

LEGISLATIVE ASSEMBLY OF MANITOBA

Monday, February 19, 1990.

The House met at 8 p.m.

DEBATE ON SECOND READINGS

BILL NO. 50—THE WILLS AMENDMENT ACT

Mr. Speaker: The hour being 8 p.m., continuing debate on Bill No. 50, The Wills Amendment Act; Loi modifiant la Loi sur les testaments, standing in the name of the Honourable Member for St. Johns (Ms. Wasylycia-Leis), who has three minutes remaining. Stand.

Is there leave that this matter remain standing in the name of the Honourable Member for St. Johns? Agreed.

BILL NO. 51—THE MARITAL PROPERTY AMENDMENT ACT

Mr. Speaker: On the proposed motion of the Honourable Minister of Justice (Mr. McCrae), Bill No. 51, The Marital Property Amendment Act; Loi modifiant la Loi sur les biens matrimoniaux, standing in the name of the Honourable Member for St. James, the Honourable Member for St. James.

Mr. Paul Edwards (St. James): Mr. Speaker, it is with pleasure that I rise again to speak on a Bill amongst the family law package put forward by the Minister of Justice. This is an important Bill, which amends The Marital Property Act.

The Marital Property Act is an Act which I have spoken about at some length in my discussions with respect to some of the other Acts presently before the House in the family law package. The Marital Property Act is an Act which in many respects guides us in this province in dealing generally with family law, because The Marital Property Act was the first sweeping change to family law to come into place in this province.

It was very shortly thereafter replicated at the federal level by the Divorce Act. We in Manitoba led this country by bringing into place The Marital Property Act which we now have. Obviously, that is not a perfect piece of legislation. There are some problems. This amendment Act seeks to deal with one of those problems specifically and, in that regard, the proposed legislation really only makes one amendment to the Act. That is that it attempts to clarify the right of the court to grant an interim order under the Act pending disposition of the application for division of assets in its entirety.

This ability in the hands of a court will allow the court to protect spouses in situations where the marital property action drags on and on and on. We all know many horrendous examples of that. It allows the court to deal with that by granting interim protection in terms of financial ability to provide for oneself and indeed the children of a marriage, who of course are already, in the course of this, given to one of the spouses on an interim basis.

So it makes sense that, seeing as we can give the children to one of the spouses on an interim basis, we also can deal with the assets of the marriage on an interim basis, simply so that people do not have to end up out on the street or on welfare while the marital property action drags through the courts.

* (2005)

Marital property actions are ripe for abuse, Mr. Speaker. It is all too easy in this province to drag on through the courts, simply, in many cases out of spite or bitterness, the lasting legacy of the marriage and the last kick is dragging one's ex-spouse through the courts. It is a tragedy we see repeated again and again and again in our system and it gives, frankly, the whole system a bad name. If you talk to people who have been through some of these very caustic, hostile marital property actions, you will hear them say again and again that the system failed them.

What is interesting is both sides will say the system failed them. One side is trying throughout to do nothing but bankrupt the other side and frustrate their attempts to get on with their life outside of the marriage. Both sides will say the system did not do us justice, both the abuser and the victim of the system will say that. Strange, but true, Mr. Speaker.

I think that when people come to the family law system, it is not like family practice in medicine. People sometimes say: Oh, you are a family lawyer, that is such a nice thing, it is like being a family physician. It is not. By the time the spouses come to you they hate each other, they are generally at each other's throats and the challenge—

An Honourable Member: After you are through with them, they really hate each other.

Mr. Edwards: I hear the Minister of Consumer and Corporate Affairs (Mr. Connerly) say, from his seat, after lawyers are done with them it is worse.

Unfortunately, Mr. Speaker, that does happen and I do not deny that. That is a great abuse of the system and of one's professional responsibility. I venture to guess that it is the vast minority of occasions.

What I would say is, and it is certainly worth repeating: it is the professional duty of a lawyer to try and defuse hostility, inject rationality into the process, enlighten one's client as to what the law is. What I think most Members will understand is, there are a lot of people out there who have been married for a long time. The law was very different when they got married. It is amazing how shocked they are to learn that we have a law that says, half of what you own belongs to your spouse. A lot of people out there do not understand that yet. It is quite amazing to see people who have been married for a long period of time come to grips with that reality.

Indeed it is a reality which this province has had the fortune to lead in, and we were instrumental I believe in leading this nation generally down that trail. Certainly the federal Government followed on that principle. I think it is important that we recognize the importance of The Marital Property Act. It in many respects forms the keystone if you will of many of the other family law statutes. It is the one which led in terms of giving us guidance on principles in family law. It is the one which I believe we must look to in terms of adherence when we discuss other Bills and indeed the Bills before the Legislature today. That is why in discussing other Bills, I have specifically referenced the guiding principles of The Marital Property Act.

So, Mr. Speaker, this proposed legislation, I have indicated the specific situation in which it applies. I think it is important. I think it recognizes that no matter what rules we put into place, what mediation and conciliation services we put into place, people will attempt to abuse the system. They will pay vast sums of money to abuse the system. They will bankrupt themselves, their spouse and indeed their children in an effort to live out the spite they have for their spouse. That is the tragedy of our system. We will never, I would venture to say, eradicate those emotions which lead people to do that. We can only do our best to diffuse it, to inject rationality and logic into the process, and to do whatever we can to assist in the mediation and conciliation of these disputes.

This amendment, I believe, is important in that it does recognize that in the meantime, while these actions are going on sometimes for years, by the time somebody gets up to the Court of Appeal or even to the Supreme Court of Canada if they have the opportunity to go there, great damage can be done.

The spouse, who is left sometimes in custody of children, can certainly be hard done by in the meantime and indeed can be forced to succumb to the demands of the other spouse simply by virtue of economic necessity. That is what oftentimes the spouse, who is litigious, who is pushing the action in court, who is frustrating attempts to settle, sometimes wants. They want economic pressures to come to bear so that maybe they can get custody, that maybe they can strike a better deal. That is an abuse of the system, and that is something which we must do everything possible to minimize.

* (2010)

Mr. Speaker, the accounting process, as it winds its way through court, must also provide for the interim maintenance of spouses and children in custody. It must also recognize that in the meantime people have to live. I venture to guess that if we provide for people on an interim basis, it may reduce that desire on the part of the litigious spouse to push and push and drive it through the courts again and again and again.

That litigious spouse may know that if there is an interim award and there is some interim money flowing, then maybe they cannot put the other spouse up against the wall, and that is good. It is good that one party not be able to bankrupt the other by dragging them through court ad nauseam.

Mr. Speaker, the other amendments which I believe need addressing in The Marital Property Act I am not going to go into detail on. Suffice it to say that it is important to clarify the right of the court to make these interim orders, that the Act itself is an Act which I believe we can all be proud of in Manitoba. It is an Act which enshrines a principle which is progressive, which is fair, which is equitable, which is necessary in today's world.

Would it not be nice if all marriages lasted forever, Mr. Speaker, but that is just not the case. What we have to deal with is reality, and reality is that an alarmingly high rate of marriages break up, oftentimes children involved. We must provide a system which can deal with that effectively and with the least hostility as is possible. To that end, The Marital Property Act, I believe, does a great service to us all, and I think that this is an important amendment. I am speaking obviously in complete favour with it. I think that it is important to get into place.

Let me just, in conclusion, indicate that the one other amendment to this Act which I might suggest, perhaps not in the course of this Bill going through the committee stage, but I do think there is some merit to the argument that the six-month limit for the commencement of an action upon the death of one's spouse should perhaps be extended to at least a year as that would make sense, would provide for a more reasonable period of time within which a widowed spouse may either settle the entitlement to the assets of the estate or indeed commence an action. I think that is an important amendment to make. I think that the Minister of Justice (Mr. McCrae) has probably received and read the same brief I have, which indicates that amendment is important. I ask him to consider it.

With respect to the others I will leave those to future discussions. I simply indicate at this time, Mr. Speaker, that we certainly in this caucus look to The Marital Property Act for guidance on family law issues generally. We appreciate and applaud the principle that is enshrined in that Act, and we look forward to a consistent package with the theory behind that Act, which is that property of the marriage should be shared equally, both in the case of a marriage breakup and in the case of the death of one spouse.

Thank you, Mr. Speaker.

