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Third Session - Thirty-Fifth Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE

on

MUNICIPAL AFFAIRS

40 Elizabeth II

*Chairperson
Mrs. Louise Dacquay
Constituency of Seine River*



VOL. XLI No. 1 - 8 p.m., MONDAY, DECEMBER 16, 1991



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

LIB - Liberal; ND - New Democrat; PC - Progressive Conservative

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	LIB
ASHTON, Steve	Thompson	ND
BARRETT, Becky	Wellington	ND
CARR, James	Crescentwood	LIB
CARSTAIRS, Sharon	River Heights	LIB
CERILLI, Marianne	Radisson	ND
CHEEMA, Gulzar	The Maples	LIB
CHOMIAK, Dave	Kildonan	ND
CONNERY, Edward	Portage la Prairie	PC
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	ND
DOER, Gary	Concordia	ND
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	LIB
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Clif	Interlake	ND
EVANS, Leonard S.	Brandon East	ND
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
FRIESEN, Jean	Wolseley	ND
GAUDRY, Neil	St. Boniface	LIB
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
HARPER, Elijah	Rupertsland	ND
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	ND
LAMOUREUX, Kevin	Inkster	LIB
LATHLIN, Oscar	The Pas	ND
LAURENDEAU, Marcel	St. Norbert	PC
MALOWAY, Jim	Elmwood	ND
MANNES, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	ND
McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda, Hon.	Assiniboia	PC
MITCHELSON, Bonnie, Hon.	River East	PC
NEUFELD, Harold, Hon.	Rossmere	PC
ORCHARD, Donald, Hon.	Pembina	PC
PENNER, Jack	Emerson	PC
PLOHMAN, John	Dauphin	ND
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	ND
REIMER, Jack	Niakwa	PC
RENDER, Shirley	St. Vital	PC
ROCAN, Denis, Hon.	Gladstone	PC
ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	ND
STEFANSON, Eric, Hon.	Kirkfield Park	PC
STORIE, Jerry	Flin Flon	ND
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary	Fort Garry	PC
WASYLYCIA-LEIS, Judy	St. Johns	ND
WOWCHUK, Rosann	Swan River	ND

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS
Monday, December 16, 1991

TIME — 8 p.m.

LOCATION — Winnipeg, Manitoba

CHAIRPERSON — Mrs. Louise Dacquay (Selne River)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Ducharme, Ernst, Hon. Mrs. McIntosh

Mrs. Dacquay, Mr. Edwards, Ms. Friesen, Messrs. Gaudry, Laurendeau, McAlpine, Mrs. Vodrey, Ms. Wowchuk

APPEARING:

Edward Connery, MLA for Portage la Prairie

Gary Doer, MLA for Concordia

Bonnie Mitchelson, MLA for River East

WITNESSES:

Michael J. Mercury, Q.C., Manitoba Trucking Association

Steve Childerhouse, Winnipeg Chamber of Commerce

Sidney R. Wolchock, Private Citizen

Frank Pattie, Great-West Life Assurance Co.

George Fraser, Councillor, St. Charles Ward, City of Winnipeg

William Norrie, Mayor, City of Winnipeg

Greg Selinger, Councillor, Tache Ward, City of Winnipeg

Bill Carroll, Commissioner of Finance, City of Winnipeg

Al Golden, Councillor, Glenlawn Ward, City of Winnipeg

MATTERS UNDER DISCUSSION:

Bill 35—The City of Winnipeg Amendment Act (2)

* * *

Madam Chairperson: Order, please. Will the Standing Committee on Municipal Affairs please

come to order. This evening the committee will be considering Bill 35, The City of Winnipeg Amendment Act (2) and, if necessary, the committee will also be meeting tomorrow at 10 a.m.

Is it the will of the committee to hear public presentations this evening and then consider the bill clause by clause?

An Honourable Member: Agreed.

Madam Chairperson: Agreed. It is our custom to hear briefs before the consideration of the bills. Is that the will of the committee?

An Honourable Member: Agreed.

Madam Chairperson: Agreed. I have a list of those who have already registered to appear before this committee. I will at this point read the list: No. 1, Michael J. Mercury, Q.C., representing the Manitoba Trucking Association; No. 2, Steve Childerhouse representing the Winnipeg Chamber of Commerce, No. 3, Sidney R. Wolchock, private citizen; No. 4, Frank Pattie representing Great-West Life; No. 5, Councillor George Fraser, St. Charles Ward, City of Winnipeg; No. 6, Mayor Bill Norrie, the mayor of the City of Winnipeg

If there is anyone else in the audience this evening who would wish to make public representation, would you please see the Clerk at your convenience to be included on the list that I have just read.

If anyone has written copies of their presentation to be distributed to the Clerk, or if additional copies are required, would you also please give them to the Clerk.

Does the committee wish to adopt time limits for the length of public presentations? What is the will of the committee?

* (2005)

An Honourable Member: No.

Madam Chairperson: No. No time limit. I will now then call on Mr. Michael J. Mercury, Q.C., to make representation on behalf of the Manitoba Trucking Association. Copies of Mr. Mercury's submission

are being distributed. Good evening, Mr. Mercury. You may proceed.

Mr. Michael J. Mercury (Manitoba Trucking Association): Mr. Minister and members of the committee, my name is Michael Mercury and I am a lawyer and partner in the law firm of Aikins Macauley and Thorvaldson in Winnipeg.

I am appearing before you tonight as counsel to the Manitoba Trucking Association which was one of the parties who, together with a number of other of my clients, appealed successfully the validity of the City of Winnipeg 1991 business assessment and tax rolls to the Manitoba Court of Appeal.

Before going into the main thrust of my submission, I would like to take a few moments to tell you the reason for the court challenge. As you are all aware, we have been in a recession for some time, and the business community is at this moment struggling to keep afloat. Rising costs, higher taxes, slow or little growth has had an adverse effect on many businesses in our community, both big and small. The bankruptcies have escalated considerably, and we hear more and more how many Canadians are going south to Grand Forks, Fargo or to other centres in the United States to shop where prices are lower for a number of reasons, and one of them is taxes.

At a time, therefore, when businesses were and are struggling to keep alive, my clients as well as others received tax notices in the spring of 1991 which doubled and tripled their business taxes from those paid in 1990. For the record, I have set forth the 1990 and 1991 business taxes so that you may appreciate the magnitude of the increase. Now in Schedule A, I have outlined some of the 180 members of the Manitoba Trucking Association whose tax bills form part of the case, and I have two columns, 1990 and 1991. I want to read them for the record.

Reimer Express Lines Ltd. in 1990 paid \$27,900 in business tax; in 1991 it was \$60,075; Arnold Brothers, \$12,862.50; 1991, \$21,675; Atomic Transportation, \$4,500; 1991, \$9,562.50; Atomic Transportation again, \$8,887.50; 1991, \$21,112.50; Gardewine North Ltd., \$2,400 in 1990; \$4,642.50 in 1991; Gardewine North Ltd. again, 1990, \$6,622.50; in 1991, \$19,192.50; Paul's Hauling Ltd., \$13,387.50; 1991, \$21,487.50; Paul's Hauling Ltd. again, \$5,730; in 1991, \$20,640; Paul's Hauling again, 1990, \$1,725; in 1991, \$3,420.

The Canadian Tire stores formed part of that application to the court, several locations, and these are owned by private franchised dealers not by the corporation itself. First location, 1050 Leila Avenue, in 1990, \$20,184; in 1991, \$51,504; 61 and 73 Muir Road, \$2,050.60; 1991, \$3,654; 1519 Regent Avenue, \$38,984; 1991, \$72,488.50; 45 Isabel Street, \$8,625; 1991, \$17,121.60; 592 Roseberry Street, \$1,500; 1991, \$2,018.40; 2195 Pembina Highway, \$16,704; 1991, \$26,178.30; 157 Vermillion Road, \$35,670 in 1990; \$63,475.20 in 1991; 700 St. James Street, \$19,550.40 in 1990; \$43,569.60 in 1991; 3550 Portage Avenue, \$7,950 in 1990; \$21,680 in 1991.

* (2010)

The Dominion Lumber stores, other clients of mine who appealed their assessments and the existing legislation, five locations: 205 Pembina Highway, in 1990, \$6,003; in 1991, \$14,268.50; 1390 Pacific Avenue, \$19,522.80; in 1991, \$45,605.40; 2527 Portage Avenue, 1990, \$5,437.50; \$14,911.80 in 1991; 1440 Pandora Avenue, \$4,402.50 in 1990; \$6,933.90 in 1991; 109 Bond Street, \$10,179; in 1991, 10,944.60.

The next is the Delta Hotel, Winnipeg downtown. In 1990 the Delta Hotel paid \$68,642.68; in 1991 it paid \$170,368.90. The Assiniboia Downs race track in 1990 paid \$24,024; in 1991, \$62,534.

About 40 auto dealers who were represented by my colleague Mr. Nugent, Q.C., also experienced similar dramatic increases. It was these huge, unconscionable increases which prompted the successful court challenge. It was done so, Madam Chairperson, Mr. Minister, members, because these and other businesses wanted to stay alive, particularly during these hard times. It was never the intention of the challenge to the tax rolls to have the 1991 business assessment roll invalidated. The position taken by the applicants in the appeal was that the 1991 business assessment roll was operative provided the City of Winnipeg did that which this Legislature had commanded not only the City Council but also the councils of every other municipality to do, and that is to pass a uniform rate bylaw if, in fact, the city wished to collect business tax revenue.

In the absence of such a bylaw it was the litigant's position that the old assessment and the old statutory rates applied. This meant that the city would not receive its unconscionable budgeted

increase of \$7.7 million in 1991, after phase-in credits were allowed. The Court of Appeal, however, thought otherwise and declared both the business assessment roll as well as the business tax roll to be invalid. It was a unanimous judgment, Mr. Minister. The wording was clear. The transitional section was just that, and the city failed to enact a bylaw.

Now the City of Winnipeg through its officials has now asked the government of Manitoba to bail it out of its financial difficulty. It has asked you to enact retroactive legislation making legal that which the highest court in this province has declared to be illegal. You have now prepared a bill, which I just received this afternoon, whose purpose is to bail out the city. On a personal note, I did not receive this bill until this afternoon, and I therefore did not have much time to study it. I therefore wonder how any person, however well informed, is expected to make any meaningful suggestion to this committee concerning a piece of legislation which is so vital to the business community.

Do you really want meaningful input, Mr. Minister? I might say that I received the draft copy from Mr. Paul Edwards, who is a member of your committee, last Saturday evening when he delivered it to my home. My comments, therefore, with respect to the bill will relate to that draft bill simply because I did not have an opportunity to review the actual bill.

I might say that a quick perusal of the bill which received second reading this afternoon is approximately the same as the draft with one or two exceptions. I submit that the purpose of this bill is wrong in principle. As a piece of legislation, it is regressive. As a work of draftsmanship, it is poor. It contains inconsistencies and in some cases creates new injustices. It is a bad mixture of the old sections contained in the old and repealed 1971 City of Winnipeg Act and the new City of Winnipeg Act. It perpetuates—and I underline this—irresponsible fiscal management on the part of the city and shifts the responsibility for business tax onto the province.

The politicians at City Hall will be comforted with its enactment—I am confident of that—because now they will be able to blame the woes of the business community on the province because, to be frank, it is the province which will have taken the step backward and fixed the rates of tax, and it is the province, as they have said in court, which mandates that the city assessor must assess every three years.

Just pause here for a moment. It seems that whenever we go through a reassessment, assessments go up, the mill rate comes down. In this situation, the assessment went up and the statutory rates remained up. That is what has happened, and that is what created the gross distortion and inequity.

* (2015)

Going back to my submission, I say that if I were City Council, I would be very happy because the City of Winnipeg will have shifted its political responsibility for business tax upon you. This is a privilege not enjoyed by the councils of any other city, town or municipality in Manitoba which are responsible for setting their own uniform rates and taking the political heat for it.

I would like to remind this committee that in 1979, the Lyon government established the Manitoba Assessment Review Committee, also known as the Weir Commission, to look into all aspects of municipal taxation in Manitoba and to make recommendations for change. With respect to business taxes, the commission recommended that there be one uniform rate of tax not exceeding 15 percent in all municipalities except Winnipeg, where, if need be, the rate could be as high as 20 percent.

I have appended the recommendations of the Weir Commission to this paper for your easy reference. If you will go to the back of my submission, I ask you to pause and go to—it is past page 22—and here are the recommendations. This is the product of numerous hearings at a great deal of expense to the taxpayer to look into this whole question of assessments, and in particular, business assessment, and this is what the Weir Commission recommended, and I quote:

“Rental value should continue to be utilized as the base for the establishment of the assessment for business tax purposes until such time as the new assessment system has been firmly established. The practice should then be reviewed by the Assessment Authority and serious consideration be given to the adoption of the real property assessed value of the premises as the base for the calculation of assessment for business tax purposes.”

Going over to the next page, I am not going to read it all, but the recommendation No. 2, a very important recommendation I submit, stated, and I quote:

"The Statutory Business Tax rates presently included in The City of Winnipeg Act should be removed and the present provisions of The Municipal Assessment Act amended to permit all municipalities to levy different rates of business taxes on different levels of assessment for business tax purposes. A municipality should not be permitted to vary the business tax rate in accordance with the type of business occupying the premises. The Lieutenant-Governor-in-Council should establish the range of percentages to be applied to the assessment for business tax purposes. The range should extend from zero to an appropriate maximum, taking into consideration the present maximum of 15 percent included in The Municipal Assessment Act and 20 percent included in The City of Winnipeg Act. Each municipality should be free to select annually the desired percentages to be applicable within the municipality."

He goes on to say:

"The Municipal Assessment Act permits a municipality to establish a rate for business taxation at between 1 percent and 15 percent. The percentage established for the year must be applied against all assessment for business tax purposes in the municipality. The City of Winnipeg Act contains a schedule of rates of between 6 percent and 20 percent to be charged varying by type of business and the level of rental value.

"The Committee concurs with the principle of varying rates of business tax on different levels of rental values"—I underline these next words, Mr. Minister—"but does not accept the principle of varying rates by type of business."

Going back to my submission, at the top of page 7, I submit with respect that the commission made it clear that business taxes were not unlike real property taxes and that assessments were based on the value of real property irrespective of who occupied it and, likewise, business assessments were based on the rent that the business paid—the more space occupied, the more valuable the premises, the more the tax.

The notion of different rates for small businesses as opposed to big businesses was and is fallacious, because it somehow introduced the fallacious concept of ability-to-pay principle which, in my submission, is irrelevant.

How big is big? How small is small? Businesses, whether big or small, have gone into bankruptcy or

receivership. Do you remember the Atlantic Acceptance Corporation, the Bank of Western Canada, the Northland Bank, the Canadian Commercial Bank, and who can forget the receivership of Massey-Ferguson, one of the largest corporations in Canada? Who can forget the financial trouble of Dome Petroleum which fended off a receivership when it was taken over by Amoco?

In 1988 the Province of Manitoba, as part of its tax reform legislation, and as recommended by the Weir Commission, amended The City of Winnipeg Act by enacting Bill 40 which was assented to on December 20, 1988, and which, incidentally, came into force on March 1, 1989. This tax reform legislation repealed—underline—repealed the statutory discriminatory rates and by Sections 170(1) and 170(2) in effect directed that the city, if it wished to collect business tax, was obliged to enact a uniform rate bylaw, which would fix one rate for all businesses not exceeding 15 percent.

* (2020)

These sections read as follows—and this is your legislation—and I quote: 170(1) "The assessor shall"—underline "shall"—"assess annually the business premises of each person carrying on business in the city, and every such person shall in each year pay to the city a business tax based on the assessed annual rental value of the premises occupied or used by the person for the purpose of the business, at the rate prescribed by by-law"—clear words; Section 170(2) "The city may by by-law prescribe the annual rate of business tax to be levied, but the rate shall not exceed 15 percent of the annual value of any premises." The word "may"—if the city wanted to collect revenue by way of business tax, it had to pass a uniform rate bylaw.

What happened? The Legislature recognized that, if these sections came into force, then the existing tax rolls, based on the statutory rates, would immediately collapse and the city would have no basis upon which to maintain its tax roll. Therefore, the province enacted a transitional section which read as follows—and this is one that you wish to repeal:

"14. Notwithstanding the deletion of the classes and rates of business taxation from the Act, the latest revised business assessment and tax rolls of the city and the classes and rates applicable thereto, as formerly specified in the Act, remain in full force and effect until superseded by a by-law of the city,

and as provided in subsection 170(2), and until such a by-law is enacted, all former provisions of the Act relating to the manner of classification and assessment of business premises for business tax purposes and the establishment of a minimum business tax continuing in full force and effect."

Now the words "latest revised business assessment of tax rolls" were defined in your act as that tax roll which had gone through the Board of Revision process. It was therefore very clear to the city that that roll was not the 1991 business assessment roll, for the revision process had not even begun until June and still has not proceeded so far.

It was therefore, I submit, very clear to the City of Winnipeg that the province had said to it that its assessments were frozen because the roll and rates were frozen but that if it wanted to increase its taxes, it had to take the responsibility and pass one uniform rate bylaw and thus—and this is important—be accountable to its own taxpayers. The province not only said this to the city, but also to every municipality in the province.

The Municipal Assessment Act was also amended in 1988, and it said the same thing. A copy of the legislation is appended hereto for easy reference. If you go to the back of my submission—I will not read it. The sections are there.

So the province was saying, we are having a uniform law throughout the whole province. In short, the city and all municipalities had to and must take the political responsibility for raising taxes uniformly and without discrimination. This new bill before you, I submit, is regressive. It is a step backward from tax reform. It flies in the face of the recommendations of the Weir Commission Report, which cost the taxpayers of Manitoba considerable sums of money. It flies in the face of your own legislation. It shifts responsibility. In very simple terms, it amounts to an abandonment of principle for political expediency.

Now what are the solutions? There are two.

It is recognized that legislation is required to help the city get out of the mess which it created for itself, but the legislation, I submit, should not go so far as to completely exonerate the city. The legislation, if anything, should maintain the status quo, namely that the values contained in the 1990 assessment roll be the same as the 1991 roll. This means that the city would be short only some \$7.7 million and

not the \$44 million. The \$7.7 million was the 1991 budgeted increase.

