



Third Session - Thirty-Fifth Legislature  
of the  
**Legislative Assembly of Manitoba**

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**DEBATES  
and  
PROCEEDINGS  
(HANSARD)**

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39-40 Elizabeth II

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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Fifth Legislature**

**Members, Constituencies and Political Affiliation**

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NAME	CONSTITUENCY	PARTY
ALCOCK, Reg	Osborne	Liberal
ASHTON, Steve	Thompson	NDP
BARRETT, Becky	Wellington	NDP
CARSTAIRS, Sharon	River Heights	Liberal
CERILLI, Marianne	Radisson	NDP
CHEEMA, Gulzar	The Maples	Liberal
CHOMIAK, Dave	Kildonan	NDP
CONNERY, Edward	Portage la Prairie	PC
CUMMINGS, Glen, Hon.	St. Rose	PC
DACQUAY, Louise	Seine River	PC
DERKACH, Leonard, Hon.	Roblin-Russell	PC
DEWAR, Gregory	Selkirk	NDP
DOER, Gary	Concordia	NDP
DOWNEY, James, Hon.	Arthur-Virden	PC
DRIEDGER, Albert, Hon.	Steinbach	PC
DUCHARME, Gerry, Hon.	Riel	PC
EDWARDS, Paul	St. James	Liberal
ENNS, Harry, Hon.	Lakeside	PC
ERNST, Jim, Hon.	Charleswood	PC
EVANS, Clif	Interlake	NDP
EVANS, Leonard S.	Brandon East	NDP
FILMON, Gary, Hon.	Tuxedo	PC
FINDLAY, Glen, Hon.	Springfield	PC
FRIESEN, Jean	Wolseley	NDP
GAUDRY, Neil	St. Boniface	Liberal
GILLESHAMMER, Harold, Hon.	Minnedosa	PC
HARPER, Elijah	Rupertsland	NDP
HELWER, Edward R.	Gimli	PC
HICKES, George	Point Douglas	NDP
LAMOUREUX, Kevin	Inkster	Liberal
LATHLIN, Oscar	The Pas	NDP
LAURENDEAU, Marcel	St. Norbert	PC
MALOWAY, Jim	Elmwood	NDP
MANNES, Clayton, Hon.	Morris	PC
MARTINDALE, Doug	Burrows	NDP
McALPINE, Gerry	Sturgeon Creek	PC
McCRAE, James, Hon.	Brandon West	PC
McINTOSH, Linda, Hon.	Assiniboia	PC
MITCHELSON, Bonnie, Hon.	River East	PC
NEUFELD, Harold	Rossmere	PC
ORCHARD, Donald, Hon.	Pembina	PC
PENNER, Jack	Emerson	PC
PLOHMAN, John	Dauphin	NDP
PRAZNIK, Darren, Hon.	Lac du Bonnet	PC
REID, Daryl	Transcona	NDP
REIMER, Jack	Niakwa	PC
RENDER, Shirley	St. Vital	PC
ROCAN, Denis, Hon.	Gladstone	PC
ROSE, Bob	Turtle Mountain	PC
SANTOS, Conrad	Broadway	NDP
STEFANSON, Eric, Hon.	Kirkfield Park	PC
STORIE, Jerry	Flin Flon	NDP
SVEINSON, Ben	La Verendrye	PC
VODREY, Rosemary, Hon.	Fort Garry	PC
WASYLYCIA-LEIS, Judy	St. Johns	NDP
WOWCHUK, Rosann	Swan River	NDP

## LEGISLATIVE ASSEMBLY OF MANITOBA

Friday, May 1, 1992

The House met at 10 a.m.

### PRAYERS

### ROUTINE PROCEEDINGS

### PRESENTING PETITIONS

**Mrs. Sharon Carstairs (Leader of the Second Opposition):** Mr. Speaker, I beg to present the petition of R. Kuchma, James Legg, Sandy André and others urging the government to consider establishing an office of the Children's Advocate independent of cabinet and reporting directly to the Assembly.

**Mr. Gregory Dewar (Selkirk):** Mr. Speaker, I beg to present the petition of Lisa Bland, Tonni Buus, Randy Borsa and others requesting the Minister of Family Services (Mr. Gilleshammer) consider a one-year moratorium on the closure of the Human Resources Opportunity Centre in Selkirk.

### READING AND RECEIVING PETITIONS

**Mr. Speaker:** I have reviewed the petition of the honourable member (Mrs. Carstairs), and it complies with the privileges and the practices of the House and complies with the rules. Is it the will of the House to have the petition read?

The petition of the undersigned residents of the Province of Manitoba humbly sheweth that:

WHEREAS the Province of Manitoba announced that it would establish an Office of the Children's Advocate in its most recent throne speech and allocated funds for this Office in its March '92 budget; and

WHEREAS the Kimelman Report (1983), the Aboriginal Justice Inquiry (1991) and the Suche Report (1992) recommended that the province establish such an office reporting directly to the Legislative Assembly of Manitoba, in a manner similar to that of the Office of the Ombudsman; and

WHEREAS pursuant to the Child and Family Services Act Standards, the agency worker is to be the advocate for a child in care; and

WHEREAS there is a major concern that child welfare workers, due to their vested interest as

employees within the service system, cannot perform an independent advocacy role; and

WHEREAS pure advocacy will only be obtained through an independent and external agency; and

WHEREAS the Minister of Family Services (Mr. Gilleshammer) has unsatisfactorily dealt with complaints lodged against child welfare agencies; and now

THEREFORE your petitioners humbly pray that the Legislative Assembly of Manitoba strongly urge the provincial government to consider establishing an Office of the Children's Advocate which will be independent of cabinet and report directly to the Legislative Assembly of Manitoba.