Mr. Steve Ashton (Thompson): I move, seconded by the Member for Dauphin (Mr. Plohman), that debate be adjourned.

MOTION presented and carried.

BILL NO. 52—THE FAMILY MAINTENANCE AMENDMENT ACT

Mr. Speaker: On the proposed motion of the Honourable Minister of Justice (Mr. McCrae), Bill No. 52, The Family Maintenance Amendment Act; Loi modifiant la Loi sur l'obligation alimentaire, standing in the name of the Honourable Member for St. James, the Honourable Member for St. James.

Mr. Paul Edwards (St. James): Mr. Speaker—

Some Honourable Members: Oh, oh!

Mr. Speaker: Order, please. The Honourable Member for St. James.

* (2015)

Mr. Edwards: —it is indeed a pleasure again to stand on this Bill, part of the family law package. This, according to the Minister of Justice, is the last in the family law package. I tend to see it as the second last. I think that Bill 57, The Pension Benefits Amendment Act, is rightfully a part of the family law package. Certainly in terms of Bills 47 through 52, which came forward at the same time from the Minister, this is the final one. It is an important one. I believe that it is an Act which is timely and proposes some important amendments to the Act. Most notably, the amendments break down into roughly three general amendments to The Family Maintenance Act.

First of all, the Amendment Act attempts and, I believe, achieves a clarification of the Act with respect to non-custodial parents having the right to receive information and indeed participate in the decision-making with respect to children, and participate in the consultation with respect to what decisions are taken regarding children. I think that the courts clearly have given a very wide interpretation to that section of the Act and indeed have allowed non-custodial parents to play that decisive role with respect to decisions affecting their children. I think we have to recognize that custody brings with it a lot of responsibilities which the non-custodial parent does not have. As with everything, responsibility rights also bring with them responsibilities and the two go hand in hand. With the responsibilities of the custodial parent, we must also recognize certain rights, which I believe are necessary for the proper functioning probably of most households.

There has to be some way to make the decisions affecting children. That is a part of being a parent. That is a part of having custody of children, being a guardian, being in that relationship with a child which brings with it the enormous responsibilities we put on parents, and rightfully so.

Unfortunately, with some assistance from certain members of the Bench, that section of The Family Maintenance Act has allowed non-custodial parents to interfere on a regular basis with the custodial parent in making decisions about the child. In some cases, it has become a form of harassment. Again, while we will never ultimately stop the bitterness which leads to that kind of activity, we do have a duty to minimize it and I think it is important to clarify that the parent who is non-custodial has a right to information about the child, but cannot participate or claim a right to participate in the ultimate decision-making with respect to the child.

That is not to say, Mr. Speaker, that in every case there must be a custodial parent and a non-custodial parent. That is not true. In recent years, it has become increasingly popular to set up joint-custody relationships with children. I would venture to say that the joint-custody arrangement is the norm these days. Parents choosing to share custody of children, and while that

was an important step forward and indeed was welcomed certainly by many in the field as a very progressive move, it does have its problems.

I do not think we can ignore what we are doing to children. Ultimately the joint-custody relationship must be assessed in terms of its impact on the child. I am not saying, at this point, whether or not joint custody, negatively or affirmatively affects children. I think the jury is still out on that, if you will. I think that in large measure depends on the specific arrangements worked out between the parents and it depends on whether or not the parents are co-operating with each other, how closely linked their lives are so that the disruption in mid-week for a child is minimized. I do think we have to understand that psychologists are increasingly telling us about children, that consistency is very, very important. Consistency of parenting and environment, both in terms of a home, a neighbourhood and a school is very important. I think, Mr. Speaker, that no matter what the parents may choose in terms of their relationship with the child, our guiding principle must always be what is best for the child.

As time goes on and we see how joint custody is affecting children and learn more and more about that, I think we are going to have to think about joint custody again. We are going to have to take a hard look at what child psychologists and sociologists tell us about joint custody relationships and their impact on children, because as I have indicated earlier, we must look to the interests of the child first and foremost. If the parents want a specific relationship and all of the accoutrements of that relationship, that is all well and good, but if it is not in the best interests of the child, it should not be what is in fact put into place by the courts.

Mr. Speaker, secondly this Act makes it possible to make child support obligations binding on the person who is paying and allows the courts to go after the payers' estate and use all of the pressures of the court and the many remedies which are open to a court in terms of collecting that money. At present, of course, only orders for spousal maintenance can be included in that and we have a very effective and fine piece of legislation. The Department of Justice, which is the Maintenance Enforcement Branch, does a very fine job and I think it is again a progressive, important addition to this Act to include the child support payments.

* (2020)

Thirdly, this Act makes it available to a court to imprison a person who has failed to pay support to children or a spouse in an intermittent fashion. As we all know, recently in this House we have discussed intermittent sentences. Last week in particular I raised with the Minister of Justice (Mr. McCrae) that the intermittent sentences as they were implemented at Headingley Jail meant that in 46 hours you got credit for three days. After three weekends you had apparently served a 14-day sentence. If you had special circumstances, oftentimes you got out after two weekends. That is a total of 92 hours; 92 hours on a fourteen day sentence, that is pretty good.

I think that to the extent that this Act allows intermittent sentences to be put into place so that

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parents can keep their jobs so that they can make the payments, if you do not have a job you cannot make the payments on behalf of your children. It seems absolutely obvious, Mr. Speaker, but that is not in the Act at present. The Act presently seems to be missing that provision. It is important to keep—I simply raise the issue of intermittent sentences again for the Minister, and I hope that he will undertake to discuss this matter with his correctional authorities, so that they can attempt to ensure that these sentences are taken seriously and that we get as much of a day served as possible for a day of sentence. That is an important principle to uphold, Mr. Speaker.

We cannot allow people to make light of jail sentences and that unfortunately has all too often been the case in recent times—in particular of course the short-term sentences where people may be facing quite large fines. In particular, I reference the second offence on drinking and driving. Again a 14-day sentence, if you do not get that you may get a \$1,200 fine. Now a lot of people would say, look, for a total of 138 hours in jail, I will go to jail rather than pay \$1,200 because that is not a bad ratio, Mr. Speaker. A lot of people, in fact, the poor people will of course choose jail. It is in effect an elitist provision, and I think it is important that when we sentence people to jail, we treat them fairly. If you are rich or poor and you have to go to jail, you should serve that term. It should be a sufficient deterrent for you, as it is intended to be, and in particular of course with the drinking and driving laws.

Mr. Speaker, the other major issue, which of course is not addressed in this particular Bill, is the actual quantum or amount of money that is ordered as spousal or child support. I think that is an important issue that we address as legislators. While it is not raised in this Bill and we have not obviously had substantial discussions in this House on this issue, I think it is a concern which is out there, which is of great importance to women and indeed all Manitobans, and I think somehow we must address that.

Now, I am not sure how the best way to proceed on that one is. I simply bring that comment to the attention of the Minister and ask him to come forward with some sort of agenda for dealing with what amounts are provided by the courts for the support of children and spouses, because I think a lot of the decisions coming out of court are unrealistically low. We have to make sure that when marriages break up, as much as possible, we provide in an equal fashion for the spouses and indeed for the children.

* (2025)

Mr. Speaker, the other concerns which have been addressed by myself on other occasions with respect to The Family Maintenance Act generally, but which are not a part of this Bill, I do not intend to go into detail on, I simply bring it to the attention of the Minister that there are other important amendments which need to be made to The Family Maintenance Act. In particular, I think that the fact that there are no clear guidelines for the amount of support or maintenance is important to rectify. I leave it to the Minister to come forward with the proposal as to how we can best achieve that.

As well, a list of factors to be considered with regard to amending the legislation, as was brought to our attention by the 1985 Audit of Statutes by the Charter of Rights Coalition, is important to consider. I think there are many recommendations in that report, which I have looked at in some detail, which bear consideration. I look to the Minister to come forward with some discussion on what he is doing about those recommendations which came forth and indeed many of which have been reiterated in the recent brief sent to him by the Charter of Rights Coalition.

The other important part of this Act which is not dealt with in this particular Bill, but which I think is important to deal with at some point, is that we must provide the power to the courts to make a retroactive order for child support upon the pronouncement of a declaration of parentage so that the child's interests are not prejudiced because of protracted litigation. We have already dealt with some of the interim abilities to award maintenance under Bill No. 51—I am sorry, not maintenance—but the support pending the final disposition of a Marital Property Act action. We must also deal with that in this Act, and I think that is important for the Minister to come up with some solution on.