By freezing the assessments at the 1990 amounts, the city could, with proper management, make up the shortfall. It did it before, and I remember in 1984, when the Supreme Court reversed the courts of Manitoba and allowed the Portage Avenue property owners to proceed with their appeals, the city was obliged, and they were shocked, to refund to the taxpayers approximately \$10 million. It was \$100,000 or \$200,000 short of \$10 million. Mr. Minister, you will remember that situation. But they can. It is not a large amount for them.

There is a second solution, and that is that the bill should validate the 1991 business assessment roll and only the business assessment roll. It should not validate the tax roll. It should then direct the city to do that which it ought to have done, and that is to pass a bylaw fixing the rate of taxation just as every other municipality in Manitoba has done. The rate being revenue neutral with a small increase for 1991 would, according to the city's own figures, be 8.2 percent. The city has a right to fix a rate as high as 15 percent. Let the city now pass a bylaw and your bill can be amended to give the bylaw retroactive effect. That is the responsible thing to do. Let them pass the bylaw now and fix the rate at whatever they want.

I say, one may ask, what is so repugnant about putting responsibility back onto the shoulders of these councillors at City Hall. If the rate is 15 percent, the city can use the phase-in legislation which you enacted earlier this year to cushion the effect of the increases.

On this point, let me read to you what the Manitoba Court of Appeal said in its November 21, 1991, judgment. I am quoting from the judgment of the Honourable Madam Justice Helper. She said, "On June 25, 1991, the legislature enacted Bill 35, providing an amendment to the new Act."

The section is 195.1, which reads, and I quote:

"Notwithstanding the provision in this Act or any other Act to the contrary, council may by by-law limit the amount of increase in business tax that council determines has resulted from business re-assessment or the annual rate of business tax prescribed under subsection 180(2), and council may limit the amount of the increase for any year or years for a class of business or a group of businesses, on such terms and conditions as

council may set out in the by-law which provision was retroactive and deemed to have come into effect on January 1, 1991."

Continuing with her judgment, she says:

"It is obvious from this piece of legislation that it was recognized that there would be a substantial increase in business tax for some taxpayers with the imposition of the new scheme. The reference to subsection 180(2) convinces me that it was the intention of the legislature that the City enact a uniform rate of taxation by-law as soon as possible. It was never intended that the 'phase in credits' used by the City on the 1991 tax bills and authorized by that subsection would be applicable to the transitional time period. The city used this piece of legislation to soften the tax blow dealt the applicants and others instead of as intended as part of the entire new scheme for the imposition of a business tax."

* (2030)

Mr. Minister, I submit with respect that what is repugnant about the proposed enactment is that the intention is to extend these inequities to 1992 as well and thereby impose once more upon these businesses an unconscionable burden. The business community can thereby legitimately ask, why is the city being allowed to get off the hook? Why?

Mr. Minister, you have said that you are very concerned about the city's mismanagement and overspending. My clients therefore are entitled to ask you, what, pray tell, are you doing about it? What message are you giving the city by allowing them to perpetuate this injustice for another year? What incentive is there for the politicians at City Hall to cut back on spending? We read recently in the newspapers that the city is going to rent premises in the Mandarin Building at rents approximately \$19.50 a square foot, almost double the amount which prime office space is renting for at the corner of Portage and Main.

We also read in the newspapers that the city could have saved taxpayers' money by buying concrete from a certain corporation as opposed to another but failed to do so for purely political reasons.

We see, for example, the city continuing to list properties on its building conservation list with a result of a drop in realty assessment, thereby forfeiting revenue. Approximately 250 buildings are on the conservation list. Why? What therefore is the

incentive for the city to cut costs when businesses such as those of my clients have to pay double and triple tax increases in one year with the added blessing of the province? Who is going to give City Council the necessary message, I ask?

The homeowners will, because if you do not extend legislation past 1991, then the city will either pass on the \$7.7 million shortfall to the homeowner, who will surely deliver the message or, alternatively, City Council will have to search for ways of cutting down on spending or look for other sources of income such as cutting out certain exemptions from taxation which City Council has created by various bylaws.

Those are my general comments. Now I want to deal with the drafting of the legislation.

Firstly, I note that Section 180(4) is intended to be repealed. This was the transitional section which in layman's terms meant that until the city passed a uniform rate bylaw, the old assessment at a 1975 level of value and the old statutory rates applied. The Legislature had given the city an option either to use the old assessment or pass a bylaw and apply a uniform rate to the new assessment. The city decided, however, to take the best of both worlds, that is, the old rates and the new assessment and, as a result, business taxes doubled and in some cases tripled. That was unconscionable.

Having proposed to repeal Section 180(4), it is now intended to enact Section 180.1(1), which you propose to insert as part of the legislation Schedule D, to be placed side by side with the present sections in The City of Winnipeg Act, which deal with business tax. You will now have two entire parts dealing with the same subject.

Bill 40, as far as I can make out, is still in force. It repealed the old provisions of the business tax contained in the 1971 City of Winnipeg Act. Bill 40 is still in effect except for Section 180(4), which is to be repealed. Your Schedule D supersedes Bill 40. Schedule D now mixes some of the old provisions of the 1971 statute with Bill 40. It is a potpourri. It is very confusing, Mr. Minister. It is an example of drafting at its worst, with all due respect.

Apart from the poor draftsmanship, the intention to extend the 1991 roll to 1992 with its unconscionable increases makes mockery of the principles of fairness and justice. I submit that is plainly not acceptable in this day and age.

Section 180.1(2)—I am just going from the draft that I had. This section gives certain powers to the Lieutenant-Governor-in-Council. I say, this section must be deleted. I think it might have been, but my thoughts were this. This section purports to give to the Lieutenant-Governor-in-Council the right to make regulations to amend or repeal all new sections relating to business tax in Schedule D.

I say, that is a fine kettle of fish. You also intend to give the Lieutenant-Governor-in-Council the right to enact new provisions. It says, where in the opinion of the Lieutenant-Governor-in-Council Schedule D does not provide or does not adequately provide for any matter that in the opinion of the Lieutenant-Governor-in-Council is required to achieve the purpose of this act by which this section is enacted, the Lieutenant-Governor-in-Council may by regulation amend or repeal provisions of Schedule D or enact new provisions in order to provide for the matter—vague, bad legislation. It does not tell anybody anything. One is not warmed up and feeling comforted with that in an act.

The power, I submit, runs contrary to the fundamental principles of democracy, which call for elected representatives of the public to account to those who elected them. The taxpayers of Winnipeg elected the members to City Council to do certain things, including the right to fix business tax rates. The rates are now to be fixed by the Legislature, but if they are to be fixed by the Legislature, it should be the Legislature and not the Lieutenant-Governor-in-Council which ought to pass the laws. This section, I submit, amounts to a wrongful delegation of authority. One may ask, what is intended by the words which say that where, in the opinion of the Lieutenant-Governor-in-Council, Schedule D does not adequately provide for any matter which, in the opinion of the Lieutenant-Governor-in-Council, is required to achieve the purpose of the act? These words, I submit, are vague, meaningless and cause for concern.

The next section is Section 180.1(3). Again, to the same effect, this section should be deleted in its entirety. Under this section, the Lieutenant-Governor-in-Council will be given the authority to enact regulations which redefine words, which enact provisions not covered by Schedule D and so forth.

What does that mean? How can we criticize what they are going to do? What does it mean? It is

government by regulation, and this, I submit, is not acceptable.

Then you say, the following is added after Schedule C to the act, and this is Schedule D, and this is really, in my submission, poor draftsmanship, and I say that for this reason. This schedule attempts to combine the provisions of Bill 40 and the old sections contained in the old 1971 City of Winnipeg Act. In my submission I prepared an analysis of these various sections. You now have Section 1, copied from the old section which was old section 165. The equivalent section was Section 175 in Bill 40, which is still in effect, and so forth.

I am not going to read them into the record; they are there for your perusal and for your experts to advise you on. I note that Section 4(2) in the bill was a direct copy from Section 168(2) of the old act. Section 179(3) of Bill 40 permits the city to set rates by bylaw, and the question which comes to mind is whether the city's bylaw, if one existed, is now repealed by Schedule D. This is all legalese, as you can appreciate.

In these other sections I show how they are nothing but duplications of the old City of Winnipeg Act, whose words are different. There are minor changes from Bill 40, which is still part of your legislation. How does anyone make sense in reading these sections and the confusion which is going to befall the reader of the legislation?

Again, on Page 18, I list the sections in Schedule D. Some are direct copies of the old act; the wording is slightly different from Bill 40, which is still in effect, and again on page 19 I make reference to these sections and how they are a little bit different from Bill 40.

I say that one could go on into further detail, but it is sufficient to say that Schedule D now puts into place those sections which were repealed by Bill 40 and re-establishes the old City of Winnipeg Act to a large measure. Other sections in Schedule D which are copied from the old act are outlined below, and I will not read them into the record. They are there for your information.

I want to go to Section 25(4) because this section is, in my respectful submission, unfair. It reads: On the coming into force of the Act by which this section is enacted, the period for making an application for revision pursuant to Part 8 of The Municipal Assessment Act in respect of a business assessment, is deemed to have expired.

* (2040)

Let us just stop and think about that. There were taxpayers, I am sure, in the city of Winnipeg who did not appeal their business assessments. Some of my clients did not appeal their business assessments. Why? Because the assessment roll was invalid and they did not appeal, and the court has declared that roll invalid. So why appeal something which is invalid? Now what you are doing, you are making that which was illegal legal, and what you are doing now is saying to this taxpayer who did not appeal, sorry, you have no right to appeal. That section is unfair and it should be deleted from the bill, because now you are creating real prejudice.

With respect to the drafting of Schedule D, it is my respectful submission that it should be made amply clear that Schedule D overrides the provisions of Bill 40. Alternatively, the draftsmen should amend The City of Winnipeg Act and delete those sections which are now being replaced by Schedule D.

Finally, Section 33—I guess it was changed in the new section in the new bill. It is now 6, it is at page 31 of your bill—says this, and I quote:

For greater certainty, nothing in this act affects the application of a provision of this act or any other act that is otherwise applicable to The City of Winnipeg Act.

Now I do not know what that means. Does anybody know what it means? I frankly fail to understand these words.

Now that is my submission, but I want to end on one point: the question of costs. My clients and those of Mr. Nugent incurred a great deal of legal expense to achieve a victory in the Court of Appeal. This victory will be fruitless if you enact this legislation, and I submit that provision ought be made, somehow, for these litigants to have all their legal fees and disbursements paid on a solicitor-and-his-own-client basis. It is morally right that they should be indemnified for their costs.

Mr. Minister, you have advised that His Worship Mayor Norrie—I understand he is in here, he is going to make a submission tonight—has given you his undertaking to this effect. I have not received any communication from His Worship nor from counsel for the City of Winnipeg that this is in fact the case. We would like some assurances that this commitment exists and that it will be honoured forthwith. Thank you very much.

Madam Chairperson: Mr. Mercury, are you prepared to entertain questions?

Mr. Mercury: Yes, if I might just get a glass of water.

Hon. Jim Ernst (Minister of Urban Affairs): Mr. Mercury, you indicate that, I think on page 20 of your brief relating to Section 25(4) and the question of the right of your client or anyone else to appeal his assessment for 1991—

Mr. Mercury: What page are you at?

Mr. Ernst: On page 20 of your brief dealing with No. 5, Section 25(4) relating to the question of who has the right to appeal and so on.

Mr. Mercury: Yes.

Mr. Ernst: Now, I am assuming from your comments that you made, Mr. Mercury, that somehow your clients, because they thought they might have a court case and might be able to win the court case on the basis somehow that the legislation or the roll was invalid, might have wished to appeal their assessment. Is that correct?

Mr. Mercury: I am not saying me—

Madam Chairperson: Mr. Mercury, would you please address your responses through the Chair, because everything is being simultaneously recorded. Please proceed.

Mr. Mercury: Madam Chairperson, I cannot speak for all persons. I did not talk to 180 members of the Trucking Association, for example, and I can say that as a lawyer there are people out there who, for reasons known to themselves, did not appeal their assessments. They read the newspapers. They saw what was going on. I think it would be manifestly unjust now to say that, if you did not appeal, you are out of luck.

I do not think that provision is necessary. The Board of Revision has hardly started to listen to appeals. If people wish to appeal, why not allow them to appeal?

Mr. Ernst: Mr. Mercury, I am sure you are aware that the roll for business tax in 1991 closed on April 25, 1991.

Mr. Mercury: Yes, it did.

Mr. Ernst: I am sure you are also aware that the appeal deadline for application to the Board of Revision to appeal your assessment expired on May 22, 1991.

Mr. Mercury: Yes, I am.

Mr. Ernst: And you are also aware no doubt that your Queen's Bench application was filed on May 23, one day after the deadline for appeals of assessment expired, so that any client of yours could not have necessarily read about an application for a court case because it was one day after the expiry of the appeal period.

Mr. Mercury: Madam Chairperson, I am not dealing with these specific plaintiffs who are necessarily nominated. There are other clients in the city of Winnipeg, other persons in the city of Winnipeg, who, I fear, did not appeal for these reasons. I am saying, what harm is there in restoring their right to appeal that law which was invalid in terms of quantum of assessment? It is a question of fairness.

Mr. Ernst: Mr. Mercury, it was determined—and I do not have any hang-up about anybody's having a right to appeal, *per se*, but these people did have the right to appeal. They had the right to appeal up until May 22, 1991, under the terms of the legislation that existed. It was not declared invalid until November 26, which, I believe, is the date. So, for certainly a long period of time, those people had an opportunity to appeal their assessment, up until the end of May, before any court cases started, before any concern about the validity or the nonvalidity of the tax roll was even brought to the public.

Mr. Mercury: Madam Chairperson, I would like the minister to be aware of the fact that business assessments and their revision are an ongoing process. What if there was a revision to an assessment roll in July or August or September? The roll is constantly being revised. What if there was a revision? What if, at the time, people saw that this was being challenged? What if they got opinions from their lawyers that they agreed with the submission?

I am not the only lawyer who thought that what the city had done was illegal. There are other lawyers who thought that it was illegal. There are opinions that went out to the business community. Very few had the fortitude to instruct counsel and take on the city. That opinion is not my opinion alone. There are other lawyers who shared the same opinion. Fortunately, or unfortunately, they did not find clients, or clients did not want to risk spending money to fight City Hall. A lot of clients are that way. That is my speech.

Mr. Ernst: Can I ask you one more question, Mr. Mercury? In your opinion, were your clients

concerned that their assessment was wrong, or their taxes were too high? Which motivation prompted them to take the course of action that they did?

Mr. Mercury: They were outraged when they got their tax bills, so I can imagine that they were concerned that the taxes were too high. People get outraged when they see their taxes triple in one year. They do not know what the assessment system is all about. Very few people in this room, I venture to say, know anything about assessments, and how they are made. It is a science of black magic. It is voodooism. It really is.

People get their tax bills, their rolls, and their bills, and they see their assessment is about 50 percent of their market value and they keep quiet. They do not know that everybody else is 30 percent. No, people look at that tax bill. If that tax bill has tripled, they are ready to lynch someone, and that is why they came and they asked for advice as to what they could do, and they got it.

* (2050)

Mr. Ernst: Can I also take from your submission then, Mr. Mercury, that by your suggestions and so on it is the rate of taxation or the method of the rate of taxation used by the city that is the principal culprit in your view in this case?

Mr. Mercury: I would think so. You do not get triple tax or double tax in one fell swoop. That is one sure way to drive out business in Manitoba.

Mr. Ernst: Then you will also agree, Mr. Mercury, that you cannot appeal your taxes, except through the ballot box. What you can appeal is your assessment, and by your indications that assessment is not the problem.

Mr. Mercury: I am speculating. I do not think that the assessment is the problem as much as the substantial increase in the assessment and maintaining those old rates. If that happened in the real property assessment, if you had mandated statutory rates, and the City Assessor went along to every homeowner and doubled his assessment and did not drop the mill rate, you would have somewhat of a chaotic situation in this province.

Mr. Paul Edwards (St. James): Madam Chairperson, just touching back on a question by the minister, I am still somewhat confused about this 25(4) issue. You are saying then that there are assessments which may have been done since the overall assessment in April and May and that there

may indeed be continuing appeal periods available to certain businesses—is that what you are saying?

Mr. Mercury: I believe that there may be. I do not have proof of it, but I am certain that there would be people in that situation. I do not think that their rights should be foreclosed.

Mr. Edwards: You have talked about Schedule D and how it is duplicitous and, I think, in your words, confusing. Is there any benefit to Schedule D being included in this particular bill, and I guess as a corollary to that, are there significant changes between the Schedule D and this bill and the one in the 1971 act which we should be aware of, other than the ones you have already mentioned?

Mr. Mercury: Madam Chairperson, I got the draft bill late Saturday evening. I read it yesterday afternoon in my office for the first time, and I noted that there were wording changes throughout. I did not have time in such a short period of time to analyze each section. I, frankly, did not have that time. But the wording is different, and when the wording is different I get concerned. Slight phrases in law can have a very serious effect on the intention of the legislation, so I cannot give you a definitive opinion as to that.

Mr. Edwards: I guess what I am searching for, and maybe it is a question for the minister after public discussions have closed, but is there any need in your view to include Section 5 which then sets out Schedule D? As you will know, Section 5 of this act is the section which includes the bulk of the act. In effect, Section D. Do we need to have that in here, really?

Mr. Mercury: I did not think that it was necessary to do what the draftsmen did. Now, I do not want to do their job for them, but if the purpose of the legislation was to make that which has been declared to be illegal legal, it could have been done in much simpler terms.

Mr. Edwards: You quoted Section 6 in your brief, and I think you said that it was—let me just find it—or you quoted Section 33. This is on page 21 of your brief. That is not the same 33 that I believe we have in our bill.

Mr. Mercury: Madam Chairperson, I think it is Section 6. I do not know why it appears as Section 6, it is on page 31 and it reads, and I quote: "For greater certainty, nothing in this Act affects the application of a provision of The City of Winnipeg

Act or any other Act that is otherwise applicable to The City of Winnipeg and not inconsistent with this Act."

Now, I frankly do not know what that means.

Mr. Edwards: Mr. Mercury, what you have just read and what appears in Section 6 is different than what you set out at page 21. You will note the differences.

Does the Section 6, as it appears, at page 31 of the act—do the changes give you any clear view of what this section is after?

Mr. Mercury: No.

Mr. Edwards: This is a final question. We have heard from city officials, many of us here, that they are unsure as to whether or not they ultimately want to move to a uniform tax. Leaving that aside, had they moved to a uniform tax, is it your view that they could have in fact relieved against abnormal, unusual increases in taxes, in essence achieving what they achieved in any event while also moving to the uniform rate?

