

## LEGISLATIVE ASSEMBLY OF MANITOBA

Monday, 6 July, 1987.

Time — 8:00 p.m.

### ADJOURNED DEBATE ON SECOND READING

#### BILL NO. 26 - THE ENVIRONMENT ACT

**MADAM SPEAKER, Hon. M. Phillips:** On the proposed motion of the Honourable Minister of the Environment, standing in the name of the Honourable Member for Virden.

**MR. G. FINDLAY:** Thank you, Madam Speaker.

I arise on this occasion to put a few words on the record with my feelings about an Environment Act. Certainly representing the agricultural industry and having been involved in it for a good portion of my life, we believe that people who are farmers are probably the people who are in greatest contact with the environment, Madam Speaker. They have to live with it, they have to compete with it and they have to find ways and means of being able to earn a living when in times maybe being in competition with what the environment does. I can tell you, Madam Speaker, with all due respect, that farmers know what the environment is and they know what it means to protect it.

They are very responsible people and I, as a farmer, and have been listening to two farmers who have seen what can happen when legislation is in place on the environment. We start to become very nervous when we see a new act that's being brought forward that has the kind of powers that exist in this act.

Madam Speaker, during the Estimates period, I had some degree of discussion - it looks like the Minister of Agriculture was out in the rain and knows all about the environment - I had occasion to talk with the Minister of the Environment during Estimates and I asked him basically the kind of questions that I want to raise tonight. The answers I got at that time, although on the surface sounded reassuring, still leave a lot of doubt in my mind as to what the intent is with the Minister and his department over the years with the powers that exist in this act.

Madam Speaker, pollutants are defined in the act as any solid, liquid or gas, smoke, waste, odour, heat, sound, vibration, radiation, or combination of any of them. Madam Speaker, certainly agriculture deals with solids, liquids and gases and, in the natural production of crops and of livestock, there are odours and concentrations that differ at times, that certainly people living close to these places may find a degree of offence with. I can understand why they might do that, Madam Speaker, but on the other hand, if we're going to produce food of the quality and quantity that we want in this country, we're going to have to find ways and means of allowing the farmer to continue to exist.

Madam Speaker, when I asked the Minister what the intent of this act was with regard to agriculture, he said to me and he said this to other organizations that talked to him, don't worry, the regulations that are

presently in place that tend to exclude almost all of agriculture will not change.

**A MEMBER:** That's not so.

**MR. G. FINDLAY:** But, Madam Speaker, in the Estimates on page 2514 of Hansard the Minister also said, ". . . all regulations need to be reviewed periodically," which clearly opens the door that regulations that can be brought in by Cabinet at any time can have all kinds of impact on agriculture and, in terms of the ability of the farmer to produce his products, can have tremendous impact on his costs. Madam Speaker, agriculture is unique. It cannot live without the environment and the environment cannot exist without agriculture.

Madam Speaker, we have to produce crops, and we produce livestock in a normal cyclical fashion. As I said earlier, at certain times there are concentrations of products that can naturally be a little bit offensive. When these regulations are considered by Cabinet, it's quite easy, as I perceive it, for any organization or group that feels that they maybe object to somebody's livestock operation, or they object to his spraying operation, or they object to his burning of stubble, to appear to Cabinet, make representation and Cabinet can then consider that recommendation and pass a regulation.

The Minister has told us repeatedly that there will be a consultation process in place, such that any regulations that are being considered will be discussed with the appropriate agricultural groups that will be affected. But, Madam Speaker, consultation does not mean that agriculture has the power to prevent adverse regulations being brought into place.

Madam Speaker, two particular areas that concern us in agriculture with regard to what the Minister intends to do are pretty important to us right now, and one is the burning of stubble. Madam Speaker, the Minister of the Environment last fall, when pressured by some people in the city, said we will do something about burning straw. That was a pretty strong statement. That meant he was intending at some point in time to prevent farmers from carrying out this practice. He said there will be a consultation process; that consultation process has not started yet.

Madam Speaker, he told us in Estimates that there would be hearings held in the not too distant future on stubble burning. But clearly the power of nearly 600,000 people in the City of Winnipeg, if they want to get behind a push to stop the stubble burning, probably will have a lot of impact on this Cabinet.

Certainly farmers can utilize practices that reduce or almost eliminate the amount of smoke, but they can never totally eliminate it. Burning of stubble is a process and a practice that, although frowned upon agriculturally - certainly putting the straw back into the ground is the preferred process - but there are times, climatic conditions, under which the volume of straw and the lateness of the year means that the farmer should use the practice of burning the stubble off, and particularly with flax straw, Madam Speaker.

So I am very concerned about what the Minister plans to do with that issue under this new act. Certainly the powers exist there for one of his environment officers to walk into a farmer's field some day and force him to stop burning - a very strong action. Certainly the other methods of the farmer's ability to remove the straw would be very costly to him.

Madam Speaker, the other area that I have a lot of concern with is what is going to happen with regard to livestock wastes, livestock or intensive livestock units. The Minister, in his opening statement to Estimates last Session and again this Session, referred both times to having to eventually undertake a study of livestock waste disposal. When I asked him what he intended to do or what he was trying to do, he said he couldn't comment at this time because his internal review was still not completed. And, Madam Speaker, the questions still remain, who's calling for review of the livestock waste operations in this province, why were they asked, and who prompted them.

I said to the Minister during Estimates that in the majority of cases farmers were usually in an area first and then the residents encroached upon the area. When these residents, after the fact, come forward and say that the agricultural operations are interfering with their lifestyle, I say the farmers need to be protected, and need to be protected by some sort of legislation like the right to farm.

In Estimates, the Minister did not reject this idea out of hand. But, Madam Speaker, we understand that in our intensive livestock units we certainly do create concentrations of manure. There are ways and means of disposing of it. There are odours there that can't be prevented and, if the farmer has to go to more expensive methods of getting rid of the waste and handling it at a higher cost, Madam Speaker, what does a farmer do because in most cases with most forms of livestock he cannot pass that cost on. The marketplace does not allow the farmer to do that.

Madam Speaker, any farmer who drives from Winnipeg going west and if he travels at least 60 miles, he soon encounters probably one of the strongest-smelling situations you can run into in this province, and that's the by-pass at Portage. As I say, under the existing legislation, how could that lagoon be located in such a location? It's certainly a lot more offensive to me than any livestock operation I've ever been near.-(Interjection)- So if anybody's by Portage - and I'm glad the Member for Portage isn't here tonight - will always remember where the City of Portage is.

Madam Speaker, another area that concerns me is the emergency action by an environmental officer. He has the power to stop any operation that he deems as to creating unsafe conditions or an impact on human health or irreparable damage to the environment. Madam Speaker, there are probably justified reasons and times and places where that action can occur. Madam Speaker, when a farmer is carrying out his agricultural operations, there are certainly going to be people who will take offence to his spreading hog manure, for instance. They may take offence to his spraying in his field. Although the Minister has said it's not likely to happen, he hasn't ruled out the possibility that an environmental officer could stop those operations.

Madam Speaker, somebody always has to make a decision, and sometimes those decisions can have very

expensive costs to an operator, to a producer, to a farmer. There's no provision in the act to protect the farmer, who I see from being impeded in doing operations that are quite normal and has been going on for a long period of time, that all of a sudden somebody has the power to call offensive.

Madam Speaker, the Minister has held a number of meetings with groups around the province over the last few months or since last Session, and he's had a lot of input. Madam Speaker, one organization that has become particularly concerned is the Keystone Agricultural Producers, a group of people who voluntarily pay \$75 a year to belong to an organization which is doing a lot of work to try and protect their interests.

Madam Speaker, they've had good communication with the Minister. They've had discussions with him but they still have a lot of concerns about what the power of this act will eventually lead to with regard to its impact on agriculture.

Madam Speaker, they wrote the Minister a letter on June 19 asking him to give further consideration to the agricultural problems that they see coming with this new environmental act. Madam Speaker, I phoned them this morning and they still had not had an answer from the Minister. And, Madam Speaker, they were asking that there be, and I quote: ". . . specific recognition of the unique requirements of agricultural production to be provided within the administrative structure under the act, at least through provision of an environmental committee or subcommittee of the proposed Environment Commission." Madam Speaker, the Keystone Agricultural Producers are still looking for an answer to that request they've made to the Minister.

They go on further and request that, if agriculture cannot be given some specific recognition or protection in the act, Bill 26 should be set aside for at least one more Session to allow Keystone to have further communication with the Minister to have further assurances that they will be in a position of protection into the future.

Madam Speaker, with those few comments I would request the Minister to consider these comments and to consider specifically the request of the Keystone Agricultural Producers and all farmers of Manitoba who've made representation to him on all the issues I've raised here tonight. We have a grave degree of concern and we believe that the act, although well intended - and the Minister's actions, I believe, by and large are well intended - the power still exists there to have a very significant cost impact on the ability of farmers to carry out farming in Manitoba in the coming years.

Thank you, Madam Speaker.

