might be undertaken by and come under the Water Supply Board.

If that had materialized, then of course, the exemptions provided in the amendments to Bill 22 would have made no difference to the Rural Municipality, as the legislation creating the Water Supply Board provides for exactly the same exemptions.

Now, is that clear to you, gentlemen? That if the Town of Dauphin had undertaken the Water Works System through or under this Water Supply Board, these amendments would have been rendered meaningless and ineffectual, would have been of no concern to the town, because there is other legislation which would have provided exemptions to the Water Supply Board. So the town would not have been affected. Now if that had materialized, then of course the exemptions provided - I've said this - made no difference to the Rural Municipality. Furthermore - I'm referring again to the brief - if the project came under the Water Supply Board, the residents of the R.M. would be on the same basis, presumably, as the Town of Dauphin as far as being able to obtain water services was concerned. The rural people would no longer be rebuffed by the long-standing policy of the town as I have indicated. In other words, saying "no" to any applicant for water and sewer services, because they would be able to purchase water from the Water Supply Board just as the Town of Dauphin would be purchasing water from the Water Supply Board.

For these reasons, and particularly the intent of the amendments to place the Town and

(MR. MATTHEWS cont'd) the Rural Municipality on exactly the same basis as every other town and municipality in the province, as expressed by the Minister on July 19th, 1972, the R.M. did not oppose the amendments. However, the situation has turned out to be different.

The Town has not proceeded with its new water supply system under the Water Supply Board. It has chosen to proceed independently of the Board. It will own the entire new system and will provide water and sewer services as a municipal utility. In other words, the situation as far as this facility is concerned will not have changed one bit. It will be exactly the same as it has been since the inception of the system. And with the long-standing policy of the town, what hope is there for any resident, which from a practical engineering point of view could reasonably expect to get that service, what possibility is there for that resident to get that service? I say none. The town has clearly indicated what its long-standing policy has been and what that policy will be in the future.

There is no reasonable or foreseeable prospect of the Town changing its long-standing policy not to provide any water or sewer services to any rural resident. The result will be, as has been in the past, that no part of the rural municipality will benefit from these services.

What then is the effect of these amendments, the only residual provisions -- and I emphasize this; this is the only thing that's left in the Act, everything else is gone -- the residual provisions of the Act of 1943? The effects are obvious.

(1) The Rural Municipality of Dauphin has been singled out as the only municipality in the Province of Manitoba, and is compelled by these exemptions to subsidize the water and sewerage systems of the Town of Dauphin. No other municipality in this province is compelled by an Act of the Legislature to subsidize any municipal utility owned and operated by any other municipality, whether urban or rural.

(2) The amendments are clearly contrary to the intent as expressed by the Minister in July, 1972. Furthermore, the exemption provisions contained in Chapter 86 are inconsistent with Section 197 (10) of The Municipal Act. And I want to deal with that for a moment.

I need not remind honourable members that The Municipal Act is an Act of the Legislature of the Province of Manitoba. It's a general Act for the operation and the government of every municipal corporation which comes within its ambit, so that every municipality is on an equal footing. The section to which I have just referred reads: "Subject to subsection (4) of Section 202" - which really has no application as far as the point in issue here is concerned - "land acquired by a municipality that lies in another municipality is subject to the jurisdiction of the municipality acquiring the land as if it formed a part thereof. But the land is nevertheless subject to assessment and taxation by the municipality in which it lies."

Now, in other words, if we apply this Act and ignore Chapter - what is it? 86 - Chapter 86 as amended, then the rural municipality would be able to tax any property, real or personal, within its boundaries owned by the Town of Dauphin. It would be on the same footing as every other municipality in the province. This is the Act which was intended by the Legislature to govern the operations and direct the rights of all municipalities. No municipality is given any special privileges under this Act. But here we have, under Chapter 86, another Act which, in effect, says notwithstanding what the law is with respect to all municipalities in the Province of Manitoba, the Rural Municipality of Dauphin is singled out as the only municipality in this province which is compelled to pay or compelled to offer exemptions, to give exemptions, to the Town of Dauphin with respect to its water and sewer works. And I point out this inconsistency to you.

The Minister said in July, 1972, that the purpose of these amendments is to put the Rural Municipality of Dauphin on the same footing as all other municipalities. This is the intent of Section 197 (10), but Chapter 86 contradicts this section of The Municipal Act and, as I have said and repeated, singles out one municipality in this whole province and requires it by law, by legislation, to subsidize the Town of Dauphin. You're asking 3,000 people in the rural municipality, with one home connected to a water line, to subsidize a waterworks system to the extent -- the figures that the town is going to be quoting, I presume, I don't know where the press gets its information but there must be some source -- the press indicates somewhere in the neighbourhood of \$100,000 a year. All right. If those figures are correct, or substantially correct, then what this law says, Chapter 86, it says, "You 3,000 people in the Rural Municipality of Dauphin contribute \$100,000 a year to the Town of Dauphin for its waterworks system. Three thousand people have to support 9,500 or 10,000 people in this undertaking. And out of those 3,000 people, only one, one has the privilege of having the use of

(MR. MATTHEWS cont'd) this facility."

Now think that one over. Is it fair? In spite of the contradiction in the law? Is it a fair law? Oh, the town's going to say, "But we provide all kinds of other facilities; recreational grounds, and we have the hand, and we have this, we have the other thing." I say to you gentlemen that those things have absolutely nothing to do with this issue. Those are matters which were dealt with in previous years by separate agreement, by negotiation, and that is the way they should be dealt with. And to raise those issues at this time in regards to this bill, I say is wholly and totally irrelevant. What right - assuming that the town's figures as quoted in the press are correct - what right has the Town of Dauphin to have a law which says that we're going to milk off the residents of the Town of Dauphin, or the Rural Municipality, \$100,000 a year because we provide you, or provide a band, a skating arena, and so on and so forth? Let those things be settled by agreement when the actual facts and figures as to the cost of these facilities is on the table, but not to say that we are entitled to this exemption because we are providing you with some other services. The town two years ago took the position in its brief - and I have to assume that that will be its position today - that let's not disturb this law. Let it sit as it is. Let's pass over it, it's been operating all right so far. Of course it's been operating all right so far. To whose benefit? Certainly not to the benefit of the Rural Municipality. And, you know, it's awfully easy to argue, you know, don't touch anything; don't disturb anything, because everything's all right. It's all right if it's all right for me, and you don't care for the other fellow. But sometimes the other fellow begins to care, and he says, "You know, it's not fair," and that's what we're saying today. This legislation is unfair, it's unreasonable, it's discriminatory, because it's singled out one rural municipality in this whole province.

All right. They're going to suggest to you, "Let's get around the bargaining table and let's talk these things over and we'll come to some agreement. Maybe we won't have to change this thing." Well, we've tried it for five or six years. We aren't getting anywhere. But let's talk about getting around the bargaining table. Can you imagine two parties getting around the bargaining table to bargain and one is sitting at that table with a distinct advantage in his pocket? That is precisely the position the Town of Dauphin is in. It is in a much stronger bargaining position because it has an Act of Parliament which says that certain properties cannot be subject to taxation. Well, when you meet at the bargaining table and you don't meet on equal terms, what chances are there of coming to a bargain? Virtually nil. That has been the experience, and I say with the greatest respect, that because the Town of Dauphin has this advantage, has this exemption protected by an Act of the Legislature, and it's darned tough to have things changed, apparently. So when they get around the bargaining table, you know they'll listen, they'll come up with all sorts of suggestions, but when they sort things out they'll say to themselves, "Well, why the devil should we go into any kind of a bargaining arrangement? We're sitting on a little gold mine here right now. Look, the rural municipality is saving us \$100,000 a year. What the devil do we want to bargain with them for?"

Well, all right. My client is willing to bargain, always has been, but we take the position that we will not meet at the bargaining table until we meet on equal terms. Now, gentlemen, is that being unreasonable? Is that asking for too much? Let's be reasonable. I'd like to think of you, all of you, as reasonable, practical men. Now isn't what I'm saying a fact? Isn't it reasonable that when two people want to bargain they should meet at the bargaining table on equal terms and not one with a distinct advantage over the other? That's all we're asking you to do. We're saying to you: Now look. This bill, apart from the other arguments, is discriminatory. It has placed an unfair burden on the rural municipality. It has given the Town of Dauphin a distinct advantage. It is asking 3,500 people in the rural municipality to kick in \$100,000 for the benefit of 10,000 people. This law is in fact illegal.

Quite apart from that, let's be reasonable. Let's put these two municipalities on the footing that the Honourable Minister suggested two years ago, that the rural municipality will be on the same basis as every other municipality in this province. That's all we're asking for, gentlemen. Nothing more and nothing less. Give us that, and in order to do so I urge you to support this bill and let's get this mess cleaned up once and for all, and then the town will be out of your hair, for one thing, because I can assure you we're going to keep coming back, year after year, if necessary.

MR. CHAIRMAN: I take it, Mr. Matthews, that that concludes your presentation. I'd like you to remain at the microphone in case anyone on the Committee wishes to direct a question towards you. The Member for Birtle-Russell.

