



Third Session - Thirty-Seventh Legislature

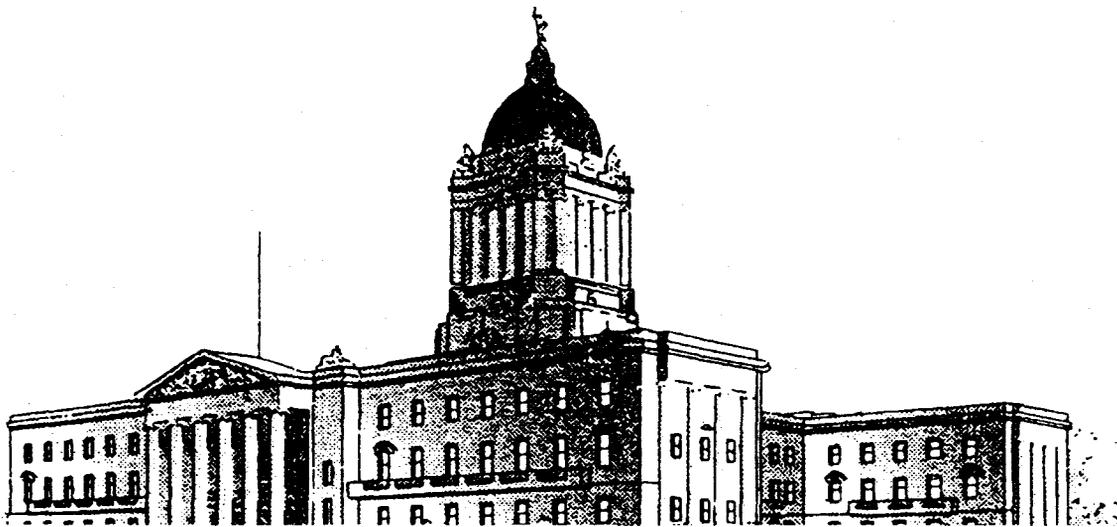
of the

**Legislative Assembly of Manitoba**

**DEBATES  
and  
PROCEEDINGS**

**Official Report  
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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Seventh Legislature**

<b>Member</b>	<b>Constituency</b>	<b>Political Affiliation</b>
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## LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, June 27, 2002

The House met at 10 a.m.

**Madam Clerk (Patricia Chaychuk):** It is my duty to inform the House that Mr. Speaker is unavoidably absent. Therefore, in accordance with the statutes, I would ask the Deputy Speaker to please take the Chair.

*Mr. Conrad Santos, Deputy Speaker, in the Chair*

### PRAYERS

### ORDERS OF THE DAY

### GOVERNMENT BUSINESS

**Hon. Gord Mackintosh (Government House Leader):** Mr. Deputy Speaker, would you canvass the House to determine if there is leave to have Bill 14 reported from the Standing Committee on Law Amendments.

**Mr. Deputy Speaker:** Is there leave for Bill 14 to be reported from committee?

**Some Honourable Members:** No.

**Mr. Deputy Speaker:** Leave has been denied.

**Mr. Mackintosh:** Mr. Deputy Speaker, would you please call bills in the following order: second readings, Bills 40 and 42; debate on second readings, Bills 19, 15 and 16.

### SECOND READINGS

#### Bill 40—The Highway Traffic Amendment Act

**Hon. Steve Ashton (Minister of Transportation and Government Services):** I move, seconded by the Minister of Industry, Trade and Mines (Ms. Mihychuk), that Bill 40, The Highway Traffic Amendment Act, be now read a second time and be referred to a committee of the House.

#### *Motion presented.*

**Mr. Ashton:** I am very pleased to be able to introduce this bill for second reading today. I want to say on the record that this is a continuing part of our safety and security agenda for Manitobans when it comes to our Highway Traffic Act.

We have already made a number of very significant changes. I think members of this House will acknowledge that, for example, by introducing graduated drivers' licensing, we have brought about one of the most significant, if not the most significant, overhauls in our licensing system in decades in this province. We brought in other legislation to deal with new technology in terms of enforcement of speeding and red light offences.

Mr. Deputy Speaker, what we have also done, I think, needs to be indicated quite clearly. We have taken a very tough stand in terms of drinking and driving as evidenced by the fact that we now require operators of heavy equipment on our highways to have a Class 5 licence. But, as much as we have put forward a safety agenda, there is much more to be done. This bill indeed does much more to enhance safety and security for Manitobans.

I want to start with what I believe is one of the great paradoxes that we are faced with, with our current Highway Traffic Act, and that is, Mr. Deputy Speaker, we have a number of provisions in our act that are, quite frankly, in terms of penalties, totally outdated. We are going to deal with that in this act.

When I say outdated, it has been evident, with a number of cases recently, where there were extenuating circumstances, aggravating circumstances, when the judges, in putting forward sanctions to motorists who had not been following the Highway Traffic Act, had violated the act, were found with limitations in terms of penalty provisions.

One of the first things we are doing, Mr. Deputy Speaker, is we are increasing the maximum fine level, in most cases, to \$2,000, up from \$500, and the terms of licence suspension of one year up from 30 days. Now I want to indicate on the record that this will not impact on the vast majority of offences. Those who are aware of the current system will know that there is a specific amount that is marked for specific offences under normal circumstances. This does not change that.

If you have seen, as we have, a case where a motorist was convicted of careless driving and was subject to a very minimal fine penalty when there was a death involved, this will allow judges to take more severe action. But we have not only done that in terms of basic penalty provisions, we have specifically identified a number of offences that we need to send a very strong message on and need to give our courts the ability to provide the appropriate sanctions.

I can tell you, Mr. Deputy Speaker, if members will look at the bill, they will see exactly what offences we are talking to and why this move, I believe, is long overdue.

For suspended driving, careless driving and failing to stop for a police officer, maximum fines will increase to \$5,000, with a maximum licence suspension of one year. For suspended driving or failing to stop for a police officer, a one-year period of imprisonment will also be available as a sentencing option.

That is important, Mr. Deputy Speaker, because I want to put it in context here. I was quite amazed, in our review of The Highway Traffic Act, to find out how little sanction there is for people who fail to stop for a police officer. We are talking, in this case, about people who are willfully failing to stop. We have seen too many cases where we have seen high-speed chases ensue, where our police are at great difficulty because they have to also be aware protocols are in place to protect public safety. I cannot think of a more serious offence than someone who knowingly refuses to stop for a police officer for whatever reason. That will, I believe, send a clear message. The \$5,000 fine, in this particular case, in particular, will send a clear message that it is not acceptable not to stop

for a police officer, and that is a very serious offence.

I mentioned about careless driving, the context there, but I also want to focus on suspended driving. One of the great difficulties with our current licensing system as it relates to suspended drivers is the fact, Mr. Deputy Speaker, that it is based on the premise that you should have a licence. It is important to have a licence, and that one of the most significant sanctions under The Highway Traffic Act is to remove somebody's licence. Well, the sad reality is that there are upwards, and this is our estimate, of 20 000 Manitobans driving today either without a licence or with a suspended licence. That is not acceptable.

\* (10:10)

Now what we are doing in the act is going to be part of a targeted strategy at those drivers. This is part of it, increasing the sanctions and making it clear that imprisonment is indeed an option, and I am one that believes that it is a last resort. I am one that believes that there are people in our prison system probably better dealt with through community sensing and other measures, but when people repeatedly flaunt our licensing system, when they drive as suspended drivers, when they continue to do that, it is clear that option has to be available to the courts to protect the public. But we are not only doing this in a legislative way.

I can tell you, Mr. Deputy Speaker, what we have done is we have improved the information that we can make available to the police to identify suspended drivers, and this I want to indicate on the record. I want to give credit to Chief Ewatski of the City of Winnipeg Police. This came about in a discussion with Chief Ewatski. It was amazing. Years ago, we used to provide lists of suspended drivers to our police authorities who are out on highway traffic patrol, but with the movement to computerized systems and the ability to punch in a licence number and a name and identify whether somebody is suspended or not, those lists were no longer provided.

Now that is great if you have stopped a driver and you check the licence and you find

out that driver is suspended, but what it does not do, it does not let our police authorities know in their communities who the suspended drivers are. What we have done is we have provided lists of suspended drivers to police who are involved in highway traffic patrol. I got a report from a small Manitoba community where this has already been in place. In that community, several suspended drivers have already been identified and have been charged for driving while suspended.

I want to put on the record that in the province of Manitoba, if you think you can drive with a suspended licence, you had better think again. Because of the initiatives of this Government, you are not only going to be subject to much greater sanctions, but we know who you are, and we will provide that information to the RCMP, the City of Winnipeg Police, the City of Brandon Police, any of our police forces. We will make sure they have the tools to do the job, and we will make it very clear it is not acceptable to drive without a licence in this province, period.