\* \* \*

I have reviewed the petition of the honourable member for Selkirk (Mr. Dewar), and it complies with the privileges and practices of the House and complies with the rules. Is it the will of the House to have the petition read?

The petition of the undersigned citizens of the province of Manitoba humbly sheweth that:

WHEREAS the Human Resources Opportunity Office has operated in Selkirk for over 21 years providing training for the unemployed and people re-entering the labour force; and

WHEREAS during the past 10 years alone over 1,000 trainees have gone through the program gaining valuable skills and training; and

WHEREAS upwards of 80 percent of the training centre's recent graduates have found employment; and

WHEREAS without consultation the program was cut in the 1992 provincial budget forcing the centre to close; and

WHEREAS there is a growing need for this program in Selkirk and the program has the support of the town of Selkirk, the Selkirk local of the Manitoba Metis Federation as well as many other local organizations and individuals.

WHEREFORE your petitioners humbly pray that the Legislature of the Province of Manitoba may be pleased to request the Minister of Family Services

(Mr. Gilleshammer) to consider a one-year moratorium on the program.

\* (1005)

### PRESENTING REPORTS BY STANDING AND SPECIAL COMMITTEES

**Mr. Bob Rose (Chairperson of the Standing Committee on Economic Development):** Mr. Speaker, I beg to present the Fifth Report of the Committee on Economic Development.

**Mr. Clerk (William Remnant):** Your Standing Committee on Economic Development presents the following as their Fifth Report.

Your committee met on Wednesday, April 29, 1992, at 8 p.m. in Room 255 of the Legislative Building to consider the Annual Reports of the Manitoba Development Corporation for the fiscal years ending March 31, 1990 and 1991.

Mr. Ted Chiswell, general manager, provided such information as was requested with respect to the annual reports and business of the Manitoba Development Corporation.

Your committee has considered the Annual Reports of the Manitoba Development Corporation for the fiscal years ending March 31, 1990 and 1991, and has adopted the same as presented.

All of which is respectfully submitted.

**Mr. Rose:** I move, seconded by the honourable member for Gimli (Mr. Helwer), that the report of the committee be received.

**Motion agreed to.**

\* \* \*

**Mr. Jack Penner (Chairperson of the Standing Committee on Public Utilities and Natural Resources):** Mr. Speaker, I would like to present the Second Report of the Committee on Public Utilities and Natural Resources.

**Mr. Clerk:** Your Standing Committee on Public Utilities and Natural Resources presents the following as its Second Report.

Your committee met on Tuesday, April 28, and on Thursday, April 30, 1992, at 10 a.m. in Room 255 of the Legislative Building to consider the Annual Report of the Manitoba Telephone System for the year ended December 31, 1990.

At the April 28, 1992, meeting, your committee elected Mr. Penner as Chairperson.

Mr. Tom Stefanson, chairperson; Mr. Oz Pedde, president and chief executive officer; Mr. Del Fraser, vice-president Finance; and Mr. Barry Gordon, vice-president Network Services, provided such information as was requested with respect to the annual report and business of the Manitoba Telephone System.

Your committee has considered the Annual Report of the Manitoba Telephone System for the year ended December 31, 1990, and has adopted the same as presented.

All of which is respectfully submitted.

**Mr. Penner:** I move, seconded by the honourable member for La Verendrye (Mr. Sveinson), that the report of the committee be received.

**Motion agreed to.**

### TABLING OF REPORTS

**Hon. Darren Praznik (Minister responsible and charged with the administration of The Workers Compensation Act):** Mr. Speaker, it is my pleasure today to table in the Legislature the 1991 Annual Report of the Workers Compensation Board of Manitoba.

As well, it is certainly an honour for me to table the very first Five Year Operating Plan of the Workers Compensation Board.

### MINISTERIAL STATEMENTS

**Hon. James McCrae (Minister of Justice and Attorney General):** Mr. Speaker, if we could revert, I have a statement to make to the House.

**Mr. Speaker:** Is it the will of the House to revert back to Ministerial Statements and Tabling of Reports? [Agreed]

**Mr. McCrae:** Mr. Speaker, as has become customary, I would like to provide the House with a brief report on the most recent multilateral meeting on the Constitution, which took place Wednesday and Thursday in Edmonton.

The meeting was reasonably productive and some useful progress was made. However, there is still some considerable distance to go on the many of the most fundamental issues.

Despite some reports to the contrary, firm decisions have not been made. Progress is being made on individual components, but clearly final decisions cannot be made until the shape and

contents of the overall package are a great deal more clear.

It should also be made clear once again that this is a Canada round. All participants are working hard to find a package of amendments that will be satisfactory to Quebec, but that they must also be satisfactory to the other provinces and regions as well. That has not changed. Our purpose is not to resurrect the Meech Lake Accord; it is to correct the flaws in that approach and to correct its omissions. I do not believe Manitobans or westerners or residents of the Atlantic region or the territories or aboriginal Canadians would support a set of amendments that do not address our priorities fairly.

The main agenda items of the Edmonton meeting—Senate reform, clarifying federal responsibility for the Metis, and equalization are key priorities for Manitoba.

On Senate reform we were able to narrow the options and focus attention on the main outstanding issues: equality and effectiveness. Although there will be further discussions in the coming weeks, it may well be that we have gone about as far as we can go in laying out the basic choices.