MR. GRAHAM: Mr. Chairman, the brief that has been presented verbally and the one that has been given to us in written form are quite different in many respects, and I notice that we have our recorder present. I was wondering if it would be agreeable with the Committee that the recording of this meeting be transcribed so that we can have the full benefit of the counsel's presentation.

MR. CHAIRMAN: I believe that that will be done.

MR. SHAFRANSKY: I believe, Mr. Chairman, that it is only if the Committee so directs. They are recorded but not necessarily transcribed. It is only if the Committee so wishes to have the transcripts made that it will be done by the resolution of the Committee.

MR. MARION: Let's so direct.

MR. F. JOHNSTON: I'll second that. Are you moving it be transcribed? I'll second that.

MR. CHAIRMAN: All those in favour?

MR. PAWLEY: Mr. Chairman, before we vote on that, just so it would be clear in our own minds what we're voting on. Are we referring only to the briefs relating to this particular bill or to all briefs?

MR. SHAFRANSKY: All of the committee. The committee.

MR. PAWLEY: . . . presented to the Committee.

MR. F. JOHNSTON: All briefs presented to the Committee.

MR. PAWLEY: All right. Good.

MR. CHAIRMAN: We have that clear then. All briefs presented will be recorded.

MR. SHAFRANSKY: Recorded and transcribed.

MR. CHAIRMAN: They will be recorded and transcribed. Right.

MR. JOHANNSON: Mr. Chairman, on a point of order. We are talking, I believe, about all conversation committed to tape regarding the briefs that are presented to us.

MR. PAWLEY: Mr. Chairman, I don't feel that intense, but I just wonder whether we want to involve personage in that voluminous work, if we should not restrict it to this particular bill. Do we really want to involve ourselves in lengthy transcripts involving other bills at this point, that we may not really need all that information material?

MR. MARION: Well, Mr. Chairman, perhaps my motion should stand for just the matter, just for this bill, and we might want to look at this again when another presentation is made on a different subject. If this would help the Clerk's department, I would so recommend it.

MR. GRAHAM: Mr. Chairman, that was not the intent that I had put forward. It is consistent with the actions of other committees that transcriptions of the committees be presented or provided to members of the Legislature, or members of the committee of the Legislature, and that was the reason I raised the issue at this time, and I would hope that we would have full transcriptions.

MR. CHAIRMAN: I'm under the understanding that this will be done by motion and that the motion has been . . .

MR. PAWLEY: Well, Mr. Chairman, I was hoping that for purposes of time consumed that we could restrict it to this particular bill, because the mover I would gather is not intending that all discussion pertaining to bills within the committee will be reduced to transcript . . .

MR. MARION: For the sake of convenience, Mr. Chairman, that's why I clarified that we might use the transcript method for this bill and if we find that we would like to adopt the same system when other presentations are made on other bills, we might go along with them.

MR. CHAIRMAN: The Member for Birtle-Russell.

MR. GRAHAM: Mr. Chairman, we don't know yet what type of presentations will be made on other bills, and I would suggest that we have full transcriptions of the proceedings of the committee.

MR. CHAIRMAN: The Member for St. Matthews.

MR. JOHANNSON: Mr. Chairman, I think we're going through a lot of wasted time and a lot of wasted motion here. Let's have one motion dealing with all the bills that are presented before us and we'll dispose of the matter once and for all. And therefore I would, if it's in order, I'd move an amendment to Mr. Marion's motion that the briefs given on all bills before this committee be transcribed.

MR. CHAIRMAN: You've heard the amendment. Are you ready for the question? All those in favour? Against? Could we have that again? The amendment. You've heard the amendment and we're voting on the amendment now.

MR. PAWLEY: We're voting that all briefs, all discussion at this committee is going to be reduced to transcript. Is that it?

MR. CHAIRMAN: I see. All proceedings be transcribed. That's what we're voting on. All those in favour? (Five) All those opposed? (Three)

AMENDMENT carried.

MR. CHAIRMAN: Are there any other questions that you wish to direct towards Mr. Matthews. If not, I'd like to thank you, Mr. Matthews, for your presentation and I'll call on the . . .

A MEMBER: Well, we don't know what's coming up . . .

MR. CHAIRMAN: There are no more questions? I'd like to call on the next speaker, Mr. Hawkins, speaking on Bill No. 45.

MR. PAWLEY: Mr. Chairman, you know, maybe my attention was drawn elsewhere, but Mr. Matthews has left. Were there no questions for Mr. Matthews?

MR. CHAIRMAN: No, there were no further questions, but I did omit to ask on the motion, that we vote on the motion as amended. We failed to do that. So are you ready for the question then? On the motion as amended.

MOTION carried as amended.

MR. CHAIRMAN: All right, Mr. Hawkins, you may proceed with your presentation.

. continued on next page

MR. A.W. HAWKINS: Mr. Chairman, gentlemen, at the outset I would like to perhaps clarify and correct an impression you might have received from Mr. Matthews' opening remarks dealing with delivery to the town and its representatives of the rural brief. This brief was only placed in our hands some ten minutes before the opening of this meeting, and I can assure you that it doesn't affect our formal presentation, and that as a result the town has not received any undue advantage.

I have with me today His Honour Mayor Newton of the Town of Dauphin; the Secretary-Treasurer of the town, Mr. Day; the Deputy Mayor, Mr. Ryz; and Councillors Milner and our lady councillors, Mrs. E. Voycheshin (?) and Miss Marsh. Our brief is being distributed to you, or should be, immediately. It is divided into several sections. It was our wish and intention that I should present the opening or formal section, and that Mr. Day should deal with the financial reports appended because he is familiar with this area and can answer better than I can. His Worship Mayor Newton wished to deal with the situation regarding other municipalities and Councillor Milner was to deal with the situation with respect to inter-municipal services and possible agreements and amalgamations of that nature. Now these sub-portions of the brief are short, but if we could have your consent to proceed in that way and be representatives, I have suggested we would wish to do so.

MR. CHAIRMAN: What is the feeling of the committee about having these people make their presentations - following yours, Sir?

MR. HAWKINS: That is right, Sir.

MR. CHAIRMAN: Is the committee in agreement? (Agreed)

MR. HAWKINS: Thank you very much.

There will, gentlemen, of necessity be some repetition in these briefs. I will try and eliminate any unnecessary reading as far as possible because you have before you the transcript of the brief and it should not be necessary to repeat certain sections.

This act that we're dealing with repealed agreements made between the Town and the Rural Municipality of Dauphin many years ago, the terms of which had been fulfilled or were no longer applicable or necessary. This Act, however, contained a saving clause, Section 3, which provided for exemption from taxation by the Rural Municipality of water system pipe and sewage lines, dams, sewage lagoons, water treatment plants, etc., installed in connection with the water and sewer system of the Town, as specifically set out in the section. I will not read it; it is already in the bill and has been read to you.

The section was enacted pursuant to representations made by the Town to this committee when it considered the bill. The effect of the section was to bring the Town under the same terms of taxation exemption with respect to its sewage and waterworks system as those contained in The Water Supply Board Act. That section immediately follows.

Pursuant to and relying on this tax exemption and protection, the Town of Dauphin, under date of July 11, 1973, entered into agreement with the Province of Manitoba through the Honourable the Minister of Agriculture and the officers of The Manitoba Water Services Board, whereby the Town would implement an improved water supply and distribution system, including three miles of pipeline, rehabilitation of our existing intake works at Edwards Creek, the construction of a treated water storage reservoir, the construction of a water treatment plant along with numerous feeder mains in the Town of Dauphin on a cost-sharing basis provided under the Agricultural Service Centres Agreement entered into between the Province and the Dominion governments. The effect of this was to bring the Town within a similar assistance program as that provided under The Water Services Board Act for other municipal corporations in the province.

We then have a history of the previous agreements leading to the present situation.

Prior to 1933, neither the Town nor the Rural Municipality levied taxes on lands, buildings, works, etc. located in one municipality and owned by the other, this apparently being by mutual agreement. Early in 1933, the Council of the Rural Municipality, being hard pressed for finances due to poor crops and low prices for farm produce, rescinded its bylaw exempting the Town from taxation on lands owned by it within the Rural Municipality, and proposed to levy taxes on such lands and the personal property of the Town, including the water reservoir and dam, water main system therefrom to the Town (a distance of approximately nine miles), sewage disposal plant and sewage main thereto. The situation thus arising was given full consideration and in settlement thereof an agreement was entered into by the two municipalities and ratified by an Act of the Legislature, Chapter 65, 1933

(MR. HAWKINS Cont'd)

In essence, this agreement provided for exemption from taxes for the Town on lands and property owned by it in the Municipality in consideration of an annual payment of \$700.00. The Town agreed not to levy taxes on property owned by the Rural Municipality within the Town limits.

In 1941, the Rural Municipality requested the Town to install sewer and water services on lands in the Rural Municipality immediately adjacent to the Town. General discussions were opened, resulting in an agreement, ratified by Chapter 57, Statutes of Manitoba, 1943.