I look forward to hearing what consultation process he will be embarking on because this is a family law package that has been awaited for a long time, but it does not go really far, Mr. Speaker. There are a lot of disappointed people out there who worked long and hard in attempting to convince the Government that our family law system needed a lot of work. It has received some work in these pieces of legislation, but there is much left to be done.

Mr. Speaker, the other amendments which might have come forward but have not are set forward in the brief given to us by the Charter of Rights Coalition. Also, I think it is important to bring to light that this whole Act again was an important Act for this province to take a step on. We did take a step, but you cannot take a step and then just assume that everything is going to be hunky-dory from then on. The fact is that the world changes constantly, and no more so than in the area of family relations in our society.

We are in a state of flux. We have been in a state of flux. It is a state which has brought many good things with it. I speak particularly about the issue of wife abuse. We have an awakening in this province about the seriousness of wife abuse and the fact that it is a criminal offence. We are seeing every day women come to the authorities, telling their tales of incredible hardship and abuse.

Mr. Speaker, it is indeed truly good that we have laws in place to protect those women and allow them to go forward in life and to not lose their children and to get some maintenance and support for themselves and their children and to live decent lives. So just because the divorce rate is high is not necessarily bad, because many abusive relationships that are ended, it is important to end them. I simply indicate to Members that there is no question that we are in a state in our society where we do face marital breakup on a regular basis. It is virtually the norm. To whatever that is

attributable, it is our duty as legislators to respond effectively and fairly to that challenge.

Mr. Speaker, with that I certainly recommend speedy passage of this Bill. I am going to look forward to some amendments which no doubt the Minister will come forward with with respect this package generally. I suggest to him that he may want to consider some further amendments to this particular Act, although with respect to the Bills Nos. 47 through 52 generally, there is no question the concerns expressed about The Dower Act and The Intestate Succession and Consequential Amendments Act are the most important. In particular, the "all to the spouse" rule under The Intestate Succession and Consequential Amendments Act and the dropping of the exemptions under The Dower Act would appear to be the most important amendments which still need to be made.

* (2030)

I bring that to the attention of the Minister that in all of these Acts, there is much more that could have been done and it was not done. It is an important package to deal with at the committee and get into law, but we have just started down this road, Mr. Speaker, and I think there is some disappointment that we did not go farther on this round. However, I do look forward to seeing what the Minister will come forward with at the committee stage in terms of amendments.

He has indicated to me that he certainly is considering amendments. I know he met with the Charter of Rights Coalition and the Women and the Law group today and I assume that they attempted to persuade him of certain amendments which needed to be made, needed to be added to this package, because they know from experience that it is a long time coming before you get another family law amendment package like this before the House. They have fought long and hard to get this one before legislators today so they are very, I am sure, realistic about getting another package before the House speedily. Therefore, they are making every effort, and laudably so, Mr. Speaker, to attempt to put into place this time around the necessary amendments to make sure that our system works for all Manitobans.

Mr. Speaker, with that I will conclude my comments on this and ask that it go to committee at the earliest opportunity. We certainly will be supporting this Bill. We will, as I have said, look forward to seeing what the Minister wants to add to it. Thank you, Mr. Speaker.

Mr. Steve Ashton (Thompson): Mr. Speaker, I move, seconded by the Member for Dauphin (Mr. Plohman), that debate be adjourned.

MOTION presented and carried.

BILL NO. 57—THE PENSION BENEFITS AMENDMENT ACT

Mr. Speaker: On the proposed motion of the Honourable Minister of Labour, Bill No. 57, The Pension Benefits Amendment Act; Loi modifiant la Loi sur les prestations de pension, standing in the name of the

Honourable Member for St. James, the Honourable Member for St. James.

Mr. Paul Edwards (St. James): Mr. Speaker, when I am here I like to be talking. This really is the final Bill in the family law package, even for me, and it was not included in the family law package when it was introduced, but it is part of the family law package in my view.

It is The Pension Benefits Amendment Act. It is an Act which I believe is of particular interest to women. It does deal with the division of assets upon the dissolution of a marriage and this Act proposes something which I think it is important to put into law.

I will talk about the Act specifically and then some of the theory behind the Act when it first came into place. This Act puts into place a 20 percent differential as an exemption from The Pension Benefits Act. That is, under the present Act, you have no choice upon the dissolution of a marriage. Your pension, if it is under provincial jurisdiction, must be split. That is the law as it stands and you cannot take money out of that pension plan if it is locked in. When it comes to fruition—at whatever age it is under your pension plan that the pension will start being paid out—it goes 50-50. That is the present state of the law.

It is felt that is somewhat unfair. Let me give you an example of how sometimes that can be unfair. A lot of pension plans do not fall under provincial jurisdiction. They fall under federal jurisdiction. If you work for a federally regulated employer like the railways, Canada Post, some of the other major employers in our province, then your pension does not fall under the provincial Pension Benefits Act. So there is an inequity. If one spouse works in a provincial jurisdiction, one spouse works under federal jurisdiction, the provincially regulated pension has to be split 50-50; the federal pension does not.

It creates a problem, Mr. Speaker. Not only that, there are many situations where spouses get together and say, I want to retain control over my pension. If I leave, I want to be paid out a certain amount of money; I want to have those options available. Therefore, let us go our separate ways: you keep your pension, I will keep mine. Or they say, your pension is worth more than my pension; therefore, you pay me a little bit now and then we can go our separate ways. This Act prevents that; you cannot do that.

This Act is in many respects a relative straitjacket on the splitting of pensions. Now the rationale for that is somewhat persuasive and that is that pension plans are unlike any other asset. Pension plans are meant for retirement. They are not assets which are liquid; they are not intended to be.

Society and we as Governments have promoted pensions. Why? Because we know that it is important for people to have assets once their working years are over. We, as a state and as a Government, know that those people, once they are finished their working years, increasingly come into need of Government services. It is very important that they have pensions. That is why we have RRSP tax deductions. That is why we

promote pensions, both at the federal and the provincial level, because we want people to invest now to ensure that they can provide for themselves when their working years are over.

The Pension Benefits Act locks in pensions and mandates that you cannot in fact deal with them. The theory behind that is that in dividing pensions it will be abused. One spouse will say, for instance, I will go after the custody of the children if you do not leave my pension alone. Mr. Speaker, that is an all-too-common type of statement in the dealing between spouses as they attempt to figure out how to split the assets. You would be amazed, and I think most Members would be amazed, at how absolutely raw and hostile these negotiations get. They are truly educational in terms of being caustic and in terms of being simply tragic on the consequences on people's lives and most often the children, as parents attempt to bankrupt each other, and they do. They do all the time.

They hold up the children as bartering chips oftentimes in dealing with assets. A spouse will say, if you want to get part of my pension or if you want to get some other asset of mine that I really want, I will go after the children and I will fight you through the courts on the children.

The other spouse, most often the woman, will know that she can be tied up in courts for years. The custody of her children can be questioned in a court proceeding, which is extremely stressful, extremely costly, and she may indeed be forced to compromise and give away what is rightfully hers in terms of assets of the family. So we have The Marital Property Act and we have this Pension Benefits Act, which puts those pensions in a virtual straitjacket.

* (2040)

I think that largely the reasoning behind the straitjacket is for the protection of women. Certainly that is not something which is denied by the women's groups. In fact, this legislation is promoted on that basis, that it is important to have an absolute restriction on the dealing of pensions, because they feel that women generally are vulnerable in the breakup of these relationships; in particular, if there are children and the woman would naturally have custody of the children but may be challenged by a spurious and hostile husband, I have some sympathy for that argument. I must also articulate the opposite argument.

The opposite argument is that the presumption in law, in our society, is that you have the right to deal with your assets. Where the assets are the property of a marriage, if there is consent, if they agree on how assets are to be dealt with, who are we to stop them? That is something you cannot do under The Pension Benefits Act.

Two spouses cannot get together and say, I want to keep my pension to my own; you keep your pension. Let us just go our separate ways and maybe you pay me a little bit or I pay you a little bit to make up for whose pension is better. The fact is, we do not want to be thinking about each other when we are 65. We want to cut it; we want to sever it right now. That cannot

be done under the present Act. However, at this stage, certainly our caucus has come to the conclusion that this present Bill is a reasonable move in the direction of allowing some flexibility, while not giving up the opportunity to restrict people in dealing with their pensions in order to better protect the vulnerable in the course of a marriage break-up.

