



Special Committee on Regulations

Hansard Verbatim Report

No. 6 – May 4, 1999



Legislative Assembly of Saskatchewan

Twenty-third Legislature

**SPECIAL COMMITTEE ON REGULATIONS
1999**

Don Toth, Chair
Moosomin

Larry Ward, Vice-Chair
Estevan

Buckley Belanger
Athabasca

Dan D'Autremont
Cannington

Jack Hillson
North Battleford

Walter Jess
Redberry Lake

Mark Koenker
Saskatoon Sutherland

Sharon Murrell
Battleford-Cut Knife

Maynard Sonntag
Meadow Lake

The Chair: — Well good morning, ladies and gentlemen. I'll call the meeting to order, a discussion of the Special Committee on Regulations. We have some follow-up and I believe you have packages. I trust you have your packages with you this morning with regards to some of the follow-up to last fall's discussion, and then a discussion regarding the draft first report to the Assembly.

Okay. Just one quick question. If you do not happen to have the information regarding the follow-up with you, Allison is bringing some down shortly. So we'll have some here shortly. But for those who do, and I think we maybe have enough to begin with to start the discussion.

As you'll note in your package I believe there's, let's see, nine . . . almost a dozen follow-up reports that Mr. Holtzmann has been able to present to us. And I note in that, and you may have noted as well, that most of them are fairly self-explanatory. The Law Clerk however does have a couple that he has some concerns with that we may want to address separately.

So I think what we'll do is we'll go through the follow-up reports individually so that we're not getting mixed up. And where there may be some questions we'll have an opportunity to address questions to him.

So I'll begin with the 1998 regulations follow-up. And the first one is the '97 school grant regulations. And I'll ask our Law Clerk, Mr. Holtzmann, just to give us a bit of an update and his recommendations regarding to . . . in regarding the '97 school grant regulations follow-up report.

REGULATIONS FOLLOW-UP

The 1997 School Grant Regulations (Gazetted January 2, 1998)

Mr. Holtzmann: — Thank you, Mr. Chairman. As the committee members will recall these were . . . regulations were considered at the December meeting. At that time the committee considered the regulations which spelled out in considerable detail how school grants were calculated — considerable detail.

The regulations as well then provided that the minister could in fact augment the regulations by in fact designating certain expenditures as expenditures which would be taken into the calculations for the school grants.

It appeared to me that the regulations in purporting to authorize the minister to in fact augment the regulations seem to be circular in effect because, if you spell out in great detail how grants are to be calculated and then say that the minister can in fact make any further grants he wants, you're sort of defeating the object.

This was spelled out in a letter to the minister. I corresponded with the minister on the instructions of the committee. The minister responded, giving several examples, because examples were requested. And those examples are set out in attachment A on page 2, where they talk about recent examples of expenditures that are not anticipated. Additional auditing costs,

transitional assistance, amalgamation, with certain costs that arise out of amalgamations that are . . . when the amalgamations aren't contemplated. Those kind of things.

It still leaves undone the resolution of how these regulations should provide for the calculation of school grants. If the Act provides that grants are to be calculated in a certain way, then the regulations themselves should spell out completely how those grants are arrived at. The delegation as, I think, exists in these regulations is still there, and . . . I might add it's a tough situation because all expenditures, all operating costs, cannot be foreseen. And there has to be some . . . has to be some way in which they can cover these in the year in which they are incurred.

There are a number of ways in which the Act could be amended to make provision for that. A simple amendment to the Act of course would allow the minister to make whatever grants he wanted, subject to certain conditions. But until the Act is amended, we have the regulations which really go a little bit farther than they ought to.

And that's my report.

The Chair: — Have we any questions from the committee?

So I would assume then, Mr. Holtzmann, that your suggestion is that the Act should be amended to clearly address this. If it isn't, the minister just is left to go on at his own discretion at the time.

Mr. Holtzmann: — Of necessity the minister now in fact has the authority to add to the grounds on which grants can be made. But when one looks at the Act, really that regulation which purports to give him that right isn't authorized.

And we have numerous statutes which do provide a grant scheme, taking into account the fact that you can't foresee what is going to arise and what may need to be covered in your grants. And so an amendment to the Act of some sort to provide for that is the way that it could be resolved.

Mr. Koenker: — I wonder whether the issue really . . . I wasn't at the December meeting, for which I apologize, but I wonder whether the issue is not so much securing examples as have been supplied by the minister as the issue maybe of the amendment to the Act itself. And I wonder whether that shouldn't be raised . . . that issue shouldn't be raised in correspondence with the minister.