**MADAM SPEAKER:** The Honourable Member for River Heights.

**MRS. S. CARSTAIRS:** Thank you, Madam Speaker.

I rise to speak on the environment bill because perhaps no other department of this government or any other government is as concerned with the future of the next generation and the generation after that, who will indeed inherit this province.

We have a responsibility to pass on to our children and our children's children, a province in as good a

shape and, God willing and with proper planning, even better shape than the one which we received. For this reason, I looked forward to this legislation, as did any of those who were concerned about our consuming habits. I waited for legislation which would reinforce good environmental habits and change those behavioural conditions which we must change in order to create a more positive environment for the future.

I waited in vain, Madam Speaker. What we received was a very - and I'm sure the Minister won't like the word - conservative piece of legislation. Yes, it did some housekeeping with the old legislation and, Madam Speaker, it did raise some fines, but surely the purpose of progressive environmental legislation is to bring about positive change and not simply catch people after the damage has already been done.

Where are the recycling programs Manitoba so desperately needs, and whose lack puts us at the bottom of the heap in relation to every other province in this country? Yes, the legislation does provide for some environmental impact assessment, but it is very, very weak. Assessment is good only when it is equitable and across the board. Instead, we have created three classes and in none of them is a public process mandatory.

The Brundtland Commission has stated most clearly that, on megaprojects, a public hearing and full public debate is absolutely essential. Tragically, this government has not shown that kind of policy initiative in this legislation. It has not encouraged public participation and indeed has hedged this legislation over and over again with words like "may" instead of words like "shall" and "must."

Unfortunately, in all three classes, decisions will be made by the director, as in Class 1 and Class 2, or by the Minister in Class 3. Both individuals are open to lobbying from all sides. How much better the legislation would have been if an arm's length review committee, free from political pressure, had been established.

Madam Speaker, one of the major difficulties with this legislation is the necessity of an individual to prove that he or she has been directly affected by a project. Are we not all directly affected by the environment of our province? Should not all citizens be concerned about the future of that equal system, whether the project is in the north and we live in the city, or whether it is in the south and we live in the east or west?

Perhaps however, my greatest concern regarding the legislation is that this piece of legislation is based on the past. If this legislation had been written in 1972, perhaps it would have been considered to have been progressive, but we are now in 1987.

Ontario's legislation, also introduced in this Session of the Legislature, is far more progressive and innovative than this legislation. For example, they have established an environmental defence fund, available to all of those who would oppose a project for environmental reasons. Madam Speaker, we all know the high costs of legal action and also the high costs of impact studies. The need to pay for expert testimony and evaluation far outstrips that of an individual to pay and indeed that of a special interest group, which is usually composed of volunteers. Our legislation, unfortunately, ignores this critical issue.

The Ontario legislation also provides for worker protection from reprisals by an employer because the

worker refuses to perform a polluting act because he believes or she believes that there is a danger present in that pollutant act. Our act has no such protection for a worker who will not compromise principles.

In January of 1987, at the government party's convention, they passed a very far-reaching environmental policy, but this legislation goes nowhere near addressing the concerns of the NDP delegates. In addition, the Minister responsible for this legislation presented the Cabinet with an Environmental Philosophy and Guiding Principles for the Government of Manitoba on May 21, 1986 - an exciting document. Unfortunately, this legislation falls far short. The Minister knuckled under the pressure from other government departments who did not want their department subject to this legislation and, as a result, they have failed to meet the expectations of many.

In addition, the Minister has been convinced for some reason that the environment is not a glitzy issue and that it may not gain him political mileage, so he has soft-pedalled the environment issue and, as a result, we are not prepared to protect the children who are yet to be born. Madam Speaker, I hope this legislation will be very short-lived and that the government will introduce legislation in the next Session which will, in fact, be far more progressive.

However, even if we accept the legislation as is, there are certain changes which must be made. This legislation must at least be amended with regard to the Environmental Council which has been effectively neutered by this legislation. The numbers have been reduced and no provision has been made for funding for this or indeed any other advocacy group which could indeed present an alternate position to that proposed by a developer and/or the government. I challenge this Minister to introduce those types of amendments when this bill goes to committee.

Madam Speaker, the Canadian Nature Federation's Conservation Report maintains, unfortunately, last year's overall D-minus grade for Manitoba, the worst of all of our provinces. Madam Speaker, whether it is refillable or returnable beverage containers, whether it is emission standards, whether it be reforestation, we fail. This government does not stand up for the environment. The air we breathe, the soil we plant, the water we drink, the noise that invades our ears all needs protection. We require legislation which says the Minister must act. Only then can we assure that our grandchildren yet to be born can inherit a Manitoba in which they can take pride.

**MADAM SPEAKER:** The Honourable Member for St. Norbert.

**MR. G. MERCIER:** Thank you, Madam Speaker.

I wasn't going to speak, but having heard the Member for River Heights, I think everyone in this Chamber and everyone who lives in this province would agree that we have a wonderful province to live in, in terms of our environment that we have in this province. I think the difficulty in dealing with this kind of legislation, frankly, is that you have to have some common sense. It's easy to stand up and talk about children unborn, but we live in a practical world, Madam Speaker.

I would raise one matter with the Minister of the Environment. I would ask that he perhaps address it

at some point in time when he concludes debate. This bill would appear to apply to the City of Winnipeg. I can recall, during the 1970's, the City of Winnipeg and/or Metro prior to that having been involved in the construction of major transportation projects in the city. If an act like this were used to its maximum, projects like that might very well have been stopped, transportation projects like Route 90, like Lagimodiere, major transportation projects in the city that have served to benefit the transportation system in Manitoba.

Probably, in the '90's, I would hope that this city would be embarking upon major public transit projects in terms of rapid transit. It certainly will be in the relatively near future, foreseeable future, I hope, an area that the City of Winnipeg with the help of the province and hopefully the Federal Government should be looking at and embarking upon.

In those kinds of situations, Madam Speaker, there is always some small group, important though they may be, who will be adversely affected. Will a small group of people be able to stop major transportation projects in the City of Winnipeg through the provisions of this act? Because there are cases, and it's extremely regrettable, but some of those major transportation projects, whether they be roadways or whether they be public transit projects, have to be embarked upon for the benefit of the whole city.

I would ask the Minister, when he's summing up debate on this bill, how major transportation projects would be affected by this legislation.

**MADAM SPEAKER:** The Honourable Minister of the Environment to close debate.

**HON. G. LECUYER:** Thank you, Madam Speaker.

I suppose, Madam Speaker, if I were to address all of the comments or the questions raised on the act by the various members who have spoken, I would have to be allowed an extension of time here. I don't propose to do that, Madam Speaker, as there will be more than one occasion presenting itself for me to address various aspects as this piece of legislation, this bill, goes through the process down to committee and then back here for a Third Reading.

Madam Speaker, let me say at the outset that the legislation that we propose, I believe and we all believe on this side of the House, is a progressive piece of legislation and is going to be a state of the art. I suppose any member in this House could, at one point or another, say well, there is that item or that clause in the Environment Act in Prince Edward Island, or that clause in the act in Alberta, and this is being proposed in Ontario even when it's not passed, and it's not a new act, it's just a number of amendments that are being proposed. But the fact is, Madam Speaker, I know for a fact that when you take every one of the clauses of this proposed piece of legislation and you put them all together as we have in here in this legislation, you will have a better environment act in the end than you will have anywhere in Canada at the present time.

I know, Madam Speaker, having said that, that is still not good enough. I, for one, believe - and I am not aware of the contrary - that there has ever been a single piece of legislation adopted by this Legislature ever since its beginning that we could have called

perfect. I think that we have to learn to accept that we are going to achieve a mile or two of progress, a mile or two of compromise, of give and take, of reasonableness, and all of these things they talk about.

I know that I would have liked a lot more, other members would have liked a lot more, and a lot of people would have liked a lot less. I think we have to be able to achieve a certain measure of progress, a certain measure of moving forward or, if I can put it another way, Madam Speaker, we have to learn to walk before we can run and that's what we're proposing.

Sure I expect that, because it's not perfect and because it's a new act, I fully expect, Madam Speaker, that either in the next or the following Session after that, there will be a need to bring forth some amendments to this legislation. As we proceed to implement it, Madam Speaker, we will see that things, in certain areas, are not working as well as we had anticipated. Hopefully they will work better than we anticipated but, if they don't, it's not the end. We'll be able to bring about some new amendments.

Madam Speaker, I don't want to address every one of the comments or questions raised by members of the Opposition and, as I say, I cannot deal with all of them at this point in time. But, as I say, as we go through committee and we come back to Third Reading, I'll get an opportunity to cover some of those that I cannot cover here tonight. But if I were to translate the gist of the comments I've heard, I've heard generally speaking, yes, we can support it in general. We agree with the thrust of it, but make sure you don't go too far, some have said. Make sure you don't go too far, and don't forget to be reasonable and remain flexible or don't be inflexible to the agricultural sector. Don't be too hard on the City of Winnipeg, don't be too hard to some other area of the province.

I've heard some people say, on the other hand, you could have done more in that area. Some members have said, as the member has just said awhile ago - and some of these are fallacies or misunderstandings of the bill - some members said, for instance, we've neutered, as the word was used awhile ago, the Manitoba Environmental Council.

