



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

**DEBATES
and
PROCEEDINGS
(HANSARD)**

40 Elizabeth II

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Fifth Legislature

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

NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	LIB
ASHTON, Steve	Thompson	ND
BARRETT, Becky	Wellington	ND
CARR, James	Crescentwood	LIB
CARSTAIRS, Sharon	River Heights	LIB
CERILLI, Marianne	Radisson	ND
CHEEMA, Gulzar	The Maples	LIB
CHOMIAK, Dave	Kildonan	ND
CONNERY, Edward	Portage la Prairie	PC
CUMMINGS, Glen, Hon.	Ste. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	ND
DOER, Gary	Concordia	ND
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
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ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Clif	Interlake	ND
EVANS, Leonard S.	Brandon East	ND
FILMON, Gary, Hon.	Tuxedo	PC
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REIMER, Jack	Niakwa	PC
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WASYLYCIA-LEIS, Judy	St. Johns	ND
WOWCHUK, Rosann	Swan River	ND

LEGISLATIVE ASSEMBLY OF MANITOBA

Friday, June 14, 1991

The House met at 10 a.m.

PRAYERS

ROUTINE PROCEEDINGS

Introduction of Guests

Mr. Speaker: Prior to Oral Questions, may I direct the attention of all honourable members to the gallery, where we have with us this morning from the Garden Grove School eighty Grade 5 students, and they are under the direction of Mr. Ken Schellenberg. This school is located in the constituency of the honourable member for Inkster (Mr. Lamoureux).

On behalf of all honourable members, I welcome you here this morning.

ORAL QUESTION PERIOD

Ducks Unlimited Headquarters Premier's Position

Mr. Gary Doer (Leader of the Opposition): Mr. Speaker, we on this side have been asking the government for months not to provide any public money for the Ducks Unlimited office complex scheduled for the Oak Hammock wetland marsh. In spite of the fact that the government alleges we are in tough economic times, and we think we are, close to \$1 million is being spent by this government for this complex.

A couple of weeks ago, we raised the spectacle of the preliminary planning document of Oak Hammock conservation area dealing with a Disneyland type proposal, and we were told by the government not to worry about it, et cetera.

Mr. Speaker, this is a question of vision. I would ask the Premier (Mr. Filmon): Is it his vision that the Oak Hammock Marsh should have the Ducks Unlimited complex go into that marsh, or will he now listen to the majority of Manitobans and cancel that project in the wetland area for the province of Manitoba?

Hon. Harry Enns (Minister of Natural Resources): Mr. Speaker, allow me in the first instance to correct a misleading statement. This

government is not investing any of our money into the Ducks Unlimited administrative office, not a cent. The information that the Committee of Natural Resources and Public Utilities had, I suppose, some entertainment value last night at the committee hearings is taken entirely out of context.

There are no such plans included in the interpretive centre. There are proposals that are being put forward by different individuals as to some of the additional features that could be built into the interpretive centre, particularly to advise and to help further educate the general public and visiting tourists about the wide range of fauna, flora and animal life, particularly in the wintertime.

Mr. Speaker, let me make it very clear that a yet to be appointed management board will have absolute and total control and decide precisely the kind of appropriate exhibits, displays that will be associated with the conservation centre proposed at Oak Hammock Marsh.

Mr. Doer: You are probably going to put Mr. Akman from the Pines Project on the management board for the project.

* (1005)

Bill 38 Amendments

Mr. Gary Doer (Leader of the Opposition): It gives us little comfort, Mr. Speaker. When we first raised the consultant's plan—which included comments like a DU duck is expected to play the leading role in many of the performances, the dance performances and musical shows—in the House on May 30 with our member for Radisson (Ms. Cerilli), the minister said, and I quote: that we will listen to the public proceedings on Bill 38. We will listen to the representations about this proposal on Bill 38 and listen to Manitobans.

Today the same minister is quoted in the paper as saying: We will accept no amendments—which is consistent with what he said all along—that will stop the Ducks Unlimited project in the Oak Hammock Marsh.

I would ask the Premier, because it crosses two departments, the Tourism Department and the

Minister of Natural Resources, is this the kind of open government that he is leading that will not accept any amendments dealing with the Oak Hammock Marsh consistent with the public hearings, and will he take a leadership position and tell Manitobans that this complex is incompatible with the vision of Manitobans for the Oak Hammock Marsh?

Hon. Gary Filmon (Premier): Mr. Speaker, let me make a couple of points here. Firstly, in accordance with The Environment Act, in a process that was set forth by the New Democratic administration that conceived and developed The Environment Act under which we are governed, we went through a very thorough and complete public hearing process with expert witness and advice from all people across the bounds of society and across the bounds of expertise in this whole area, and that third-party, independent Clean Environment Commission, as set up in the act under the New Democrats, gave authority and licensing to this project. That is the case and that is the reality.

Let me make another point. The changes to The Wildlife Act, the amendment that is before committee, simply confirms the powers that were taken upon the Minister of Natural Resources by regulation by the former New Democratic administration when various different Ministers of Natural Resources, including the member for Dauphin (Mr. Plohman), including Al Mackling, including the member for Brandon East (Mr. Leonard Evans), brought in by regulation the authority to put in place, in wildlife management areas, all sorts of sweeping constructions and facilities, including oil wells. That was brought in under that regulation that is now simply being put in place in that legislation that is before committee.

No additional powers are being taken on, other than those that were already taken upon by former New Democratic Ministers of Natural Resources, Mr. Speaker.

Public Consultations

Mr. Gary Doer (Leader of the Opposition): That is not what his minister said when he introduced this bill. He had better read his minister's own statements. He said we needed this authority to stop court action from citizens -(interjection)- well, maybe the minister can shout about Shilo and maybe stop the closing of the Shilo base, like his other colleagues.

Mr. Speaker, his own minister in government stated we needed this amendment to ensure that citizens could not win in court. The New Democrats never changed the law, and the government is changing the law. His minister also stated in Hansard on April 10: "I have never, and nobody could accuse me of being an independent person with respect to the Oak Hammock Marsh project." Then he tells the people of Manitoba on May 30 to come before the committee and put their proposals before the committee, so the government can listen to the ideas about Oak Hammock.

I would ask the Premier, given the fact -(interjection)- well, I will read Hansard if he does not believe it. Read Hansard, May 30, dealing with the project. Mr. Speaker, I would ask the Premier, in light of the fact that his minister is not independent, in light of the fact that many citizens are coming forward and would like the government to make amendments, will he now take a position of sitting in on the hearings himself, so that Manitobans will at least have an opportunity to influence the government by their presentations, rather than the lack of independence by the minister.

Hon. Gary Filmon (Premier): Mr. Speaker, the New Democratic successive Ministers of Natural Resources, three of them in the 1980s, did by regulation precisely what is called for in this legislation. Unfortunately, as they always did, they did it badly. They did it illegally perhaps, according to legal interpretation. They did not necessarily have the legal authority. We are confirming that legal authority that they took upon themselves because they screwed it up as they usually do.

Secondly, as we always do, Mr. Speaker, we have asked Manitobans to come before the legislative committee to speak on the bill, not to revisit the decision that was made by an independent, third-party authority, the Clean Environment Commission on the Oak Hammock Marsh. That proposal was thoroughly made after a complete public hearing process by an independent authority. We have not asked the public to revisit that decision. We have asked them to come and comment on the bill, and we are listening to their comments on the bill. Get it right.

* (1010)

Urban Native Strategy Government Initiatives

Mr. George Hickes (Point Douglas): The mayor of Winnipeg has proclaimed the month of June International First Peoples Month. While aboriginal people are being recognized at least symbolically, there has been no concrete action.

This government has promised an urban Native strategy, but in response to many questions on the strategy, they reply that they are still consulting.

Mr. Speaker, I have a copy of a draft memorandum of agreement for an Indian and Metis urban strategy for Manitoba. I would ask the Minister of Northern Affairs why he has not told us of this document's existence before, what it contains and when will it be signed?

Hon. James Downey (Minister responsible for Native Affairs): Mr. Speaker, I am not quite clear on the document that the member referred to. I would like to have the opportunity to take the question as notice so that I can refer to what he has said in the Legislature and respond back.

I think, though, it is unfair to say that there has not been a lot of activity taken place as it relates to urban Native strategy and the work this government has done with our urban Native community, Mr. Speaker, and I would take that portion of the question as notice.

Consultation Process

Mr. George Hickes (Point Douglas): Mr. Speaker, this minister has said that participation of aboriginal groups who are affected by the strategy is vital to the success of the strategy, and I ask the minister: Why then are aboriginal groups such as the Aboriginal Council of Winnipeg serving only in an advisory capacity and not as full and equal participants and signatories to the agreement?

Hon. James Downey (Minister responsible for Native Affairs): Mr. Speaker, first of all, on our election to government, what we had to sort out was the funding for some of the organizations within the city of Winnipeg which were not getting any support from the previous administration. For example, the Indigenous Women of Manitoba are now supported for the first time under this administration, the administration of this Premier (Mr. Filmon).

As well, Mr. Speaker, we had two other Native organizations which were splintered in the city of

Winnipeg, which have now come together as one organization working on behalf of the Native people. There has been, within the Native leadership themselves, a very positive action of coming together and working with governments to better the overall conditions for the urban Native people of this province.

Aboriginal Programs Funding

Mr. George Hickes (Point Douglas): How can this minister claim that he is proceeding with an urban aboriginal strategy when this government has cut ACCESS, BUNTEP, the Winnipeg Education Centre, Abinochi preschool program, among other programs that are vital to aboriginal progress?

Hon. James Downey (Minister responsible for Native Affairs): Mr. Speaker, the majority of the programs that the member has referred to have not been cut by the Province of Manitoba but have in fact been cut from funding by the federal government of which we have said we are unable to carry as a province. The provincial commitment to ACCESS and BUNTEP are being carried on by this provincial government. We have added funds to support the Core organization for core funding of many of the leadership, which are showing the way in policy and areas that are extremely important to bettering the conditions of the urban Native people.

* (1015)

Health Care System Deinsurance

Mr. Gulzar Cheema (The Maples): Mr. Speaker, my question is for the Premier.

During the campaign of 1990, this Premier said: What you see is what you get. Mr. Speaker, on April 16, this government deinsured three services: reversal of sterilization; last week it was psychoanalysis; and yesterday it was deinsurance of the surgical removal of varicose veins. Slowly but surely, this administration is dismantling the accessibility of the health care system, and patients are not getting services they were getting before the election of 1990.

Can the Premier tell this House if he is in full agreement with his Minister of Health by deinsuring these services and in fact if he is in agreement that this Minister of Health is undermining the Canada Health Act by deinsuring some of the essential

services people were getting before the election of 1990?

Hon. Donald Orchard (Minister of Health): Mr. Speaker, we had a fairly substantial discussion on this issue in Estimates yesterday, and I want to refresh my honourable friend with some of the background behind those decisions.