Mr. Holtzmann: — That the problem is the examples of what . . .

Mr. Koenker: — Well we've got the examples. And I look at the one on the third page of attachment A, the ministerial response, which talks about the encounters with Canada program in Ottawa and the provision for reimbursing school boards for their participation which is on an ad hoc rotating basis from year to year.

That is of such incredible inconsequence I think to the larger legislative reality that, as an example, I don't think it merits any

change in The Education Act, 1995, let alone the regulation.

Having said that, there may be and there are other issues, but I think that this needs to be pursued, is what I'm saying, as to whether . . . or what is actually the preferable solution. We can magnify minutiae if we want to. I don't think that serves the public interest either.

Mr. Holtzmann: — No. In fact the regulations right now are very, very detailed — very complex. They take a lot of study and a lot of calculations. Which indicates that the department has over the years taken into account situations that arise and for which grants should be forthcoming. I think what they're saying here is that no matter how much they look ahead, there is always cases that come up each year that aren't covered, and they then resort to this ministerial discretion to take care of those cases.

And it's impossible to see in the future. Perhaps the examples they give, as you say, some really don't matter. They could vire from another vote to cover that and — whatever. Or they could go under another Act and take care of it. But in some cases, legitimately, I think I agree with the department that they cannot see ahead. They can't. And they have to have some mechanism to take care of those cases.

The Chair: — So that's where you're suggesting a simple amendment to the Act would allow for that to take place.

Mr. Holtzmann: — To have a look at . . .

The Chair: — To see if it actually gives the minister that authority and that discretion.

Mr. Holtzmann: — That's right. To have a look at the situations that they're facing, and to come up with a proposal for amendment to the Act which would do . . . give them authority for what they're doing now and for which, I feel, in my humble opinion, they don't have authority.

Mr. Koenker: — Let's explore that option.

The Chair: — Would you care to make that into a motion, then, Mr. Koenker.

Mr. Koenker: —

That the committee explore with the minister the option of amendment to the legislation to allow for the appropriate and required ministerial discretion.

The Chair: — That addresses Mr. Holtzmann . . . (inaudible) . . . No we don't.

Is the committee in agreement with that motion — Mr. Koenker's motion? All signified. Opposed? Thank you, it's carried.

The Provincial Lands Amendment Regulations, 1997 (Gazetted January 2, 1998)

Mr. Holtzmann: — These regulations were considered by the committee in that they purported to change the lease rental of an

existing lease. In other words, the regulations were passed sometime after the lease was entered into.

And I might say that this is a long-standing practice. We have other examples of that. The minister was contacted with respect to that. The minister's reply was: yes, that is the case but the leases themselves provide, by way of an agreement, that the lease rental may be changed by the department.

In strict legal terms, I think that the minister is on solid ground. One might look at the fairness or the appropriateness of someone entering into a lease — grazing land, cultivated land, whatever — at a certain lease, a certain rental per month per year per head of cattle put in on the property, and then two months, six months, eight months later, receiving notice that the rental is increased.

As I say, I think the minister's on legal grounds. The parties, once they enter into the lease, they know that this lease may be increased — I don't know if it's ever decreased — but . . . (inaudible interjection) . . . It has been? Yes. That is the response of the minister. And as long as the lease arrangements do provide that the proposed lessee knows that this is a term of the contract, then it's a binding contract.

The Chair: — Any questions from committee?

Mr. Hillson: — I would still like to put before the committee that public confidence is best maintained where there's some certainty to the lease provisions. And I'd also like to go back to Mr. Holtzmann. I understand that the minister's saying well the lease itself provides for unilateral changes to lease payments so you can't say there's no legal provision for it. But on the other hand, a lease which can be unilaterally changed, is that a lease at all?

I mean usually you think an agreement means that two parties have agreed. And barring some formula that's mutually agreed to or some mutual agreement for the change to the agreement, that's the agreement between the parties. An agreement that says one side can unilaterally change it doesn't sound to me like an agreement at all.

But I would still like to put before the minister that public confidence would be best served if there's some certainty of the terms of agreement of the lease.

I wondered if Mr. Holtzmann would care to comment on that.

Mr. Holtzmann: — Oh, the response of the minister also included, or the response of his officials who drew the report which the minister signed, indicated that factors which change, account for the lease rental changes: cattle prices, drought conditions, things like that, going rates for other, for private leases, things like that.