The combination of the two, stronger sanctions and more information being available to our police, I think, will make a difference. It is already making a difference when it comes to the information that is available to the police, and that is regardless of the reason for the suspension. But I think members of this House will understand this is a critical tool in moving ahead and dealing with drinking and driving, because the problem again is, when you get to the bottom line in terms of our licensing system, we do take away people's licences when they do violate The Highway Traffic Act.

Mr. Deputy Speaker, if they continue to drive, they flaunt that. In some cases, when they drive even without ever getting a licence, they flaunt our licensing system. I can think of no one that is a greater danger on the road than a driver who has had their licence suspended and continues to do so. We take this very seriously, and this Government, through this bill, is going to clearly be cracking down on suspended drivers who continue to drive.

Mr. Deputy Speaker, there are other safety provisions that are in this bill as well, and I want

to reference them as well. In terms of rules for the operation of aircraft on highways, we consulted with many people who do operate aircraft on the highways. We have now basically clarified the provisions of our Highway Traffic Act in dealing with this, and we do provide for exemptions for police operations, search and rescue, medical or mechanical emergency and forest fire fighting.

We are also looking for further exemptions for using in cases where there are safety criteria such as the provision of liability insurance, use of flag persons and posting of highway signs. This is a case where people were using the highways without clear ability to do so, putting themselves and others at risk.

We have consulted with the industry, and we think actually this will be beneficial to the industry because it will make it very clear in terms of, through permit, when they are indeed entitled to operate an aircraft on land, on a highway. It is important to recognize that there may be some situations where that is the case. There is also the option of the municipal roads that are available through the municipalities as well, but we have taken the opportunity to clarify the law and make it clear that it is not acceptable in standard practice to land aircraft on our highways, but there are reasonable exceptions that could be put in place and through permit where people have no other option, we will be able to provide that in a legal and in a clear way.

We have also, Mr. Deputy Speaker, brought in something that I think will also make a very significant difference on our highways system, something that the trucking industry has been working for for many years, and I think this is very critical. It is shipper liability legislation. This will allow for the liability for commercial trucking violations to be extended to shippers where it could be shown that they may have coerced the motor carrier to violate commercial vehicle safety legislation.

Whether it is a shipper that is forcing truckers to carry overweights or to carry goods that should not be carried in a certain way or someone that is getting commercial truckers to do any other kind of activity that is in violation of any

of our laws, this will help prevent that. No longer will truckers be at the mercy of this kind of pressure.

I want to indicate to members opposite, I think it is obvious the impact that this can have when you have truckers who are being forced into this, and the intent of this is to recognize that the vast majority of shippers do follow our laws, but where people think that they can routinely have overweights or unsafe loads or hazardous goods that are not declared on our trucks when our trucking system is very much dependent on its ability to get timely access, this will give a significant new dimension in the sense that shippers themselves, not just the truckers, will now be liable.

We are also extending the comprehensiveness of the commercial driver abstracts. A separate record of violations committed by commercial drivers will be established to provide employers with the driving history of employees or prospective employees. This is an important link, I believe, in the whole system as well. We are dealing with clarifying in terms of shippers liability, but it is also important that trucking firms have a clear indication of the reliability of their employees, the truckers themselves. That includes not only offences against a trucker's licence, but for example, hazardous goods. If a trucker has committed offences involving the transportation of hazardous goods, this commercial driver abstract will now identify that.

Mr. Deputy Speaker, that is an important part, once again, of our crackdown on those who would knowingly transport goods in an unsafe manner. This allows trucking firms to ensure that they know the full background of their employees. I think this will be something that most truckers will support as well, because the vast majority of truckers do have very good records for good driving, do have a professional attitude. What we are trying to do here is make sure that a very small percentage do not create difficulty for others.

We also brought in provisions which are very important in terms of security and are very much a part of the process we have had in place, after the terrible events of September 11 of last year. I just want to review for members of the

House that we have a process that we have established here in this province that is quite unique. We have worked with the Cabinet subcommittee, but we have also, I think, most importantly established an all-party committee on security. Mr. Deputy Speaker, that is very important because I think it sends a clear message when you have ministers of government representing the governing party, the Leader of the Opposition and the Leader of the Liberal Party working in co-operation on security in this province.

I want to say, Mr. Deputy Speaker, that a number of items have been identified and acted upon already, but one of the things that we are doing in this bill is, I believe, something that will potentially provide a very useful service to Manitobans. I think everybody is aware that, increasingly, people are being asked to have photo identification available. Not everybody in this province has photo identification. First of all, there are many seniors who may no longer have a driver's licence or have never had a driver's licence. There are many other Manitobans who, for other reasons, particularly physical disability, have not had the opportunity to obtain a driver's licence.

I want to say, Mr. Deputy Speaker, that puts them at grave difficulty in doing something as simple as flying, something that is a very important part of being able to move around. What is important, as well, to note is that what we are doing here today is giving the authority to issue photo ID cards that will allow Manitobans to have this form of ID. I want to stress this is voluntary ID, not compulsory ID, and it is subject to the evolution of the need for identification on two fronts. One is whether there is some other form of identification that may supersede the need for this. If we did have a national voluntary identification program that provided the security features and the convenience for members of the public and was accepted for security purposes, that might be an alternative to using our driver's licence system.

\* (10:20)

But what this does, Mr. Deputy Speaker, it also allows us to look at this as an option at the same time that we are working with our

colleagues in other jurisdictions in dealing with some of the security issues. I want to put on the record that, by passing the legislation, it does not necessarily mean that photo ID for non-drivers is imminent because what we have to do is have a balance of two factors. We have to make sure, on the one hand, that we are providing the convenience, which is the one factor, and that it is also going to be accepted, whether it be here in Canada or the United States, for security purposes. There is no point in issuing photo identification that either now or down the line is not going to be considered acceptable for security purposes.

I want to put on the record that there has been a great deal of work that has been done prior to September 11 and also post September 11 in ensuring the integrity of our system. Without getting into debate on Bill 2, I would point at some of the areas we have looked at there. One of the key areas is making sure that we have integrity of the type of identification that is needed to be able to get the photo identification, whether it be birth certificates or other records. I want to say, Mr. Deputy Speaker, that quite frankly it is very important to note that that is the key element here. This has to be secure documentation at the source and secure documentation at the end of the process.

The sad part to note is, if you look at the profile of a number of the terrorists of September 11, a number of them were able to obtain photo identification; they were able to obtain driver's licences, and I think that goes to the root of some of the difficulties that our friends in the U.S. are dealing with now in terms of security of documents, and I think it is important that we maintain that as well. We have to make sure that if we are going to have a Manitoba driver's licence available as a form of identification for security purposes, it has to have the integrity of security features and integrity of initial document identification to make that a reality. We do not want to set up a situation where we are providing a convenience but at the same time allowing for anyone, whether it be a terrorist or anyone else, to be able to abuse our licensing system to then use that identification in other areas.

So, Mr. Deputy Speaker, I think you can see the basic theme of this act: safety and security. I want to urge members to give this bill consideration but to recognize what we have done here. I mentioned about the fines. Many of the fines in the act were 25 years old. What this does is it allows courts in cases where there have been very clear violations over and above what might be called a more routine violation to take that action. It is not going to mean an increase in overall fines, but it will mean that a careless driver, where there are extenuating circumstances in place, where there is a death involved, as did occur in Brandon, the courts will now have a much greater ability to apply a fine.

But I really want to stress that probably the most important feature of this bill, I believe, is that crackdown on suspended drivers and unlicensed drivers in the province. I want to put this on the record, and I will say this in the House and I will say it publicly outside of the House, and that is we believe through this bill we are sending a clear message. If you are a suspended driver and you think you can drive on our roadways, our highways, you are dead wrong. You will not escape scrutiny. The police do have information on who are the suspended drivers. We know who you are, but over and above that, if you do drive and get caught, you will face much more significant penalties potentially. I say potentially because we are dealing with a court system, and there is the ability, of course, of judges to make these decisions, but I think it is absolutely long overdue that we now have fines of up to \$5,000, along with imprisonment.

I want to add again this includes failing to stop for a police officer. That is a very serious offence. I want to stress again that, if you look at the difficulty it imposes for people, our police, who face a difficult enough time as it is, but without the protection of this kind of sanction, I think you can see the degree to which it puts our police in grave difficulty in many situations. We want to, through this, put an end, I believe, you can maybe never end it totally, but put some greater sanction in place to help reduce some of the terrible dilemmas the police officers face every single day when someone attempts to escape apprehension.

If you talk to anybody in the police, they will tell you how many times this does happen, and if you are in populated areas, you have all the pressures, the protocols, not to have high-speed chases. Yet who is that person that is attempting to escape from being stopped by the police? It may start as a situation where it is a routine Highway Traffic Act offence, but in many cases, it has been shown that the individuals who are trying to flee the police can often be people that have far more significant criminal records, perhaps, on the run from the law.

