



Third Session - Thirty-Sixth Legislature

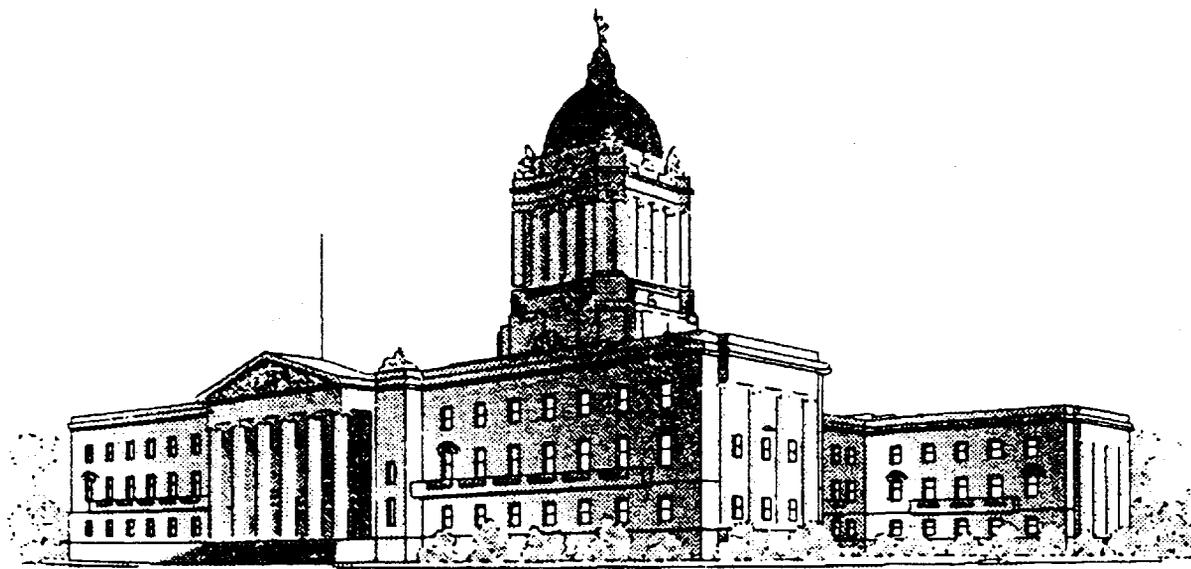
of the

**Legislative Assembly of Manitoba**

**DEBATES  
and  
PROCEEDINGS**

**Official Report  
(Hansard)**

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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Sixth Legislature**

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Vacant	Portage la Prairie	

## LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, May 29, 1997

**The House met at 10 a.m.****PRAYERS****ORDERS OF THE DAY****House Business**

**Hon. James McCrae (Government House Leader):** Madam Speaker, on a matter of House business, there have been discussions amongst representatives of the parties represented in this House, and a fair amount of thought and consideration has been given to this matter, dealing with the sitting for June 2, election day in Canada.

There are members in this House representing a wide variety of constituencies, and some of them are rather far-flung, Madam Speaker, and while I realize that there may be a number of urban representatives who may well find it not inconvenient at all to appear for duty here in this Legislature on June 2, there are others, myself included, who would like the opportunity to have my say in the governance of my country come June 2.

I think that there is usually on matters like this—a large spirit usually prevails, and I appreciate any accommodations some of my city of Winnipeg or other members might be making in this regard, but I believe there might be leave not to sit on June 2, and you might want to check the House on that point.

**Mr. Kevin Lamoureux (Inkster):** Madam Speaker, being very sensitive in terms of what it is the government is saying but not necessarily agreeing to the same extent with the government's arguments, we are prepared to allow for that leave to occur.

**Madam Speaker:** Is there leave to not sit on Monday, June 2? Leave? [agreed]

**Mr. McCrae:** Madam Speaker, as previously agreed, this morning would be a time spent on bills. We do not propose this morning to bring forward any introductions at second reading, but I understand there

may a disposition on the part of honourable members opposite to debate bills in the following order, that being, Bill 3, Bill 14 and the remainder as they appear on the Order Paper.

**DEBATE ON SECOND READINGS**

**Bill 3—The North American Environmental and Labour Cooperation Agreements Implementation Act**

**Madam Speaker:** To resume second reading debate on Bill 3, on the proposed motion of the honourable Minister of Industry, Trade and Tourism (Mr. Downey), (The North American Environmental and Labour Cooperation Agreements Implementation Act; Loi sur la mise en oeuvre des accords nord-américains de coopération dans les domaines de l'environnement et du travail) standing in the name of the honourable member for Burrows (Mr. Martindale).

Is there leave to permit the bill to remain standing? [agreed]

**Mr. Tim Sale (Crescentwood):** Madam Speaker, I am pleased to rise to speak against Bill 3 which involves the ratification of certain undertakings with the Government of Canada on the North American Free Trade Agreement, side agreements on environment and labour.

Madam Speaker, this agreement on NAFTA, the side agreements on labour and the environment, was signed in mid-January by this government, I believe January 25, with the intent that they would bring forward legislation.

Only two other provinces, Madam Speaker, have indicated that similar intent which suggests that there is great concern since it has been more than two years since the Liberal government broke their promise on the North American Free Trade Agreement and did not move to renegotiate, but, in fact, signed cosmetic side agreements on labour and the environment. So only Quebec and Alberta to date have indicated any interest in signing on, and neither to date has actually passed

the legislation, in my understanding. This province intends to pass legislation according to the government before the rise of the House.

First, I have to put on the record my strong objections to the process followed by the Minister of Industry, Trade and Tourism (Mr. Downey) in whose name Bill 3 was presented. Madam Speaker, Bill 3 as presented, if the House would take a look at it, is one of the slimmest bills in the Order Paper. It involves some two and a half pages of columns in English. If you put that on full pages, it would be probably not more than one and a half pages of text. He tabled this bill and said we would like you to ratify these agreements.

Now, one of the most elementary rights of any Legislative Assembly is to have before it the full text of agreements that are being ratified by that Assembly. I think that—

**Madam Speaker:** Order, please. I am experiencing difficulty hearing the honourable member for Crescentwood.

**Mr. Sale:** Thank you, Madam Speaker. One of the most fundamental rights of any Legislative Assembly is to have before it the full text of everything that is being presented for ratification. This minister failed, in the most elementary courtesy, to put forward all that we were being asked to ratify. Now, was it just a little bit more than the two pages of English text in Bill 3? In fact, it was hundreds of pages more. The North American Agreement on Labour Cooperation alone runs to 41 pages. The North American Agreement on Environmental Cooperation runs to over 50 pages. The Canadian Intergovernmental Agreement runs to about 12 pages of very fine print. The Canadian Intergovernmental Agreement regarding the North American Agreement on Labour Cooperation runs to a similar number of pages. There is an intergovernmental agreement on each of these things, as well as the Canadian agreement.

There are six documents that the Minister of Industry, Trade and Tourism (Mr. Downey) did not have the courtesy to table in the House when he tabled Bill 3. I had to ask him in committee for the documents, and he did table them then promptly, except for the fact that one of them was missing a few pages. Turns out it was another clerical error, unfortunately.

So the first concern that we have, I think, is that this House ought not ever to be called upon to ratify major binding international agreements that expose our provincial laws to hazards in regard to labour, environment, internal trade, many other issues, Madam Speaker, that have never been laid before this House.

If members opposite are conversing and sitting at their desks—and that is fine, that is what we do in this Chamber. But I would like to ask the members opposite, I would like to ask the member for Sturgeon Creek (Mr. McAlpine), the member for Brandon West (Mr. McCrae), the member for River Heights (Mr. Radcliffe), the member for Turtle Mountain (Mr. Tweed), the member for St. Vital (Mrs. Render)—oh, and, yes, we have the member for Emerson (Mr. Penner)—

**An Honourable Member:** Pembina.

**Mr. Sale:** Pembina. Have any of you honourable members, any of you read what it is we are ratifying? Have you actually read it?

**An Honourable Member:** Yes.

**Mr. Sale:** I would think that would be wonderful if it were true, and I hope it is true. I do, indeed, hope it is true, because there will be a test, and Mrs. McIntosh, the honourable Minister of Education, is going to be marking that test in a secret location in the Ramada Inn. [interjection]

Oh darn, I let the cat out of the bag. Madam Speaker, I hope they have read this agreement—

**An Honourable Member:** Which room?

**Mr. Sale:** All of the rooms. The member for St. Norbert (Mr. Laurendeau) asks which room. They have taken the whole hotel, the honourable member, and I believe they have actually locked up the bar so everybody will mark in sobriety for the whole month. They will just sit in their rooms and they will mark—

**An Honourable Member:** What does this have to do with your bill?

**Mr. Sale:** Well, I was responding to the question from the honourable member for St. Norbert, and I always

try to respond to his questions because they are generally so perceptive.

**An Honourable Member:** Generally.

\* (1010)

**Mr. Sale:** Generally.

But, Madam Speaker, the first failure I think is that the minister himself agreed in committee that he had no idea what was in most of these agreements. He just thought his staff had, you know, done their homework, and we hope they have, but the minister did not know what was in them. The minister never read the Multilateral Agreement on Investment. He did not even know it was under discussion. So that is the first problem we face.