We are looking at a long established practice here, firmly established. And the recommendations of the committee, I would suggest to the minister that there be any change in this, in the way the leases are drawn up would be resisted.

The Chair: — Any further comments from committee members?

Mr. Ward: — Is the lease drawn up as one-sided as Mr. Hillson suggests it is, or does the lessee actually have some say in the setting of the price or negotiated price?

Mr. Holtzmann: — Well the proposed lessee of course approaches the department and they talk about what his needs are, how many head of cattle that he wants to run into, you know, a community pasture or whatever or what not.

And I think in fairness, the department does look at existing lease rentals, the number of cattle that are run into, because the lease is founded on so much per head, what cattle prices are. But they are very, very definite in saying that, you know, this is the lease rental we'll strike right now; but if circumstances change, the lease rental will change. No doubt about it.

Mr. Hillson: — I would still like to then move that the committee convey to the minister the recommendation that where changes to the lease price are contemplated, they be according to some known formula.

The Chair: — Mr. Holtzmann, would you care to comment on that?

Mr. Hillson: — . . . As I understand it the minister can change it.

Mr. Holtzmann: — No, the lease itself will set out, if it's a grazing lease, will set out the land description of course, and the number of head of cattle or whatever is to be grazed on that land and for how long. And the rental is so much per head per month I think, or something like that.

Mr. Hillson: — Subject to changes.

Mr. Holtzmann: — But that is subject to change, yes.

Mr. Hillson: — Which is not subject to a formula.

Mr. Holtzmann: — No.

Mr. Hillson: — That's my point.

Mr. Holtzmann: — It's subject to factors which can be ascertained, i.e., increase in cattle prices or climate conditions. If it's a grazing land and there's a drought and the grass gets chewed off, they may have to increase a rental or tell a fellow to get certain head of cattle out of there and then adjust the lease because he has fewer head of cattle on the property.

Mr. Hillson: — But that's not in the lease. I guess my point is if it's put in the lease that, you know, for instance if the price of cattle goes up or something . . . but that is not in the lease.

Mr. Holtzmann: — No.

Ms. Murrell: — I'd just like to comment that that's rather hard to figure out what the cattle prices are going to be from time to time, so I know why it is a set rate like that.

And the other thing is, for example, last year when there was an extreme drought in our area, they were told that the cattle lessees were to move their cattle out of there because there

wasn't any grass for them. So that is something that is taken into account with the formula. And it's fairly fair.

A lot of people in my area think that they're getting a good deal. So I don't see any reason to change it. I think that the minister has been very fair on this — extremely fair.

Mr. Holtzmann: — Yes. And in some cases I think there's an appeal process. If your rental is increased or what not, I think there's some process for an appeal of that. But it's an internal provision.

Mr. D'Autremont: — The way I look at it, I see no reason why a formula outlining the variable factors couldn't be included in the calculation in a just A, B, C, D, E sort of thing. And then a determination be made, you know — the number of cattle, the carrying capacity of the land, drought conditions, the price of cattle, the availability or the prices of privately held lease land. If they can figure out a formula for education, they can certainly figure out a formula for this. and include it in the lease.

Mr. Ward: — I think we're talking about two different things here. Now we're talking about changing the lease rather than changing the regulation, are we not?

Mr. D'Autremont: — Well the regulations that deal with the parts of the lease.

Mr. Ward: — That formula could be implemented into the lease.

Mr. D'Autremont: — Yes. And written into the lease. But it still . . . (inaudible) . . .

Mr. Ward: — That could be administered on that side without actually changing the regulation. The regulation doesn't really need to be changed.

Mr. D'Autremont: — Well it would probably need to be changed to put it in there, to stipulate that the formula be included as part of the lease, as a requirement of part of the lease. So that the leaser could calculate for himself or herself, you know, here's my estimate on what the . . . oh here's my carrying capacity and the number of cattle on there and the current cattle prices or the historical cattle prices for the last three months, whatever the case may be, and to determine what the value of that lease is.

It's when the minister makes a determination and says the price of the lease is going up by 25 per cent and the leaseholders then look at their contract and no place in there does it say that the minister has the power to determine what the values are to make that lease change.

The Chair: — See the interesting thing is from the letter, second paragraph, it says:

(The minister is responsible) . . . contemplate that rent changes can be made from time to time by regulation. By passing of these regulations, the Government is merely making changes to the rental in the manner contemplated by the leases themselves.