So safety, security, a very modern series of changes to the act, I would suggest, Mr. Deputy Speaker, this will clearly establish that, when it comes to The Highway Traffic Act, when it comes to transportation generally, one of the hallmarks of this Government is safety.

With the introduction of this bill and another bill I will be introducing in a few moments, we believe we will have made more changes to safety and transportation, particularly on our highway system, than we have seen probably in decades. Some of the legislation we are bringing through is probably as significant, if not more significant, than probably the most significant changes that were made, some of which in the late eighties and nineties in terms of drinking and driving, perhaps going back to the 1980s in terms of seat belts and motorcycle helmets.

So this Government is taking on the challenge of safety, and that is a clear message. I know it is one on this bill that I am sure will be shared by all members of the Legislature because, if there is one thing that should cut across party lines, it should be the safety of the travelling public, the safety of our highways. That is what this bill is about.

Mr. Deputy Speaker, I urge all members of the House to support Bill 40. Thank you.

**Mr. David Faurichou (Portage la Prairie):** Mr. Deputy Speaker, I move, seconded by the honourable Member for Morris (Mr. Pitura), that debate be adjourned.

*Motion agreed to.*

\* (10:30)

## **Bill 42—The Off-Road Vehicles Amendment Act**

**Hon. Steve Ashton (Minister of Transportation and Government Services):** Mr. Deputy Speaker, I move, seconded by the Minister of Finance (Mr. Selinger), that Bill 42, The Off-Road Vehicles Amendment Act (Loi modifiant la Loi sur les véhicules à caractère non routier), be now read a second time and be referred to a committee of this House.

*Motion presented.*

**Mr. Ashton:** Mr. Deputy Speaker, I am very pleased to bring in some very significant amendments to The Off-Road Vehicles Act, which once again is in keeping with this Government's commitment to safety, in this case safety involving off-road vehicles.

There is some irony that I am introducing this bill today. I believe that the projected high is plus 33. We are at the end of June. The last thing I am sure that anyone in this House is probably thinking about right now is snowmobiling, but one of the reasons we are bringing in this legislation is to ensure we can have some significant new initiatives in place in terms of snowmobile safety prior to the next snowmobiling season.

I want to put this in context. I represent eight communities in which snowmobiling is not only an important recreational activity, but quite frankly, Mr. Deputy Speaker, it is also very important in the remote communities, in particular, as a way of life for trappers, for fishers, for hunters. It is a very important form of transportation even for basic transportation because of lack of roads. So I want to start from that. I also want to start from the premise that the vast majority of snowmobilers are very responsible people, the vast majority. It does not matter which region of the province, they view snowmobiling as an extension of any kind of motorized vehicles. They do not drink and ride. They drive carefully. They follow the rules of the trail. They do have a concern about safety when it comes to snowmobiling. But, and this is a very important, but, there is a small percentage who are continuing to drink and ride. There is a small percentage who are continuing to ride recklessly, too fast, who are creating accidents, who are

injuring themselves and others, and far too many people were dying needlessly.

When I started the review of The Off-Road Vehicles Amendment Act in terms of snowmobile safety over a year ago, this was at a time when we had 12 deaths in the province. Not all were deaths that were caused by fault. I am not making any sweeping statement that all of the deaths were in that category, but quite frankly, when I saw the circumstances and saw the gaps in our legislation it became clear that some, that many of these deaths, could have been prevented. Even if we could prevent one death, that was enough. Now you will find that there will be a fluctuation from year to year. This year there was a very mild winter till after Christmas. I can tell you it extended somewhat later this year. There was snowmobile testing in Thompson just a matter of weeks ago. Hard to believe on a day like this.

Regardless of the levels of injury and fatality in any given year, the one thing that the snowmobile working group identified was the fact that there can be things that will be done that can make a difference. This was a group that had broad representation, including from Snoman. I want to particularly commend their participation. We have extended the group's mandate, in particular to deal with some of the recommendations that were in the report that deals specifically with northern and remote areas, recognizing that once again snowmobiling is an important part of the way of life, and it is in a very different circumstance perhaps than recreational snowmobiling.

But what we have done, we have extended that working group, and I have asked, in particular, that they develop a comprehensive strategy in terms of training because the recommendations of the working group were dealing with immediate items for action and did not deal specifically with training. I think that is something that we have to deal with, and I have asked specifically that we look at it in terms of our schools.

Mr. Deputy Speaker, this may come out of my perspective, coming from a northern community, but I believe that schools should be about a lot of things. We expect a lot from our schools, but one thing they should be about is

teaching safety to our kids and developing a culture of safety. We have seen a number of cases recently where there is clear need to better use our schools.

I digress just for one moment, because it does relate to snowmobile safety. There is a very good program that deals with train safety for kids in schools, the dangers of crossing at uncrossed train crosses, of trespassing on rail property. We have seen some terrible accidents recently, very terrible accidents. I had talked to one of the friends of the family and they said there is a program. She did not know about it until she actually talked to Bev Desjarlais, my member of Parliament, the NDP transportation critic.

The problem is, unless you know about the program and unless it is in the schools, it is not necessarily going to be offered. When it is offered in many cases it is often not offered at the time of year and in the way that it should, involving parents. Mr. Deputy Speaker, I am a big believer in empowering parents, working with schools and kids to get across messages of safety.

I think everyone here will recall at some point in time, certainly I do, emphasis on bicycle safety. There has been a long-standing tradition in terms of that, but I can tell you, it is not just about bicycle or traffic safety. It does include in many communities, I believe, the need to have much greater attention on safety in regard to snowmobiles, because that is where you start. You start with a culture of safety with young people and you go from there.

I will just digress for one other moment to use another example where that culture of safety can make a difference. My son, Alexander, just graduated from R. D. Parker Collegiate yesterday. I think back on the difference between when I graduated from R. D. Parker Collegiate. When he graduated, he got in basically as I was leaving to come back to the Legislature today. You can get some sense of how late that was, but he was at safe-grad. Nobody even questioned that.

When I graduated from high school there was a certain lake that we all went to or a certain gravel pit. I think anybody from rural Manitoba

will know about certain lakes and certain gravel pits. I see some people that have been there, done that, as they say. But you know what happened? People took unnecessary risks. We all know that. Every year there would be tragic accidents of people that went to celebrate at graduation, drank too much, and then ended up in a terrible, terrible accident afterwards.

You know what I find now is with kids? When it comes to drinking and driving, they have that culture of safety. It made a real difference for this graduating class. I know I have mentioned this in the past in relation to graduated drivers' licensing, the tragic death of Steven Herman, who was killed a number of years ago. He would have graduated this year. He went to the same school as my son did, Riverside School, ironically was involved with Teens Against Drunk Driving. Both of my kids were involved in that at the same time. It was a very emotional moment for the family when they presented the scholarship that they provide now in Steven's memory, a very emotional time for Ken and, I know, Steven's mother.

But, you know, kids now have a clear identification that that is something that you have to work against—a culture of safety. You know, we have not got that culture of safety in our schools on snowmobiles. We do not have it. That is why I have asked this committee to try and learn from the successes of other areas and get that information into the schools, particularly in rural and northern areas where snowmobiles are a part of the way of life.

But, Mr. Deputy Speaker, that is talking about some of the items that are not in the report. I want to talk about what is in the report and what we are acting on in this bill. What we did is we took the report, which indicated a number of recommendations, some of which needed further consultation and development, particularly given the fact that due to time constraints there was no significant rural and northern involvement. What we have done is we have made sure we have established that. MKO and NACC, in particular, are represented now on the working group. It is I think very important to get the northern perspective and make sure that our legislation deals with that.

\* (10:40)

But there are a number of items that are stand-alone, and we are going to be dealing with them in this bill.

I want to start with identification decals for snowmobiles. Now, Mr. Deputy Speaker, for a number of years, law enforcement officers have experienced significant difficulty in identifying and apprehending snowmobile operators who violate the law.

The problem is that the current plate—anybody who operates a snowmobile will know this—is placed in a position that inhibits its visibility. It is often covered by snow or by the boot of the rider, so the problem is if you get an offender, you cannot identify them. I asked the working group to look at this. They recommended that snowmobile operators be required to affix identification decals. Other jurisdictions, including British Columbia and Ontario, have currently done that.

What is important to note here, Mr. Deputy Speaker, is that manufacturers now, because of this requirement not only here in Canada but in the United States, are working on the construction of snowmobiles that will allow for easy application of a decal. I know that is one of the concerns to snowmobilers, and this is enabling legislation. We will work with snowmobilers, Snoman in particular on this, but this will allow us, particularly if there is this move by manufacturers, to add that decal in place for identification.

That is the first one. The second is I think very significant, Mr. Deputy Speaker, imprudent driving. We have in this legislation brought in an offence of driving imprudently. Now, this is something that law enforcement officers have said is probably the most relevant sanction that can be applied to off-road situations, because it incorporates not only speeding but also what is reasonable for the conditions. This is applicable with or without speed limits, and that is very important to note because in a moment I will be referring to our strategy on speed limits.