Now, let us get on to the substance. The member for Pembina, whom I incorrectly identified—I am terribly sorry about that—the member for Pembina (Mr. Dyck) said, is this on the subject? Well, let us talk about the side agreement on labour. Let us look at this government's record. They want to ratify something that talks about labour co-operation, talks about occupational safety and health, child labour, migrant workers of the parties, human resource development, work benefits, social programs for workers and the families. It goes on and on and on, reading as though this government had some kind of record to be proud of in regard to labour.

What did they do in their most recent acts? They took on the poorest paid workers in the province, home care workers. They tried to break any agreement that they would have had in their union. They tried to break their ability to deliver services. They tried to take away the benefits, and when they announced to these workers that they were going to privatize home care, what did they say to them? They said, Madam Speaker, you are not even employees of the province. We do not have to give you notice to lay you off. We just have to not call you in. We just have to tell you that next week you have not got any hours, so you do not have any income.

They did not even have the courtesy to deal with these folks as though they were actually employees of the province. They just said, we will not call you in.

You do not count. You do not get benefits, and the new private sector employers that we are so enamoured with will cut your wages.

When they actually went to those private sector employers and found out whether they could deliver, they found out they could not, but Manitoba's home care workers were delivering the most cost-effective service possible. Only one company, a multinational New York-based corporation could come in with a loss leading bid in an attempt to drive a wedge into our nonprofit health care system and make it an American style for-profit health care system. I will bet any bottom dollar you would like, Madam Speaker, that this company is losing money on every hour of service it provides in order to drive a wedge for itself in future into Manitoba's home care system. That is part of this government's record in labour.

What else did they do? They took away expedited arbitration, Madam Speaker, so a woman who is harassed in the workplace no longer has the right to expedited arbitration. She has got to go through the Human Rights Commission. She has got to go through a grievance procedure. She has got to go through long-term arbitration. We are talking about people who are frequently very low paid, who frequently are single parents, who frequently have no ability to prosecute a company over a period of time, and so they just do not do so, because this government took away expedited arbitration from workers, for example, who are harassed in the workplace.

What did they do to teachers, Madam Speaker? They took away their right to arbitration that had worked so well that teachers' wages across the whole province had stayed right in line with all other workers. What did they do? They said, ability to pay is now going to be the chief criteria. So if the school board says we do not have any ability to pay, if the province says we do not have any ability to pay, then the arbitrator says, sorry, teachers, we do not care how much new revenue the province has; we do not care how much your tax base is expanded, no ability to pay, no increase.

What did they do to union workers that they say through this agreement have rights to organize and pursue their interests? What did they do to union workers? Well, they said, you know, you are

responsible for consulting every single one of your members before you launch any kind of political education activity, every one of your members, and if anybody complains, they have a right to do that but, Madam Speaker, those unions do not have a right to know who is even working in the workplace, because the employer does not need to give the unions a list of workers. All they do is remit dues; they do not remit names. So unions do not know, in many cases, who is on the payroll, but those people on the payroll have the right to ask questions about how the union is spending their money. So the union cannot consult everybody, because they do not know their names, and that is a deliberate, deliberate process of throwing sand in the ability of a union to pursue the collective interests of its members politically.

Now, does any such prohibition apply to companies? Companies can spend as much as they want in this federal election, and they are, to try and deliver the vote to the likes of the multinational agreement. Multilateral Agreement on Investment, the business council on the national interest, to Conrad Black and his helpmate Barbara Amiel.

Madam Speaker, does the National Firearms Association have to consult every single one of its members before it mounts a huge campaign? No. Does Conrad Black have to consult every one of his shareholders in Hollinger and other companies before he writes trash in his newspapers about the interests of Canadians? Does any Canadian company have to consult its shareholders before it takes out full-page ads supporting a political party? Oh, absolutely not, that would be interfering with the free right of companies. But the free right of unions, with elected membership, elected leadership, elected and voted upon policies, often hotly contested at their annual meetings, the free right of unions no longer exists to pursue the political interests of their members. So that is another example of this government's concern for labour.

So, Madam Speaker, the North American Agreement on Labour Cooperation is simply a cosmetic sham negotiated by a Liberal government that had promised to renegotiate NAFTA when it knew full well the United States of America was not going to allow that. So what did it do? It negotiated a couple of sidebar agreements, toothless sidebar agreements, that would

enhance nothing except to further strengthen the power of multinational corporations.

Now, Madam Speaker, let us look at some of the things that are in these actual agreements, and I am assuming that members opposite really have read these agreements, so I know I will be speaking to a knowledgeable group that know the details. First of all, in Article 6 of the second part of the labour agreement, page 6, there is no private access to remedies under this agreement for labour. Now, there is private access for companies under the environmental agreement.

Private parties can sue governments. I wonder if the member for River Heights (Mr. Radcliffe) knows that. He is a lawyer. I wonder if he knows that the Ethyl Corporation is already using the NAFTA provisions to sue the Government of Canada. There are two lawyers there conversing about something important, about how they are going to lose in Brandon West or something, but I do not think they are conversing about the things that really matter to Canadians, the ability of a multinational corporation like the Ethyl Corporation of the United States to sue the Government of Canada under the existing provisions of NAFTA because we banned an additive to gasoline that massively pollutes, that destroys the effectiveness of antipollution measures that are required to be on cars now, that the state of California has banned completely. We banned this pollutant.

Under the Ethyl suit, they are appealing to NAFTA for \$254 million to cover not past losses. The Ethyl Corporation is not suing Canada because it lost money in the '90s or the '80s. The Ethyl Corporation is suing Canada for future losses, for projected losses to their profit. Well, I am surprised the amount is only \$251 million. I would have thought it would be infinite, because if we ban MMT, presumably Ethyl will not be able to bring that polluting environmental-control-measure-destroying chemical into our gasoline system.

Madam Speaker, the gasoline additive that we are talking about here is serious enough that a state of some 25 million people, California, said, no, you cannot use it, and yet we are under suit by a company that wants to use the NAFTA provisions which are much weaker than the so-called multilateral agreement on investment provisions will be. So under this labour agreement,

unions cannot sue governments for infringing on the rights of workers. Unions in other countries cannot come to the defence of a weaker union in Canada and sue on that union's behalf because workers' rights have been trampled under ILO agreements.

\* (1020)

I do not know whether members opposite realize, but children work the fields in the vegetable farms at Portage la Prairie. Underaged children work the fields with their families. Is that what we want? Is that what we want in this country, that the convenient requirements of the labour act that apply for most workplaces do not apply to farms in the summertime? Twelve-year-olds can work in the fields. Madam Speaker, is that where we are going with labour agreements?

Madam Speaker, under the MAI, and under the environment part of this treaty, companies can sue the government of Manitoba, can say to the government of Manitoba, you have set environmental standards too high for Repap. You have set environmental standards too high for Louisiana-Pacific. These standards are unfairly high so we are going to sue you. Who do they take that lawsuit to? They do not take it to the courts. They do not come to Manitoba's Court of Appeal or Manitoba's Court of Queen's Bench. That is not where they sue. That is not what happens. What they do is they go to what is now called an arbitral panel. We no longer have something that most people would understand, an arbitration panel, they are called arbitral panels. Newspeak, NAFTA newspeak. They appeal to that panel and say, your requirements for reforestation, or your requirements for effluents, or your requirements for stack emissions are unfairly high. You are discriminating against our company, our company's ability to make profit.

So they go to an arbitral panel with their case, Madam Speaker. Who makes up that panel? Not a single Canadian will be on these panels. They will be drawn from a list of 45 or 50 names agreed on by both countries or all countries to the agreements from other countries. Who will be the chair? Not a member of either of the nations involved. Is the finding of the panel binding? Absolutely. Is it appealable within the nation? No. The courts of Canada will never hear the

lawsuit of the Ethyl Corporation of the United States against the Government of Canada, a nonelected panel of three to five "experts" will determine whether the Ethyl Corporation suit will stand or fall.

When they do determine that, maybe they will find in Canada's favour. I hope they do. But maybe they will find in Ethyl's favour, \$251 million worth. Will the Government of Canada be able to do anything about that? No, it is not appealable. It is final. What is the remedy? The remedy is if the Government of Canada does not fork over the penalty—\$251 million is what is asked for—then the United States of America simply raises tariffs on any product that we are importing into the United States until \$251 million has been collected, and they send Ethyl Corporation the cheque.

Now, is that not a nice system? We have no more sovereignty on labour disputes that affect our provinces and country, no more sovereignty on environmental disputes that affect our country. Someone else sits in judgment. The elected and appointed judicial system, elected ministers, appointed judges, no longer make decisions about the applications of Canadian laws in the country of Canada.

What a giveaway of sovereignty, Madam Speaker. There are further very disturbing components to the labour agreement. Who can forget the image of the 10- or 12-year-old boy in Pakistan chained to a loom? Who can forget the images that Canadian young adult Craig Kielberger electrified our nation with when he showed us what happened in the weaving and textile industries of Pakistan? Who could fail to be moved by the death at work of 10- and 12-year-old children in the Third World?

This nation of Canada will not ratify the ILO agreement on child labour. This province will not ratify that agreement. Yet it wants us to sign a side agreement on labour that says on page 8: The council shall promote co-operative activities among the parties as appropriate regarding child labour.

Those who have travelled in the third worlds of Central America know that child labour is simply a part of the reality of those countries' lives. This nation that wants to sign side agreements on NAFTA will not ratify the international agreement, the covenants of nations

against the forced labour of children. But we are supposed to ratify this side agreement on labour, Madam Speaker. Hollow hypocrisy.