This Bill allows you to deal with your pensions as you see fit where the pensions are within 20 percent of each other. I think that is a reasonable solution, which brings some flexibility into the system. In other words, if your pension is within 20 percent of your spouse's pension, then you can deal with it as you see fit. The reasoning behind that is, if they are within 20 percent, then even if someone is taken advantage of, the amount that is involved is only 20 percent of the pension. Where there is not a large discrepancy anyway between two pensions, this Bill is going to allow those spouses to deal with it on their own, as they see fit, without the interference of the state.

Mr. Speaker, I am not clear on the rationale for 20 percent. I do not dispute that 20 percent is a correct number. It seems reasonable to me, but I will look forward to the committee to hearing as to how the 20 percent came to be chosen as the deviation limit with respect to these pension plans.

I bring to the attention of the Minister, Mr. Speaker, and I know it is not proper, and I do not want to get into the details of this Bill, but I do bring to the attention of the Minister that there is a bit of a confusion in the proposed Section 31(3.1), which has the effect of leading to some confusion as to whether or not Clauses (a), (b), and (c) are cumulative or optional. In other words, should it be an "or" or an "and" between them? I think it is clear to me anyway that it should be an "and". It is cumulative. You have to meet all three of the conditions before this kicks in. I did hear some concerns expressed that that was not the case, and it might require a very simple amendment to make that crystal clear. So I do bring that to the attention of the Minister. I will be raising that at the committee stage. I simply bring it to the attention of the Minister at this point.

Mr. Speaker, I know it is a question on many people's minds as to whether or not The Pension Benefits Act is retroactive. In fact, it is my understanding that The Pension Benefits Act came into place some years ago and only affected pensions that were in the hands of people who had divorced or dealt with their property on that date forward. So if you had a marital breakup and you had settled the property between the spouses prior to The Pension Benefits Act coming into place, then that Act would not apply. It was not retroactive, it is my information.

So that is not necessarily a concern for those who were separated or divorced years ago. It is a concern now, but the original Pension Benefits Act I do not believe was retroactive. In fact, it certainly would have wreaked havoc on many spouses who had gone their separate ways years before, in terms of forcing them to rethink and renegotiate their marital breakup and the division of assets accordingly.

So I think this is, as I said, somewhat of a compromise position that has been taken in this Bill. It is acceptable

at this point to us. I think we are moving into this area with our eyes open. We are hoping to learn from experience. I think the initial Act was a little too much of a straitjacket. This allows some flexibility while also protecting the vulnerable in a relationship. Let me simply reiterate for those who have that question that it is my information that The Pension Benefits Act, when it came into place, only affected those who had split up after the date it came into effect.

So The Pension Benefits Act, I believe, came into place a few years ago. If you split up from the date that that became law or forward, then you had to deal with under the Act. It was not retroactive to those who had separated and dealt with their assets prior to The Pension Benefits Act coming into place.

I may be mistaken, Mr. Speaker, but I think The Pension Benefits Act did come into place some time in the mid-'80s. It was not that long ago. I simply reiterate for those who would question it, if it would have been retroactive, it would have wreaked havoc on this province. So I think it could not have been and it was not, but the real problem has been with people who dealt with their assets not taking into account this Act, who have dealt with their assets since it came into place, because many of them have sat down, oftentimes in a very friendly manner—it is an amicable breakup—and they have said that, you take your pension, I will take my pension. They have said that.

* (2050)

It is not valid, Mr. Speaker. They have a heck of a time, because the employer who holds the pension plan is bound by the Act. So comes time to pay out the pension, half goes to either side. It has caused enormous problems. In our caucus we have heard from people who have gotten into those agreements, long since forgotten about their spouse, and now realize they could not do what they anticipated doing now that they are close to retirement.

In particular, I am thinking of one gentleman, and I think he has probably spoken to all three Parties, a Mr. McClellan. He is with the City of Winnipeg. He has come certainly to see us. He has exactly that problem. He sat down with his wife. They went their separate ways. They wanted to deal with their pensions. He works for the City of Winnipeg, so his pension was regulated under this Act, and they signed a deal. He is now wanting to retire. He cannot get his pension. He is very frustrated.

Luckily, he is going to be served by this Bill, because this Bill says, if it is within 20 percent, if your pensions are within 20 percent of each other in terms of value, then you can do what you want. His is, and I think it is important that we have this flexibility in the system. We do recognize that many can be abused. We have to protect the vulnerable, but on the other hand, at some point I think we have to recognize that if pensions are within a certain range of each other in terms of value, in this case 20 percent, then the parties have their rights to deal with their pensions as they see fit.

They should be able to fully and finally sever their relationship. It is important that we allow that to happen.

Marriage is a spiritual relationship for some. It is an emotional relationship for most. For us in the Legislature, Mr. Speaker, it is a legal relationship. You know, it may seem harsh and uncaring, but the fact is, it is important to recognize the legal implications of marriage and to provide for a legal severing of a marriage.

That is also very, very important. If people do not want to be married to each other, we as a society have a duty to allow them to go their separate ways as much as possible, not forgetting their responsibilities to each other and indeed to their children, but also allowing them to start their lives again.

With that I will conclude my comments and look forward to this Bill again getting to the committee as soon as possible.

Mr. Leonard Evans (Brandon East): Mr. Speaker, I move, seconded by the Member for Interlake (Mr. Uruski), that debate be adjourned.

MOTION presented and carried.

BILL NO. 70—THE PROVINCIAL COURT AMENDMENT ACT

Mr. Speaker: On the proposed motion of the Honourable Minister of Justice (Mr. McCrae), Bill No. 70, The Provincial Court Amendment Act; Loi modifiant la Loi sur la Cour provinciale, standing in the name of the Honourable Member for Churchill (Mr. Cowan). Stand.

Is there leave that this matter remain standing?
Agreed.

BILL NO. 35—THE WILDLIFE AMENDMENT ACT

Mr. Speaker: On the proposed motion of the Honourable Minister of Natural Resources (Mr. Enns), Bill No. 35, The Wildlife Amendment Act; Loi modifiant la Loi sur la conservation de la faune, standing in the name of the Honourable Member for Brandon East, the Honourable Member for Brandon East.

Mr. Leonard Evans (Brandon East): Mr. Speaker, I just want to make a few comments on this Bill for our Party. I am just going to speak a few minutes on a piece of legislation that really has been in the works for a long time, because as I understand it from the Member for Dauphin (Mr. Plohman), this was being considered when he was Minister. It does include a number of technical changes, some grammatical errors from the past that became apparent, and these are being corrected, and a lot of administrative matters I understand.

Apart from that though, there are two new or expanded provisions being proposed, one dealing with certificates and another dealing with the possession of cyanide guns. Before I make reference to that though, Mr. Speaker, I would just say that this seems to me to be a Bill that essentially improves the enforcement of

wildlife hunting, if you will, of hunting in the province. It is a move toward the tightening up in the case of cyanide guns and also in the case of certificates being used for evidence in courts.

I would like to just take this opportunity to say, Mr. Speaker, that from my conversations with Manitobans around this province, there seems to be a growing opposition to hunting as a sport. I think that people can always sympathize with those who have to hunt in order to make a living, in order to feed themselves, in order to survive, and I have some sympathy with them. But there are people in our society who are becoming increasingly concerned about the killing of animals as a sport. There are many organizations that are bringing to our attention this question. Of course, the Greenpeace is a large organization, but there are many others who are concerned about cruelty to animals and who are even objecting to animals being used for research purposes.

I think I detect, therefore, growing either hostility on one hand and on the other hand a lack of interest in hunting as a recreation or as a pastime. I make that comment at this time because I do think I speak for a growing number of Manitobans who would just love to see hunting as such abolished in our society. This comes up of course from time to time when you hear of people who are killed accidentally in the hunting process.

At any rate, Mr. Speaker, every time someone is killed during hunting season questions arise as to why we allow ourselves to be engaged in this kind of an activity. As I understand it, the Bill provides for new certificates, for certificates other than those from Government or RCMP, research stations and meteorological stations, provided they are credited to be admissible in evidence. In other words, it broadens the admissibility of evidence. At the present time, unless a certificate is issued by the RCMP or some other Government official they have to bring expert witnesses to courts. They have to bring—

An Honourable Member: The original Bill was brought in by the Tories in 1980.

