

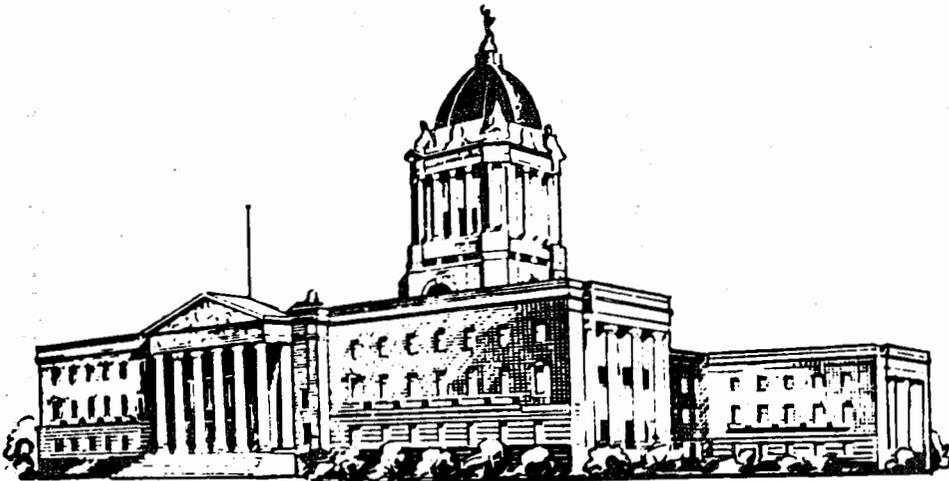


Legislative Assembly of Manitoba

**HEARING OF THE STANDING COMMITTEE
ON
LAW AMENDMENTS**

Chairman

**Mr. William Jenkins
Constituency of Logan**



THURSDAY, June 9, 1977, 8:00 p.m.

Law Amendments
Thursday, June 9, 1977

IME: 8:15 p.m.

CHAIRMAN, Mr. William Jenkins

MR. CHAIRMAN: The Committee will come to order please. Bills for consideration in front of the committee this evening are — I'll read them out — the following bills:

- Bill (No. 9) - An Act to amend KHE Brandon Charter.
- Bill (No. 10) - An Act to amend The County Courts Act.
- Bill (No. 12) - An Act to amend The Local Authorities Elections Act.
- Bill (No. 13) - An Act to amend The Municipal Act.
- Bill (No. 19) - An Act respecting The St. James-Assiniboia School Division No. 2.
- Bill (No. 22) - An Act to amend The Personal Property Security Act and certain other Acts relating to Personal Property.
- Bill (No. 25) - An Act to amend The Buildings and Mobile Homes Act.
- Bill (No. 39) - An Act to amend The Planning Act.
- Bill (No. 57) - An Act to amend The Manitoba Telephone Act.
- Bill (No. 59) - An Act to amend The Human Rights Act.
- Bill (No. 67) - The Credit Unions and Caisses Populaires AKCT.
- Bill (No. 69) - An Act to amend The Public Schools Act.
- Bill (No. 73) - An Act to amend An Act to Incorporate the Sinking Fund Trustees of The Winnipeg School Division No. 1.
- Bill (No. 77) - An Act to amend The Pension Benefits Act.
- Bill (No. 82) - The Statute Law Amendment Act (1977).
- Bill (No. 85) - An Act to amend The City of Winnipeg Act (2).
- Bill (No. 86) - An Act to amend The Election Act.

Before we proceed this evening, it's the usual procedure of the Committee to call for representations. Before I do that, I'll read out the list of names that I have of people who wish to appear and have notified the Clerk's office on Bill (No. 57) - An Act to Amend The Manitoba Telephone Act:

1. Mr. Ronald L. Coke representing Brazzell and MacDonald;
2. Mr. D. James Flood, Canadian Business Equipment Manufacturers Association, Rexdale, Ontario;
3. Mr. Allan H. Fitch, Q.C., McArthur, Fitch and McArthur;
4. Mr. Tony Swann, Canadian Manufacturing Association;
5. Mr. Frank Burshtein, Charter Equipment;
6. Mr. Jack Wylie, National Typewriter;
7. E. Cortens, Calculator World;
8. D. Allen, D.E.M. Allen and Associates Limited.

Are there any members in the audience this evening whose names have not been called out who wish to make representation on any of the bills that we have before the Committee this evening?

MR. D.C. LENNOX: Mr. Chairman, I would like to appear in support of Bill No. 85, the second City of Winnipeg bill that deals with technical and administrative matters.

MR. CHAIRMAN: Thank you. Are there any other representations to be made to the Committee?

MR. ALLAN HOWISON: Mr. Chairman, my name is Allan Howison and I'm here in case there are any questions to do with the Act to Incorporate the Sinking Fund Trustees of The Winnipeg School Division. I'm for the changes, just to simply let you know I am here.

MR. CHAIRMAN: Thank you. There are no further representations to be made tonight before the committee? Perhaps then we could deal with The City of Winnipeg Act. There is only the one presentation on that. Is that the will of the Committee? (Agreed) Mr. Lennox.

MR. LENNOX: Mr. Chairman, members of Committee, I'm here to support Bill No. 85 which is the second City of Winnipeg bill. It deals with various sections of The City of Winnipeg Act and all the amendments therein have been requested by the Council of the City of Winnipeg. Basically it deals with financial amendments to the pension scheme of the City of Winnipeg and the amendments are the same or are similar to those amendments which have been passed by the Manitoba Civil Service Superannuation Act. It also deals with certain changes to assessment procedures and these changes are again similar to changes in the Manitoba Municipal Assessment Act.

The remainder of the bill, as I said before, refers to various sections of The City of Winnipeg Act and these amendments have been requested; they deal with technical and administrative matters. They have been requested by the city to enable it to discharge its duties and responsibilities in a more efficient manner and also to clarify certain powers of the City of Winnipeg.

I think it would be best if I perhaps answered any questions that any members have either now or if they wish of the Committee, when the bill is being considered clause-by-clause.

MR. CHAIRMAN: Any questions any members of Committee have of Mr. Lennox? Mr. Axworthy.

Law Amendments
Thursday, June 9, 1977

MR. AXWORTHY: Mr. Chairman, one of the questions that I had related to Section 447.1 where there are some changes related to the definition of "terrace." I gather that probably refers back to some of the confusion that arose as a result of the fire that took place three or four months back and the application of the Enforcement Codes. Could you perhaps explain in more detail what the implication of this particular change would mean in relation to that problem?

MR. LENNOX: Mr. Chairman, it actually did not refer to that unfortunate fire but this came up, believe, at least two years ago and it relates to the health provisions of The City of Winnipeg Act and we were having great difficulty in applying them to a terrace because it did not fit in any of the definitions we had in our various by-laws. There was no definition of a terrace and the point came up how could we handle them? Could we demolish them? They just weren't covered, that's all, because of their nature. This amendment defines what a terrace is and it refers then to the various other sections of the Act which give us the power to enforce unsanitary buildings and other health matters.

MR. AXWORTHY: One other question I had for Mr. Lennox, Mr. Chairman, is whether there is anything in this particular bill that flows back into any of the proposed changes under The City of Winnipeg Act (1). I understand these are mainly technical changes but is there any conflict resulting out of the proposed amendments and changes contained in Bill (1)?

MR. LENNOX: No, Mr. Chairman.

MR. AXWORTHY: There is none whatsoever. Thank you, Mr. Chairman.

MR. CHAIRMAN: Are there further questions? Hearing none, Thank you, Mr. Lennox.

MR. LENNOX: Thank you.

MR. CHAIRMAN: Now, I would ask the Committee, if they have any questions of Mr. Lennox would they like to ask them now dealing with Bill 73, and it's kind of awkward for me to ask because I'm the sponsor of that bill and I would not be expected to explain — (Interjection) — Mr. Howison. I there are any questions any members have with respect to Bill No. 73, any questions with regard to that bill that honourable members may have, I would suggest you ask him now and then perhaps Mr. Howison could go.

There are none. Then fine, you don't have to stay, then, Mr. Howison.

MR. HOWISON: Thank you, Mr. Chairman.

MR. CHAIRMAN: I then would refer honourable members to the list that I gave you. It's now dealing with Bill No. 57 - An Act to amend The Manitoba Telephone Act. Mr. Ronald L. Coke. Mr. Henderson.

MR. HENDERSON: Maybe I didn't take it down right, but is there not somebody that is going to report on Bill 67? You said 57 was what you are going to deal with, did you not?

MR. CHAIRMAN: Yes. I have no representations on 67. Not before the Committee. Just let me check here to make sure. I have asked, is there anyone here who wishes to make representation on Bill No. 67 dealing with the Credit Unions and Caisses Populaires? Evidently not. Proceed then, Mr. Coke, please.

MR. RONALD COKE: My name is Ronald Coke and I'm appearing this evening on behalf of Winnipeg Videon Limited. I wish to make some comments to the Committee relative to Bill 57.

Primarily the thrust of my remarks relate to the fact that so a question has arisen in the past about what rates or other activities of the Manitoba Telephone System are subject to review by the Public Utilities Board. Section 39 of the Manitoba Telephone Act provides that: "The telephone service supplied by the Commission shall be approved by the Public Utilities Board under the Public Utilities Board Act."