First of all, Mr. Speaker, I know my honourable friend will want to revisit and share with the House his comments about psychoanalysis, wherein yesterday he said that indeed it was not an insured service, hence his statement today that we are deinsuring it is not an accurate statement.

I explained to my honourable friend that the procedures that we have deinsured are cosmetic procedures in the majority. I explained to my honourable friend that, for instance, in the issue of contact lens fitting, when it was raised by the official opposition trying to make out that we were curtailing payment of all contact lens fittings, that was not correct. It was for contact lenses of different colours for cosmetic not sight purposes.

I indicated yesterday to my honourable friend, in terms of the surgical removal of varicose veins, those that are medically required and not cosmetic will continue to be insured. It is the cosmetic removal.

Mr. Speaker, we are challenged with many competing demands in health care. We are trying to meet medical needs—

Mr. Speaker: Order, please.

Mr. Cheema: Mr. Speaker, I did explain to the minister yesterday that psychoanalysis billing was a part of psychotherapy. In fact what the minister has done, they are undermining the major part of mental health care. That is a psychotherapy component. The minister is digging himself deep because he is undermining another part of the health care system.

Can he explain to us what evidence he has to support any of these services which they are deinsuring, that they are not essential parts of the medical services in Manitoba and, in fact, elsewhere in this country?

Mr. Orchard: Mr. Speaker, my honourable friend hit the nail on the head. Psychoanalysis was not an insured service. In some instances, and this has been known by such individuals as the current Leader of the New Democratic Party (Mr. Doer) where he made reference to it in the election

campaign of 1988, that there are some practitioners who are billing psychoanalysis as psychotherapy.

Again, I say to my honourable friend that we are challenged to provide the greatest amount of service possible with constrained funding from the federal government, from revenues to the province that are not growing. When we are faced with that, we are trying to make intelligent choices in terms of the services required to meet medical needs, not unlike the Leader of the Opposition (Mr. Doer) for instance said in Brandon, where he agreed that psychiatrists should receive more than an \$80,000 salary, because they are providing services in acute care hospitals to the critically ill. We agreed and we raised those salaries, and we are investigating—

Mr. Speaker: Order, please.

Mr. Cheema: Mr. Speaker, last August, MMA and the government reached an agreement on binding arbitration, and one of the components was to study the funding of health care. The minister made a commitment, and he admitted yesterday that commitment was there to pursue the reforms only when they consult and they wait for the consultant report. Now the minister is making a unilateral decision by deinsuring services, thereby basically violating the agreement they signed before the campaign.

* (1020)

Mr. Orchard: Under ordinary circumstances, my honourable friend is not so far off base, but this time he is. Mr. Speaker, the agreement that we reached with the MMA is on fee schedule reform, volume of billing. We have available to us at no cost to either the MMA or Manitobans, the pre-eminent expert in the United States system, a Dr. Ginsburg, who is willing to undertake that study. Government believes he is the appropriate individual. We are awaiting approval from the MMA that this individual would be the appropriate one to undertake that study, because that study is a year and a half overdue.

Mr. Speaker, the deinsured services such as tattoo removal were cosmetic and not medically required. Is my honourable friend in the Liberal Party now saying that you should have the taxpayers pay for cosmetic procedures for Manitobans and deny other health care services that he calls for day in and day out? We disagree with that if that is the new Liberal Party policy.

Aboriginal Health Care Review

Ms. Jean Friesen (Wolseley): Mr. Speaker, we now know that the long-awaited \$400,000 Urban Native Strategy comes down to a proposal for a tri-level agreement contained in this Memorandum of Understanding for Indian and Metis urban strategy for Manitoba. Much of this agreement is essentially a call for further review in three areas: health, education and statistical data in areas where government departments are already working.

My question for the Minister responsible for Native Affairs is: How long does he expect this review will take? What does he expect to accomplish by a review of health care and family services to aboriginal people? While we are waiting for the results of that review, how many more cuts are there going to be to services to people in the inner city?

Hon. James Downey (Minister responsible for Native Affairs): Mr. Speaker, it is unfortunate the member cannot get the numbers right and does not understand the amount of expenditures that have taken place. I would invite her to make sure the information that she brings to the Legislature is in fact accurate.

I can say that the number of issues that are before the province, the city, the federal government and the Native leadership cannot be resolved by the snap of a finger, as the members opposite would in fact lead people to believe.

Hon. Gary Filmon (Premier): . . . been leading in six and a half years.

Mr. Downey: In fact, as has just been referred, the Premier indicated as to what had taken place in the six and a half years of which the New Democrats were the government in this province, Mr. Speaker.

I think, when one takes into consideration the progressive actions that have been taken, our record is pretty good, not as well as it maybe could have been, but I think a lot of progressive things have been done. I look forward to continuing to work with the urban Native leadership in resolving many of the issues.

Aboriginal Education Review

Ms. Jean Friesen (Wolseley): Mr. Speaker, my figures on the cost of that report came from a May

22 Hansard, where the minister of Native Affairs said that he spent \$200,000 in each of the first two budgets on the Native strategy.

My question is for the minister of Native Affairs again. His government spent \$768,000 on a Native Education Branch, incidentally less than was spent four years ago, yet we are expected to believe that this branch has not reviewed the educational needs of students and schools which have predominately aboriginal students.

My question for the minister is: What does he expect to achieve in the educational review? Why did he support the freeze on the grants to Winnipeg No. 1, which has the largest proportion of aboriginal students?

Hon. James Downey (Minister responsible for Native Affairs): Again, Mr. Speaker, what I had said in my first question to the member for Point Douglas (Mr. Hickes) was that I would take as notice the reference to the document which he has referred to. When I have had an opportunity to review that, I will respond further.

Let me say, though, that our government and our party believe strongly that the solutions lie within the Native leadership, working with them and the whole educational process as it relates to the Native people. I would hope we would have support from the members opposite, unlike the actions that were taken by the previous administration, which virtually did nothing for the urban Native people of this province.

* (1025)

Aboriginal Centre Federal Funding

Ms. Jean Friesen (Wolseley): Mr. Speaker, I am astounded that the minister needs time to look at a Memorandum of Understanding from his government and on which I understood his deputy minister spoke at a meeting on Wednesday night.

A third element of this proposal is the requirement to provide assistance for the acquisition of the CPR Station, something which I think has universal support in Winnipeg.

My question for the minister is: Is the reason that there has been no movement on this aboriginal strategy because the federal government is not prepared to support the acquisition of the CPR Station for the aboriginal community?

Hon. James Downey (Minister responsible for Native Affairs): I do not believe so, Mr. Speaker. I can say that there have been meetings taking place between the city, the province and the federal government as it relates to the CPR Station and the desire to purchase it. However, one has to be responsible as handling of the provincial taxpayers' money, as the federal government and working with the Native leadership to make sure that there is in fact a fair price, that there is a fair acquisition of that property and done responsibly.

I do not think anyone is denying the Native community the opportunity to achieve their objectives, but it all has to be done within the capabilities of the taxpayers of this country.

CFB Shilo Status Report

Mr. Leonard Evans (Brandon East): Mr. Speaker, I have a question for the Minister of Industry, Trade and Tourism (Mr. Stefanson) or perhaps the Premier.

Mr. Lee Clark, member of Parliament for Brandon-Souris, said yesterday he was confident that the federal government would not eliminate or scale down CFB Shilo and that he would resign his position, not as MP but as parliamentary assistant to the Minister of Environment, if they did.

Has the government of Manitoba received any indication from the federal government that CFB Shilo will remain open?

Hon. Gary Filmon (Premier): Mr. Speaker, I thought that the member for Brandon East was going to offer to match Lee Clark and resign if Shilo was affected as well.

Some Honourable Members: Oh, oh.

Mr. Speaker: Order, please.

Mr. Filmon: The member for Brandon East whose constituency it was in, Mr. Speaker, so that is why I thought that -(interjection)- I do not know.

Mr. Speaker: Order, please; order, please.

Mr. Filmon: Mr. Speaker, it must be Friday.

Mr. Speaker: Right.

Mr. Filmon: Mr. Speaker, we have had no confirmation or no indication that the base is going to be closed and we, out of an abundance of caution, are ensuring that we are putting all possible efforts to convince the federal government that if there was any thought within their bureaucracy, within their

system, that this might be an option that we have them dismiss that thought completely.

CFB Shilo All-Party Committee

Mr. Leonard Evans (Brandon East): Mr. Speaker, well, I agree, because military analysts believe that Shilo is one of the most vulnerable bases for closure. I believe it would be a mistake to let up in our efforts to fight the federal government if they decide to move on Shilo.

Mr. Speaker, I would ask the Minister of Industry, Trade and Tourism or perhaps the Premier: Has any progress been made in setting up a meeting for an all-party delegation from this Legislature to go to Ottawa to meet with Marcel Masse? The Minister of Industry, Trade and Tourism was attempting to organize such a meeting.

Hon. James McCrae (Minister of Justice and Attorney General): Mr. Speaker, my office has been engaged in communication daily with offices of the federal government. I had occasion again on Monday of this week in Vancouver to have a brief conversation with the associate Minister of Justice, the honourable Minister of Defence, the Honourable Mary Collins, at a conference that we attended relating to women and the law in Vancouver. However, our contact is a daily contact with the federal people in an attempt to arrange a meeting in Ottawa with the federal Minister of National Defence.

We will be keeping the honourable member and our colleagues in the Liberal Party aware of our progress. Unfortunately, we were not able to get a meeting when Mr. Masse was in the city of Winnipeg. We regret that, but in light of Mr. Clark's actions yesterday, we feel assured that the message from Manitoba continues to be made very, very clear in Ottawa.

With the help of the honourable member for Brandon East (Mr. Leonard Evans), the member for Minnedosa (Mr. Gilleshammer) and the Minister of Industry, Trade and Tourism (Mr. Stefanson) and others, including municipal officials, we will keep driving that message home. We are grateful for the work being done by the Friends of Shilo operating out of Brandon on which committee the Premier is represented. We are very happy to see all of those efforts going on in Ottawa, and we will be left in no

doubt as to where we all stand with respect to the Shilo base.

* (1030)

CFB Shilo All-Party Committee

Mr. Leonard Evans (Brandon East): Mr. Speaker, the Prime Minister is making announcements, if not today, certainly this week about defence policy.

So I ask the Premier: Has the Premier received a letter from the Union of National Defence Employees of Shilo requesting that he as Premier organize a top-level all-party delegation including the union and other groups to go to Ottawa to meet with the Prime Minister? Is our Premier prepared to undertake such a commitment now to organize that delegation?

Hon. Gary Filmon (Premier): Yes, Mr. Speaker, I have received that letter and I have indicated publicly in this House and in any public forum that we will do whatever is necessary to ensure that the message gets through to Ottawa. We are lobbying actively in speaking with the federal Manitoba representatives in Ottawa.