Mr. Leonard Evans: I am being told that the original Bill that we are trying to correct here was brought in by the former Conservative Government of Sterling Lyon. They messed it up with all these mistakes in there and this one is now an attempt to correct all those errors and mistakes. As I said, I know my colleague from Dauphin worked very hard on bringing this forward, but at any rate here it is finally. I think we can support this, I think we can support this provision that certificates other than those from Government or the RCMP can be used.

* (2100)

Another provision is to prohibit the possession of cyanide guns for taking wildlife by other than authorized persons. At the present time, Mr. Speaker, it is an offence for any unauthorized person to use a poison device, including cyanide guns, for killing or capturing wildlife. However, the problem is that it is not an offence

for hunters or trappers or others to have these poison devices in their possession. Therefore, it is a very difficult matter to enforce. It is illegal to use, but unenforceable the way the legislation is currently written.

The use of these devices for taking wildlife such as coyotes and foxes, which we have many of, has become widespread in what is referred to as Agro-Manitoba, largely because of the recognized enforcement difficulties. At any rate the enforcement is made difficult, I understand, Mr. Speaker, because, unless persons are actually seen setting or lifting one of these devices, ownership is difficult to establish for court purposes. What this amendment does is to help control the use of these dangerous devices through increased enforceability.

So now, Mr. Speaker, as I have advised, the enforcement staff will no longer have to actually see a person setting or lifting one of these devices as simply finding them in his or her possession will be an offence.

I for one am very pleased to see this particular amendment, because as it is now we have a safety hazard for people as well as for the pets and livestock. Certainly, it does create a negative image for the fur industry in this province. I understand, Mr. Speaker, it is a change that is supported by the Manitoba Professional Trappers Association.

In some ways it would be good if this Bill would go even further. I know Members of the department had previously recommended that small-game hunters be required to take firearm safety training prior to hunting. As it is now, small-game hunters do not require training.

On the other hand, if you are engaged in big-game or game-bird hunting you are required to take some training, but if you are in the small-game hunting recreation, or for whatever purpose you are hunting small game, you can just simply get your licence and go out and start shooting.

The fact is, Mr. Speaker, that the small-game hunters have twice the accident rate as other hunters. Therefore, you would think it would be prudent for Government, for the Minister, to require such small-game hunters to take such training for the safety of everyone, for the safety of the hunters, for the safety of people involved. Small-game hunters have twice the accident rate. In fact, small-game hunters have 54 percent of hunting accidents. This was a nine-year record that was tallied at one time.

Mr. Speaker, there is no question that there is a great deal that should be done in this area to improve safety. One way to do it is through training. The Minister would require the hunter to carry a certificate or a card or a licence which said that he or she had undergone this training program and was therefore eligible to use a rifle or a gun or whatever for pursuing small game.

Again, Mr. Speaker, there was a hunter safety review undertaken a number of years ago, which said that this particular provision should be put in the Bill. Unfortunately, the Minister has chosen not to put it in the Bill. I understand, also, that it is supported by the Manitoba Wildlife Federation. The federation itself has asked for this. I do not know why the Minister has not

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proceeded with it. I do not know why the Minister would not have listened in this case to the federation and required this kind of training to take place, because it seems that there is no question that there are a great deal of accidents that occur with this particular category. As I said, twice the accident rate for small-game hunting as with other types of hunting, and 54 percent of these accidents in over a nine-year study involved small game hunters.

As I said, we do not have any problem in supporting the Bill, but as I also said, it is unfortunate that this measure of safety that could be brought in is not being brought in. Maybe the Minister would like to consider that; of course, he has an opportunity to bring in an amendment during the committee stage. However, he may have heard from others as to why this requirement should not be brought forward at this time. I would like to have heard what he had to say on that, or I would like to hear what he has to say on that at some future time.

Mr. Speaker, as I said again, the Bill, the amendment essentially is primarily administrative in nature. Some regulatory changes will be occurring from this Bill. As I mentioned there are these two new provisions which are worthy of our support, worthy of support of all Members of this House. It is regrettable that the Minister has not seen fit to proceed to enhance the safety in the small-game hunting field.

At any rate, Mr. Speaker, we look forward to hearing from members of the public, if they so choose to come before the committee, to give us their views on this particular Bill. Who knows, maybe the Minister of Natural Resources (Mr. Enns) will see fit to bring forward this particular additional amendment which I think is called for. So with those few words, we are prepared to let this particular Bill go to committee. Thank you.

Mr. Steve Ashton (Thompson): Mr. Speaker, I hesitate to follow the Member for Brandon East (Mr. Leonard Evans) who gave a very detailed description of the Bill and—

An Honourable Member: Mention the unlimited time here.

Mr. Ashton: The unlimited time. No, I think I will pass on this one.

I just want to indicate that this Bill will be passed through the committee by our caucus, with this speech being a final speech from our caucus prior to going to a committee—

An Honourable Member: He is a big anchorman.

Mr. Ashton: Yes, I am the anchorman here. I am the designated hitter.

But I do want to indicate for the record, Mr. Speaker, that we had in writing indicated to the Government House Leader (Mr. McCrae) that we were willing to pass this Bill, and a number of other Bills through the committee, pass it through second reading. In fact, that was dated December 4, 1989, which is more than two

and a half months now, since that offer was made, or two months since that was made. The bottom line is we have been willing to pass through Bills like this, and for a good reason.

If one looks at the Bill, this Bill is virtually identical to a Bill that had been drafted by the previous NDP Government and I have a submission to caucus in regard to The Wildlife Act, September 7, 1987, that was to be included in the 1988 Session signed by the then Minister, Leonard Harapiak, and another memo from the Member for Dauphin (Mr. Plohman), when he was Minister just prior to the changeover in terms of responsibilities.

* (2110)

The bottom line is this Bill, apart from the omission, there were changes made by the current Minister of Natural Resources (Mr. Enns) which left out an important section of the Bill, which the Member for Brandon East (Mr. Leonard Evans) pointed to. The fact is we could have passed this Bill through to committee in December. We could have passed this through in January. We could have passed this Bill through any day, prior to the day—you know, today, which is February the 19th. Even when today's Order was called, Mr. Speaker, I am surprised that this Bill and the next two Bills, which we also indicated we would pass through on December 4, 1989, have not been called to the top of the Order Paper, as we have repeatedly requested. I raise this because I am not sure what the Government's agenda is, when in this particular case, prior to Christmas, they asked us to pass through some Bills. We agreed—financial Bills which are important.

We asked for more time for the public to make submissions on Bill No. 79, the Municipal Assessment Bill. That time was given. We came back with an offer to pass through 10 Bills, nine of which the Government agreed to. Here we are, on February 19, 1990, still dealing with this Bill because the Government has chosen not to call it as a matter of priority. The same thing with Bill No. 19 and Bill No. 84. What have we been doing for the Minister of Environment (Mr. Cummings)? We have been asking the Government daily to call those Bills. In fact, we indicated just about a week ago—we could have passed through all three of these Bills we offered on December 4 in about one and a half hours maximum, in one afternoon.

But it has been the Government that has chosen only to call certain Bills, obviously Bill No. 31, at the expense of other Bills. There were 28 Bills on the Order Paper—in fact, there currently are 28 Bills on second reading, given the new Bill that was introduced today and a Bill that was passed through. It has been the Government that has chosen the course of debating one Bill and one Bill only. The only reason we are dealing with this legislation or any other legislation is because Bill No. 31 has been passed through to committee now, and the agenda obviously will not apply until, I assume, it reaches report stage and third reading.

I raise it, Mr. Speaker, because quite frankly I do not know what the Government's agenda is. I do not know if they know what their agenda is. When they ask first

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for the Opposition to be co-operative in passing Bills, and the Opposition takes the initiative and agrees to pass through other Bills, when they do not follow up on that offer, it makes one wonder what the true agenda of the Government is. They talk a very good line about co-operation in the business of the House, but in actual fact, when it comes to this Bill, Bill No. 35, when we have offered to pass it through to committee, I ask the very real question: why has this Government been so obstinate in terms of negotiating the business of the House?