Mr. Mercury: Absolutely. The Manitoba Court of Appeal specifically said that was the purpose of that amendment which allowed them to pass a bylaw bringing in phase-in legislation. That is what Madam Justice Helper of the Manitoba Court of Appeal, concurred in by all the other judges in the Manitoba Court of Appeal, said that the purpose of that amendment was to cushion the blow caused by increases resulting from enacting a uniform rate bylaw. That is what the Court of Appeal said and I agree.

Mr. Ernst: Mr. Mercury, given that the amendment that you just referred to was enacted after the city had taken a decision to do what it did in terms of assessing its business tax for 1991, are you still of the opinion that the intent was different than what was demonstrated?

Mr. Mercury: Madam Chairperson, the answer to that question is yes. Counsel for the City of Winnipeg who appeared in the Manitoba Court of Appeal said to the Justice of Appeal in my presence and in the presence of other counsel that the city was free at any time to pass the uniform rate bylaw and it could. The court took that to mean that legislation they had the option at any time to do that which the Legislature said it should do.

That was frankly stated to the court. The city can, my lords, she said, can pass that uniform rate bylaw at any time and this legislation will cushion the

blow—that is what it means and the city is saying, well, we had an option. They had an option to go this way or that way. They went that way; they used the phase-in legislation. They want to go the other way—uniform rate bylaw; that legislation was in place.

Mr. Ernst: I think maybe you missed my point, and perhaps I was not clear enough, Mr. Mercury. The province introduced and passed an amendment to The City of Winnipeg Act in 1991, which allowed for phase-in legislation. That was introduced and passed after the city had taken the decision not to have a uniform bylaw and after it had taken the decision to tax on the basis of the old rates and the new assessment.

Do you think reasonably that the Legislature would consider an amendment after the city had taken that decision, an amendment to the act to allow it for phase-in that was not applicable to that decision?

Mr. Mercury: Mr. Minister, I was not privy to the deliberations that you and your advisors had with respect to adhering to the city's request. The way the legislation was drafted, the way the legislation appears on the books, one can argue it either way. The intention in legislation is not what the intention is of the minister or of the special advisers to the minister. The intention of the Legislature can only be manifested by the words it uses, and the highest court in Manitoba interpreted the Legislature's intention by examining those words, and that is all we have to go by. That is the correct interpretation of the legislation.

* (2100)

Courts of law are not entitled to look at the debates in Parliament or the debates in the Legislature to try to ascertain an intention. That is not admissible. With all due respect, the courts examine the intention of the Legislature by reading the words that were actually used, and that is what the court did in this case.

Madam Chairperson: Are there further questions of Mr. Mercury? If not, I would like to thank you for your presentation, Mr. Mercury.

I would like to draw attention to all members, both in the audience as well as committee members, that the Legislature has a vote this evening in the Chamber at which the attendance of all members of this committee will be required. At approximately 9:28, we will take a short recess, and this committee

meeting will reconvene after our formal vote in the Legislature. It should take, the minister tells me, approximately 15 minutes. Thank you.

I would now ask Mr. Childerhouse to come forward and make his presentation please.

Do you have copies of your presentation for members of the committee?

Mr. Steve Childerhouse (Winnipeg Chamber of Commerce): Yes, I do.

Madam Chairperson: Thank you.

Good evening, Mr. Childerhouse. You are representing the Winnipeg Chamber of Commerce. You may proceed.

Mr. Childerhouse: Thank you, and thank you, ladies and gentlemen. It is a pleasure to stand before such an august group at such a late hour, but it is an important matter that we deal with here, and we at the Winnipeg Chamber of Commerce on behalf of the business that we represent are very concerned about it.

The Winnipeg Chamber of Commerce, with a membership of 4,000 individual reps from 1,700 member firms and organizations, is the voice of business on issues of common interest to the business community, and the issue of business tax is certainly a matter of common interest. Contrary to the perception that many people have, the majority of our members are small and medium-sized business. Seventy percent of our members have less than 50 employees.

To begin, the Winnipeg Chamber of Commerce is opposed to the proposed legislation which will result in the business tax roll being validated for 1991. The court ruling at issue requires the entire business tax assessment of \$44 million to be returned. The city has stated that this would result in a huge deficit that would have to be covered in the 1992 year through a significant property tax increase. The city does not see this as an appropriate course of action, nor does the chamber, nor do the businesses which were involved in the court action.

At no time has the chamber or the business community argued that no business tax should be paid in 1991. We are, however, very concerned with the exorbitant increases which resulted in 1991. This was due to two things: the reassessment of business premises to bring the values to 1985 levels as required by provincial legislation, and the maintenance of the variable rates. The chamber

supported bringing the values closer to market value, but the tax rate should have been adjusted to minimize the impact. That adjustment should have included moving to a single rate of tax. We agree there would have been short-term pain. In the long run, for fairness, we would have had a long-term gain.

The situation we find ourselves in now is that we have a very frustrated business community. We have a backdrop in which the provincial government claims to be interested in economic development, and there have been good initiatives to support this direction. At the same time, we have the city government which, one could argue, is working at cross purposes to the province's economic development objectives.

Consider these events. Last March, the business tax options were tabled. City councillors and the business community were given less than two weeks to make a decision, one which resulted in some businesses being subjected to business tax increases of 200 percent to 300 percent.

City Council acknowledged that all was not right with the antiquated variable rate system set in 1938 and approval was given to form a city task force on the business tax last July, chaired by the Commissioner of Finance. The level of interest on the part of the city has to be questioned, given the lack of effort that has gone into getting the task force up and running.

In spite of repeated follow-up by the chamber, an invitation to participate was not received until the end of November, and the first meeting will take place tomorrow morning. In the meantime, we continue to hear reports of questionable spending by the city, with the most recent example being the Mandarin Building lease, which is estimated to cost the taxpayers \$1 million more than is warranted in a ten-year period. Granted, we do not have all the facts; there are probably arguments on both sides, but I believe it is questionable.

When the business community exercised its legal rights and won the business tax case, the city solution was to simply get the province to pass legislation that would allow the city to ignore the court ruling. They used to say you could not fight City Hall; now you can fight City Hall but you cannot win.

The province is now entertaining the city's request. If the provincial government can overrule

the courts, what has happened to our basic rights? The province says it had intended to give the city the option to use a variable or uniform business tax. This is not now how the courts have interpreted this legislation.

As citizens, we can only expect to act in accordance with the law. We cannot be expected to know what the government was thinking when it wrote the laws. This is the basic unfairness in the matter before you right now.

I can appreciate the arguments the minister has made in putting forth this new legislation to better reflect the original intent. I think we would all like to see more clarity in our laws, but until such time as those laws are corrected, they are defended by the courts. Challenges are made to actions that do not conform to the laws, and this is what has happened in the business tax case.

Is it any wonder the business community is disillusioned? We want to work with all levels of government to spur economic development.

As a first step, the tax burden on the general public, including the business community, has to be examined. This is part of our recommendation on how the city should deal with its current problem. The remedial legislation should not simply validate what the courts have ruled is wrong. This is completely unfair to those who placed their faith in the court system. A compromise, a win-win needs to be reached. The business community is quite prepared to pay a business tax. If an amendment to The City of Winnipeg Act is to be made, it should be to allow for the rebilling of the 1991 business tax under the terms which were in place in 1990, allowing for the collection of \$36.6 million.

* (2110)

The shortfall of \$7.7 million should be handled through expenditure restraint. Surely, with a \$646 million budget, a 1 percent reduction in spending can be realized. There are a number of businesses that are going through a recession and are finding opportunities, making very hard decisions on cuts. We have done it at the provincial level; we have got to do it at the city level. Both the chamber and the province have been urging the city to do this, to exercise greater spending restraint.

Tomorrow morning our task force is going to start. We are going to have a meeting, the first of several, to begin working towards a fairer tax system, hopefully based on a uniform rate of tax, with

sufficient time to prepare for adjustment. We hope to come up with a system that will encourage, rather than discourage, business investment. We are not asking the city to deal with the \$44 million shortfall. There is a compromise; there is a win-win. There is more than one option suggested by the city. I am not saying that this is going to happen in the next two weeks. Tack it on to next year's budget, and we will find a way to reduce expenditures to make the budget balance.

We are suggesting that remedial legislation be passed which would allow the collection of \$36.6 million, a decision that would be fair to the business community and the city as a whole.

Thank you. Those are my formal remarks.

Madam Chairperson: Would you be prepared to entertain questions, Mr. Childerhouse?

Mr. Childerhouse: Certainly, I will answer to the best of my ability.

Madam Chairperson: Thank you. Are there any questions of Mr. Childerhouse by the committee members?

Mr. Childerhouse: I hope that signifies that I have been very clear and that you are not bored to tears or that Michael Mercury has answered all of your questions before.

Madam Chairperson: Thank you for your presentation, Mr. Childerhouse.

Mr. Sidney Wolchock. Excuse me, do we have the correct name for the record? I have on one sheet Samuel, and now it has been changed to Sidney.

Mr. Sidney R. Wolchock (Private Citizen): Sidney R.

Madam Chairperson: Sidney R. is correct? Thank you. Welcome, Mr. Wolchock. Would you be seated please. Do you have copies of your submission?

Mr. Wolchock: No, I do not. Due to the lateness of the hour and the time that was allowed, unfortunately I did not have time, but I will speak very briefly, Madam Chairperson.

Mr. Minister, members of the committee, I am drawn here today as a private citizen, although many of the clients of Wolchock and Company were adversely affected by the business tax and the changes that were implemented by the city. I am concerned as a citizen, because I think that this entire matter can be dealt with in terms of two words: responsibility and integrity. I think that those are the

two words that denote the elements that are and seem to have been missing from city government for some considerable period of time.

My learned colleague before me very aptly illustrated many deficiencies in the legislation, and I certainly concur with his comments, and indeed there are others, but I do not want to direct myself to a technical argument about the legislation or the deficiencies in that legislation. They will speak for themselves and some day, no doubt, be called into question directly.

I would like to talk about the importance that we have to the people that we serve, to the citizens of the city of Winnipeg, to the taxpayers, to the business people and their employees who will likely suffer very adversely if we do not rectify the situation quickly. The newspapers have been quick to criticize city government. They have done so on a number of occasions recently, and you have heard the examples: leasing buildings, overpaying rent, spending monies foolishly and the like. All of those no doubt have validity or some validity to them. However, if we dwell on the two words that I think are important, namely, integrity and responsibility, I believe that this matter can be resolved very simply by a transitional or interim period to allow the City of Winnipeg to raise some of the business tax that it requires in this interim period, be it \$36 million or \$34 million or what have you, but that the legislation should very carefully monitor the entitlement and the authority of our City Council, and require fiscal integrity, the same integrity that my colleague mentioned the minister is so desirous of attaining, certainly not only for that body, but for this one as well.

I believe that can be done with a minor change to this legislation. It would require an additional section or two, but since this legislation in the parlance of the '90s has been fast-tracked, so to speak, Mr. Minister, I think it behooves us to make certain that in the fast-tracking, we do it correctly, and not merely to accommodate the City of Winnipeg.

After all, we ought to be asking ourselves, if we are responsible to the people, what have all the constituent parts of the City of Winnipeg been doing this last year or two when they knew what they had to do? Where were the assessors? Where were all the bureaucrats and the mandarins that we pay so highly? There was a legal department. There still is a legal department as far as I know. The courts have clearly told these people that they were wrong. Mr.

Mercury handled the case and he read you the judgment, the decision, and the Court of Appeal has come down very hard on the city.

Recently in one of the papers, if I may quote, Mr. Minister, the editor said: But the city and the province between them are not managing efficiently the tax powers the City Council now exercises. Mr. Norrie and the civic departments might profitably spend less time dreaming of taxes they might levy some day and attend more closely to the use of the powers they already have.

With respect and without intention to criticize anyone, I believe that these people must go back to their first premise. They are responsible to the citizens of Winnipeg. Let them display that responsibility. They must act with integrity and it is hardly an action of integrity if having erred—and grievously, I might add—they immediately turn to this body and ask them to correct an error which as an ordinary citizen, we would never be entitled to do.

So if they are acting for the ordinary citizens of the city of Winnipeg, let them discharge that responsibility properly, honestly, decently and with the integrity that I submit the job commands. Let them tell their employees—and there are thousands of them in the city of Winnipeg—to do their jobs properly, not improperly. If they cannot do the job properly, let them move on, let them be discharged.

After all, Mr. Minister and members of the committee, if you are asked to fast-track this legislation, then in so doing, I respectfully submit that you should add the controls that are warranted. If we do not add those controls, then the City of Winnipeg is going to continue to spend our money willy-nilly and we will soon be faced with another catastrophic increase and business will leave at an even greater pace than it has in the 1990s. I submit that amendment can readily be attended to, Mr. Minister, and that it would stand us all in good stead.

Thank you.

* (2120)

Madam Chairperson: Thank you, Mr. Wolchock. There may be questions from the committee. Are there questions from any of the members of the committee? Thank you for your presentation.

Mr. Frank Pattie from Great-West Life. Do you have copies for the committee, Mr. Pattie? Thank you. You may proceed, Mr. Pattie.

Mr. Frank Pattie (Great-West Life Assurance Co.): Madam Chairperson, members of the committee, I have a short presentation for you this evening. Great-West Life is a member of the Chamber of Commerce. We are represented by the Chamber of Commerce in respect to the comments made by Mr. Childerhouse, but Great-West Life has a unique situation, I guess, with this business tax increase in 1991 and that is kind of outlined in my second paragraph.

The business taxes on Great-West Life Centre across the street increased from \$447,000 in 1990 to \$898,000 in 1991 as a result of the application of the old variable rates to the updated assessment values. We have the distinction of having the largest dollar increase in business taxes in the city of Winnipeg. It is our view that overall increase in business taxes of 20 percent—this is the total increase in business taxes for the City of Winnipeg—was unreasonable and, further, that the distribution of the increase was extremely inequitable as evidenced by our own increase which is about 100 percent increase.

While some form of remedial legislation is required so that a reasonable amount of business taxes can be collected, the amending legislation should not simply overturn the Court of Appeal decision. The amendment should provide for a quick transition from the old basis of taxation to the basis that should have been used in accordance with the Court of Appeal ruling.

For 1991, the amendment should reflect one of two solutions. The 1990 business tax assessment and tax rolls could simply be extended to 1991. These are the figures that were referred to before which would leave the city with revenue of approximately \$36 million instead of the \$44 million that the application of the variable rates to the updated assessments provided. This solution would create a deficit for 1991 that would have to be made up from a combination of revenue and expense management in 1992. However, it provides some time for the city, business and the community to establish a more acceptable solution.

Another solution which would seem to be acceptable as well would be to give the city the option to simply rebill for 1991 using a uniform rate of tax. Under this approach, the city could still determine how much revenue it requires for 1991. In our view, any reasonable uniform rate would

again result in a deficit in 1991 that would have to be recovered in 1992.

I guess what makes the second option a viable solution is that it does use the uniform rate which is what was indicated that should have been used according to the Court of Appeal.

Regardless of what is decided to rectify the situation for 1991, it is very important for 1992 and beyond that the established legislative requirement for a uniform rate be maintained. A uniform rate will make business taxes equitable for all business and make Winnipeg business taxes consistent with those in the other municipalities in the province.

I would be prepared to answer any questions, Madam Chairperson.

Madam Chairperson: Thank you, Mr. Pattie. Are there questions of Mr. Pattie?

Mr. Edward Connery (MLA for Portage la Prairie): Mr. Pattie, as a business person, I look at what you were paying at \$447,000 and a new assessment of \$898,000. Were you paying too little taxes before, or how would the \$898,000 compare to other cities and other jurisdictions?

Mr. Pattie: Yes, it is very difficult to get comparative figures—

Madam Chairperson: Mr. Pattie. Excuse me. Just so I can identify you for Hansard recording purposes. Please proceed.

Mr. Pattie: Madam Chairperson, it is very difficult to make comparisons from one jurisdiction to the other. Let me characterize it in this way. When you combine the \$898,000 along with the \$2 million that we pay in property taxes, our total tax load to the City of Winnipeg is close to \$3 million. That represents \$6 a square foot on our complex across the street. We can go out into Inkster Industrial Park and rent a whole warehouse for less than that amount.

Mr. Connery: What are the number of employees that you have at Great-West?

Mr. Pattie: 2,200 across the street.

Mr. Marcel Laurendeau (St. Norbert): I think Mr. Connery hit on one of my questions, which was 2,200 employees.

These 2,200 employees, would most of them reside within the city of Winnipeg?

Mr. Pattie: Madam Chairperson, I believe most of them would reside in the city of Winnipeg or certainly in the surrounding communities. I would say the vast majority of them obviously would be in the city of Winnipeg.

Mr. Laurendeau: So 2,200 employees, what type of a tax roll would that give our city?

Mr. Pattie: It would provide a pretty substantial tax roll to the City of Winnipeg. I think that is the point that has been made by the Chamber of Commerce in terms of the impact that this type of an increase has on the business community. The more expenses a business has, the more difficulty a business has in making their profit objectives. They will find ways to cut expenses. One of the ways is to reduce jobs. That just causes a further kind of downward spiral for everybody.

Mr. Laurendeau: You have another office in Denver, I believe, in the States. How many employees are employed there?

Mr. Pattie: I believe there are about 1,600 at this time.

Mr. Laurendeau: What type of business taxes and property taxes do you pay on the building, which, I believe, is the same size as this one in Winnipeg?

Mr. Pattie: I do not have those figures handy with me. I am sorry. I do believe they are substantially less than what they are here, but I cannot substantiate that at this moment.

Mr. Connery: Do taxes of this magnitude have any danger that you might move more of your business outside of Winnipeg?

Mr. Pattie: Madam Chairperson, Great-West Life, I think it has been stated that we have no specific plans at this point in time to move further parts of our operation outside of Winnipeg. As time goes on—I think every business, whether it is Great-West Life or any other business, has to look at the cost of operating in a particular location. I cannot say there will not be situations arising in the future where, for reasons of economics, we might decide to move operations elsewhere, but that is not a threat that Great-West Life is making today. I would like to make that perfectly clear.

Mr. Laurendeau: Mr. Pattie, there is one thing that Great-West Life has always been to the city of Winnipeg, and that is not only a good citizen, but a very good corporate supporter as far as all the arts and other groups within the city. Do you think that

this increase will have a big effect on how you contribute to the arts and the other groups within the city as far as charities?