I think that Mr. Clark's response is an indication of the fact that there have been a number of discussions and a great deal of lobbying taking place. I know that the federal Manitoba caucus has put the case forward very strongly. We have talked with ministers; we have set up meetings. The member for Brandon East was included in the meetings. We are participating with the Friends of Shilo. I met with the mayor of Brandon and we are doing whatever is necessary to ensure that Ottawa gets the message—we do not want Shilo closed.

Health Care Facilities Emergency Room Closure

Mr. Gulzar Cheema (The Maples): Mr. Speaker, my question is for the Premier (Mr. Filmon) again.

The Minister of Health continues to be convinced that the closing of one or more emergency wards, whether partially or fully, is still an option.

Given that the emergency rooms are the gateway to the community hospitals—and we have tried to convince the Minister of Health and he has never given a positive or a negative answer—can the Premier tell this House if the Premier is in agreement with the Minister of Health to close one of the

emergency rooms, thereby killing one hospital eventually?

Hon. Donald Orchard (Minister of Health): Mr. Speaker, I guess maybe to avoid duplication of question and answer, we should have television cameras in the committee room for Estimates. These questions were all asked yesterday and all explained yesterday.

Mr. Speaker, I want to tell my honourable friend, in the answer I gave to him yesterday, first and foremost there is no decision by government because there has been no recommendation to government. Out of a number of issues that the Urban Hospital Council is considering, my honourable friend knows full well that the operation of emergency departments is one of a number of issues they are currently investigating from a system standpoint.

I gave to my honourable friend yesterday—and with regret, I should possibly have tabled it in the House—the terms of reference and the guiding principles for the Urban Hospital Council, which means they must make decisions which will enhance the health status of Manitobans. That has been supported in the past by the Liberal Party of Manitoba. I am starting to wonder whether that support is still there, Mr. Speaker.

Extended Care Conversion

Mr. Gulzar Cheema (The Maples): Mr. Speaker, if the Minister of Health and his Premier (Mr. Filmon) think that the closing of emergency in any given hospital is not an important issue, I think they are not thinking rationally. It is a very important issue for the north end. It is an important issue for the downtown area. I am asking the Premier again to qualify and tell the Minister of Health that we will not tolerate the closing of any emergency in any part of the city.

Can the Minister of Health tell this House, when we have a waiting list for many surgical procedures due to a shortage of acute care beds, why they are considering converting one of the acute care hospitals to a long-term facility? That is an irrational, illogical approach, Mr. Speaker.

Hon. Donald Orchard (Minister of Health): Mr. Speaker, again, we discussed this issue in substantial depth yesterday in the Estimates.

I want to ask my honourable friend if he believes that issues brought forward by leaders in the

system, through the Urban Hospital Council, for discussion are not to be discussed? Are no ideas, are no concepts, are no changes, no reform of the system to be discussed? Are you not supposed to have open consultation, because if I have read in the past, members of the opposition party have said we must consult. That is exactly the think tank, open, reform-minded agenda that the Urban Hospital Council has, unique in Canada, Mr. Speaker—

Mr. Speaker: Order, please.

Emergency Room Closure

Mr. Gulzar Cheema (The Maples): Mr. Speaker, closing the emergency ward's acute care beds is not the reform, it is a backward approach. We have seen that the closing of emergency wards will kill a hospital, and we have a political problem here.

I will ask the Premier again: Can he assure this House that the decision to close the one hospital emergency ward will not be politically motivated, because—I will repeat it again—they did not vote right? The areas of Inkster—

Mr. Speaker: Order, please. The question has been put.

Hon. Donald Orchard (Minister of Health): Mr. Speaker, that is the kind of abject silliness my honourable friend put on the record in Estimates yesterday. He is accusing the chief executive officers of all of the major hospitals in Winnipeg of being politically motivated. That is what he is doing. What a travesty to those individuals, saying that their agenda, their recommendation, their study and the people on subcommittees are politically motivated.

Mr. Speaker, I did not appoint a single chief executive officer of a hospital in Winnipeg. I do not know what their politics are. For the Liberal Party to make such shallow accusations today follows on the disgusting performance of their Leader (Mrs. Carstairs) crying racism in this House yesterday.

Pork Industry U.S. Countervail

Mr. Edward Helwer (Gimli): Mr. Speaker, I would like to direct my question to the Minister of Agriculture.

I understand that June 14 was the day that there was to be a decision on the extraordinary challenge by the U.S. regarding the countervail duty on fresh,

chilled and frozen pork. Could the minister tell us if there has been any progress made on this issue?

Hon. Glen Findlay (Minister of Agriculture): I am really disappointed that the opposition critic did not raise this question today, because this is absolutely good news for the pork industry of Canada.

Mr. Speaker, the committee struck to deal with the extraordinary challenge launched by the United States has ruled in Canada's favour. They ruled that the binational panel set up to deal with the dispute gave the proper ruling that the United States had erred in their calculations. This clears the way for removing the countervail duty and also clears the way for returning some \$18 million collected in countervail duties on the Manitoba pork industry, Canadian pork industry, and this is very good news to the pork industry, for their ability to export into a very significant market for the years ahead.

Child Care Centres Policy Changes

Ms. Becky Barrett (Wellington): Mr. Speaker, my question is for the Minister of Family Services.

On Monday, in front of the Legislative Building, a rally of child care workers, parents, children and other concerned individuals let this minister and his government know exactly what they think about his daycare policy and the changes and restructuring to that policy, which is not at all reflective of the recommendations of the working group, nor is it reflective of the intent of the government-appointed task force.

My question to the minister is: Why, when there is so much opposition to these changes that he has proposed and has put into effect, will this minister not guarantee for the people of Manitoba that he will not implement Phase II of this proposed change?

* (1040)

Hon. Harold Gilleshammer (Minister of Family Services): Mr. Speaker, yes, the member was at that meeting on Monday with dozens of people from the daycare community. We spoke at that time and indicated that we had made some changes in the daycare policy which we announced in April, and we will be proceeding with them.

I am not sure what the member is referencing about Phase II. We had indicated that the working group on daycare brought in the short-term recommendations which were implemented in their entirety and had worked for 18 months on those and

presented to government the long-term recommendations which we announced in April that we would be going forward with in the second quarter of this year. They will be implemented in July.

Ms. Barrett: Mr. Speaker, yet another minister who does not know what his staff is doing. He should perhaps ask his special assistant about Phase II.

Will the minister indicate to the House today why he is determined to implement this plan for daycare changes when it has been proven that it is going to force many women and parents out of the work force because of the major increase, when it is going to force many children into latch-key situations, and when it is going to mean a considerable drop in the standard of living to many two-income families who depend on the second income—

Mr. Speaker: Order, please. The question has been put.

Mr. Gilleshammer: Mr. Speaker, I would like to assure the member that we are going to proceed with the plans that we announced. One of the recommendations that came forward from the working group on daycare—and they were represented by a number of the organizations who are concerned with daycare—and I would refer the member to the press releases put out by those groups following our announcement. We are basically supportive of the changes.

One of the items that came forward was to identify the cost of care and to let taxpayers and Manitobans and users of the system know what the cost of care in the daycare program is. We work with the working group to identify that cost of care and to show that there is a difference in cost of care for centres and homes and to make that information known to Manitobans.

Mr. Speaker: Order, please. Time for Oral Questions has expired.

Nonpolitical Statements

Ms. Marianne Cerilli (Radlsson): May I please make a nonpolitical statement?

Mr. Speaker: Does the honourable member have leave to make a nonpolitical statement?

Ms. Cerilli: Mr. Speaker, I would like to recognize a special event for Winnipeg taking place tomorrow. It is the 10th annual Walk for Peace. It is the anniversary of Canada's second largest peace

event. This event gives everyone an opportunity to show their support for a different way of life, a peaceful way of life, a way of life that is based on equity, sharing and co-operation.

We all, I think, will acknowledge that peace goes beyond the absence of military conflict, that peace means that we do not spend millions of dollars preparing for war, building and selling armaments and training people to fight. Peace means we not only behave in a nonviolent way globally, but also locally in our province, in our homes, in our work places and in all our interpersonal relationships.

Peace means that we no longer accept a domineering, violent, oppressive use of power and authority, be that a power relationship between an industry and its workers, between parents and their children, between men and women or between a government and its citizens or between nations.

Peace means that we will get our economy so that it is no longer relying on destructive industries for jobs. Peace means that we will work for change, change in our political and economic institutions and systems which are based on the assumption that there will always be rich people and poor people. Peace means that this notion is no longer acceptable. Peace means that all inequities will no longer be acceptable. Peace means that we will look for new ways to share resources and opportunities, more co-operative ways. Peace means that we will learn to accept each other's differences and appreciate each other's differences, both individually and collectively.

With this in mind, I would like to congratulate the Winnipeg Co-ordinating Committee for Disarmament for organizing the 10th Annual Peace March.

* * *

Mr. George Hickes (Point Douglas): Mr. Speaker, may I have leave to make a nonpolitical statement?

Mr. Speaker: Does the honourable member have leave to make a nonpolitical statement?

Some Honourable Members: Leave.

Mr. Speaker: Leave. Agreed.

Mr. Hickes: Mr. Speaker, I am pleased to rise today to say a few brief words in recognition and support of the Mother Earth's People International Powwow which is taking place this weekend in Winnipeg. More than 20,000 people from around the world are

expected to attend the gathering, which is a celebration of Native culture and traditions.

In keeping with the Mother Earth theme of the weekend, an Environmental Gathering will follow next week from Monday through Thursday at The Forks. The Environmental Gathering includes lectures on the environment by well-known scientist and environmentalist David Suzuki, workshops on traditional beliefs and a sunrise ceremony. Children's activities will be centred at the Mother Earth's Peoples Children's Village. As well, the Festival of Aboriginal Artists will also be at The Forks tomorrow.

These events will highlight the traditional spiritual connection between Native culture and the environment. In addition, the Festival of Aboriginal Artists will feature the work of over 50 Native artists and crafts people. It is particularly significant that the Powwow is taking place in Winnipeg at this time in the history of aboriginal Canadians.

As members will recall, earlier in the week, Winnipeg was the location where Native chiefs from around the country chose a Manitoban as the new Chief of the Assembly of First Nations. The conference which chose Manitoban Ovide Mercredi as national chief was covered nationally by all Canadian media outlets. This province is becoming nationally known as the centre of the rebirth of aboriginal culture and solidarity.

As the number of aboriginal people living in Manitoba grows, Winnipeg will continue to be the geographic focal point where the needs and aspirations of all Native Canadians can be expressed. It is hoped that events such as the Powwow will facilitate more understanding between Native and non-Native Canadians.

We would like to congratulate the organizers of the Powwow, particularly Art Shofley, and encourage everyone to attend the various events of the upcoming week. Thank you, Mr. Speaker.

* * *

Hon. James Downey (Minister responsible for Native Affairs): Mr. Speaker, I would ask leave of the House for a nonpolitical statement.