As I said, even today Bill No. 35 is being dealt with as, I think, the eighth or ninth Bill today. I am not trying to say the other Bills that were brought up earlier are not important. Surely they are, I agree with that. But to my mind, for the best operation of the House, you should pass through Bills that have been agreed to by all Members of the House. I believe the Liberals have indicated their agreement to pass through Bill No. 35. They have no further speakers in this debate.

I raise that question because I believe the Government's agenda can be called into question on the basis of this and other Bills. This Bill should have been in two months ago. We will pass it through right now. We believe it is a good Bill; we would have liked to have seen the other section kept in, which was in the original draft of the Bill, in regard to training and the requirement of certificates for small arms.

I, quite frankly, am not sure what the rationale of the Government is on this particular question. But bar that, it is the same Bill we were not only working on, that we proposed to our caucus and was part of our 1988 Session strategy. That is the question I raise, Mr. Speaker, and I am going to let it pass with this speech, and very shortly, but I raise that question because there are Bills that we are going to be dealing with that are controversial, there is no doubt about that. Bill 31, Bill 98, there are other Bills where there is a significant difference, there will be amendments moved by Opposition Members. But I cannot understand why the Government House Leader (Mr. McCrae) and the Government itself has chosen to diverge from the normal process on Bills such as Bill 35, which is to discuss, to negotiate, try and work out an agenda, a package which is agreeable to all Parties in this House.

When we were in Government, we did that, in the New Democratic Party and with a majority Government. In this particular case, I believe the Government has to learn, this Government which is a minority Government, that it cannot impose its will on this Legislature and at the same time have an efficient operation of business. I believe that what we saw on Bill 31 did not contribute to an efficient operation of the House. They wanted us to debate, we debated, Mr. Speaker. There were other ways of dealing with House business. I notice the Liberal Labour Critic (Mr. Edwards), who is one of the only two Liberals who had the courage to speak on Bill 31, is speaking from his seat. I will ignore those comments. Two Members spoke on Bill 31 and said very little.

I do not want to be diverted by the Liberals, who seemingly also have this one-track mind. We have never backed away from debating Bill 31, but no one is

suggesting that it is the one and only issue we are facing and repeatedly over the last number of weeks and the last number of months, with the Member for St. James (Mr. Edwards), who perhaps does not understand the process, we have offered to debate and pass through other Bills.

In case the Member for St. James is not aware, Bill 31, we asked that it be called so it would be debated. That was part of our letter to the Government House Leader (Mr. McCrae) on December 4, the same letter that included the passage of Bill 35 as being a very important part of our proposed package of legislation that could be passed through. And as we stand here on February 19, I ask this question in completing my remarks, which are brief on this particular Bill, for a reason, because I do want to see it pass through to committee. I ask the question, what is the real agenda of the Government in the handling of House business on Bills such as Bill 34?

Why, Mr. Speaker, do we have to go two and a half months after we in the Opposition offer to pass a Bill through, before the Government House Leader or the Government can finally facilitate that? I ask that, because I look at the Member for Churchill (Mr. Cowan) the former House Leader for our caucus, a former Government House Leader, whether that was the process on matters such as Bill 35 which was easily agreed to in terms of that, and the Member for Churchill remembers well that he negotiated, discussed with the Opposition Parties in an attempt to get a co-operative managing of the agenda on a day by day basis.

I do not know what more we can do in the NDP when we say, pass Bill 35. We put it in writing, we date it December 4, we send it to the Government, and the Government does not act on it. I ask that, Mr. Speaker, because I believe -(interjection)- The Member for Churchill (Mr. Cowan) says he feels it is either arrogance or incompetence. We shall see, it may be one or the other, it may be both, it may be another factor.

Perhaps the Government has an agenda of slowing down the House in practice so they can criticize the Opposition for blaming them. Maybe they want an election; we will find out. Albert shakes his head, he is nominated, he is ready. Well, I am nominated too, so I am ready as well, I suppose. I suppose that might be part of the agenda. I am not quite sure why we have seen such a divergence from the traditions of this House, and I look to the Member for Emerson (Mr. Albert Driedger) and the Member for Churchill (Mr. Cowan) who have been in this House longer than I have, if they can ever recall when there has been so much of a deadlock, not on Bills, we have had deadlocks on one or two or three controversial Bills. Farm lands protection, the Member for Emerson will remember that.

* (2120)

It was dropped in the first year, changes were made in the second year. There was a deadlock on that Bill, and he would be the first to admit it. Need I mention the French language debate of 1982, 1983, 1984—a deadlock on an issue once again, the bell ringing. If

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one wants to talk about obstruction, that is by definition obstruction. There were other Bills that were important Bills, that were controversial Bills, that lead to a lengthy debate, but in each and every case, Mr. Speaker, one saw other controversial Bills being passed through to committee. I realize the Member for St. James (Mr. Edwards) and other Liberal Members may not be aware of that process, but I ask just in terms of logic. Why should not we be dealing with Bill No. 35? Why should we not have been dealing with it on December 4? I asked that question, rhetorically perhaps, but hopefully in this debate or another debate I hope the Conservatives will respond and outline what their true agenda is.

Yes, we will pass through this Bill. We have two other Bills. Once again, we agreed to pass through December 4. We are sitting here not in December, not in January, into February, February 19, we want to see them pass through to committee. There are other possible Bills too, which we have been debating which do not require extensive debate. You know, I have yet to receive anything from the Government House Leader (Mr. McCrae) the last number of weeks, other than a list of the Bills he wants called. He has not asked, well, which Bills can we agree on?—and get them passed through to committee over the last number of weeks.

I ask the question. I am going to ask it on the public record, because if those discussions are not taking place privately, I really hope they will start. I believe we should, yes, be debating extensively Bills like Bill 31, and we will be on report stage, throughout the committee hearings and back to report stage and third reading. There are other Bills too on the Order Paper, the Workers Compensation Bill which deserves significant debate; the Manitoba Data Services. There are other Bills, but there is no reason why the Bills, such as Bill 35 where there is clear consensus and more of those types of Bills, cannot be passed through to committee—and more of those types of Bills.

I think what it requires is the Government to recognize that we are not seeking confrontation on each and every one of the Bills. We do not oppose each and every one of the Bills. A number of these Bills are Bills we were introducing. There are our Bills, the New Democratic Party. We want to see them passed; we want to see them put into law. We would like to see a tougher version of Bill 35, for example.

Surely there must be a better way of ordering the House business. Surely there must be something better than having Bill 35 debated not extensively today. I have only spoken for about 10 minutes on this Bill, and that is as far as I will go. The bottom line is, there is a far better way of ordering the House business. Yes, we will pass through Bill 35, but it should have been passed through December 4, December 5, December 6 of 1989. Thank you, Mr. Speaker.

QUESTION put, MOTION carried.

BILL NO. 19—THE GROUND WATER AND WATER WELL AMENDMENT ACT

Mr. Speaker: On the proposed motion of the Honourable Minister of Natural Resources (Mr. Enns), Bill No. 19, The Ground Water and Water Well Amendment Act; Loi modifiant la Loi sur les eaux souterraines et les puits, standing in the name of the Honourable Member for The Pas (Mr. Harapiak) who has 35 minutes remaining, the Honourable Member for The Pas.

Mr. Harry Harapiak (The Pas): Mr. Speaker, I am pleased to stand and speak on Bill No. 19, the Bill dealing with The Ground Water and Water Well Amendment Act. I started my comments on it previously. When the Minister introduced the Bill, he spoke about the importance of water as a resource and how we must manage it in a very forceful way. As a matter of fact, the previous Minister of Natural Resources went out and had a public relations effort. He went out and carried out a process where he spoke to the people of the Province of Manitoba to get their concerns about the water and how we manage it in the province for use as a lifesaving resource in this province.

When you look at the Act, you see that we have a good process for keeping track of what wells are being drilled in the province. I think it is important that we know what wells are being drilled; then we know how our aquifer is being depleted. If you look at the Bill before us, Bill No. 19, one of the things that are being repealed, Mr. Speaker, is the fact that people will not have to come and get a permit to drill for water in the Province of Manitoba. This does not affect the people who are drilling on private land because the existing Act does not apply to people who are drilling for water on their own property.