It should be noted, Madam Speaker, that in the current Environment Act, the Manitoba Environmental Council doesn't exist, so we're creating it in this act. We're legalizing it, Madam Speaker. The act doesn't say how many there will be, but the Member for River Heights has said we will reduce the numbers. I fully expect so, Madam Speaker. If we want to make it effective and efficient, we're going to have to reduce the numbers. The member says we didn't provide the funding. We don't provide funding in the act, Madam Speaker. That's an administrative aspect of the legislation and there will have to be additional funding provided to the Manitoba Environmental Council which will continue to exist and, I'll assure all members, it hasn't been neutered. In fact, it's being legalized and created in this particular piece of legislation.

The legislation we propose here, Madam Speaker, is primarily as a result of our deeply ingrained belief that environmental legislation is vitally important to the Province of Manitoba. It's vitally important because, as the Member for River Heights has said awhile ago, it is perhaps the piece of legislation that affects all people but primarily it affects also, Madam Speaker,

future generations. So for us and for myself, it is indeed very important and, Madam Speaker, certainly I have not proposed or backed down from anything for political reasons, as the Member for River Heights has indicated. I would rather, Madam Speaker, interpret some of her comments in that light on the other hand, and I will get to that later.

We believe that we will, through this piece of legislation, Madam Speaker, as I said, achieve a new milestone in offering protection to Manitobans now and to future generations and, at the same time in doing so, taking into consideration the activities that occur in Manitoba. I certainly don't believe, Madam Speaker, as some might believe that, in order for us to have a good environment, we have to stop everything. That is not even possible. We'd have to remove ourselves from the environment if we wanted to do that.

The purpose is to carry on our activities in a way that our environment will not unduly be impacted in such a manner that future economic activities or the potential for future economic activities is negated because of our wrongful actions or decisions today.

So we want to make sure that what we do today is in line with sustainable development, in line with what the Brundtland Commission says, Madam Speaker, and I probably know more about the Brundtland Commission and its report than any other member of this House, as I chair a national task force that is intended to providing follow-up in terms of recommendations to the Brundtland Commission, and I agree with its recommendations.

I suppose we should say, Madam Speaker, that in order for us to have a healthy environment, we need a healthy economy and the vice versa is also true. A healthy environment will also enable us to continue with ongoing healthy economic development. There is no contradiction between the two. In fact, it's high time that we realize there's an integral link between economic development and a healthy environment. That's the reason why, a year ago, Madam Speaker, we passed those wonderful environmental principles that the member stated a while ago that we did adopt at Cabinet, eight environmental principles that are there to guide our future actions.

I know that, when we had adopted these, we haven't by the same fact changed everything we do. That's also part of our learning process. It's also something we're going to have to learn to do progressively, and we are in the process of doing that, Madam Speaker, of living much more closely in line with those principles we adopted.

I have comments that I've been requested to make, Madam Speaker. Those are just my general comments. I'll get on to the specifics, but to get on to say that because these principles, Madam Speaker, are not repeated in the act doesn't negate the fact that our legislation, as I say, was built with those guiding principles as the foundation to them. And in fact, they were incorporated as part of that paper which I tabled last year along with the bill, which was going to be taken out for consultation purposes, and which we did, Madam Speaker.

Yes, there are some people who are left with some concerns. I would have to be worried immensely, Madam Speaker, if we were passing legislation here which provided no ongoing concerns to anybody. In fact, I

would hope that the legislation we adopt here will certainly give rise to more concern, but especially to more knowledge and more awareness of what it means to all of our lives, of what environment means to all of our lives, Madam Speaker.

When we set out to adopt this legislation, we did so in stating that we would live up to our commitment to improve environmental protection for Manitobans, for future generations, fully realizing that there were serious shortcomings with the present legislation. I won't repeat them, Madam Speaker. I think I've done that often enough.

I won't repeat the five basic objectives of this legislation because it's clear as well. I've stated them. But I want to say, Madam Speaker, that I have no doubt that the legislation we're introducing in this House at this time is going to go a long way in achieving these five objectives.

I had planned to go over those, Madam Speaker, again. I had planned to cover again, Madam Speaker, the shortcomings of the present legislation. I won't do that. I'll pass that.

But I want to say that we've substantially improved the legislation that we're presenting now versus the bill that we took out. The bill that I tabled last year in this House and that I took out for consultation across the province is substantially improved because of the public input into it. The legislation we're introducing today, Madam Speaker, is a much better piece of legislation, and I thank Manitobans who have given us the benefit of their advice, whether they be the private individuals or municipal bodies, whether they be the Keystone group which I've met a number of times, whether they be the Canadian Manufacturers Association, or any of the environmental groups - and there were many - even though I fully expect that this legislation is not going to fully enamour everyone of them on every one of its aspects.

Now getting onto some of the specifics, there is also mention by a number of members about the changed role of the Clean Environment Commission. I want to indicate clearly, Madam Speaker, that its role remains very much unchanged. We said, Madam Speaker, that we want to broaden the scope of the legislation. In order to do that, we want to look at and to do some form of screening over a much broader range of issues than we have so far in the past, and we want to do so in a very flexible and expeditious manner.

So in order to do that, unless we would have created or cloned the Clean Environment Commission and made six copies of it, we probably would not have been able to cope and function in the same manner as we have under the current act. In fact, Madam Speaker, in doing so - and there is misunderstanding on the other side - we have done so to provide some of that flexibility and to provide, at the same time, the broadened scope that we said we would with this legislation.

So it's not necessary, Madam Speaker, that every one of the development proposals that a proponent comes forth with necessarily go to the Clean Environment Commission for a hearing process. It's not necessary that we carry on as we do now under the current Environment Act, that as soon as there is one objector - it doesn't matter from where - who might be affected by a proposed development, the Clean Environment Commission be required to hold public hearings.

I think, Madam Speaker, there are some categories of projects which we are familiar with since a long time and we know what the impacts could be. We have a better knowledge already of the environmental considerations in various regions of the province and, Madam Speaker, we can deal with those either with existing regulations and, for those members who said we're providing exemptions, they misunderstood exemptions because there are already regulations to cover their operation. So they're not real exemptions. It's just a misunderstanding.- (Interjection)- No, they're not exceptions nor exemptions.

The reason that they do not require the same approach in terms of screening is that they are covered by existing regulations, such as the livestock operations, such as the lagoons, etc., Madam Speaker. There's a whole series of regulations that are in place that do not require us to submit each proposal in those same areas to the scrutiny of the environmental officers or to the scrutiny or to the public hearing process of the Clean Environment Commission.- (Interjection)- The Member for St. Norbert says who decides that? Madam Speaker, it's clear. If the operation is one of those as described by one of the existing regulations, then it has to meet the requirements of that regulation. It's not necessary to say we're going to require the proponent to fill an application which we're going to screen and pass through the hearing process if it's already provided for in either guidelines or regulations.

So as I say, the role of the commission remains a quasi-judicial role in that it can hear witnesses in the public hearing process. It will make recommendations to the Minister. We're opening up the process to the public because, if the Minister rejects the recommendations of the commission or if the director, in regard to Class 1 or 2 proposals, rejects recommendations of the Clean Environment Commission, he has to give reasons for doing so and those have to go, as part of the whole file on that particular project, in the public registry.

So the people will know what, and if they don't agree with it, Madam Speaker, they can appeal the director's decision, they can appeal the Minister's decision, and it will go to them to be considered by Cabinet. And even Cabinet, Madam Speaker, on this legislation, would then have to make room for a hearing of the parties who made the appeal, if such appeal were to be made.

So, Madam Speaker, we're proposing to deal with, as I say, a broader scope of environmental issues and we're proposing to do so under clearly drawn classifications. Some members have said, well, we'd like to see those regulations now but, Madam Speaker, it's not usual that we introduce recommendations or regulations to accompany a piece of legislation before we adopt the legislation. That's not customary, and it would be expecting, in this particular case, or demanding something that we don't normally request of any other piece of legislation, Madam Speaker.

Deregulation that is going to be adopted - or about three of them, Madam Speaker, one will be in regard to those three classifications. But in order to make the legislation itself clearer in that respect, I will propose amendments at the committee stage that might clarify some of the concerns in that regard.

I know I haven't fully addressed some of the issues of the Clean Environment Council and the Manitoba

Environmental Council or concerns raised on those sides, but I consider those, not to make this in any derogatory way, I consider those the lesser of the concerns that were raised because in essence, Madam Speaker, if anything, we have strengthened those two bodies; we certainly have strengthened those two bodies. We certainly have strengthened the public input process into the new Environment Act. So let me get on to the classification then.

As I said, we'll propose amendments at the committee stage. The only reason, Madam Speaker, that hearings are not mandatory is that we have said, where there is in place a process where a proposal, for instance, might have concerns with either Natural Resources, Agriculture or Forestry, or whether it had concerns with Urban Affairs, we would want the input and the expertise coming forth from these other departments. We will, as soon as a proposal is submitted to the department, Madam Speaker, make that proposal available for comment to all the other departments that might be impacted.