I think if you reflect on this, you will reflect on the kind of situation it would apply to. I can

tell you about a father of a snowmobiler, a young adult, who was involved in a collision outside of Thompson recently, who approached me at a community event and asked if we were going to bring in any legislation to improve sanctions involving negligent operation of snowmobiles, and it is with great pleasure that I outline the circumstances here, because what he said is that that would have made a real difference in his son's case, where his son was quite literally cut off by another snowmobiler and they ended up with quite a severe collision. But the police found that it was virtually impossible to lay a charge; a charge of what? With imprudent driving, there would have been a charge that would have been available to the police in this situation that would have made a real difference.

That happens far too frequently, the small percentage of people who are reckless, making life difficult and unsafe for the vast majority of snowmobilers who do operate snowmobiles very safely. It occurs on trails and off trails. It occurs in all different circumstances, and that is what this offence will deal with. Imprudent driving will allow the RCMP to lay charges for people who exhibit reckless behaviour under a variety of circumstances.

Mr. Deputy Speaker, we are also bringing in the ability to prescribe speed limits. We looked at the situation in other jurisdictions. This is a recommendation of the report as well, to proceed on this. We now basically want to give local authorities the ability to establish speed limits, local traffic authorities. In this case, I think it is obvious why. One size does not fit all Manitoba communities, all trails, all terrain. There are quite different circumstances in Westman versus Eastman, remote areas versus agricultural areas. What this will do is it will empower traffic authorities to prescribe speed limits within areas of their jurisdictions, both on road and off road.

We are not proposing to establish speed limits for snowmobiles operating on Crown land at this time. One of the basic theories behind this, of course, is that by allowing the municipalities to have this judgment, they will then be able to assess when and where speed limits are applicable. I think it is obvious to most people who have looked at this that probably the most

obvious circumstances are where you are in proximity to a settled area, where you have trails, for example.

It is important to note that currently the groomed trail system has recommended speed limits. There are no mandatory speed limits, and this will allow, whether it be trails or other areas, the local authority, the municipality, to set a speed limit that is appropriate for their own area.

That, I think, is a huge step forward, but it maintains the flexibility you need. There is a danger, by the way, and I think anybody here is aware of any kind of setting of speed limits, whether it be on or off highways, there is a danger that could be seen as a mandated acceptable limit or even a minimum. It is very important not to have a blanket speed limit and have people assume, if the speed limit is 100 kilometres an hour in an area, that in all circumstances 100 kilometres an hour is appropriate. It is not, and that is why having municipal authorities have that ability is extremely critical.

We are also moving, Mr. Deputy Speaker, to make it clear in terms of the operation of off-road vehicles, that the operation of off-road vehicles on sidewalks is prohibited. Now, we know this happens. There was a very tragic accident in my own community, a young adult, very well known in the community who lost his life by attempting to use the sidewalk to cross the bridge. Tragically he drowned in the ensuing situation.

Currently, Mr. Deputy Speaker, the situation is not clear, and we, through this act, will make it clear that the operation on sidewalks will improve safety for both snowmobile operators and the public. There are certain exceptions being identified to allow off-road vehicles to cross sidewalks when situations warrant it to cross sidewalks, but I think we can understand that mixing motorized traffic of any kind and pedestrian traffic is, in and of itself, asking for trouble. It is particularly difficult when the sidewalks themselves are constructed with pedestrians in mind, not for motorized traffic. That is a very important provision.

Mr. Deputy Speaker, we are also harmonizing penalty provisions. This will ensure

symmetry between the penal provisions of The Off-Road Vehicles Act and The Highway Traffic Act. The penalties, by the way, have not been reviewed since 1988. Some of them are inappropriately low. For example, the penalty for careless driving provides for a maximum fine of \$100. Mr. Deputy Speaker, that is not acceptable, not appropriate. We believe it is important, as we have done in The Highway Traffic Act, to recognize the importance of providing additional sanction, where appropriate, to be assigned. We proposed increased sanctions for careless driving, for example, in The Highway Traffic Act. We are doing the same thing here. We are increasing the sanctions. Generally, this will, I think, make a real difference.

Mr. Deputy Speaker, I think you can see the themes of the act again. We are now going to put greater sanctions in place that will allow the police to be able to crack down on the small irresponsible percentage of snowmobilers and ensure the safety to the vast majority of snowmobilers who see snowmobiling as a safe, enjoyable recreation, a family recreation for many people or in the case of our northern communities and many of our farm communities, as well, see snowmobiles as being an important part of farming activities, trapping, hunting, fishing. That is important.

I want to put on the record again, and this is applicable as it is to The Highway Traffic Act, that we do not view these sanctions as being something that will be brought in, left on the books and left there as some sort of academic exercise. We want to send a clear message to snowmobilers in the province that, if you operate your vehicle safely, we are going to give you great assurance that others are doing the same thing, but if you are one of the irresponsible minority that continues to drink and ride, that drives at excessive speeds, that drives in an imprudent way that puts yourself and others at risk, we are going to have in place sanctions that are far greater than we have currently that will allow us to make sure that you will receive the penalty you should receive for that kind of behaviour. The end result is clear. We want to reduce the snowmobile death rate in this province. We do not want to see upwards of a dozen people in a given year dying, many of

them in preventable accidents, dying. We want to have that action there.

Once again, I use this phrase. I will use it again. It is about culture of safety. We are combining here a mixture of tougher sanctions, clearer legislative authority, and, as I said, the ongoing process. We are going to continue, in particular, by focussing in on training, because you need a combination of both. You need the sanctions, but you need to have the preventative benefits of training that is available.

I want to say, ironic as it is to stand here today when it is plus 33 and we are at the end of June, this is Manitoba. It will not be long before many thousands, tens of thousands of Manitobans will be out again on their snowmobiles. We are asking that this legislation be brought in so that prior to the next snowmobiling season, which is only a few short months off, especially if you come from Thompson, like I do, we want to make sure that this in place so that our police authorities can work with us and ensure that much more safety on our trails. That is our goal, reduction of needless deaths and injuries. That is what this bill does. I strongly encourage each and every member of the House to support Bill 42. Thank you.

**Mr. David Faurshou (Portage la Prairie):** Mr. Deputy Speaker, I move, seconded by the honourable Member for Steinbach (Mr. Jim Penner), that debate be adjourned.

*Motion agreed to.*

\* (10:50)

## DEBATE ON SECOND READINGS

### Bill 19—The Mines and Minerals Amendment Act

**Mr. Deputy Speaker:** Resumption of debate on second reading on Bill 19, standing in the name of the honourable Member for Steinbach.

**Mr. Jim Penner (Steinbach):** I would like to put a few words on the record in regard to Bill 19. This is The Mines and Minerals Amendment Act. I believe that it was significant that the discussion on this bill was initiated actually about

four years ago by then Minister David Newman. The committees and interested parties have been meeting in discussion on this bill since then. In fact, I have been in touch with the Mining Association of Manitoba. They have said that they have been in constant meetings in regard to Bill 19. We notice that there are other stakeholders. Hudson's Bay Mining, Inco, TVX Gold, Tantalum Mining and Harmony Gold have all had something to say about the changes being brought forward in this bill.

What this bill does, Mr. Deputy Speaker, it reclassifies precious stones as minerals. Now, we still want to think of diamonds as diamonds, but the Province will now think of them as minerals. The reason for this change in the definition of what is minerals is to satisfy the concerns of the diamond prospectors and diamond miners.

I am told from John Lee, the Prospectors Association, that the people doing research in the province in regard to diamonds and precious minerals do not feel adequately protected under the previous legislation and that an amendment is necessary to the previous legislation. One of the reasons for this is that the diamond sector is worried that if they are working in a mine shaft looking for diamonds and they find diamonds that at that time someone could start searching for diamonds in the quarry at ground level. This means that their research would have been compromised and they would be sharing the property with another company or another prospector. This does not seem logical, since when diamonds are found either at the surface or in the mine, they are usually found then in both places. So staking a claim for mining will now be above ground and the mine below ground.

Secondly, Mr. Deputy Speaker, this bill replaces the use of permits. The permits were given to people when they went to do research or to do exploring for materials that could be mined. The permits will be replaced by a new item which they will call licences. To some extent this is just tampering, but, in fact, the licences may, and if I could see one, it may be simpler than the use of permits. Otherwise, it is, by and large, this part of the changing from permits to licences might just be some terminological change.

We should notice, Mr. Deputy Speaker, that the mining industry in Manitoba is the second-largest industry in Manitoba. It is second only to agriculture. Now it is true that in the far southern portions of the province, we are not very experienced when it comes to the activities of mining. But at the same time, there is a tremendous spin-off from mining and we should be very careful with what we do in regard to the laws involving mining.