From that, personally I would say then, all of a sudden you change the rule. Whereas I think what Jack and Dan were talking about is setting in that formula, it stays as constant. This letter almost seems to indicate that if there are changes coming, then all of a sudden you change the regulations so you can make that change.

Ms. Murrell: — May I suggest that perhaps we get a copy of what the lease says or get that clarified from the minister before we make any changes to this?

Mr. Holtzmann: — That could be done. There are a number of different forms of leases that they use. In fact, there's a variety of them.

I think the letter there in response indicated that the regulations were changed, but I think the regulation change was merely setting out what the increase or decrease was.

Mr. Jess: — Yes. The reference to 25 per cent increase that Dan makes, I think that's a good point in that this is maybe why we don't need to have so many regulations. Because that was according to the formula the regulations were set up that indicated that charge would go up because of the previous prices of the livestock.

And as we know in this farming business, it doesn't always go in an ever-inclining plane. And you run into a situation like last year when there was extreme drought in many areas and there was also a drop in the price of stock. And yet according to that formula, there was an increase.

And the minister softened that somewhat but I think he needs the ability, the minister of the day whoever that might be, needs the ability to be able to respond to these kinds of circumstances. Particularly when you run into a negative situation like we did last year.

Mr. D'Autremont: — Well I think part of that could be answered in the formula and that would be on carrying capacity of the land determined on the climatic conditions at the time.

What Ms. Murrell was talking about where the land simply couldn't carry any animals, then you would have zero factor in there. And that negates the formula. So then all of a sudden, the lease rate becomes zero because that land has no carrying capacity.

Mr. Jess: — And that could be, that could be done either way, by the minister's discretion or by a formula.

Mr. D'Autremont: — Well in this case, the formula would do it. I believe those leases on grazing lands are due in October if I'm not mistaken. So that calculation would have to be made sometime prior to October; let's say, August or September. By that time, you know what the climatic conditions have been for the carrying capacity of that land. You know whether those animals have been in there or not, and therefore . . . you know what the cattle prices have been over the summer, so those conditions are known and can simply be plugged into the formula to determine the lease rate. And that may vary from location to location around the province.

Mr. Jess: — Yes, one of the problems is the response time because quite often think if there's a three-inch rain that comes after the decision was made that they were going to have to cut back, that changes the whole picture. And it creates tensions out there in that many of these people have operated livestock businesses and used the same land for many years. And they feel that they know best how to operate . . . (inaudible interjection) . . . Yes, they generally do.

And there's times when they need to vary their operations too. But we often run into a late harvest in our area, somebody wants to hold cattle a little longer on a piece of ground because they don't want to bring them home because there's nothing ready for harvest.

There's all sorts of factors that come in there that I think are very difficult to put in etched-in-stone formula.

The Chair: — Well we've had a fair bit of discussion. I wonder if we can have some direction from the committee as to where we go with this one.

Mr. D'Autremont: — Well I agree with Ms. Murrell's suggestion that we get some copies of the leases so that we can have some more information than we have now. And perhaps if the department could provide us with a list of criteria on which they base their lease rental rates.

The Chair: — Any further discussion? Is the committee ready for the question? We're agreed then that we ask Mr. Holtzmann to get some copies of the lease agreements and ask for the criteria. Is that agreed?

A Member: — Agreed.

The Chair: — Thank you.

The Public Libraries Amendment Regulations, 1998 (Gazetted April 3, 1998)

Mr. Holtzmann: — These regulations in effect stated in several different provisions that the minister shall make a grant to a northern library or to a public library. The authorizing section in the Act with respect to grants states that the minister may make grants.

The minister was advised that the committee felt that these regulations in fact were trying to tell the minister that the minister had to make grants, whereas the Act says the minister may make grants.

The minister responded by saying that:

In the interim, I do not believe that any grants made pursuant to these sections are unauthorized because the regulations are not effective to displace the discretion of the Minister if I did not wish to make a grant.

From a legal point of view I don't agree with what the minister is saying, unless the minister is saying these regulations are ultra vires because the Act says I have the power to make grants and the regulation can't say that I have to make a grant if I don't want to make a grant. Of course that raises the question why do

we have the regulations that say, Minister, you shall make a grant?

Mr. Koenker: — Yes. I think more important than that point is the point that the minister has instructed the department officials to initiate the changes that are required. And we welcome that clarity that is brought . . . that will be brought to this situation.