Mr. Speaker: Does the honourable minister have leave to make a nonpolitical statement?

Some Honourable Members: Leave.

Mr. Speaker: Leave. Agreed.

Mr. Downey: Mr. Speaker, I would like to join with the members of the opposition, on behalf of the government, in acknowledging the major event, The Mother Earth event, and the International Powwow which is being held in the province of Manitoba over the next few days.

I want to say that I do believe strongly that it is an excellent opportunity for the nonaboriginal community to get a greater understanding of the culture and the activities which are carried out by our Native community, Mr. Speaker, and wish each and every visitor to Manitoba an enjoyable activity, and those who are coming here for a holiday, an enjoyable holiday. We appreciate the recognition that Manitoba is being given by our Native community and we as a province are pleased as well to be able to support this organization and this event that is taking place in the next week.

ORDERS OF THE DAY

House Business

Hon. Darren Praznik (Deputy Government House Leader): Mr. Speaker, before I call the bills for today, I would like to announce that the Standing Committee on Public Utilities and Natural Resources will sit Tuesday night at 8 p.m. to continue to hear Bill 38. As well, should Bill 5 be agreed to by this House this morning, that it be referred to an appropriate committee for this coming Thursday at 8 p.m.

I would ask, Mr. Speaker, to call bills in the following order: firstly, Bill 39, The Summary Convictions Amendment Act; secondly, Bill 44, The Public Utilities Board Amendment Act; thirdly, Bill 5, The Mental Health Amendment Act; fourthly, Bill 18, The Municipal Amendment Act; fifthly, Bill 19, The Local Authorities Election Amendment Act; and then bills in their regular order on the Order Paper thereafter. Oh, pardon me, Mr. Speaker, if the sixth bill could be Bill 70, The Public Sector Compensation Management Act.

*(1050)

SECOND READINGS

Bill 39—The Summary Convictions Amendment Act

Hon. James McCrae (Minister of Justice and Attorney General): Mr. Speaker, I move, seconded by the honourable Minister of Energy and Mines (Mr. Neufeld), that Bill 39, The Summary

Convictions Amendment Act; Loi modifiant la Loi sur les poursuites sommaires, be now read a second time and be referred to a committee of this House.

Motion presented.

Mr. McCrae: Bill 39 is a very short bill and it has really no unifying theme except that we are making improvements in three separate fields, all of which happen to require amendments to The Summary Convictions Act.

My remarks in introducing the bill will be brief, because each of the changes being proposed is almost a technical change. We will be pleased to provide the usual spreadsheet explaining the provisions before the bill goes to committee where we will answer any detailed questions.

The first change proposed by Bill 39 is one necessary to permit the implementation in Manitoba of the Canadian Driver Licence Compact. The compact is an agreement among provinces in which jurisdictions reciprocally agree on conditions that must be fulfilled before a licence will be issued. Of course, we live in a very mobile society and the Manitoba division of Driver and Motor Vehicle Licensing deals with thousands of applications annually for licences from people previously licenced in other jurisdictions.

At the same time, Manitobans who move out of the province also have an interest in not being subjected to needless retesting before getting their licences. Most of the Canadian Driver Licence Compact can be accomplished without statutory change; however, one part of the compact does require a change to The Summary Convictions Act. It is proposed that Manitoba treat traffic citations issued to Manitobans by reciprocating jurisdictions in the same way we treat such a citation issued within Manitoba. This means that a person who is caught speeding, for example, in Saskatchewan will have to pay that Saskatchewan fine before getting his or her Manitoba licence renewed. It is expected that similar enabling legislation will be passed by the other jurisdictions so that there will be a uniform system across the country for collecting these fines.

The next major change proposed in the legislation has to do with the procedure for getting a warrant of committal where parking fines are outstanding. The Summary Convictions Act is at present silent on the procedure to be followed, although there is a separate section dealing with the entering of default judgments for parking fines. The general provision

for obtaining a warrant of committal does not work very well in the situation of parking fines, because it is designed for situations where a justice has already entered a conviction after a hearing.

In the case of parking fines, the default conviction is entered without a hearing when a person fails to respond to the parking ticket. For that reason, we believe more extensive protection of individual rights is required. The bill therefore introduces a subsection specifying the five things that a justice must be satisfied to have occurred before issuing a warrant of committal for failure to pay parking fines.

Finally, the legislation proposes some changes in the Fine Option Program. By and large, the program appears to be working well and has been allowing people to work off their fines. Unfortunately, some people take no action until they are arrested. The current provisions do not make it clear whether they can then opt into the Fine Option Program. We propose that they be given this opportunity, but they must explain why they took no action to avoid the warrant of committal being issued.

As well, there has been some question whether a second warrant of committal can be issued where a person has been put into the Fine Option Program and then has not complied with the work plan. Obviously, we want the work to be carried out, so this bill will introduce a provision allowing further warrants to be issued in those circumstances.

Mr. Speaker, that concludes my remarks, and I commend Bill 39 to the thoughtful attention and support of honourable members of this House.

Mr. Conrad Santos (Broadway): Mr. Speaker, with respect to Bill 39, The Summary Convictions Amendment Act, the concept of reciprocating jurisdictions refers to any Canadian province other than Manitoba or any state or territory in the United States where the alleged violator failed to pay the fine in those outside jurisdictions. The amendment seeks the authority to refuse his licence in Manitoba or a renewal of such licence in Manitoba. This principle is based on the concept of reciprocity, and the principle will hold only in fairness if those other jurisdictions will do the same thing for people who do not pay their fines in Manitoba.

With respect to the warrant for committal, the amendment saying that the person who failed to pay a fine, in lieu of such fine, may be issued a warrant of committal for a term of imprisonment equivalent

to the amount of the fine at the rate of one day jail for every \$10 fine. This works injustice to people who are without money to pay the fine. In principle, it is equivalent to a person being in prison for nonpayment of a debt, because if you cannot pay a fine, by definition, you are in a position of a debtor, and if you cannot pay your debt, then you are jailed. The harshness of such a rule is mitigated, of course, by the positive remedy that you can work your fine by doing some community work, as determined by the judge. However, if a person is not in a position to do community work because of some other impediment or some other reason that may not be his fault, he still will be subject to the warrant of committal for at least one day's jail for every \$10 he is unable to pay.

In the United States Constitution, there is a basic provision in the Bill of Rights that no person can be imprisoned for nonpayment of debts. This is equivalent to punishing an individual because of poverty, and it seems to me that, unless one can be eligible to do some community work in lieu of the fines, by imprisoning a person because of lack of money, does not seem to be a principle of justice at all, as far as the poor individual is concerned.

This is a double standard in the sense that some people who have money can get away with it by just paying the fine, whereas other people who are without such resources and do not qualify to do community work, may still be placed in prison by nonpayment of such fine. It looks like it is an abhorrent principle to put a person in jail, deprive him of his freedom, simply because he does not have any money.

No one should be penalized further by adding insult to injury. If a person had committed some kind of a violation of a provincial statute, which really is not a behaviour that is equivalent to a crime, then to put him in jail just because he cannot pay the fine is an act of injustice on the part of society.

Indeed, I understand statistically there are so many Native aboriginal people who have been summarily convicted. They cannot pay the fine that was imposed, and therefore, the judge will put them in jail. This is inequitable, unjust, abhorrent to put a person who is already poor, ignorant and had committed some kind of violation, which does not amount to a crime but simply an act prohibited by law, and yet be in prison.

(Madam Deputy Speaker in the Chair)

*(1100)

We in a nation lay down our lives in defence of freedom. We are willing even to go to war to defend our freedom. When we have that freedom, we make such foolish laws to deprive people of this freedom simply because they have no money. We die sometimes defending our right to be free and yet when we achieve such freedom as individuals, we make laws that deprive them of such freedom on account of reason that cannot be justified, like lack of money to pay the fine.

Life is getting tougher nowadays and it is even getting tougher and more difficult in Manitoba. If a person does something right and he prospers, he gets taxed and he gets taxed heavily. If he does something wrong, he gets fined, and when he gets fined and he cannot pay the fine, he gets jailed. You could see that while we may be putting some teeth into our laws, the teeth that we put in the laws are not necessarily wisdom teeth. It is not wise nor even fair or just to imprison a person simply because he cannot afford to pay the fine.

There are people who commit a violation of the provincial statutes, and when they do commit a violation and they are sentenced summarily to pay the fine and then they cannot pay the fine, they get jailed. There are other people who commit other crimes worse than a statutory violation and because they are smart enough people what they do is they write a book about the crime that they committed. They write a book; the book sells to the public; and they make money out of it. This is one of those laws that may not be really wise at all.

There is an old English law in the old country that prohibits a person from marrying his mother-in-law. If there is such a useless law, that would be the most useless law because who is fool enough to marry one's own mother-in-law. The law exists in England. We can see that there are some laws that are good laws and there are some laws that are not too good laws. If the laws are not based on the principle of equity and fairness they do not operate well at all in practice.

I could say something positive, though, about this amendment. The thing that is positive here is to permit a person the privilege to do community service in order to get rid of his fine. It is like rendering service to the community. It may not be so voluntary because one has to do it if one has to get rid of the fine, but the benefits here are inure to

the community at large, to the benefit of the people at large, especially if they can do it by picking up, let us say, the litter in the streets in the city; then we can make the city a little bit cleaner and more attractive so the tourists will be attracted to come to the city of Winnipeg. They often say that crime does not pay. Of course, it does not pay, but when it pays it becomes respectable and it ceases to be a crime.

There are two kinds of violations of statutes. The true criminal violations and the true crimes, that is to say, the acts or behaviour that are bad in themselves, like murder or robbery, those that are bad because they are really bad in themselves and they are therefore prohibited—those are the real crimes, what they call *malum in se*, those acts and behaviours that are inherently by themselves bad and immoral.

The other kind of violations is simply statutory violations. They become penalized simply because they are prohibited, not because the act itself is necessarily bad. Most provincial statutes are in the second category. The behaviour is a violation simply because it is prohibited, like driving at a certain rate of speed.

If you pass the speed limit, and let us say the speed limit is only 40 kilometres per hour and you do 50, then you get fined because you overspeed. Overspeeding in itself is not bad, especially if you are in a hurry, if you are trying to make an appointment or if you are going to the Legislature and be on time. It is not bad in itself, but because it is prohibited by the traffic laws, then if you breach those prohibitions you become subject to a fine or a penalty.

In this particular case, if you happen to be poor and unable to pay the fine, it might cost you one day in jail for every \$10 fine that you cannot pay. This in principle is the one that I am objecting to, to imprison a person simply because of his inability to pay the fine. The greater brunt and the adverse effect of such a policy will be suffered only by those who are most vulnerable and most helpless and without resources in our society.

This is weighted heavily against the segment of the population who are more or less very limited in their financial capacity. If you are on welfare or you are on social assistance and you do not have the money—you do not even have the money to pay some of the basic necessities and needs that you have as an individual. If you happen to breach any

one of those statutes or any other violation and you get a fine and then you cannot pay the fine, then you go to jail. In principle this is wrong.