But it deals with drilling on Crown land and I think it is unfortunate that they are repealing, because it gives the province an opportunity to keep track of where the wells are being built and where the aquifer is being depleted. I know one of the areas in the province where the aquifer is depleting and the province does not have an idea of where the water is going to is in the City of Winnipeg itself. There are so many wells that have been drilled and the people are utilizing the resource, but there is no way of knowing where the water is going to. I think it would be wise for the Government to put in maybe some additional ways of keeping track of how our water is being utilized. Rather than repealing this section of the Act, I think they should be strengthening this section.

When you look at how the water resource is being managed in the Province of Manitoba—the Member for Dauphin (Mr. Plohman) raised in his comments some of the difficulties they are having in the Gladstone area, dealing with water. He expressed his concern over one Minister saying that there is no need to worry about the amount of water there is in the Province of Manitoba, and the Minister of Environment (Mr. Cummings) saying they have to assess and see if there is sufficient water there for piping to the next community.

I guess there seems to be an inconsistency among the Ministers, because one is saying that there are all

kinds of water, we do not need to keep track of it, but the other one is saying that we have to do an assessment. Even though the Department of Natural Resources has all kinds of information that tells them that there is sufficient water in there, they are refusing to pipe that water to the people who require that water as a drinking source, never mind for irrigating their land or for other uses. I think when we are looking at that precious resource, the human consumption should be a top priority, and I would hope that the Minister of Environment (Mr. Cummings) would have another look at that issue.

Given that while the Minister of Environment says he has an open mind, and I am glad he has, that means there is a possibility he may listen to the words the Member for Dauphin (Mr. Plohman) put on the record. And I know the Member for Interlake (Mr. Uruski) is going to put some information on the record which shows there are sufficient water levels there and there is enough information available that should make it possible to allow them to give these people the water that is required.

One other area that I just want to raise briefly, Mr. Speaker, is the water in the Town of The Pas. I know that there has been a co-op formed under the leadership of the Local Government District of Consol. The reeve there has called a meeting, and they are in the process of forming a co-op which would take in the needs of not only the LGD's water needs but also the Town of The Pas, The Pas Indian Band, and the Manitoba Metis Federation, who are in need of a good source of drinking water. If they were able to form that co-op and have their water piped in from Clearwater Lake, then I believe that they would have an opportunity of bringing in that water to the Town of The Pas.

I think that the Minister of Environment (Mr. Cummings), who is present this evening, should take into consideration, when that request comes forward for that water supply, that they would grant the licence and give them the necessary support to do a feasibility study for handling the water from Clearwater Lake, and bring it to the Town of The Pas. When you look at that water supply, it is one of the Seven Wonders of the World. It is a crystal-clear water supply that you can—I have often gone fishing there during the winter season and you can see the lake trout swimming down 35 to 40 feet. It is an extremely clear body of water, and a precious resource of that sort should be utilized by the people in the area.

When we talk about water supply, we have to be aware also of the difficulties that the City of Winnipeg is having with its water supply. I think there needs to be a national water Act passed which would make sure that all our water supply would be protected for us. Quite often there are water supplies that come across two boundaries, and then it is not clear under whose jurisdiction it comes.

Mr. Speaker, I want to get back to that difficulty that people are having dealing with those water levels in the Gladstone area. I know that the Member for Dauphin (Mr. Plohman) has raised it, and there have been several meetings dealing with the water resources. There have been public meetings in there. I just wonder what role

the Minister of Family Services (Mrs. Oleson) has played for us, played when you are dealing with that water. How has she served her constituents?

I think she has not shown very much leadership when it comes to resolving that issue. She should have taken a little more leadership and had told the Minister of Natural Resources (Mr. Enns) which way that issue should be resolved. She should get involved with it first-hand. She should not be ducking the issue. She should be getting involved first-hand and resolving that issue for those people in her constituency, so they can be rest assured that there is a water supply coming to them. They have a right to that water, as the Member for Dauphin has pointed out.

* (2130)

Mr. Speaker, I know that the Member for Interlake (Mr. Uruski) wants to make some comments on this Bill as well. With those few comments I will say that I appreciate the Minister bringing forward the Bill. I wish he would look at Section 5 and not repeal that, because I think it would serve a useful purpose to know who is drilling water wells in the province. I guess one area I wanted to commend the Minister for bringing in is when you deal with contaminated water. I think no one should have the right to pollute or contaminate the surface water or well water or ground water, or any water in the area. So I want to commend the Minister for bringing in that section which gives the authority to a person to take legal action or notice to people who have been contaminating water. I want to support that particular portion of it.

Mr. Speaker, with those few comments, I would yield the floor to my colleague from the Interlake who will have few more words to say on Bill No. 19. With that I close my remarks. Thank you very much.

Mr. Bill Uruski (Interlake): I am pleased to take part in the debate on Bill 19. I note that the Minister of Environment (Mr. Cummings) is here to listen to the debate. I am pleased that he is, because my comments dealing with the nature of this legislation rest solely with some of his actions and inactions in terms of dealing with water supplies in this province.

The amendments proposed in this legislation probably have been recommended by the bureaucracy. However, there is need to question the intent of the amendments that have been proposed, although they are relatively brief. My colleague, the Member for The Pas (Mr. Harapiak), when speaking of the need to protect our natural resources and especially water, which is so fundamental to our survival that this change, as minor as it seems in this legislation, appears to be a backward step.

The Government is removing the requirement of any one who is proposing to drill a well from coming forward and setting out the description of where the well will be and, I am sure, what type of well, what kind of casing will be used and all those kinds of information that would be required by the bureaucracy to determine whether there have been problems with well or ground water supplies in that particular area before or other

problems that they may have had that they can provide to the well driller. That requirement is now being removed.

What is being put in its stead, Mr. Speaker, is a provision that allows the bureaucracy to go and check on a well driller; in other words, after the fact spot-checking. First of all, I believe that—and this will require clarifications in committee—if the department does not know and has not been notified where a particular well is being drilled, how are they going to spot check? How are they going to check on that well driller, and it may be in such an area that could cause serious contamination, there could be some problems in the subsoil that can leach into the well that is being drilled, and the well driller will not know that, and neither will the department if their reporting mechanism is not in place.

The Minister of Natural Resources (Mr. Enns) will have to provide some further clarification as to the exact process that will be used, because if this is a removal of inspection and the requirement of receiving an application and determining where wells are being drilled, but giving the right to inspect, that is in my mind a backward step in terms of the laws of this province. All that one has to do today when dealing with this whole question of the quality of life and the sustenance of life and the need for good water, all that one has to do is look at our television screen and our radios and our newspapers over the last week that the news media has been filled with the coverage that is occurring from the 12 to 14 million motor vehicle tires that are burning in the province of Ontario, where the Government is using whatever means that their technical people can come up with in trying to find a way to put out this fire.

What is really at the heart of this is the possibility that if some of this oil that results from the melting of all this rubber in the province of Ontario flows into the underground, the source of water for thousands and thousands of citizens of that area will be polluted. And that is the reason for my raising concerns with these amendments, although appearing to be minor, that have been brought forward by the Minister of Natural Resources (Mr. Enns) in this province.

That work in Ontario, that kind of calamity just from that one source of pollution, of those millions and millions of tires, will likely be with us for months to come, and if the water source will be polluted, it will be with us, I am certain, for years to come. You do not need very many of those kinds of situations in any given area where the people of that province, or that locality, will bear that burden for generations to come in terms of pollution of a water source that is the basis of life itself. Mr. Speaker, I wanted to raise again, and I am pleased that the Minister of Environment (Mr. Cummings) is here tonight, because we have not heard anything from the Minister of Environment on an issue that I drew attention to before. My colleague from Dauphin (Mr. Plohman) did as well question him on this, and yet there has been no movement on behalf of the Government in this area to resolve this serious ground water problem in the area of his own constituency and within the constituency of the Minister of Community Services.

I might add, the Minister of Community Services does owe, I believe, at the very least, an explanation to her constituents as to why she would allow her federal colleague to stop the funding for a project that they gave authority for, that they provided federal funding for, and then said, no, because of political pressure within that area, when all the facts that can be determined show otherwise. The Conservative Government of this province, and I lay the responsibility on the doorstep of the Minister of Community Services and the Minister of Environment (Mr. Cummings) for putting at risk the livelihoods of several hundred farm families in that area as well as the communities of Plumas and Gladstone in terms of their water source.