And that includes the third-class proposal which basically englobes the mega-type of projects, Madam Speaker. Those don't occur by the bucketful; I suppose they don't even come forth even to the tune of one a year. But the reason - and I say that for the Member for River Heights so the others, the Member for Kirkfield Park who raised that as well, why did we make the third classification hearings mandatory. Madam Speaker, I want to say that I expect that every project that fits into that third category will be subjected to hearings.

But we don't want to make it mandatory that it be hearings to the Clean Environment Commission because it could be that, as part of that interdepartmental process, it will be subjected to even a more rigorous hearing that will take into consideration, not only the environmental connotations of a project, but also the economic and the social connotations attached to it. And if that has been done in a proper way, Madam Speaker, it wouldn't be necessary to unduly delay a project to duplicate the process if we're satisfied that, as environmentalists in the department, that has been done in a manner that meets all of the concerns of the department.

Therefore, we cannot say we're going to make it mandatory because, even though I expect that it will always be subjected to an environmental review process which will have that hearing component attached to it, it may not be necessary to subject or to duplicate the Clean Environment proposal to do so.

Let me get on to another issue which gave rise to a number of distressed concerns and it has to do with the City of Winnipeg. Now the Member for St. Norbert is laughing but he also asked about it, so I suspect that he wants me to touch upon that, and so has every one of his colleagues who's spoken on this particular bill.

Well, let me remind the Member for St. Norbert and all the other members of the Opposition that the only thing that the City of Winnipeg is exempt, or the only area where the City of Winnipeg is exempt other than The Clean Environment Act as it currently exists, is only in terms of liquid effluents. From all other standpoints, it currently is subjected to The Clean Environment Act and will continue to be.

So, Madam Speaker, the principle is to have a legislation which is consistent in treatment of all the acts that come under the department, and that applies now to all other municipalities without exemption. Therefore, why do you want a specific exemption in the City of Winnipeg? That does not negate the fact that the City of Winnipeg has expertise in that area, and they will continue to need that expertise to meet the increasing rigours of The Environment Act.

No apologies, Madam Speaker, I believe that this is good legislation and I believe once it is adopted in this province, everyone will agree to that.

I have to say, Madam Speaker, all of those who have written to me, including the groups that the members opposite have cited, have all said they supported this environmental legislation. At least in its basic principles, they support it fully, even the Keystone Agricultural Producers Association, Madam Speaker, and I could quote some of the sections that members have not spoken of - (Interjection)- No, I don't plan on tabling, Madam Speaker, because the member from the Opposition already has a copy. And it begins, Madam Speaker, by saying we would like again to commend you and your department for the consultative style of approach which has been employed in the development of this proposed legislation.

I could go on and quote, Madam Speaker, from other letters which I have received including from the Manitoba Medical Association, from the Bar Association - you should be interested, the Member for St. Norbert - which says Don Mullard (phonetic) speaks for the Bar Association and says, "I have now reviewed the new Environment Act and it is clear to me, from the comparison of that act with the original draft legislation that you have carefully considered the submissions that were made by the public, and I think the resulting legislation is superior to that which would have been achieved in the absence of public consultation."

So I have, Madam Speaker, replied in full to a letter that I received from the Mayor of Winnipeg in regard to his concerns about the inclusion of the City of Winnipeg under this act, and I suspect that he will find that perhaps he didn't even realize that the City of Winnipeg exemption was an anomaly rather than the norm.

Madam Speaker, the only other thing I would like to touch upon before I close is that amendment which the Member for Charleswood has recommended or suggested, Madam Speaker. I'm happy to see that the member is going to take the kudos right now because hopefully he will recognize the stupidity of it by the time I finish my remarks.

**SOME HONOURABLE MEMBERS:** Oh, oh!

**HON. G. LECUYER:** Madam Speaker, if I had many hours here, I could repeat some of the things that I have said in reply to some of the grandstanding political comments that are being made frequently by the members of the Opposition in regard to the quality of water for the City of Winnipeg. And if they were so concerned, Madam Speaker, I would have liked to see them do something about it when they were in government, because that's when this issue came about. The record shows only excuses from the now Leader

of the Opposition when he was Minister of the Environment and really could have acted upon it, Madam Speaker.

But they allowed this development proposal, Madam Speaker, to go to Federal Environmental Review Process and now they have to live with that process and they have to live with the inaction of both our colleagues in Ottawa and some of their former colleagues at the City of Winnipeg level, because the two first intervener groups in this particular case are the Federal Government and the City of Winnipeg. And if they wanted this issue resolved, Madam Speaker, they could have done so a long time ago.

**SOME HONOURABLE MEMBERS:** Oh, oh!

**HON. G. LECUYER:** Madam Speaker, from Day One since we're in government, whether it be the previous Minister of the Environment or myself on this issue, we have said the quality of the water for the citizens of Winnipeg is No. 1 with this government, and we are indeed very concerned about that issue. We will do everything in our power, Madam Speaker, to see that quality is preserved.

We have sat at that negotiating table since Day One, Madam Speaker. Even when some of them, whether it was the federal colleagues or the City of Winnipeg, wouldn't show up for the meeting, we were there and we will continue to be at that negotiating table. And if they were really believing, Madam Speaker, for instance at that proposal or suggestion made by the Leader of the Opposition in terms of land swap, they would then agree as well that the Federal Government has to be at the negotiating table.

How do you swap Indian reserve lands without having the Federal Government at the negotiating table, Madam Speaker? You tell me how we do that. But, Madam Speaker, the amendment proposed by the Member for Charleswood consists of six townships in Ranges 15, 16 and 17, Townships 6, 7 and 8. Well, let me tell you, Madam Speaker, Townships 7 and 8 in Range 15 don't even drain to Shoal Lake.

Let me also tell you, Madam Speaker, that Townships 7 and 8 in Range 17, a good portion are reserve land. How do you unilaterally, Madam Speaker, by an amendment such as that in legislation, how can you effect that? That's why I say it's a stupid amendment.

Having said all that, Madam Speaker, I am getting angry signs from everybody to stop at this point, and I'll get other opportunities to complete my remarks, so I'll stop here.

**QUESTION put, MOTION carried.**

### **BILL NO. 64 - THE HIGHWAY TRAFFIC ACT (2)**

**MADAM SPEAKER:** Second Reading on the proposed motion of the Honourable Minister of Highways and Transportation, Bill No. 64, standing in the name of the Honourable Member for Turtle Mountain.

**MR. D. ROCAN:** Merci, Madame la Présidente.

I am pleased, Madam Speaker, to rise and speak to Bill 64, Loi modifiant le Code de la route (2). Madam

Speaker, although we support the general thrust of this piece of legislation, we do have some concerns that, namely, the language being used in this bill is kind of loose in the sense that we are not requiring somebody to do something by way of the registration of salvage vehicles. We are sort of saying to the people of Manitoba that you could register a salvage vehicle but it is really not required. I believe, Madam Speaker, that we could run into some problems here if the bill's language is not tightened up.

I believe, Madam Speaker, that tightening up the language is imperative if we want the general thrust of this bill to be adhered to by the general public. I would certainly hope, Madam Speaker, that the Minister would have staff from his department look at this section of the bill again before it gets to committee, in order that the language could be tightened up in order to keep this bill within the general thrust and spirit of what this government wants it to achieve.

Madam Speaker, another concern that we have is with salvage vehicles coming from out-of-province. Salvage vehicles are not native only to Manitoba, Madam Speaker. They come in from Ontario, they come in from Saskatchewan. What is in place within the Department of Highways and Transportation to make sure that they fall under the parameters of this bill? This is a question that I think the Minister and his staff must take a serious look at, and I hope that at committee the Minister will be able to indicate how his department will be dealing with this matter.

So as I indicated, Madam Speaker, we are prepared to allow it to go to committee.

Thank you.

**MADAM SPEAKER:** The Honourable Member for Arthur.

**MR. J. DOWNEY:** Thank you, Madam Speaker.

I have but a few brief comments to make on Bill 64 dealing with The Highway Traffic Act and just in principle, Madam Speaker, I guess the intent of the act, as I would read it, is to try and make sure and assure the public that all vehicles on the highway are safe. That's an assumption that I'm taking from this, Madam Speaker, and I'm sure that the Minister was encouraged to move forward with this legislation as there was pressure on all governments for a number of years on behalf of the automobile dealers of the province. I have no difficulty with what their argument is. They were in an uncompetitive league with those people who were in that automobile selling and buying business without garage facilities that the automobile dealers who had an establishment had to provide a Safe Vehicle Certificate. Madam Speaker, what the Minister is trying to accomplish, as I read it, is that those individuals who are now selling from their back door or their homes or who are not licensed automobile dealers but they have to provide a safety certificate as well.

Madam Speaker, I really question whether or not we're going to, in the end result, have any safer vehicles on the road. I know in principle that's what the Minister is trying to accomplish. I'm concerned, Madam Speaker, that there will be a cost to the consumer. There will be a cost of providing a Safe Vehicle Certificate that

each and every individual now who wants to go privately to buy an automobile has to incur the cost of having the vehicle inspected. So there is a cost to this.