It is wrong to further penalize a person simply because that person is poor and unable to pay his fine. You cannot be penalized for being poor. The law should have some compassion, and in this particular case, instead of compassion, the law is oppressive in the sense that you are already poor. You cannot pay your fine, and they put you in jail.

I wonder why so many people commit violations. Is it because of our inherent human weaknesses and human tendency to go against the established rules of society? Once upon a time, people in the world believed that the world was flat. Indeed, there is still a Flat Earth Society that still exists in England. There are some people who still believe that the world is flat.

* (1110)

Nowadays, we think that the world is round. We changed our view, our perspective about things around us. We know now by experience that the world is not only round, in general, the world of poor people who are crooked. The world is getting worse and worse every day. Not so? I have forgotten the citation, but I think I can find the passage that says that the world is getting worse and worse as time passes by.

I cannot immediately find it, but I will find it for the honourable member for Steinbach (Mr. Driedger). I think it was in St. Paul's letter to Timothy, but I cannot find it immediately.

The basic message is that in these olden days, the children will get more and more disobedient to their parents, and people will get more and more attracted to the material things of the world. They become so materialistic in their outlook and their perspective, they forget the old values like honesty, fairness, justice and goodness.

An Honourable Member: Have you got it?

Mr. Santos: I cannot find it immediately. You have to help me here.

No, I am not ready this time. The basic message is that as time is passing by and we are gearing to whatever it is that we are coming to, then people in the world are becoming more and more selfish, egoistic and materialistic, and they try to acquire transitory and temporary values and give up the

traditional values and virtues that we have as a society.

In other words, we are giving more and more to the vices and excesses of humankind instead of developing our virtues of goodness, honesty and fairness, forgetting that it is the crooked way that is the shortest path to jail. If an individual would choose vice rather than advice, he or she is certainly on his way to some kind of trouble in our society.

Sometimes we cannot blame the individual. It is the condition of society that makes the invitation for him to commit a breach or a violation. There are so many pitfalls, so many booby traps, attractions and glitters in the world that attract the individual to do something that is dishonest.

Have you ever looked at your income tax rules and regulations? There are so many rules and regulations there that are so difficult to comply with, and the motivation and incentive that some people will have is to produce some kind of falsified evidence in order to get some short-run tax advantage. This is an invitation to be dishonest, and the tendency there for people is—while there may be many legal ways to be dishonest, I wonder why some people have to commit a crime at all.

In Manitoba, at least we have the glimmer of light and hope that, if you cannot pay your fine and you have no money in the bank to pay your fine, at least if you are healthy enough to do some kind of public service work, the judge may, in his discretion, permit you to satisfy the fine by doing some equivalent community work. Others may say that this might be some kind of a servitude, but it is not so because you are simply paying off the obligation and liability that you have incurred as a result of the breach of some statutes or laws in society.

The warrant of committal is also given under the statute when there is a conviction by default, or when the person who has been convicted failed to request a hearing de novo or a new trial, a warrant of committal may be imposed.

However, such individual may show some reasonable cause why he cannot appear or did not request a new trial, or if he has shown some reasonable cause why he was not able to pay the fine, the warrant of committal can be revoked.

The important thing about this legislation is that by doing and rendering some kind of community service, the convicted individual may still be able to satisfy the fine that had been imposed on him.

It has been said that old soldiers never die, they just fade away. In our justice system, there are so many old lawyers who do not die, they just lose their appeals. Usually, the good lawyers are the young ones, the bright, young ones who are well trained in the law, but the old lawyers do not stop practising, even if they are beginning to lose their appeals. They should be retiring and give way to the new young ones. Lawyers and judges are part of our justice system.

It is very difficult, because of the institutionalized structure in our society, to undertake any activity without any legal advice. It is hardly possible nowadays to do anything right without proper legal advice. In other words, we cannot live without a lawyer always advising us what to do.

If you want to engage in business, you have to be advised legally as to what are your rights, obligations and responsibilities. If you want to undertake a project, there might be some pitfalls you may not be aware of. If you want to utter something publicly you may be guilty of slander or libel if you do not know all the rules, so you have to be properly advised. We always need a lawyer as we go along through life. Nor can we afford to die without a lawyer because if you die without a will or without proper insurance, then you may find yourself in trouble.

There are some lawyers who are always studying the law, not because they want to understand the wisdom of the law, but because they want to find some new faults in the law.

*(1120)

Point of Order

Hon. Darren Praznik (Deputy Government House Leader): Madam Deputy Speaker, I am wondering what the relationship is of these remarks to the bill being considered.

Mr. Dave Chomiak (Kildonan): Madam Deputy Speaker, relevance is really a question of bricks building a foundation. The reference of lawyers and the way they represent individuals as it relates to the potential for them to be facing a fine and to be put into the Fine Option Program is very relevant, so therefore the role of lawyers and the ability of a person to have access to counsel is relevant.

Therefore, the comments of the member for Broadway are relevant as they relate to the

important implications of this change in the legislation as it deals with the Fine Option Program.

Madam Deputy Speaker: On the same point of order? No. One moment, please. I have not ruled on the point of order.

Order, please. I am certain that the honourable member for Broadway will indeed ensure that his ongoing remarks are very relevant to the bill. I would remind all honourable members that we are debating second reading of a bill and that the remarks should be relevant.

* * *

Mr. Santos: The point I am trying to make, Madam Deputy Speaker, is that if justice is a primordial objective in our system, in our society, justice must be done for the rich as well as for the poor. If justice is limited only to those who have money and they are the ones who can satisfy their fine easily because they have money, and those who cannot pay their fine because they are poor would be put to jail, then there is no justice in our society.

Justice should always be tempered with mercy, because harsh and strict justice may sometimes work some oppression on the individual. Unless there is some compassion and mercy in our law, in our system, in our society, there is no human happiness. There is no human fairness. There is no equity. All our efforts to create a better society for ourselves and for our children will be in vain.

The good thing about this legislation is the positive measure which permits an individual to do some community service despite his personal reluctance to do it and because it is called for by the circumstances, by the fact that he cannot pay his fine. On the other hand, any good kind of community service, regardless of one's motivation and intention, whether it is done reluctantly or done in a hesitant manner or done because one has to satisfy the fine, the outcome will still be a greater good for the majority of the citizens of the city or the province.

Another point that I want to make is that in the case of statutory violations, in the case of behaviour that is not by itself bad, it is entirely within the realm of arbitrariness on the part of the lawmakers to prohibit whatever kind of behaviour they may want to prohibit. Because this is a case where the behaviour is outlawed because it is prohibited, and penalized simply because it is prohibited,

sometimes the lawmakers may think of some kind of behaviour that they would like to prohibit even if it is not inherently evil or immoral.

To be dishonest in itself is to be prohibited. There will be so many people who cannot do anything else, because there are so many dishonest acts going on right now that are not prohibited. So much behaviour and activities now, if done by people who are respectable, they get away from it, they get away from the penalty, yet there are some people who have done little things like—

An Honourable Member: Speeding with a bike.

Mr. Santos: Well, I do not know. A bicycle is not a motorcycle. I do not know if a bicycle is considered a motor vehicle, because it is manned by human power rather than by an engine. Nevertheless, if you are on the public road, I think it is the apparent duty of any bicyclist to obey the traffic rules. If it is a red light, he has to stop.

Last night, when I was going home, I saw a biker. Not me, it was somebody else. It was a red light, and he went through simply because the road was clear.

An Honourable Member: . . . citizen's arrest.

Mr. Santos: I do not know if he is subject to arrest.

An Honourable Member: Yes.

Mr. Santos: Is he? -(interjection)- I do not understand some of the traffic rules. Supposing you are going home at night, early in the morning—let us say it is two or three o'clock—you know that the road is clear from both ends, and you know that it is 100 percent safe to go through. Because you want to go home earlier, would you be violating the traffic rules if you go through a red light? Technically, you can look around and see if there is a policeman or not, and if there is none, you may take the risk and cross the red light when you know from both ends of the street there is no danger at all. That is the practical thing to do, yet still technically you will be violating the traffic rules if you pass through a red light.

The other night, I was trying to get home early because I was trying to catch the Improv comedy show that was repeated. This is a ten o'clock show that was repeated again at two o'clock in the morning. I like to go home and watch that show.

I oversped without any intention on my part. Suddenly, there was a traffic cop behind me with a flashing light. I went down to talk to him, and he

said, you stay in your car, so I did. I said, are you going to reprimand me or are you going to fine me? I said to him: You have the discretion either to reprimand me or to write a ticket, because you are the one who is enforcing the rule. Now, this is my first violation; it is not even intentional. Are you going to write a ticket?

He said: It does not depend on me. It depends on my partner who is in the other car. I think she is already writing the ticket—so she did. I got fined by \$35 because I exceeded the speed limit. Being an obedient citizen, the moment I reached home, I immediately wrote a cheque and mailed it out to help the province in its deficit. It was so quick because I could be summoned, and if I contested it in the court and lost, I may be asked even to pay more.

So, in a sense, it is always easier, if you have the money—and I happened to have the money—to pay the fine right away. You see, if I did not pay the fine, I could have been jailed, and if you have a record behind you, that you have been jailed, there are other consequences of such a penalty.

* (1130)

Supposing I was poor, supposing I was in debt, supposing I had no money to pay the fine, what would have happened then? It would have been discretionary on the part of the judge whether to impose on me some kind of a civic obligation or duty to do some community work. Supposing you refused to do that because you dislike me, and instead of allowing me to do community work, he simply imposed a fine. It is \$10 for every one day in jail, then \$55 means three days and a half in jail, simply because of an inadvertent speeding, which is not even intentional.

So you could see the injustice there. It would have been different if I were poor or if I were in need and I need that money somewhere else, rather than pay it as a fine, I would have been jailed and deprived of my freedom. About the licence, they may put some kind of a demerit in the licence, or not, I have no idea. The next time I renew my driver licence maybe I will have to pay more in Autopac. Is that a second demerit if you speed? Maybe I get a demerit, maybe I pay a little bit more when I renew my Autopac.

This is part of our system; this is part of our law. I am saying, regardless of your intentions, you may inadvertently have committed a breach or a violation of a statutory rule, and if you happen to be with

money, then you get away from any kind of penalty; but if you are poor and you have no money, then you lose your liberty. Is that the only way, is that how liberty is valued in our society? Does it mean that you can buy your freedom? That is not a just system; that is not a fair system. It is not fair. It is not fair for the poor; it is not just for those without resources in our society to be deprived of their freedom simply because they cannot pay their fines.

I only have two minutes. The important thing in our society is that when we make laws the laws should be applicable to everyone in an equal way. The weight of the law should be felt by all the members of society equally. There should be no distinction, whether implied or expressed, between the rich and the poor. We cannot afford to have one law for the rich and another law for the poor, that will not be a just society.