Mr. Holtzmann: — Yes, yes.

The Chair: — Any further discussion? The recommendation from the committee that we consider this file then closed . . .

A Member: — Resolved.

The Chair: — Or resolved. That's agreed to? Okay. Thank you.

**The Emergency Services Telecommunications
Program Regulations
(Gazetted January 2, 1998)**

Mr. Holtzmann: — These were regulations which were purported to be made under section 24 of The Government Organization Act. I recall during discussions of this, Mr. Hillson expressed some concern that the emergency 911 system was in jeopardy because the regulations didn't appear to be founded on the statutory authority. I immediately indicated surprise that these regulations were the basis for the 911 program. After the meeting I discovered that in fact commonly they were considered to be the basis for it. The minister disagrees and says that they were not.

And in any event the program that had been set up by these regulations, while the statutory authority cited for the setting up of these . . . of this program was deficient — because it clearly it can't be section 24 of The Government Organization Act — that the minister did have authority in different statutes for the type of program involved. And as the authority did exist in other statutes the grant making powers under The Government Organization Act could be resorted to to implement those programs.

Now in law this is correct. There is case authority to the effect that if the minister or board or commission has authority to make regulations and in effect purports to make regulations, presumably acting under a statute or under an authority which is deficient but in fact there is real authority somewhere else, then those regulations are good. Because someone has made a mistake in citing the authority for the regulation, the regulation is still good.

So on that basis the minister is correct. I might say that these regulations are no longer in force, the ones that we're considering here. And so I would suggest that since the minister was correct in that the regulations were authorized because of other existing authority and that they no longer existed, we can consider them resolved.

Mr. Hillson: — Are you saying she's right for the wrong reasons or wrong for the right reasons . . . Doesn't matter if she's . . .

Mr. Holtzmann: — She's right for some reasons.

Mr. Koenker: — This is an interesting case because it shows shoddy drafting and I think once bitten, twice shy. They ought to clean up their act a little bit.

Mr. Holtzmann: — I want to make some general comments just on that point after we've considered all the regulations. In view of the nature of the responses that we're getting to the committee's concerns which are conveyed to the ministers by me at your request. This next one's a good one.

Mr. Koenker: — Let's go to the next one. We consider this one resolved.

The Chair: — We'll consider The Emergency Services Telecommunications Program Regulations resolved. And that's agreed? Carried.

**The Condominium Property Regulations, 1997
(Gazetted January 2, 1998)**

Mr. Holtzmann: — These regulations provided that property taxes — remember the expression — that property taxes in condominium units were to be apportioned among the unit owners in a certain way. The authority cited for that was the Act and we look at section 112, clause (o.1) which I'm sure you're all familiar with. And in any event the . . . I'll just turn to the regulation concerned . . . the regulation in effect said that the property taxes shall be apportioned among the owners. The Act says that this section . . . clause (o.1), section 12, says that the assessed value of the units shall be apportioned among the owners. There is a difference between assessed value and the taxation which follows from the mill rate being run up against the assessments.

The minister responded, and — I'm going to bow to other legal interpretations — the minister said that he's advised that the regulations are authorized by 112 (o.1). And that they provide an exception to section 95 of the Act. And section 95 of the Act makes reference to: an assessing authority shall apportion the assessed value of a parcel.

Nowhere in the legislation or in the regulations are we to in fact consider apportioning taxation. You don't have to. If you want to provide equality amongst units in a condominium — because some are larger or whatnot — you apportion assessments. You provide that the assessment of the whole condominium block is this, and you apportion so much to this unit, so much of that assessed value to this unit, so much to that, depending upon its size and other factors. Once you have arrived at an assessment, then you take the mill rate and you merely run the mill rate against the assessment to get taxes. That's the way taxation is. No?

Mr. Ward: — No, not in condominiums.

Mr. Holtzmann: — Well, this is what they're doing.

Mr. Ward: — How do you assess the common property?

Mr. Holtzmann: — Well, that's added into the assessed value of the whole block.

Mr. Ward: — That's right, and that's a separate entity from an individual unit. You also have the assessed value for the individual unit, which is my portion. You also have the assessed value of the common property, which is the collective portion. So that portion has to be added on to the assessed portion of the individual units.

Mr. Holtzmann: — Yes. It's all added in. You get a global assessment of units, common property, whatnot. Then you apportion that global unit to the various units because nobody in fact . . . well, I guess they do. But all the units are registered in the name of an owner. They then get a tax bill based on the assessment and the mill rate that is struck to run against it . . .