I know, Mr. Speaker, that the Minister of Natural Resources (Mr. Enns), had it been left to him, would not have allowed that kind of interference to go on at a time when we have as Manitobans been decrying the reduction of federal cost-sharing into sewer and water projects to this province, and in fact the announcement that was made for that \$30 million is less than half of what was being negotiated two years ago, Sir.

Two years ago, the Honourable Jake Epp, in discussions with my colleague who sits here this evening, the Member for Churchill (Mr. Cowan), myself, and other colleagues in Government, they were on the verge of agreeing to a sewer and water program for this province of \$68 million, not \$30 million, but \$68 million, at a time when there were already requests of over \$80 million from the larger communities to the Manitoba Water Services Board. Here what we have had, Sir, is the federal Government who were prepared under the drought-proofing program to put money for several projects, and this was one of them, agreed to the project, and then, I imagine by some political pressure -(interjection)- not political pressure? The Member from Gimli (Mr. Helwer) says, not political pressure.

* (2140)

Mr. Speaker, if it was not political pressure—I have no difficulty with community residents from Carberry raising concerns about the amount of water that they may have and placing pressure on the Member for Gladstone (Mrs. Oleson) in whose constituency it is, and the Minister for the Environment (Mr. Cummings), who borders that aquifer. I have no problem with those constituents placing political pressure and raising concerns, but, Sir, what I do have problems with is in the absence of any technical data to support that pressure that the Minister of Community Services and the Minister of Environment gave in to that pressure. That is what I am opposed to.

That is where these representatives of the public of this province caved in and gave in to pressure that has had, to my understanding of all of the technical data, no basis whatsoever to withhold that project. In fact, even the Clean Environment Commission of the Minister of Environment made, after having full hearings, a recommendation that a licence be issued. A licence was issued for this project. Then the Minister of Environment says, hold it one minute, I must have gotten too many phone calls. I am not withdrawing the licence,

but I am withholding it. I am not denying the licence, I am withholding it.

Mr. Speaker, for what reason? We do not know for what reason. What we are saying here, on one hand we are by this legislation allowing a diminution of public authority in terms of the protection of our natural resources. On the other hand we are using the political pressure of the Minister of Community Services, the Minister of Environment (Mr. Cummings) in denying the community their source of water that has been recommended by all technical data, that can sustain those communities in the long term and with no adverse effects.

I venture to say there will be no studies that will—I am not sure there has even been a study that has been undertaken yet at this point of time. We have not heard from the Minister of Environment. He said they will be undertaking studies. It will be interesting to know how far those studies have gone—(interjection)—pardon me?—

An Honourable Member: Have your sources dried up?

Mr. Uruski: No, Mr. Speaker. The Minister of Environment says, have my sources dried up? No. I will wait my time on this one. I have the time. It is the people in his own riding and the people in the Minister of Community Services' riding. Their time has run out because they are out of water. They have to haul water.

They had a chance for federal funding, and they blew it. They said, we will hold back on it. Now, we have signed a \$30 million agreement, less than half of what we were negotiating two years ago; that does not include this project. Has anyone said, who is going to come up with the money? No, we have not heard who is going to come up with the money. I know what we have heard from the—I know the Minister of Environment (Mr. Cummings) is not going to say the province will pick up the additional costs if they should say, we are going to force these communities to draw water from Lake Manitoba rather than take the technical recommendation that was made by the Prairie Farm Rehabilitation Act—PFRA. They recommended going the least-cost route.

Their own Water Services Branch of the Department of Rural Development, which the Minister of Rural Development (Mr. Penner) was trying to defend the position of the Government of his own colleagues for the political interference in this area, recommended the least-cost route. They all agreed that what was going to be drawn by this project was an additional two percent of the annual sustainable yield of this aquifer; two percent.

On the other hand, what we have seen in the last year is the Department of Natural Resources, and rightly so, allowing a number of brand-new irrigation licences to be approved to draw water from the ground. Here we have the Department of Natural Resources saying, yep, there is lots of water. We are going to allow these licences to go, because they can draw water out of the ground, there is enough water. In fact, if you put all the irrigators together as a group, they are drawing

out, I would say, almost five times the amount of water the project for Plumas and Gladstone put together will draw.

Mr. Speaker, yet we have the Minister of Environment (Mr. Cummings) saying to us and to the people of that area, no, you cannot have the right to access this water source, because I believe these costs have been overestimated or, in some instances, underestimated—underestimated in the case of the least-cost option, and overestimated in what I would say is the Minister's bias for the drawing of water out of Lake Manitoba.

What are those costs? Mr. Speaker, I want to tell you something, that the least cost option of the Assiniboine delta aquifer at Hummerston, and that is what has been done for—and I am using the department's own capital cost analysis. The least cost option at Hummerston was \$8.3 million. The next cost option was Spring Creek of \$10.8 million. There were also several sites on the Whitemud River, going from \$11.8 million for site 3 and \$11.5 million for site 4. There was also an option of the Firdale dam—\$13.1 million. That was the highest cost option. The Lake Manitoba option was \$12.4 million.

* (2150)

Using the Minister's bias, and I say bias because I think that is the option he has alluded to in comments to myself, to say that the department erred, that the engineers from those departments erred, and they overestimated the cost of Lake Manitoba. Lake Manitoba, \$4 million more than the Hummerston area. That is 50 percent more. Who is going to pay for those costs? Who is going to cover those costs when we now—I am not certain, and I hope the Minister will some day clarify as to who is going to pick up those costs in any event, now that federal funding may be gone.

Maybe it is not; maybe it is still secure for that project. But, Mr. Speaker, it will be interesting to know in the next month or two, because spring will be here. We will be asking, and I will be asking the questions. Where is that study? What did that study show? Surely 20 years of data that have been accumulated by the Minister of Natural Resources (Mr. Enns) and his staff. There have been about 20 years of test wells in those areas. They have been monitoring the draw down of that aquifer. It is on that basis that those engineering estimates were in those reports that were presented by the Manitoba Water Services Board, the Department of Natural Resources and PFRA.

The one thing I want to say, and I want to say in confidence—and I give my confidence to the Minister of Natural Resources—(interjection)—no, I say that, in giving him confidence, that the Minister of Natural Resources has not interfered in this issue. In fact, I believe the Minister of Natural Resources is very perturbed in this area. Really what his colleagues have told him, your staff do not know a thing. We are now going to make the decisions. The 20 years of data your department has had, the Minister of Community Services convinced the Minister of Environment (Mr. Cummings) to overrule. That is what we are being told here.

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We are withholding a licence notwithstanding the years and years of technical advice and data the Minister of Natural Resources has in his department. I think any Conservative Member from western Manitoba should hang his head in shame at the kind of actions -(interjection)- at the kind of treatment they would give one of their communities. You will probably hear some of the Conservative Members saying, why did you not deal with this when you were in Government?

Mr. Speaker, look at southern Manitoba, look at the area represented by now the Minister of Rural Development (Mr. Penner). Where is the largest pipeline in the Province of Manitoba located if it is not in the constituency of the Minister of Rural Development? I signed those agreements on behalf of the NDP Government. They were short of water. We put in the water sources as funding was available. We tried two years running, after the agreement expired federally, to sign an additional agreement for water and sewer facilities for this province. We had on the table a \$68 million agreement. Jake Epp was very favourable to that one, I want to tell you. But we do not see that anymore.

What I do not understand of the mentality of these Conservatives is that they had federal funding secured for this project. And now what? We know how tight money is, and now what are we going to do? Are we going to go back and say to the people of Plumias and

Gladstone, sorry, folks, money is all gone? We cannot do this project. Is that going to be the answer? Mr. Speaker, then that will be a black mark of political interference on two Members of this Government. And if anyone, I will defend it will not be the Minister of Natural Resources (Mr. Enns) who would have caused it, because his department issued permits for the draw down of water at the same time as these Ministers and Members of that area were withholding a licence for those communities.

While they can hang their head in shame on this project, I will be one of those, even though I do not represent that area, raising this project at every opportunity so those Members will know that they should not politically interfere in a process that in fact had all the clearances, had all the data that was available to make the right decision. We will see in the next month or two, as spring comes along, what the results of those studies will be. We will let this Bill go to committee.

QUESTION put, MOTION carried.

Mr. Speaker: Is it the will of the House to call it ten o'clock? Agreed.

The hour being 10 p.m., this House is now adjourned and stands adjourned until 1.30 p.m. tomorrow (Tuesday).