The arbitral panels that are going to be set up are not open to access by our own government. The Government of Canada and Manitoba cannot sue Nike or any other multinational that exploits children and thereby makes Canadian workers and Canadian production less profitable, because they can exploit children, women, and poorly educated men in Third World countries. We cannot sue them, but they can sue us. That is this agreement.

Fines under this agreement can be imposed without reference to the ability of the nations involved to pay. That is bully-boy tactics, Madam Speaker, when you can go to Mexico and tell Mexico that, unless it lessens what poor environmental standards it has in order to let the ethyl corporation pollute the skies of Mexico more than they are. Mexico's ability to pay is low. What will they do? Will they cave in? I hope not, but I am afraid they might.

Under this act, this labour act, there is a general provision in Article 43, which says that nations cannot take action under their own laws against any other party on the ground that that party has acted in a manner inconsistent with this agreement. Now, what greater infringement of our sovereignty could there be than that? We have a company, company X sitting in some part of Manitoba, massively polluting, behaving in a corporately inappropriate manner, and this province cannot enforce its own laws against that company, because the issue of environmental management is now transferred to third parties, to the arbitral panels that will be set up under the side agreement on that.

We cannot take action against polluters, against those who use inappropriate labour practices, under this agreement because it says that anything covered by the laws of the nations that sign this agreement must be dealt with through the arbitral panel process. We give up our sovereignty, Madam Speaker.

Madam Speaker, I am truly amazed that the governments of Canada and Manitoba and Quebec and Alberta would agree to give up their ability to make environmental legislation that was more stringent than

environmental legislation in one of the nations party to this agreement. How could we ever have moved to free our skies from lead pollution, how could we ever even have made the halting steps we have made in this country against acid rain if we were not free to make it illegal to have stack emissions that created acid rain in the first place?

\* (1030)

If those laws were more stringent than the laws that had been in place and more stringent than laws in place in, say, Minnesota or Alabama, companies could sue us and force us to rescind those laws according to this agreement. No party may provide for a right of action under its domestic law against any other party on the ground that any other party has acted in a manner inconsistent with this agreement.

Now, where did this agreement on labour and on the environment come from? Well, it came from the fact, Madam Speaker, that the federal Liberal government had promised to scrap NAFTA. Then they promised to renegotiate it, and, of course, they could not do that. So what did we do? We had a little set-aside, a little side agreement that everybody agreed was pretty innocuous, and so we could sign it. But the problem is, it is not innocuous. The Liberals not only failed to renegotiate NAFTA, they put more tools in the hands of multinational corporations to further impose their views on the sovereign views of Manitoba and Canada.

Nor does it end there, Madam Speaker; nor does it end simply with the side agreements. We know now after a great deal of work, not by Canadians, I am sorry to say, but by Americans, by Americans who understand the implications of the dominance of the world economy by a handful of multinational corporations—Americans have done us the favour of exposing the new agreement, the multilateral agreement on investment which is now coming along, not through the WTO, not through the World Trade Organization, but through the Organization for Economic Cooperation and Development, OECD, and why? Well, quite simply, because the poor nations of the world, the nations that are asking in Central and South America to think about access to NAFTA, know that they could never get developed once the MAI is in place, because they could never do what every single

nation that has succeeded in becoming a developed nation has done, and that is to protect its domestic capital and investment and to protect its domestic industries while it is in the process of development.

Madam Speaker, the business council on the national interest, the OECD economists, the World Trade boosters, all agree that the reason that the Asian tigers, the so-called developing nations of Asia, have made it into the ranks of developing or even developed nations in the case of places like the country of Singapore is simply because they acted domestically to harbour their capital, to harbour their human resources, to harbour investment and to protect their national industries while they grew.

The miracle of postwar Japan did not take place because General Motors and Ford and Xerox went into Japan. It took place because the Japanese banks, government and industries viciously protected their ability to grow their own country's economy, and they resisted and still resist today open trade with the rest of the world.

They have done it because they know as every other developing nation knows that the only route to self-sufficiency and long-run development is to shelter your own country's investment capital and your human capital and your entrepreneurial and industrial capital. The Multilateral Agreement on Investment ends any ability of any signatory nation to do any of those things.

Where did it begin? Madam Speaker, this agreement that is a successor to the Labour set-aside side agreement and environmental side agreement began with a trans-Atlantic business dialogue in Seville, Spain, in November 1995. It is interesting to read who convened that conference. It was convened by the U.S. Secretary of Commerce Ronald Brown; by European Commission Vice-President, Sir Leon Britton; and European Commissioner Martin Bangemann.

The conference was co-chaired, Madam Speaker, and listen to the list. The conference was co-chaired by Paul Allair, chairman and CEO of Xerox; Alex Trotman, chairman and CEO of Ford; Dr. Jurgen Strube, CEO of BASF, the German successor to the firm during the Second World War that made all the ball bearings, both in the United States and in Germany,

for German war weapons; and Peter Sutherland, chairman of that estimable international bond marketing firm, Goldman Sachs. That is who convened this conference.

If you look at what this conference called for, what were to be the outcomes of this conference, you know, it is simply an executive summary of the draft Multilateral Agreement on Investment that runs to some 160 pages. You do not have to read the Multilateral Agreement on Investment, all you have to do is read the agreements of the four big corporations and the United States and the European Commission to find out what the new world order is going to look like.

Madam Speaker, Section H of the open investment regimes part of this draft treaty says that there will be effective provisions that bind subfederal authorities. Now, that is kind of gobbledygook for a lot of people, but it might help members opposite to know that a subfederal authority is Manitoba. A subfederal authority is any city, Winnipeg, Portage la Prairie, Brandon. That is what a subfederal authority is.

In Seville, Spain, the new world order was outlined, and it binds Portage la Prairie and Killarney. It binds Pembina and it binds Portage rural municipality.

**Mr. Stan Struthers (Dauphin):** Not Dauphin, though.

**Mr. Sale:** I think it even binds Dauphin. The member for Dauphin (Mr. Struthers) thinks he might have an exemption for Dauphin, but I do not think so. I think Dauphin is bound too.

**Mr. Struthers:** Oh, darn.

**Mr. Sale:** Now, what can you not do under the MAI? Well, you cannot favour Canadians when you privatize anything. Ring any bells, Madam Speaker? This government thought that it could favour Manitobans when it privatized MTS. Now, it failed to do that. The shares very quickly went into the hands of non-Manitoba interests, but it put a provision in that act that said that 25 percent of the company was the maximum that a foreign owner could have. Under MAI, no more. AT&T from New Jersey could have bought 100 percent if it wanted to, so could any other, American Bell, baby

or otherwise, so could any American or British or Dutch company.

What else could you not do? Well, you would have to lift all the laws that require that a majority of the board of directors be Canadian or provincial. That article in the privatization of MTS that said the board of directors had to come mostly from Manitoba—illegal under MAI. Head office in Manitoba? Forget it. Forget it, Madam Speaker. There is no requirement for head offices under the new world order. Head offices are wherever the company wants the head office to be.

You would have to declare what industries, including Health, are defined as an industry under the MAI. Health is an industry. It is not a service to people, it is an industry. You have to declare which industries are completely or partly closed to foreign investment—sounds okay so far—and then set a timetable for rolling back those barriers. So over a period of time, it does not matter what you protect, you could protect till you are blue in the face, but you have got to then set a timetable to roll back those protections.

Finally, under the MAI as it is under the environment agreement on NAFTA, companies can sue the government, but the government cannot sue companies. I guess that is fair in the new world order, Madam Speaker, but I do not think it is fair to Manitobans, I do not think it is fair to Canadians for this government to be a party to giving up more sovereignty, more ability to regulate our affairs, more ability to protect our environment, more ability to set labour standards that are consistent with human decency and human dignity.

Instead they will continue to refuse to ratify the child labour agreements. They will continue to refuse to ratify higher environmental standards, because that might open them to lawsuits by people like the Ethyl Corporation or Louisiana-Pacific or any other company that decided that they could make more money if we could just lower our standards.

\* (1040)

Now, is it just NDP Manitoba that is concerned about this? Premier Clark of British Columbia said, if any semblance of democracy, any semblance of democracy is to be rescued, this treaty must be abandoned. Now,

that is another NDP Premier, and a very fine one, but is it just the NDP? No, no, Madam Speaker. There are 35 governors of the western United States. No NDPers down there, no NDPers south down there. Too bad, but there are not. And what have they said? We must be mindful of the impact that internationally negotiated investment or trade agreements can have on the sovereignty of states.

What did they say had to happen? They said they had to have their power preserved as the U.S. Supreme Court allows. Thank goodness, at least the U.S. Supreme Court allows states to have their power protected. To use residency requirements that favour local business, does that sound like socialism? That is American western governors saying, we have to protect our investors, our state and local businesses.

They want to use investment incentives and performance requirements for legitimate public purposes. Does that sound radical or does that sound like good, common sense, to use your own ability to grow your own economy, to prefer your own investors, to support your own entrepreneurs, to support your own workers? Because that is what governments are for. They are not to lie down in the face of the demands of the Ford Motor Company, the face of the demands of General Motors, the face of the demands of General Aniline and Film, and say, fine folks, come and pillage and do whatever you want to our environment, do whatever you want to our labour, and we will not worry about our own companies, we will not protect our own workers, we will not protect our own environment.