We have some concern, however, that other rates and other activities of the Telephone System are not properly subject to review by the Public Utilities Board, and I say "doubt" rather than "certainty." There are some sections in the Public Utilities Board Act which provide for complaints to be investigated but in the Public Utilities Board hearings held last year, the Public Utilities Board in its wisdom declined to consider the matter of what it considers to be competitive situations and it is therefore our proposal that in future the Public Utilities Board have the opportunity to review all the activities of the telephone system and all the rates set by the telephone system. Ainnipeg Videon Limited is a major contributor to the revenues of the Manitoba Telephone System and it believes that it as well as all other subscribers, should have an opportunity whenever MTS fixes its rates, to make representations on that subject before a public body such as the Public Utilities Board. Accordingly we request this Committee to ensure that section 39 continues to be operative insofar as all current or future rates of MTS are concerned, and that subscribers will continue to have the right to make representations before the Public Utilities Board relative to rates to be charged by MTS. Mr. Chairman, I would like to recommend the following amendment either to the bill as proposed as Bill 57.

MR. CHAIRMAN: Do you have copies of your recommendations?

MR. COKE: Yes, I do. I thought I would read it. I only have one copy, I'm sorry.

MR. CHAIRMAN: Oh, I see. Would you leave it with the Clerk when you leave?

MR. COKE: Yes indeed. Notwithstanding any of the other provisions of this Act, all tariffs and fees

Law Amendments
Thursday, June 9, 1977

posed to be charged or levied by the Commission shall be first approved by the Public Utilities Board at public hearings.

Mr. Chairman, I should add to that that from a legal point of view the Bill before you seems to deal particularly with the matter of interconnections. That is, equipment, other devices that can be hooked in to either telephone lines or other equipment including cable lines, owned by the Manitoba Telephone System. Because the Bill is specific in that area and because it does not provide for any hearing or review necessarily by the Public Utilities Board, it is our suggestion that, in fact, some amendment is in order to insure that the specific provisions provide for review and/or do not displace any existing provisions which specifically provide for review by the Public Utilities Board.

MR. CHAIRMAN: Thank you.

MR. COKE: I'll pass this on to the Clerk.

MR. CHAIRMAN: Yes, we'll get that copy. There may be some questions, Mr. Coke, that some honourable members may wish to ask. I have Mr. Paulley.

MR. PAULLEY: Mr. Coke, dealing with Bill 57, you referred to a section in the present Act, if I heard you correctly, being Section 39.

MR. COKE: That's correct.

MR. PAULLEY: Section 39 is not, as I understand it, Mr. Chairman, before the committee at the present time. We are dealing with Sections 43 and other sections in the Act and I wonder whether or not the representations made by Mr. Coke are competent to be heard by this committee because it appears that there is a different subject matter than is contained in Bill No. 57. I would suggest that, in due respect, Mr. Chairman, that if Mr. Coke is raising a question of a different section in the Manitoba Telephone Act, that while we appreciate his representations it is not within the competence of this committee to deal with a section that is not contained in Bill No. 57.

MR. COKE: Mr. Chairman, with respect, my remarks dealing with Section 39 were merely intended to indicate what the current situation is inside the Telephone System Act and not to, in a sense, indicate that what is before this committee is the question of Section 39. My remarks, in fact, related to Bill 57 and amendments which I thought appropriate to that particular bill.

MR. PAULLEY: Mr. Chairman, I would suggest that in respect to the representation that has been made, I have no objections at all. I think it's extraneous insofar as the Bill that we are considering at the present time, because that particular section is not under review by the committee.

MR. AXWORTHY: Mr. Chairman, I speak to a point of order on that. I think that the Honourable Minister is not reading the Bill very carefully because under Section 43 the Bill is all about the connection of various hardware devices to the Telephone System and I think that the argument presented by Mr. Coke is dealing with the fact that the tariffs, as outlined under sections 1 and 2 of Section 43 of this Bill, simply say there is no way of therefore adjudicating upon those tariffs. So I think it is highly relevant to the consideration of this Bill as to who is or where the reference of tariff rates relate to the interconnections and I think that that was the brunt, as I understood it, of the presentation. So I think that it is highly relevant.

MR. PAULLEY: Mr. Chairman, on the point of order raised by the Honourable Member for Fort Rouge, the delegation made specific representations and reference to Section 39 and we are dealing with Section 43. Now it could be a legal interpretation that 43 is connected with 39. I don't know. I'm not a lawyer. I'm just a damned old ex-railroader, but in all deference, we are dealing with amendments in respect of 43 and I don't think that the point raised by the Honourable Member for Fort Rouge prevails at all. However, I do not wish to curtail the opportunity of the delegation to express his opinions insofar as the Telephone Act is concerned.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Well, Mr. Chairman, on that same point of order. I just want to say that the person at is giving testimony here today is not and should not be involved in what goes on internally in that a committee can do and what it can't do. He is here to give us information which may be very valuable to all members of this committee and for that I commend him.

MR. PAULLEY: That's right, for the future.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Mr. Chairman, I would like to attempt to deal with some of the questions raised by Mr. Coke.

MR. McKENZIE: . . . a point of order.

MR. CHAIRMAN: Speaking to the point of order.

MR. McKENZIE: Mr. Chairman, speaking to the point of order. The witness is dealing with rates, which is Section 39, the one which he is referring to and I think that's the subject matter that's involved in this Bill, is Section 39 which deals with the rate of the Manitoba Telephone System and I don't see how you can tell him that he can't reflect back on Section 39.

MR. CHAIRMAN: Order please.

A MEMBER: On the point of order.

MR. CHAIRMAN: Order. Let the Chair clarify the situation. Now we've got awful sticky here lately.

Law Amendments
Thursday, June 9, 1977

Members of the Opposition have got sticky that we keep on to what we're supposed to be dealing with and Section 39 is not under amendment at this time, before this committee. I'm not going to call the gentleman out of order, but I'm just saying to honourable members you can't have it both ways. You can't sit and say you're not going to deal with it and then not discuss it. Now either one way or the other, you want to and the committee has agreed that anything that is not in the Bill, contained within the Bill, we will not deal with. So I think that's what we should be dealing with. Just what is the subject matter of the Bill.

MR. COKE: Mr. Chairman, with respect to my remarks, dealing with Section 39, they were only intended as background for this committee. In fact, the operative section in this Bill that deals with tariffs and with the business of interconnections is Section 43 and I would direct the committee's attention to that section to determine whether or not my comments are relevant or not.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Mr. Chairman, I would like to address myself to Section 43 and more particularly to sub-section (2) being terms and condition of connection and I believe that Mr. Coke has been wanting to receive clarification in regard to certain conditions being asked by the Manitoba Telephone System. I would like to inform members of the committee, Mr. Chairman, including Mr. Coke, that Bill 57 does not preclude what now exists under an appeal from the Manitoba Telephone System to the Public Utilities Board. The Public Utilities Board has had, has now, will continue to have a broad general power over this public utility. Under the Public Utilities Act, Mr. Chairman, MTS is fully accountable to PUB. Any customer or interested person may apply to the PUB if they are not happy with the way MTS is operating and that includes the setting of tariffs. Therefore it would not be correct to assume that MTS can thwart the PUB by not filing tariffs. I would refer honourable members to Sections 74, 76, 77(b) of the Public Utilities Board Act as examples of broad powers that the Public Utility Board has over amounts.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Yes, Mr. Chairman. I would like to ask Mr. Coke some questions based on his representation. You stated that the Public Utilities Board last year decided that it did not have jurisdiction or authority over so-called competitive matters. Now what would be the rationale for the PUB deciding that in relation to what we just heard from the Honourable Minister who said that it has full authority and power?

MR. COKE: Mr. Chairman, my understanding is that the situation in the past has been that the specific provisions requiring the Telephone System to file its tariff and to appear before the Public Utilities Board to justify rate increases with respect to telephones, has resulted in scrutiny of all such telephone rates by the Public Utilities Board. In respect of other services offered by the Manitoba Telephone System also in a monopoly situation, it has been the position of the Telephone System that, in fact, no such scrutiny should occur simply on the basis that because they are competing with other bodies they, in fact, should charge competitive rates. That logic only follows so long as one is able to identify competition and in the case of cable companies for one, certain data processing firms for another, in fact there is really no alternative but to use the services of the Telephone System and to interconnect with the telephone line for the purpose of transmitting data. The alternative is to create entirely new systems where any substantial distances are required. There are few people like CN-C Telecommunication that provide similar service. It's not available anywhere near as wide a way as the telephone system lines. That basically is the point.

MR. AXWORTHY: I'd like to get this clear. Who is it that decides whether the reference should go to the Public Utilities Board? Is it the telephone system that decides for itself that it will not appear, or is it a decision by government that the Crown Corporation does not have to appear or is it that the Public Utilities Board does not call them to appear?