Every time the government turns around and passes legislation, I want the public to know that there is a cost that goes along with it. Legislation usually has that side effect with it. I really question whether or not we're going to have any safer vehicles on the road, and I question whether or not the legislation will be able to be enforced because, Madam Speaker, we've seen recently in the news of a lot of what were supposedly new cars coming from some of the main manufacturers, cars that have got some miles on them.

All the legislation in the world would not have stopped that from happening, Madam Speaker. It boils down to the integrity of the people who are doing business, integrity of the people who are selling cars, and I don't know very many private dealers, Madam Speaker, who would intentionally sell a car that was unsafe transportation, whether they be a person privately in the business on their own as a sideline or a major part of their income, or anybody who is a licensed automobile dealer operating out of a franchised business.

I don't disagree with putting them on equal ground but, Madam Speaker, I don't want to see, for the sake of having a safety certificate, a safety certificate. I truly want the car, the automobile, the piece of transportation on the road, roadworthy, and I hope that this legislation is not overly pumped up by the Minister because I can assure you, Madam Speaker, that there will still be a certain number of vehicles on the road that probably could cause bodily and another kind of harm.

So, Madam Speaker, I just wanted to put those reservations on the record, and my concern again is that we continue to see legislation piled on the backs of the public and, with each piece of legislation, goes an additional cost to the consumer.

**MADAM SPEAKER:** The Honourable Minister of Highways and Transportation to close debate.

**HON. J. PLOHMAN:** Yes, Madam Speaker, I just wanted to make a few points. I did miss the Member for Turtle Mountain's comments as to his major point a few moments ago, and I'm not certain whether he was dealing with the need for Safe Vehicle Certificates for all used vehicles. Is that the issue? -(Interjection)- Yes. I just wanted to comment on that and as well very briefly on the Member for Arthur's statements.

We fully recognize, Madam Speaker, that this particular provision will not ensure that all used vehicles on the highways will have Safe Vehicle Certificates. That has been an issue that has been dealt with unsuccessfully by successive governments in Manitoba over the last 13 to 15 years.

Registered dealers have to have a Safe Vehicle Certificate when they sell a used vehicle. However, individuals and curbers, which they are called, backyard mechanics who take vehicles and fix them up and sell them do not have to provide a Safe Vehicle Certificate. That issue has to be dealt with.

What we're dealing with here only is Autopac write-offs in this particular bill and I think we'll deal with them effectively. But we recognize that there is a much broader issue and that is the issue of private sales of

used vehicles. There are a lot of them that are unsafe when they're sold and there is a need to deal with that issue.

However, at the present time -(Interjection)- Well, the Member for Arthur says he thought we were dealing with - no, we are not dealing with that general issue. We're dealing with the Autopac write-offs, and we're answering the concern that there are unsuspecting members of the public who are purchasing vehicles not knowing that they are salvaged vehicles, that they are Autopac write-offs. This should correct that problem. With the permanent staff that they would have, as well as the declaration that any person selling one would have, to sign.

I just want to say, though, insofar as the general issue of unsafe vehicles, the program for vehicle inspection of used vehicles has just this year, just three months ago, been turned over to MPIC, and my colleague, the Minister responsible for MPIC, will now be responsible for that inspection program that is now in place. It's a random call-up program. It's not an all-encompassing program; it deals with all used vehicles.

I believe that it is appropriate for us to give MPIC time to consider this issue, to determine what the best way is to deal with used vehicles and inspection of those, and then allow them to bring forward measures at a subsequent sitting of the Legislature. So that isn't being dealt with now.

I know it is an issue that the Member for Turtle Mountain raised and others have expressed to me in the past. The Member for La Verendrye raised this, the previous member, when he was in the Legislature. But I, again, pointed out that, when the previous government was in government, they did not proclaim the section that had been passed dealing with that very same issue, and before that the Schreyer government also had passed legislation but not proclaimed the legislation. There are some problems with it. We have to look at it carefully and I believe that will be addressed now through MPIC. We should give them an opportunity to study it and bring forward appropriate measures.

So, Madam Speaker, this does not deal with all the issues related to unsafe vehicles, just with the Autopac write-offs, and I think it does that effectively and I thank the members for their support of this issue.-(Interjection)- This does not deal with out-of-province vehicles, Madam Speaker. This is dealing only with Autopac write-offs in the Province of Manitoba and specifically with MPIC write-offs, salvaged vehicles.

**QUESTION put, MOTION carried.**

### **BILL NO. 67 - THE OFF-ROAD VEHICLES ACT**

**MADAM SPEAKER:** Second Reading on the proposed motion of the Honourable Minister of Highways, Bill No. 67, standing in the name of the Honourable Member for Emerson.

The Honourable Member for Riel.

**MR. G. DUCHARME:** Yes. Standing in my name?

**MADAM SPEAKER:** 67?

The Honourable Member for St. Norbert.

**MR. G. MERCIER:** Madam Speaker, I can indicate, on behalf of the Member for Emerson, that he adjourned debate for the Member for Riel.

**MADAM SPEAKER:** Right.

The Honourable Member for Riel, then.

**MR. G. DUCHARME:** Yes, thank you, Madam Speaker.

First of all, my main concern or questions, three comments in regard to Bill 67. The main issues have been discussed by a couple of my colleagues, especially my colleague from Ste. Rose. I would also like to ask some questions in regard to maybe some of the insurance and registrations.

First of all, in my own personal endeavour, the business that I am in, I have over the last several years been very, very concerned about the off-road vehicles and compliment that this bill is coming forward.

Madam Speaker, I did ask questions during question period a couple of weeks ago and was ruled out of order, as it was explained to me that these would be dealt with when we did get to this particular bill.

First of all, in the bill, it mentions and it was mentioned also in the remarks by the Minister about the insurance compulsory, a couple of questions in regard to that. I would also like to know whether in the insurance compulsory, apparently it will be a legal liability, but however will the passenger hazard protection be also a compulsory section of that liability?

I would also like to know whether now, once this becomes law, whether the underinsured motorist coverage under your automobile would now take place as a result of driving a road vehicle and comes to happen to be in collision with an off-road vehicle. I would like to know whether the person's coverage of his underinsured motors will become applicable.

The Minister did mention in his remarks that this particular bill was through the discussion of many people and the alarming growth of the accidents of the young people, and I must say that the helmet and the seatbelt legislation will probably help with that matter. However, I would like to know at this time why he'd be waiting till the year 1988 to put in such legislation, as we are aware or were aware last year when he first brought in and changed The Snowmobile Act to include the all-terrain vehicles, we didn't wait until the three-year-cycle period of renewal was finished. We introduced it during that term and we were allowed or we did enforce registrations at the second-year period.

I would also like to know, in the bill mentioned on page 11 under normal registration, an individual, at the death of, can transfer it to the estate and then transfer it to the spouse. In this particular bill, this will not be allowed. They're mentioning in here that the plates will have to be cancelled or the registration will have to be cancelled.

Also my main concern and a question that I did ask the Minister at question period was that, in the insurance, the compulsory insurance if required, I would like to know how they're going to regulate that particular portion of the bill. The registrations will be on a three-year cycle. Most insurance policies are on an annual basis, coming up at different times of the year. What will prevent an individual - and I know there's a fine in there if he doesn't produce insurance to a peace

officer - but I would like to know at this time how the government or how the administration will control someone producing an insurance policy at the time of registration, and then allowing it to lapse during that three-year period, and especially when some insurance policies for snowmobiles, etc., are not provided under The Motor Vehicle Act, are provided under homeowner insurance under the liability, and also provided in some fleets.

My main concerns were on the insurance and on the coverages, as I've expressed, and I would like the Minister to explain either to us today or explain when it does get to committee hearings.

**MADAM SPEAKER:** The Honourable Minister of Highways and Transportation to close debate.

**HON. J. PLOHMAN:** Madam Speaker, I didn't get all of the questions. I was in a conversation with the Premier during part of those questions, and I may have missed some of them. The member may want to raise those again at some point if I'm not able to cover all of them.

I didn't clearly understand the question or get the question with regard to the collision situation that he mentioned with an off-road vehicle. Is he talking about a car hitting an off-road vehicle? And would the coverage of the motor vehicle be valid to cover the damage on the off-road vehicle? Anyway, I'd like to hear that again in a moment.

Insofar as the proclamation in 1988 in that last year, Madam Speaker, we proclaimed the amendments to The Snowmobile Act that allowed the four-wheel, off-road vehicles to be included under that act. We went ahead with that proclamation immediately and in this case we're not, and the member is asking why we aren't doing that.

Well, I have not ruled that out. In the previous statements, I have said that we may proclaim certain sections of this act before that time. The difficulty of course is that we're not repealing The Snowmobile Act prior to that, and it would make it difficult to have both acts in place, it would be very confusing. So we'd have to ensure that any portions of The Snowmobile Act that are impacted upon by this act would have to be repealed at the time that we proclaim sections of this act that come into force prior to that date.

So we would have to add an amendment to the bill to allow us to do that, and we are going to do that at committee stage. So we will be able to repeal certain sections of The Snowmobile Act at the same time that we're proclaiming certain sections of The Off-road Vehicle Act. So we could do that.