A Member: — Use the formula.

Mr. Ward: — That's right.

Mr. Hillson: — When you go to any meeting with SAMA (Saskatchewan Assessment Management Agency) or SUMA (Saskatchewan Urban Municipalities Association) or Municipal Affairs, you will inevitably get a lecture about how we're not supposed to confuse assessment with taxation. That seems to be what's going on here.

Mr. Ward: — Well that was what . . . you mentioned something earlier about that. You said something about assessment is . . . when you were starting your . . .

Mr. Holtzmann: — Yes, assessments. As you know, every municipal Act, whatnot, requires an assessment to be made of all land and buildings and pipelines and superstructure of the railway and whatnot. The assessments are then struck, a certain time goes by, appeals could be made against the assessments, then the assessment roll is completed, certified, and that's it. And that's what your assessment is.

And then they determine how much money they need for the budget of the municipality, as well as the school or the hospital or whatnot, and they get X amount of dollars they have to raise. Then they know what the mill rate has to be, because of the amount of assessment they've got, to arrive at the dollars that they need.

And the section in the regulations talks about apportioning the taxes. The regulations . . . or the Act talks about apportioning the assessed values. And now I know the minister has had this report drawn up for him and he's been assured that this is the way it goes, but I don't think one can interpret assessed value as being taxation, unless I'm missing something, which is quite possible.

Mr. Koenker: — I agree with you, and I think the minister's letter is a case of fuzzy thinking, and that's putting it kindly. And I think it needs to be challenged and I think the committee ought to . . . If you'd be kind enough to do that on our behalf, I think that would be appropriate.

Mr. Holtzmann: — Well I was going to suggest at the end of the meeting that, in light of some of these responses, that the committee invite the officials of the minister to attend before us to share their experience and their creativity.

The Chair: — Any further comments? Well this certainly . . . I think we're all agreed that there's a number of different views and we've had some interesting discussion regarding this condominium property regulations.

I think the suggestion by our Law Clerk, Mr. Holtzmann, might be a better way of addressing the concern — having officials come and express and they could clarify if they can — or we might get more fuzzies but I seek the direction and guidance of the committee.

Mr. Koenker: — I don't think we should just have them . . . invite them to come and share their thoughts. I think we need to express what I said earlier, that this is not good enough; we are very concerned, in the opinion of the committee, that this is a . . . They need to be on the hooks to justify joining . . . calling taxation into the matter that speaks of assessment.

Mr. Holtzmann: — Now I've looked at this, I've looked at the minister's response, and I've considered it this way and that way; and I'm beginning to doubt my ability because to me it's quite obvious what the section provides and what the regulation provides and what the authority is and what the regulation does. And unless I am missing something, which as I say, could be.

Mr. D'Autremont: — Well I agree with Mr. Koenker on this issue. I think we need to bring officials before us to justify their remarks and to make changes to the appropriate regulations.

The Chair: — I guess what I would also suggest, coming back with Mr. Koenker as well, just a letter to the officials indicating that the committee has significant concerns . . .

Mr. D'Autremont: — Request their presence.

The Chair: — And we request your presence to come before the committee to address these concerns. Would that be a way of approaching it?

Mr. Jess: — I wonder if we shouldn't . . . To me it sounds like it's maybe just in the wording where they have used "taxation" in one instance and "assessment", and there's confusion. Maybe we should identify what we feel is the problem.

The Chair: — I think that could be worked, certainly put in to the request to the . . .

Mr. Jess: — Because they're talking about two different things.

Mr. D'Autremont: — They're arguing they're talking about the same thing . . . (inaudible) . . .

Mr. Holtzmann: — It's hard to visualize that taxing authorities would be confused with assessed value and taxation.

Mr. D'Autremont: — I can be assessed at — a piece of property — at \$10,000 and my taxes could be zero if the mill rate is set at zero. But my assessment hasn't changed.

Mr. Jess: — If it was, we'd look at that too, Dan.

Mr. Koenker: — I think it needs to be said that while it may be convenient for them to confuse the two, or assume that the two

are synonymous, it doesn't bring clarity to the issue and to the legislation. And that's what we're talking about in this committee — is clarity in the regulation and the legislation. And they need to be here to bring clarity — not convenience — to the interpretation.