If a law is to be imposed on everyone, then the law has to apply to everyone equally. For example, I have read in the newspaper of some members of City Council, I will not name who got away, even if his reading was .11, when what is allowed is only .08. I should desist from doing so because it may be sub judice, and I do desist.

If that is a model and an example for the rest of society, then other people may want to claim the same privilege, that they can get away even if the reading is .11. That is no good. That means that we cannot enforce our drinking and driving laws anymore. If we ourselves as public officials are the example for the rest of society, then we might be doubly cautious in our behaviour as models of the rest of the citizens. I do not regard myself as any different from the rest of society, but I am saying that we are in the public eye and therefore we should be extra careful.

Thank you, Madam Deputy Speaker.

Mr. Chomlak: I welcome the opportunity, Madam Deputy Speaker, of rising to speak on this bill, Bill 39, an amendment to The Summary Convictions Act.

Often in this Chamber one does not have the impression that one is really involved necessarily in lawmaking, but this example, this bill, is in fact an example of our direct involvement although we always are in lawmaking, this is a direct involvement in lawmaking per se. The ramifications of this bill, though it may not be apparent on the surface, the ramifications are far reaching and very wide.

The honourable member for Broadway (Mr. Santos) made reference to intention in his speech and made numerous references to the whole question of depriving one of one's liberty and the like. Madam Deputy Speaker, this bill does do that. That is why it is so relevant to discuss in great detail and with great seriousness the ramifications of this bill, because what this bill does permit government and permit its delegated authorities and agencies to do is in fact deprive someone of their liberty.

The point that the member for Broadway was making very eloquently, and I just want to touch upon it briefly, is a fundamental point as it deals with summary conviction offences and the jurisdiction of this Legislature to deal with those matters. It is the whole concept of depriving one of one's liberty, whether one has an intention to do an act or not, for in the Criminal Code of Canada clearly, which is a federal jurisdiction, you require intention, the concept of mens rea, which is a Latin term. You require intention to commit the criminal act.

What we are dealing with today are not criminal acts. They are acts under the jurisdiction of this Legislature. For these acts one can be not only fined but one can be imprisoned. What the member for Broadway (Mr. Santos) was referencing was some of these acts do not necessarily require the concept of intention of mens rea. There has been a longstanding debate in not only legal circles, but philosophical circles, and otherwise generally, whether or not provincial jurisdiction should have the right to place someone in prison if they do not have the intention, the mens rea, to commit the particular offence in question.

Make no mistake about it, Madam Deputy Speaker, in fact, we are referencing these very issues as we discuss this bill, because what we are talking about is the fact that if one commits an offence in violation of the highway traffic code—

Madam Deputy Speaker: Order, please. I am certain that the honourable member for Kildonan (Mr. Chomiak) would appreciate the undivided attention of all honourable members in this House.

Mr. Chomiak: As I was referencing, Madam Deputy Speaker, we should make no mistake about it. This bill will allow an individual to be placed in jail for, in fact, breaking traffic laws. That is why it is of extreme importance that we review this bill very carefully and discuss the ramifications of what the minister is proposing.

That is what the member for Broadway (Mr. Santos) was very eloquently referencing when he discussed the whole issue of depriving one of one's liberty and discussing the whole question of intention. As I indicated earlier, there has been a longstanding debate whether or not this jurisdiction or any legislative jurisdiction in the country should have the right to deprive one of one's liberty for an offence that is not necessarily one requiring full mens rea or full intention on the part of the individual committing the offence.

* (1140)

Madam Deputy Speaker, I listened with interest earlier when the Minister of Justice (Mr. McCrae) outlined the three major provisions in the three major areas which this particular amendment is dealing with. The minister indicated that it was firstly in relation to the Canadian Driver Licence Compact which would allow, as I understand it, some kind of reciprocal enforcement of fine payment from other jurisdictions other than Manitoba, extraterritorial jurisdictions outside of the province of Manitoba.

The second aspect of the amendment as proposed by the minister is to provide for warrants of committal when an individual fails to pay a fine. As I understand the practice now, when an individual fails to pay a fine, there is a default notice that is rendered and the procedure, I believe, is cumbersome although, in effect, as I understand it, it amounts to the same end result. Although I am not entirely clear on the legalities of what the minister is proposing, I will look forward to the opportunity of questioning this matter on a clause-by-clause basis when we go into committee, Madam Deputy Speaker.

Of course, the third aspect of the bill that is dealt with is the whole question of the Fine Option Program, something that I think all members of this House will agree is something very necessary in our society and something that has met—the success of the program, I think, should not be overlooked.

The way I certainly read it and the way I review this particular bill, Madam Deputy Speaker, what the minister is seeking to do by virtue of the amendments, the third aspect of the amendments that he referenced this morning, is to allow individuals who are placed in jail as a result of a warrant of committal to have access to the Fine Option Program not only prior to actually being incarcerated, but during the course of their

incarceration, during the period of time for which they are being put in jail in order to pay off their fine.

Certainly, if that is the intention—and I believe that is the intention—we certainly are very supportive of this particular amendment, Madam Deputy Speaker, because I can tell you from my own experience in criminal law in private practice, this is indeed an improvement upon past practice. While my memory of some of the specifics of the law I will admit frankly is a little bit hazy, there was a difficulty once an individual was incarcerated—in fact I think it was prohibited—to have the opportunity of then taking advantage of the Fine Option Program in order to deal with their fine.

This is a particularly fundamental point of the whole question of The Summary Convictions Act and the whole question of this amendment, because the ability of a person—as the honourable member for Broadway (Mr. Santos) indicated earlier—to pay a fine has obviously a direct bearing on whether or not he will be incarcerated. I can tell you, certainly from my experience, no individual would seek to be incarcerated for failure to pay a fine if they had the financial means to pay the fine. I mean, that is a certainty. I would be astounded—and in fact in my private practice I have yet to see a case, when I was doing criminal law, of an individual who preferred the incarceration to the payment of the fine.

For members of the House, for their own edification—and I think it is very relevant—I should point out for them precisely how this process works because, if one does not have familiarity with the law, one does not appreciate what the effect of the Fine Option Program is. If an individual is fined, Madam Deputy Speaker, and is unable to pay the fine, they have the option to take advantage of the Fine Option Program, which is a way of working off the fine by providing some benefits to society or some return to society as a result of the actions for which they have been convicted, and an individual can take advantage of that. If the individual fails to work off the Fine Option Program or if an individual fails to pay the fine for the offence for which they are convicted, then the individual previously could be incarcerated and under this amendment still can be incarcerated.

I will return to the amendment in a second, but just to continue, for members of the House who may not be familiar, if an individual is incarcerated for failure to pay a fine, according to The Summary Conviction Act, for every day that they are in jail, \$10 of the fine

is worked off. You have the instance, Madam Deputy Speaker, when the—I have certainly had the experience in my criminal law practice where individuals simply did not have money and say, okay, I am going to be here the next 10 days. They turn themselves in to the police, and they are incarcerated. They work off the fine by sitting in jail, which is counterproductive, which is not efficient and, frankly, certainly in my own personal opinion, is something not desirable for society. Nonetheless, it is in The Summary Conviction Act.

The improvement that this amendment seeks to make is to allow an individual, who is going through that process, to have access to the Fine Option Program. In other words, they would have the ability to work off their fine through this other system without having to go to jail, and that is far, far, far more desirable. It is far more desirable, Madam Deputy Speaker, for the individual involved in the situation, and it is far more desirable for society as a whole because what the result is, to use the words of the Minister of Health (Mr. Orchard) in Question Period several days ago, is a win-win situation.

Society gains by virtue of the fact that—in fact, I would go further. I would say it is win, win, win. Society gains by virtue of the fact that some improvement or some public works or some assistance is rendered and offered by the individual as a result of working off his fine in the Fine Option Program. In addition, the individual is not incarcerated with all of the corresponding lack of productivity in society, his or her dislocation from their family and all of the ramifications of those aspects of society.

In general, Madam Deputy Speaker, I think the justice system is probably furthered by virtue of that, not to mention the economic benefits that flow from an individual having the opportunity to not only contribute to society, but the corresponding decrease in the cost of incarceration, something that is prohibitively expensive and something which we should be going away from, not more to.

The particular amendment, as it relates to providing an individual an option, following a warrant of committal, to access the Fine Option Program, is indeed an improvement. We were very pleased that the government has, in fact, brought in this amendment. I can indicate again from my personal experience in the criminal justice system that this, in fact, is an improvement and will serve to better the

justice system for individuals and for society as a whole, Madam Deputy Speaker.

This particular aspect and this particular amendment will be accepted by members of this side of the House. We hope to have the opportunity—I do have several outstanding questions in particular as it relates to this third aspect of the amendment of this bill from the minister. Those obviously will be dealt with and can be dealt with, Madam Deputy Speaker, in committee when we deal with clause-by-clause analysis of it.

The minister also indicates that a further part of that third aspect of the amendment dealing with the ability to access the Fine Option Program will permit the Crown or the authorities to reinstitute proceedings to commit the individual, should the individual fail to proceed, through the Fine Option Program, to pay off the particular fine. It seems to me that this logically flows from the amendment, and it logically makes sense insofar as the present Summary Convictions Act does not even allow that option in the first instance.

In that sense, the way I view it, the third aspect of the amendments to this act dealing with the ability of an individual to access the Fine Option Program subsequent to a warrant of committal is very favourable and will be positively supported by members on this side of the House, that particular aspect.

* (1150)

I did reference the fact earlier that this has an economic benefit of thousands and thousands of dollars because savings to society by virtue of not incarcerating someone has a real tangible dollar value. Madam Deputy Speaker, I prefer to think in areas of this, that it also has a very positive social value for society by virtue of allowing an individual not only to pay off the fine and to feel perhaps a productive member of the society, but not to be sitting idly by in an institution while their fine is being paid and while they are going through the judiciary system.

It makes all kinds of sense to proceed with this amendment as proposed by the minister subject to a careful and concise review of the clause-by-clause analysis. Our initial review is that certainly, in principle, which is the aspect we should be discussing in this debate, that third aspect of this amendment, as proposed by the minister, is something that members on this side of the House

will support; in fact, we will go so far as to say, it appears to be an improvement to The Summary Convictions Act as it presently exists in the Province of Manitoba. I actually look forward to an opportunity of reviewing other summary conviction acts in other jurisdictions to see if in fact they contain similar provisions that allow individuals involved in their fine option programs, those who have the fine option programs, to in fact have access to the same sorts of procedures as we do in the province of Manitoba.

Madam Deputy Speaker, returning now to the other aspects of this amendment referenced by the minister, I return firstly to the initial additional change as proposed by the minister, and that is the question of allowing this particular jurisdiction to refuse a person the ability to have their licence issued or renewed by virtue of having not paid a fine in another jurisdiction. On the surface, this is part, I believe, of a national and indeed an international trend toward reciprocation by jurisdictions as it relates to the payment of fine.