Mr. Pattle: Madam Chairperson, I am not specifically aware of the budgeting for our corporate donation program, but I guess all I can say is that Great-West Life is taking a very close look at all our expenses these days, as are many companies. I think that having to pay tax increases of this nature, it cannot help but have an effect on the amount that we are able to contribute to other areas in the city.

Mr. Gary Doer (MLA for Concordia): Thank you very much. We are into a bit of an economic question and answer here. First of all, I want to thank you for your presentation. I know Vice President Wilton, I think, was before the committee at the last set of hearings. I have read the financial statement from Power Corporation recently. You did not have a bad year last year, as I recall it. How is the profitability of Great-West Life in Canada in your last financial statement?

Mr. Pattle: You are talking with respect to 1991?

Mr. Doer: The last public statement. I think it was '89-90.

Mr. Pattle: Our 1990 results were—I guess I could term them, from the board's perspective—satisfactory. Certainly, the 1991 results in relation to those results are not as good.

Mr. Doer: Can you tell us, just so we have information, what would satisfactory be in 1990? Just—you made money. What would the profit or surplus be in 1990, just for—I am trying to remember the number. I remember the Power Corp number, but I cannot remember Great-West Life.

Mr. Pattle: I do not have those numbers with me this evening.

Mr. Doer: If you could give us a round number, an approximate number to help us, it would be—you do not have to be—

Madam Chairperson: Order, please. At this time, there will be an approximate 15-minute recess for a formal vote in the House.

* (2130)

* * *

The committee took recess at 9:30 p.m.

After Recess

The committee resumed at 9:47 p.m.

Madam Chairperson: Order, please. Will the committee please come to order. Councillor George Fraser representing St. Charles Ward for the City of Winnipeg.

Mr. George Fraser (Councillor, St. Charles Ward, City of Winnipeg): Thank you, Madam Chairperson, Mr. Minister, members of the committee.

I will just be speaking. I do not have a text that I can circulate to you. I did not get to the photocopier in time, and the mayor would not let me use his.

Madam Chairperson, when you get caught with your pants down and it is for a short period of time, it is embarrassing. If it continues for a longer period of time, it is obscene.

I want to specifically address the one aspect of the legislation which I think is very important from our perspective, the City of Winnipeg, and particularly has to do with the relationships between governance and administration within the city of Winnipeg, which I believe we are all quite interested in as legislators.

I am somewhat embarrassed to be here at this time in a fiscal year, particularly at this time of year, this festive occasion, to be doing some patch-up work, but I accept that responsibility as an elected official at the City of Winnipeg level.

I am here as a minority who opposed the actions taken by my colleagues at City Council. I am a minority in this case who is supportive of fair and equitable application of the business tax legislation in the city of Winnipeg, but I accept, as I have said before, Madam Chairperson, that there was a corporate decision made, and we find ourselves in a dilemma. Unfortunately, the only recourse we have right now is for those of you around the table and other members of the Legislative Assembly to correct an error.

I have talked to many of the citizens in the city of Winnipeg respecting this dilemma, both business persons and private citizens. They both agree, and I think you have heard the business community here say that they both agree by saying that we have to work our way out of this. I will not be addressing all of the technical aspects of the legislative changes, although I have listened intently to some of the comments made by Mr. Mercury, and I recognize

some of the shortcomings, but I am sure, as he said, that the drafters will have to go back to the table and do some redrafting in that respect.

* (2150)

The page in the appeal court decision which attracted my attention was on page 14, and I am assuming that Mayor Norrie will probably make reference to a particular sentence in a particular paragraph. He did so in terms of his correspondence to City Council at the time that we first learned of this appeal decision. He said and quoted: A piecemeal interpretation of the phrases—and I am quoting directly from the document of the appeal court—and the words of the transitional section does not ultimately provide the answer to the question posed to this court.

The mayor placed emphasis on the following sentence: The best that can be said is that the transitional section is vague and contains inconsistencies within itself.

Now, the mayor stopped there, but it goes on to say, and I think this is a very important part for those of us as elected officials to pay attention to: However—the decision went on to read—in looking at the new act and the municipal act as a whole and reading them together, it appears clear that the intent of the Legislature—the body that you represent—was to initiate a business tax scheme that was to provide uniformity throughout the province and to eliminate, as soon as reasonably feasible, the old system based upon varying tax rates and numerous classifications. It was not the intent of the Legislature to perpetuate an old scheme under the guise of new legislation.

That was one of the principal areas of support that I gave to our dilemma that we faced with business tax, and the very brief amount of time that we had for discussion, I think it totalled nine days including consultation. I am on record, I spoke out against it, and therefore am here today, again, given this opportunity to, as very seldom happens, revisit decisions, particularly if you are on the losing side. I guess that is a bit of a bonus if you are a politician.

In the context of trying to arrive at this decision, this uniform rate, I was able to read, as a new councillor, the history and the development of the issue of business tax reassessment and the application that would be used from an administrative perspective. I would just like to remind this committee and I know there are

members here who were part of that discussion, this is not new. The minister, I am sure, is very aware of it. In fact, it was made mention of Mr. Weir and the task force that he headed, and as a consequence of that, in 1984, there was a task force established at the City of Winnipeg that dealt specifically with the issue of business assessment within the classifications system and the tax rate structure for the City of Winnipeg.

It dealt with recommendations that came forward, that went through committee and I am sure went through substantial discussion, formally and informally.

On July 11 of 1985, the committee on finance dealt with the task force report and in July of '85, the council adopted Clause 7 of that report of the Executive Policy Committee regarding the matter, and in so doing, adopted Recommendations 2 and 3 of the task force which said: Recommendation 2, until such time as Recommendation 1 can be implemented, the task force recommends the following steps be taken: That the City of Winnipeg retain the business tax as a source of municipal revenue; that assessment for business tax purposes continue to be based on the annual rental value of business premises; and that the annual rental value of business assessment be updated regularly to maintain a current level of value; and, importantly, that the present classification and rate structure be replaced by a single rate of tax, such rate to be established annually by bylaw.

As a result of that decision, representation was made through the Urban Affairs department to the Province of Manitoba. There were, I assume, discussions that went on administratively.

In fact, I have a letter that was from Claudette Toupin, Senior Urban Development Planner, with the Province of Manitoba, Urban Affairs, written to Mr. Frank Steel, the City Solicitor, City of Winnipeg. I focus particularly, because keeping in mind that the City of Winnipeg had reached a resolve in terms of a uniform tax application for business tax, there was communication, correspondence back and forth as the legislation was being developed.

In this letter, the second paragraph reads: "The amendments to business assessment and taxation legislation have been drafted in response to requests from council that the present business classifications and rates of taxation be replaced with a single business tax rate to be determined annually

by Council by-law. The same tax rate would therefore be applied uniformly to all businesses."

That letter, there are other aspects of it which I think capture the essence of what was occurring at that time and in that time frame in particular. That letter was dated November 21, 1988; '84, '85, '88, '89 legislation has changed.

I go back to the decision of the appeal court and the references that I read into the record here on page 14, I believe, when cutting through all the legalese and everything else that has been said and all the debates—and I can assure you that we have seen all the charts and all the projections in that respect—that the business community had every right to expect that we would apply a uniform rate. They had every right, and I believe they understood fully, that the so-called controversial transitional section was there indeed for just a specific, probably short period of time as we moved our way from the old system to the new.

The only thing I can add at this point, because perhaps I am a little frustrated in terms of where we find ourselves at this point—although I know the business community would be much more frustrated and is much more frustrated than I am, because they have to pay the bills. The only thing I can see at this point that I find great difficulty with is the fact that, as legislators, you are going to allow this municipality of the City of Winnipeg to continue through the next taxation year applying the old formula.

I am sure the mayor and perhaps other administrators from the City of Winnipeg will stand up here and say, we must consult with the business community. If you go back through the history, there was lots of consultation that occurred on the issue of whether or not it should be a uniform application of the rate, and I think there was consensus on that basis, on that discussion. So I do not think that is an issue at all, to be quite frank.

Can the city of Winnipeg handle the administrative adjustment to a single rate? I do not think there is any problem. In fact, as legislators, and I can give you the assurance from my stand point as an elected official, we should make certain that this following year the city of Winnipeg does apply the uniform tax rate. Unfortunately, only you who sit around this table and others within the Legislative Assembly can make that happen.

I am saying, Mr. Minister, until the last part of the clause there, until the 1993 taxation year, as it reads within this clause, should be eliminated and perhaps replaced with some other wording that might accommodate what I feel to be a very important principle where we find ourselves.

I accept the responsibility, and I am sure other councillors do, that given the assistance that the Legislature will give to us for the past taxation year, I believe we can give the assurance back to you that we will be diligent and make sure that the 1992 tax year will have a uniform rate applied to it. I think if we do not issue a short time frame with clear direction to the administration and those responsible within the city of Winnipeg, including myself, the task will not get done.

* (2200)

The business community has been waiting since July to meet with the task force that was set up to bring some interim solutions to this matter, and one of the initial solutions is the application of a uniform rate. There are other aspects that I do not think we are ready to talk about and that is perhaps applying the business tax to the realty roll. That is another issue, but in the interim I think the decision of the appeal court is clear. It is supported by the history of how we resolved the issue and where we find ourselves at this point.

The only thing I have problems with right now to get out of this chaotic situation, this Catch-22 that we find ourselves in, Mr. Minister, is to be very precise. Yes, we have to support what has occurred previously even if we do have to, as some have suggested, accept some loss in the business tax revenue base, but at least as a minimum we should be asked to go as city elected officials, as legislators at our level and deal with the business community as it was intended, as I believe it was clearly understood by the legislator of this province and the original presenters of the business tax amendments, that being the City Council of those days and of these days.

Thank you very much, Madam Chairperson.

Madam Chairperson: Thank you, Mr. Fraser. I am sure there will be some questions of the committee.

Mr. Ernst: Councillor Fraser, I appreciate that the bill has not been widely distributed or available. It only came out this afternoon some time, for which I again apologize. Notwithstanding that, are you aware that in the bill is a provision that should the

City of Winnipeg pass a uniform business tax rate for 1992, the effects of what we proposed in the legislation will be nullified? The city is entitled to do that, to pass a 1992 uniform rate bylaw and avoid the fixing of taxation rates for business tax as we would propose to do for 1991.

Mr. Fraser: Yes, I am aware but I guess what I am clearly saying is that option should not be there. I believe that we should be requested to apply the uniform rate, period, because we have the option to continue on the varied rate. I do not believe that is correct, in the face of the judgment, and in the face of the history that I spoke of, and in the face of the spirit that I think we need to improve, the spirit of co-operation we need to improve between the City of Winnipeg and its business community.

Mr. Edwards: Councillor Fraser, I agree with you certainly on your rating of the judgment and, indeed, the legislation. It struck me at the time not knowing the history as you have illustrated it here with the Weir Commission and others that it is pretty clear. The instruction to the city, at least on my reading, was to move to a uniform rate and the transitional position it struck me was also pretty clear that it was a short-term stop-gap measure to alleviate undue increases while we move to the uniform rate.

However, you also go on to suggest that at this point there is unanimity in the business community or at least there is consensus or there was consensus—perhaps I am misquoting you. It is my understanding that in fact there is not that consensus. I believe, I may be wrong, I do not know that there is a representative here before our committee tonight, but I believe that the Canadian Federation of Independent Business has spoken out in favour of maintaining some form of variable rate. Do you know anything about that?

Mr. Fraser: I know it is their position. I was giving my impression of my contact with the business community. That is all I can give you at this point.

Hon. Linda McIntosh (Minister of Consumer and Corporate Affairs): Thank you, Councillor Fraser. It is good to hear you at a podium again. It takes me back to our school board days, and you have not changed your style.

Mr. Fraser: Some say I have.

Mrs. McIntosh: You mentioned you had talked to businesses, and I am just wondering if you could give me a quick synopsis of the types of businesses

you have talked to and the message you received from them. Small businesses, large businesses, is the message consistent, and what is that in a brief summation?

Mr. Fraser: Yes, I think all levels of business I have been able to come in contact with because of the nature of my day-to-day activities. I think that the one positive thing is that, as a result of this very public discussion on business tax, I think we have a better informed business community. I think we have a better informed council with respect to the business tax, going back to the fact that this council really only dealt with it in a nine-day time frame. I am sure a number of you are sitting around the table wondering quite where you are coming from on the whole aspect.

I guess the essence of what I hear from everyone is that they have had a chance to study it, they have seen the ruling, they have talked with each other, and the ones that I have spoken with again, I would emphasize, are supportive of a fair and equitable process. This happens to be a cornerstone which, again with the history that has evolved on this, this seems to be a cornerstone of the application of business tax. The single rate brings equity, fairness and uniformity to that application. We can debate the amount of the rate of increase, the percentage of the total pie. I think that they are prepared to debate that.

Of course, we as elected officials, all of us, have to deal with the issue of expenditures, and I think that is an overriding issue. I do not want to separate it from this discussion, but it is certainly something that we are going to have to deal with day after day through the period of time that is ahead of us all.

I just go back to the fairness and the equitable application, again what the appeal court ruling wrote into the record, and it is the provision of uniformity throughout the province. Our municipalities should be conducting its affairs in a similar way that other municipalities in the Province of Manitoba are conducting their affairs—simple.

Mr. Laurendeau: If I understand, Mr. Fraser, you are saying you would like to see the validated '91 rolls come back into play?

Mr. Fraser: No, I am saying I accept that, in our dilemma, we have to face the fact that the best solution in 1991 is to validate what has occurred. I do not want to leave any options for 1992. I want us,

as a City of Winnipeg, to get to work and apply those uniform tax rates as they should be applied in 1992.

Madam Chairperson: Are there further questions?

Mr. Doer: Yes, you mentioned you do not want any option for City Hall. Is it your understanding that the councillors at City Hall could not be persuaded to change, if that was the logical way to do. In other words, you do not want the option at all for city councillors to be able to make the choices between the two options?

Mr. Fraser: I believe that again our relationship with the business community at this point, I believe—and it may limit one other option, and that is the placement of business tax on the realty roll. Others may be speaking to that.

Where we find ourselves, with all the research we have done, and the decision of the court, I think that we have a responsibility to apply a uniform tax rate for the business community in 1992. It does not preempt the tax force from continuing to meet and discuss the issue of whether business tax can be applied against the realty roll. It does not preclude us from looking at more effective and efficient ways in assessment, and it does not, for example, preclude us from dealing with the issues of expenditure that I spoke of before.

* (2210)

Mr. Doer: So you just do not believe that City Hall should have the option?

Mr. Fraser: No, I think there is a dilemma here, and we have to be forced into an action position. I believe that sometimes, under pressure of a requirement, the job or the task gets done. It is evident to me that we have been dragging our heels since July, in terms of our present task force, and we have to address that as legislators, but I think that we have an overriding responsibility to the business community at this time to get on and do the job that we have to do, based on the appeal court decision.

Mr. Edwards: Madam Chairperson, I just want to follow up on Mr. Doer's question. In listening to your recounting the history of this, is it your position that the city in fact did make a decision on this when they requested the province to draft this legislation?

Mr. Fraser: Yes.

Mr. Edwards: Do you recollect that debate happening at City Hall and that conclusion being made? Can you give us any information as to how

that decision came to be made at City Hall, that is, did City Hall consider the alternatives and come to a reasoned decision that this was the way to go?

Mr. Fraser: I was not there at the time. Everything I have read from '84 through to '88, the '88 decision, indicates that there was great thought and research done on that basis and that it was at the time a corporate decision of City Council. I mean, I think it is documented by that letter that I read a portion of into the record. The Manitoba legislative bodies responded to that request, and the drafting process proceeded.

Mr. Edwards: Given that, and I believe you have indicated you did oppose the decision to go the way the city went with respect to the problem they faced in the appeal court, why did the city then not want to go to the uniform rate that they had asked for? Can you give us any guidance on that?

Mr. Fraser: Well, the decision I was involved in, there were several aspects to it. I recognized the uniform rate as being an objective of a fair and equitable taxation system. There was the issue of the assessment process. I do not want to throw this on the table as being a very simple decision at that point.

There was the issue of the assessment process and its impact on business. That, of course, brought to it another overriding factor of the requirement that the city had for revenue. All of that combined, particularly the assessment, the need for revenue and the sensitivity, I guess, that legislators have from time to time with respect to certain classes of taxation, the portioning that is presented by the province of Manitoba, I am sure every government has had a dilemma as to how it might apply that from a portioning perspective, and that debate still goes on.

All of those factors were at play when we made our decision. I think today here and part of our discussion at that point dealt specifically with the application of the uniform tax rate, which I felt was necessary based on all the evidence I had seen and the original position that the City of Winnipeg had taken.

The phasing in, I will just finish by saying, we had extensive discussion on the phasing-in process. Once the corporate decision was made with respect to the others, I too supported the phasing-in process, which the minister has alluded to and others have alluded to in terms of tempering the

application of this business tax decision within legislation. We had that flexibility, and we had it the other way if we so chose to use it, and we did not.

Madam Chairperson: Are there further questions of Councillor Fraser? If not, I would like to thank you for your presentation, Councillor Fraser.

Mr. Fraser: Thank you.

Madam Chairperson: Mayor Norrie, could I ask your indulgence just for 30 seconds while the Clerk distributes copies of your presentation, please? Thank you. Mr. Mayor, you may proceed.

Mr. William Norrie (Mayor, City of Winnipeg): Madam Chairperson, I am not sure there are sufficient copies for everyone. I did not realize that there were quite as many here, but perhaps you could share them. I propose to just review very briefly what I have tabled and then, obviously, make some comments.

First of all, I would like to indicate, Madam Chairperson and ministers, that we have a delegation from the City Council in support of the legislation. I am joined by our Deputy Mayor, Councillor David Brown who is here, Councillor Greg Selinger who is the chairman of our Finance Committee, Councillor Ernie Gilroy who is a former Finance chairman and now the chairman of the Parks and Protection Committee, also Mr. Bill Carroll who is the Commissioner of Finance and Mr. Frank Steel and Miss Goeres who are from the city's legal department. That is the delegation. We come to you with the official position of City Council which is the position in support of your legislation.

I would like at the outset simply to give you a very quick summary of the history of how we really got to where we are. There have been references earlier to the fact in February of 1985 there was a task force established, and it looked at the possibilities of how business tax rates might be re-established, might be examined, what might be done.