I should say here that the concept of an equal Senate is very much alive. Some have tried to write it off, but I would caution them not to dismiss its importance to our province or to others who believe in the principle of the equality of the provinces. Ministers and aboriginal leaders also made some progress in Edmonton toward our goal of a strengthening of the equalization provision in the Constitution as recommended by the Manitoba task force. There is no question that the equalization system is the cornerstone of Canadian federalism. More than any other national program, equalization makes it possible for all provinces to provide reasonably comparable levels of essential public services including health care, higher education, and other social programs.

I believe there is a very real prospect of putting some teeth in the existing provision in Section 36, ensuring that it is binding on the federal government.

I am pleased, too, that the federal government and Ontario have abandoned the Dobbie-Beaudoin proposal to place the nonenforceable social and economic union proposals in the same section as equalization, thus threatening to make the equalization provision unenforceable as well. That is an important gain for us.

We also made progress in confirming that there is widespread support among the provinces for a proposal by the Metis National Council, that the Metis be included under Section 91 (24) of the Constitution. The discussions of this item will continue in the next few weeks.

There were also some discussions of the amending formula, though no conclusions were reached. It is essential to remember that no changes can be made to the amending formula without unanimity and that this seems highly unlikely in the current circumstances.

Honourable members will be aware that a number of the participants, and particularly the aboriginal leaders, expressed some frustration in Edmonton about the pace of progress and the difficulty of giving adequate attention to a wide range of issues. I believe all governments share many of the same frustrations.

\* (1010)

This is a difficult process, and it is made more difficult by the absence of direct input from Quebec. I believe many of my colleagues would agree that Quebec's continued absence from the table is the primary source of frustration facing all of us. Again, we hope Quebec will realize that if it is not comfortable with the outcome of the current discussions, it will largely have itself to blame.

Ministers and aboriginal leaders will reconvene next week in Saint John, New Brunswick, to resume our discussion and to focus again on such issues as Senate reform and equalization. The following week we will meet again in Vancouver and will devote at least a day to aboriginal concerns. Tentative plans have also been made for additional meetings the following two weeks in Montreal and Toronto.

Again, I want to reiterate that firm and final decisions are not being made and cannot be made during these discussions. These are preparatory sessions designed to facilitate negotiations. Our purpose is to try to build the broadest possible consensus for all of Canada, and that will continue to be our purpose.

Thank you, Mr. Speaker.

**Mr. Gary Doer (Leader of the Opposition):** Responding to the ministerial statement of this morning dealing with the meetings in Edmonton

over the last two days, Mr. Speaker, I want to raise a couple of issues with the government.

The government has made statements about the issue of enforceability and the proposals on a social charter and an economic union in terms of Section 36 of the Constitution. The Premier (Mr. Filmon) about four weeks ago promised us legal opinions in Hansard on those very important issues, and we have yet to get those legal opinions that the government presumably has in its briefcases that it is taking to these meetings on a unilateral basis. If the government wants all parties to be part of the solution, I would suggest to the government very strongly that they should share their legal opinions so that we could work together in the spirit that we have had collectively in the past, and I offer that for the third time in this Chamber and will continue to offer that from our side.

I would also point out, Mr. Speaker, in terms of the Canada round that Manitoba that first developed—and I was working with the Liberals and Conservatives in the first Meech Lake report and in the second constitutional report. We talked about the Canada round having a number of fundamental characteristics to it. We talked about the aboriginal people being the original and fundamental characteristic of Canada. We talked about the French and English reality, but we also talked about the multicultural reality of this country as well, and the multicultural community of this province and in this country are very offended by the Dobbie-Beaudoin report and the treatment that they received.

I am sure the government ministers have heard from the multicultural community of this province the many groups that make up our multicultural mosaic in our province. They are very upset that they do not hear their voices being raised at the ministerial meetings. I would note from the statement today that I think they have reason to be concerned about their voices being represented at the meetings, because I do not see in this statement and the statement that we received a week ago or two weeks ago very little content and substance on that very important issue.

We hear a lot about Senate reform from this government, and we are certainly committed to the all-party task force that was signed by all members. Mr. Speaker, I would again remind members opposite to balance off the traditions of the British parliamentary system, the Canadian traditions of

Parliament that have served our country very well versus the Americanization of some of our institutions. Look at the education system in this country across our provinces and compare it to, say, Arkansas and other states in the United States. Look at our regional development programs. Look at our medicare program. Look at our social values of co-operation and consensus before you try to Americanize too much of our country and too many of our institutions.

So we are committed to reform, but we are not committed to the Americanization of all our institutions as we see for members opposite. Believe me, Mr. Speaker.

We will continue to work with the government on this issue. I would remind the government that the Premier has already stated that he is opposed to a change in the amending formula. We agree with the Premier on this issue. We hear that Joe Clark, who now has a way to get around the amending formula issue, is talking about 7-85, which would—

**An Honourable Member:** Actually, Romanow put that on the table.

\* (1015)

**Mr. Doer:** Well, we do not have to worry about Romanow's position, Mr. Speaker; he has been there before. The provinces should very much oppose that proposal, because the smaller provinces would not get any comfort from that position which would give the larger provinces, in effect, a veto. The 7-50 provision has been recommended not to be changed on this round.

We hope that the government is able to get some success in these issues, but I would remind the government to stay to the agenda that was passed in these public hearings, in these public sessions, and not to stray away on an ideological agenda that we see now in this Chamber.

**Mrs. Sharon Carstairs (Leader of the Second Opposition):** I thank the Minister of Justice (Mr. McCrae) for continuing to keep us informed of the process that is going on at these discussions and talks. There are a number of newspaper stories that seem to be somewhat in conflict with what the Minister of Justice is saying, and that does cause me some concern and I get, through some of the reading of this presentation, it causes the Minister of Justice some concern as well.