This Bill 3 takes us another step down the road to the end of any meaningful definition of sovereignty for the province of Manitoba and the nation of Canada. What we have here is a cosmetic sham designed to save Liberal embarrassment over their failure, one of their many, many failures, their failure to deal with the GST, their failure to protect health care, their failure to protect post-secondary education. This is a government that has failed on every one of their major promises. They have kept a bunch of minor promises. They will not ratify the international covenants on child labour. They have cut every, single support to citizens, employment insurance, environmental protection, and now they want to agree on some cosmetic side deals on NAFTA.

Hiding in that cosmetic side deal is even more erosion of our sovereignty, and this provincial government wants to ratify the Liberal side agreements. This provincial government that talks about protecting Manitoba investments, protecting Manitobans' right to be in charge of their phone company, protecting Manitobans' ability to have the head office here wants to sign an agreement that ends those protections. They are in favour of the Multilateral Agreement on Investment. They do not even know what it is, but if their friends in the big corporations say it is a good agreement, they are going to sign it.

So, Madam Speaker, this is an embarrassing piece of legislation. This government should do what it was really elected to do, which was to protect Manitobans' interests, not the interests of multinational corporations, not the interests of faceless bankers in Basel or Geneva—to protect Manitobans' interests, to put our ability to grow our own economy first, to protect our entrepreneurs and to give them the room to grow, not simply to put the doormat out and lie underneath it while they welcome investment from any quarter on any terms. This is a bad bill.

**Madam Speaker:** As previously agreed, this bill will remain standing in the name of the honourable member for Burrows (Mr. Martindale).

#### **Bill 14—The Pension Benefits Amendment Act**

**Madam Speaker:** To resume second reading debate on Bill 14 (The Pension Benefits Amendment Act; Loi modifiant la Loi sur les prestations de pension), on the proposed motion of the honourable Minister of Labour (Mr. Gilleshammer), standing in the name of the honourable member for Kildonan (Mr. Chomiak).

Is their leave to permit the bill to remain standing?  
[agreed]

**Mr. Daryl Reid (Transcona):** I am pleased to rise to add my comments to Bill 14, The Pension Benefits Amendment Act, introduced by the Minister of Labour (Mr. Gilleshammer) just a short time ago. I believe it was about a month ago, Madam Speaker.

I would first like to start by thanking the minister for giving me the opportunity to talk with the staff of his

department, Mr. Guy. Gordon, who was quite knowledgeable about pensions and works in the Pension department of the Department of Labour. It did provide me with some insight and gave me the opportunity to ask some questions of departmental staff so that I might have greater insight on what the intent of the legislation was.

Now, the minister's staff and the minister did provide for us a briefing note, which I do appreciate. I know in past departments of which I have been the critic the member for Steinbach (Mr. Driedger) in past when he was minister and tabled legislation here, he always used to provide us with briefing notes, giving us some indication of what the intent was. So we do appreciate the opportunity to see what the staff has been working on and why they are taking this particular course of action. So I thank the minister for providing the briefing note.

This is a piece of legislation that will provide some clarity to The Pension Benefits Act in the province of Manitoba. I have had the opportunity to read through the bill and to have a greater understanding when comparing it to the act itself. Now, at the start I must say that I am by no means an expert on pension matters. I have had some involvement over my years in my former occupation involved with the pension plan and have had some interest in pensions and how they function, their representation, the administration and the investment portions of the plans. This act itself will have some impact on a variety of those areas, as well, and will add some clarity.

Through the act itself in changes or clarity of the definitions, the bill has brought in some clarity to the definition dealing with deferred life annuities, but one of the areas that I find that I have some difficulty with—and I will start with the plan, and I have raised this with the minister and his staff when we were in the briefing. In the plan itself, under Bill 14, the government plans to establish a provision in there to change one of the clauses under 18.21 of the act dealing with the establishment of new defined benefit pension plans.

This particular plan changes the wording and eliminates the word “contain” and substitutes the word “include” in the clause itself, and it is my

understanding—and reading through—the act deals with the area of dealing with the establishment of new pension plans and who owns the surplus assets.

Now, I have raised this matter with the minister, and this is something that I think needs to be addressed not only in the province of Manitoba but through our country, and that is dealing with the issue of who owns the asset surplus of the pension plans, the investments of the pension plan. Of course, from my experience with the pension plans I have been involved with over the years, they have experienced gain through the investments of those funds. This bill calls for the prudent and due diligence requirements of administrators of pension funds and those who invest the funds, but one of the things that this particular bill and other legislation in Canada does not address is who actually owns the surplus of pension funds. Now, that is one of the areas that has been dealt with in some form in the Manitoba act when new plans are established, but where there are existing plans, there are no provisions in there to have a determination on who actually owns the surplus.

Now, in Manitoba's case, where we have the Civil Service Superannuation Fund where I believe the employees themselves contribute 7 percent a year and the employer matches that contribution, there will be an equal partnership towards the contribution. But pension plans, in my opinion, my thoughts, were established for the benefit of the employees themselves. They are a deferral on wages. It is a benefit that is there for the future use of the employees. It is a deferred wage, if you would like, for the employees for their future use. That is why pensions were put in place. It was not for the benefit of the companies that were establishing it. This is something that was either developed through good will on the employers part in dealing with their employees or it was established through a union-employer collective bargaining process to have those pension funds established and, therefore, those funds were for the benefit of the employees.

\* (1050)

One of the arguments that we see taking place these days, and we look to an example here that just occurred just recently involving the Eaton's department store where they are now asking their employees to be involved in the rescue campaign or the save the Eaton's

operations across Canada where the employees are being asked to contribute the surplus of those pension funds—[interjection] \$100 million, my colleague says, to the rescue effort to save Eaton's operations through Canada.

Now, if the employees themselves make that decision, and it is through the will of the majority of that operation, I would say then that is their choice, although I would prefer to see those funds remain vested for their future use and improvement in those benefits. But as we saw with the case of the Dominion stores several years back where the Dominion stores actually raided the pension funds and took them completely away from the employees' use, we see that—[interjection] That is true. There was CN Route, as well, and I have a member of my community who I have had the opportunity to talk to for a number of years who was a former member of the CN Route operations when it was held and wholly owned by the CN Rail corporation. Those employees were transferred over when CN Route was sold to the private firm and then that private firm proceeded to strip all of the assets and sell all the capital items of that particular operation and the company went bankrupt.

Now, of course, that eventually, after quite a number of years, proceeded to the courts. The owners of that particular company, CN Route, were prosecuted, and it is my understanding found guilty, but those employees who those pension assets were stripped away from, my understanding is that they will never see any of those pension assets, which leaves the people, and my constituents in particular who were involved, without a source of income through their retirement years after having worked nearly a lifetime for this particular business. So it is devastating if we do not protect the pension assets for the individuals who are involved in pension plans and as we saw in the Dominion stores where they stripped away the assets and then the courts had to, I believe, restore that asset to the employees. We have to make sure that we take every precaution and leave no stone unturned to protect the future income for the individuals and their families to make sure that they have a source of income through their retirement years and that they are not left destitute as a result of some unscrupulous individual or operation that would strip those assets and pension plans away from them.

Getting back to the issue dealing with surplus pension funds, this is an issue that I have raised with the minister in our briefing and under his legislation here, where he is changing the wording in one of the clauses for new plans established after June 24, '92, that will deal in some way and must have some reference to surplus assets. It does not in any way deal with the plans of sometime ago.

One of the problems that we have in this province—and I am sure the minister will recognize that there are pension plans in this province where there are no unions involved as a representative, and that those employees then are left to negotiate on their own because there is no collective bargaining process that is in place. It is left up to the discretion of the employer itself in dealing with the individual employees one-on-one on what happens with the surplus of those particular pension funds.

Since these employees in many cases do not have any experience in dealing with pensions, as I am sure many members of this House are no different than myself, we quite often do not think of pension funds until we move closer to our retirement years and then after nearly a lifetime of working and contributing, we start to think when we are close to our retirement years. By then, quite often, it is too late to have any significant impact because it takes quite a number of years to bring about meaningful changes to pension plans and to make sure that the asset is protected.

That is why I am saying here that where you do not have a union involved, where you have nonunion company operations that are setting up pension plans or have established plans for their employees, that they need to have some protection of the experience gain of those pension plan assets. That is one of the shortcomings of this particular piece of legislation, that it does not provide for protection of those surplus or experience gain assets.

I draw that to the minister's attention, again, to make sure that he is aware that there are still some areas of pension benefits, changes that are required.

Now, in the legislation itself, that the minister has tabled under Bill 14, and through his briefing note that he has provided, there are several points that he has

listed. It requires that under this particular piece of legislation there be a plan administrator who has to exercise due diligence regarding the investment and the administration of the pension fund. Now, one would expect that any pension fund administrator or any pension fund investor or persons charged with that responsibility would exercise due diligence.

To me it seems unfortunate that we have to take the steps to make sure that is the case, but as a safety precaution I would say that this would probably be a clause that would be well received, because we all, I am sure, want to make sure that pension funds are invested in a way that would maximize their return, and at the same time protect the asset itself, the principal part of the asset, from any loss either of earnings or a loss of the principal value. With that particular clause built into this legislation, it does lend some level of confidence that those investing or administering pension plans would have to exercise care or diligence or a skill in the investment of those funds or the administration of those funds, and that those individuals taking that responsibility also have to have some skill or knowledge to that particular activity whether it be investment or administration or they ought to possess that particular skill.