MR. COKE: It's an interesting question. The Telephone System has taken the position that it was not always necessary to file its tariffs and, therefore, as a general matter the Telephone System was not accountable to the Public Utilities Board. There is, as Mr. Toupin pointed out, provision in the Act providing that the Board may, by order, fix just and reasonable rates and that, in fact, where a complaint in writing is received, the Public Utilities Board may investigate upon its own initiative. If a complaint in writing is received, appraise and evaluate the property of any public utility wherever, in the judgment of the board, it is necessary to do so for the purpose of carrying out any provision of this Act and require every owner to file their complete schedules of every classification employed of every individual or joint rate, toll, fare or charge made, charged or enacted by it, for any product supplied or service rendered within the province as specified in the requirement. Now in fact what happens as a matter of course is that a complaint in writing, filed at the Public Utilities Board, requires the Public Utilities Board to determine whether or not it wishes to investigate and so forth. The essential point of my representation is that whenever a monopoly service is established, such as the telephone service provides, and it's recognized that there should be a monopoly to protect the public interest, that there should correspondingly be some forum of a public nature where interested parties can go and make such representations as they see fit regarding rates to be charged, or, in this particular case, the right

Law Amendments
Thursday, June 9, 1977

of those parties to hook certain types of equipment into telephone lines when there is, for practical purposes, no alternative but those telephone lines for the purposes that equipment was intended. That includes, as I say, cable TV equipment, data communication equipment and a large number of other types of equipment other than simply personally owned telephones or answering services, what have you.

MR. AXWORTHY: Well, Mr. Chairman, as I understand it then, the only time in which there is a regular routine application to the Public Utilities Board by the Telephone System is just a telephone rates *per se* and that all those other uses coming off the cable or off the telephone line are, in fact, not referred to the Public Utilities Board? Other than if some individual took an appeal or made a grievance?

MR. COKE: That's correct.

MR. AXWORTHY: And you are claiming that under the actual conditions of the operation of the Telephone System which supplies the lineage for connecting this equipment and under this bill obviously more control, that it is in fact a monopoly situation that virtually exists in the province in relation to that. Would that be correct?

MR. COKE: That's correct. That's correct. It is a monopoly situation and, as such, it is our submission where it is a monopoly situation, as a public utility, there should be some public forum where representations could be made.

MR. AXWORTHY: And this was the thrust of your recommended amendment, that we require the Telephone System to come before the Public Utilities Board to justify its rates or its services in relation to these new services that are being provided off the line. Would that be a fair interpretation?

MR. COKE: That's correct. Wherever a monopoly service is involved it would provide some public input into the operation of that monopoly with respect to those services.

MR. AXWORTHY: As a matter of interest, Mr. Chairman, I could perhaps ask Mr. Coke if this situation that we presently have in Manitoba is an unusual one, where the public utility providing the service is not required or has chosen not to go before a regulatory board. What happens in other provinces where there must be similar kinds of developments occurring as we become more electronically connected?

MR. COKE: The situation varies somewhat but in Ontario, for example, Bell Telephone is required to go before the CRTC pursuant to the laws applying in that province in order to have processed, have reviewed, have approved any rates which it wishes to put into effect. What we are suggesting is that in that situation there is, in fact, a public forum where it is insured that public representations can be made whenever rates are to be put into effect as a monopoly generated rate.

MR. AXWORTHY: Mr. Coke, would you be able to comment on other provinces where there is a Crown Corporation running the telephone line as opposed to, say, the Bell Canada system down east. What happens in Saskatchewan and other prairie provinces?

MR. COKE: I can't supply that information.

MR. AXWORTHY: You can't supply that information. One further question related to Bill 57 on this question of the connecting requirement. How does this affect the operation of the cable companies themselves in terms of the management or ownership of hardware? Does this mean that they give up a proportion of their hardware arrangements to MTS? Is there a transfer in some way?

MR. COKE: In fact, the situation that prevails at the moment and it's been a subject of hearings before the CRTC for about the last three days. I haven't been reading the newspapers recently, I regret to say, so I don't know quite what's been going on. But in fact, the Province of Manitoba has entered into an agreement with the Federal Government as of November 10th, 1976, I believe, whereby jurisdiction in respect to hardware supplied for cable television companies was to be transferred to the Province of Manitoba without question by the Federal Government. Under these circumstances any cable television company wishing to have a cable system in the province would be subject to the jurisdiction of the province with respect to hardware and, in fact, the Manitoba Telephone System, which is a Crown agency, has taken the position that it wishes to own, virtually, all equipment to be used in the cable system subject to negotiation on some matters or other.

It becomes a matter of some substantial importance then to see that there is some public regulation of that kind of monopoly position. The previous situation where the CRTC dealt with matters pertaining to the cable system permitted a review, public forum, for all such questions of rates to be charged by the cable companies and by anybody else providing the service. There is not, however, since jurisdiction has been transferred, any guarantee that there will be a corresponding public regulatory function in respect of the Telephone System's activities. This is of particular importance in terms of any attempt to use new types of equipment, new levels of technology because the regulatory function then becomes twofold, one with respect to rates and one with respect to the equipment itself. There was some discussion at the CRTC hearings, as I understand it, about the use of some special panels which can only be supplied by the attachment of a mechanical device to television sets known as a converter.

Since the cable hardware is to be owned by the Telephone System, or may well be owned by the

Law Amendments
Thursday, June 9, 1977

Telephone System, the cable hardware becomes subject to the provisions of this Act and anything attached to that hardware becomes subject to the provisions of this Act and the jurisdiction of the Province of Manitoba. In fact, one's right to attach a television set to the cable system, theoretically — it's an extreme example — could become subject to the regulation of the Province of Manitoba and, in fact, to the control of the Telephone System pursuant to the provisions of this bill.

MR. AXWORTHY: Well, Mr. Chairman, I think that's an important point I'd like to follow up. Do you mean, that prior to the signing of the agreement, there was a regulatory forum that would establish rates and services for these electronic connections' cable and whatever, and that since then there has now been at best an ambiguity whether there is any form of regulation, or regulatory body that would hear public representations and so that we are, in fact, we did have formerly under the CRTC arrangement a body in which the representations could be made; we now do not have representations in respect to these particular items. Is that a fair assessment? — (Interjection) — Well I'm asking the gentleman.

MR. COKE: I think the situation at the moment, Mr. Chairman, is that the jurisdiction with respect to these matters has been conferred on the Province of Manitoba. I think it's incumbent upon the Province of Manitoba to exercise that jurisdiction and I am sure that there is some public input into the activities that go on in the field. The Telephone System has always taken the position that they are in fact a private entity that operates on a contract basis only with cable companies, and therefore that there is in fact no compulsion for anybody to make a contract with them, and therefore no compulsion for them to accept the rates.

I suggest, Mr. Chairman, that in fact the situation for practical purpose is otherwise, and that the rates to be charged by the Telephone System become monopoly public utility rates and that those rates should be subject to review in some public form.

MR. AXWORTHY: Just one final question, Mr. Chairman. Considering the fact that the Minister stated previously that he felt that the Act authorized the Public Utilities Board to hold hearings, is the problem that the law itself is not sufficient or just that up to this point in time, for reasons that cannot be fixed at this stage, the Telephone System has not gone to the Public Utilities Board or no one has asked it to go in respect to this broad area of software services.

MR. COKE: Mr. Chairman, I think my answer to that has to be that whatever the apparent effect of the legislation in place at the moment, in fact there has not been a proper or sufficient airing of the rates charged by the Telephone System in the past. The amendment that I put forward to you is an attempt to provide that kind of regular review that we suggest is appropriate when a public utility monopoly is involved.

MR. AXWORTHY: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Toupin.

MR. PAULLEY: Under what section of the Act are you referring to?

R. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Mr. Chairman, I repeat for the benefit of the Committee that under the Public Utilities Board Act, MTS is fully accountable to the PUB, and that's either directly or indirectly through complaints by customers, interested persons or corporations.

I've been advised by legal counsel, Mr. Chairman, that to put a further direct reference to Public Utilities Board powers in this legislation would be redundant and poor drafting.

MR. COKE: Mr. Chairman, with respect to that last remark of the Minister, my concern, as expressed it earlier, is exactly with the question of drafting, that a specific bill is being proposed here which does not provide for any review by the Public Utilities Board. In fact, because it is specific as a matter of legal interpretation it might have the effect of displacing the general provisions relating to the review powers of the Public Utilities Board and I, therefore, put forward the amendment that you have, to require a regular review.

MR. CHAIRMAN: Are there any further questions of Mr. Coke? Mr. Paulley.

MR. PAULLEY: Just one, Mr. Chairman, to Mr. Coke. He realizes that we're not dealing with Section 39 of the Manitoba Telephone Act, but rather 43, and that the Minister's indicated, as I understand it, that this Section 43 under review has no basic relationship to the points raised by Mr. Coke.

MR. COKE: Yes, sir.

MR. F. JOHNSTON: Mr. Chairman, on a point of order.

MR. CHAIRMAN: Mr. Johnston, state your point of order, please.