However, I did want to say that I thought it would be easier overall and less confusing for the public to have the new registration for all of these vehicles coming up at the same time when the vast majority of them come up, in any event. That is when the snowmobile registration expiry date comes along, and that is October 1, 1988. So it would be less confusing for the public to have it take place at that time.

We also have a number of administrative procedures that have to be put in place in readying the department for administration of this act. Those are being developed at the present time, new computer systems that have to be developed and programs put in place, and the

proper forms that will need to be ordered and purchased, that's all taking place this year under the act.

So we may have those in plenty of time, all of that in readiness before October 1, 1988, perhaps January 1, 1988. And if we are able to, we will consider at that time proclaiming portions of the act before us, because we realize that there is some urgency for the legislation, particularly with regard to its impact that it will have hopefully on children insofar as injuries and deaths, judging by the statistics.

Madam Speaker, the insurance problem insofar as enforcement is one that has not been completely dealt with. I have asked for the department to look at this issue further after the members had raised it, and of course it is an issue that I had said during the opening statements and particularly news conferences to the public, to the media, that it is an area that we needed to work further yet with MPIC to develop the precise procedures. However, we envisaged that the onus would be on the person who was acquiring the registration, that people would simply sign a declaration that they had insurance and then their word would be taken.

If we were going to go to a compulsory reporting system from the private sector companies that would be involved in offering insurance, we would have to make some extensive revisions to the act. It would be necessary to add provisions to the bill that would require off-road vehicle owners to provide proof and details of the liability insurance at the time of the registration. We would also put in a provision requiring the Registrar to record the insurance details on the computer registration file, administered through MPIC. It would require insurance companies to notify the Registrar of insurance cancellations or non-renewals. It would also have to include a penalty for insurance companies who fail to notify the Registrar of such cancellations and non-renewals, and clearly stating that liability insurance coverage should remain in effect until such notification is forwarded to the Registrar. And it would also have a provision that would grant the Registrar the authority to cancel the registration of the off-road vehicle owner upon receipt of this notification from the insurance company.

So we see there are a number of additional provisions and more regulation and red tape involved, although it's an important issue. But the question is: Do we want to go so far at this time as to require insurance companies to report to MPIC the details of the insurance and to include penalties if they don't do that so MPIC's computer system, which is the system that would be undertaking this and providing the system for this registration of off-road vehicles, so that they would have the complete up-to-date information?

So it's a question of whether we want to get into that at this time, and we have looked at perhaps going a step further than the proposed provision in the act. That would be that we would ask the off-road vehicle owner bringing forward his request for registration that he would provide proof of insurance at least at the time that he registers rather than just simply signing a declaration so that he or she could, for example, not simply say, yes, I have insurance and say well, I'll go out this afternoon and get it and, you know, nobody will know the difference, kind of thing, and then not go and get it. At least they will have to have the

insurance when they come to register the off-road vehicle. Then the chances of them perhaps going and cancelling it after are less and the chances of them having insurance are greater.

So we're going to look at that. I've asked the department to prepare an amendment to that effect for the committee stage. However, I haven't asked them to provide the kind of amendments that I outlined here today that would be required if we were going to have full notification from the insurance companies that indeed a person had the coverage all the time right through that three-year period. There is a problem there but I would suggest that, at the current time, there is no insurance requirement and the world isn't falling apart insofar as damage and claims by people who have been affected. Perhaps that would indicate - and maybe there is a real problem out there, but I haven't heard that there is a severe problem - so maybe we're going far enough at this time and, if there are situations that develop and reason for us to go further at some point in the future, we could then do that.

At the present time, it seems that we're taking a reasonable step to ensuring that the public is required to provide insurance for their off-road vehicles. It's a big improvement over what we have now. That's the position I'm taking on that. However, I would be open to listening to what the members might have to say in that regard.

Now there were a couple of other questions. I can read the record or the member may want to repeat some of them, but it might just take more time tonight. If he wishes, that's up to him.

**QUESTION put, MOTION carried.**

### **BILL NO. 65 - THE SURFACE RIGHTS ACT**

**MADAM SPEAKER:** Second Reading on the proposed motion of the Honourable Minister of Municipal Affairs, Bill No. 65, standing in the name of the Honourable Member for Emerson.

The Honourable Member for Arthur.

**MR. J. DOWNEY:** Madam Speaker, it has been agreed by the Member for Emerson to let me speak on Bill 65.

**MADAM SPEAKER:** Is the honourable member suggesting the Honourable Member for Emerson doesn't want to speak?

**MR. J. DOWNEY:** No.

**MADAM SPEAKER:** You want to leave it standing in his name?

**MR. J. DOWNEY:** No, Madam Speaker. He's prepared to give it up.

**MADAM SPEAKER:** All right, thank you. Go ahead.

**MR. J. DOWNEY:** Seeing as he's not here, he doesn't have much option at this particular time.

**MR. A. KOVNATS:** That's very unparliamentary. You can't speak about a member who's not here.

**MR. J. DOWNEY:** I apologize, Madam Speaker, for my unparliamentary comment, which was brought to my attention by the great parliamentarian from Niakwa.

Madam Speaker, I rise to speak on Bill No. 65, dealing with The Surface Rights Act. At the outset, I don't have too many complimentary things to say about the whole process of surface rights and the way in which they have been handled by this administration.

Madam Speaker, what initially started out as far as the surface rights owners of this province were concerned, something that was to be in their interests, something that was of a positive nature, something that would protect their rights as surface owners, you might say, blew up in their face, Madam Speaker, and I do not in any way, shape or form blame anyone but the current administration for their again mishandling of the legislation and the interpretation of that legislation.

Madam Speaker, I remember the committee hearings following the Nugent study, which was put in place by the Lyon administration, to try and frame and to establish the kind of guidelines and legislation that would be a basis for fair and equitable agreements and operations of operators on agricultural lands in this province. Madam Speaker, unfortunately, the legislation was more along the lines of the thoughts of the current Minister of Mines and Energy and did not have major input from the Department of Agriculture and/or the Department of Municipal Affairs at that particular time, and it's unfortunate because they got off on the wrong foot.

One of the concerns that I have, Madam Speaker - and I don't say this of all members of the Surface Rights Board, but I do of the majority - that it was more a board which appealed to the Minister, I think, and I say not totally but in some cases politically rather than on the background and experience within the oil and related surface problems.

Madam Speaker, the Minister, in his comments on Bill 65, - and I, as well, say at the outset that I am not opposed to surface rights legislation. I am very supportive of surface rights legislation, proper surface rights legislation, and afterwards the proper administration of that surface rights legislation.

Madam Speaker, the latter is what the Surface Rights Association and many landowners are upset about, and that has been the interpretation and the application of the act that was currently in place and hopefully - and I say hopefully, and I do give the Minister a little bit of credit. There are two or three changes which I think he will find very much support for. There are areas with the amendments to the act that he'll find qualified support for, and there are areas within the act that he will find absolutely no support for.

So as far as his batting average is concerned, Madam Speaker, I would say at this particular time he's got two strikes on him and he'll have a chance to show that he's going to have the act administered not in the interest of any one party, but as it reads "surface rights legislation," meaning I think the protection of the surface owners. That's how I interpret the title of it, and I would hope that's the way this Legislature perceives this act and those people who it should protect.

Well, let's start, Madam Speaker, and I don't want to get into specifics but I do want to talk on some general areas and I do have some comments from the Surface Rights Association which I would like to put

on the record. I will be dealing with some of their comments, as well as some other observations which I have come up with through the last couple of years of its operation.

Madam Speaker, the first observation and criticism of the government and the board is that there were never any regulatory guidelines developed for the board to operate from. They were continually operating on a day-to-day basis from the direction of the executive director to a particular interpretation of the act that they perceived themselves to take, not government policy guidelines written in regulations and direction, but their own interpretation as appointed people, not elected people, and the executive director, which in most cases were - and I say this with all sincerity, Madam Speaker - not in the best interests of the landowners.

I'll refer to the summary of concerns which the surface rights owners have put together, Madam Speaker, and some of them are contrary to what the Minister has alluded to in his comments in the introduction of the bill. I'll go over the summary, Madam Speaker, and these are their observations and recommendations.

(1) "There are several references in the act to matters prescribed by the regulations. To make this act complete, we feel that the necessary regulations need to be put in place."

Well, No. 1., I just referred to that. That's where it's continually come from is the Surface Rights Association and individuals, Madam Speaker, and they've had plenty of time to do it. As the Minister referred to in his opening statement, in 1983, the act was introduced. This is 1987, and we do not have any regulatory guidelines for which the board can operate and for which the individuals who are affected by this act can use as a basis for their protection.

No. 2., Madam Speaker, and I quote directly from their comments: "Basically, the Manitoba Surface Rights Association is of the opinion that amendments to the act are not the main solution to curing its complaints. The true issue is the results produced by the board and, until the board sets on a course to provide just and equitable treatment to landowners, these amendments will not produce the desired results."