This, I believe, is a good step in allowing or ensuring that individuals or companies that are involved with this activity, these investment firms do possess that particular skill and that the pension plan assets are protected.

One of the other areas that this particular bill also incorporates into it as a legal requirement, and there have been some difficulties that the minister's staff have indicated to me in the past, where employers that may fall upon hard times and they have pension plans established within their particular company operations for the benefit of the employees, the employer may fall upon some hard times or may have some cash flow difficulties or some other problems encountered in the running of their particular company operations and may, for whatever reason, decide to withhold the remitting of those funds to the trustees of the plan or to the investors of that particular pension plan.

Under the existing legislation, and I read through The Pension Benefits Act, now only the trustees or the

investors of those funds have to notify the superintendent of pensions in the Province of Manitoba that those ongoing pension funds have not been remitted by the employer, and now with the provisions in this act will require—there will be a legal responsibility, a legal liability upon those who are responsible for receiving those funds. Should those funds not be remitted by the employer, that particular individual or that particular firm would then have to notify the superintendent of pensions in Manitoba that those funds have not been remitted and therefore allow the superintendent to take the appropriate action to determine whether or not the employer intends to remit those particular funds but at the same time to determine whether or not the firm itself is in some way solvent to allow for those continued operations and those continued contributions.

\* (1100)

Another provision of this particular bill also deals with the requirement that should there be problems with persons convicted of defrauding or not fulfilling the duties of this particular act regarding the plan investment, the court will require an individual to repay any of the funds that were considered to be in default or an individual that would have defrauded a particular plan would have to make restitution of those funds to the plan itself.

These are nice words. I am not exactly sure how an individual—and I think we can go back to the MacLeod Steadman example where the firm went out of business, and there were some reporting inaccuracies with respect to their pension activities that were considered to be fraud. I do not know what you do in cases like that. You cannot get blood out of a stone, and if the particular individuals who are responsible for a company that has gone out of business and have committed acts of fraud, which is contrary, I believe, to the Criminal Code, I am not sure how you would try to get these individuals to make repayment of these funds. No doubt there are ways that these individuals can hide these funds.

So while I do agree with the clause in the act itself dealing with restitution, I am not exactly sure whether or not the government through the Department of Labour, superintendent of pensions for Manitoba would

be able to, through the courts, have full payment of any funds that were defrauded from a particular pension plan. So while the clause itself, I think, has some merit, I am not exactly sure whether that will be successful in all cases in ensuring that those funds are repaid to a pension plan.

Now, this particular bill, as well, will also put into place a raising of the penalties. The existing penalties for anyone who obstructs an officer or contravenes The Pension Benefits Act of Manitoba under the existing legislation here is liable to, upon summary conviction, a penalty of \$200 and can range up to \$10,000 under the current act itself.

Now, under this particular piece of legislation, we are happy to see that the minister through the Department of Labour has increased those penalties to \$2,000 to \$100,000, but as I said a few minutes ago, if an individual or a company has defaulted and there are no funds available, no assets to attach or seize, then I am not exactly sure how these penalties would apply, but in the case where there are assets that can be attached or there are cash or bank accounts that are available, then these may be the appropriate penalties.

Now, where there are large amounts of money that are defrauded or individuals clearly wilfully obstruct the activities or officers of the superintendent of pensions, then I would expect that there would be maximum penalties that would apply and that the courts would take very seriously anyone tampering with or obstructing officers of the superintendent of pensions for the Province of Manitoba. I am not confident that would happen in all cases, judging by my experience dealing with Workplace Safety and Health fines in this province. I would hope that there would be some change of heart with respect to the courts' activities in the way courts would view the penalties to be applied for those that would defraud or obstruct or in any way contravene The Pension Benefits Act of Manitoba.

The Minister of Labour (Mr. Gilleshammer) also builds into this legislation provision that will allow for a raising of the minimum computation of the annual amount of the yearly maximum pensionable earnings to match what the federal government would require and the changes that they would make, so that this Manitoba government does not have to go back every

time the federal government changes its requirements under the Canada Pension Plan contributions, that we would not have to go back in an ad hoc way and make those changes every time the federal government does. So what the government has built in is a provision here to allow for a matching of any changes that would occur, so that every time something does change there will be an adjustment here automatically within Manitoba under our Pension Benefits Act.

Now, another provision of this bill—and I note that we have a changing society and that there can be changes within marital status within any particular home or family and that conditions sometimes result in marriage breakdown, whether it be in a marital relationship or in a common-law relationship and that the parties can go their separate ways, and when there are pension funds that are involved in addition to other assets of that particular home or family those assets would be split fairly. Now, that is something that has been a practice in this province I think for a number of years and has seemed to hold up well with the splitting of those particular assets for parties that are cohabiting.

Now, under the existing legislation the act itself does not allow for, and there have been some difficulties that have been encountered as a result of marital breakdown or the ending of a common-law relationship. In the cases where the pension asset is split, then that would, my understanding, preclude or end any arrangements between those two parties, the spouses themselves with respect to the pension asset and the entitlement.

Now, under the provisions of the act itself or the bill itself, Bill 14, the minister proposes to have the opportunity for those individuals in our society that have been part of a marriage breakdown or a splitting of a common-law relationship—and where the individuals agree to resume cohabitation, there would be, under the current act, no opportunity for the individual party—I would imagine it would be the noncontributing spouse—to receive pension benefits or survivor benefits in the event of a death.

What this particular bill does is allow for situations where there is a resumption of cohabitation between the spouses to allow for a resumption of the entitlement under The Pension Benefits Act itself, and while the assets were split up to a certain point in time, any

contributions that the employee would make and the employer would make to the pension plan, the noncontributing spouse would be entitled to a portion of those assets after the passage of this particular clause and this particular Bill 14.

So that, I believe, is a good step. It does allow for recognition that there are changing circumstances within society where individual relationships do end and that parties do sometimes resume cohabitation and that there should be a recognition of those individuals. This clause will hopefully make sure that the individuals in that relationship will both be entitled to at least a portion if not all of the pension benefit itself upon either death or retirement.

The area dealing with pensions is something that was of interest to me, and I think back to the time when we were talking about the flood situation in the province of Manitoba, flood '97, and I had the opportunity to ask questions of the Minister of Labour (Mr. Gilleshammer) when we were in the Estimates for the Civil Service Commission. It was interesting to find out that in the province of Manitoba we have an exceedingly high level of unfunded liability in the pension plans for our civil servants in the province of Manitoba. Upon asking those questions of the minister, with the significant amount of dollars—and I believe, recalling from memory here, in 1965 the government of the day ceased contributing actual cash to the pension plan itself. The government of Manitoba stopped making payments to the pension plan for the civil servants and I believe the teachers of the province of Manitoba.

Now, the government of the day decided that they were going to take those pension funds that should have been contributed to the plan and put those monies into capital investment for the province of Manitoba, whether it be schools and hospitals, but there was also, my understanding, contributions toward the construction of the floodway. That allowed the floodway to be constructed and, of course, as we all know, resulted in the saving of considerable property loss and damage through the flood of '97 and perhaps even prevented the loss of life. For that, the investment of those funds was a good investment, but unfortunately we carry forward to this day, as a result of those decisions from the mid-1960s, a huge

unfunded liability, something that the Auditor of this province has pointed out on a number of occasions and that the government of Manitoba, of, I imagine, all political stripes, is going to have to deal with.

\* (1110)

That unfunded liability was some \$600 million in 1993-94, I believe was the year, and that has grown to over \$800 million in unfunded liability by current statistics. So that number has grown by \$200 million—has grown by a significant amount just in a very short period of time and just in two or three years. So we have had a \$200-million increase in the unfunded liability of those civil servants' pension plan, and the teachers' pension plan of the province would be something in addition to that amount.

So we must thank the civil servants of the province of Manitoba for not only working with us and our communities throughout the province of Manitoba but also for the opportunity to have those funds invested in the construction of the floodway, that they have not pressed the government, at least to this point in time, to pay up the monies into that particular pension fund and that the government has continued to use that cash for the construction of capital works projects in the province. Now, that is going to be, obviously, an albatross or a weight that the governments of the future, including this one, are going to have to resolve. There is obviously a growing liability here.

Now, I know the argument is that the governments of the day say well, governments are here to stay, they will never go out of business. But if you look back to the arguments that were used with the Workers Compensation system, one must assume that that same argument should apply there and that the unfunded liability of the Workers Compensation system, which was only \$230 million a decade ago and has been now eliminated, was sold on the same basis that we need to pay down that unfunded liability. Yet, that same argument is not applied to the unfunded liability of the civil servants' and teachers' pension plans of the province of Manitoba, so there is some discrepancy in government policy in dealing with those particular pension funds.

Now, we are happy that the floodway and the schools and the hospitals were constructed, but we have to

make sure that there is a process in place to make sure that that particular liability does not grow or get out of hand as it now is appearing to do.

One of the areas that has also been drawn to my attention, and I drew this to the attention of the minister through the Labour Estimates dealing with pension plans—this is going back to my point earlier when the Minister of Labour, when I talked to him and mentioned that there are a lot of plans in the province or some pension plans in the province where the employees themselves are not represented by particular unions or elected representation within the employees of that particular company operation. I have an example in my own community that I drew to the minister's attention, and I had a letter sent to me by four constituents who had written to the Pension Commission indicating their displeasure with the way issues were dealt with with respect to the assets of a pension plan, including the surplus pension fund itself.