Since the passage of this Act, certain of the provisions in the agreement ratified thereby had been fully completed - others had been modified and adjusted. The Town had fully met all its obligations and commitments under the agreement.

During the year 1969, the Municipality advised the Town of its wish to have the agreement repealed. The council studied the terms of the agreement and its present effect, and endeavoured to negotiate an updating of the agreement with amendments and modifications to meet the present and future requirements in the common and best interests of both municipalities. Early in 1970 a joint meeting was held by the two councils to study and evaluate the situation in an effort to work out the terms of an amended or replacement agreement which would meet the present requirements and provide for continued co-operation in interdependent areas for services required for the benefit of the citizens and taxpayers of both municipalities. Discussions on the points in issue were amicable but no final decisions were reached. The Town Council indicated its wish that they be continued and further explored in an effort to come to common agreement.

The Rural Municipality, however, arranged to have presented Bill No. 135 (1970) to the Legislature to repeal the agreement. Representations were made thereon to the Standing Committee of the Legislature on Municipal Affairs by the Town and the Rural Municipality at its meeting held in the Town of Dauphin on December 1, 1970, at which time the Town presented a brief and strenuously objected to the passage of the bill. The bill was not reported back to the Legislature and died on the Order Paper.

On advice that the Rural Municipality would again present its bill to the 1972 session, the Town arranged a joint meeting with the Council of the Rural Municipality, which was held on February 9, 1972. The discussions were again amicable but the Rural Municipality indicated that it still wished to have the standing Act and Agreement repealed, following which it would enter into negotiations with the Town for new agreements in each separate area of mutual service and interdependence. The Town took the position that these negotiations should be continued and agreements reached prior to repeal of the present Act and Agreement. On this basis, the new agreements could be substituted in replacement of existing agreements and any necessary legislative sanction obtained. The Town submitted that this was the proper method of dealing with the situation and that it would be in the best interests of the residents of both municipalities in protecting their own interests and providing for their needs and requirements in the area of public service.

The Town further based its opposition to the total repeal of the 1943 agreement on the following grounds:

(a) The Town had met its obligations under the agreement and the municipality should not be permitted to escape from its obligations simply because some of its benefits under the agreement had expired and the remaining ones were no longer desired. The Town was prepared to negotiate continuance of the remaining benefits or a substitution of other fair and reasonable arrangements. If an agreement can be cancelled on the application of only one party, no agreement could be relied upon as being permanent or binding; and

(b) That the repeal of the tax exemption granted to the Town would place an unfair and onerous tax burden on the residents of the Town, not only on the present basis, but even more so in view of the planned increased and necessary facilities respecting the water supply, sewage disposal and purification, completion of which would more than raise the mill rate to the maximum limit.

Then in 1972 the Rural Municipality presented another bill, which would again provide for the repeal of the agreement between the Town and the Municipality. Under the terms of the bill, the Agreement would be terminated and the parties thereto would no longer be bound by its terms and conditions. This bill was eventually amended to provide the requirements as set out in Chapter 86, Statutes of Manitoba 1972, in the foregoing referred to, and which in

(MR. HAWKINS Cont'd) effect gave the Town the same tax exemptions as that of the Water Supply Board. At the time this bill was presented, we would record that it was done unilaterally and without the consent of authority or agreement of the Town. The Town made representation to the Standing Committee of the Legislature on Municipal Affairs on Monday, June 19, 1972, and made its feelings known at that time.

The Town is now facing the same situation whereby the Rural Municipality of Dauphin has presented a bill unilaterally and without the consent or knowledge of the Town of Dauphin to have the tax exemption repealed.

We have attached hereto, forming part of this brief, a statement of structures and pipelines owned by the Town and lying within the Rural Municipality and which, if the consent was given to Bill 45, would require the Town of Dauphin to pay taxes on all of these structures and lines. Our general estimates on assessments in relation to the value of the new works and those exempt from taxation would cost the Town, based on the Rural Municipality 1973 tax rate, an annual tax bill of some \$115,000. Mr. Day will deal with these facts and figures and give you any clarification you require.

Now this is important. We have calculated the Town's payments on the new water supply program which total nearly \$3,200,000. This is a capital expense being borne by the taxpayers of Dauphin in relation to the development and improvement of their water supply. They have already paid the capital expense incurred over the last 40 or 50 years. The Municipality has paid nothing, and this should be borne in mind in dealing with Mr. Matthews' contention that the Municipality apparently wants to cut in on the price line and get the benefit and advantage of the water. But they have contributed nothing towards capital expense and will contribute nothing in capital towards the cost of the new improvements. The Town will be faced with paying \$3,200,000.

And it has also been indicated in the brief submitted that only one farm or rural owner has cut into the pipeline. The fact is that all owners along the nine-mile stretch of the present existing pipeline from the reservoir to the Town, has cut in or can cut in on the line where it passes through or adjacent to their properties.

Going on with the brief dealing with this \$3,200,000: whereby the Town will be required to pay over the next 20 years a sum of not less than \$226,569, based on 8 percent interest. If the Town becomes liable to taxation on its water pipeline and structures and the sewage facilities, the annual payment by the Town would be increased by more than 50 percent - and than can be shown from the tables attached and Mr. Day will perhaps be able to answer any questions in that respect.

The passage of this bill as presented would result in a windfall to the Municipality of over \$100,000 per year, to be paid at the expense of the taxpayers of the Town of Dauphin. On the contrary, the words "subsidization by the Municipality" has been presented by Mr. Matthews to this committee in many instances. If the Municipality does not get this money, they're not subsidizing the town; they're not paying anything, and no cost of this project is coming out of the pockets of the taxpayers of the Rural Municipality. This onerous and inequitable burden would be beyond the powers of the Town of Dauphin and its citizens to meet. It might well place the planned and very necessary improvements and extension of the Town's water and sewer system, not only in jeopardy, but beyond the Town's power to complete, and force the cancellation of the agreements and commitments already made, with the loss and waste of the work already done and extensive costs incurred.

We therefore, Mr. Chairman and gentlemen, respectfully request that this bill be not reported back to the Legislature for Third Reading.

If there are no questions required of me at this time, I would like Mr. Day to deal with the financial statements attached. There is a summary of the history but it's not necessary to read that; it's been covered.

MR. CHAIRMAN: Thank you. The Minister of Municipal Affairs.

MR. PAWLEY: If we could just have a comment in respect to the main submission that was made by Mr. Matthews, that to do otherwise than what is envisioned in this bill would be to place the Town of Dauphin in a position which would be dissimilar with the position of any other municipality in Manitoba to the extent that all other municipalities fall under either the provisions of the Water Services Board Act, Section 52 (1), or under the Municipal Act 197 (10). I would just like a discussion on that.

MR. HAWKINS: Are you dealing, Sir, with the conflict of laws issue arranged, or brought

(MR. HAWKINS Cont'd) forth? You mean the fact that the Municipal Act might seem to override the Water Resources Act?

MR. PAWLEY: No. The position that - the principle that the municipality would pay taxes on any of its assets within another municipality, though retaining jurisdiction. Do you feel that that should be applied here in this instance as well. If it was not for the agreement signed in 1943 then the town would fall within the provisions of the Municipal Act in that the pipeline, water line would . . .

MR. HAWKINS: No. I don't agree, because I think the exemptions under the Water Supply Board are predominant and would carry. If that were so then the Water Resources Supply Board would surely have to pay taxes to any municipality through which its pipelines ran, yet it is exempt under statutory provision.

MR. CHAIRMAN: The Member for Radisson.

MR. SHAFRANSKY: Mr. Chairman, on page 7 I believe you have indicated June 19th. I believe the correct date should be July 19th.

MR. HAWKINS: It could well be, Sir, and a correction is quite in order if that is the date. Thank you.

MR. CHAIRMAN: The Member for Ste. Rose.

MR. ADAM: Thank you, Mr. Chairman. Mr. Hawkins, in your opening remarks you mentioned the fact that you didn't feel there was any advantage of having received a brief from the municipality prior to its presentation. Therefore the same thing would have applied had you given us a brief of the Town of Dauphin to the rural municipality; it wouldn't have been an advantage to them either.

MR. HAWKINS: Had we done so 10 minutes before the opening . . . I don't think it's a point in issue but I want to . . .

MR. ADAM: Mr. Chairman, let me finish. Then why did you not return the courtesy if there was no advantage either way? Why did you not extend the same similar . . .

MR. HAWKINS: There was really no particular time or object in doing so. We didn't use or make use of the rural brief that was presented to us to affect our presentation in any manner whatsoever, and this is the point I wanted to make clear to the committee. Had these briefs been presented to each other a few days ago, or even last night, we might have altered our presentations. But I don't think that this was a point in issue. Thank you.

MR. CHAIRMAN: The Member for Roblin.

MR. McKELLAR: Mr. Chairman, I would just like to ask Mr. Hawkins a question. How many meetings have been held between the Town of Dauphin and the Rural Municipality of Dauphin during the past 12 months regarding statutes on this particular bill?