Again, Madam Speaker, the Surface Rights Association, it appears, has very little confidence in the progress that has been made or perceived progress that has been made, again by the Minister's statements. What they want to see is the proof in the eating of the pudding and the administration of the act and the operation of it in a just and equitable treatment to landowners. So that goes without saying, Madam Speaker, that they haven't been treated fairly and justly, and I would hope the Minister takes note.

(3) "The Manitoba Surface Rights Association feels that the opportunity should not be lost to further improve the act so that Manitoba can catch up to Saskatchewan and Alberta in surface rights matters. The legislation in both of these provinces has been amended on several occasions, and we feel that not enough attention is being paid to the improvements in those provinces."

Again, Madam Speaker, contrary to what the Minister has put in his opening statements dealing with the legislation, and he continues to refer to it as most of it being borrowed from Saskatchewan. Well, according to the surface rights people, the Surface Rights

Association, it still hasn't reached the equitability of the Saskatchewan and Alberta legislation.

I'll make direct reference to the rates of compensation. It seems somewhat unfair to the people of Manitoba, the surface rights owners in Manitoba, that they should receive less of a compensation for the use of their land for the extraction of oil or gas products when their neighbours immediately to the west of them in Saskatchewan and Alberta receive a greater return for the use of their lands. After all, the oil prices are relatively the same in each jurisdiction. It isn't unlike the concept that this Minister and his government have continually supported the fairness through the rate structure for the transportation of grain. They felt that the variable rates were unfair, that they'd like to have a consistent expense for the transport of grain from all Western Canadian farmers.

Well, I would say, Madam Speaker, the same thing should apply conversely dealing with the returns that the farmers get for the use of their surface rights. That same principle should apply. I'm surprised that a Minister of the NDP Cabinet can't see out of both eyes, but he can only see out of one when it is politically expedient for him to do so. So I would suggest that he rethink the whole position as far as the Manitoba legislation is concerned and compensation, and tell us the reason why we aren't equal to Saskatchewan and Alberta and why he isn't desirous of getting us there on this issue.

(4) "The proposals put forward by the association . . . - meaning the Surface Rights Association, and this is again a very important point. "The proposals put forward by the association in 1985 have not been seriously dealt with." And the Manitoba Surface Rights Association has not participated in debate on them, even though some of them, of course, have now been covered in Bill 65 and this brief. "The Manitoba Surface Rights Association feels that its views should carry more weight than has been accorded to them to date."

I agree 100 percent. This Minister and the former Minister responsible for the Surface Rights Association have not paid adequate and fair attention to those people who own their surface rights. I believe that this Minister had the opportunity, following his meeting in March, to have open and honest discussion with them. But since 1985, the Minister or the government hasn't had serious discussions or negotiations with the Surface Rights Association in accomplishing what they want as indicated in their brief.

So, Madam Speaker, when the Minister makes reference again in his opening comments of how well he has listened, again there is some contradiction to those comments and I would think he would have done well to have paid attention to it. Madam Speaker, I'll again quote from the Minister's comments which point this out. He has indicated: "I have met from time to time with representatives of the Surface Rights Association and representatives of the oil companies to discuss problems which have arisen under this legislation. We think the bill before you answers a number of questions raised in these discussions, and I propose now to deal with a number of changes in policies incorporated in the legislation."

Well, there is one, Madam Speaker, that I'll point out. The Minister has highlighted it in his speaking notes which he has forwarded to me, and I will give the

Minister credit for moving in that one area. That, Madam Speaker, is the area in which the Surface Rights Board is now able to use privately negotiated agreements between the operator, being the oil company, and the surface rights owners. Prior to this, for some particular reason, because again of their interpretation of the act, the board felt they couldn't use freely negotiated agreements in disputes on owner/operator compensation and landowner compensation.

For the life of me, Madam Speaker, I don't know why. After all, if you're trying to negotiate and settle an agreement and provide fair compensation, why wouldn't you use the openly and freely negotiated agreements? The operator or the oil company, which I'm referring to, was prepared to pay it. The landowner agreed and signed the agreement and prepared to receive it. Why wouldn't that be used as a milestone or as a test case or an example to use on disputed cases? If two sides entered into an agreement freely, then why shouldn't that be used in disputed cases?

Well, the Minister came to his senses and has agreed, during committee stage, mind you - this was his second thought, this didn't come up right off the bat. This was his second attempt, and I don't know whether it was the Minister who changed his mind or whether the staff were opposed to it or where the argument came. He maybe can elaborate on it but, Madam Speaker, he has moved in that direction.

Madam Speaker, as well, I want to indicate and I did indicate that a lot of landowners and surface rights owners felt that the surface rights legislation was going to provide them with some fair and equitable treatment. Well, Madam Speaker, what has happened is this last few months there has been a reluctance on behalf of the landowners to go to the Surface Rights Appeal Board because of some of the decisions that were handed down.

But another important point has to be raised, and that is the cost to the landowner. If to get a small amount of money for the use of your land and it's going to incur more of a cost to get a settlement than you're going to get back from the dispute, why would you go? After all, Madam Speaker, let's remember, here we have the landowner, the farmer, sitting out on his or her piece of property, and this is the situation.

Whether you own the mineral rights or not in this particular argument is irrelevant as far as I'm concerned. We're talking about the right of surface ownership. The right is given under The Mines Act for those individuals who have leased the mineral properties to go in and mine them, to recover them.

Well, Madam Speaker, you're sitting out there as an innocent individual really, for all intents and purposes. If your livelihood is coming from farming, you haven't really had a lot of concern about the oil business. But you find out that one day there is an oil company or an operator knocking on your door wanting to drill an oil well. Well, the initial feeling, I'm sure, of every urban person would be to say, oh, that's tremendous, you know. Why wouldn't you be elated and excited?

Well, Madam Speaker, I say, No. 1, the first thing that's going to happen to you, whether you like it or not, that person has the right to come on your property. I say to you, Madam Speaker, as an owner of a residential piece of property, living in the City of Winnipeg, that one day, some oil company or operator

knocked on your doorstep, and came to you and said, Madam Speaker, we would like very much for you to willingly sign an agreement that we can drill an oil well on your front lawn.

You would be excited for the first few minutes, then you would find out, well, I don't have the oil rights, and what would I do with that ugly piece of iron out there that's got salt water and all the pumping mud and all the trucks and the traffic and all those people mingling around.

**A MEMBER:** It would ruin the grass.

**MR. J. DOWNEY:** And it may be hard on the grass. And you say, whoa, what about my rights, because you can't do that.

Well, Madam Speaker, in the case of the farmer, they can do it. And they were given the right of entry by legislation that today, even under this legislation, you still can't stop them. They may go onto your favorite field, that beautiful wheat field south of your farmstead, and dig a hole with pits and all the salt water that goes with it, and the drilling muds and all the noise and everything else, Madam Speaker, and you can't stop them. Now I ask you, Madam Speaker, would you like that on your front doorstep? I don't think so, Madam Speaker.

So I say, costs - you say you go to the board, you've got to write to the board to appeal whether you're going to get paid fairly and equitably. To do that, Madam Speaker, first of all, you've given up the right to stop someone from entering on your property, whether it's your front lawn or your front wheat field. But No. 2, you have to pay substantial costs - lawyers, consultants - to put your case forward, Madam Speaker.

Well, the Minister has yielded to some degree on the area of costs, of what can be recovered for going to the appeal process of which, by the way, it was the board who had the final say. This could have happened a year after you had that mess made on your front lawn or your front wheat field, which was your very favorite piece of ground because there is a lot of pride, I'm sure, in your front lawn, as there is in the front wheat field of a lot of farmers.

Here's what the surface rights people have to say dealing with the allocation of costs, Madam Speaker - and as soon as I get it, I will deal with it. Okay, Madam Speaker, to the person who again I'll make reference to, the Member for St. James, who if they were going to make an investment in Saudi Arabia, they should have invested in oil wells, not telephones, and they should continue to invest in telephones in Manitoba, not Manitoba Oil and Gas Corporation in Manitoba. I don't know how many times I have to give him that lesson, Madam Speaker, but the same lesson applies. He should have invested in oil in Saudi Arabia and telephones in Manitoba.

Back to the costs of the hearing, Madam Speaker, now that they've had your front lawn drilled and all the messes and you haven't been paid anything for it yet, we're now going to go to the board and here's what he's doing now to deal with the cost. He's dealing on a formula basis, Madam Speaker. You're going to get a percentage of your cost and it's on the record and I'll take that as read because it is on the record.

Here's what the Surface Rights Association have said dealing with costs: "The Honourable Minister of Municipal Affairs has decided to introduce a formula concept to assist the board in determining when costs should be awarded. The Manitoba Surface Rights Association is of the view that this formula concept will not be effective . . . "There's their view, it will not be effective. "The association believes that the onus should be on the board to determine that costs are reasonable and that they have been incurred with a view to advancing the position of the landowner. Whenever this is the case, costs should always be awarded to the landowner." And I agree. "The association is also concerned that this concept will not work where the amount of compensation is only one of the issues in the dispute between the parties." We suspect that the Minister is considering this approach because the board is concerned that, if costs are always awarded, then every farmer will automatically take its case to the board. We would suggest that nothing could be further from the truth.