I think we would be in a very negative mood in this country if we started to talk about resurrecting the Meech Lake Accord. The whole word of "Meech" has become a dirty word, a four-letter word, even though it happens to be a five-letter word, because the connotations of Meech denote a process which is unacceptable, I think, to every single individual in this Legislature, and I note that the Minister of Justice has addressed this, and I hope he will persevere in his representations on behalf of all of us to ensure that this continues to be a Canada round and not a round which is oriented towards one particular province.

I too have grave concerns and actually have to express some real dismay if it was the Premier of Saskatchewan who proposed an 85 percent rule, because the reality of an 85 percent rule would be that every single small province in this country would have no role whatsoever to play in any constitutional reform. Not only that, but we would now be giving vetoes as we have had proposed before, not only to Quebec, not only to Ontario, but now to British Columbia, and if the census figures continue to grow as they grew in the last census data figures, also Alberta. What we would not be giving the opportunity to would be any of the small provinces unless they could manage to coalesce in groups of four to prevent the constitutional process being amended. This is very negative for the evolution of our nation.

As to Senate reform, I urge the Minister of Justice and the government to hold fast. The vast majority of Manitobans, excluding those few in the New Democratic Party who are hung up on words like "Americanization" are very much dedicated to the process of a Triple-E Senate, and I would remind the Leader of the official opposition that the concept of a Second Chamber does not come from the United States. The concept of a Second Chamber comes from the mother of Parliaments, Great Britain. The concept of a Second Chamber has not been adequately redefined in Great Britain, and that is exactly what we are trying to do in Canada. It is to take the principle that was enshrined many, many hundreds of years ago and now make it workable for the 20th and the 21st centuries.

To make that system workable for the 20th and the 21st centuries, I would suggest to you that it has to be elected, and it has to be equal, and it has to be effective. I would remind the members of the official opposition that the original American Senate

was not elected either. It too followed the principles of the British House of Lords. It too was appointed by the governors of the states of the United States.

Just as they have gone through an evolutionary process, so too do we have to go through an evolutionary process. Those that are stuck in 19th Century ideology should finally wake up and recognize we are entering into the 21st Century.

\* (1020)

As to the enshrining of equalization in the Constitution in a more firm and responsible way than it is at the present time is absolutely essential. I want the government to know that I too agree that that and the social charter must be separated, that the equalization formula that all of those of us in have-not provinces have depended on for decades to maintain our viability, that must be in a section on its own so there can be no constitutional judgments in the future that it is not enforceable and fully enforceable.

The one area in which I am dismayed and have been dismayed for some time as these constitutional discussions have progressed is the total lack of absence of any discussion—[interjection] Would the rant-and-rave group just keep it quiet?

**Some Honourable Members:** Oh, oh.

**Mr. Speaker:** Order, please.

**Mrs. Carstairs:** Mr. Speaker, the area that is not being addressed is one that I think must be, and I would like to see it in the paper and I do not know why it is not. That is the protection of Canada's Charter and all rights that go with that Charter. Every time we talk about the distinct society clause or the inherent rights of our aboriginal people, we are in fact talking about negating and weakening the Charter, unless all of those new powers are subject to Charter. Our multicultural community will not be adequately represented in the future of this nation if we do not have Charter protection. Nowhere in any of the reports brought to this House has there been any debate about Charter.

I want the minister to know that the Liberal Party is very firm in its belief that if there is any weakening of Charter, we cannot support a constitutional agreement.

## INTRODUCTION OF BILLS

### Bill 81—The Optometry Amendment Act

**Hon. Donald Orchard (Minister of Health):** Mr. Speaker, I would move, seconded by the Minister of Highways and Transportation (Mr. Driedger), that Bill 81, The Optometry Amendment Act; Loi modifiant la Loi sur l'optométrie, be introduced and that the same be now received and read for a first time.

**Motion agreed to.**

\* (1025)

### Bill 80—The Dental Association Amendment Act

**Hon. Donald Orchard (Minister of Health):** Mr. Speaker, I move, seconded by the Minister of Culture, Heritage and Citizenship (Mrs. Mitchelson), that Bill 80, The Dental Association Amendment Act; Loi modifiant la Loi sur l'Association dentaire, be introduced and that the same be now received and read a first time.

**Motion agreed to.**

## TABLING OF REPORTS

**Hon. Glen Cummings (Minister of Environment):** I wonder, Mr. Speaker, if we could return to Tabling of Reports.

**Mr. Speaker:** Is there leave to revert to Ministerial Statements and Tabling of Reports? [Agreed]

**Mr. Cummings:** Mr. Speaker, I would like to table the 1991 Manitoba Hazardous Waste Management Corporation report.

## INTRODUCTION OF GUESTS

**Mr. Speaker:** Prior to Oral Questions, may I direct the attention of honourable members to the gallery where we have with us this morning from the John De Graff School twenty Grades 5 and 6 students under the direction of Nancy Loewen. This school is located in the constituency of the honourable member for Rossmere (Mr. Neufeld).

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

## ORAL QUESTION PERIOD

### Economic Growth Government Policy Performance

**Mr. Gary Doer (Leader of the Opposition):** Mr. Speaker, in 1990 the Conservatives received a majority government and proceeded on with their Conservative economic agenda. All the way through 1990 and 1991 the government opposite in their rhetoric told us in this House that, even though there was a recession in this country, Manitoba would outperform almost every other province and outperform almost every other region in this country. They bragged daily about how great their economic strategy was and how well the people of Manitoba would be doing.