These particular employees were quite upset that the pension funds were going to be split on a 50-50 basis. The firm that is now out of business was Merchants Consolidated. The assets of the fund, while to government departments may not be a large amount considering government is \$5.5 billion, but the pension fund asset was about \$137,000, the funds that were remaining, the surplus pension funds. Yet the receiver in charge of winding up the company operations of Merchants Consolidated, the former company, the receiver had proposed that the pension asset be split on a 50-50 basis, yet the employees themselves contend and allege that the company did not contribute on that basis, and that the funds themselves should be split 30-70 in favour of the beneficiaries of the pension funds.

Unfortunately, after my research on this matter, I found that the Pension Commission will not deal with this matter unless the majority of the former employees of Merchants Consolidated had petitioned the Pension Commission to have a change in the formula, the 50-50 formula that the receiver had proposed. Then, my understanding is, that the Pension Commission would have disallowed this agreement to proceed. Unfortunately, it is my understanding that only some 30 of the employees, representing about 8 percent of the former employee population had—at least those were the numbers supplied to me by the Pension Commission—

objected. It is my understanding that the Pension Commission would therefore allow this particular deal to proceed where the asset was split 50-50 even though the employees allege that the company did not make that type of contribution toward the pension fund itself.

So we still see that we have some difficulties within pension funds and the way they are administered, and the way the plans are wound up within the province. Had the employees themselves had the opportunity or the benefit of trained or skilled or knowledgeable individuals that had experience in pension fund management or pension fund investment or the winding up of pension funds, perhaps that representative could have put forward a proposal based on the 30-70 split for the beneficiaries benefit instead of the 50-50 proposed by the receiver. That is not the case here, and we still see there are weaknesses in The Pension Benefits Act for the province, and there still needs to be some addressing of those problems.

The bigger question, I guess, remains on what is going to happen with pension funds in the future. I have had several phone calls on pension funds over the last couple of years where individuals have said to me, we want to have the opportunity and the ability to control or direct the pension asset in future years where that particular fund is involved.

I have one case from an individual who was a professor at the University of Manitoba who retired, and the spouse has called me quite upset that there would be no control over how those particular pension funds that were contributed by the University of Manitoba for the benefit of the professor during his years working there would not be in the care and control of the professor and his spouse upon retirement. Those funds would have to be converted to a locked-in retirement account or into a life-income fund.

Now, there is some flexibility in one sense that one of those funds would provide for long-term security through the retirement years of the individual. At the same time, should there be small amounts of money that an individual would wish to take out as a lump sum from that particular plan or, in fact, totally withdraw those funds, there is no opportunity for an individual to do it should an emergency occur or some other reason occur with respect to the financial operations of a household.

The individuals involved in this case were quite upset that they had no opportunity to have any care or control in the decision making and that it was essentially taken out of their hands. They thought it would have been more appropriate for them to have the opportunity to have their funds put into a RIF, a Retirement Income Fund, which would allow them to have some direction over how those funds were invested or, indeed, withdrawn and spent, knowing full well that they would have to pay the tax on it should it be withdrawn as a lump sum.

So the bigger question needs to be answered in respect of pension plans in the province on what flexibility is going to be allowed for individuals in the future to have some care, control or direction of pension plans, and they want to have some flexibility in those dealings. Now, I am not sure whether governments of various political stripe would be willing to consider that. It is a hard question to deal with and a hard decision to make because no doubt there is the potential for hardship cases to arise as a result of individuals being allowed to withdraw their pension funds from a locked-in pension fund account or retirement account, and in some cases they may find themselves destitute through their later retirement years, having spent all of their funds in the early retirement years. Then, of course, they would become the responsibility or wards of the province to have to look after financially.

\* (1120)

Now, I understand that potential is there, but I would hope and trust that those that have worked all of their careers and all of their lives and contributed to pension funds or to RRSPs or in some way provided for their pension years would take the responsible approach in the administering of those funds to ensure that they had the ability to have those funds available through all of their retirement years.

One of the problems that the individual from the University of Manitoba indicated to me was that they were quite concerned that when those funds were rolled over into a locked-in retirement fund, they would not have the ability to have those funds paid out to their beneficiaries upon death, and that those funds would remain with the insurance company or the investment

company charged with the administering or distribution of those funds to that particular family so that the funds remaining would not be turned over to the family, and that was one of the most distressing parts for that particular family.

So, no doubt there are many areas that are still lacking within The Pension Benefits Act that need to be addressed. Of course, there are much larger questions with respect to who owns the pension fund assets, the pension fund surpluses, the experienced gain of those funds. It has always been my personal opinion that the surplus of any pension funds that are invested, whether it be here in the province of Manitoba, have been there for the benefit of the employees and that those assets, those surpluses or the experienced gain should also be there for the benefit of those employees to utilize for the improvement of benefits for those people that are retired.

I would hope that there would be some changes in that regard and that there would be some question answered through legislation that would address that ownership of those pension funds because it is my understanding, and I am still continuing to do research on this to try and find out if there have ever been any companies contributing. The one argument that is used by companies is that since they are responsible for any losses incurred by a pension plan, they, therefore, should be entitled to any surplus or a sharing of the surplus or experienced gain.

But to the best of my knowledge, from the research that I have done to this point, I have been unable to locate any companies that have had to contribute to any losses of a pension plan, because as this legislation and Bill 14 so quite clearly demonstrate, there must be special knowledge, skill, care, due diligence practised in the investment of those funds and the administration of those funds.

Therefore, it would, in many cases, if not all cases, show that there are proper investments being done and that the pension funds themselves are invested into safe and relatively secure investments and that those pension funds themselves are not, at least from the experience that I have seen and pension funds that I have looked at, at this point at serious risk, not to say that it cannot happen in the future, but at least to this

point in time, my research shows that—and I have been unable to locate any employers who have had to contribute to a loss of a particular pension fund.

Madam Speaker, those pension fund assets, therefore, should be there for the benefit of all the employees, including the surplus, and therefore the employees themselves should be the owners of the plan, even though they may not directly be 100 percent charged with the responsibility for the administration and investment of those particular funds.

So, while this bill goes some way towards improving The Pension Benefits Act of the province of Manitoba, there are some other areas that need to be addressed, as I have pointed out here. I hope that this particular government would consider making those changes. If they do not, then perhaps governments of the future will consider making those very necessary and worthwhile changes to benefit those that will rely on those pension funds in the future.

So, with those few words, Madam Speaker, I thank you for the opportunity to put my comments on the record with respect to Bill 14, The Pension Benefits Amendment Act.

**Madam Speaker:** As previously agreed, this bill will remain standing in the name of the honourable member for Kildonan (Mr. Chomiak).

#### **Bill 2—The Arbitration and Consequential Amendments Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Justice (Mr. Toews), Bill 2, The Arbitration and Consequential Amendments Act (Loi sur l'arbitrage et modifications corrélatives), standing in the name of the honourable member for Transcona (Mr. Reid).

Is there leave to permit the bill to remain standing?  
[agreed]

#### **Bill 4—The Steam and Pressure Plants Amendment Act**

**Madam Speaker:** To resume second reading debate on the proposed motion of the honourable Minister of

Labour (Mr. Gilleshammer), Bill 4 (The Steam and Pressure Plants Amendment Act; Loi modifiant la Loi sur les appareils sous pression et à vapeur), standing in the name of the honourable member for St. Johns (Mr. Mackintosh).

Is there leave to permit the bill to remain standing?  
[agreed]

#### **Bill 5—The Mineral Exploration Incentive Program Repeal Act**

**Madam Speaker:** To resume second reading debate on the proposed motion of the honourable Minister of Energy and Mines (Mr. Newman), Bill 5 (The Mineral Exploration Incentive Program Repeal Act; Loi abrogeant la Loi sur le programme d'encouragement à l'exploration minière), standing in the name of the honourable member for Transcona (Mr. Reid).

Is there leave to permit the bill to remain standing?  
[agreed]

#### **Bill 6—The Natural Gas Supply Repeal and Public Utilities Board Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Energy and Mines (Mr. Newman), Bill 6 (The Natural Gas Supply Repeal and Public Utilities Board Amendment Act; Loi abrogeant la Loi sur l'approvisionnement en gaz naturel et modifiant la Loi sur la Régie des services publics), standing in the name of the honourable member for Burrows (Mr. Martindale).

Is there leave to permit the bill to remain standing?  
Leave? [agreed]

#### **Bill 7—The Midwifery and Consequential Amendments Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Health (Mr. Praznik), Bill 7 (The Midwifery and Consequential Amendments Act; Loi sur les sages-femmes et modifications corrélatives), standing in the name of the honourable member for Transcona (Mr. Reid).

Is there leave to permit the bill to remain standing?  
[agreed]

Do we want to accelerate this by one leave motion?

**An Honourable Member:** No, keep going.

**Madam Speaker:** No? Okay.

#### **Bill 8—The Real Property Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Consumer and Corporate Affairs (Mr. Radcliffe), Bill 8 (The Real Property Amendment Act; Loi modifiant la Loi sur les biens réels), standing in the name of the honourable member for Osborne (Ms. McGifford), who has 11 minutes remaining, and standing in the name of the honourable member for Kildonan (Mr. Chomiak).