Mr. Deputy Speaker, for every million-dollars worth of material removed from the ground, the ore or metal, about \$800,000 stays in the province, and that is the spin-off, that is the benefit to the province and to the economy. So mining is a big issue in Manitoba.

But looking at Budget 2002, in regard to mining, I am concerned about this Bill 19 because we are supposed to deal with the principles, the causes and effects. Mr. Deputy Speaker, it says the government of the day has produced an article in their Budget book that says that the total value of mineral production in Manitoba declined 15.1 percent in 2001. You know, when your second-biggest industry declines 15 percent, it is down now to just over one billion, that is a major drop in mining. I am just wondering if our policies are really weak, and we are not encouraging the mining industry.

The other thing that we noticed, the value of nickel production declined 26.4 percent, Mr. Deputy Speaker. Also, in the government of the day, it says that in 2001, Manitoba's gold mining industry suffered the loss of the Harmony Gold Mine in Bissett. I have seen that mine and it is now closed. We also noticed that the Hudson's Bay Mining and Smelting Company is going to close the Ruttan Mine in Leaf Rapids next week.

So, Mr. Deputy Speaker, just looking at the report in the Budget book, I am feeling that maybe we are not doing enough to encourage mining in the province of Manitoba.

However, Mr. Deputy Speaker, there are some favourable changes. We noticed that the airborne survey licence is no longer required. Doing airborne surveys previously required permission and a licence, and there was a system of reporting back the findings. Now, to some

extent, the system of reporting back the findings is being altered. This is being altered because of the protection of private information. However, dates are being set on it so that it can, eventually, become public information. But now, if someone wants to be prospecting by air, all they will have to do is inform the mining office that they are going to do it, and eventually they will also have to report back on their findings. No survey licence will be required. There are also corrections and provisions in Bill 19 that allow for correcting the errors that were made by previous prospectors in regard to staking.

Mr. Deputy Speaker, there is a concern sometimes in the size of prospecting capital and prospecting companies. For example, the majority of prospectors are small organizations or individuals, especially among the Aboriginals in parts of Manitoba. And some of the prospecting is being done by huge conglomerates, international companies. The concern of the small prospector is access to the records and findings of the big companies. The concern of the big companies is privacy of the information, and to keep their findings secret from the smaller prospectors.

\* (11:00)

So an agreement has been established now in Bill 19 that will allow the information to be kept confidential for five years from the time it was discovered. That five years can be renewed for an additional five years with evidence that it was necessary to do so to complete the prospecting of the area and for a further five years for up to fifteen years if a hearing is held. So, in any event, the interests of a small prospector are being addressed and the interests of a large prospector are being addressed, and we will only know I guess some years from now whether this was a good move or whether it discouraged prospecting in the province.

Now, Mr. Deputy Speaker, the principle of the bill is to simplify the licensing and the exploration of minerals, the licensing of prospectors and the exploration of minerals in the province and probably it was supposed to encourage the mining in the province, but we see some activities relating to this that certainly do not reinforce that principle of the bill.

Mr. Deputy Speaker, I am going to just point out a letter that was sent on April 25. That is just after the Budget date of April 22. April 25, a letter went out to the divisional staff of mining recordings, the recording offices, and it says that the decision is to close the Mining Recording Office in The Pas.

As you know, the Mining Recording Office in The Pas was established prior to 1930. It was then called the Dominion Land Office, and that was before responsibility for natural resources was transferred to the province. The Pas has had a long and proud history of service to the mining and exploration sector. Now, while the services offered in The Pas are highly regarded by clients who use this office, it was determined that consolidation of services and functions between Flin Flon and Winnipeg could continue effectively and support this client group. So the intent is to continue to provide core mining recording functions through Flin Flon, as well as access to assessments and old claim files.

This letter was a devastating blow to the mining industry because the main stakeholders do not agree that this is a proper move. If Bill 19 was supposed to simplify and reclassify certain minerals and simplify process, they have turned around and violated the principle of Bill 19 by closing the office in The Pas and putting people out of work who have been there for a very, very long time. Some of these people have had a long history of working for the province. In fact, if you add together the three senior people in The Pas mining office, would you believe it, they represent 75 years of service. How would you feel if you were one of those dedicated servants in a mining office and suddenly you got the boot?

I do not understand the logic because it was the largest and busiest mining office in the province, and it is the most respected. It is the jumping-off point from which supplies are obtained for the prospectors, and it has the best transportation access, the best infrastructure for transportation. So it is very difficult for us to understand.

I talked to the mayor, Gary Hopper, in The Pas, and he is devastated by the fact. You know, The Pas needs encouragement, The Pas needs

development, The Pas needs employment, and we are losing some employment in the mines, but here we have a government of the day that just wham, bam, slam, out you are, you know, just like that. In fact, there is a building in The Pas that was built at a cost of a million dollars that houses the core samples. Where do you think that is going? It is going to rot there. I mean, we are just walking away from that office, from the reputation of this office. These people were dedicated, hardworking civil servants. They were efficient, and they were respected by Saskatchewan. They were even used by some of the prospectors in Saskatchewan.

So, Mr. Deputy Speaker, it is kind of an odd thing that on one hand in Bill 19, we are saying let us make mining more attractive to prospectors in Manitoba; then, on the other hand, we violate that principle by slamming the door shut on a valuable group of civil servants who have done an exemplary job of running that mining recording office for such a long time. As I said, it has been there before 1930.

All of a sudden, what do you think W. Bruce Dunlop Limited thinks about this closure? W. Bruce Dunlop Limited has had an office in The Pas area for over 36 years. Now he says: I cannot stand idly by while for the most part unknowledgeable people attempt to destroy my ability to make a living. That is what he said in his letter: unknowledgeable people attempt to destroy my ability to make a living.

We should not treat the North this way. The North is such a vital part of our province. We should be encouraging development of the North and we should be supporting the development. You know, we have cut the budget back 6 percent on mining. The thing that really bothers me is that we take a fair amount of money in from mining taxes and from mining royalties. We should be spending that money that is coming in on encouraging this second largest industry in the province of Manitoba.

W. Bruce Dunlop has made many contributions to Manitoba mining, up to and including that ultimate creator of new wealth for all society to share in. Producing mines is creating new wealth for this province. The ongoing controversy seems to take little account of the

individuals and companies who are satisfied with things the way they are but as usual caters to the loudmouths whose real motives are seldom disclosed.

Mr. Deputy Speaker, I read that quote from Mr. Bruce Dunlop. It is not words out of my mouth. It is definitely a concern for people in The Pas. What is the motivation behind closing this very important, busiest mining recording office? I do not see the logic, I do not understand the motivation. It says that the real motives are seldom disclosed. I think the real motives will ultimately come out, but it is a shame to have to close that office.

The point of his letter is to strongly protest any attempts to curtail services presently available in The Pas and thus disenfranchise myself and the many users of The Pas mining recording office. If the object is to make myself and that vast body of people who have come to depend on The Pas mining recording office less effective in our job, that is, in finding mines for the benefit of all Manitobans, you will succeed in doing this.

So the mining industry is saying this is a blow that we do not need. We already have problems with worldwide prices of minerals. Prices of minerals have dropped and demand for minerals has dropped. As a result we have loss in revenue. We do not need antagonism on top of that.

Mr. Dunlop says that having recently staked some claims in the Swan River area, I can attest to the fact that Manitoba mining is moving in an easterly and southerly direction, to which The Pas is central and will become more important as time goes on. You know what, all northern rail traffic and much of the highway traffic is through The Pas.

Many northern explorationists who live in rail-only-access communities know that they can take the train down to The Pas, purchase supplies, visit the mining recorder to purchase claim tags, maps, to look up assessment records, et cetera. The mining recorder's office is less than 100 metres from the train station. There is no passenger rail service to Flin Flon, and the fact is it is out of the way. That makes it

impractical at a time when northern and Aboriginal communities are being encouraged to participate in Manitoba mining.

Mr. Deputy Speaker, for anyone to claim that Flin Flon is the centre of exploration activity is the height of arrogance or an inability to read a mining claim map. Again, those are not my words, those are the words of the industry that depends on the mining office in The Pas. The prospectors and companies alike have come to know that they can rely on The Pas office for prompt, efficient service and advice. So Mr. Dunlop says that on behalf of all true northern explorationists, except for Flin Flon, please restore the position of mining recorder to The Pas. Do not remove any records or assessment files. There are mines to be found and old claim files and records. Enhance the services available at The Pas.

\* (11:10)

So, we can go to other industries and companies. Mr. William S. Ferreira has written the director of mines and says that this letter is to register my support for, one, the continuation of having The Pas recording office maintain a duplicate copy of the assessment reports, and, two, the continuation of having The Pas recording office maintain all cancelled claim files. He says: It is my opinion that having a duplicate hard copy of the assessment reports helps ensure that valuable, original documents are kept intact. That provides back-up. He says: I use the cancelled claim files on a regular basis and find them essential in preparing exploration histories for properties that I am trying to sell. I also find them essential in conducting due diligence on properties.