There was a recommendation that once a new realty tax assessment system was implemented—and that was really one of the reasons that the business tax reassessment was not done sooner was because we were waiting for the implementation of a realty tax. The members of this committee who were on council will remember that, the point being that for 17 years there had not been a reassessment of business tax. So for 17 years, there was no change in the business tax

levied against the businesses in the city of Winnipeg.

I guess we should point out to you, Madam Chairperson, and the members of the committee that the business community is not a monolithic community. When we speak of the business community, there are segments of the business community, and we have heard from some of them tonight.

Mr. Ernst has a letter from another segment, the Canadian Federation of Independent Business. In one of the paragraphs of that letter, right at the outset, they indicate as follows and I quote, this letter is to express CFIB's concern over last week's Manitoba Court of Appeal decision to render the City of Winnipeg's 1991 business tax as illegal. CFIB strongly urges the province to pass legislation to enable the City of Winnipeg to use the current multitiered rate system to collect its '91 business taxes.

Prior to the implementation of this system, the chairman of our Finance Committee, Councillor Selinger—and I did to some degree, but he essentially carried the ball—consulted with the City of Winnipeg Chamber of Commerce who did not agree with the retention of the multisystem, consulted with the Chamber of Commerce of St. Boniface, consulted with the St. James Chamber of Commerce who, incidentally, notwithstanding Councillor Fraser's presentation did in fact support the system that we introduced or retained. The St. James Chamber of Commerce were in favour of retaining the multisystem. So consultation was undertaken before we introduced the bylaw.

* (2220)

There was much discussion back in 1988 between the province and the City of Winnipeg both politically and administratively, and there was an agreement that there would be provision made in the legislation for the city to choose between a single tax rate and the variable tax rates. Bill 40 in '89 came into force with the city, given the power to establish its tax rates. You have to remember that legislation contained the following provision. It read as follows, in part, quote—it was contained a transitional provision which stated: ". . . until such a by-law is enacted, all former provisions of the Act relating to the manner of classification and assessment of business premises for business tax purposes . . . continue in full force and effect."

The point was, Madam Chairperson, the City of Winnipeg Council was given the authority to continue with the system or to move over to the single tax rate. Once the council enacted the bylaw, according to the advice that we have, and went over to the single tax rate, then it was impossible to move back. In other words, we could only move once; you could only deviate from the multilevel system and go over to the single system once.

It is quite true that, in the early days of discussion, back in the '80s, the city did adopt the recommendation of the task force, and that was to work towards the establishment of a single tax rate. I want to come later on to the reasons why that was not actually done at that point.

I guess the main point we have to consider—and there has been a lot of discussion about the interpretation of the Court of Appeal to the province's legislation. I suppose we recognize that obviously as the highest court in the province. The city won the case in the Queen's Bench, the interpretation was the other way. I think it is very clear that it was always the intention of the province and always the intention of the city that that process, whereby the City Council was able to make its choice, was clearly the intention of the legislation.

For its reasons, the Court of Appeal said we do not think that is clearly expressed, that it is not properly set out in legislation. Of course, that is their right, but the point is that clearly the city and province had that intention in the legislation. When the province enacted its legislation, that was clearly the intent.

Councillor Fraser referred to a letter from the Urban Affairs department, November 21, 1988, to Mr. Steel, our solicitor. Unfortunately, he did not refer to Section 6 of the letter which reads as follows: "There is provision for the continuing effect of the existing business classification and tax rates until they are replaced by the City's business tax by-law." Clearly, on the part of the province, the intention was to establish the ability of the city to move to the single tax rate but to maintain the present system until that bylaw was enacted.

I do not think there is any discussion, really, about that. I am not here as legal counsel for anybody. I am simply here as the officer of the council. That would be a matter to discuss with your draftspeople and with the proposers of the bill. Clearly, in that letter, it seems to me the Section 6, which was

omitted, there is a clear indication that was the intention.

Let me refer, if I may, Madam Chairperson, to a bit of information about the city's situation. This business tax for 1991 is worth to the City of Winnipeg \$44 million. Now \$44 million is a lot of money, even to members of the Legislature, I am sure.

If this remedial legislation is not put in place, then we will have a \$44-million deficit. We will carry forward into next year a \$44-million deficit. We are not allowed by law, and I think it is a good thing, to budget for a deficit, but there is no law that says we cannot carry over a deficit in fact, because we have to under circumstances, although I can tell you, since Unicity, there has been only one year in the history of the city of Winnipeg that there has been a deficit for 20 years, only one year, and that was the big snowstorm in November, where we had a \$5-million plow. Other than that, every year, there has been a surplus in the City of Winnipeg account.

The point is that, at the present time, our revenues to the city are drawn from the realty tax, both commercial and residential, 51 percent of our revenues from that source. The business tax currently in '91 will provide 7 percent of our income.

I think you should know that in other cities, Halifax, for instance, receives about 16 percent of its revenue from business tax; Calgary receives about 13 percent; Hamilton receives about 11 percent; Quebec City receives about 12 percent; Edmonton is about 11 percent; Winnipeg, as I said in '91 will be 7 percent; Regina is about the same, maybe 6.5; Mississauga is about 5; Ottawa is about 2; and Vancouver does not levy a business tax. They combine it with their realty tax, which is an option that the City of Winnipeg is looking at.

There has been some comment, both here tonight, Madam Chairperson, and in the press and in our discussions with various business groups and so on, that the City of Winnipeg somehow is really not managing its affairs very well. We are spending too much money; that is the source of the problem and our taxes are too high. Let me give you the latest figures that we have on the per capita expenditures of a variety of cities. Regina per capita expenditure in 1989 was \$809—for every person in Regina the council spent \$809; in the city of Winnipeg, \$833, the second lowest of the 10 cities surveyed. You go from Winnipeg at \$833 to Mississauga at \$834;

Vancouver at \$863; Hamilton at \$864; Edmonton, \$955 per capita; Calgary, \$989 per capita; Halifax, \$1,085; Ottawa, \$1,543; and Quebec City \$1,684. Obviously, we have excluded the large metropolitan areas of Toronto and Montreal because their situation is quite different.

But you can see in terms of the per capita expenditures of the City of Winnipeg, we are the second lowest. That is not to say we should not be the lowest, or maybe be substantially lower than the lowest. The point is that we are not out of line in expenditures with other cities of comparable size. So I think that that message unfortunately has really not gotten through, but that is the fact. The fact of the matter is that we are not spending money like drunken sailors as somebody said to me at one point.

We have a problem. We have a joint problem, I think—the Legislature and the City of Winnipeg. We operate under the legislation as passed by the province, by the Legislature. We, in good faith, chose to accept the option that was given to us by the Legislature and the option was to stay with the variable rate or to move to the single rate. The decision to remain with the variable rate was not taken lightly, and it was done after a great deal of consideration. Those councillors who are here tonight who were part of that will remember the many meetings that we had as councillors, informally. They will remember of the meeting of the executive committee to which all members are able to come, and many do on occasion. It was a very, very studied and deliberate decision.

* (2230)

The reason for that is it is very easy in terms of the theory and the concept of something to say, yes, that is what we should do. We are really committed to going along the route, to seeing if we can effect through the task force, which is made up of many members of the business community, to getting something that is perhaps more acceptable. But, let me tell you, ladies and gentlemen, that from the 6 percent rate up to the 20 percent rate as we now stand, we have 13,274 businesses who are subject to business tax. At the lower end of 6 percent, there are four businesses. At the top end of 20 percent, there are 23 businesses. At the 10 percent rate, there are 9,777. At the 12.5 percent rate, there are 1,545 businesses. At the 14.5 percent rate, there are 1,197.

I can tell you quite frankly, Madam Chairperson and members of the committee, when these figures were presented to our councillors it was very obvious that on the basis of the single rate, if we moved to the single rate, there were going to be a great number of businesses very negatively impacted. It is true that 23 businesses stayed at the rate of 20 percent and it is true that the six would come up, but there were only four there. The bulk of the individual business taxpayers would have been severely impacted because in order to raise the revenue that we needed we would probably have had to go to a fixed rate of 12 percent. The chamber and others have said 8 percent is what they estimate we should go to, but 8 percent is maintaining the old revenue source of \$36 million.

It was quite clear in our budgetary discussions and at the budget debate when council fixed the income that we needed 10 percent. Eight percent would not have yielded what we required. The end result would have been that roughly 10,000 businesses would have had an increase.

Now, the real source of the problem, Madam Chairperson, is really not the rate itself. The fact of the matter is that really what caused the, in many cases, horrendous increase, was the reassessment, because for 17 years there had not been a reassessment. Our assessor reassessed according to the legislation which was properly passed, and we reassessed. Of course, over a 17-year period those many businesses which did not change and the rental value did not change and so on, really did not pay any higher business tax than they had paid 17 years ago. There was no change in the assessment, so for 17 years there was a negative impact. When you get that 17-year gap and then you suddenly have a reassessment up to '85 level of values, you can see what happened. Even if we had gone to a single rate we would not have gone to a rate which would have been very positive for the vast majority of the business taxpayers.

You can argue, I suppose, that the people at the top end were very negatively impacted because they remained at the 20 percent or at the 18 percent or the 15 percent or whatever it was above the 12 percent. The fact of the matter is that when those figures were shown, then it was quite clearly I think the duty of the council to try to lessen the impact on the greatest number of people. We did that and we also introduced the phase-in which was a \$9 million

phase-in, and we came and got the legislation allowing us to do that.

It seems to me that if there was ever any misunderstanding about the original legislation which gave the City Council the opportunity to choose to stay with statutory variable rates or to go to the single rate, that when the additional legislation was granted allowing us to phase in, there was never any question raised at that point about the validity in the sense of changing the intention of the Legislature. Clearly, it seems to me, that was a reassertion of the intention of the Legislature.

Now, the court has taken a different interpretation and that is certainly their right, no question. The courts always have the right to do that, but the courts do not make law or should not make law. Sometimes they do, unfortunately, but they should not make law, that is not the function of the court. The court is to interpret the law, and they have interpreted this legislation differently than clearly the intention was.

So there is nothing improper, in my view, or in our view, Madam Chairperson, in correcting the legislation to make it comply with what your original intention was, albeit the Court of Appeal has had a different interpretation and that is quite proper, but the point is that your clear intention was to give the council that opportunity and the council exercised its discretion, and by a fairly substantial vote in council.

So I guess what I am saying to you, Madam Chairperson, and members of the committee, is that we support the legislation, obviously. We think that there is no reason to believe that your intention has changed. We feel that the City Council has exercised the jurisdiction that was given to it. We have established a task force which is comprised of city officials and councillors and members of the business community. We are going to be meeting and we are going to be attempting to develop a business tax solution which obviously will never satisfy everybody because, as I said, the business community is not monolithic, there are always going to be differences of opinion, but which will try to accommodate as many different positions as we can. The consultation that was done by Councillor Selinger, as chairman of the Finance Committee, clearly indicated the difference in the community, as I indicated.

So I suggest to you, and I do not intend to deal with the legislation, that is not my function here

tonight, you have your Legislative Counsel and you have legal advice. Our solicitors have reviewed it, they are satisfied with it and that is the advice that I get.

So I have no further comments, Madam Chairperson. If you wish I am sure Councillor Selinger and Councillor Gilroy, other members of the delegation would be prepared to respond to any questions, as I am prepared myself. Thank you.

Madam Chairperson: Thank you, Mayor Norrie. I believe there are questions.

Mr. Ernst: Your Worship, when we considered entering into this process with the co-operation of the other members of the House, I asked you a question, and that question was, given that the city is the primary beneficiary of the tax, the sole beneficiary of the tax, and that those people who and whatever our opinions with respect that the Court of Appeal is met or not, nonetheless took the city to court and won. It seemed at least morally correct to me that they ought not to have to bear a double whammy; that is, they ought not to have to pay the significant increase in business tax that was levied against them and, at the same time, be forced to pay the legal bill on the court case that they won.

* (2240)

It seems to me that a reasonable and prudent position would be that the city would pay—I am not a lawyer so I believe that proper terminology is—solicitor and client costs associated with the court case, having, of course, had the bill taxed by the appropriate officer in the court to ensure that there are not any windfalls associated with this as well. I think a fair and reasonable payment is the minimum that those people who initiated the court action would look for and I, for one, would agree with them, Your Worship.

So I would ask you, here tonight, on the record if you will support that position and advance it to the City Council?

Mr. Norrie: Madam Chairperson, I could say that Mr. Ernst and I discussed this earlier and I guess in view of the fact that it is provincial legislation we should maybe share the costs—I did not say that to him. What I indicated to the minister was, yes, I would be prepared to recommend, we did not actually discuss solicitor-client or court costs, but I think that we would be prepared to, as taxed, not an untaxed bill but a taxed bill, and I am sure that we

can work out something in that arrangement. I would be prepared to recommend that.

Mr. Edwards: Madam Chairperson, I took note of the comment by the mayor that the move to a single rate would have caused a great number of businesses to be negatively impacted. I guess I go back to a question I had asked earlier to Mr. Mercury, and I raised it with Mr. Fraser.

Had you moved to a single rate, a uniform rate, is it not true that you could have pegged that rate high, even as high as 15 percent under the legislation, and used the transitional provisions which are very broad and have no limitation on time and used those in fact to limit, as you did dealing with the assessment, the negative impact on the vast majority of businesses which would have been affected?

Mr. Norrie: Well, if we had gone to the 15 percent rate—(interjection)—I am sorry. I keep forgetting that you need to know the name.

If we had gone to 15 percent rate, I suspect we would have had a great deal of criticism from those who would have been impacted at the top end. The point of the phasing in, we capped it, as you know, at \$7,000, so there were many businesses at the higher end that did not get the benefit of the capping. That, I am sure, if we had gone to the 15, would not have been acceptable, but we did not need 15 percent to raise the revenue that we had wanted.

Mr. Edwards: Certainly not. Whether it is 12 or eight is not point.

Mr. Norrie: Well, it is very significant, whether it is 12 or eight.

Mr. Edwards: Perhaps I am not making my point clear enough. My point is that, with the transition provisions the way they are written, in fact, any increases could have been mitigated as successfully if not more successfully for the vast majority of businesses with the transition provision albeit with the uniform rate.

By my calculation, and let me just go through what you have handed out here, had you started, just as a premise, with the 15 percent rate, just going to the uniform rate, and used the transitional provisions, the transitional provisions for everyone under 15, that would have been all but 2 percent of the businesses. That would have been 98 percent of the businesses would have fallen under the 15 percent. That is, only 2 percent of the businesses

representing 12.5 percent of the tax revenue actually would have received a lessening of their tax, hardly a windfall to the large insurance companies, banks and all of those that we have now found out suffered two and three times the tax rate increase.

Mayor Norrie, I have some difficulty, I must say, going over the numbers you have presented here again, agreeing with the statement that the uniform rate could not have offered the same if not more leniency to council in relieving against high increases.

Let me just ask this question: How many businesses of the 13,500 are going to be negatively impacted, in your words, over the next three-year phase-in due to the new assessment?

Mr. Norrie: The new assessment is fixed. There will not be another new assessment for three years, as you know. The reassessment is there. The actual rate that we apply, if we went to the single tax rate, would actually depend on the amount of revenue we required. What we are hoping to do, I guess, is to bring the contribution of the business community to a more reasonable point in our budget process.

Mr. Edwards: That is not what I dispute. That is within your jurisdiction to decide if you want seven or nine or whatever percentage of your revenues are of the business community. That is not for me to decide. You, however, made a statement that you had no choice but to remain with the variable rates if you wanted to stay away from negatively impacting a large number of businesses. I do not see that, given the transitional provisions which are virtually without restraint in the legislation.

Now, let me just come back to the question, and maybe I did not put it correctly. With the new assessment, obviously increased rates, you have raised a lot of additional revenue. How many businesses of the 13,500 experienced tax increases in 1991?

Mr. Norrie: I cannot tell you that, Madam Chairperson. I suppose, perhaps, Mr. Carroll might or Councillor Selinger might have that, if they would like to join me. I cannot give you that figure. They may be able to tell you.

Mr. Greg Sellinger (Councillor, Tache Ward, City of Winnipeg): Our numbers show—and I think there is a handout in your package of information, the impact of the Court of Appeal business tax decision. If you flip through there to the fourth page

you will see a table that looks like this. If you look at that table, the first category, No. 1, is the variable rates with the phase-in formula. It indicates the number of businesses and the impact of the business tax on them. So, for example, in the first category you have 3,600 businesses that had a business tax increase of \$100 or less.

If you go to the next column you will see that 4,200 businesses had a business tax increase of \$300 or less. You can compare that—we do not have the column here because at the time it was not on the table—but the alternative would be, to raise the same amount of revenue would be to have a 12 percent uniform rate with a phase-in. It is not reflected on this table. It would not raise the same amount of money but essentially under the system we chose, maintaining the statutory rates which have been in effect since 1938, 65 percent of the businesses had a tax increase of less than \$300. So the greatest number of businesses were protected by that scheme, and that was the intent of the legislation, was to minimize impacts.

The letter from the CFIB and the chart that you have here indicates the vast majority of businesses are pegged at a 10 percent statutory rate. To achieve the same amount of revenue, we would have had to go to a 12 percent uniform rate, which would mean that if 80 percent of businesses are pegged at 10 percent under the variable rates, those 80 percent of businesses would be forced up to 12 percent, which would mean that they would have at least a 20 percent increase in their business tax.

We thought that was undesirable, to take that 80 percent of businesses and to give them another bump by going to a uniform rate. That was the analysis that we had in front of us. That was supported by the Canadian Federation of Independent Business, who did not want to further shift onto their shoulders during the recession. Clearly, we did not want to have a negative impact on anybody, but when we were forced into a corner we had data that showed the biggest job generators were the small business and medium business sector. They are creating most of the jobs in the economy right now. We thought that they should be sheltered with the variable rate structure and a phase-in credit that supported that. That was the rationale for the decision.

I should say that this information was discussed with the entire council and members of council from

all points of view politically in the majority supported that decision.

Mr. Edwards: It just strikes me, Councillor or Mayor Norrie—and I see here you have indicated 12 percent uniform rate phase-in—there is no limit on the phase-in under the transition provision. The phase-in can be any amount over any period of time under the legislation.

* (2250)

Floor Comment: That is right.

Mr. Edwards: I do not know from this the extent of the phase-in or the details of it. It does strike me that the phase-in can become more and more extensive as you set the uniform rate higher and higher, and as the phase-in period would wind down the uniform rate would also come down to a period at which, hopefully, if you are moving to a uniform rate all businesses would in fact pay the flat rate.