MR. HAWKINS: Well none, because we didn't know it was to be presented until we received word from outside sources. It was presented unilaterally by the rural municipalities without the knowledge, and certainly of course without the consent of the Town. There were no meetings held with respect to this present bill now before the committee. That is correct, Mr. Mayor?

MR. McKELLAR: Were there any meetings held in the year 1973 then?

MR. HAWKINS: There were meetings between the Town and Rural Municipality in connection with many of their interdependent problems. These will be dealt with by Mr. Milner, our councillor, who is going to handle that phase of the report to you and you could perhaps get more specific information from him or from Mayor Newton or councillors and who have the information in detail, which I have not got.

MR. McKELLAR: Thanks.

MR. HAWKINS: There being no further questions . . .

MR. PAWLEY: I would just like to, Mr. Chairman, just pursue this matter of the Water Services Board, because I think it really goes to the nub of the issue. Now, agreed that Dauphin R. M. nor Town come under the provisions of the Municipal Act, so that one can put that Act away, then if we deal with the Water Services Board and the submission by Mr. Matthews in which Mr. Matthews indicated that in 1972 there was an intent at that time to treat Dauphin in the same way as other municipalities, and that in fact there was a movement afoot which would have placed, I gather, these facilities under the Water Services Board, I believe that was -- I hope I'm correcting it properly -- Mr. Matthews' statement to the committee . . .

MR. HAWKINS: You may, Mr. Pawley, but that is not our statement and we do not agree with that statement.

MR. PAWLEY: I see. Now, if we take 52(2), if that had been the case, then the Water Services Board would have been required to make a grant in lieu of taxes to the R. M. I suppose where we now come to the crux of the matter is the disagreement then between R. M.'s submission and the Town's submission as to what really was in effect of what was under way in 1972-73 by way of -- you say that you disagree with that position that Mr. Matthews took. You were moving . . .

MR. HAWKINS: Yes . . . on behalf of the Municipality to this Committee, but it's new to me, and I think certainly to our councillors. We didn't understand it to be the case. And we haven't dealt in any way with grants by the Water Supply Board to a municipality.

MR. URUSKI: Well, just to further that questioning, I believe you made the point in your submission that you felt that there was a conflict in the law vis-a-vis the Water Services Board and the Municipal Act. Is that not so?

MR. HAWKINS: That appeared to be indicated. I haven't the legislation in front of me. I just listened to Mr. Matthews' remarks.

MR. URUSKI: Right. And the other point that is being sort of . . .

MR. GRAHAM: Mr. Chairman, on a point of order. I don't think it's proper that any member of this committee ask questions of the member in front of the committee on statements that aren't his, that are statements of the previous witness.

MR. CHAIRMAN: The Member for Sturgeon Creek.

MR. J. FRANK JOHNSTON: Mr. Chairman, through you to Mr. Hawkins. I gather, or I'm getting an indication from what you are saying, that the Town of Dauphin at no time ever felt that they would not have to pay, or there would not be taxes paid on the land as we provided for in the previous bill. In other words, . . .

MR. HAWKINS: . . . That's in Mr. Day's financial statements attached.

MR. F. JOHNSTON: . . . the fact that it isn't under the Water Control Board, the fact that you went it alone, or the fact that you got money from the Agricultural, different way, you still felt that at not time was the Town of Dauphin intending to renege in any way, or did you want to see the municipality not receive taxes on . . .

MR. HAWKINS: We pay something over \$10,000 a year now. There's no question of evading that.

MR. F. JOHNSTON: Is the Town of Dauphin still willing, if we can come up with whatever has to be done legally, to abide by the commitment which was arranged for in the previous bill. There may be a technicality in the bill but what I'm getting down to is, the Town of Dauphin is not trying to renege on the paying of municipal taxes on that land, or taxes . . .

MR. HAWKINS: No. This is my understanding. I think it's correct, Mr. Mayor.

MR. F. JOHNSTON: Thank you.

MR. CHAIRMAN: The Minister in charge of the Manitoba Public Insurance Corporation.

MR. URUSKI: Yes. I just wanted to -- your intent is that the Municipality now pays taxes to the R. M. for the land on which the pipeline and the lagoons are situated, is that . . . ?

MR. HAWKINS: Certain portions of it, and they are set out, I believe, in the attachments and schedules to the brief, particularly Schedule B, but this is an area in which if the committee will permit, I think Mr. Day should be questioned, because he's fully conversant.

MR. URUSKI: If you would like to have him shed more information on this, I think . . .

MR. CHAIRMAN: If there are no more questions, we'll call upon the second member of the delegation to make his presentation.

MR. E. C. DAY (Secretary-Treasurer of the Town of Dauphin): Thank you, Mr. Chairman, gentlemen. I would just like to review, then, Schedules A and B as they form part of this brief. Schedule A is the Description, Time Schedule and Estimated Costs of Facilities Constructed and to be Constructed by Canada and to be Financed by Canada and Manitoba, and these are set out. The first is replacement of some three miles of pipeline. The estimate on that was somewhat different. This is the actual tendered price, \$340,000.

No. 2 is to rehabilitate and improve the existing facilities at the site of the present intake works on Edwards Creek, and the estimate on this is \$100,000.

The third item is a 1.9 million gallon treated water storage reservoir, scheduled for completion in December 1973 - but it will be in '74 - \$350,000.

Four is 2,000 Imperial Gallon Per Minute treatment plant, scheduled for completion this year, \$1,400,000.

(MR. DAY Cont'd)

No. 5 is a number of miscellaneous feeder mains \$470,000.

No. 6 is an intake, pumphouse, pumps and 12" supply pipeline from proposed Vermilion Reservoir to the existing intake works, \$390,000.

And 7 is the third party engineering costs \$150,000, for a total of \$3,200,000.

And continuing on Schedule A, it sets out the share cost of the agreement. The costs to be borne by the Town of Dauphin are in relation to the program, the present worth of 12 mills on the 1972 assessment \$1,840,400, less the present worth of our existing debts \$591,425, leaving a net of \$1,248,975; adding to this, 50 percent of the costs in excess of the 12 mill rate, adding \$975,512.50 for a total amount to be repaid by the Town of Dauphin \$2,224,487.50, and the grant to be provided under the Agricultural Service Centres Agreement \$975,512, and the total of this is \$3,200,000.

Schedule B is the information with relation to taxes if they were applicable, and those that are. These are lands and structures within the Rural Municipality of Dauphin at the present time, and this is the tax situation under the present Chapter 86 S.M. 1972. First is the Waterworks. We have a dam and reservoir at the foot of the mountain, and there is a taxable assessment on land, \$2,400, and there is an exempt assessment on structures, \$31,570. Now these figures -- the letters beside them are just in relation to tax levies with respect to schools, designating farm or commercial land.

Nuisance grounds is taxable, \$2,280. The sewage lagoon - the land is now taxable under this agreement \$6,300 assessment, and there's an exemption for the facility \$20,290. Pipeline (Reservoir to Town) is exempt on the present arrangement. It's assessed at \$163,350. The Municipal Airport, the farm residential assessment on that is \$21,670, and the commercial is \$80,160, giving us our down totals on assessment for taxable property on which the Town is now paying tax, assessment \$24,650 farmland and \$88,160 commercial land, and the lands exempt at present or the structures exempt, are \$215,210 assessment.

Now applying these to the rural municipalities tax rate in the year 1973, we show that on the taxable assessment the total taxes paid by the Town of Dauphin \$10,701. On the exempt assessments applying the commercial rate, would be taxes of \$21,779.25.

Now proceeding into Schedule C, this is the Town of Dauphin Water Supply and Improvement Project. The structures are constructed or to be constructed, and these are assessment estimates, exempt under chapter 86.

Now on the sewage lagoon, this extension was constructed in 1972. The contract price was \$293,636.

Item 2 replacement of 3 miles of pipeline. It has been constructed this year; contract price \$275,642.

3. Rehabilitate and improve the existing reservoir facilities and intake works. Estimated cost \$100,000.

4. Water Treatment Plant. Estimated cost \$1,400,000.

And a dam on the Vermilion River including supply line to existing intake works, \$1 million; for a total of \$3,069,278.

Say assessment of 30 percent on the contract prices would give us an assessed value of those structures of \$920,783, and that then is what we suggest is the estimated assessment on those fixtures, or structures. And based on the 1973 mill rate levy of the Rural Municipality of Dauphin, this would require taxes of \$93,183.00. And adding this tax to the \$20,000 on the previous schedule, the Town would be required to pay, based on the 1973 rural municipality tax rate, \$115,000.

MR. CHAIRMAN: Does anyone have any questions to direct toward Mr. Day? The Member for Birtle-Russell.

MR. GRAHAM: Mr. Chairman, through you to Mr. Day. He used an assessment of 30 percent. I believe yesterday in the Legislature, when we were talking about assessment, the Minister used the figure of 40 percent of evaluation. How much would that add to the total cost to the Town if an assessment was based at 40 percent rather than 30?