In general, he says, I support the activities that are carried out currently in The Pas recording office. I am very pleased with the level of service that I have received from that office through the years and have found their accuracy to exceed that of the Winnipeg office. I strongly support the continuation of the provision of their services. That is a senior geologist, Mr. William S. Ferreira, with Canmine Resources Corporation, Mr. Deputy Speaker.

In a second letter which was sent in April 26, after the decision was made in the Budget to close The Pas, Mr. Ferreira again

writes the director of Mines branch. He says: I am disappointed that Manitoba Industry, Trade and Mines plans to close The Pas mining recording office this summer. I urge you to reconsider this decision and have the office remain open for business. Over the years I have utilized claim maps, recording of mining claims, assessment files, and the core storage facility at Great Lake. I speak regularly with Mary, one of the staff there, and her staff about claim staking matters. I have found them to be most helpful and friendly. I currently have underlying agreements on about 20 stake claims in The Pas mining district. I am concerned about the general decline of the mining industry in Manitoba. Falconbridge Limited announced the closure of the Winnipeg exploration office on April 26. The Ruttan Mine is scheduled to close this summer. Other concerns like the Hayes Heritage River proposal are seriously threatening diamond exploration in the province. These planned closures, if acted upon, will be just one more reason why the level of mining activity in Manitoba could significantly decrease.

When we produce a bill like Bill 19, which is supposed to simplify and encourage mining, that is the front face of the Government of today. But they turn around, and what do they do on the back side? They slam the industry by closing such an important facility as they have in The Pas.

The chief geologist of New Britannia Mine, William Lewis, writes: We are responding to the suggestion that The Pas mining recorder office only requires microfiche. The files contained in The Pas office constitute a major mining and prospecting resource in the North. A number of people in the North use the reports and cancelled claim files for research purposes. The loss of hard copies is devastating and in addition to the loss of access to the resource in the North will mean either a trip to Winnipeg or a long delay while waiting for information. Any delay in obtaining information puts the average prospector in the North at a disadvantage. We would strongly urge you to reconsider any move that eliminates this northern resource. That was a letter to the director of Industry, Trade and Mines.

There have been letters from The Pas recording office to the Minister of Industry,

Trade and Mines (Ms. Mihychuk) which state: With all due respect, you would be taking a step backward by archiving cancelled claim files and the non-confidential assessment reports. In all instances, this only helps those firms that can afford to have extensive archives and libraries. Prospectors with limited formal education have been very successful finding mineral deposits in Manitoba. To have an inclusive and fair process, that prospectors need access to these records, the resources at his disposal to call up archival data are limited and has a limited chance for success.

Mr. Deputy Speaker, the argument is that we should be sensitive to the needs of smaller prospectors who are very often our own First Nations people. We have letters from the W. S. Ferreira Limited in which they conclude: I strongly support the continuation of the provision of their services. That is in regard to the people that are running the office in The Pas.

Mr. Deputy Speaker, again, there is presently a million-dollar diamond drill core storage facility and viewing area located at Grace Lake. This was built at taxpayers' expense, to be used in conjunction with assessment files, which can, at this point, be accessed at The Pas recording office.

So, Mr. Deputy Speaker, we see that the sensitivity to the civil servants, the sensitivity to the industry is really lacking, and furthermore, when I met with the mining people, they said: You know, Bill 19 may not be all that innocuous. There are some provisions in there which we must support, in that it is a bit of a streamlining process, but at the same time, a bill is being harboured which, under the name of workplace safety and health, which has a continuation and expansion of punishment of operators of mines, owners of mines and so on, when there is an accident. This is going to, again, discourage mining.

Mr. Deputy Speaker, I want to let you know that this workplace safety and health bill that involves mining regulation was introduced in the province of British Columbia some years ago. There was an exodus of mining industry as a result of that bill that is coming forward in this House. I want to remind you that that workplace safety and health bill was introduced by the

same civil servant in the province of Saskatchewan, and they had the wisdom, last year, to pull the bill. It did not receive Royal Assent, and it did not pass. The government itself started to look at what happened in B.C. So they said: workplace, safety and health, which is probably the same civil servant that did it in B.C., that did it in Saskatchewan, and he is now working here. That is why we have this workplace safety and health bill coming forward to screw the mining industry.

Mr. Deputy Speaker, I would say that the safety record has increased dramatically. I have seen the charts and graphs of accidents, and mining is now one of the safest industries in the province. The most dangerous industry is agriculture. You look at the accidents per capita, you look at the deaths per capita in the different industries, mining is just as safe as working at K-Mart. That is how safe mining is today.

But this silly law, Mr. Deputy Speaker, you will not believe this. I am going to tell you a little story. They have made a law about seat belts on machinery in the mine. You know, every piece of equipment has to have a seat belt. You know what is really funny? Some of those pieces of equipment do not have any seats. They are run by remote control. But they have a seat belt. That is how innocuous, that is how ridiculous these bills get, because the people who are making the bills are probably—*[interjection]* Yes, they are doing the best they can, but they do not have the background. They do not have the knowledge, and the Government does not have the nerve to go and check these things out and to study them.

\* (11:20)

So, as a result, we are damaging the industry on one side with foolish regulations and with closing The Pas office, and the other side, Bill 19, I guess I could go on for hours. It has just got to be something that we need to start looking at as legislators to pay attention to the second largest industry in Manitoba, because this kind of haphazard, shooting-from-the-hip legislation is not going to do this province any good in the long run. We are just going to have to become more responsible as legislators. Then again, I guess the people of The Pas really feel offended.

I know when talking to the mayor, he says there is nobody here who feels that justice is being done in The Pas with moving that office. But Bill 19, supposedly the principles of mining are supposed to be modernized, streamlined, and we are supposed to support the industry and we are supposed to bring more of the industry into the province. As a matter of fact, the industry declined last year by 15 percent in '91 and 2001.

So, Mr. Deputy Speaker, I notice from the clippings that the minister from Flin Flon wants to see the office moved to Flin Flon, and, of course, there must be some kind of a deal that has been made. We do not know what the deal is. First of all, there was an article just before 1990 in The Pas paper where Mr. Storie says that the move to Flin Flon is merely a rumour. It is merely a rumour. The article goes on to say that The Pas had better air service and transportation than other centres and at least five full-time jobs would be affected in a move. A great many people come to The Pas for fuel, food and other supplies. They come quietly in and quietly out. If the office moved, this would be a great financial loss.

Again, like Mr. Dunlop at that time said—how many years, 36 years he has been there—I probably had to spend in this area about \$15 million this year in working with the mines. So that revenue, of course, if you close the mining office, there is a chain reaction, Mr. Deputy Speaker. It is going to have all kinds of spin-off effects because obviously The Pas is not being considered as a viable operation when, in fact, it is the busiest and has the most senior employees and has the most core samples.

So we do not understand the logic behind some of these moves, and we again find that the broken promises—there was actually a promise made a year or two ago when the question came up again that the office would not be closed. At the same time, they must have been planning the closure because we find a record of work being done four years ago. So we feel that somebody probably knew that the office was going to be closed but, in fact, would not reveal it and said that the office would not be closed.

Mr. Deputy Speaker, The Mines and Minerals Act that we are dealing with today has been

in effect since April of '92. Over the years, it has become apparent that the act and accompanying regulations were in need of review. The goals of the review were to simply and clarify some provisions of the act and regulations, not to fire the people in The Pas. The goals of the review were to optimize opportunities for exploration and development of minerals in Manitoba. If that is the goal of Bill 19, why do we not encourage the office in The Pas and rather expand it than move it to Flin Flon.

Mr. Deputy Speaker, the goals of the review were to strengthen and enhance security of tenure in Manitoba. I think this bill does some of that, and for that reason we will need to support this bill. But it is the principles involved, like the principles and the goals, you know, to reduce uncertainty and create a more transparent business regime in the mining industry. That is a wonderful goal, and I have to be encouraged by that and support that.

So what happened, Mr. Deputy Speaker, is that in 1999 a 16-member committee called Mines Legislation Review Committee, MLRC, was struck to review the act and the accompanying regulations. The committee was co-chaired by one industry member and one government member. The members of the committee represented a variety of views, interests and prospectus, and each agreed to participate as representatives of their association or organization or group. Then a separate working group made up of 10 government members was formed to review the proposals put forth by MLRC. That was back in 1999. So, over a period of eight months, the committee met six times to propose amendments to the act and regulations and discuss the proposals.

The proposals presented in this document will help the mining and exploration industry conduct business in Manitoba. This document, I think, does do some streamlining. In that first reading we were wondering how the principle of this document would be put forward to exploit mining in the province to make mining more successful, and to encourage mining when, in fact, the province's taxes are the highest west of Québec, when our people do not encourage mining by leaving the recording office which they favour. We subsequently are dealing in two

directions here. I am concerned that we do some rethinking of the decisions that have been made so that we will really encourage the mining in the province.