Mr. Holtzmann: — No, I was just going to say if the Saskatchewan Assessment Management Agency people are going to be here to bring clarity, I would like to be invited to this meeting. My contract as Law Clerk is up at the end of June but I would certainly like to be at that meeting to get clarity.

Mr. Hillson: — Mr. Holtzmann as someone . . . as another member whose contract may be expiring now. I was just going to say though that at least Larry also has municipal experience but it's my recollection that exempt properties are assessed. Is that . . .

Mr. Holtzmann: — Yes.

Mr. Hillson: — That's correct?

Mr. Holtzmann: — Oh, yes, yes. All property is assessed because you might have a tenant and then he is assessed with respect to the property, although the property isn't liable to the taxation.

Mr. Hillson: — Okay. So even if the property is exempt from taxation, it's nonetheless assessed and on the roll?

Mr. Holtzmann: — Oh, yes. Yes.

The Chair: — Well it sounds to me like we certainly need to sit down with the officials. And I get the feeling from this committee that we have to get legal advice and send a letter requesting the presence of officials to debate this issue further. Is that agreed?

A Member: — Agreed.

**The Department of Intergovernmental
Amendment Regulations, 1997 (No. 2)
(Gazetted April 3, 1998)**

Mr. Holtzmann: — These regulations authorize the department to render assistance with respect to the holding of municipal elections, whatnot, and the committee had requested the minister to indicate what participation the department would take in municipal elections, for instance, because all the steps in an election — municipal, city, town, village, northern — are pretty well set out in detail in the various statutes.

The minister replied by letter of January 12, and that's page 2 of attachment F, and those are some of the examples that the minister has set out there. General advisory duties, do whatever help they can get, liaison with the department probably in this connection.

The Chair: — Any questions from committee members? One question. Mr. Holtzmann, would you consider this . . .

Mr. Holtzmann: — I would consider it resolved. Yes.

The Chair: — It's agreed to be considered resolved. Thank you.

**The Enforcement of Maintenance Orders
Regulations, 1998
(Gazetted March 6, 1998)**

Mr. Holtzmann: — The Minister of Justice was contacted by the committee through the Law Clerk. He responded and his response is attachment G. He has indicated that with respect to the concern of the committee of the automatic filing of enforcement orders with the enforcement officer since some persons who receive enforcement orders do not wish that officer to enforce their orders, that they opt out of the system; and to track down all the orders would be quite a time-consuming and costly process. And I agree with him.

With respect to other matters raised by the committee, he did indicate that he would consult his officials to see if changes could be made to make the process of applying for an enforcement order simpler for those who wish to apply.

The Chair: — Any questions?

Mr. Hillson: — I'd like to say that the minister has undertaken or just that he'll consider that the officials will supply the certified copy for all those people going into the system. I'm pleased to see that. I have to agree with the minister that when the client herself has said she does not want to be registered in the system, there's not much we can do about that.

But I do appreciate the minister saying that the system itself should supply the certified copy of any order where the services . . . (inaudible) . . . are requested.

The Chair: — If there aren't any further comments, is the committee prepared to accept this issue as being resolved?

A Member: — Agreed.

The Chair: — Agreed. It's carried.

**The Provincial Court Amendment Regulations, 1998
(Gazetted May 1, 1998)**

Mr. Holtzmann: — This was an amendment which in effect provided a substantive amendment to the Provincial Court regulations. They were passed sometime in January, I believe, which said — or late December — the regulations said in effect, "effective November 1, a Provincial Court judge shall be entitled to receive X dollars." In my view, these regulations are retroactive because they're purporting to say these regulations shall be taken to have appeared in this form as of November 1 — effective November 1, the Provincial Court judge . . .

The minister responded with the explanation that in fact since the regulations provided a benefit and that case authority indicated that in those cases they weren't trading on rights but providing a benefit, that the regulation was not invalid and could stand.

Again, I find myself in disagreement with not the minister, but his officials. And I would suggest a further review by the Law

Clerk, — since I won't be the Law Clerk — and a further report to this committee with respect to this whole question because this has popped up many times, that regulations are passed usually with respect to payment of salaries. And it happens because people are hired — they are hired and they begin work before the official appointment of hiring goes through. And so of course you want to provide for their payment from the day that they started work and invariably the regulations say that he shall be paid, that this appointment is effective on a certain date which is a date past — which is bad in law, I suggest — and he gets payment of so much.

There's an easy, easy, simple way of doing this lawfully, that you make the appointment and you provide that with respect to the period which commenced on a certain date, you now pay him so much money and then you pay him for his services so much money for each month or week thereafter that he performs his services. Quite, quite a simple procedure.