MR. DAY: That would be an increase, Mr. Chairman, of 10 percent, so you could add 10 percent to the figure I quoted you.

MR. CHAIRMAN: The Honourable Minister of Municipal Affairs.

MR. PAWLEY: Mr. Chairman, on a point of order, it would be my understanding it would not add any additional taxes. I believe I'm correct, that there would be no additional taxes, in this case 40 rather than 30 percent right over the entire . . .

MR. GRAHAM: It would be an additional assessment.

MR. J.D. McNAIRNAY (Deputy Minister, Municipal Affairs): I think, Mr. Chairman, the question was referring to the level of assessment, if the level of assessment wasn't at 30 percent, but was at 40 percent or 100 percent. Your mill rates would vary but the amount you pay wouldn't be any different. I think this is probably . . .

MR. CHAIRMAN: Will you please speak into the mike so that you can be heard?

MR. McNAIRNAY: Sorry. I think that this question probably relates to a discussion during our estimates last night when the Minister was talking about the question of full assessment and the effect of full assessment, that is 100 percent assessment throughout the province, and I don't see any financial difference if the level of assessment is brought up equally throughout.

MR. CHAIRMAN: Are there any further questions? Does this, then, conclude your presentation?

MR. DAY: That concludes the schedules, Mr. Chairman.

MR. CHAIRMAN: Well, thank you, Mr. Day.

MR. DAY: These are other members to . . .

MR. CHAIRMAN: Oh yes. Will you call the third member then of your delegation?

MR. DAY: His worship, Mayor Newton.

MR. CHAIRMAN: Will you please give me your name. I haven't got it here.

MR. A.C. NEWTON: My name is Mayor Newton, Andy Newton.

MR. CHAIRMAN: Fine.

MR. NEWTON: Mr. Chairman, Mr. Minister, members of the Board, and gentlemen: A question was asked by one of your Ministers about two or three weeks ago, how does this apply to other towns in the province? Now we have gone and got some information from Swan River, Portage la Prairie, Neepawa, The Pas, Selkirk, the Town of Minnedosa. Do you wish me to read this brief into the minutes?

MR. CHAIRMAN: Yes, proceed, Mr. Newton.

MR. NEWTON: Mr. Chairman, Summary respecting Water Supply and Sewage Facilities in other Towns in Manitoba.

Swan River, Manitoba. The water supply consisting of wells, treatment plant and pipeline belonging to The Town of Swan River, is presently located in the Rural Municipality and the annual tax bill is approximately \$2,500.00. The Town of Swan River plans to construct a new treatment plant with new wells which will be located within the boundaries of The Town of Swan River where The Town has purchased the land and has had it annexed into The Town. Under this project no taxes will be payable.

The sewage treatment plant consists of a lagoon, which presently is located in The Town of Swan River. A project is now under way to construct a non-aerated type of lagoon within the boundaries of the Rural Municipality. No estimate of taxes is available at this time on the new project plant.

City of Portage la Prairie, Manitoba. The new water supply and treatment plant is located in the Rural Municipality of Portage la Prairie and the City of Portage pays approximately \$5,000.00 taxes to the Rural Municipality. There are two sewage lagoons. One is the old one which lies within the boundaries of the Rural Municipality and upon which the City pays land taxes only. The new sewage lagoon is located within the boundaries of the City.

The City also has land in the Rural Municipality for cemetery purposes and altogether, including the cemetery land, the old lagoon and the water treatment plant, the total taxes payable to the Rural Municipality last year were approximately \$9,000.00.

Town of Neepawa, Manitoba. The water supply and intake works for the Town of Neepawa are located within the boundaries of the Town of Neepawa. The sewage lagoon is also located within the boundaries of the Town. The Town of Neepawa has a large extended boundary and was able to locate the water works within its boundary. The dam establishing a reservoir for the supply of water to the Town is owned by PFRA and is in the Rural Municipality of Langford.

The Town of Neepawa operates the Airport at Neepawa and looks after the maintenance of same. We are informed that a special Bill was presented to the Legislature some time ago which established the assessment value on the airport and exempted some of the buildings from taxation.

Town of The Pas. The water supply intake works and treatment plant of the Town of The Pas is located within the Town of The Pas boundaries. The sewage lagoon operated by

(MR. NEWTON cont'd) The Town of The Pas is located, we believe on provincial land and no taxes are paid for the lagoon. As a matter of interest, the boundaries of The Town of The Pas have been extended some two or three miles from the Town which provides some area for expansion of the facilities.

Town of Selkirk. The water supply which consists of wells and a treatment plant for the Town of Selkirk is located within the boundaries of the Town and therefore no tax is payable. The sewage disposal plant for the Town is also located within the Town limits and therefore no taxation problems. It is interesting to note that the Town of Selkirk is approximately three miles in one direction and four miles in the other, which gives quite a large townsite.

Town of Minnedosa. The water supply consists of wells which are located within the boundaries of The Town, as the treatment plant also is located within the boundaries of the Town. The present sewage disposal plant is located in the Town and the project to construct a new treatment plant is also to be located within the Town. Therefore no taxes are payable for these facilities.

The foregoing is the present tax position in other Centres in Manitoba. This information points out the fact that the Town of Dauphin has a situation much different to others in relation to its Utilities.

MR. CHAIRMAN: Does anyone have any questions for Mayor Newton? The Minister in charge of Manitoba Public Insurance Corporation.

MR. URUSKI: As a matter of fact, I believe the Mayor was referring to my recent visit to Dauphin in which I questioned him about this very matter, and I would like to refer to your brief that you've just read here. It appears that in commenting that the Town of Swan River pays taxes for facilities and land for their waterworks, either treatment or whatever, that are situated out of the town limits, but they would not pay for anything within the town limits. Is that correct?

MR. NEWTON: That is the information that we received. All this information has just been gathered in the last two weeks and it was all taken over the telephone.

MR. URUSKI: Okay. Similarly, Portage la Prairie has the same situation that you've mentioned, that they have some of their works outside the city limits and some works within the city, within the limits of their boundaries of the city.

MR. NEWTON: That's right.

MR. URUSKI: Well okay. And then you've got, you have Neepawa, which has all its facilities within its own boundaries, which wouldn't apply to your situation. The only question I would have is, how do you see yourself any different from these other municipalities or towns or cities vis-a-vis your position with the R.M.? You've made the statement that if they have a facility out of their municipal jurisdiction, then you pay; whatever is within their municipal jurisdiction they do not pay. If the boundaries of the Town of Dauphin were extended to cover the area that we are concerned about, you would then not pay any taxes. Am I correct in assuming this?

MR. NEWTON: Well it depends how you pass the bill that's before you. We're in the unfortunate position we have to bring our water about 12 miles, in fact further, through the park.

MR. URUSKI: That is the only difference.

MR. NEWTON: As mentioned before, we still pay land taxes, more than anybody on this

. . .

MR. URUSKI: That may be so, but insofar as the principle of assessment on the lands or the facilities, you would be no different now although your tax rate may be way out of proportion, in other words because of the length of distance that you have to bring in the water and the like, in effect you would be no different from any other municipality or any other municipal district should this bill be passed. You would still be in the same position although the levy of taxation may be way way out of bounds. Am I correct in assuming this? I'm just not sure.

MR. NEWTON: It would certainly be higher.

MR. URUSKI: Thank you.

MR. CHAIRMAN: Does that conclude your presentation? Are there any other further questions, by the way? One more? Fine. Would you please come forward. Would you please introduce yourself to the Committee; what is your name?

MR. L.A. MILNER: Lawrence Milner, councillor for the Town of Dauphin. Mr. Chairman, members of the Municipal Committee and the Legislature: Through what I have to

(MR. MILNER cont'd) say in these few moments, I would like to point out that the Town of Dauphin and the Rural Municipality have many areas where our services to our people overlap and we offer our facilities to accommodate both town and rural residents. We like to think that when we sit down at the table to discuss problems that are mutual to us, that we sit as equals, with no one having a bigger hammer than the other fellow.

The Council of The Town of Dauphin as recently as February 28th, 1974, entered into an agreement with the Rural Municipality of Dauphin to provide fire fighting service in the Rural Municipality. Negotiations commenced on the basis of a report from The Fire Commissioner's Office on the Dauphin Fire Department, which recommended a joint agreement on a 50-50 operating cost basis. In discussions in Council and bearing in mind the equalized assessment between the two municipalities and other factors, the Council of The Town of Dauphin suggested a one-third share basis to be paid by the Rural Municipality. Negotiations were finally concluded on the basis whereby the Rural Municipality would pay 25 percent of the cost of operating the Department, and the Town would pay 75 percent. This operating cost does not include capital buildings or Firemen's fees. The Municipality was also required to pay \$1,000.00 per year toward the cost of purchasing new equipment and Firemen's fees while attending rural calls. This was the final decision even though 43 percent of fires in 1973 were in the Rural Municipality.