MR. F. JOHNSTON: Just so that we will be clear on this for the rest of the evening, Mr. Chairman and I'm sure it will help your position as well; we are well aware of the Rules of the Committee and the rule is that we can hear people who come before us on certain bills. The Minister keeps referring to other sections, and I think, Mr. Chairman, to clear it up is, that none of the government members or the opposition members or members of the government generally are allowed to bring in an amendment that refers to a section that is not in the bill before us. I think that's what we've been

Law Amendments
Thursday, June 9, 1977

discussing for the last three nights — but to keep referring to our delegations when they're discussing a bill is not what we've been referring to other nights and let's keep it that way.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: On the point of order, Mr. Chairman, raised by the honourable member who has just spoken, it's not my intention and never has been to deprive public representations to allow themselves or to express their opinions, but it was the Conservative Opposition that raised the question on numerous occasions that we're dealing with specific items in legislation, and all my point was that because we are dealing with certain sections, in this particular case 43, that we do not suggest to Mr. Coke that he hasn't the opportunity to make his observations; but as far as we are concerned, as members of this Committee, we're dealing with specific items contained in the Manitoba Telephone Act and amendments thereto.

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

MR. McKENZIE: Mr. Coke, after listening to the answer from the Minister, are you still satisfied that there is need for your amendment?

MR. COKE: Yes, sir, I am.

MR. McKENZIE: Thank you.

MR. CHAIRMAN: Are there any further questions? Hearing none, thank you, Mr. Coke.

I understand that Mr. Flood is not here this evening, but there is someone from the local area who might want to make some representation on behalf of the Canadian Business Equipment Manufacturers Association. Come forward, sir, and give your name to the Committee.

MR. ALLAN H. FITCH: Mr. Chairman, my name is Allan Fitch.

MR. CHAIRMAN: Allan Fitch. —(Interjection)— Oh, I see, and you'll be speaking on No. 3, will you?

MR. FITCH: Yes.

MR. CHAIRMAN: Proceed.

MR. FITCH: Thank you. Mr. Chairman, and honourable members of this Committee: I am appearing on behalf of the Canadian Business Equipment Manufacturers Association and representative members of the Association are Addressograph, Multigraph, A.B. Dick, Dictaphone and I.B.M. There are also other manufacturers of hard equipment such as typewriters, dictating equipment and photocopying equipment which are members of the association.

The request that I am putting to this Committee is that the association be provided with an opportunity to come in to make representations pertaining to matters in the proposed legislation which are of genuine concern to the association and its members. I am able to say that we have had a request to the Clerk's office to be notified of the date when this Committee would be meeting to hear representations on this bill prior to its second reading and we have been monitoring the progress of his bill through out. I was notified late yesterday afternoon that it was to be heard today and on notifying the Canadian Businessmen Equipment Manufacturers Association in Toronto, they were caught in a situation where the people who would be coming down here to make representations before you were, I understand, attending a conference and it was logistically not possible for them to attend here tonight. That is the only request I have at this time.

MR. CHAIRMAN: Thank you, Mr. Fitch. You realize that, as the Chairman, I do not control the dictates or try to control the will of this Committee. The will of this Committee — if they wish to hear delegations they make that decision.

MR. FITCH: I understand.

MR. CHAIRMAN: Are there any questions of Mr. Fitch? Hearing none, thank you.

MR. FITCH: Well, Mr. Chairman, the Association would like to make representation in person — by personal representatives — and I would like to have it determined, if possible tonight, whether or not I can advise the Association that an opportunity will be afforded to them to do that, and if so is there a definite date at which they could appear.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, may I suggest to Mr. Fitch that the Government of Manitoba is always open to hear representations but that we cannot conduct the business of the Legislature of Manitoba to continuously make available opportunities to any group that we would continue just at their convenience. We have our responsibilities as well and I would suggest to Mr. Fitch that the Minister concerned and his office, is always prepared and willing to hear representations from his association and I'm sure that I am cognizant of the responsibilities of the Minister and his indication that he would be prepared at any time to hear representations. Bill 57 has been before us for some considerable period of time and I would in all due respect, Mr. Fitch, suggest that representation can be made to the Minister responsible directly. However, the democratic procedure of the Legislature of Manitoba is such that we have to at some stage of the game expedite the business of the House.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Mr. Chairman, I think it would be the hope of the Committee to be able to accommodate the witness and the people who were unable to be here tonight. If this Committee does

Law Amendments
Thursday, June 9, 1977

meet again and I would think from the list of bills in front of us it is conceivable that there will be another meeting of the Law Amendments Committee, could it not be agreed that if another meeting does occur that the opportunity be then afforded to the representatives who are unable to appear tonight to appear at that time.

MR. PAULEY: No objections at all, Mr. Chairman.

MR. CHAIRMAN: Order please. We have another member who wishes to speak.

MR. PAULLEY: As Acting House Leader, I've no objections on behalf of the government to indicate to Mr. Fitch that if possible such accommodation will be made, but on the other hand, however, want to indicate to the delegation that we are in a position where termination of the deliberations of the Legislature are rapidly coming to a normal end.

MR. CHAIRMAN: Mr. McKenzie.

MR. MCKENZIE: Mr. Chairman, I hope the witness will understand what the House Leader has said here, that the government is always prepared to meet with the witness in the Minister's Office but we happen to sit in the Opposition Benches and we will not be given the privilege to hear the witness and his friends on this particular matter. I hope that the witness doesn't understand that the opposition members here tonight support the sentiments of the House Leader who says open government and you can meet with the Minister in his Office, but that deprives the opposition of hearing what you have to present to this Committee. I don't support that motion at all Mr. Chairman.

MR. CHAIRMAN: Order please. Before we proceed I might say I have before me here comment on Bill 57 from the Canadian Business Equipment Manufacturers Association which I am prepared to have the Clerk distribute.

MR. TOUPIN: Mr. Chairman, On that same point, and this is in answer possibly to Mr. McKenzie. The Standing Committee of Public Utilities have received, I'm informed, all members on the Committee have received a brief from the Canadian Business Equipment Manufacturers Association and the brief is dated February 23, 1977. Mr. Chairman, I could indicate equally that at the stage of review of section by section I would be in a position to indicate what the reaction of government would be in regards to the recommendations made by the Association. So it's not that we haven't had the opportunity of the views that have been made to the Standing Committee on the bill itself which has not changed since that stage, apart from a few amendments that we've prepared ourselves. The recommendations and comments made by the Canadian Business Equipment Manufacturer Association still stands and I believe would be probably the same comments they would make now.

MR. FITCH: Thank you Mr. Minister. But, Mr. Chairman, the Association is requesting the opportunity to make representations before the Law Amendments Committee.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: No one can guarantee when the next hearing will take place and therefore it's quite possible that just as they couldn't make it tonight they might not be able to make it then either unless they give them 48 or 72 hours notice and I don't think that can be given at this point in time. So I would suggest, frankly, that the brief from the Association be distributed so all honourable members can have it and they can read it and when you've done that certainly any questions when we get to clause by clause can be based on the contents of this particular brief. It can be taken into account by members opposite or by any member of the House. But to tell Mr. Fitch that in fact there will be hearing on a certain hour of a certain day is just not possible because we don't know at this point. I gather you people were notified yesterday about today. You may get the same very short notice as we may be back in the same position again. So I would suggest that the distribution take place as then you play it by ear, Mr. Fitch.

MR. CHAIRMAN: Mr. Graham.

MR. GRAHAM: Mr. Chairman, I think that what has been said can be interpreted as showing general indication that all members, both government and opposition, would like to have the opportunity to hear the personal brief of members of your Association. I would like to say that if the government is not prepared to hear that brief personally then I would say that members of the opposition are.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Thank you, Mr. Chairman. Most of my questions have been asked. I just have one for Mr. Fitch. Can you indicate to the Committee, Mr. Fitch, whether the position of the Canadian Business Equipment Manufacturers Association as of now is any different from May 3rd when the produced this brief.

MR. FITCH: Yes, I understand it is.

MR. WALDING: Can you inform the Committee in what way it is different?

MR. FITCH: No, I cannot due to the fact that the matters with which they're concerned are of fairly highly technical nature and I'm not prepared to be able to articulate what this position is and which way it has been altered since the time of the representation, the time of the filing of the submission before the Public Utilities Committee.

MR. CHAIRMAN: Mr. McKenzie.

Law Amendments
Thursday, June 9, 1977

MR. McKENZIE: Mr. Chairman, again to the witness — I think we have rules in the Committee that we abide by and I'm sure the Chairman can advise you what the rules are on matters such as you raise tonight and you'll be given some time in advance of the next hearing of the Committee and hopefully your friends can be here.

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, I just have one observation. Mr. Fitch, in all due respect to you and this was referred to my colleague, the Member for St. Vital. If your Association on May 3rd, which I would suggest is over a month ago, documented the position of your clients in respect to Bill 57, and at that particular time you had arrived at a tentative position and you made the statement tonight, if I understood you correctly, in opposition to railroading — and I use that term because I'm an ex-railroader — of attempting to push through legislation at this late hour . . .

MR. FITCH: I never made that statement.