Is there leave to permit the bill to remain standing?  
[agreed]

#### **Bill 9—The Public Utilities Board Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Consumer and Corporate Affairs (Mr. Radcliffe), Bill 9 (The Public Utilities Board Amendment Act; Loi modifiant la Loi sur la Régie des services publics), standing in the name of the honourable member for Kildonan (Mr. Chomiak).

Is there leave to permit the bill to remain standing?  
[agreed]

#### **Bill 11—The Northern Affairs Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Energy and Mines (Mr. Newman), Bill 11 (The Northern Affairs Amendment Act; Loi modifiant la Loi sur les Affaires du Nord), standing in the name of the honourable member for Burrows (Mr. Martindale).

Is there leave to permit the bill to remain standing?  
[agreed]

**Bill 12—The Manitoba Water Services Board  
Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Rural Development (Mr. Derkach), Bill 12 (The Manitoba Water Services Board Amendment Act; Loi modifiant la Loi sur la Commission des services d'approvisionnement en eau du Manitoba), standing in the name of the honourable member for Transcona (Mr. Reid).

Is there leave to permit the bill to remain standing?  
[agreed]

**Bill 13—The Insurance Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Consumer and Corporate Affairs (Mr. Radcliffe), Bill 13 (The Insurance Amendment Act; Loi modifiant la Loi sur les assurances), standing in the name of the honourable member for Kildonan (Mr. Chomiak).

Is there leave to permit the bill to remain standing?  
[agreed]

**Bill 15—The Government Essential Services  
Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Labour (Mr. Gilleshammer), Bill 15 (The Government Essential Services Amendment Act; Loi modifiant la Loi sur les services gouvernementaux essentiels), standing in the name of the honourable member for Burrows (Mr. Martindale).

Is there leave to permit the bill to remain standing?  
[agreed]

**Bill 16—The Council on Post-Secondary  
Education Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Education (Mrs. McIntosh), Bill 16 (The Council on Post-Secondary Education Amendment Act; Loi modifiant la Loi sur le Conseil de l'enseignement

postsecondaire), standing in the name of the honourable member for Kildonan (Mr. Chomiak).

Is there leave to permit the bill to remain standing?  
[agreed]

\* (1130)

**Bill 17—The Retail Businesses Holiday Closing  
Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Labour (Mr. Gilleshammer), Bill 17 (The Retail Businesses Holiday Closing Amendment Act; Loi modifiant la Loi sur les jours fériés dans le commerce de détail), standing in the name of the honourable member for Kildonan (Mr. Chomiak).

Is there leave to permit the bill to remain standing?  
[agreed]

**Bill 18—The Emergency 911 Public Safety  
Answering Point Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Highways and Transportation (Mr. Findlay), Bill 18 (The Emergency 911 Public Safety Answering Point Act; Loi sur les centres téléphoniques de sécurité publique—service d'urgence 911), standing in the name of the honourable member for Transcona (Mr. Reid).

Is there leave to permit the bill to remain standing?  
[agreed]

**Bill 19—The Human Rights Code  
Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Justice (Mr. Toews), Bill 19 (The Human Rights Code Amendment Act; Loi modifiant le Code des droits de la personne), standing in the name of the honourable member for Kildonan (Mr. Chomiak).

Is there leave to permit the bill to remain standing?  
[agreed]

**Bill 20—The Summary Convictions  
Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Justice (Mr. Toews), Bill 20 (The Summary Convictions Amendment Act; Loi modifiant la Loi sur les poursuites sommaires), standing in the name of the honourable member for Burrows (Mr. Martindale).

Is there leave to permit the bill to remain standing?  
[agreed]

**Bill 21—The Jury Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Justice (Mr. Toews), Bill 21 (The Jury Amendment Act; Loi modifiant la Loi sur les jurés), standing in the name of the honourable member for Burrows (Mr. Martindale).

Is there leave to permit the bill to remain standing?  
[agreed]

**Bill 22—The Law Reform Commission  
Repeal Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister of Justice (Mr. Toews), Bill 22 (The Law Reform Commission Repeal Act; Loi abrogeant la Loi sur la Commission de réforme du droit), standing in the name of the honourable member for Kildonan (Mr. Chomiak), who has 25 minutes remaining, and standing in the name of the honourable member for Transcona (Mr. Reid).

Is there leave to permit the bill to remain standing in both names? [agreed]

Bill 19, according to the table officers, I indicated it was standing in the name of the honourable member for Kildonan (Mr. Chomiak), not the honourable member for Burrows (Mr. Martindale). Is there leave to permit the bill to remain standing in the name of the honourable member for Burrows? [agreed]

**Bill 23—The Manitoba Public Insurance  
Corporation Amendment Act**

**Madam Speaker:** To resume second reading debate, on the proposed motion of the honourable Minister responsible for The Manitoba Public Insurance Corporation Amendment Act (Mr. McCrae), Bill 23 (The Manitoba Public Insurance Corporation Amendment Act; Loi modifiant la Loi sur la Société d'assurance publique du Manitoba), standing in the name of the honourable member for Elmwood (Mr. Maloway), who has 34 minutes remaining, and standing in the name of the honourable member for Transcona (Mr. Reid).

Is there leave to permit the bill to remain standing in the name of the honourable member for Transcona?  
[agreed]

**Mr. Jim Maloway (Elmwood):** I am pleased to continue my comments on this bill, Bill 23. I did want to reiterate what I had said the other day in that I found it interesting that the new minister, the member for Brandon West (Mr. McCrae), would go on at length to shower accolades on the previous minister and indicate that the previous minister, that MPIC under his tenure had achieved some glorious level of excellence. That was the essence of what the new minister had to say although he took perhaps 30 minutes of his speaking time to say that.

Madam Speaker, I think that our take on this would be somewhat different. In fact, my suggestion would be that the reason we had a change at all in the ministers of these portfolios was to allow the former minister the opportunity to change departments and to go to his reward, as it were, in Natural Resources, and attempt to clean up some of the messes that were left there by the previous minister that our caucus were questioning and delving into in the last session involving expense accounts of the deputy minister and other issues in that department.

So, once again, we see the fine hand of the Premier (Mr. Filmon) here in taking preventative action, I guess, if you will, taking evasive action and deftly moving the former Minister of Natural Resources out just in time, just before the gate was closing, pulled him out just in time and transferred this minister in so that he could

clean up the messes that we were just in the process of discovering and getting to the bottom to.

But having said that, the minister, while he was in charge of MPIC, left his own mark and left his own messes in that particular department. Whether you can tie the blame directly to him or whether it is to the government or the PC Party is debatable. I mean, perhaps the minister was simply a pawn in the process; perhaps he was a benign figure in what transpired over the eight years that he was the Minister of MPIC, but what we saw happen during that period was an exact mirror, a mirror image of all the criticisms that this group made of the previous NDP government when they were in power.

Well, what happened during those eight years? Madam Speaker, during those eight years this government produced—rather than producing the retained earnings stabilization fund of 15 percent of earned premiums that they always promised they would do, what they did was created certainly the largest deficit or equal to the largest deficit year of any the corporation had ever seen. In other words, in the 20 years the corporation was in existence, there were only two years that had massive deficits, and coincidentally one of them was while this minister was the minister.

What year was that? Was this the first year that Minister Cummings was the minister? Was it the second year that Minister Cummings was the minister? No, Madam Speaker. Coincidentally, it was the 16-month period preceding February 29, 1996. So when did that 16-month period begin? That 16-month period began at the end of the corporation's fiscal year, November 1994.

Now, let us think back for a moment to what was happening in November 1994. Well, in November 1994 the Tory party's polling showed that it was going to, at best, come out of an election plan for that fall with 24 seats, a minority government. This was the situation in the fall. Think back. Think back, I ask the member for Inkster (Mr. Lamoureux), to think back to November 1994 when there was talk about The Jets and the arena, and the Tories were busily plotting their re-election strategy. There were busily trying to calculate as to when it was going to be most opportune for them

to call an election and try to retain government. During that period their polling showed that, at very most, they would be looking at a minority government, that they would be looking at 24 to 26 seats maximum.

So, Madam Speaker, during that period what we saw was a change in the accounting. MPIC had an accounting year, a 12-month year from 1971, from its inception on, but that was the year that they elected, they decided to change the accounting year to make it 16 months. So what you had was an accounting year that had always been 12 months; now we have a 16-month accounting year starting November '94 and running through to February 29, 1996.

Now, what was accomplished by that 16-month accounting year? Well, Madam Speaker, what was accomplished was that it allowed them to hide the largest deficit in the corporation's history. What this did was take the retained earnings or the Stabilization Fund reserves from \$37 million, which they were at the beginning of the period, \$37 million, which is \$13 million shy of what their target would be. They would want \$50 million in this reserve fund; that is what the actuaries say that they should roughly have. So they were within \$13 million of being able to put the stamp of approval on it and say, we have done, for you, the electorate, what we promised. After what was then seven years in power, they would have been able to say that they had got the reserves back up to \$50 million or 15 percent of earned premiums. But what they did that year was present the corporation with the largest loss—and here comes the former minister—what they did was present the public with what was really the largest loss in the corporation's history, cleaned out the retained earnings and put us in a position of minus \$20 million.

Now, that the minister is attentive I wanted to—and I have to say, this is masterful. These guys, this government are in a way similar to the cat with the nine lives, the old cat with the nine lives. You know the story about the cat, when it falls from a tree or from a building it always lands on its feet. Whether it can do it for more than nine times, though, is debatable. This minister exemplifies, epitomizes that cat, because after eight years he managed to do exactly the mirror image of what they criticized the NDP government for and brought us to our knees.