I would be quite curious and hope to have an opportunity to question the minister when this matter goes to committee to determine the extent that this provision and application will apply. I will give an example as to the kind of question that I think has to be asked with respect to this reciprocal enforcement of—well, what this amounts to, Madam Deputy Speaker, in fact, the reciprocal enforcement of judgments that allows the province to deprive an individual of the right to drive a car.

If an individual, for example, were to be in Los Angeles and were to jaywalk and were to be fined and convicted on that particular offence, and the individual inadvertently or for some other reason, which for purposes of this discussion, I think, is irrelevant—but if that individual were to return to Manitoba and therefore were to then renew their driver licence, this legislation on the surface, I think, would permit the Minister of Highways or The Highway Traffic Act to deprive that person of their driver licence, despite the fact that the offence was not related to motor vehicles or not related to a motor vehicle.

That is one of the areas that I think we might have some concerns, and I would really appreciate the minister clarifying that particular point. Further to that—and this I am certain of, Madam Deputy Speaker. This I am certain of by virtue of the way the amendment has been produced, if an individual

should get a parking offence in that same jurisdiction—using Los Angeles as an example, if the individual were to get a parking offence in Los Angeles and again were to fail to pay that offence and would return to Manitoba—this legislation presumably would allow the minister to revoke that person's driver licence.

While there might be a nexus between that particular act, that is the parking offence and the ability of the minister to revoke one's licence in Manitoba, the interesting point is if the person were to jaywalk in L.A., in Los Angeles, and be convicted of that offence, it seems to me that the minister probably would still have the right to revoke that person's licence.

I would be curious to see the nexus between that, that is the nexus between the act of a nonmotor vehicle related, nontraffic—well, it is traffic related—but nonvehicle-related offence and the ability of one to drive a car in the province of Manitoba. I guess that is a concern that I have in terms of the way the legislation has been introduced and has been described by the minister in principle.

I guess I could even take that offence a little bit further, Madam Deputy Speaker. I know that I am not supposed to refer to specific subsections of the act. Perhaps I will save the Legislature time by noting that I presume it to be correct that the legislation says an act similar to our highway traffic act or regulation thereunder. Consequently, my question has probably been answered by virtue of that.

Though again, the question still remains and must be asked, that if one jaywalks in a jurisdiction outside of Manitoba and is found guilty of that particular offence, it appears if that offence is under the auspices of the highway traffic act of that jurisdiction—that is, that extraterritorial jurisdiction—then the Province of Manitoba will have the right to deprive that person of their driver licence.

I guess I will be looking to the minister for clarification of that particular subsection, because I would like the minister to clear up for us where the nexus is, that is, the connection between that particular offence and this particular offence.

As I said, Madam Deputy Speaker, there are three basic changes to this particular legislation. The first change is as it relates to the ability of the Province of Manitoba to suspend one's driver licence for an

offence committed under a similar highway traffic act in a jurisdiction outside of Manitoba. The second provision provided for in these amendments as indicated by the Attorney General is the ability of the province to incarcerate an individual under a warrant of committal for an offence, be it a parking offence or some other kind of offence under the act.

The third aspect, and the one that I have dealt with most extensively in my comments, is the ability of an individual who is already incarcerated under a warrant of committal or who will be incarcerated under a warrant of committal to access that very fine program, the Fine Option Program. Indeed, as I have indicated in my earlier comments, the third aspect is something we strongly support subject to the comments of the minister in terms of the specifics and clause by clause when we go into committee.

The third aspect is something we would strongly support because of the fact that allows individuals to work off and provide society with a benefit, to work off the fine rather than have to spend days in jail working off the fine as presently is the case, by paying \$10 a day in return to society for every day that they are incarcerated, which is what presently exists. The particular aspect of this bill, Madam Deputy Speaker, this third aspect is very, very favourable, I think, to everyone in Manitoba.

Now, Madam Deputy Speaker, returning back to the first segment of the amendments as proposed by the minister, that is those dealing with the ability of the minister to suspend or revoke a licence should one commit an offence in a reciprocating jurisdiction.

I will be very anxious to have the minister provide us with a list of where those reciprocating jurisdictions are, Madam Deputy Speaker, and to what extent those highway traffic acts are similar to our own, in order to determine the bases upon which whether or not we will support this particular amendment. Because, as I indicated earlier, there is this outstanding question of particular offences as they relate to the nexus, to the connection, between driving a motor vehicle and a particular offence under a highway traffic offence in another jurisdiction.

* (1200)

So, Madam Deputy Speaker, I have dealt, in brief, with the third aspect that the minister has indicated, as it relates to amendments under The Summary

Convictions Act, mainly the warrant of committal provisions relating to the Fine Option Program and the ability of one to access the Fine Option Program, both before and during the period that one has been served with a warrant of committal.

The second aspect that I have dealt with now deals with the first part of the minister's comments and the first aspect of the amendment to The Summary Convictions Act, and that deals with the reciprocal enforcement of a judgment, specifically a fine incurred in another jurisdiction and failure to pay that fine in the province of Manitoba.

The third aspect now, Madam Deputy Speaker, that is dealt with in this particular bill, as referenced by the minister earlier in his comments, deals with the whole question of the warrant of committal and the ability of jurisdiction to incarcerate someone for failure, in fact, to pay a fine. As I indicated earlier, this is a very interesting provision. As I understand it now, the authorities do have jurisdiction by virtue of a default notice or other processes of the law to in fact incarcerate individuals, and I believe it is the case that individuals have been incarcerated for this failure. As I understand it, this is an attempt by the minister and the department to expedite the process and to make the legal processes clearer for failure to pay a fine.

This turns this, Madam Deputy Speaker, to the fundamental question that was raised by the member for Broadway (Mr. Santos) very eloquently earlier, and comments that I referenced earlier in my comments, and that is the whole question of the ability of this Legislature, or any Legislature, or any jurisdiction, to incarcerate an individual for failure to pay a fine.

(Mr. Speaker in the Chair)

Not only does this relate to the earlier aspect that I referenced dealing with reciprocal enforcement of judgments, but what we are saying is that an individual who fails to pay a fine can be jailed. Now that means, if I read this correctly, and again we will be looking to direction and information provided from the minister at committee on this, that means that, if an individual commits an offence under any statutory jurisdiction for which this province has authority, they can be jailed. I think, to cite an example, if an individual fails to observe a bylaw of the City of Winnipeg, for my familiarity with The City of Winnipeg Act and the bylaws thereunder, presently they do have the authority, the authority

does exist, to incarcerate that individual. This is significant, Mr. Speaker. What we are saying under this law—and that is why I want individuals to very carefully reflect upon this bill and very carefully reflect upon these amendments. What we are doing by virtue of this amendment is saying that, if the City of Winnipeg or other municipal jurisdictions, for example, if they pass a bylaw that provides sanctions, et cetera, they are passing a law which allows for an individual to be incarcerated, to be deprived of their liberty, as was eloquently put by the honourable member for Broadway (Mr. Santos).

This has to be well thought out, and we as lawmakers and we as legislators must not pro forma, pass over these kinds of issues. I do not mean to retrace the steps and the comments of the member for Broadway, but he put great stock in, and rightly so, this particular aspect of the legislation and this particular aspect of our roles here in this Chamber, Mr. Speaker.

What we are doing by passing these amendments is saying to delegated jurisdictions, authorities that have power to make bylaws, by virtue of making a bylaw, you will have the authority and the ability to place an individual in jail for the failure of that individual to comply with your bylaw. That is very, very significant. I am not saying that we are against that particular proposal. What I am saying is that we have to seriously look at the long-term effects and ramifications of this kind of amendment because it is fundamental to our liberties and it is fundamental to our system of justice. That is why we will be looking to the minister very, very carefully to determine which jurisdictions and how far the extent of this particular amendment will proceed.

I am certain and I recognize the fact, Mr. Speaker, that all of these aspects of the law are presently under the present Summary Convictions Act, and under the processes adopted by the government and this department, they presently have the authority to do that and in fact are doing that. This makes it clear, and this makes it, I suspect, more on a solid legal foundation and legal footing. This does allow and permit authorities to place an individual in incarceration, to deprive that individual of their liberty by virtue of this particular amendment.

I implore all members of this House to very, very seriously consider the effects of this amendment. I am not saying by virtue of my comments, Mr. Speaker, that we are opposing it necessarily; what I am saying is that, particularly on matters of this

kind, we have to very seriously weigh the consequences of what we are doing.

There are many occasions in this House when laws passed or regulations made in a delegated sense have long-term ramifications for society and for individuals. I am not saying that those laws are necessarily less important than what we are dealing with today, this particular amendment to The Summary Convictions Act. When you have the authority and the power to deprive an individual of their liberty, and that is what this amendment does, when you have that authority, you must very, very carefully weigh every single aspect of it and very seriously consider the ramifications, not only in a short term but the long term, of what you are doing. What we are saying in this amendment and what this minister has said in his opening statements is that, by virtue of this amendment, an individual can be and will be incarcerated for failure to pay a fine.

While I recognize that the third aspect of these amendments provides for the ability of an individual to pay off the fine by virtue of the Fine Option Program—part of the amendment we are very pleased with—this particular amendment effectively imposes a sanction and must be thought out very, very carefully before it is considered and passed by members of this House.

Members might suggest that perhaps this is only administrative, Mr. Speaker. It is not administrative. It is quasi-judicial. In fact, it may be judicial. As I referenced earlier, initially in my comments—again points that were made eloquently by the honourable member for Broadway (Mr. Santos)—the whole concept of mens rea, the whole concept of intention, has always been sacrosanct to our criminal justice system.

In these quasi-judicial areas of statutory authority for which the province has jurisdiction, we are venturing into that area—indeed we have the power now, but we are making it far more—we are clarifying it in this particular amendment. We are venturing into these areas, and we must tread very, very carefully, Mr. Speaker, particularly in light of the fact that very many aspects of our lives now, in an expanded sense, are dealt with in a statutory sense by this Legislature and by the provinces.

* (1210)

Indeed, it is an interesting point to consider when you think about it. If constitutional changes are made and if certain areas of authority are delegated

from the federal government to provincial jurisdictions by virtue of some constitutional amendments which may occur as a result of the present constitutional debate, we in this Chamber will have the authority in a quasi-judicial or a judicial sense or a quasi-criminal sense over more power.

When you really think this through, Mr. Speaker, when you carefully examine the ramifications and the long-term effect of what we are debating today, you can see the effect these particular amendments can have on our citizens and on the future of people in this province. If powers are delegated from the federal government to the provincial government, then those powers come under the jurisdiction of the Province of Manitoba. Consequently, by virtue of that, The Summary Convictions Act, which we are dealing with today, for which amendments are proposed today, will have an effect upon these particular matters.

I am attempting to think of examples because I have only—as you can see, Mr. Speaker, having an ability to think through the ramifications of this kind of legislation is very important. I have dealt with this constitutional issue.