We should apologize for the broken promise, that we said we would not close the office in The Pas. In fact, we should just leave it open. People like Bruce Dunlop, Canmine, New Britannia would all be very grateful if that mining recording office was left open. We are encouraged by things like the proposal that the airborne survey licence be eliminated. In its place the province will require that they notify the mining office—I do not know which mining office now—to notify the recorder before starting the survey, and then identify the period of the survey so they know what the terms are for the confidentiality of the airborne survey.

Whether it is flown over unencumbered Crown land or property held by the project proponent, they will have five years after the date of the commencement of the survey, with two five-year extensions. Mr. Deputy Speaker, the first extension will be granted automatically if notification is given to the director before the first five-year period is up. The second extension will be granted if the person who performed the survey can show just cause for the extension. As I mentioned before, if the confidentiality is important to the advancement of the project or to protect the investment, then a total of 15 years could be held as confidential.

There is some concern that the small prospectors will not have access as they have had in the past to some of the core samples and to the information that has been made available and is on file at the recording office.

So, Mr. Deputy Speaker, I would like to see this bill go to committee. I would ask that we do that at this time.

**Mr. Deputy Speaker:** Is the House ready for the question?

**Some Honourable Members:** Question.

**Mr. Deputy Speaker:** The question before the House is the second reading of Bill 19. Is it the

pleasure of the House to adopt the motion?  
*[Agreed]*

\* (11:30)

### **Bill 15—The Fatal Accidents Amendment Act**

**Mr. Deputy Speaker:** To resume adjourned debate on the proposed motion of the honourable Minister of Justice (Mr. Mackintosh) on second reading of Bill 15, The Fatal Accidents Amendment Act; Loi modifiant la Loi sur les accidents mortels, standing in the name of the honourable Member for Fort Garry.

**Mrs. Joy Smith (Fort Garry):** It is with much pleasure I get up to speak on Bill 15 because there are some issues in Bill 15 that do have to be addressed. Members on this side of the House will be happy to support this bill. This bill introduced on May 2 amends The Fatal Accidents Act to provide standardized awards for the loss of guidance, care and companionship to family members of the deceased. The bill also requires these awards to be adjusted to take into account inflation. The amendments, Mr. Deputy Speaker, would set out compensation at \$30,000 for the spouse, common-law partner, support recipient, parent or child of a deceased, and \$10,000 to certain other members of the family. The legislation also directs the courts to adjust these amounts for inflation. The law would continue to place no limit on the amount that may be awarded for loss of income or support following a wrongful death.

The Manitoba Law Reform Commission, Mr. Deputy Speaker, reported on this matter in October 2000. This bill also makes it clear that claimants are not required to prove their loss based on the commission's conclusion that claimants should not be subjected to the indignity of establishing the quality and intensity of their relationships with the deceased, and the court should not be required to make invidious and distasteful assessment of the same.

Justice Minister Gordon Mackintosh stated, and I quote: "While no amount of money could ever adequately compensate survivors for a loss which has no monetary measure, this compassionate allowance should not be fossilized and so low as to effectively prevent families from

pursuing damages and justice. Mr. Deputy Speaker, it is also important that this compensation be comparable to other jurisdictions."

Mr. Deputy Speaker, since the early 1980s, Manitoba courts have standardized the amount of grief and compensation at a maximum of \$10,000 for spouses, parents and children, and \$2,500 for siblings. The amount awarded in other provinces is generally much higher than we have here in Manitoba.

I speak about a particular case, Mr. Mackintosh. A couple of years ago a very tragic event happened in Fort Garry. There was a young man who was curb-stomped to death at one of the hotels in Fort Garry. It was a very sad and a very unfortunate circumstance where two young men got into an altercation, and the one young man lost his life as a result. What people do not know about is the penalty and the kind of thing that happens to families when a sibling is murdered, when a sibling loses his life due to unforeseen circumstances.

This very cruel and tragic event impacted on the whole community of Fort Garry and, indeed, impacted on the McLaughlin family to such an extent that the McLaughlin family definitely felt the impact. They were definitely the victims. Not only was their son the victim, Mr. Deputy Speaker, but the McLaughlin family became victims as well. As a result, the father, Jack McLaughlin, started People for Justice, and this has been an organization that has contributed in a very positive way to victims of crime in the province of Manitoba.

How sad, Mr. Deputy Speaker, and I would say to other members of the House, how sad it is for a family to have to go through a circumstance where the loss of a life causes this kind of thing to happen. So, as a result, People for Justice was established, and the victims of crime were heard in a manner that was never done before in the province of Manitoba. I know, at the time that I put the crime summit on, I had invited People for Justice to participate in that crime summit, because violent crime goes far and beyond the courtroom.

The impact of violent crime goes into neighbourhoods, goes into families where the impact

is like an earthquake at ground zero. You have the huge impact but there are ripples that go far and wide. The impact of the kind of thing that happened in this tragic event was that the public became more aware of the suffering that victims of crime do go through, the suffering that families go through and the personal cost, the personal toll.

I know, in speaking to some victims of crime and certainly to the McLaughlin family, who have taken a leadership role in starting People for Justice, taking a leadership role in the province of Manitoba to address the issues that victims of crime are facing on a daily basis has been a very, very courageous step. It has been something that has been long overdue in this regard where members of the community, members of victims' families come forward and actually be very proactive in making the laws better, in making the laws for victims of violent crime better in establishing the courtrooms in such a way.

I know a colleague, a lawyer friend of mine not too long ago told me that the courts were set up really for the criminals in many ways to see that everyone gets a fair trial. That is something that we are very proud of here in the province of Manitoba because every person who is accused of a crime needs to have a fair trial. That is what we stand on here in the province of Manitoba, and it is very important that the court systems are set up that way to ensure that everyone who is accused of a crime has every opportunity to have evidence put before that person so it can be established in the end whether the person is guilty or not. So the person is not guilty in this province until proven to be guilty of a crime. That is something that we hold very dear.

However, what has been left out in many regards is the victims of the violent crimes that have occurred. Whether they get an auto stolen, whether they have someone lose their lives as a result of crime, whatever that crime is, it impacts not only on the person it was imposed upon, it also does impact on the families. As a result, Mr. Deputy Speaker, Bill 15, The Fatal Accidents Amendment Act, has some strengths in it that members on this side of the House will be supporting.

However, I must say at this time that the members can look forward to some amendments

that will be introduced at the law amendments stage and hopefully strengthen the bill that was brought in. Again, as I said, we will be supporting Bill 15, but the fact of the matter is there are some amendments that need to be accepted as well. So there will be some dialogue there and some hope that this bill can be supported with the amendments included in that support.

\* (11:40)

Mr. Deputy Speaker, the current Minister of Justice (Mr. Mackintosh) has said that this bill brings levels of compensation for loss of guidance, care and companionship awarded in Manitoba more in line with the compensation awarded in other Canadian provinces. This is true. Other provinces have amended their laws so that compensation is strengthened for the victims of families who lose a member of the family to untimely death. The Fatal Accidents Amendment Act, when you talk about accidents, you talk about something that happened accidentally, and the title of this bill does not reflect really what is inside the bill because The Fatal Accidents Amendment Act does not include car accidents and things like that. It includes untimely death brought on by crime, by violent crime.

Mr. Deputy Speaker, the current act does not stipulate the amount of compensation that may be awarded to the spouse, parent, child, sibling of the deceased person to compensate for loss of guidance, care, and companionship, but leaves the assessment of damages to the discretion of the courts. The courts have interpreted the act as calling for standardized and moderate awards and have capped the compensation payable for loss of guidance, care and companionship at \$10,000 for spouses, parents and children, and \$2,500 for siblings. The courts have further held that these awards should not be indexed for inflation. These awards were set in the early eighties and are now amongst the lowest in Canada.

I put this on record to point out the fact that this is why this bill needs to be in place for victims of crime. The level of compensation became a particular concern as a result of a court appeal decision of February 2000 where the court confirmed that the amount of \$10,000 is, in

effect, fossilized and was not even subject to indexing. Our concern is based on the perspective that when the awards are as low as this they effectively act as a bar to pursuing justice in the courts. It is important the amount of compensation be sufficient to ensure that families will indeed come out ahead in any court proceeding and there not be a disincentive for a likely result that does not really represent justice. That is what we are all about in the province of Manitoba, Mr. Deputy Speaker, that justice be there both for the accused and also for the victim.

We also think it is important that the Law Reform Commission agreed to take on the study. I think it is very important that they took on this task, because I think that many good things have come out because of that. The report that came back was the assessment of damages under The Fatal Accidents Act for the loss of guidance, care, and companionship.