But my recommendation is that the Law Clerk give further thought and consideration to the explanations of the minister because the cases, the court cases go both ways on the explanation given by the minister's officials.

The Chair: — Do we have any questions from committee members?

Mr. D'Autremont: — Follow the recommendations of the Law Clerk.

The Chair: — Okay, is that agreed? Carried.

The Land Bank Temporary Provisions Amendment Regulations, 1995 (Gazetted January 27, 1995)

Mr. Holtzmann: — Well these have, as you can see, been around for quite some time. The minister had been contacted with respect to these regulations and had responded — attachment 8 of your attachments — explaining that rentals had been established for land bank lands, rentals had been established for department-administered lands, and it was to bring these . . . bring these rentals somewhere close together. I think the matter has resolved itself due to the effluxion of time. I don't think we have any — well perhaps we do — any land bank lands any more that . . . (inaudible interjection) . . . We do have some again?

A Member: — Yes.

Mr. Holtzmann: — Under lease?

Well in any event I would think that now these regulations have long since gone by the wayside and new ones have taken their place, perhaps several times over.

The Chair: — Questions from committee members or is the committee prepared to accept the recommendation of our Law Clerk that these be viewed as resolved or dropped.

A Member: — Can we withdraw some of these old regulations?

The Chair: — Well I note that Mr. Holtzmann mentions the issues still lie present for the committee with respect to another regulation, Provincial Lands Amendments Regulations, 1997. We're probably going to face that again so there's not much point in holding onto previous regulations.

Mr. Holtzmann: — It's the practice that leases are entered into and then the rentals are changed during the term of the lease by regulation.

The Chair: — So we'll accept the recommendations of our Law Clerk, then. Is that agreed? Agreed. Carried. Thank you.

Consideration of Report

The Chair: — The back of the information you had yesterday had a draft first report of the Special Committee on Regulations, and if we can have it in place today we will move it in the House this afternoon if Mr. Ward would be prepared to second the report? I wonder if you have any questions regarding the report before we vote on it to present our report?

Just one thing I should bring to your attention. Regarding outstanding business, when Mr. Holtzmann took on the role of our Law Clerk, he, I believe, went directly and started reviewing 1998 calendar year which means that regulations filed during the 1997 calendar year really haven't been looked into yet.

It would seem to me the fact that we have 1997, that the Law Clerk hasn't had the time to really devote to it, has gone into 1998, the committee that will be reviewing this down the road is going to have a lot of work ahead of it again. However, having said that, I wonder if there are any questions regarding the draft report that will be presented to the Assembly either this afternoon or tomorrow afternoon?

Is the committee in agreement with the draft report?

Mr. Hillson: — I don't know if it would just be by way of motion in this committee or if it should be mentioned in the draft report. But I think there should be some mention made of our thanks to Mr. Holtzmann for filling in in the breach. I think we have appreciated the way he has helped us out and come in in our hour of need. I do note that we thank various members of the committee in that and I think maybe we would . . . I see there's . . . well we had legal assistance provided us from Mr. Holtzmann, I think there should be some reference there added that we have appreciated his assistance on short notice and we've been grateful for his leadership.

The Chair: — Thank you, Mr. Hillson. Well put and that will be duly noted. And is the committee prepared then to move this report?

A Member: — Agreed.

The Chair: — Having no further business before the committee, first of all I would like to thank committee members for taking the time this morning to come and discuss these issues.

A special thank you to Mr. Holtzmann, and for certainly

working with us. And I personally as Chair of the committee would like to thank Mr. Holtzmann for his time and efforts. It's been a pleasure working with Mr. Holtzmann. And I want to thank you personally, as you've heard from committee members already, for your efforts, time and efforts. And I have appreciated the way you have brought your reports to the committee. The way you've explained them — it's made it a lot simpler for committee members, and I thank you for that, Mr. Holtzmann.

Mr. Holtzmann: — Mr. Chairman, and committee members, I would like to thank you for your assistance and for your forbearance and for your charity. And I understand that certain members of the legal profession have not been the subject of such flattering remarks as I have been today. So thank you very much, and it's been a pleasure meeting you and working for you.

The Chair: — Thank you very much, Mr. Holtzmann. Thank you very much, committee members. We need a motion to adjourn. Mr. Ward.

The committee adjourned at 11:07 a.m.