Let us use an example. If the province were to gain authority over some new jurisdiction, shall we say some form of telecommunications, for example, that the province no longer has jurisdiction over or does not have jurisdiction over presently, therefore that jurisdiction would come under the purview of the province. If an offence was occurring under that particular area of telecommunications, for example, Mr. Speaker, then by virtue of this act and this amendment, that person could be jailed for that offence if they failed to pay the fine, which is an interesting proposition and again which is another argument for our very careful examination of this particular amendment and this particular bill, because it really is of great significance that something that seems as administrative and as straightforward as an amendment to The Summary Convictions Act could have long-term ramifications for the Province of Manitoba.

That is our role in this Chamber, and that is the role, Mr. Speaker, of legislators as lawmakers. That is why I urge, on all members of this House, their careful examination of each and every aspect of this bill. That is why we will look forward to the opportunity of reviewing the bill in a clause-by-clause basis.

We look forward to having an opportunity to examine the spreadsheet that the minister will provide us, as it relates to this bill, in order to determine what effect these three major amendments—and I term them major because in fact I believe that they are major—will have to The Summary Convictions Act, namely, the whole question of reciprocal enforcement of judgments, that is, fines that occur outside of one's jurisdiction, the effect of warrants of committal and the ability of the Crown and the province to incarcerate an individual for an offence, for the failure to pay a fine for an offence that occurs under provincial jurisdiction, be it of delegated authority, that is, to the City of Winnipeg or other jurisdictions, or offences occurring in the province of Manitoba, and the third aspect of this bill, as referenced by the minister, namely, the ability for an individual who is faced with a warrant of committal to have an access to that very fine program, the Fine Option Program, either I presume during the course of their incarceration by virtue of the warrant of committal or upon being presented, I presume, with the warrant of committal.

These are very serious and long-term important issues which must be debated by us, as lawmakers in this Legislature, and I look forward to the continuing debate on this matter. Thank you very much, Mr. Speaker.

Mr. John Plohn (Dauphin): Mr. Speaker, it is with a great deal of interest that I have followed the course of the debate here this morning on Bill 39, The Summary Convictions Amendment Act, and followed the eloquent and reasoned arguments of my two colleagues the member for Broadway (Mr. Santos), first, who spoke at length at this bill, I am certain, caught everyone's interest while he spoke and was the subject of some controversy, as a matter of fact, over that period of time, and the member for Kildonan (Mr. Chomiak) as well, who followed up, I thought, with some very reasoned arguments on this bill in identifying some of the major issues that we should be very concerned about in dealing with a bill such as this. Certainly always cognizant of the fact that we are, as legislators, in a position of bringing in laws that impact on the lives of people daily and can have a tremendous impact on people, we have to consider the ramifications of those changes.

Now, The Summary Convictions Act was one that was brought in during the previous government's

days, at least amendments to it were brought forward, dealing with the Fine Option Program. I think that it is worthy of mention that that program provided a great deal more flexibility and options for people facing penalties for various infractions in the province of Manitoba and I think left us with a more flexible system, a more rehabilitative system, a humane system that allowed people to work off their penalty rather than paying a fine.

It took the onus off of the money aspect of it which is so often more onerous, obviously, to people of lesser means in society and very easy for those who are relatively wealthy and can find the money for fines. It did provide options and I think that in extending this now to making it available after a warrant of committal has been served and is now an option for those who have been incarcerated for failure to pay a fine or those who would be incarcerated, as an option, I think is a very progressive step and one that we would find, as my colleagues have stated earlier, no difficulty in supporting insofar as an amendment to this act.

When we look at the issue of incarcerating people for failure to pay a fine, as my colleague has mentioned as well, we have to look very carefully at the implications of that because it is a rather significant move, a very harsh move. In certain circumstances, failure to pay a fine is perhaps inadvertent, outside of the ability of the person to control, depending on the financial means of that person who is just unable to get the money to pay a fine and then could be subject to incarceration for a relatively long period of time which could have a lasting impact on that person's life, and yet, a relatively trivial reason for that taking place in the first instance. All infractions of the law are serious. However, certainly some do not warrant the kind of negative impact on a person's life that others would.

I would like to just talk a little bit about the issue of reciprocal enforcement which is another aspect of this bill. Certainly we have, over the years in Manitoba and in Canada, put in place a rapid exchange of information with regard to driver licence, for example, so that each jurisdiction would have instant access to full driver licence history of individuals in various jurisdictions. People moving to Manitoba, for example, could not give false information to vehicle licensing and therefore gain a licence illegally.

We have heard about cases in the past where individuals who had a severe drinking problem, for

example, and had lost their licence in another jurisdiction came to Manitoba, lied about their status as a driver and were able to gain a licence in Manitoba and then subsequently were involved in serious accidents that killed and maimed other people. It was because we did not have a rapid exchange of information. Having that rapid exchange in Canada has, I think, greatly improved the enforcement around drivers' licences in this country.

* (1220)

The ability to enforce a fine that has been assessed in one province and to enforce that fine in another province as contained in this act, I think, just extends that process of interacting in a legal system that would ensure that people are not able to evade justice by simply moving to another jurisdiction.

My gut feeling in responding to this provision is one of support to that concept. I think that it will be interesting to see what jurisdictions we are talking about because we are talking about reciprocal enforcement and reciprocal jurisdictions.

I have had some experience with that as Highways minister for a number of years in the province with a number of areas where the province has undertaken to enter into reciprocal agreements with other jurisdictions for various purposes. One of them was the issue of handicapped parking, for example. We were, I believe, leading the way in providing handicapped parking for people who were largely physically disabled and needed special parking privileges at government buildings and all public places.

We endeavoured to enter into agreements with others, not only provinces, but other states. I believe there were some 20, at least, states in the United States who responded positively to our suggestion that we would have recognition of the decal and card that was made in Manitoba, but also recognized throughout Canada as a universal symbol of a handicapped person who required special parking privileges, that they would actually honour that decal and card in their jurisdictions.

I thought that was a positive move. It certainly exists in many areas of legal responsibilities and recognition of laws in North America and perhaps throughout the world. It would be interesting to see what precisely, from the minister, the list of reciprocating jurisdictions is, how extensive it is, with regard to this provision that the minister has placed

in The Summary Convictions Amendment Act, Bill 39, at this time.

When we look at reciprocal jurisdictions and provisions, I find it interesting that we sometimes provide double jeopardy. We penalize our people well in other jurisdictions, sometimes more severely than we do in our own jurisdictions. The ultimate penalty results in a more harsh penalty. I would give an example when we are talking about reciprocating jurisdictions with the demerit point system with our licences at the present time, Mr. Speaker.

What happens is that a person visiting in the United States, for example, would have occasion to be caught for a speeding infraction or perhaps a minor defect in his vehicle. What happens is that quite often, they are stopped by state police and are told they were speeding perhaps very marginally, maybe not, maybe even one mile per hour in the United States, and a person who is given a speeding ticket under those circumstances really has no alternative but to pay it and plead guilty, because they are going to be leaving the jurisdiction.

I am saying that we have to look at how far we go with the reciprocity and with reciprocal agreements because I say that I do not think it is fair for drivers to not only pay a fine for what in many cases is a marginal infraction in another jurisdiction but also to have to face the prospect of losing their licence because they had additional demerits on their licence as a result of that infraction that took place in that other jurisdiction.

I think we have to seriously look—I think the Minister of Highways and Transportation (Mr. Driedger) and this government should look seriously at perhaps abolishing that part of reciprocity which involves the acknowledgement and acceptance of demerits for infractions in other jurisdictions, particularly out of the country.

I think, within the province of Manitoba or in the country of Canada and all provinces, we should recognize all infractions within our country. Certainly, for purposes of demerits where people can lose their licences while on holidays due to an infraction that might have been very marginal, I have had many examples, Mr. Speaker, of people who have told me that they would not have pled guilty to an infraction if it had been in Manitoba, but because they were so far away from home and they could not go back there to have the matter dealt with—it would be very expensive for them—they had no choice but

to plead guilty and then end up with points on their licence later on, demerit points and jeopardize their licence back home, for a very, very marginal offence.

I say this, that it does not mean that marginal offences are not charged in the province of Manitoba. In some cases in the United States—and I have not personally had this experience; I have been told by others—they are very anxious to prey on unsuspecting visitors who may not know all of the rules and so on or who are just outside the rule, as I say, one mile per hour, for example. We would not be ticketed generally in the province of Manitoba for one mile per hour over the speed limit, but in those cases, they will do that knowing you have no choice but to pay the fine, pay the money. I say we should review that. I say to the government members and the ministers in the House today that they would want to consider that very carefully when they consider perhaps changes to The Highway Traffic Act at some time in the future.

Insofar as passage of the bill dealing with incarceration, again as my colleague has said, the member for Kildonan (Mr. Chomiak), when he talked about the additional powers that are being given to the legal system to incarcerate people who have not paid fines, I think we have to look at the applications. They should not be totally general in nature, because there are many extenuating circumstances where it might be very difficult for a person to meet the requirements set out by the court.

I know we always look at the impact on civil liberties and on the rights of people, because the more laws we put in place of this nature, the more we are impacting on the liberties of individuals. I noticed, when I was Minister of Highways and Transportation, for example, we put a provision in on The Highway Traffic Act dealing with the power for police officers to stop a vehicle without cause. They did not have to be speeding, or they did not have to notice that there was a tail light out or

something. They could stop and question an individual for any reason.

Many people may not realize that this provision did not always exist in The Highway Traffic Act. It was just put in about five to eight years ago, perhaps less than five years ago. The opposition, at that time, questioned whether that should be allowed, whether a police officer should be able to stop a vehicle without first having observed it doing something that they believed was illegal.

We discussed that we had to make this available, particularly with regard to checking for seat belts, for example, which is now a very current issue in terms of the problems with enforcement of seat-belt legislation, a recognition, I think almost universally, that lives are saved and injuries are prevented when people are wearing seat belts when they are driving their vehicles.

That provision was brought forward, and yet it was argued by the opposition that this impacted on the civil liberties of people who could be stopped by a police officer for apparently doing nothing wrong, just simply to check registration, driver licence and so on.

I say that when we are now talking about streamlining the incarceration process, so that a person who has failed to pay a fine can be incarcerated without having option to perhaps other alternatives of appeal and so on, to streamline that process, then again we are moving into an area where we have to tread very carefully and consider very extensively. We would like to have those thoughts discussed and certainly considered by the government when they again take up this bill for discussion and process in the government.

Mr. Speaker: Order, please. When this matter is again before the House, the honourable member for Dauphin (Mr. Plohman) will have 24 minutes remaining.

The hour being 12:30 p.m., this House now adjourns and stands adjourned until 1:30 p.m., Monday.

LEGISLATIVE ASSEMBLY OF MANITOBA

Friday, June 14, 1991

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