Was there any assessment done of the maximum ability of the city, that is, not necessarily the 12 percent uniform rate phase-in, to mitigate against the negative impact, because on your figures I see here that in reality it is only 2 percent of businesses representing 12.5 percent of the income or roughly \$3.7 million that would have benefitted from going to a flat tax. That means it is hardly a big win for the large businesses if you maximize the phase-in provisions. What that considered?

Mr. Sellinger: There was consideration of going to a 15 percent rate. I do not have the information in front of me. That was quite quickly dispensed with simply because—and if you want to comment, Commissioner Carroll—the phase-in credit backing off from 15 percent and going back in our view would not give as much protection as staying with the variable rates.

You have to remember that we were doing two things. We were doing a reassessment that was 17 years out of date, and we felt we should have as few moving parts as possible when you are bringing something up to date. Even with the calculation at 15 percent with a phase-in credit to protect, we thought that would have more unpredictable consequences for a greater number of businesses than keeping the variable rates and having a phase-in credit based on that.

Mr. Edwards: If that is the case, can we not assume from that that City Council essentially decided at that time to dispense with moving to a uniform rate?

Mr. Sellinger: At that time, yes. At that time the councillors were not comfortable moving to a uniform rate, given the assessment was 17 years out of date. They did not rule it out in the future nor did they rule out other alternatives such as looking towards rolling it into the property tax. They did not feel at that time that it was the right move to make.

Mr. Edwards: It is not for me to second guess that decision. The legislation, I think, people have said there was a misunderstanding, but it seemed clear that there was to be a move to a uniform rate.

I must say I remain unconvinced that properly using the transitional provisions, even with the new assessment, there could not have been at least as equitable a phase-in to the uniform rate as maintaining the variable rates.

However, aside from that, I note from the brief there is a request specifically, in bold letters, for a bill to validate the city's 1991 business assessment and tax rolls and overcome the effect of the Court of Appeal decision. There is a statement: "It is clear that in 1992, the City must move to a single business tax rate." Can we take from that that we can change this legislation essentially with your blessing to simply validate the 1991 roll?

Mr. Norrie: That would have to be a position of council. I cannot comment on that. We cannot commit the City Council at this point to do that. Our preference I think is the delegation that is here would be to go with the present legislation, assuming that the '91 roll would be validated, that the '92 would proceed on the same basis, and for '93 we would move to a single tax rate.

I might indicate to you, Madam Chairperson, the position of the City Council at the moment—it never changed—is to raise \$44 million with the variable rates as set out under their original budget. If we were to say to you we would go in '92 with a single rate, we are not authorized to do that. We would have to go back to council and have a decision made.

I can tell you that the scheme you have set out in the bill is much the most desirable that we have seen.

Mr. Edwards: Do I take it from your comments then that the city is going to be moving or can you commit, can you say whether or not the city even wants to go to a uniform rate in 1993?

Mr. Norrie: The city has established a task force. Our preference is to work out an arrangement with the business community, all segments of the business community, which will be acceptable to them and which will raise the revenue that we need.

I can say I personally and I am sure the council has no aversion to going to a single tax rate, but we want to do it in concert with the business community. We need time to consult with the business community. I think that you will find that if the legislation is passed as proposed, we would have the variable rates for '92, and that we would be either in a single tax rate in '93, or we might be in a combined real property business tax situation. That is another option which we have not done a lot of work on, but which is, as I say, in the city of Vancouver, that is their system. We want to see what the business community thinks about that, all segments of the business community.

Mr. Edwards: To clarify, do I take it then that the city may be back before the end of this session, sometime late in the spring, requesting either to not have to go the uniform rate in 1993, or indeed, some other form of means by which you would collect your business tax?

Mr. Norrie: I would not think so, no. I would think that the council would be prepared to live with your present legislation. There would be differences of opinion, obviously, amongst the various councillors.

I think in terms of the legislation as it now stands that that would be acceptable unless, and I put this caveat on it, unless there is anything that comes out of the task force, which would be a joint discussion amongst the many members of this committee in the city, which would change that position. I cannot comment on that because I do not know what is going to come out of the task force.

Mr. Edwards: Was there not the same kind of debate, that is, with the task force or with the business community back in 1985 when City Council adopted the recommendation to permit a single rate of business tax? Is this just not reinventing that wheel?

Mr. Norrie: I cannot tell you that. I do not think there was. Mr. Carroll would probably know. No, he is indicating, no, there was not. There was not a task force and there was not that process.

Mr. Edwards: There appears to be at least some disagreement, and I see Mr. Carroll coming forward. Perhaps you want to speak to him.

Mr. Norrie: I am advised by Mr. Carroll that there was an internal task force. I thought you were referring to a joint business. There was no external task force as we now propose it. So, there was an internal task force, but the task force internally was of city officials.

Mr. Edwards: Did that task force—do you know?—meet or consult with business in coming to its recommendations?

Mr. Norrie: Mr. Carroll indicates to me that no, there was not consultation. It was an internal task force.

Mr. Edwards: So, do you consider that, now that we are back doing the same thing again four years later, or sorry, six years later, would you consider that failure at that time which may or may not have gotten a wrong answer to have been a mistake in 1985, that there was not that consultation which, of course, ultimately led to requesting legislation which this Legislature actually gave you?

Mr. Norrie: I would not say it was a mistake, through you, Madam Chairperson, to Mr. Edwards. I think that it was really something that arose out of all of the studies that came out of the Weir report, and the fact that the general business community was not consulted might have been a misjudgment in process. You have to recognize that between '85 and now, the whole concept of consultation has changed.

There is much wider consultation on the part of all governments, with all segments of the community. So I do not think that it is classified properly as a mistake, but I think that you have to remember that when we go to the business community and we are having, as somebody indicated, a meeting tomorrow morning, we have very, and will have very, very diverse opinions from the various segments of the business community as to what should happen. Should it be a single rate? Should it be variable? Should it be combined? We will have to sort that out.

* (2300)

Mr. Edwards: I see from this chart which you have directed me to, that and I take from it, that essentially to raise the additional revenues, that is the \$7.7 million in additional funds that were raised in 1991, and to ultimately get to the, I believe, \$56 million, perhaps I am wrong on that, after the 3-year

phase-in, virtually every business in the city will have an increase in taxes.

Mr. Norrie: First of all, every business in the city, I presume, with maybe one or two exceptions, have had their assessment increased obviously, a 17-year holiday, an increase of rental values, business taxes based on rental value. Maybe that is an outdated concept. Maybe we should be looking at something else. I cannot really tell you whether they are going to be increased over the next 3 years because it will depend very clearly, I think, on what comes out of the task force and what course of action council chooses to go.

Mr. Edwards: Surely there is no question that to raise those additional revenues which are significant—you are going from some \$34 million, I believe, to a goal of \$56 million; I may be wrong, over 3 years—virtually every business is going to have its taxes increased, thereby, using your terms, negatively impacted.

Mr. Norrie: If that concept is carried through, the philosophy of that is that, as I indicated earlier, the ratepayers, the real property owners, pay 51 percent of the revenue of the city, compared to other cities where maybe 38 percent, 35 percent, 40 percent. Those cities draw a larger source of revenue from businesses. We have in the city of Winnipeg drawn less from the business community than all those other cities that I pointed out to you on the chart.

The concept, if it is carried on by council, would be to reduce the proportion of revenue from real property owners and increase the proportion from the business community, but that is a long way from being adopted.

Mr. Edwards: How did you arrive at or how did City Council arrive at the \$7,000 cap on the phase-in?

Mr. Norrie: I have to call on Councillor Selinger or Mr. Carroll again. I think it was a question of dollars.

Mr. Bill Carroll (Commissioner of Finance, City of Winnipeg): The \$7,000 cap was arrived at by taking the \$53-million number that you get in your levy, and if you are looking to get \$44.3 million, then you are left with \$9 million that you can use as a phase-in. In order to do the math on that, the only place to get is to cap, is to put a cap on because you are working with limited dollars. The way the legislation works, everyone has to have access to a phase-in, so the only way to get the dollars from the phase-in is to cap it.

Mr. Edwards: That is perhaps a debate for another day. I do not understand why that is the only way to do it. I mean, it can certainly be done presumably as a percentage of tax paid as simply working the math and applying the appropriate percentage to come up with the \$9 million.

Let me ask the next question. Given that cap and that decision, what do you think, Mayor Norrie, of a threefold increase in taxes in one year for the Delta Hotel?

Mr. Norrie: I do not like that, but I can tell you, if I can find the figures here, that under a single tax rate, they would have gone higher. My figures here are at 10 percent.

The 1990 tax bill was \$62,000. The statutory rate produced a \$165,000 tax bill, and 1991, if it had been a single rate, it would have been \$199,000, so from the point of view of the Delta Hotel, I do not like the jump that they had to take, but it was less than what they would have taken if we had been at a single rate at 10 percent.

Mr. Edwards: That is without any consideration of phase-in, which you were granted under the transitional provision.

Mr. Norrie: Yes, they would all be phased in. As Mr. Carroll pointed out to you, the phase-in can only produce the amount of money that we take over and above what we require for our budget.

We required \$44 million for our budget purpose. That was a political council decision, and in order to phase in a certain amount, we levied 53. The difference was used to phase in and the amount of the phase-in was governed by the amount of money that was taken.

Mr. Edwards: I understand that, and I have been through that with some of your officials. The higher the levy, the more money for the phase-in, which is why I go back to my initial suggestion that if you had used a high uniform rate at the outset you have more for the phase-in. It is just that simple.

Mr. Norrie: Yes, but it would have been a higher rate. That is true, there would have been more money to phase in, but they would have been taxed at a higher rate. They would have been taxed at 15 percent, and we did not need 15 percent.

Mr. Edwards: Do you intend to now go back and attempt to alleviate some of the very unusual and, I think, unfortunate tax increases which have been suffered by some businesses? Do you have any

desire, does council have any desire, to rethink that? Small businesses, of course, are big employment generators, but we certainly value large businesses, and the head office business we have in this city. It is not that common, it is very valuable to the city. I do not have to tell you that, I am sure. Is there some desire to bring some rationality to increases of that magnitude which really—and I think the word used was “unconscionable.”

I do not think that is overstating it, that kind of increase in one year. I do not think that it is fair to ask anyone to try to run a budget in these times and face that kind of increase in one year. I mean, does that not strike you as something that needs some remedy?

Mr. Norrie: It was obviously undesirable to have those businesses suffer the increases they did, but I go back to the original statement that it was generated and driven largely by the reassessment which had not occurred for 17 years. You understand the point, that it had not occurred for 17 years.

There were 17 years in which those businesses, if they had not changed their rental rates, did not have any increase in business tax. Our revenue from business tax had fallen from largely about 9 percent of our income to 7 percent in '91, down to 6 percent in '90, the point being that nobody likes to levy taxes on either large businesses or small businesses.

I had many meetings with the representatives of Great-West Life and I understand their problem. The point being, however, that what we need to do is obviously increase our general assessment base in order that we spread the carriage around. What is the choice of the City Council through you, Madam Chairperson, to Mr. Edwards, if we have a deficit of \$44 million as a result of the court's action? That has to be passed on to your house and to my house and to all the businesses.

We have to carry that through because there would be no business tax levy in 1991. I do not think even the business community thinks that is an acceptable position or a conscionable position, so I am saying to you really that what is needed here is remedial legislation. It is not the answer to the long-term problem. What we have to do is work out an arrangement that we can try to have as many components of the business community feel

comfortable with as possible and that is our objective.

Mr. Edwards: Let me be clear. No one, I do not think, on this committee is suggesting that you forfeit \$44 million. No one is suggesting that.

Mr. Norrie: That would be the result if there was no remedial legislation.

Mr. Edwards: Some bill in some form obviously has to be passed which is why all parties gave consent for this bill to come forward in this expeditious way. However, my only point is that there was no limit on the extent of your phase-in abilities—no limit. I do not accept that the City Council did not have the ability to move to a uniform rate with identical or less injurious effect.

Let me just conclude by asking you if in fact you then withdraw, and we should treat as not applying the statement in your brief that, "It is clear that in 1992, the City must move to a single business tax rate", you would not have us take that as the position of the City of Winnipeg?

* (2310)

Mr. Norrie: That refers, as I remember the piece, Mr. Edwards, to the impact of the court ruling. It is not our position. That is the impact of the court ruling, that according to their interpretation we would have to go to a single tax rate. They are saying that you cannot do the variable rate system.

I would like Mr. Carroll, Madam Chairperson, if I could, to speak to the first part of Mr. Edwards' question.

Mr. Carroll: Mr. Edwards has asked numerous questions on the phase-in and perhaps it would be helpful if we looked at that table: Impact of Various Business Tax Rate Structures and Phase-in.

I can explain basically what happens with the phase-in. If you look at line three, you will see that the peak number of businesses affected of 4,700 get increases of \$1,000 or less. That is at a 12 percent uniform rate with no phase-in and that yields revenue of \$53 million. If you look at the next line, putting in place a phase-in program pushes that 4,700 to the left, so that the peak number of businesses have increases of \$300 or less. If you go to line five, which is not there, which would be—and that line four yields \$39 million. If council wanted to get \$44 million out of business tax you would have had to have a 12 percent uniform rate with a phase-in, with a \$5,500 cap, because you

could not afford to spend \$13.9 million on phase-in cost.

Now, if you take the next one, which was the one that you asked about, that would be 15 percent. Just at 15 percent you would push the number of people, the maximum number of businesses to the right. That is the dynamic that is at work here. The more you levy, the more you push people to the right side, in other words, the larger increases. You are quite correct, you would have more money to phase in. Your phase-in, however, would be more expensive. So in the end when you do the calculation you would have a capped phase-in, but you would have more smaller businesses affected by that dynamic because you are pushing businesses off to the right side of the dynamic with the larger increase and then you push them to the left with the phase-in program.

This phase-in program is a three-year phase-in. It goes from 75 to 50 to 25, and the reason three years is done for phase-in is so that you do not get into the next reassessment. Once you get into the next reassessment, it is an entirely new program. So council has chosen three years of phase-in as being the most reasonable number of years to go, so that is sort of the dynamic that is at work with this system.

Mr. Edwards: Is that not though, Mr. Carroll, all just a question of how you design the phase-in as to whether or not you even have a cap or how you, in fact, use the additional revenues you have levied to provide relief? Is it not all just a question of how you design the phase-in, and were there different models in fact contemplated?

Mr. Carroll: Yes, there were different models, and you are quite right, you can do numerous things with the phase-in. This phase-in is a 10 percent over 75 percent phase-in. You could go to a 15 percent, so with this one everybody pays the first 10 percent and then any increase over that 75 percent of it, you pay the next 25 percent of it and 75 percent is phased in. You could go to 15 percent, which means more businesses pay more of it, or 20 percent or 25 percent or whatever. You could also change the number of years that you do it over. So there are things that you can do. However, you are only working with a limited number of dollars, and when you do the math on it you will find that the higher you levy, the more smaller businesses get impacted by that kind of a process.

Mrs. McIntosh: Madam Chairperson, I think that Mr. Edwards has asked just about all the questions

I wanted to ask except for one which—you just probably overlooked it, I am sure he would have gotten to it eventually. Picking up on one of the points that Mr. Edwards did mention and the response that Mayor Norrie made just simply regards the will or the intent of council for future—gee, this is really sounding funny.

You mentioned in the majority the councillors supported staying with the variable, not going with the uniform rate. You mentioned that they supported that in the majority. You later said the city has no aversion to going to a single rate, and you said you would think that council would be prepared to live with that. I appreciate that. I am just thinking that is your feeling on the issue, which does not necessarily make that reality in the future, as we know from other incidents. With respect, the feeling that council would be prepared to live with it is something I am not prepared to accept at face value just because somebody feels it.

Just to try and clarify the situation for me, in the majority, council supported this variable. How much was the majority? I mean, we know Councillor Fraser has stood up and said he did not support it, he wanted to go to a uniform base or rate. Were there others? Was it a big majority? Was he the only one? Were there two, three, who opposed it? I am just trying to get a feel for the degree of commitment. Do you recall how tight that vote was?

Mr. Norrie: As I remember, given the fact that we have 30 votes in council, my recollection is—and our deputy mayor has just confirmed this—there were 22 votes for it and seven votes against it.

Mrs. McIntosh: Twenty-two to seven, okay. That is what I wanted to know.

Mr. Norrie: More than two-thirds—

Mrs. McIntosh: I think all my other questions were answered—just a comment which I leave with the mayor for future consideration. He mentioned in order to get the \$44 million back that you would have to go to the taxpayers to get it, but to you and to me, to our houses, on our house taxes, to get the money back, and I agree that you probably would have to get most of the money back that way. You would not have to get it all back that way, of course. You could reduce expenditures in some areas. I know you have said you have a good per capita rate, but again that is something I leave with you for consideration because there always are ways to cut back a little bit, I think.

Mr. Norrie: May I respond to that?

Madam Chairperson: Mayor Norrie, certainly.

Mr. Norrie: Yes, we could, we certainly could reduce expenditures. There is no question about that. Between now and the end of the year, we are not able to adjust to the court order. I think you are speaking of the next year, in all probability.

Mrs. McIntosh: Yes.

Mr. Norrie: We could reduce expenses. The majority of our costs, though, are in services. We look at this every budget time as you will appreciate, and I know, Madam Minister, you have gone through this in other scenes, as I have. We are in the service business. Government is only in the service business and we provide fire, we provide police, we provide ambulance, we provide grants to the arts, we provide all of those things, which, if we cut back and we could, result in a reduction of services.

Now, you may not appreciate the fact, but in this past year we have reduced some 275 positions within the city and that is a pattern that we have been following over the past few years, so we have reduced positions. We are delivering virtually the same services with less people and we are now faced with a current budget that, if we reduce below where we are at now, we are going to have to reduce services. As a matter of fact, last year, we left 17 firefighter positions vacant. We have not filled a number of police positions as quickly as we could. We have left a number of administrative positions vacant, all designed to reduce costs.

* (2320)

Our social service budget is up this year \$12 million, as we discussed this morning, so there are certain costs that are virtually beyond our control, and you have the same problem at the provincial government level. So essentially, what I am saying, Madam Chairperson, is that, yes, we could reduce expenses, and the council makes a judgment call on whether those services should be reduced or whether people are being asked to pay to keep them intact. That is always a judgement call that all government's have.