On November 1, they said we are faring better in the recession than most other provinces. They talked about "we are a beacon in the dark" because of our performing so well. The Premier (Mr. Filmon) talked about that. The Premier talked time and time again about how great he was and how great the government was. On October 24, the Premier said, it is again the province of Manitoba will do exceedingly well and beat all other provinces in this country.

Mr. Speaker, today the gross domestic product numbers are out for 1991, the full economic scorecard for the economic performance of this government, and how did Manitoba perform? Ten out of 10 in terms of decline and gross domestic product.

I would like to ask the Premier today: Will he now accept some responsibility for the economic situation in this province and explain to people in Manitoba and the country why he is in last place in terms of economic performance in this country?

**Hon. Gary Filmon (Premier):** Mr. Speaker, I thank the Leader of the Opposition for his question. I say to him that obviously the figures that he is repeating are figures that we have been dealing with in this House for some time. The budget of the Finance minister indicated that 1991 was a difficult year. It was a year of recession right across the country and nobody can take a great deal of comfort in it. Yesterday's Ontario budget suggests that they had a decline of over 3 percent in their gross domestic product last year.

The fact of the matter is that there are specific reasons, and if he would like to read the report of

Statistics Canada, they highlight a couple of areas that led to the decline in our economy last year.

First and foremost, they say that Manitoba's labour income was only 1 percent, the slowest of any province and below the national growth rate of 2.5 percent. It was a very conscious decision. We passed Bill 70 in this House that affected a significant portion of our public service, that froze wages in this province, the very major, major factor in the lack of growth. The second is declining farm income, which they say caused by lower production and lower world prices, again the GATT discussions are leading to a correction of that.

The good news is that not concentrating on the difficulties of the past, which we knew about and which we were obviously involved in decisions on, and which some were well beyond the control of this or any other province, such as farm prices, what we have been doing is putting the economy in a position for recovery, and indeed Statistics Canada says that there are very significant signs of improvement.

Since last August, Manitoba has had six consecutive month-to-month increases in labour income, each of which was above the national average. Forecasts that have been released in April by both the Bank of Nova Scotia and the Royal Bank rank Manitoba's 1992 economic performance as fourth best in the country. The Royal Bank expects Manitoba in 1993 to grow at 4.5 percent above the national forecast rate and again in the top four in the country.

Mr. Speaker, in every case what has been done is to have learned from the past, to have set in place, for instance, the lowest increase in taxes over the last three years of any province in the country. [interjection] I refer the member to the Western report that lays out the fact that in the last three years, Manitoba has had the lowest increase in taxes of any province in the country, putting it in a position to recover very strongly and to attract the kind of investment and growth that we are looking for and that is what forecasters are predicting for 1992, 1993 and 1994 because of the policies of this government.

Mr. Doer: If this Premier was the head of a corporation and he was 10 out of 10 in terms of performance, he would be fired.

Mr. Speaker, again the Premier talks about labour statistics which we have raised in this House before. Statistics Canada—and this is after the Premier said,

oh, we are just going to step aside and let the economy take care of itself. That is what he said in this House last year, that is his economic strategy: We are just going to step aside, I am just going to let things happen as they will.

\* (1030)

The decline in Manitoba's GDP is the largest decline in Canada, and I suggest the Premier should stop lecturing any other government till he gets his own house in order. His last place is associated with drops in business investment in fixed capital and, secondly, associated with investment of residential construction, nonresidential construction and machinery and equipment, all decreased in Manitoba, and these other provinces would have had larger decreases. The cumulation of this was the largest decline in gross domestic product of any other province in Canada with this Premier being in charge of the economic strategy.

I would ask the Premier: How many jobs have we lost in this province due to the economic strategy this government, which has produced the lowest GDP, in fact, the decline of the GDP that is the highest in the country?

Mr. Filmon: Mr. Speaker, rather than continue to look in the rearview mirror, which the Leader of the Opposition (Mr. Doer) does, I will look at what the forecasts are for this province as a result—[interjection] I do not intend to try and shout down the Leader of the Opposition. If he cannot give me the courtesy of listening, then he should not ask the question.

Mr. Speaker: Order, please.

Mr. Doer: As a person who has had to endure many, many heckles from the member opposite, I find his petty comments—

Mr. Speaker: Order, please.

Mr. Doer: —but I will give him the courtesy of answering why his government and our economic performance, our decline was double that of Ontario, double the national average, why it was 10 out of 10, why is this government failing, why is their economic prediction that they have made in 1990 and '91 all wrong, and what are they going to do about it to get people working again, the 60,000 who are unemployed in this province?

Mr. Filmon: Mr. Speaker, I will say, rather than look in the rearview mirror, this government has put in place opportunities and policies to have this

province grow at a faster rate than most provinces in Canada.

In Statistics Canada's forecast we have very strong evidence of that. Capital investment in manufacturing is expected to be up 31.2 percent in Manitoba, the highest increase of any province in the country in 1992. Total private capital investment, up 7.4 percent in 1992, the second highest in the country, more than four times Canada's expected growth rate in private capital investment. Retail sales, up 7.4 percent in February 1992 compared to 1991, the largest increase of any province in the country and above the national average by far, up 4.8 percent in the first two months of 1992, the third best in the country, well above the Canadian average.

I will keep going if he has the courage to ask additional questions.

### Investment Decline

**Mr. Gary Doer (Leader of the Opposition):** A supplementary question to the Premier, who does not want to accept any responsibility for his last place performance. He will blame the federal government; he will blame some other government; he will blame the previous government. He never accepts responsibility for being in last place—never.

Mr. Speaker, I would like to ask the Premier why Manitoba had a decline in business investment in fixed capital in the province in Manitoba, one of the largest declines in GDP in terms of business capital. This is after the Premier said, all I have to do is step aside and let the business sector do it. Why is he having one of the worst performances of business capital in 1991 of any other province in this country?