I think it's great that when the Town of Dauphin has perhaps the best fire department in rural Manitoba, that we can serve our total community with our firefighting equipment and our trained men.

The Town of Dauphin and The Rural Municipality of Dauphin have a joint Recreation Commission whereby the Rural Municipality has membership on the Board and paid only \$900.00 in 1973 as its share, compared to the Town of Dauphin contribution of \$27,000. Many children residing in the Rural Municipality participate in the program. In fact, some of our best hockey and baseball players reside in the Rural Municipality.

The Dauphin Public Library is open to all residents upon paying a nominal annual membership fee of \$2.00 for junior and \$3.00 for senior. Many boys and girls from the Rural Municipality participate in the Dauphin Boys' and Girls' Band at no cost. The Band is supported by a special tax levy on The Town of Dauphin only, and we admit some of the best musicians live in the rural area where they seem to have more space to do their thing and practice their sound without disturbing the neighbours.

The Town of Dauphin operates a nuisance ground in the Rural Municipality and many of the rural residents use the nuisance ground with no contribution being made by the Municipality.

These are some of the contributions being made by the taxpayers of the Town of Dauphin that we share jointly with the rural municipality.

As one who has sat on the Council of the Town of Dauphin for some six years now, may I point out that we have had several meetings with the Rural Municipality during the past several years to try to work out mutual problems. Within the past month I put forth a recommendation that the Council of the Town of Dauphin invite the rural council to meet with us on May 9th to discuss the feasibility of amalgamation. Because our proposed meeting date was not convenient to the rural members who anticipated spring work on the land, we were asked to meet with the rural council on their choice of a meeting date which was last Wednesday, May 1st. We did meet to discuss the possibility of amalgamation, proposing an independent study be made to discover the advantages and disadvantages of possible amalgamation. Without getting into discussion of any depth the rural municipality advised us they were not interested in the concept of amalgamation or a study of it.

I point this out so you can emphasize that the Council of the Town of Dauphin is and has been willing to meet with the Rural Council to discuss and try to solve mutual problems. We are open and willing to discuss means by which our Councils can serve more effectively and efficiently in the total Dauphin areas, so that our citizens, town and rural, can enjoy the best we both can provide through the municipal level of government. Frankly, I'm surprised that we're here today for like many members of this Committee we assumed that this issue was solved and settled two years ago after we appeared here. Perhaps we should be advised once again to go back home and solve our problems where they really are, rather than before a busy committee of the Legislature that no doubt has other major problems to solve.

MR. CHAIRMAN: Are there any questions this Committee would like to direct towards Mr. Milner? Being none, I would like to express my regret that your Committee was not

(MR. CHAIRMAN cont'd) notified as soon as you would like to have. However, I don't think your presentation has suffered any as a result of it. I believe this concludes the presentation then on Bill 45. Am I correct? Yes.

MR. JOHANNSON: Will that be . . . to our initial understanding that the rural municipality will have the right to file any supplementary material?

MR. MILNER: I don't believe there was an understanding to that effect, Mr. Chairman.

MR. PAWLEY: Mr. Chairman, anyone who appears before this Committee has the right to submit any kind of brief he or she wishes.

MR. JOHANNSON: Very well.

MR. MILNER: . . . members of the Committee indicated that.

MR. PAWLEY: I would like to just mention though timewise in view of the decision earlier arrived at that we would transcribe all the material, there might be some delay until such time as we are able to deal with the bill in this Committee. I don't know whether two weeks or something of that nature, so I think that the R.M. of Dauphin should be aware that they would have to probably forward any letters or further material, within the next week probably you'd be quite safe.

MR. CHAIRMAN: I hope that what the Honourable Minister of Municipal Affairs has said satisfies your concerns, Mr. Masters.

MR. MASTERS: Yes.

MR. GRAHAM: Mr. Chairman, I think it would be appropriate that the Committee give the names of the Committee members to the rural municipality and to the Town for their presence.

MR. URUSKI: To the Clerk of the House and the Clerk will distribute it to the Members of the Committee, I think would be satisfactory.

MR. CHAIRMAN: Is that satisfactory? We'll go on now to the presentations on Bill No. 38 to Mr. D.C. Lennox. Will you come forward please?

MR. PAWLEY: Mr. Chairman, just prior to this submission I don't know just how long we will be with the City of Winnipeg submission but I would like to stress that before the Committee adjourns that we do have urgency relating to that City of Thompson bill and if we could just keep that in mind. I wonder if we could just very quickly pass that bill so we're sure that we have that completed and behind us. Is there another bill too?

MR. CHAIRMAN: Is the Committee agreeable that we proceed into the City of Thompson bill? -- (Interjection) -- Bill 32 and 21. We will proceed then with Bill 21 an Act to Validate By-Law No. 719 of the City of Thompson.

MR. F. JOHNSTON: Mr. Chairman, I would move that the bill be reported.

MR. CHAIRMAN: Bill be reported? Agreed? (Agreed) Bill No. 32, an Act respecting the City of Brandon. (Bill No. 32 was read and passed)

Now back to the presentation on Bill No. 38, I'll call on Mr. Lennox again to take the microphone.

MR. LENNOX: Thank you, Mr. Chairman. I have some written briefs that perhaps I could distribute to your committee that might be helpful.

MR. CHAIRMAN: By all means.

MR. LENNOX: By the very nature of this, I have to skip about quite a bit through the bill; it won't be a presentation on one specific item, Mr. Chairman, so if I do a little skating around, you'll appreciate why.

At the outset, Mr. Chairman . . .

MR. CHAIRMAN: Proceed.

MR. LENNOX: Thank you. I have been informed that perhaps there is a motion, it will be tabled before your Committee for its consideration. It may have bearing on some of the remarks that I will be making, so rather than go over ground which may already be covered by the motion, if I could be informed. If not, I'll just continue on the assumption, Sir, there will not be a motion.

MR. CHAIRMAN: Proceed. Proceed with your presentation and we'll take that into consideration later.

MR. LENNOX: The first section 48 of the bill, which is a new section 600, subsection 1(e)(3), this first part of it is a technical amendment which I have submitted the necessary, what we consider the necessary wording to the Legislative Counsel and I won't repeat it here.

The second portion of that refers to the dedication or cash payment which must be in

(MR. LENNOX cont'd) accordance with the by-laws drafted and Council of the City has requested that this requirement of a by-law be waived because it seems to be too restrictive, because of certain situations which may arise. Once you have a by-law you're locked into the wording of a by-law and it does not give you any discretion to deal with extenuating circumstances which may arise in this type of a thing. Again, in this section there is no reference to the additional zone, which I think is perhaps just an oversight and I draw that to the attention of the Committee.

The section 50: Again this is for zoning agreements which are required sometimes if council wishes before a zoning by-law is proceeded with. Again, a by-law is required governing dedication of land, and again the additional zone is omitted, and my same remarks apply here as they did to the zoning dedication. I don't think it is necessary to have a by-law and I think that the council should be given a discretion in this matter.

Proposed new section 603 and 4: Now these sections deal with zoning agreements, and the way the sections come out in the Act they refer not only to existing agreements but also to proposed agreements. The point here is that if you deal with proposed agreements the way the section is worded, there will be considerable delay because the city will find it mandatory in many cases to refer back to the community committee. This will result in undue delay and the procedure now in these zoning matters is long enough. There's no difficulty with respect to an existing agreement, but there definitely is with respect to proposed zoning agreement. For example -- I have to give an example because otherwise this zoning procedure is very hard to follow, at least it is for me, and to make my remarks intelligible, I will refer to examples from time to time - with your permission, Mr. Chairman.

For example, supposing there is an application for a 10 storey building, and the public who were present at a public hearing called for this purpose to consider the application, they approve of the 10 storey, or they may say of 7, but the community committee members, before whom this hearing is conducted, they recommend 5. Now under the proposed section, that is the section before you in the Bill 38, if council agrees with the public and proposes a zoning agreement providing for 10, or 7, the application would still have to be referred back to the community committee for further public meeting to no purpose. The objective of any reference back is not to give the community committee members another chance at the matter, since they will have the same on the council floor; the only objective is to ensure the citizens do not lose their right to object to the Minister, through being misled or misleading themselves, and to not objecting to a proposal in a belief that the recommended zoning agreement will be the final zoning agreement adopted by council - and the chance of that occurring appears to be more academic than real. Under the procedures at a public meeting, the applicant states his case for the zoning proposal. The citizens' opinions are requested and thereafter the planning recommendations are received, subject to questioning from the citizens, which recommendations may include a suggested zoning agreement. By that time, any objections to the maximum applied for are on the record.

I would therefore recommend, Mr. Chairman, that proposed section 603 and 604 be deleted from the Act, and a simple provision dealing with existing zoning agreements be enacted as follows - and I have this draft which I can present to the Legislative Counsel.

I would emphasize this is extremely important that these amendments be not proceeded with in the manner that they are before you. There will be inevitable delays, to no purpose, to housing projects desperately needed in circumstances where they are not objected to by the public, or where they have registered objections, which will likely be referred to the Municipal Board for further hearing.