The Law Reform Commission stated in that report that they reviewed the role of this head of damages, recognizing, of course, that there are other heads of damages available, in particular the ability to claim amounts for loss of income to a family due to the wrongful death. The Law Reform Commission also canvassed the other jurisdictions and came up with recommendations which the legislation, in actual fact, closely follows.

I think this is a very strong point, Mr. Deputy Speaker. There are some minor differences. The Law Reform Commission recommended that \$7,500 be put forward for each of the siblings of the deceased, but, as a result, there was an adjustment in the bill. The bill came in with \$10,000 to each family member, which was defined in the amendments as a son or daughter who is 18 years or over, a stepson or a stepdaughter or a person to whom the deceased stood *in loco parentis*, a stepmother, a stepfather, or a person who stood *in loco parentis* to the deceased, and a brother, sister, grandson, granddaughter, grandfather, grandmother of the deceased.

So the bill set out \$30,000 to each of the husband or wife, common-in-law partner, support recipient of the deceased, and to each parent

and child over the age of 18 years of the deceased. Mr. Deputy Speaker, this is in compliance with the suggestions and the recommendations by the Law Reform Commission with some amendments to their specific recommendation in terms of amounts given out to members of the family of the deceased.

The bill provides that claimants do not have to prove their loss of care. I think that this is a very important point, because it is very hard for a family who goes into a court, especially when it comes to consideration in terms of money for loss of care, guidance and companionship. Formerly family members would have to go to the court and prove that they loved the deceased and they were a part of the family. It was a very demoralizing kind of thing to have to do.

I commend the Law Reform Commission for this recommendation that claimants should not be subjected to the indignity of establishing the quality and intensity of their relationship with the deceased.

Mr. Deputy Speaker, the quality and intensity of any relationship is very hard to measure. I have to highly commend the Law Reform Commission for this very insightful part of what they have done. Concerns have been raised, with the significant increase in compensation without the need to establish the quality and intensity of the claimant's relationship with the deceased and the broad definition of child and parents in the current act, that there be a large increase in litigation and an overall large increase in damage awards. So, because of these concerns, the new definitions of child, parent and family member have been included to focus the amount of compensation to the relationship.

The bill also contains a change that would direct the courts to adjust the amounts awarded to take into account the role of inflation. The role of inflation is often not taken into consideration, and it is very important that this is part of the package. I would commend members opposite for this part of the bill because indeed I think that was a very insightful thing to do.

The Law Reform Commission stated on page 36 of its report that no amount of money can compensate family members for what they

have lost. Mr. Deputy Speaker, the guidance, care and companionship of our loved ones are priceless gifts for which there is no monetary measure. An award of money cannot evaluate the worth of a person's life. Such an attempt is futile and profoundly distasteful. No amount of money is likely to appease the understandable anger and bitterness of family members. There is little room for punishment deterrents when most defendants are insured.

Now, the commission goes on to say, and I quote, this is from the report: In our view, however, there are two major objectives that an award for damages for the loss of care, guidance and companionship can attain. First, they agree with the Court of Appeal that this award is, to some extent, appropriately conceived as a compassionate allowance providing in an official manner a public recognition of the loss suffered by the claimants.

Secondly, and I quote: Secondly, in their view, the award of damages provides some degree of solace for the loss that has been suffered. Although full reparation is impossible, money may provide some balm for the loss suffered. It may allow the family members to put the money to some useful purpose in memory of the deceased. It may allow them to be involved in activities which strengthen the care and companionship of those who are left behind. It may allow them to purchase goods or services which make life more enjoyable and dull the sharp edge of sorrow.

Mr. Deputy Speaker, these are words from the commission. I would agree with the members opposite that it could never be expressed better. The excellent work of the Manitoba Law Reform Commission and its members, which is led by Professor Cliff Edwards as chair of the Law Reform Commission, have put a lot of good points into this legislation that have been long overdue.

I want to quote Mr. Jack McLaughlin, who is now the head of People for Justice. He said, and I quote, in the *Winnipeg Sun*, May 7, 2002: I ask the politicians to look into their own homes and ask if their family members and their own children are worth only \$30,000.

\* (11:50)

So, when we look at the actual bill, there are some amendments that need to be included for this bill to be supported and passed. This is a bill where the intent is very, very strong, very good, very worthwhile, something that is needed here in the province of Manitoba. But I would also stress that the amendments are very important, as well, to include all aspects that will cover what is intended. Often bills, if they are not put through with careful attention to strengthening it, sometimes the bill will miss the mark of the law.

I am asking that members opposite do support amendments that members on this side of the House put forward concerning this bill because it is a bill, as I say, we support it as a bill, that Manitobans have been waiting for for some time, and there is evidence, and certainly the work of the Law Commission states very clearly that this aspect is needed to be strengthened, Mr. Deputy Speaker.

Mr. Deputy Speaker, Robert Tapper, a Winnipeg defence lawyer, would like to see the \$30,000 tripled. I quote from what Mr. Tapper has stated in the *Winnipeg Sun* on the same day, May 7, 2002: I would like to see more. I think it is a much-needed step. So there is a consensus out there in the public that this is something that is needed to be addressed. It is something that needs to be put to the test in the court systems. There is an argument right now or there is a dialogue out there in the public where people are saying that, because of this legislation, it is going to be a real strain on the courts.

I believe, and I stand to be corrected on this, but my last inquiry, there were not many court cases. In fact, there was one court case, to my knowledge, just a few weeks ago. I have not updated it this week, but, to my knowledge, there was only one court case of this nature in the courts at this time. Now, as I said, I stand to be corrected on that because I have not updated it this week, but, clearly, I do not think that there is a need to be alarmed about an inordinate amount of court cases coming into play because of the loss, the death of a sibling or of a family member at this time.

As we look at different laws that we put forward, I have to say often what we have to do is be very mindful that laws have to be looked at

very carefully. Certain amendments have to be made to laws, and laws are presented in this province and in this country to address the needs that are out there, to address the kinds of things that citizens in Manitoba bring forward because there is a gap, because there is a need.

Mr. Deputy Speaker, Bill 15, The Fatal Accidents Amendment Act, a result of careful consideration from the public, careful study from different parts of the province, including the careful study of the Law Reform Commission. Clearly, the thoughtful legislation, as I said, is something that members on this side of the House are very eager to support with the support of the amendments that will be coming forward during the Law Amendments time. So I would appeal to members across the way not to stand firm on their political lines, but to look at the good of the citizens of Manitoba, as this legislation does.

I commend members opposite for this legislation because, as I said, it is something that has been needed and long overdue in my view in this province at this time. However, because members on both sides of the House have a big investment in ensuring that citizens of Manitoba's needs are met, I think it is very important to look very closely at the amendments that will be coming forward in due course.

Having said this, Mr. Deputy Speaker, I must say that we have to ask the question: What is a life worth? Even though we saw, in Mr. Jack McLaughlin's case, a fight to avenge the death of his son, this fight is never over. The family of Anthony McLaughlin, who died after a vicious beating in Winnipeg south, is now one of the people who is suing the man convicted of the killing.

I quote from the *Winnipeg Sun*, Tuesday, May 7: The McLaughlin family has launched a wrongful death suit against Tyler Cascisa, the second such suit out of Winnipeg in as many months. I quote: It is the principle that there has to be accountability for our actions in life, said Jack McLaughlin, and if it cannot be through the criminal court, then it has to be through the civil side. So Cascisa, 22, pleaded guilty to manslaughter last year for the beating death of Anthony McLaughlin, and he received a jail

sentence of two years less a day but was released on parole after serving less than six months behind bars.

Mr. McLaughlin said, and I quote: We launched a suit because we feel that life is worth more than just five months in jail. There is no accountability.

So this coincides with what the Law Reform Commission stated in their report. The Law Reform Commission stated so eloquently that there is no amount of money that can replace the loss of a loved one. Mr. Deputy Speaker, the Law Reform Commission was very insightful and very thorough in their deliberations over this particular bill. I think, in view of the tragedies that have happened here very, very recently in the province of Manitoba, it brings into play, in our view, the fact that this is a very real thing, that although a full remuneration is impossible, money can buy some balm, some comfort for the

loss suffered to help the families get through the time, to help them get past this tragic event.

Thank you, Mr. Deputy Speaker, for this time.

**Mr. Deputy Speaker:** When this matter is again before the House—oh, the member has concluded. Is the House ready for the question?

**An Honourable Member:** Question.

**Mr. Deputy Speaker:** The question before the House is second reading of Bill 15, The Fatal Accidents Amendment Act; Loi modifiant la Loi sur les accidents mortels. Is it the pleasure of the House to adopt the motion? *[Agreed]*

The hour being 12 noon, I am leaving the Chair with the understanding that the House will reconvene at 1:30 p.m.

**LEGISLATIVE ASSEMBLY OF MANITOBA**

**Thursday, June 27, 2002**

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