MR. PAULLEY: Well, Mr. Fitch, that was my interpretation of your remarks. I would suggest, in all due respect, that your Association has had a reasonable time to make representation on Bill 57 by virtue of your documentation of May 3rd, which is well over a month ago and I feel sure that your organization and others are or should be acquainted with the process of the operation of the Legislature of Manitoba and other jurisdictions. We have hearings for representation of companies and the public and for us to be placed into a position where we have to accommodate the end or termination of our session simply to accommodate representations because of a convention or otherwise of your association actually would be tantamount to suggesting to us that our conduct of business would have to be tantamount to whether or not you were prepared to proceed. On May 3rd this document was submitted as to your association; it is now June 9th, one month and six or seven days. I think that you have some responsibility as well to make your representations to this Committee.

MR. FITCH: Mr. Chairman, on May 10th of this year I wrote to the Clerk's Office asking to be advised when the bill would appear on the Order Paper at this session. And, in the ordinary course of events I was informed and passed the information on to the Association that the bill had reached second reading and subsequently I requested to be notified when the bill would be referred to the Committee. I was informed it would be referred either to the Public Utilities Committee or the Law Amendments Committee. It was only yesterday afternoon that I was informed that it would appear today. All I'm asking for on behalf of the Association, from the honourable members of this Committee, is to afford the opportunity to representatives of the Association, The Canadian Business Equipment Manufacturers Association to make personal representations. That's all that I'm asking for. I'm making no suggestions, no insinuations and extending no restrictions, or suggesting any restrictions insofar as to how this Committee or the Honourable Minister proceeds with. . .

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: Mr. Chairman, I personally appreciate the fact that Mr. Fitch is here this evening bringing the message that he has. I for one, and I'm sure that all members of the Committee would be hoping to be able to receive the comments of the Canadian Business Equipment Manufacturers Association, when and if they meet again on this bill. If not, we do have the recommendations that have been sent by your association on May 3rd that related to the bill as it stands today before the Committee and that bill had gone through second reading already by that time. I would personally certainly want to receive any further recommendations that the Association may have either through the Committee or directly by telegram or whatever, before the Bill is given final reading, if possible. But at least we have two documents, Mr. Chairman, before us. One that I referred to awhile ago which was dated February 23, 1977, sent to the Standing Committee on Public Utilities and Natural Resources — members of that committee received a copy — and then the document, containing recommendations of the association, dated May 3, 1977.

MR. CHAIRMAN: Mr. McKenzie.

MR. McKENZIE: Mr. Chairman, on the same point of order.

A MEMBER: It wasn't a point of order.

MR. McKENZIE: Well, on the same principle, then, and I regret that the government has not seen fit to hear the witness and his friends and they are using every vehicle at their disposal to hopefully . . . We in the Opposition haven't had a chance to sit down with the association or with you, Sir, to discuss this matter. They have and it appears, the way they are operating, that that's the way they want to carry on with their so-called open government. So we leave it to them, Sir. We in the Opposition would very much like to hear your brief and hear your sentiments on this very important Bill.

MR. PAULLEY: Mr. Chairman, I would like to ask Mr. Fitch one question.

MR. TOUPIN: Mr. Chairman, on the same point of order.

MR. PAULLEY: Well, that's on the point of order, Mr. Toupin, that I'm raising.

MR. CHAIRMAN: Mr. Paulley, the point of order, then Mr. Toupin.

MR. PAULLEY: Mr. Fitch, did you or your association indicate on May 3rd to the Opposition suggested amendments or have you been silent insofar as the Opposition is concerned as to your

desires?

MR. FITCH: Well, Mr. Chairman and members of this committee, the association has not proceeded, to my knowledge, is not proceeding and does not intend to proceed on the basis of dealing with either the government or the opposition. We're dealing with the committee.

MR. PAULLEY: That's right.

MR. CHAIRMAN: Mr. Toupin.

MR. TOUPIN: On the point of order, Mr. Chairman. It's for you to decide if the Honourable Member for Roblin had a point of order but I figure it's complete hogwash in the sense that a members of the Public Utilities Committee had received the recommendations and the comments of the association. And that's on the record.

MR. FITCH: All I'm asking for, Mr. Chairman, is what I believe is a right to make representation before this committee now.

MR. CHAIRMAN: Thank you, Mr. Fitch. Next I have Mr. Tony Swann, Canadian Manufacturing Association. Is Mr. Swan here? Mr. Frank Burshtein, Charter Equipment.

MR. FRANK BURSHEIN: Mr. Chairman, honourable members of the committee. While I'm sure my Board of Directors of the corporation employing me would not object to identification, it's not specifically as their representative that I appear before you this evening, but rather in a private capacity, citizen; someone who believes that over a period of time, having paid some heed to the news of a burgeoning, technical revolution in this area; someone — if need be, I'll substantiate — who has some qualification to interpret the trends and to endeavour to forecast some of the impending changes and their profundity, that I come to speak with you and visit with you this evening.

I'm concerned, and substantially so, for a number of reasons. As a citizen I believe, if I'm not presumptuous, that the in the grand scheme of things that \$20,000 of lost revenue is highly material to the financial health of the Telephone System when they have so many more things in the future to look forward to that would provide income, revenue streams that make that appear paltry.

The Telephone System has so much in the way of activities generating capital investment generating jobs, providing service and benefit to the users to look forward to that they needn't and we consumers wouldn't benefit, by their having a monopoly over the entire aspect of telecommunications. They can look forward in the next ten years even to basic changes in their hardware as we move from wave-carrier which is to say wired telephone systems to pulse transmission. By that mean the transmission of signals from ground satellite stations to satellites, back down again and the conversion from the copper wire cabling system that exists now to fibre optics and laser propagation of signals. The consequence of which is to expand the telephone company's capacity while reducing their cost base of orders of the magnitude and ranging from 650 times to 10,000 times their present capacities to generate income and provide services. Manitoba Legislature and you preceding then have incumbent upon you a special care in this situation for the consuming public's interest. That more so because of a duplication or perhaps a multiplicity of — I reserve or hesitate to use the word — conflict that falls from the situation wherein the legislation deals through a Crown agency, the Manitoba Telephone System, and each of the two of those need not necessarily be precisely the consuming public's interest.

I'm concerned because some questions have occurred to me from some of the information that has been kindly provided to me, initially of a technical nature. My qualifications don't include a capability to interpret the proposed legislation, but as I read it it would seem to me to raise the question of conflict with expressed opinions in the earlier readings of the Bill, in respect of what is in question technically. In question apparently is interconnect equipment that, according to the bill as I read it is wired to, attached to, above, below, beside, behind, in front of, or in any other way, a proximity near elements of the Manitoba Telephone System's hardware.

I thought that I had perceived something the other day and a few minutes ago, Mr. Cook confirmed my perception that, in the extreme, in presuming that the drops on the cable system become a part of Manitoba Telephone System, that it is not an unreasonable reading of the legislation. From my reading of it, that instead of a Panasonic or an RCA or some other brand of television receiver connected to or even induced by the cable system, it will have to be, in a practical sense, applied by Manitoba Telephone System to the consumer. That raises some concern to me, it not an understanding that I had and, quite frankly, I don't hold myself to having this understanding alone.

My understanding is that the Manitoba Telephone System is, in effect, a public carrier. Let me make an analogy. It's perhaps like a highway, if you can relate the telephone wires to the highway, you can relate the stop signs to the switching part of the system. The analogy I have, in terms of highway is, perhaps, that this legislation intends that the users of the highway use only vehicles provided by the operators of the highway. That is, the Manitoba Highways would say, if you want to put a truck or an automobile on the road, it must be one of ours. You must lease it from us or otherwise arrange to acquire it from us.

I'm concerned about this because it brings to me the question as to whether the drafters of the legislation intend this and whether the committee and the government support that intention. If that

Law Amendments
Thursday, June 9, 1977

o, and it isn't clear to me or others I've spoken with, then I think it's incumbent and appropriate that that intention be explicitly stated as policy. If it is not and for reasons I'll try very briefly to express to you, I urge that on this matter of legislation there be pause and due consideration.

I spoke earlier about a technological explosion. There are vast technical changes and perhaps it would be unreasonable for others unfamiliar with the communication industries and the electronic industries to realize on these. By no means whatever is the concept of a telephone receiver, telephone wires, a switching system to another telephone receiver the extent of the system. Indeed, we see where the Manitoba Telephone System has begun to exert energies in a more vertical integrating nature, but as soon as five to ten years from now, procedures that most people don't recognize as having any relationship to the telephone system will be an element of telecommunications. And it's not clear to me that the Manitoba Telephone System is authorized, except by this legislation, to have a universal control in the province over telecommunications.

This is a concept that is fraught with repugnance in other jurisdictions and I submit that the direction that's being suggested by this legislation for Manitoba is entirely opposite to the direction that's being taken elsewhere and let me be very brief about that. The American trade authorities are endeavouring to break up the American Telephone and Telegraph System into subcomponents, saying that long lines are not necessarily to be maintained as a unit of a telephone distribution system such as one of their operating state systems might be.

In Canada, and I'm speaking now at a Federal level, there has been emphatic suggestion by the Department of Communications to separate these functions rather than integrate them. The Bell Telephone Company of Canada has lost in the courts their expressed preference for the maintenance of a monopoly in terms of provision of equipment.