Going back to the brief - that was a more of an explanation I have written before you as far as 603 and 4, because I thought perhaps there may have been a motion to that effect.

Section 53, Bill 38, is purely technical in the matter of wording.

Now we come to section 55, which refers to zoning procedures, in which I wish to make some pertinent comments because again, in the opinion of the City of Winnipeg, this is a most onerous and unnecessary provision. The proposed new section 609 (4) makes mandatory the mailing of notices to owners and tenants within 500 feet of the land proposed to be rezoned. We are talking now about zoning applications. There may be some merit in providing for this in a discretionary form of notice. However, rendering it mandatory in all cases is considered by the City to be unnecessary and unduly costly in both time and money. The delay in time is perhaps the greatest importance. In order to ascertain from the assessment roll those owners

(MR. LENNOX cont'd) located within a specified area, trained personnel will have to prepare maps and relate thereto the legal descriptions contained in the assessment rolls. This will be a time consuming process, particularly in the case of new plans of subdivision, around which projections of a 500 foot boundary will include a large area of land. According to the numbers in which applications are being received within any given period, the advertising of applications for public meetings may be backed up for several months. I would emphasize that these are ongoing things. The zoning applications are not something that we get once every six months. They are daily occurrences.

Now, again section 56, the proposed . . .

MR. DOERN: I just want to ask for a clarification there.

MR. CHAIRMAN: Minister of Public Works.

MR. DOERN: It would seem to be reasonable to inform people who will be affected by changes in zoning, and you're suggesting then that this should be discretionary rather than compulsory.

MR. LENNOX: Mr. Chairman, may I answer with respect . . .

MR. CHAIRMAN: Yes.

MR. LENNOX: The provision now is of course that we advertise twice in the daily newspapers and we also post placards in the vicinity of the land to be rezoned. We're merely suggesting this further requirement is unnecessary. We may use it in certain specified cases where we think it would be in the public interest or for some reason as a discretion to give this notice, but to make it mandatory in every case on top of the already existing requirements, from our experience, is unnecessary.

MR. DOERN: The existing requirements are those written in law or are they tradition?

MR. LENNOX: No, they are in the Act, Sir.

MR. CHAIRMAN: Proceed.

MR. LENNOX: Proposed new section 609 (4.2) refers to a zoning change applicable to the whole of one or more communities. It is contemplated that gradually outdated zoning by-laws - and I might for the explanation of the Committee, the City took over all existing bylaws when the new City of Winnipeg Act was passed - gradually outdated zoning bylaws will be replaced by new bylaws, including several community areas. This section will require notice of such a by-law to every owner within the community or communities and 500 feet around it. It would seem to make more sense to rely on newspaper publication with a specific notice to any person whose zoning might be changed. Whatever the merits of such notice in the case of a new zoning bylaw, a major problem will be created in making relatively minor text amendments to zoning bylaws. From time to time text amendments are required. Some text amendments presented by the Act's present requirement of posting all land affected are as follows: An Amendment to allow hairdressing as a home occupation under several zoning bylaws; an amendment to establish a building control board in respect of industrial parks; an amendment to establish certain uses as conditional uses thereby permitting community committees' hearings on individual applications. As example, some time ago the Childrens' Aid Society requested and obtained an amendment to permit the establishment of group foster homes. If it had been faced with the requirement such as that proposed, the Society would likely have had to do without its amendment, and the children without the homes until it could be included in an annual accumulation of amendments. This would be particularly so if there was more than one community involved. The expenditure of thousands of dollars by an applicant, or taxpayers generally, to introduce one or more conditional uses into the text of the bylaw is perhaps the best illustration of the undesirable effect of such a blanket requirement.

Section 68 of this Bill 38 establishes notice requirements for each specific conditional use and a public meeting. Amending the text of a bylaw merely paves the way for such a proceeding. It may be that under the proposed amendments, conditional uses to be allowed in say commercial districts, only do not apply to the whole of one or more communities or text changes to say the R1 residential provisions likewise do not apply to the whole community. In that case, however, the situation is probably worse in that notices will have to be mailed to all owners and tenants within the relevant zoning districts. In view of the necessity of determining the rental dwelling units therein, the mailing costs may well exceed the cost of mailing to all owners. At the very least, notices to all owners and tenants should not be made mandatory until under some optional system the experiment can be tried without being incapable of modification until a further sitting of the Legislature.

(MR. LENNOX cont'd)

It is therefore recommended, with respect, Mr. Chairman, that the proposed new 609 4(c) be stated to be optional, and not mandatory. The proposed 609 (4.1) be amended to refer to mailing lists under both sub clauses 4(c)(2) and 4(d) and 4(d) to clearly apply the protection of that section to lists of both owners and occupants, and finally to delete from proposed 609 (4.2) the words following clause 4(a) and substitute the words "and in such other manner the council deems it advisable." That would give the council the necessary discretion in certain cases.

The next is the requirement, Section 59. We have requested that objections be made in person at the meeting, for both the person involved and the committee in order that the committee can be fully cognizant of just what the objection is; and on the other side of the coin, the objector can perhaps get certain information that would lead him to understand the position taken and withdraw his objection.

The next one is purely technical. And again Section 78 which refers to sub-divisions. The same comments I made with respect to the 500 feet apply even more so in sub-divisions. I have a brief, a very brief statistic here. There are 35 sub-divisions with zoning applications pending. There are 70 zoning applications pending. The information I have received from our planning people is that if this section goes through with this 500 feet that there is no way that some of these will not be proceeded with this year because of the impossibility of the complying, of the time element or we just must comply. Again, we cannot take short cuts in this thing. If the legislation says something, the planning people and the legal department follow it. We are under tremendous pressure sometimes to cut corners, expediency calls in many cases. I would point out that to do that would be contrary to the legislation, and certainly wouldn't be doing any application any favour either, because if it is a statutory proceeding it must be followed. The courts have held that very strongly and any deviation would leave the city liable to having its bylaws attacked, and of course then the application of the developer would flounder too. So that is just some statistics. Again on Section 78, on sub-divisions, even more pertinent than zoning.

The next one is section 87. This is fairly technical. We have to register an approved plan of sub-division within 180 days from approval, because of one thing and another this may not be sufficient. So we are requesting that - I don't see why a major sub-division should be frustrated merely because of the mechanical fact of being unable to register it within 180 days; it does not seem to be a necessary amendment.

Section 95 is technical, and I have drafted what we consider to be perhaps a little clearer expression of the intent.

Section 89 is merely giving the power to the Committee on Environment to delegate to the commissioners the right to approve certain conditions, which I have outlined in the brief before you. At the moment even if a developer agreed to the dedication of land, or agreed to any condition, he still has to go to the committee because the committee is the only one that can give him that condition. It seems again an unnecessary waste of time when there is no objections; and the amendment sets that forth.

And finally, Mr. Chairman, and I find this one of the most important, if probably the most important of anything I have to say to you this morning. It's not in the bill. With your permission I would like to refer to it because we did request it, and I think that when I have spoken you will realize the necessity for referring to it. That is, Mr. Chairman, that with respect we are asking that the Act be amended by the inclusion of the power to appoint a building commission. The request is for the same type of legislation as was formerly enjoyed by the former City of Winnipeg and the Metropolitan Corporation of Greater Winnipeg, and during the year as this commission - and I had something to do with it in the former City of Winnipeg and indeed in Metro - this commission has been the instrument through which the former city and the Metropolitan Corporation dealt with safety problems concerning existing buildings and existing classes of buildings. For example, safety doors and fire sprinklers in schools, theatres and hotels. Unfortunately, Mr. Chairman, as you all know, there have been some very tragic fires lately in the City of Winnipeg, mainly in apartment blocks, and the city has been working closely with the Provincial Fire Commissioner through the Building Inspection Division and the Winnipeg Fire Department to consider the best methods to prevent occurrences of these tragic fires, particularly in apartment buildings.

It was felt that the best approach would be to prepare a set of guidelines listing the type

(MR. LENNOX cont'd) of things that should be included in apartment buildings. It was felt that an impartial body should be appointed to review these guidelines as they apply to each apartment block in the city, and determine what construction changes, alterations, or appliances, should be made or installed, as the case may be, in each individual building, with the objective of course to improve life safety in that building.

Mr. Chairman, I have drafted the relative legislation which in principle is identical with that of the former Metropolitan Corporation and the former city, and provides for an appeal to council on any decision of the Building Commissioner, and I would respectfully ask that your committee give consideration to including this in Bill 38. Thank you, Mr. Chairman.

MR. CHAIRMAN: Are there any questions with respect to the presentation just delivered?

I understand you have other members of your delegation here that may wish to speak. If so, will you please come forward then to the microphone and introduce yourself.

MR. YANOFSKY: Mr. Chairman and Members of Committee I don't have any written submission. I was asked to follow the solicitor to merely give the political implications by way of backup to some of the requests before you, and some explanation why we are making the request.