**Hon. Gary Filmon (Premier):** Mr. Speaker, the fact of the matter is that, although the Leader of the Opposition is still not aware of it, we had an international recession last year. All decisions on capital investment were put on hold, regardless of whether those decisions were for Manitoba or for Ontario or for Japan or for West Germany or anywhere else. Decisions on capital investment were put on hold, but the fact of the matter is that when the people of this country and beyond are looking at investment decisions for this year, next year and beyond, Manitoba is expecting to have the second highest private capital investment growth in the entire country.

I might say as well, I do not understand. He has not asked questions about bankruptcies, for instance. In 1991, the second largest decrease in business bankruptcies and the trend continues in 1992. For the first three months—

**Mr. Speaker:** Order, please.

**Mr. Filmon:** Mr. Speaker, I am not going to try and shout them down.

### Government Policy Performance

**Mr. Gary Doer (Leader of the Opposition):** If the Premier will look at the January numbers, there was a slight increase in improvement in bankruptcies. February and March of 1992, we have more bankruptcies in the province of Manitoba than ever in the history of the province in personal bankruptcies. You better get your officials to change your briefing notes.

The Premier talks about an international recession and a national recession. That does not explain to the people of this province why he is in last place, why he is in tenth out of 10, why he is performing the worst of any other province in this country. That is the question to the Premier. Why are you performing in last place, and are you satisfied with it, or are you going to do something about for the 60,000 who are unemployed?

**Hon. Gary Filmon (Premier):** I gave the Leader of the Opposition the direct answer from Statistics Canada. We froze public sector wages, and public sector wages increased less than anywhere else in the entire country in this province. Anywhere else, the lowest increase of any wages anywhere in the country.

In addition to that, Mr. Speaker, the second major factor was the loss of farm income, and that was due to the fact that internationally, the grain subsidy was reduced the price that was paid to our farmers—a major, major part of the reduction in our economy.

Both of those factors are well outlined in Statistics Canada, but the good news is that every single forecaster and every single factor is saying that in 1992, 1993, 1994, we will be in the top four in the country in private capital investment, in total capital investment, in growth in the economy, and all of those figures, Mr. Speaker.

### Investment Decline

**Mr. Gary Doer (Leader of the Opposition):** Mr. Speaker, the Premier is misinforming the public.

Nova Scotia, New Brunswick, Newfoundland, and Quebec had a wage freeze, and they had increases in their GDP. Saskatchewan has more reliance on the farm and agricultural sector, and they did not have the decline in the GDP in the province. So why is the Premier trying to mislead the public on his economic performance?

My final question to the Premier is: Why do we see the three components of investment—residential, nonresidential and machinery equipment—decline in Manitoba at 7.3 percent, part of the overall decline of performance in the GDP which is the worst in Canada?

**Hon. Gary Filmon (Premier):** The Leader of the Opposition continues to dwell on the past. What we have said is Statistics Canada and all of the available information says that residential housing starts, for instance, were up 30 percent in the first quarter of this year, that manufacturing investment is expected to be up 31.2 percent, the highest increase of any province in the country, that total private capital investment will be up the second highest of any province in the country. All of this indicates that the investment, the job creation and the intentions of the people in this province and those who invest in this province say that we are on the right track, they are doing the right things, and that is exactly what is going to happen '92, '93 and '94, Mr. Speaker.

### Economic Growth Government Policy Performance

**Mr. Reg Alcock (Osborne):** I am loath to disagree with the First Minister, but I would point out that for six days in a row now I have been going through all of the Statistics Canada indicators, asking him to explain why in virtually all of them Manitoba has fallen dramatically in the last four years. Now, the Premier came to government four years ago, he put in place a plan, we now have four solid years of information, not forecasts, not the Finance minister's crystal ball, solid information from Statistics Canada, and you are failing. So there is a very simple question: Why?

\* (1040)

**Hon. Gary Filmon (Premier):** I do not consider that it is a failure that Statistics Canada and every economic forecaster says that we are going to have growth rates in this province for 1992, '93, '94 in the top four of all provinces in the country. I do not

consider it is a failure that Statistics Canada says that we are going to have the largest—

**Some Honourable Members:** Oh, oh.

**Mr. Speaker:** Order, please.

### Tourism Promotion Campaign Tender Process

**Mr. Reg Alcock (Osborne):** Mr. Speaker, what Statistics Canada is saying is that we are tenth out of 10, and what we need if we are to build growth is a government that is prepared to work with the local business sector, and we had that.

I would like to ask the Premier a very specific question. Why, when we built a visual arts community in this province that was world class and able to compete with other such communities, why are they placing their post-production TV in Toronto, why are they placing those contracts in Toronto?

**Hon. Gary Filmon (Premier):** Mr. Speaker, he will have to be more specific and tell me who he is speaking about.

**Mr. Alcock:** Just to inform the minister, it is the tourism account that was granted to Foster/Marks and without tender the post production was awarded to a Toronto company.

**Mr. Filmon:** Mr. Speaker, for this administration, throughout that work that has been done on the campaign, it has attempted to place everything possible within Manitoba: hired a local company, hired local people to do the photography, to do the sound, to produce the song, to have the singer, and so on. As I understand it, there was some mixing that had to be done in the final shots for the final production that there was equipment, specialized equipment, only available in Toronto for that. We lacked the equipment here. That was one small element that amounts to a very small percentage of the contract that ended up there, and that is the only thing that had to be done.