I spoke about the vast changes — and I just want categorically to suggest those to you. EFTS stands for Electronic Funds Transferring Systems and compared with the manner that's conventional presently for banking to electronic funds transfer systems, — albeit as far as consumers concerned true also as far as corporate fund transfer is concerned — the way banking will be done, the way banking has begun to be done already in some areas, the electronic transfer of funds rather than paper transfer is impending. The implication of that is a terminal attached to the wire system of the telephone company, in turn connected to a receiving terminal in the banking institution.

During the interval of time when somehow I failed to be able to appear before this committee or perhaps a sub-committee in connection with this legislation, headed by Mr. Shafransky and now, a very startling thing has become known to me. At that time I was considering, in connection with electronic mail, a unit cost of something of the order of \$4.60. That is to say, using facsimile machines between two places, the cost of transferring the contents of an 8-1/2x11 piece of paper looked like about that amount of money. I was startled a week ago that responsible people were talking in the short term of a 10 cent unit cost. That's about 20 percent less than the cost of a postage stamp and we've disregarded the cost of the envelope in the transaction. Yesterday, yet still a responsible source was quoting, albeit for large volume, a penny and a half. Now that says to me — and indeed not to me alone because the government of France combined their postal and telephone services on a national basis — that the convention of transmitting, communicating mail will very shortly be in a different mode and of necessity, require the use of the telephone distribution system, but by no means, appropriately or advantageously to the consumer, will it necessitate the ownership of the terminals — that is to say, the facsimile machines.

I can go on but I think that the other examples that I'd give of data transmission and philosophical changes in terms of education and communication, based on an electronic media, distributed by the infrastructure of the telephone system, other than the ones that I have suggested to you, may only be redundancies and I would hope to minimize that.

I can appreciate the quest of the Telephone System in the maintenance of the integrity, technically, of their system, but when the U.S. Federal Communications Commission were receiving representations from the American telephone operators, they quickly came to the conclusion that the concern that was expressed was highly exaggerated and certainly now that private interconnects have become an everyday affair in that jurisdiction, that's been borne out.

In terms of maintaining the integrity of the financial element of the telephone system, I'm wont to understand and agree that the expressed 10,000 units of pirate telephone sets, allegedly connected to the system, now are a deep threat to the integrity of the financial structure of the telephone company. They, of necessity, are no more than extensions and I somehow doubt that

In a nutshell, some uncertainty arose in my mind whether these future realities had come to the comprehension of the Committee and if so, a question arose in my mind whether it was the intention of the Committee by the legislation and of the Legislature, to carve a whole new quantumly larger role exclusively for the telephone company, the effect of which would be to limit the technology to that which they selected, to limit powerful forces which move to reduce costs to the consumer, increase services, bring on those sooner. I can say to you in that connection that there is threshold now, a very

Law Amendments
Thursday, June 9, 1977

significant battle, the glove has been tossed down in connection with IBM who have made the first early moves to take on and to challenge AT and T worldwide in respect to telecommunications, the consequence of which is expressed in the cost reduction, service improvement, broadening of variety of services that I hope I have suggested to you with sufficient clarity to have made myself understood.

To sum up by way of repeating my opening remarks. Gentlemen, if this is what you intend, I think it's incumbent, I think it's urgent, I do therefore urge you to state clearly that that is the policy of the Committee in the intention of the legislation. We then in the next period of time will understand, and consumers will understand that was the determination of policy on our behalf that you took. If on the other hand by examples that I may have passed to you, the full implications of what this legislation and will be perhaps not be entirely anticipated by you begs the suggestion that there be pause and due consideration. Thank you.

MR. CHAIRMAN: Thank you, Mr. Burshtein. Mr. Toupin.
MR. TOUPIN: You're aware that we've held hearings under the Public Utilities Committee to discuss the proposed legislation before us which is an amendment to the Manitoba Telephone System Act.

MR. BURSHEIN: Yes I am. Immediately after noticing the advertisements in the newspapers made representation — I have come to understand appropriately — and I asked to be heard. I hoped very much to be fitted in at that time, because quite frankly it's my understanding that this legislation was not at that time crystallized and that there was at that time opportunity to seek to persuade the form of the legislation. I appreciate that now it's received second reading. I should suggest to you that since drawing to the attention of the Office of the Clerk, that I had not been invited, though I had expressed a wish to appear before Mr. Shafransky's group at that time, that continued interested and it was only yesterday I was told that there would be available to me some time this evening.

MR. TOUPIN: Mr. Chairman, I would like to indicate to Mr. Burshtein, that in regard to the sections of the bill that are being amended now by means of Bill 57, there is still time to consider an suggestion that you may have in regard to possible amendments to those sections that are being treated by means of Bill 57. We would not be in a position to bring new sections on dealing section by section at Committee stage or on third reading. I would not consider that. I'd like to indicate to you, sir, that amendments are being contemplated, well minor amendments in a sense, based on representation that will be considered at Committee stage.

You made a comparison, sir, in regard to the Manitoba Telephone System being comparable in sense with a provincial highway. Again, you're quite aware, sir, based on the knowledge that you've displayed here this evening there are rules and regulations on highways, whether they be municipal, provincial or interprovincial highways, and this would be the same in regard to the additional responsibility that the telephone system being the common carrier is and can contemplate insisting upon when an agreement is reached with a company wanting to offer a certain type of telecommunication services and that being available to the PUB.

MR. BURSHEIN: Thank you, perhaps I can very succinctly respond. In respect of the suggestion that there remained yet briefly though some time to amend, I don't mean to be frivolous by any means. I'm here and serious in my submissions. Were I to be frivolous in my approach but consistent with my objective and again, were I capable, in this sense, I would come with the suggestion that the amendments commence after the word "whereas," but I believe there has been due consideration given. I believe that somewhat frivolously I must apologize but still with some seriousness, that there is a basic simple amendment that would effect my objectives but at the same time I must be candid and say that it would be transparent. Because the effect of it would be to reduce the effectiveness of the legislation and in that regard what I had in mind was to say this, because I believe in connection with your second point, that of rules and procedures that provide an order, that as it is and more importantly as it soon will significantly be, the legislation stacks the cards because it provides, for example in terms of technical approval of equipment that the Manitoba Telephone System if it has to — and there is nothing even to suggest that — seek the approval of others of its selection of equipment can do so on a tight basis. In other words to pick an example, a telephone answering device. It can go, need it go, to an approving authority and say, "Here is model X. Please approve it. And thereafter, at the expense of having approved model X once, all the model Xs the Manitoba Telephone System care to affix to their system are approved devices.

By virtue of the draftsmanship of the legislation, the implication is that any consumer who come along with a telephone answering device which they prefer to seek to have attached to the system they must go to the approving authority, one which in a moment I'll express an aspect of redundancy about, and have a unit approval made. So that if they selected Y notwithstanding the fact that a number of others had sought and paid for the approval, the testing of for approval of a model Y device they would have to go to the expense and difficulty and the time to obtain the approval. Then they would have to go as it were to their competitor, the Manitoba Telephone System, who competes to provide that device and cause the Telephone Company at their tariff to make the physical connection

Law Amendments
Thursday, June 9, 1977

nd to deal with other impediments in the legislation such as reporting.

I spoke about redundancy and let me try to deal with those very quickly. I'm not sure, but I think I'm correct that the implication is that the Public Utilities Board will be obliged in becoming the body that provides approval technically of the hardware, to establish capacity to do so. There exists in Ottawa now, commissioned by the Department of Communications such a facility. This is only a cost adding nature which impinges on we consumers.

I spoke of redundancy and I suggest to you that those add costs. If those costs are unique to Manitoba or unique to Manitoba and a few other jurisdictions and if that means that in an electronic mailing of a piece that my company has to spend \$4.00 and we are substantial mailers, compared with the transmission by facsimile in another jurisdiction at a unit price of a penny and a half, an economic impact occurs on us. It is a limiting factor to our employment and to our increased commercial activities in this jurisdiction. It is an element of pricing ourselves in this location out of the national marketplace that we operate within.

MR. CHAIRMAN: Mr. Walding.

MR. WALDING: Mr. Burshtein, in listening to your presentation, I got the impression that you were speaking not so much about this bill but about policy implications for the future for the Manitoba telephone System. Was I wrong?

MR. BURSSTEIN: The admonition, if that's not too harsh an interpretation of what I'm trying to bring this evening, is specifically in connection with Bill 57 because it applies specifically to Bill 57. It is, as, if there is more of the same in other intended legislation, the same result or perhaps worse because if there is a consistency and it compounds itself, it's not a matter of one plus one equalling two, but it's a matter of a geometric consequence. If we're hit with increased costs, impediments, etc., one after the other those don't add up but they multiply.

MR. WALDING: Are you aware of the amount of money that the people of Manitoba have invested in Manitoba Telephone System?

MR. BURSSTEIN: Yes I am.

MR. WALDING: Are you aware of approximately how much it is?