Hon. Bonnie Mitchelson (MLA for River East): I appreciate what you have done to try to get expenditures down; I know that it is difficult.

There are one or two other areas that you did not touch on, without wanting to make issue of them, that maybe could be addressed. One would be

wages, another might be some of the money that you have given—it could be debatable whether some of the grants that were given were ones that really needed to be given and so on and so forth.

Anyhow, I just leave that with you; I appreciate what you have done. I think it is an area that you really do need to concentrate on, and as a taxpayer in Winnipeg, I appreciate your continuing to look at other ways that you could continue to get those costs down. I am also pleased to see you quoting the St. James Chamber as a source. I hope that continues. Thank you.

Mr. Norrie: Could I just respond to the last observation? I think that we have also reduced areas in terms of our capital budget. We had a five-year capital budget which included '92 borrowing on tax-supported mill rate funds of about \$70 million. Our proposal to go to council is that we would reduce that to about \$40 million, and that, of course, reduces carrying charges.

The other point in terms of grants, yes, we could reduce our grant to the ballet, we could reduce -(interjection)- In terms of wages, then I could tell you that we froze our wages. We froze our CUPE wages for six months, and for the six months of the remaining part of the year, we were at 3 percent, which to us was a cost of 1.5 percent of the wage budget. In this climate, I think that is not a bad record for the council.

Mr. Gerry McAlpine (Sturgeon Creek): Yes, Mr. Mayor, I really have some concern with the whole process. I guess we can look at the comparisons of the business tax revenues which you know at this point, and I do not think that Halifax, Calgary, Hamilton, Quebec City, Edmonton and such have not changed in 1991, or they have not changed as we have in 1991.

Being in business, I question whether or not the city's vision in terms of assessment is lacking because what you have done here is that you are imposing a business tax on business over one year. Did the city and the council not anticipate that this was forthcoming? I mean, this is not something that happened overnight. Are there no visionary procedures carried on down at City Hall? I am really concerned about this.

Mr. Norrie: Well, I can say this to you, Madam Chairperson, to the member of the committee, whenever you go through a reassessment, you have a difficult issue. We have gone through two

real property reassessments, and at each time, real property taxes have risen. What we did to soften the impact was (a) stay with the variable rates and (b) create a phase-in program over three years. You may recall that we also had the phase-in program over three years when the real property tax assessment came in.

Assessments hit properties that are underassessed, particularly if you leave it for a long period of time; 17 years was much too long to leave a reassessment. It should have been done—I agree with the minister's position and your legislation. It should be done on a systematic three-year base. We have now gone, as you know, in real property, to market value. There is an argument about that and there always will be, but as long as you have it systematic, and yes, we do anticipate this. That is why the phase-in program was created, to lessen the impact.

Mr. McAlpine: Okay, if we take it another step further and we say that we do grant the city the right to the 1991 tax, how do we know that they are going to correct it in 1992 or '93?

Mr. Norrie: Well, under the legislation -(interjection)- Sorry. Sorry to hold you up. Under the legislation as I understand it, the roll for '91 is validated. The system for '92 will allow us to carry on or opt for a single rate, and for '93, the legislation says there must be a single rate. That will be the law, and the council will opt for it.

Now, if anything different comes out of the task force of the city and the business community and we come up with some other suggestion of which the business community is a part, then we may come back to the minister and say we have developed something else that the business community is happier with and we can live with, and we will talk about it. Whether it would need legislation or not I do not know, but I cannot tell you what the task force is going to come up with because that is the reason we have it.

Mr. McAlpine: Madam Chairperson, this is what I am really concerned about, that you could always come back and we could skirt the issue again. I think that we have to come up with something that the business community can live with. How do we know that you are going to go and even talk to the business community?

Mr. Norrie: We are meeting tomorrow morning, Mr. McAlpine. That is the first meeting of the task force.

Mr. McAlpine: When was the task force formed?

Mr. Norrie: It was formed probably two or three months ago. The letters went out. The various members of the business community have been invited to join, and they are joining.

If you would like to come tomorrow and sit in with us, we would be happy to have you. I mean it is not a closed process. We will probably not have the press there for the first meeting, but I am sure there will be councillors there who are not on the task force, and members of the business community.

What we are looking for, quite frankly, is to see if there is a better way to have business pay its fair share. The business community as I speak to them—I had a meeting in Great-West Life this afternoon; and we have met with the various chambers—is not adverse to paying its fair share. They are quite clear on that.

The argument is, what is a fair share? How is the fairest way to collect a business tax? Should we roll it in and make it part of the commercial realty tax? Should we have a single rate or a variable rate, and there might be other permutations? What we are trying to do is to develop a system with which the business community is comfortable.

Mr. McAlpine: In terms of evaluating the business tax for 1991, did the council not anticipate that there would be a reaction to the heavy tax in tripling and doubling the business tax?

Mr. Norrie: Well, certainly the council was not unaware, first of all, of the reassessment, and the reassessment was going to increase the problem. We were not unaware of the fact that, instead of \$36 million, we needed \$40 million or \$44 million, so it was an increase in our take, if you will, or an increase in the business contribution to the general budget of \$7 million over what the business community had been paying.

* (2330)

That \$36 million was based on an assessment that had been done 17 years ago. I suggest to you, and I think that perhaps the city was at fault or we were all at fault, if there had been a gradual increase over the 17 years bringing us up to the point where we are now of \$44 million, then we would be living with that and the gradual increase would have been the way to go, but it was not done.

Mr. McAlpine: If you are talking to the business community now, were you talking to them after you

found out what the impact was going to be on the business community? Were you talking to them before you made this decision?

Mr. Norrie: Oh, yes; oh, yes. Before we enacted the bylaw at council, before we struck the budget, as I indicated earlier, Councillor Selinger met with the St. Boniface Chamber, the St. James Chamber, the Winnipeg Chamber, and I met with representatives of various companies and representatives of the chamber, and we had a dialogue. The then president preceding Mr. Childerhouse met with us, very clearly put forward his position, we listened and we had a good dialogue.

Subsequent to the passage of the bylaw and the budget, we have had meetings. As a matter of fact, they have been really more on an individual basis. We are having at the chamber's request a dinner meeting, I think it is this week, the 17th. Tomorrow we have a dinner meeting, as we have had with Winnipeg 2000, to attempt to establish dialogue with the business community and listen to them.

Mr. McAlpine: Just one more comment. I just cannot appreciate and convey the importance of our business community, and I would urge you and council to do everything that is humanly possible to maintain a good relationship with our business partners. I am not convinced that this has been done in this particular instance from the results that have come forward and the obvious. I would hate to see this be carried further anymore. Thank you.

Mr. Norrie: Madam Chairperson, may I just say that I am sure that 99.9 percent of the councillors, including myself, share your view about the importance of the business community. In my view, governments do not create jobs or create wealth. The business community creates wealth, and you will only have a progressive business community if you have fair government policies, and you will only have a sound city if you have a goodly portion of business activity within your community.

Now, I do not think anybody in the business community, as I said earlier, is adverse to paying, but they want to know that it is fair and equitable. What we have been struggling with, quite frankly, is a perception, and I am sure the perception is around this table, just as it is in the business community that somehow City Hall does not spend its money wisely, that we are overtaxed because we do all sorts of silly things.

The fact of the matter is that city councils do their business in public, and we look foolish because many of the discussions that the cabinet at the provincial level and at the federal level have—and I have never been in a cabinet meeting, but I am sure there are just as many foolish statements made in a cabinet meeting as there are at City Council, present company excepted, of course, but they do not get publicized. They do not get publicized, and so the whole nature of municipal government is essentially different than the other levels of government, and we struggle with that. That is the reason why I think that we have trouble keeping people who do not want to operate in that milieu.

I share your concern. I appreciate it and I think that the vast majority, probably 100 percent of the council, recognizes the importance of the business community to our city and to our province.

Mr. Laurendeau: Your Worship, there is one thing I wanted to get on the record. The one thing I have always disagreed with was how this tax was put forward and levied on the value, as we call it, and again here, the city assessor conducted a business reassessment based on the '85 annual rental values.

This was never used as a premise before as far as '85. It was always on values in that current year that they were renting the building. So if a business went into operation in the 10 percent category in 1973, and was paying \$10,000 rent that year, his business tax was \$1,000. Is that correct?

Mr. Norrie: Ten percent, yes.

Mr. Laurendeau: In 1979, you would still be paying the same \$1,000. Is that correct?

Mr. Norrie: Yes.

Mr. Laurendeau: In 1979, the same business which just opened up would have applied for his business with the same business across the street, but his rent would now be \$20,000. He would be paying \$2,000 a year. Is that not correct?

Mr. Norrie: It is based statutorily on the annual rental value or the deemed rental value if you own your property, and it is established by statute, yes. That is the fallacy of not reassessing more often.

Mr. Laurendeau: One of the other problems we run into with this type of an assessment with rental values is a lot of premises go with improvements to that and will imply it within their rent. You will have some people who will move into a building—let us

say he moved in in 1978, okay, and his rent was \$1,000 because he was putting his improvements into the building, or \$10,000, but he was putting his improvements in, where the other guy across the street was paying \$2,000, but his was already improved. They were not being fairly taxed on that business tax.

Mr. Norrie: I really could not comment intelligently on that. It is really whatever the assessor deems to be the annual rental value of the premises, and how they calculated that is a process of assessment, but you are right. There are inequities in terms of the lagging of the updating of the system. Just as if we go to market value and for some reason you do not update for 10 years, then you are out of date. That has been our whole problem, both provincially and municipally.

Mr. Edwards: Just one quick question. I have been reviewing some of the documents handed out and I see one of them here entitled Projection of Business Tax Revenue. Is it the goal of City Council to get to the 16.25 percent of your revenues being generated by the business tax that is outlined in this projection which of course results in more than doubling the business tax in the course of those seven years set out?

Mr. Norrie: I think you are referring to the chart which shows '91 to '96, 10 percent to 16 percent. That is a proposal which could change from year to year depending on what council dictates. Mr. Carroll might like to talk about that because they developed that.

Mr. Carroll: That came out of the task force report and was one of the recommendations that was not adopted by council. I think it was said earlier, Recommendation 2 and 3. I think this is Recommendation 4. It was the long-term strategy that showed how you get up to the 16.25 percent which converts to 9 percent of total revenue. Some people mix that figure up. That is 16.25 percent of taxation revenue. So that is the historical figure.

Mr. Edwards: If you go to 16.25 percent, my only point was that based on your other document here listing all those cities, you would be leading the nation, in that Halifax is at 15 percent. Now, maybe I am wrong. Maybe you can correct me on that.

Mr. Norrie: No, you misunderstand. The comparison on that chart of showing the other cities is not 16 percent, but it would be 9 percent. The point that Mr. Carroll made would be the 16 percent

equals 9 percent of our total revenue, whereas we were at six and we are at seven in '91. So nine would bring you just below Edmonton, essentially where we would be still on the chart, but we would be extended out a bit to the right there. So do not confuse the 16 percent of total revenue with the 16 percent that is on that sheet.

Madam Chairperson: Thank you, Mayor Norrie. I have one additional individual who is registered to make representation. At this time, I would just ask, is there anyone else in the public that wishes to register at this time? Councillor Al Golden, please.

Mr. Al Golden (Councillor, Glenlawn Ward, City of Winnipeg): Thank you, Madam Chairperson.

Madam Chairperson: Councillor Golden, do you have copies of your presentation?

* (2340)

Mr. Golden: No, unfortunately, I just wrote this in the back of the room. I only received the copy of the bill hours ago. I first of all want to apologize for my manner of dress. I had not expected to be here today, but I understand there are no other presentations tomorrow morning, so I did not want to put this committee to the trouble of meeting just to hear me. I will be fairly brief.

Madam Chairperson: Thank you. You may proceed.

Mr. Golden: I first of all want to take strong exception with the mayor's position that he represents the official position of the City of Winnipeg here today. In fact, inasmuch as this bill was only made public hours ago, there has been no opportunity, unless it was a special council meeting while I was sitting in these Chambers, for the city to establish an official position in support or opposition of this bill, and there presently is not one that I am aware of. I would suggest that he is representing his own view and the view of the others present with him, and perhaps other members of council, and perhaps in the majority, but I can assure he does not represent my view, nor the official view of City Council as one has not yet been established.

I would also like to make a comment about the consultation process that was held with the business community. One only has to reflect on the amount of time that went into the presentations and the development of the regulations, as we imposed them, to understand and appreciate that there was very little time for consultation.

There was very little input and little opportunity to consider alternatives. It was not that the business community said, let us sit down and come up with a plan that is fair and equitable and will provide an opportunity for you to carry your fair share of the load to provide the services you require from the city. That type of subject never came up. It was a matter of we sent him out this public relations-type material that we prepared for you here tonight and gave them no choice but to say, yes, based on the charts you have put in front of us, it seems that we come better off by being opposed to the single rate. I do not view that as constructive input from the community, and I would suggest that any quotes that are made here are made in those contexts.

My main purpose here today is to convince you to rethink your plan to move this bill into legislation tomorrow. This bill must be revised; to do otherwise would be to put your head in the sand about the impact of your actions. This bill has reached the public only hours ago, and a few hours from now it is likely going to become law. That is really unfortunate, and you do have an option. You can send a strong message, and that message should be that you want the City of Winnipeg to act more responsibly in the imposition of its taxes, to be fair and equitable and efficient in setting the tax levels and collecting those taxes.

I would suggest to you that this process here today is as flawed as was the actions of the City Council that brings us here today. In 1989 you passed a law that allowed the City of Winnipeg to reassess and to set a single rate of tax, and you allowed an option of maintaining the status quo until a bylaw was passed determining the single rate. The courts have said that the city cannot cherry-pick the pieces it prefers of the old and new legislation. It cannot make fish a fowl. If we want to use the variable rates of the old act, we can on the old assessment. Clearly, to me, that is what the law says. It is the legal advice that I obtained, and the city acted contrary to that, in spite of the fact those arguments were made at the time. If we wanted to pass a new bylaw establishing a single rate, we can do so based on a new assessment, and the city chose to keep the old rates and to grab a windfall by applying them to the new assessment.

I refer you to the letter that was referred to earlier, and I want to read for you once again the two clauses that should be relied upon in this letter in my view to determine what the city's course of action

ought to have been at the time. Clause 2, and they are both very short, is: The old classification and rate structure is replaced by giving the city the authority to establish, by bylaw, a single rate of business tax to be applied on a uniform assessment base. Number 6 says: There is a provision for the continued effect of the existing business classifications and tax rates until they are replaced by the city's business tax bylaw.

To me very clear that is saying, you can leave things like they are until you determine what your new rates are going to be, but when you apply your new rates they are to be on the new assessment, and nothing is to change until you take that course of action. But we chose to take the best of both worlds to the great detriment of all and the waste of taxpayers' money and the time and energy of the people who have had to pay the horrendous legal fees that law firms charged to bring them to where we are today. I know because I have been there.

There are clear alternatives to this bill that are fair and that shall be perceived by the public to be fair. Amend this bill to give taxpayers as much fairness as is possible under these unfortunate and difficult circumstances. The taxpayers would consider it fair if taxes were charged at the 1990 levels, plus an increase in line with the property tax increases. I think that we should do no more than that until we have determined what a fair manner of applying the taxes are. If you were to tell us, send out the tax bills over again and add the same 4.5 percent tax increase you gave on all property taxes for the year 1990, that would cost the city about \$6 million and it would solve the city's short-term problem of having to impose a huge tax increase to cover the deficit that would be arrived at if we were not to be allowed to collect some tax for 1991. It would cost the city the \$6 million worth of revenue one time only.

We have all witnessed huge shifts in taxation on real property. Was it painful? Yes, you bet it was. Was it fair? Yes. Do you regret having done it? Do you regret having put market value assessment into the act so that people can eventually pay their fair share in spite of the fact that the City of Winnipeg over the course of time, as a result of the inequitable assessments that existed before the legislation, is in the process of giving back not \$6 million but \$60 million to people who are paying more than their fair share.

Over the course of time we are giving back \$60 million. Where are we getting this money from? We

are not raising people's taxes to do it. Fortunately, somebody wise back in history established something called the future tax levies reserve account into which all of the money from new construction flows. From there, we pay all of these refunds. In spite of paying all of these refunds, I am happy to report to you that every year there is still a substantial amount of money left in the future tax levies reserve account to transfer to general revenues.

If the city were to have to give back \$6 million of this tax increase, rethink its actions and conduct itself more appropriately and fairly, and take into consideration the horrendous situation that the businesses find themselves in in this community, it would be a little painful, but it is painful giving back that \$60 million we are giving back because of the manner we handled our property assessments over the past 50 years. That was very painful but it was worth it. It was worth it to do it right. It was worth it to pass legislation. It took a lot of courage on your part, and the fact that we had a minority government, I would suggest, to pass the proper kind of legislation that brought in an equitable tax system. I really do not believe that too many people regret paying that price. Let us pay the price to get a fair system on the business tax side as well.

I also have to ask the question, why is the City of Winnipeg exempt from the legislation that affects all other towns, cities and municipalities in the province of Manitoba? Why are we the only community that is allowed to have variable rates? Why was it not imposed upon us at the same time it was imposed on everybody else if Mr. Weir in his wisdom determined it was a proper thing to do? I really would like to know for my own gratification. Is it because the towns of Morden, Brandon, Thompson, Dauphin or Plum Coulee are less responsible than us; you have to impose legislation on them because they are not as responsible as we are? We are more capable of passing fair legislation and dealing with our businesses in a more fair manner than they are so on them you had to force legislation and us you do not?

If the law was good, if the law was just, if a flat rate was the proper thing to do for all of Manitoba other than Winnipeg, I would suggest it was the proper thing to do for Winnipeg as well. If you want to give the city options, and obviously you chose to give the city the option of a variable rate or the fixed rates, if

you wanted to give us options, why did you close the door to those two options?

In Vancouver they have a third option of putting it on the real property taxes. When I raised the question on March 6 at City Hall, what would the impact be on the City of Winnipeg if we were to do that, we were told by the administration that we would save \$1 million each and every year in the collection costs of business tax because if you collect it on property tax there would be no additional collection cost. You would wipe out a whole level of bureaucracy. You could wipe out the cost of the additional envelopes, stamps, computer time, et cetera, and save \$1 million in collections costs. Plus, we lose money every year in business taxes because people are unable to pay. We send a bailiff and then close their doors.