We were absolutely insistent that everything that could be done would be done in Manitoba, unlike the Liberals who when they had a chance during their election campaign had much of their advertising work being done out of province, had polling being done out of province. The same thing with the New Democrats, I might say, even to the point—[interjection] Absolutely, absolutely, Mr. Speaker.

**Mr. Alcock:** Perhaps, just to provide a little support for his statements, the First Minister would agree to see tabled in this House the tender calls, the tender evaluations for the last two years, and the dollar amount that is being spent in that Toronto company. I can do it if he cannot.

**Mr. Filmon:** I cannot believe the hypocrisy of the people who had their television ads being done by out-of-province people for their election campaign, and now—a very small percentage, because of a specialized piece of equipment that has to be done in an entire ad campaign, that amounts to a small fraction of the cost of the entire campaign—when he would come up and ask that question. What hypocrisy, Mr. Speaker.

### Children's Dental Health Program Service Reduction

**Ms. Judy Wasylycia-Lels (St. Johns):** To the Premier as well, the Premier may recall that last spring his office received a letter from someone well known to members across the way, a supporter of the Conservative Party and well known to public health dentistry, Jack Purdie from Brandon, Manitoba. That letter expressed grave concerns about the government's decision to eliminate 13- and 14-year-olds from the children's dental health program because it did not make sense from a public policy point of view, and it did not make sense from a cost effectiveness point of view.

I would like to know from the Premier, what steps did he take to get this decision reviewed and to assure himself that the elimination of 10,000 rural children was made in terms of good healthy public policy and was also cost effective?

**Hon. Donald Orchard (Minister of Health):** Mr. Speaker, my honourable friend and I dealt with this issue in debate of the Estimates of the ministry of Health I believe earlier this week. My honourable friend posed the question in Estimates for which she has not, of course, included in her preamble, the answer. We have no indication that the treatment portion of the program which was deleted for age 13 and 14 has compromised the oral health of the youth in Manitoba, because, Sir, we have maintained the health promotion, education and prevention side of the program. I believe all health delivery systems in the world are trying to focus on education, prevention and health promotion rather than curative fixing after the fact.

**Ms. Wasylycia-Lels:** To the Minister of Health then, on the basis of information provided in our Health Estimates, how does this government explain the elimination of 20 percent of children served by a program when in fact the real savings in overall terms for this government and taxpayers is less than 10 percent, and the real saving in terms of private billings for dentists is less than 5 percent?

**Mr. Orchard:** Mr. Speaker, if one cared to try and understand the program, one would not answer such a question for which the obvious answer is that the education, promotion and oral health programs work in the formative years of teeth from six until 12, so that when you get to ages 13 and 14, you do not have as many repairs to do. So, at the top end of the system, ages 13 and 14, Sir, we in fact were not providing that much fixing of teeth because the prevention had worked. So that the 10,000 students who do not have their teeth accessible to be fixed naturally took a smaller portion of the budget, because education, promotion, and oral health is still a very major part of the commitment and a working one because it has reduced the necessity to fix teeth after the fact.

**Ms. Wasylycia-Lels:** The fact is the government cut off—

**Mr. Speaker:** Order, please. The honourable member for St. Johns, with her question.

**Ms. Wasylycia-Lels:** Sorry, Mr. Speaker. I said, if they will not listen to us, will they listen to their own friends, particular Jack Purdy, well known in this field, who said that a cost-efficient, high-quality, well-accepted preventive health program has been changed to an expensive, inefficient and limited coverage program with little apparent cost saving, something we now know is the case based on—

**Mr. Speaker:** The question has been put.

**Mr. Orchard:** Mr. Speaker, in fact we have followed the advice of maintaining the health promotion, education and oral health programs, age six through, because the emphasis of the program is on prevention of dental disease. That prevention program consumes a considerable amount of the budget in the formative years, ages six to 12, and that has been maintained with the result that children at ages 13, 14, and for the rest of their lives have improved significant dental health because of the prevention component, and that prevention does cost a significant part of the program cost. But, Sir, it works.

\* (1050)

### Summer Challenge Program Elimination

**Mr. Doug Martindale (Burrows):** Mr. Speaker, the Province of Manitoba has punished low-income, inner-city residents by cutting back on CareerStart and eliminating the Job Training for Tomorrow program and current child centres. Now inner-city residents have been dealt another blow by the federal government which has slashed the Summer Challenge program and eliminated 30 jobs.

Was the Minister of Family Services (Mr. Gilleshammer) aware of these cuts before he set his priorities in terms of Manitoba job training programs?

**Hon. Harold Gilleshammer (Minister of Family Services):** Mr. Speaker, the member knows full well that we have maintained our CareerStart program at last year's levels, and the funding that is in place there is the same as it was last year. The other programs that the honourable member has referenced are programs that are offered by the federal government, and we take no responsibility for changes that the federal government makes in their budget. The member references the parent-child centres. These were not funded by the provincial government; these were funded by the senior level of government. We cannot assume the cost. We do have access to the recipient of the Challenge program so that we do not duplicate the program that is offered by the federal government. Before we make decisions on CareerStart, we look at the ones that have been successfully funded by the federal government.

### Job Creation Programs Hiring Priority

**Mr. Doug Martindale (Burrows):** Will the Minister of Family Services ensure that areas of the highest unemployment get the highest priority for the few job creation programs which are left?

**Hon. Harold Gilleshammer (Minister of Family Services):** The department is currently sending out the acceptance notices for the CareerStart program, and last year we were able to accommodate, I believe, all of the groups that asked for CareerStart grants. They received at least one grant for wage subsidy. We also have this year, as the member knows, the Partners with Youth program. We are currently taking applications from all areas of the

province at this time, and we will be working with those groups and sending out the acceptances as we have time to gather those prior to the deadline which, I believe, is the end of May.