MR. BURSSTEIN: The Manitoba Telephone System talks about a unit asset value of \$2,000.00. That is to say that they have a capital base of \$2,000 times the number of telephones they have in operation, which is more than other telephone systems whose unit base is \$864 and less than some here you're into scattered transmission in remote and sparsely serviced systems such as in the north country where the asset values can go appreciably higher. But, if I understand the implication of your question correctly, is there a substantial existing asset base that is the Manitoba Telephone System, the answer is, yes. But that's nothing compared to what that base will be even if the telephone company limits itself to distribution and switching. I can think of astounding ranges of numbers if the Manitoba Telephone System as a consequence of Bill 57 becomes not the utility but the monopoly for data processing, for data transmission, for electronic mail, for electronic banking.

MR. WALDING: Would that investment by the people in Manitoba Telephone System be in excess of half a billion dollars?

MR. BURSSTEIN: It would be in excess of \$1 billion in the next 20 years if the full and absolute application of this bill occurs. I leave out the example I gave of television sets being a mandatory provision of the telephone company earlier, but in fact, perhaps some judge might in his wisdom hold that even that was the case. If that were to be the case I'm afraid I'm beyond my competence in comprehending the scale of numbers. It would be astronomically higher.

MR. WALDING: You mentioned other services in the telecommunications field as being produced in the future.

MR. BURSSTEIN: Yes.

MR. WALDING: Now if those services should come in at a cheaper rate than Manitoba Telephone System can presently supply because of its present investment do you feel that the System should protect the investment of the people of Manitoba by getting into those and averaging its cost down or lowering a private concern to cut it out of the market in effect?

MR. BURSSTEIN: Well, the more particularly because we're talking about technological innovation do I feel very strongly that the premise that the financial integrity of the system will suffer through its inability to gain these new areas of involvement. The loss is a double negative, if I may, and what I'm saying is this — that the Manitoba Telephone System would be losing prospective revenues. But let me be as silly as the dickens. Mr. Fuller incidentally, a far-out thinking guy says that it isn't as far-out as we thought 500 mile an hour air travel was in the 1940s. If for example here was a means of electronically converting and transmitting liquids such that the dairies would have inverted a quart of milk into an electronic signal and then reconvert it into our house doing away with that, you're into then the area of the telephone company being in the milk business. Then one could raise the question, well wouldn't it be good for the province if the telephone company could have the additional revenues from becoming participants, or indeed sole participants in the milk business because that would help to maintain the cost structure to the consumer of the telephone

Law Amendments
Thursday, June 9, 1977

company as it exists today.

I'd like to suggest something to you, that if the telephone company were to do away — that is, discontinue its involvement with the telephone set, the one we pick up and dial and talk into and listen from, it would reduce its maintenance costs by 40 percent. In a currently popular term, it would increase its bottom line. It would increase its profitability. It would allow, therefore, in terms of total cost to the consumer of the distribution service and the switching service, which I believe ought to be with no one else than Manitoba Telephone System, a lower delivered cost.

MR. CHAIRMAN: Mr. McKenzie.

MR. McKENZIE: I recognize, Mr. Burshtein, that we're in a technical field here and a lot of us are laymen sitting around this table. But I wonder if you'd elaborate on this, and maybe in a layman's language, the full implications as you see it of this bill that's before us.

A MEMBER: In other words, come down to earth.

MR. BURSHEIN: Well, I glance admiringly from moment to moment at Dr. Axworthy. He has been able, notwithstanding the doctorates that we'd share, to speak and be understood. That continues, and I suspect will be forever a problem I suffer, and I thank you for your indulgence. But a nutshell, at risk, through simplifying, of introducing a risk element of error I say this to you, that the ultimate consequence of this bill can be said to be this, that in a word "omnipresence" that the Manitoba Telephone System is the universal deliverer and the exclusive deliverer of, not the narrow things that we conventionally believe the phone company and the phone system to be, but a substantial cut of the pie of our everyday life. The gathering in, the grab as it were, of things that I believe you, have you perceived the role of the telephone company . . .

A MEMBER: We haven't.

MR. BURSHEIN: . . . to be, and if you have so perceived it, that it is your clear intent to be the policy that the people of the Province of Manitoba will operate under, perhaps for the next 20 years during which technological changes will be made that will pale the last hundred 100 years.

MR. McKENZIE: Well I suspect, Mr. Burshtein, I guess we should be calling you Dr. Burshtein, that we haven't, a lot of us that are laymen, recognized this legislation at that depth or that breadth, in fact. You are speaking of postage rates, a cent and a half, which is a brand new perspective that's brought into this legislation. I certainly have been brought up to date by your comments, and I'm sure that the members of the Committee, much broader than we had on the second reading that the Minister gave this bill.

MR. PAULLEY: That's right. All we do is use the telephone for . . .

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

MR. McKENZIE: May I ask you just one more question? You suggested that the legislation before us has not crystallized the way it should be. Could you elaborate on that remark, sir?

MR. PAULLEY: Oh, goodness, away we go again.

MR. BURSHEIN: I think that if the capacity of the Manitoba Government in place to deal with this level of consideration — and we're talking maybe at the upper levels of policy and we're talking at the interface of philosophy — if those be considered I believe that the full implications — and one has to expect that if the legislation provides for it that eventually it will be administered accordingly. The full implications of this haven't been clear. Perhaps further enquiry, the receipt of further representations, the proof of my contentions and of others, would bring to this Committee a different understanding or will bring to this Committee a reaffirmation of its earlier beliefs if that's what the determination of the Committee is.

I am saying that the implications are so broad and so far-reaching that they couldn't possibly have received the clarity they would from further investigation.

MR. McKENZIE: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Dr. Burshtein, I was interested in your remark that this bill might be read as giving authority to the MTS to control the kind of television sets that would be using their cable system. You think that this bill is broad enough and general enough that that could be a legal interpretation?

MR. BURSHEIN: Well first of all let me say that I have no pretensions that allow me to interpret the law or drafting of legislation. But as a lay person and imparting whatever technical competence I may properly be able to, to a reading of the draft legislation, that's abundantly clear because it simply says that the full effect of this legislation applies to any device which is wired to, or as I said placed in proximity to, the hardware of the Telephone System. And if the cable television hardware then assumed by the Manitoba Telephone System simply the "drop," that is to say the coaxial cable in the house, then becomes a part of the Manitoba Telephone System. Then either by connecting the cable wire to the television set or as you might know placing it nearby and causing the signal to be received on the television set, it clearly then can be concluded that I would have to go to the Public Utilities Board at my expense and say, "Gentlemen, I'd like to put an advent projector-television set into my house and attach it to the cable or I'd like to put a table portable model that the Manitoba Telephone System doesn't carry," and I would have to go to a unique and repetitive expense I

Law Amendments
Thursday, June 9, 1977

to accomplish that providing I could, and then the Manitoba Telephone System conceivably would have to come into my house at rates they would determine to make the connection, or to place the set aside the cable, because it needn't be connected.

A MEMBER: Hear, hear.

MR. MCGILL: Mr. Chairman, to Dr. Burshtein. At one time Manitoba Hydro used to sell a lot of devices that were plugged into their systems. I believe now that they're out of the sales of those devices. Would it be equally logical for Manitoba Hydro to have a bill providing that they would control all of the devices connected to their systems, as it is logical for the Manitoba Telephone System to wish to control all of the devices connected to their transmission systems? Is there any analogy there?

MR. CHAIRMAN: Mr. Paulley.

MR. PAULLEY: Mr. Chairman, on a point of order. Is this dealing with Bill 57, the point raised by the Honourable Member for Brandon? —(Interjection)— I'm listening. I've been listening for a long time and I just want to know whether or not, Mr. Chairman, that the point raised by the Honourable Member for Brandon is dealing with Bill 57, and that is the bill that we have to consider.

MR. MCGILL: Mr. Chairman, on the point of order, I'm endeavouring to use the competence of the witness to determine whether or not there are some special circumstances in his view that would add to the argument of MTS, that they should control all of the devices actuated by their system, and if there would be some similar logic involved in another transmitting system — A Crown corporation — controlling all of the devices connected to their systems. I would hope that the Committee would let Dr. Burshtein give us the benefit of his views.

MR. PAULLEY: Mr. Chairman, I have no question as to the competence of the Doctor that is appearing before this Committee. I recognize his expertise. But in order to expedite the business of this Committee, I wonder whether or not the point raised by the Honourable Member for Brandon is dealing with Bill 57 or whether or not the expertise of the Doctor is unrelated to the proposition that we have before us. But that's my only point.

MR. MCGILL: I wonder then, Dr. Burshtein, if you could give me your comments on that subject.

MR. BURSHTEIN: Okay. Thank you. Let me try and do it two ways, in terms of present and in terms of realistically foreseeable future. In terms of the present the comparison is as to whether the same as is being suggested by Bill 57 is applicable to Hydro. I can do that by dealing with it in reverse.

It's my conclusion taken from the competent conclusions of others that there is no significant risk of loss of integrity, technically of the Telephone System, and therefore, I would say to you in analogy that there is presently no risk of loss of integrity technically of the Hydro System by virtue of my screwing into my sockets light bulbs that I purchase from my ordinary commercial retail sources.

Now, let's go to the future just briefly and not too far into the future. Very interesting researches are being done and yielding results today motivated by the energy crisis that we suffer. One of the things that people are saying, a substitute for fossil fuel, and fossil fuel power generation is the development of solar power. One of the manifestations of this is to suggest that there will be put up into orbit satellites that will gather this solar energy convert it to microwave and transmit it down to earth here it will be run into the distribution system of the Hydro utilities.