On the first item, Mr. Chairman, dealing with the 10 percent dedication, a question of a bylaw. What has been a procedure up until now is the Act requires a zoning bylaw at a public hearing, and then one of the conditions that is under Section 6 under the Act is, only agreement can be entered into between the City and the applicant. We have up until now required dedication under a zoning bylaw separate from subdivision control. Under subdivision control Section 737 we've already been given the 10 percent authority to require dedication.

The problem, Mr. Chairman, is that if a bylaw is required for dedication it will remove a discretion which now exists to the detriment of what we feel are some worthwhile projects. I'll give you one recent illustration that we dealt with, was a Senior Citizen's MHRC housing at Alexander and Keewatin, where we waived the dedication on the condition that open space requirements would be incorporated in the building itself and did not require a 10 percent dedication from MHRC. But if we're required to pass a bylaw, what it means is that every applicant will have to provide dedication, including senior citizens, and other likewise, and we do feel that it's really not necessary. We've already been collecting it. Some have suggested maybe even without authority, but in any event in the interests of the city to provide open space we feel that under the provision of the Act as presently exists, that could be well protected without requirement of a zoning bylaw. Inasmuch as it was the City's request that the dedication or cash payment be added in under the zoning procedures like it is under the subdivision, we would ask that the addition of a bylaw which we did not request, that that not be imposed on the City.

The second major point, Mr. Chairman, is on the notices of 500 feet. I'd like to say politically that the former Metropolitan Corporation, which had the authority for the zoning, was never required to follow that procedure. In its ten years I don't think there's a single instance of complaint where any citizen was deprived of the opportunity of being heard. We agree 100 percent that people should be notified so that they have the right to appear and make representations, but in the two and a half years of the new Unicity Council I am not aware, and I don't believe the City Solicitor is aware, of any case where there's been any complaint of anyone not being aware of a proposed rezoning under the present procedures.

These representations, Mr. Chairman, under the Committee we'd already made to the Premier as our Minister, and we were not certain whether some of these will be incorporated in a government motion or not, so out of an abundance of caution I'm bringing it to your attention so you'd be aware of our concerns.

The curious part of this procedure, you see, Mr. Chairman, is that the present procedure now is permissive under the Act. Our legal department asked for a clarification when Bill 60, which was never enacted, was coming up a year ago because at that time there was some uncertainty whether or not it was permissive or mandatory. We asked that it be eliminated and Bill 60 came back and said it should be mandatory, which really sort of seems to be a bit opposite to what the City had requested. In the meantime there was a case which went to Court under the existing legislation which indicated that it was permissive. In that particular case it was the Unicity Mall Shopping Centre. In that particular case it was held that since no notices were given, additional notices, that the City had complied to all the procedures and nobody was deprived of their right to be heard. So what we're asking really, Mr. Chairman,

(MR. YANOFSKY cont'd) and members of the Committee, is that the section remain permissive; in appropriate cases the City will make sure that the citizens should be made aware.

But the problems that the City Solicitors indicated to you would be tremendous if this is enacted, and we would like you to know that if you do, it would be against the wish of City Council because of its concern about housing costs and the whole development procedure. One of the problems that we've had under the new procedure is, because it was new, there was a back-up of applications, and it's taken us a while to get the procedures clarified so that there'd be adequate land on the market for housing. This new proposal, with what is pending now before the City, would, I'm advised by the Planning Department, would set it back about five months which means that housing starts would drop drastically this year and the next year, in any event, and this would probably have a bad effect on the cost of housing. I know you are as much concerned as we are that housing costs be controlled within reasonable limits. One of the ways of doing it is by making available adequate land on the market so that there's enough, more than enough, to meet the demand, and this would be, Mr. Chairman, one of the cases where an additional control such as this would have the opposite effect, and we are very concerned that this particular amendment not be implemented in its present form. As I say, our understanding from the Premier was, he gave us sympathetic consideration on this but I'm not too sure whether the government motion, whether that will or not deal with this, so I just wanted to highlight that this particular thing, if it goes through as is, is in our opinion - in that the Council is unanimous in this - unnecessary and it would be detrimental to the interests of the citizens of Winnipeg.

The third item in the Building Commission, Mr. Chairman, I would like to emphasize that particular item which may have been left out inadvertently in the bill, that as our City Solicitor referred to the recent fires that we've had and the question of these older apartment blocks and having them comply with the safety standards, the building bylaw, the section which was founded on the Metropolitan Act, the Metropolitan Act has been repealed and it's a question whether the powers under the present bylaw are adequate to give the Building Commission the powers to make the older apartment blocks come up to better safety standards, so we would ask your serious consideration that that section be put into the bill.

There is one other section and I think Councillor Mercier is going to speak of it but he's at a meeting with the Premier now. He asked me if in his absence I would deal with it briefly. This other amendment dealing with the assessment of golf courses and curling clubs. I know this was not included in the bill and I wanted to explain to you briefly the rationale why Council felt that this should be given consideration. At the present time, the assessment provides for residential and other, and golf courses and curling clubs are included as "other", and there is a real problem now with taxation with them and, as you have probably read, the Glendale Golf Course was quite ready to sell its land to a developer for a shopping centre and go further out and buy cheaper land further out as a golf course, and I think the Southwood Golf Course now is in the same situation, and we felt that as inasmuch as they do provide open space to the community - and one of our stipulations was that it would be available to the public at large - that they be treated as "residential" for assessment purposes so they would pay at least a lower mill rate and provide some relief to them. We were asked that you give this consideration because we do feel it's something that they are providing to the public, and if they eventually all locate further out of the city and they sell, you can't really prevent the land from being developed and then the city is put in the position that we have to buy land for open spaces, we have to replace what is there now. Either we have to buy the golf course and maintain it as a park, which is a hell of a cost to the city taxpayer, and it seems to us cheaper to let them stay there and make sure that the public has access and give them a bit better break on the tax rate.

The final point, Mr. Chairman, to the members of the Committee, that the City Council had passed to the Committee, which I would ask you--I appreciate you won't be able to deal with this in your present session but I would urge, since I understand your Committee is a continuing committee, that you consider between now and the next session--is the question of the whole of Part 20 of the Act, which incorporates in legislation the procedures for zoning. It is City Council's position that it is unnecessary to have this in an Act of the Legislature, not only unnecessary but it's very unworkable. To give you an illustration, the amendment to Section 737 of the Act dealing with consents, City Council has been operating for a year and a half on the authority of a letter from our then Minister, the Honourable Mr. Green, and if we have to

(MR. YANOFSKY cont'd) wait from session to session to make changes in procedure, it seems to me a very unworkable way. I'm sure you would not accept that in your own workings dealing with procedure as opposed to policy matters, that you would have to wait from session to session to do that. So I would ask, Mr. Chairman, if your Committee could seriously consider between now and the next session to look at Part 20, and our proposal is that if you delete the precedural portion of Part 20, City Council would pass a procedural bylaw dealing with zoning which would be subject to approval, in the first instance, of the Legislature, and thereafter could be amended with the consent of City Council and the Minister of Urban Affairs, so at least in that case if anything came up you would still have an input through your Minister, and we could then bring it to him between sessions. Because the way it's working now, Mr. Chairman, it's a very unworkable way. So we ask for your consideration on those points.

MR. CHAIRMAN: Thank you, Councillor Yanofsky, and the other members of your committee, and your presentations on Bill No. 38. We are fast approaching adjournment time. I think most of the members here would like to go out for lunch. Councillor Mercier will, I believe, present his submission at the next meeting. Is that correct?

MR. YANOFSKY: Well I've touched on it, Mr. Chairman. That was on the golf courses, and since he had to go to a meeting with the Premier he asked me to present it to you.

MR. CHAIRMAN: Yes. It will be carried over to the next meeting. Fine. Is it the wish of the committee that committee rise? I see. Another member.

MR. McJANET: Mr. Chairman, if I may address your Committee for a moment. My name is McJanet. I act for the Housing and Urban Development Association of Manitoba and the Urban Development Institute. We were not here at the opening of your session this morning and did not have the opportunity of asking that our name be added to your list to make representation. However, I understand that your Committee intends to adjourn and discuss this matter at a later date, and would ask that our name be added to your list on Bill 38.

MR. CHAIRMAN: On Bill 38. That will be for the next meeting.

MR. MARION: When will that meeting be, Mr. Chairman?

MR. CHAIRMAN: I have no idea at the moment. Do you have any idea? The House Leader . . . I think you will be notified in plenty of time, I hope.

MR. URUSKI: I would suggest that if you would leave your phone number and address here . . .

MR. CHAIRMAN: We have it here.

MR. URUSKI: . . . then we would be in a position to call you before . . .

MR. PAWLEY: There is just one more point of clarification, Mr. Chairman. I don't believe that the impression was that Councillor Mercier would be expected to return to give further submission. I think Councillor Yanofsky had presented that which Councillor Mercier requested him to present, so I would assume that the City of Winnipeg has completed its brief.

MR. CHAIRMAN: Is that correct, Mr. Lennox?

MR. LENNOX: Yes.

MR. CHAIRMAN: Committee rise.