First of all, if the costs are legitimate, the farmer will not end up with anything more in his pocket, so he won't be appearing before the board to profit from an award of costs - and that's absolutely true. Secondly, most farmers do not - and I say, do not - like appearing before boards for a variety of reasons. I'll point them out to you, Madam Speaker, as well: (a) they take too much time and that's true, of which again remember, when they're taking of the time, it's imposed on them by somebody else. They would sooner be out sitting on their front lawn as I'm sure you would be, Madam Speaker, not having an oil well and all the parts around you that go with it, or they'd like to be out farming their wheat field, when they don't have to go in and out around oil wells and roadways and that type of interference.

They are scheduled at inconvenient times and, yes, they've come seemingly at spring and fall. They are not familiar with the procedures. They don't like being subjected to cross-examination, as no one likes that kind of lifestyle, particularly when it's brought on you by somebody else and not of your own cause. The preparation of work is extensive, and they feel that the land representatives of the operator are more knowledgeable and experienced at hearing procedures, and would therefore have an advantage.

We are therefore of the opinion that there is already enough of an inherent deterrent to appearing before the board, so using costs as a deterrent is not necessary.

The concept of always awarding costs to an owner does two things. It ensures that the owner will feel free to retain the necessary consultants to be on an equal footing to put those cases before the board, and it ensures that the farmer does not have to deduct costs from his award, and thereby not be fully compensated for the rights being obtained by the operator.

So, Madam Speaker, I think again the Minister comes under some serious criticism. I hope he's prepared before the committee of the Legislature, when the board makes their presentation, Madam Speaker, that he will in fact listen.

Madam Speaker, there are two or three other areas that I will deal with. I know they'll be dealt with more fully when the association comes forward. How much time do I have left, Madam Speaker?

**MADAM SPEAKER:** The honourable member has 22 minutes left.

**MR. J. DOWNEY:** Thank you, Madam Speaker.

Madam Speaker, I'll deal with a couple of other concerns, and that's the issuing of interim orders to allow - and this allows again the oil company to proceed onto your property before any agreement is reached between the operator and the owner. Can you imagine? We call this fair and equitable.

We're drilling an oil well or we're going to drill an oil well on the Speaker's front lawn, but she objects, Madam Speaker, but in the interim, because she objects and has the right to go to the board, the right is given to the oil company to go and drill the oil well, and then they determine whether or not she's fairly and equitably compensated. Now, you're really bargaining from a pretty difficult position after you've got all the mess and the oil well on your farm.

**A MEMBER:** Lots of principle involved in that.

**MR. J. DOWNEY:** That's right. That's really what you call having three strikes on you, and then expect to hit the ball afterwards. It's unfortunate that we don't, Madam Speaker, establish the compensation - and I recommend this to the Minister - that will be paid and the terms of which it shall be paid, prior to the entry. Now there are arguments that people would forever and a day hold up - the Minister better be listening to this, Madam Speaker, because the argument is made that it would hold the development of oil up forever and a day.

Madam Speaker, in Saskatchewan and Alberta, it's my understanding that isn't the case. They haven't got the interim entry. They can't enter until there's a settlement reached, and they have some major oil and gas developments as well in Saskatchewan and Alberta. I stand to be corrected, but it's my understanding, Madam Speaker, and I'll read to the Minister: "Generally, the Manitoba Surface Rights Association is opposed to the granting of interim orders for rights of entry. As we stated in our 1985 brief which the Minister didn't even respond to, this section should be deleted entirely. It is not in Alberta and Saskatchewan acts, for the Minister's information, and the oil industry continues to operate in those provinces."

So I'm saying to the Minister, it is operable in Saskatchewan and Alberta, the same reason it could operate in the Province of Manitoba. Interim orders only serve the purposes of allowing the oil industry on the farmers' land before the terms and conditions can be settled. Once this is accomplished, it is very difficult for the owner to obtain any kind of negotiation in good faith and that's absolutely true, just as I've stated. Accordingly, it will only result in more board hearings which will be used to bully the landowner into settling or less favourable terms. The whole concept of interim orders is contrary to the purpose of the act, and I totally agree, which is to provide just and equitable treatment of the landowners by the operator.

Madam Speaker, we have got other areas of concern which I'll continue to deal with because I have a few minutes left. I will make more reference now to the Minister's introductory remarks because it's important

that we fully understand what he is trying to do. Madam Speaker, I think that if he could give us some assurance that some of these concerns would be dealt with, I would find it a lot more acceptable to support this bill. I do support it, Madam Speaker, I support the principle of surface rights legislation, but let's truly make it surface rights legislation. Let's make it work is correct.

Another area of concern is the whole area of the abandonment of wells and the environmental aspect of it. Madam Speaker, let's take a look for example of what happens when an oil company abandons, for example - I'll try and paint the picture as I see it, Madam Speaker. When an oil company decides that they no longer need or the well is unproductive, then there is an abandonment process of which they are supposed to clean and restore it to an acceptable stage remembering, Madam Speaker, that this oil well or this scar on your piece of property was probably unwanted in the first place. As far as the majority of farmers are concerned, it probably was unwanted.

I give you an example of an area, Madam Speaker, where we now see a lot of farms in the Waskada area that have many oil wells on them. The surface rights are owned separately from other individuals who own the oil rights. There are roadways to every oil well, gravel roadways. Some day, Madam Speaker, those roadways are not going to be essential because there is a limitation to the time in which an oil well will operate.

Madam Speaker, I would hope that, after an oil company is through, there is strong enough legislation in place that enforces the restoration of that land. Now I can perceive that, after an oil company is through drawing oil from an oil well, they're no longer going to generate revenue from that piece of property. They're long gone and the farmer or the individual owning the property is left with the incurrence of the expenses of cleaning it up.

Equally, Madam Speaker, I'm concerned about the whole question of spills, of accidental environmental spills and, for the life of me, I can't believe why an oil well and the oil industry and the spill in the oil industry doesn't come under The Clean Environment Act. It seems reasonable that it should come under The Clean Environment Act, but who is the final determiner? Who does the reporting take place to? To the Minister of Mines and Energy of which I think there is a conflict. I don't believe that an oil well clean-up site and spill should be left to the Department of Mines and Energy. I believe the Department of Environment should be the governing body which oversees the clean-up of an oil well-associated spill. It's only a sound, reasonable position.

Well, Madam Speaker, I have one final note that I'm going to conclude on my remarks, and that is the people of the southwest find it deplorable, they find it insulting that the main industry associated with Mines and Energy dealing with the surface rights problems, that the Surface Rights Board has been moved from the southwest corner of the Province of Manitoba to the City of Winnipeg. Now this government is the government of centralization. Why for the life of me would they not, Madam Speaker, leave the Surface Rights Board head office in the southwest corner of the Province of Manitoba? Why, when the people who are affected live there? Why, when the people have to

appeal to a board, do they have to go through the exercise of dealing through Winnipeg? It means long distance phone calls; it means long distance travel. It's almost, Madam Speaker, an encouragement for the farmer not to use the appeal system.

There are many other reasons as I've indicated, Madam Speaker, but I find it a real slap in the face to the people of Western and Southwestern Manitoba, that this government saw fit to move the Surface Rights Association Board to the City of Winnipeg. I would hope, Madam Speaker, that the Minister, if nothing else, could see fit to reverse that decision. Well, I guess that's what we can expect from the former Minister of Municipal Affairs, Andy Anstett; that's what his belief was, was to centralize all government operations.

So as I indicate, Madam Speaker, that's one request that I put to this Minister. If he has any influence and any concern for rural Manitoba and the fairness of which the people can get to the appeal board, then I would recommend that he do that and do it immediately, Madam Speaker. I would think that would be one fair piece of legislation, one fair move that this Minister could make on behalf of the people of the southwest.

Madam Speaker, I look forward to the presentations that will be made at committee and as well other members of the government side. The Minister of Agriculture of all people should have had some comments to make on behalf of the surface rights and the farm community, but he has been obvious by his silence, Madam Speaker, on the whole question of agriculture and the involvement of the oil impact it's had on farmers.

So, Madam Speaker, I'm disappointed more than ever. The Minister of Agriculture never fails to disappoint me and he's living up to that reputation. I would hope that he would at least read the act and read the presentation made by the Surface Rights Association because there is a direct impact on the livelihoods of the farmers in that community.

Madam Speaker, I would hope that there are government members who would put forward, make a more forceful argument to encourage the Minister particularly to move the office of the Surface Rights Association back to the southwest and make some positive changes that the Surface Rights Association presented earlier in 1985.

**MADAM SPEAKER:** The Honourable Member for Virden.

**MR. G. FINDLAY:** I think it's the will of the House to call it ten o'clock. I will adjourn debate on the bill.

**MADAM SPEAKER:** Is it the will of the House?

**MR. G. FINDLAY:** I move, seconded by the Member for Brandon West, that debate be adjourned.

**MOTION presented and carried.**

**MADAM SPEAKER:** Is it the will of the House to call it 10:00 p.m.? (Agreed)

The House is accordingly adjourned and stands adjourned until 1:30 p.m. tomorrow. (Tuesday)