The reason why I brought that out is because we're not talking about an electric signal as presently but we're talking about the same electronic wave for power as we're talking for telecommunication signals and the same conclusion holds. That is to say, the same conclusion for the future is for the present, as for Hydro, as for the Telephone System that an electronically signalled and transmitted power source will not suffer a loss of the technical integrity because I have put in my own light bulb rather than one which I can only exclusively obtain from the utility.

MR. CHAIRMAN: No further questions? Thank you, Mr. Burshtein. Mr. Jack Wylie, National Typewriter; Mr. E. Cortens, Calculator World; Mr. D. Allen, D.E.M. Allen and Associates. Is Mr. Allen here? —(Interjection)— Mr. Allen is not here.

We don't have a quorum. I would suggest that Committee rise.

A MEMBER: We do have a quorum.

MR. CHAIRMAN: No. We do not have 16 members.

A MEMBER: Pardon?

MR. CHAIRMAN: We don't have 16 members here. Committee rise. —(Interjection)— We have 2,3,4,5,6,7,8,9,10,11,12,13,14,15. —(Interjection)— Where?

MR. PAULLEY: Well, just a minute now. It's on the question of a quorum and I want to count to see whether or not we have a quorum. Is the Honourable Member for Minnedosa a member of the Committee?

MR. CHAIRMAN: Yes.

MR. PAULLEY: Have you counted him?

MR. CHAIRMAN: Yes.

A MEMBER: Twice.

MR. PAULLEY: Pardon? Counted twice?

A MEMBER: Yes, sir.

MR. CHAIRMAN: We only have 13 members.

A MEMBER: Fifteen.

MR. CHAIRMAN: There are people here who are not members of this Committee.

MR. PAULLEY: Well, Mr. Chairman, it's your prerogative under the Rules of the House, if you observe that there is not a quorum, then the Committee ceases. And maybe it's a good idea after .

BRIEF SUBMITTED — NOT READ

CANADIAN BUSINESS EQUIPMENT MANUFACTURERS ASSOCIATION:

COMMENTS ON BILL 57 — AN ACT TO AMEND THE MANITOBA TELEPHONE ACT

The proposed bill consists of 8 paragraphs modifying the existing act. The following comments will address these paragraphs in the order they are presented in the bill.

"Connection of Equipment to System

43(1) Connection to the telecommunication equipment of the commission of equipment, device or contrivances capable of transmitting or receiving messages passing through the system of the commission and not supplied by the commission may be authorized under the general tariff of the commission as approved by the Public Utilities Board and, unless such equipment, device, or contrivance is so authorized for connection, no person shall connect it to the telecommunication equipment of the commission."

Comments

Under the wording of this paragraph, the Manitoba Telephone System (MTS) has the sole ability to determine what equipment or devices will be connected. There is no statement that tariffs must be reasonable, non-discriminatory, or in the public interest. The only role of the Public Utilities Board (PUB) would be approval of the tariffs. There is no provision in this statement for subscribers to appeal a ruling, and there is no provision in the bill for the PUB to have authority to direct or order MTS to write or revise a tariff.

It is interesting to note that in its own brief to the Standing Committee on Public Utilities and Natural Resources, MTS asked for legislation to ". . . allow the Public Utilities Board of Manitoba to approve specific practices for interconnection of customer owned terminal equipment to the public switched network. **The Public Utility Board would then become the independent arbiter.**" This arbitral role has not been reflected in this legislation.

Further, this paragraph does not restrict itself to attachment to the public switched network, but specifies connection to the telecommunication equipment of the commission. This means that even devices which attach to MTS provided equipment such as modems or voice connecting arrangements would require a tariff to permit their attachment. Also, any devices attached to other networks such as the Dataroute or Multicom would require a tariff to permit attachment.

"Terms and Conditions of Connection

43(2) Where the connection of any equipment, device or contrivance to the telecommunication equipment of the commission or to the system of the commission is authorized as provided in subsection (1), the connection shall be made in a manner and under the terms and conditions set out in the general tariff of the commission."

Comments

Again, this paragraph gives MTS complete power to establish the manner, terms and conditions under which equipment will be attached to the network and provides no means for appeal.

This paragraph would, for example, give MTS the power they have requested in their submission to the Standing Committee on Public Utilities and Natural Resources to insist that all installations of subscriber-provided equipment be made by MTS personnel. In our opinion, such a provision would add an additional and unjustified cost to users.

"Meaning of "Connected"

43(3) For the purposes of this section, any equipment, device or contrivance shall be conclusively deemed to be connected to telecommunication equipment if it is attached or affixed thereto or placed on, over, under or adjacent to, the telecommunication equipment."

Comments

This definition makes no reference to the intended use of the equipment. It is so general that it would apply to anything placed on a table adjacent to a telephone.

This definition would bring under the terms of the act devices that are acoustically coupled to the telephone. Such devices, ranging from speaker phones which amplify the voice signals from the telephone to facsimile machines, have been in operation for many years. Many administrations do not now require tariffing of acoustically coupled devices. There is no technical requirement for including acoustically coupled devices under the control of any attachment program, and to do so at this time would be a backward step to the detriment of telephone subscribers.

"Disconnection of Equipment

43(4) Where any equipment, device or contrivance is connected to telecommunication

Law Amendments
Thursday, June 9, 1977

equipment of the commission or to the system of the commission, if, in the opinion of the commission or the Public Utilities Board, the connection will or might injuriously affect the telecommunication equipment of the commission, the commission or Public Utilities Board may disconnect the equipment, device or contrivance from the telecommunication equipment of the commission or from the system of the commission."

Comments

This paragraph gives MTS the ability to disconnect devices from their equipment based only on opinion. There is no onus on MTS to provide proof of injury to their equipment and no provision for the subscriber to appeal this disconnection.

Notice by Supplier of Equipment

43(5) Every person who sells, leases or distributes or otherwise provides any equipment, device or contrivance which is capable of transmitting or receiving messages passing through the system of the commission and which is not authorized under subsection (1) or is authorized subject to conditions of connection, shall, before he completes the transaction, notify in writing the person obtaining or acquiring the device or contrivance.

(a) of the provisions of this section; and

(b) whether or not the connection of the equipment, device or contrivance to telecommunication equipment of the commission or the system of the commission is authorized under subsection (1) and whether such authorization is subject to conditions under the general tariff of the commission."

Comments

This requirement would add an unnecessary administrative procedure which will be reflected in additional costs to users. In addition, the phrase in this paragraph which says ". . . before he completes the transaction" is impractical. Such a rule would preclude placing a notice in a shipping box with the device since the purchaser may not open the box until after the transaction is completed. If the device was ordered by mail or telephone and shipped to the purchaser, it would not be possible to provide the purchaser with written notice prior to completion of the transaction. Suppliers from outside the province would have little or no incentive to provide such a notice to customers located in Manitoba.

Notice of Supplier to Commission

43(6) Every person who sells, leases, distributes or otherwise provides any equipment, device or contrivance which is capable of transmitting or receiving messages passing through the system of the commission and which is not authorized under subsection (1) or is authorized subject to conditions of connection, shall, within 10 days after delivering the equipment, device or contrivance to the person obtaining or acquiring it, notify the commission in writing.

(a) of the nature of the equipment, device or contrivance sold, leased, distributed or otherwise provided; and

(b) of the name and address of the person who obtained or acquired it."

Comments

This regulation is simply unworkable. If a device is authorized for attachment to the MTS system, there is no requirement for MTS to be advised of the name and address of the purchaser. If a purchaser buys a device that is not authorized for attachment, he obviously will not co-operate by providing his name and address. Again, for suppliers outside of the province, there will be little or no incentive for them to comply with this regulation.

Discontinuance of Service

43(7) In addition to any other penalty which may be prescribed therefor, where a person contravenes subsections (1) or (2), the commission may

(a) stop providing telecommunication service to that person and remove any telecommunication equipment of the commission that is in the possession of that person; or

(b) stop providing telecommunication service to any person in possession of telecommunication equipment that has been used in respect of the contravention and remove any telecommunication equipment of the commission that is in the possession of that person."

Comments

The intent of this paragraph is vague, but the power given to the MTS is absolute. There is no justification requiring reasonableness and no provision for an appeal. Disconnection of the subscriber's service is described as a penalty for having contravened subsections (1) or (2) of the bill and yet no proof is required to substantiate a contravention, and no provision is made for appeal. Furthermore, no statement is made concerning the duration of penalty or whether, in fact, service will ever be reinstated.

Recording of Messages Prohibited

44(1) No person in the province shall use any recording equipment to record any message

Law Amendments
Thursday, June 9, 1977

transmitted through the system of the commission unless he makes the person sending the message aware, prior to the recording, that the message or a part thereof will be recorded."

Comments

The wording of this paragraph is so general that it would apply to many instances where compliance would be impractical and undesirable. For example, it would not be practical to apply this regulation to the recording of emergency messages such as fire, police and ambulance calls. Further, the paragraph does not specify voice messages and could apply to any message such as the transfer of computer data to be stored in the files of another computer.