* (2350)

In property taxes, with the exception of the Hotel Fort Garry, we do not lose tax. We do not lose dollars. Eventually if somebody does not pay, the mortgage company comes in and pays but we take the property and sell it for a profit. We eventually collect it all. We do not collect all the business tax, putting up property taxes we would. Plus, if you really want to be fair to businesses think about the impact of a system that allows you to have a tax that is due on May 31 and 90 days later they send a bailiff in. If the poor guy in a delicatessen does not have the money to pay that day they cart away his cash register and meat slicer and he is out of business, whereas if you put it on the property taxes and he has a bad year, he has two years to come out of it and at no risk to the taxpayers of Winnipeg by offering this additional credit.

I should point out to you that all citizens of Winnipeg who pay their taxes late, though it may have a negative impact on our credit rating—and I do not know exactly how to measure that impact on our taxes—overall, people who pay late subsidize those who pay on time and everybody pays about 1 percent less taxes because of the humongous penalties, 4 percent over prime rates that we charge people who pay late.

So the poor economy is a benefit to the average residential homeowner in that his taxes get subsidized by the businesses who swim against all obstacles, who fight the tide, who manage somehow to survive so they can one day pay their taxes plus these humongous usurious interest rates that we

charge. Please allow them to pay the interest rates. Allow them to pay late if necessary so they can continue to subsidize other people's taxes and continue to survive and pay their business tax as opposed to having it be a write-off on our tax bills.

We should all have the same goal. We should only collect as much taxes as absolutely necessary to deliver our services. We are obliged to take every opportunity to achieve efficiencies in our operations, including our tax collection operations. We have identified an opportunity to save \$1 million in administrative costs of collecting business tax and we need you to give us the enabling legislation to take these actions.

What is the sense in having the administration stand up and say we know where you can save a million dollars if we do not have the ability to take advantage of that opportunity? We need you to give us the legislation.

Give us a law that lasts for only one year tonight. Amend this bill and send a very strong message: You have one year; we are going to forgive you your trespasses; we are going to let you collect the tax for last year; and even if you are going to allow us to gouge the businesses that are being gouged and collect that humongous amount of money, those increases that we are going to collect on them, do not let us get away with it for more than one year. Force us to have these hearings in 60 days and come back to you with recommendations and how we can present a fair and efficient and equitable tax system. We can do it in 60 days if you force us to. If you give us longer we will take longer. If you give us forever we will take forever.

I would like to make a comment about councillor—pardon me, MLA Laurendeau's—he used to be my seat mate—questions to the mayor that were answered in my view most improperly. The fact of the matter is that all businesses are supposed to be paying under the old act based on assessments at 1974 level of value. If a new business comes on-stream in 1987, they are supposed to take his current rent and factor it back to 1974. That I have to agree has not been happening simply because the assessment department was not doing its job. Well, it was not doing its job in regard to property taxes either and you did something about it. Your administration did not want you to do anything about it. They wanted you to leave "definition of value" out of the act. You rose to the occasion that night and you put

"definition of value" in the act and it cost the City of Winnipeg \$60 million, but it is worth it. Do it again tonight. Thank you.

Madam Chairperson: There may be questions, Councillor Golden.

Mr. Golden: Yes.

Madam Chairperson: Do any committee members have questions of Councillor Golden?

Mr. Golden: I answered them all.

Madam Chairperson: Thank you for your presentation.

Mr. Norrie: Madam Chairperson, I must correct one position, if I may. This may be a little unusual. May I have the indulgence—

Madam Chairperson: Mayor Norrie, I am sorry but you are truly out of order, but—

Mr. Norrie: The delegation does speak for the council. The council position is the bylaw is in place, has not been revoked. The budget has been passed for the \$44 million asked for, and we do have the official position of council.

Madam Chairperson: Thank you.

Are there further public representations? This then concludes public representation.

We will now be dealing as I understand it—is that the will of the committee?—with the bill clause by clause. We will have an opening statement from the honourable Minister of Urban Affairs.

Mr. Ernst: Madam Chairperson, I want, while they are still present in the room, to express my appreciation for the delegations who have come here this evening to express their views on this matter.

This very likely is one of the most difficult matters that I have ever had to deal with in 18 years of public life. On the one hand you have the significant problem as far as the City of Winnipeg is concerned; on the other hand you have a significant problem as far as the business community is concerned. I am sympathetic on both sides.

However, that is not good enough. We have to deal with the issue at hand and you have to deal with what is logical and ultimately reasonable in terms of arriving at an appropriate solution.

Madam Chairperson, I want to comment just briefly on one of the matters raised by Mr. Mercury during his presentation; that is, the question of the

ability of people to appeal their 1991 business tax assessment. While we have established, I think during Mr. Mercury's presentation, that for the vast majority of business owners their period for appeal has passed—it passed before, as a matter of fact, the application for the first court case to hear this matter even occurred.

Nonetheless, there may have been, and we are not sure, but there may have been somewhere along the line between, say, the middle of November or thereabout and today, or November 26 when the judgement was rendered, there may have been an assessment made where the person having received that assessment was considering appealing and, upon learning of the judgement of the Court of Appeal, decided he did not have to bother appealing. So to that matter I am persuaded that there may be a problem, and I am prepared to introduce an amendment that would accommodate those people who, from the period between November 1 and the day this bill receives royal assent, would have an appeal period to consider for their assessment. I also, because of the Christmas season upon us and the fact that there are a number of holidays and difficult working arrangements within that period of time—to extend the period to 30 days as opposed to 20 days so that people are not caught and they have a reasonable amount of time to consider an opportunity to appeal.

While the government is advancing this bill on behalf of the City of Winnipeg, it ought not to be construed by anyone that the question of inordinate increases in business tax is being condoned. It is not. As I said, it is a very difficult decision to make as to how you deal with this issue. The fact of the matter is that we as a provincial government are attempting to do whatever we can to create that level playing field, that solid foundation upon which economic development can proceed. We have had some success in that regard, I think.

Nonetheless, the fact of the matter is that if we take that action it certainly does not help our situation when other large increases in business tax in particular or taxes that affect business people in general are levied by another level of government. It is their right. They are elected people as we are. They exist under legislation, that opportunity and that jurisdiction. However, it behooves all of us to address this whole question of economic development and the fact that the business community is severely suffering in recent times.

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We have to address the question of business tax. We have to address the question of real property tax. We have to address the question of what were municipalities created for, what is their function, and are they in fact following the function that they were created for. Are they now trying to be, and it is an evolutionary thing over a period of time, but are they now trying to be all things or more things to people than they ought to be? That is for them to decide ultimately and for us to decide as legislators at some point if in fact we deem it necessary.

I have hopes that the City of Winnipeg Council will recognize the concerns that are out there in the business community and the fact that they will address the question of their expenditures. I appreciate the \$800 or \$900 per head that they are paying, not paying, whatever part of Winnipeg or other city in Canada is paying. But that is irrelevant. The fact of the matter is in my view—and I think all of us as legislators hear from our own constituents—that the level of taxation in Winnipeg is too high, that they want their City Council to address the question of taxation and services, because they were directly, of course, related. They want the City Council to take significant action to reduce those expenditures so that their ultimate payment, their ultimate taxation level is reduced as well.

I want to make my position and the position of the government very clear. This is not by any stretch of the imagination condoning the fact that we simply think it is okay that these large increases in business tax were passed along to the business community. It is not. If that does not send a clear message to Councillor Golden and his colleagues, as he requested a clear message to be sent, I do not know what will. I do not think, quite frankly, that the question of leaving the city of Winnipeg with a shortfall is necessarily the correct way to send the message. I do want it to be sent tonight.

I have had a number of conversations with the mayor and the members of council in the past while to discuss that basic issue, to say to them exactly what I felt and what many of my colleagues, if not all of them, feel with respect to taxation in Winnipeg.

So, Madam Chairperson, I do not want me to continue on. We have work yet to do and it is getting late. Thank you.

Madam Chairperson: We will now hear from the critic for the official opposition party, Ms. Friesen.

Ms. Jean Friesen (Wolseley): Thank you, Madam Chairperson. I too would like to thank the presenters who have come at very short notice and have stayed a long time to help us come to terms with what are a number of difficult issues. I think we should put on the record, and we should all recognize that we are doing this not under the best of circumstances, that we have come to it with timing not of our own choosing, that none of us have had very much time to look at this bill, in fact we got the bill this afternoon in the House. I do not believe any of us have had time to take it to any of our caucuses, so we have not had the normal discussion that would be part of any bill.

I think it is important to recognize that at this stage, but it is not something that any of us would have chosen. I think what we see here is that one of the basic difficulties, as the mayor has presented it is 17 years without reassessment and that was something which should never have occurred. We have to rectify it at some point. We are being faced with rectifying it at a very difficult time for all businesses large and small, and again, I think we should all recognize that.

Equally, I think over the same time that we had that 17 years without reassessment, we also saw a decline in the contribution of businesses to the city revenues. Since the 1970s, we found that the proportion of taxes paid by businesses in the city of Winnipeg have declined from over 10 percent to I think in 1990 they were just under 6 percent, and equally, we would like to see that rectified.

We have supported the variable tax rate. We feel that is fairer to smaller businesses, and we recognize that in Manitoba and Winnipeg that the job creation potential comes primarily from small businesses. We are very concerned about the maintenance of the jobs that we do have in Manitoba, and so we feel that it is fairer. It is particularly, we believe, appropriate at this time when the GST and the general recession have particularly affected small businesses so that the timing, I think, also lends us to support the proposal for a variable tax rate.

I believe that the intent of the minister in the House when he spoke was clear, that he was offering in an undefined transition period the option to the city of Winnipeg to take a variable taxation rate.

I do not have, as the mayor does and as the minister does, the opportunity to examine the correspondence of the department. I am interested by the City of Winnipeg's difference of opinion on the letter from Ms. Toupin. I wondered if that has been tabled in the House. It is in the city's brief. Maybe that should be put on the record that that is available.

I believe that the court has indicated to the Legislature that the legislation itself was not clear enough. I do agree with the mayor that the role of the court is to interpret, the role of the Legislature is to legislate. I think those are very important distinctions, and we should not move, as I see, the interpretations of a number of people both within and outside the Legislature, some merging of those functions.

I think our job here, in fact, is to clarify the legislation and to clarify the intent that the government had, and so we are prepared to proceed with that. I was interested by one question that Mr. Mercury raised and that was the issue of appeal. I think that is important. The minister has already indicated that he will look at some changes on that, and we will look at the wording on that, and I think that is a useful safeguard.

I did have one final question for the minister. It was on the change from the draft of 180.1 to the actual final bill that you presented us with, and it was in Section C, 180.1(3)(c). No, it is (d), sorry. There are changes to (d). Could you explain why there were changes to (d)?

Madam Chairperson: Ms. Friesen, I wonder, in the interest of procedure, if that question could be deferred until such time as we consider the bill clause by clause so that legal counsel will have everything ready at their fingertips. Did you wish to conclude your remarks?

Ms. Friesen: There was one other thing I was going to say and that is that I think we should all, at least I would like to record that no one is really comfortable with retroactive legislation, and that is something I think which is universally felt. Again, it is not of our choosing.

Madam Chairperson: Thank you.

Mr. Ernst: Madam Chairperson, I just wanted to make one comment with regard to the correspondence that I indicated was contained in the city's report. It is not, but I would be happy to table a copy.

Madam Chairperson: Does the critic from the second opposition party wish to make an opening statement?

Mr. Edwards: Yes, thank you, Madam Chairperson. I have listened with great interest to the presentations made on both sides of this issue as this legislation comes forward. The minister and Ms. Friesen have both mentioned that it is regrettable that this is before us in this manner. It is indeed regrettable that a piece of legislation comes forward at four o'clock or 2:30 in the afternoon and is debated in committee at eight o'clock and, hopefully, passed the next day.

I have to agree with Councillor Golden's assessment that this process is really quite shameful in the expeditious way that it is occurring. It is really not only unusual, I think it is regrettable. I think we did have options. I think one of the options was to simply, as we did last year with The Environment Act, simply come back for a day in January once we had the opportunity to review and consult further. So I do find it regrettable.

I understand that the city is in a jam that they did not foresee, that they may or may not have been misled by the province in that. That is understood. There can be no question that they cannot suffer a \$44-million loss. No one is suggesting that, and I resent any imputation from those who come forward, and particularly in the city's brief, that we are in any way suggesting that. We are not. No one is suggesting that the city take that kind of a loss in one year. It cannot happen.

We are not, as well, telling the city how much business tax they should raise. Frankly, that is irrelevant to this debate. It is none of my business, and it is none of anybody's business around this table what percentage of revenues they raise from business or how they get it. That is their business. They are elected to do that, and they account to taxpayers.

What we are here to do is deal with the process by which they do that, the enabling. We looked—I was not here, but the government of the day looked to them in 1985 by their fax sheet here. The City of Winnipeg administer of tax force recommended that the city be amended to delete business tax classes. Later on that year, City Council adopted that. Whether they held extensive public discussions or not, that is not our business either. The point is they came forward with that recommendation.

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In 1988, they went through discussions with the appropriate officials here to come up with some enabling legislation to that. We did that. That is what they said they wanted, and we gave them what they wanted, apparently. I was not the critic at the time, but I read the act now and it is pretty clear to me that we are moving to a uniform rate. The court saw it that way. I see it that way. Frankly, I think this is a little late. The cow is out of the barn here. I think the decision has been made by this Legislature once.

I personally know that we have lots of things to deal with here. We do not need to be rethinking in two year's hence legislation we put into place. We go through a debate. The present government was in place at the time. In fact, the makeup of the Chamber was the same when we passed this. Actually, I am sorry. It was a minority government, but there was a feeling obviously that it needed to be passed, and we did it. To be back at this point rethinking this really bothers me, Madam Chairperson.

I also want to point out that it is not assessments that cause increases in taxes. Assessments are a vehicle by which we measure the amount that someone pays. Mill rates raise taxes. Levy rates raise taxes. That is what the city—that is the political decision that is made. The assessment does not raise the tax. What happened here was, the city saw a tax windfall on the horizon when they got the new revenues in, and they said, hey, look at the variable rates, there is a lot of money to be made. They stuck with them and they then constructed a phase-in program.

Madam Chairperson, I think that there is—I am not convinced that had they gone to the uniform rate with the unlimited power to construct a phase-in program—unlimited—that they could not have mitigated to the same extent or greater the impact on the overall business community. I also resent the imputation from those who come forward that we should sacrifice large businesses because we want to be kind to small businesses. I think that is an unwarranted division between the business community, and I do not think the business community particularly wants it.

It is not a question of who is big and who is small. Surely, we as legislators welcome business, big or small. Why are we dividing the businesses and saying, yes, you can suffer a 300 percent increase,

but you should be granted relief. Surely we have to treat them equitably. We want to preserve and enhance the business community, big and small. It strikes me that the effect of the decisions reached by City Council were that, to divide the business community between big and small and to choose small in this case. That is a shortsighted win, perhaps, on the political front. More people, more voters are affected—those are the arguments. Long-term goal—that cannot be the agenda of the City of Winnipeg and, if it is, I think it is very, very shortsighted. The business community, big or small, I think deserves to be treated equitably and fairly.

Similarly, I look through the legislation Schedule D. I am embarrassed to be in 1991 enacting legislation, and let me just cite some of these, which draws a distinction in tax rates between hemstitchers, herbalists and hairdressers and on the other page sewer contractors and undertakers, sign writers. I mean, we in 1991 are going to pass legislation essentially dividing people on an age-old basis and saying, you pay a different rate of tax not because you have a bigger business or a smaller business, but because of what you do.

It is ridiculous, Madam Chairperson. I find it very, very difficult to support that. I am sure it is all of those arguments which came forward which led the Weir Commission, the City of Winnipeg and the people in this Legislature to move to a uniform rate. We are now being asked to ratify and pass something out of the past, a relic out of the past, something whose day has come and gone.

Madam Chairperson, I am not willing to leave this dangling for another year. I think the decision was made once. The city, albeit, apparently with the complicity of the province, made an error in their interpretation. The court stepped in and rectified that situation. We now have a crisis for 1991 and 1991 only. If in fact the city is holding these consultations and wants to rethink their position on the uniform tax rate, and it is obvious that is what they want to do—Mayor Norrie says, well, he thinks they will not likely be coming back to ask for a change, but the door is not closed on that. Let us be clear, the door is not closed. There is a task force; CFIB amongst others maybe do not want it. They may be doing this debate over again and bringing it back to the Legislature.

I think they can do it in good time for next year's tax notices to go out. We are going to be sitting starting February 17 again. I think we have lots of

time to deal with this, and I do not want to leave this for another year. It strikes me that we made the decision once; if we are going to make it again, let us not procrastinate. Let us not sit around and let the task force maybe meet regularly, maybe not, maybe come to a decision in time for legislation, maybe not. We have made a decision once. If we are going to rectify an immediate crisis, let us do that. I see no reason to go beyond that. I do not think it is an unwarranted intrusion into the city's jurisdiction. I think they will have time to hold those hearings, and to that extent I guess I do agree with Councillor Golden, that I would prefer to, at this point, ask the city to expeditiously come to a conclusion. If they are going to change their minds, let us hear about it sooner rather than later.

We are going to be sitting here starting—as I have said, we have got a fixed date. This is not a case where we have to say to them, we may or may not be in session to deal with this. We will. If they need a change, we are going to have to deal with it in any event by the end of the year, why not sooner than later. We are back here February 17.

Madam Chairperson, with those comments, I think I have forewarned you that I am going to be proposing an amendment to Section 2, essentially deleting the ratification for the 1992 year. I think we should ratify the 1991 taxation year. That is what we

can do now that will preserve the city's revenues for this year. A \$7.7 million increase in taxes for 1991, that is what we are ratifying. That is pretty good. I think given the history of this, coming to this Chamber and getting that \$7.7 million increase this year, after a court case in which, albeit with good intentions, they lost, I think that is pretty good. If we have to deal with it early on in the new year, in February or March, after the city has gone through this consultation, I give my commitment that we will deal with it expeditiously at that time, but I do not want to put it off for another year.

Hon. Gerald Ducharme (Minister of Government Services): In light of the hour, and we are not hearing any further delegations, I would suggest committee rise, and we reconvene at ten o'clock tomorrow morning.

Madam Chairperson: Is that the will of the committee? Is it the will of the committee that committee rise and reconvene at 10 a.m. tomorrow morning to consider the bill clause by clause? Agreed?

Some Honourable Members: Agreed.

Madam Chairperson: Agreed. Committee rise.

COMMITTEE ROSE AT: 12:19 a.m.