\* (1140)

They managed to do precisely the same thing and do it with such finesse that they could even shuffle a minister out of the position and still go relatively unnoticed. I mean, I think at the time we managed to get one or two newspaper articles indicating that they had set the public up with artificially low rates to get themselves through the election period and then present the public with the bills after the fact.

When we brought this to the attention of the media, there were some stories about the Tories manipulating their rates and manipulating their way through the period. Unlike what happened during our period, I did not see the member for River East (Mrs. Mitchelson) out there in the front of the building with her horse-drawn carriage and bales of hay on it organizing the thousands of demonstrators that she was back in 1988. She was strangely silent during that period. The point is that once again this government managed successfully to finesse itself to get itself beyond the election.

Then, Madam Speaker, what they did was, to further cover their tracks, they brought in increases that seemed reasonably palatable to the public at the time, but once you looked further at the increases, you found that they were not the increases that they were suggesting. One of the news outlets was wise enough to figure this out, as well, with a little help, I believe, and the news outlet carried stories that, in fact, the increase was more like 9 percent. Once again, the member for River East (Mrs. Mitchelson) was not seen to be organizing any massive demonstrations against the government. So I guess what I really want to ask is what does it take, what will it take to get the member for River East back in the saddle again here and get her organizing demonstrations against the government's handling, because that is what it is, the government's handling and mishandling of the Autopac issue.

Now, one of the other reasons for their success, I guess, in being able to finesse this issue has to do with the moving of the rate-setting process to the Public Utilities Board because, Madam Speaker, that, in fact, certainly is a large contributing factor to their success in this area, being able to sell their performance record over the last eight years, because whenever they have

intervened and done things in this area, they have been able to sit back and successfully argue to the press, or whoever is asking the questions, that, in fact, it is not they who are making the decisions, that, in fact, it is this independent board called the Public Utilities Board that is vetting the rates. They throw up their hands, and the minister looks innocently into the camera and says, well, I did not do it. It was not me; it was the board. Yet, of course, we all know who appoints the board. This is a politically appointed board.

In fact, the Public Utilities Board has a former candidate from the Crescentwood by-election, I believe, Jenny Hillard. Did she run in Crescentwood, or did she run in Osborne? No—[interjection] The current MLA for Crescentwood (Mr. Sale) is giving us a description of what Jenny Hillard did when she ran in Crescentwood in the by-election when she self destructed. In fact, I believe Ron Arnst and other Tory hacks were phoning radio shows out of this building, writing letters, involving themselves in the by-election, promoting their Tory candidate Jenny Hillard, and then almost the very next day as a reward for being the sacrificial lamb, which is what she was in the Crescentwood by-election, she gets rewarded as a member of the Public Utilities Board.

Now, there is an independent person for you, right? That is an independent person, a person who was wearing Tory blue, flying Tory colours one day, becomes an independent member of the Public Utilities Board the day before, a member who just in the last few years before that was walking in locked step with the motor dealers' associations of the day run by Lefty Hendrickson, and she and Lefty were a tag team for the government at committee hearings, misrepresenting such initiatives such as lemon law and other initiatives, a total misrepresentation, and this was this independent member of the Public Utilities Board's previous role.

No one will argue the point that this person is independent by any stretch. This person took her marching orders from the same people who gave the minister his marching orders. I said at the outset of my speech that I did not blame the minister for all of the problems. I said that he may be responsible for the problems, but I have no way of knowing that absolutely. I suspect that he knows and he could tell us who the people pulling the strings are—he knows who

they were—but, in actual fact, this whole thing was being run by the operatives of the Tory Party.

The audit committee of the MPIC, the board members of the MPIC, they were the people who were answerable to the political directors. They were the political directors and they were the people who would have ordered—

### Point of Order

**Madam Speaker:** The honourable Minister of Natural Resources, on a point of order.

**Hon. Glen Cummings (Minister of Natural Resources):** I think we have just about had enough character assassination of the public member of the Public Utilities Board. If the member wants to reference the achievements of the member of the Public Utilities Board, he should also reference the fact that Ms. Hillard was a leading spokesman for the Consumers' Association of Manitoba, and is currently a leading proponent and spokesman for the Consumers' Association nationally.

**Madam Speaker:** Order, please. The honourable Minister of Natural Resources does not have a point of order.

\* \* \*

**Mr. Maloway:** I understand that she has been replaced as a member of the Public Utilities Board. The minister is not up on his former Tory defeated candidate history. She was removed coincidentally just a few weeks ago and just following some questions that I had in Estimates on the issue. The point was and I have given the minister credit to be able to finesse this issue, but for him and this government to—[interjection]

\* (1150)

**Madam Speaker:** Order, please. The honourable member for Elmwood has been recognized to debate this bill.

**Mr. Maloway:** So this former minister has successfully finessed the issue over the years to blame it all on the PUB. I have indicated exactly what the

PUB is. The PUB is a group of Tory appointees. That is what it is, and so there is no political independence of the board. I mean, what is the minister and this government trying to sell the public on; somehow that the rates have now been taken away from the political process, have been taken away from the cabinet where they rested before and have now been put with some politically independent body. I mean, that is nonsense, that is not true. There is really no difference in how the process runs now than what it did before. I mean, you had the cabinet making the adjustment before and you have them doing it again essentially because they appoint the board.

When will the government recognize this fact that it is a Tory-appointed, highly politicized Public Utilities Board. Basically, it is treated as a retirement ground. It is a retirement ground for old Tory hacks, and unsuccessful Tory hacks. I mean, we are talking unsuccessful Tory hacks.

So in the context, Madam Speaker, I mean, as long as we recognize that is how the system operates and how the system operated, then we are okay. If the public is prepared to accept his method of operating as opposed to what we did, then I guess we have to accept that, as long as the public is aware of that.

Now, Madam Speaker, I wanted to deal with this issue of privatization, because it comes up time and again, and there is evidently a group of people in the private industry who are promoting privatization of the corporation. That question comes up every once in a while, not necessarily privatization but withdrawal from certain areas of the business, and that is something that the government will—

**Madam Speaker:** Order, please.

### Point of Order

**Mr. Cummings:** Madam Speaker, the member likes to reference all sorts of people involved in the delivery of service and those who are providing arbitrary advice on the corporation. I wonder if he would like to also acknowledge his advice through the brokers and agents association.

**Madam Speaker:** The honourable Minister of Natural Resources does not have a point of order.

\* \* \*

**Mr. Maloway:** I wanted to continue by giving some of the reasons why the government will have a tough row to hoe if it tried to privatize the corporation and, in fact, why it probably will not. Okay. I mean, I hate to give the minister a defence, but Sterling Lyon when he was the Premier did a study on privatization, and he concluded at the end of the day that it was not in the cards, was not a good idea.

There are some very solid reasons as to why the privatization is unlikely. One of the major reasons has to do with—and it is listed right in the annual statements of the Public Insurance Corporation. In fact, there are \$745-million worth of reasons why they will not privatize the corporation. That represents the par value of the securities of the assets of the corporation. It represents the premiums that are collected in advance to pay future claims. It represents monies that the corporation, if it were to withdraw from the business, would be, in fact, forfeiting to private insurance companies who would not be investing in Manitoba, who would be taking those premiums to Toronto and other areas where they would do—and invest them in more money-making areas of their involvement.

They would be investing in casinos in Atlantic City, for example, before they would invest \$220,000 in The Pas Health Complex incorporated. They would be investing in Las Vegas casinos. They would be investing in Bre-X shares before the fall of Bre-X, before they would invest in the \$4,682,000 in the Agassiz School Division. They would be investing in shopping malls in downtown Toronto, Madam Speaker, before they would be buying municipal bonds from the City of Brandon, lending the City of Brandon \$4,211,000.

Before the Town of Carberry would have \$261,000 in investments from MPIC, this money would be put

into something a little more attractive for an investment portfolio. They would not be investing in the province of Manitoba, necessarily, in the Manitoba bonds or Ontario or New Brunswick. The monies that the corporation has, that the Minister of Finance invests on behalf of the corporation, total \$740 million, and those funds are increasing every year.

In fact, Madam Speaker, it is the interest on those investments. Even though they may not carry the highest interest rates that you could imagine or that they could get in private hands, the fact of the matter is it is the interest that is received on those bonds that, in fact, helps to keep the rates down. So there is another reason. As the member for Transcona (Mr. Reid) indicated, the money is used in Manitoba to build our communities here. Rather than going outside the province, the interest on the investment stays here to help keep the rates down. So as wild as the Conservative Party might get at some its ideological think-tank sessions, the sobering reality the day after their big session will be these financial facts which are irrefutable, that even a Tory government under Sterling Lyon could not ignore, and a Tory government under this Premier (Mr. Filmon), at the end of the day, will not be able to ignore no matter what the private interests dictate as the ideologically correct route for a Conservative government to take.

Now, this, Madam Speaker, coupled with the potential for rates—

**Madam Speaker:** Order, please. When this matter is again before the House, the honourable member for Elmwood will have six minutes remaining, and as previously agreed, the bill will remain standing in the name of the honourable member for Transcona (Mr. Reid).

The hour being 12 noon, as previously agreed, this House is recessed and stands recessed until 1:30 p.m. this afternoon.

# LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, May 29, 1997

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