### Inner-City Recreation Programs Government Support

**Mr. Doug Martindale (Burrows):** Will the Minister of Family Services, who frequently professes concern for the poor and for children, now do something to show he cares about recreation programs for low-income children in the inner-city and job creation in the inner city and contact the federal Minister of Employment and request that the \$65,000 for summer recreation programs be restored, so that children are off the streets in a recreation program not getting into trouble, and having the money spent by Justice instead of by Family Services?

**Hon. Harold Gilleshammer (Minister of Family Services):** I am pleased that the member recognizes our concern for citizens of this province who access the social allowances program and recognizes the many reforms that we have brought in in recent months to social allowances. I am constantly amazed by what members of the NDP profess in opposition and what they do in government.

As we look at the details of the Ontario budget, we see hundreds of millions of dollars slashed from social allowance programs. We are proud that we have been able to add money to the social allowances and, even in these difficult times, to create new programs.

### Community Colleges Enrollment

**Mrs. Sharon Carstairs (Leader of the Second Opposition):** Mr. Speaker, not only are we 10 out of 10 in GDP figures, we are also 10 out of 10 in sending young people on to post-secondary educational institutions, particularly our community colleges.

The Minister of Education and Training (Mrs. Vodrey) over and over again in this House has indicated that she is going to add 600 new places to community colleges. Would she like to explain then why in her Supplementary Information for Legislative Review in 1991-92 it shows an estimated figure of 42,462 students in our community colleges,

yet in the book for '92-93 it shows an estimated enrollment of 40,493, a decrease of 1,969 positions?

**Hon. Rosemary Vodrey (Minister of Education and Training):** We have been very pleased to increase the courses that we are offering in the community colleges for the coming year. We have added to the courses, we have expanded other courses, and the detailed question that my honourable friend asks me I will be very pleased to provide her with the exact information during the Estimates process.

**Mrs. Carstairs:** But I provided the information to her. She has consistently in responses to questions that I have asked and responses to the member for Wolseley (Ms. Friesen) she has said over and over again, 600 new positions. How does she explain that her own government figures that she has presented in this House show a decline of 1,969 positions?

**Mrs. Vodrey:** Again, the member raises some issues which I believe will be covered in detail during the Estimates process, and I will be very happy to answer the questions at that time.

### Accessibility

**Mrs. Sharon Carstairs (Leader of the Second Opposition):** Mr. Speaker, not only have they decreased positions, they are decreasing the opportunity for young people to go on to those post-secondary educational institutions. Last year they expected 16,200 applications for bursaries. This year they expect 21,400 applications for bursaries. That will mean that the average student bursary will go from \$635 to \$509. Can the minister explain why they are not providing accessibility to our community colleges for those most in need, those eligible for student bursaries?

**Hon. Rosemary Vodrey (Minister of Education and Training):** I know that the member understands our commitment to post-secondary education, both in the universities and the community colleges and the training systems, and that we have in fact increased the amount of funding which this government is providing to student aid this year. In addition, there has been ongoing discussions with the federal government about the accessibility of the Canada Student Loan program and, again, any further details I will be happy to discuss in Estimates.

### Dutch Elm Disease Program Two-Percent Loss Limit

**Ms. Jean Friesen (Wolseley):** Earlier this week, Mr. Speaker, the Minister of Natural Resources (Mr. Enns) claimed that his forestry officials assured him that the managed 2 percent loss rate for Dutch elms can be maintained. But a letter from the Chief, Forestry Protection, Richard Westwood of March 19, 1992, warns the minister, and I quote: We have had to reduce the overall geographical extent of the program, cut communities and buffer zones due to budget constraints. At this time, it is difficult to predict if the reduction in the program over levels established in the '87-90 period will cause an eventual resurgence of the disease and escape our 2 percent goal.

My question for the minister is: Has he received contradictory advice in the past two weeks that enables him to claim that his 29 percent decrease in funding for the City of Winnipeg integrated management program will enable us to meet that 2 percent loss goal?

**Hon. Harry Enns (Minister of Natural Resources):** Mr. Speaker, it is very obvious the date of the letter that she refers to precedes the time of review that I indicated to the House that I was undertaking. I am satisfied that with the \$250,000 increase in the overall Dutch elm disease program that the province is supporting together with the City of Winnipeg, we will maintain those management levels.

**Ms. Friesen:** Will the Minister of Natural Resources confirm that the capital grant for reforestation for the city of \$147,000, that his press release made so much of, was in fact a 33 percent cut from the 1991 figure of \$220,000 and indeed the 1990 figure of \$194,000?

**Mr. Enns:** Mr. Speaker, I am not really interested in playing these numbers games with them, because of course I can. Whatever it is that this government is doing to save and to ensure the greenery of our city of Winnipeg is considerably more than that party did when they were in office from the years 1981-86.

What I am concerned about, as I have indicated before, that we have an integrated program together with the City of Winnipeg that will ensure that we maintain the greenery of this city, and I am satisfied that is being done.

**Ms. Frlesen:** Will the minister then confirm that, according to the scientific assessment reports of the City of Winnipeg, the loss rate for elms in the city of Winnipeg remained under 1 percent until 1988, and that the rapid increase in loss in the last three years dictates, at the very least, a maintenance of the 1990 funding?

\* (1100)

**Mr. Enns:** Mr. Speaker, there has got to be something magic then, because from 1981 to '88 the funding level provided by the province was \$350,000. If she is recommending that I should keep that right down at that level to assure that then brings about that management level, I think this is nonsense. I mean, if \$350,000 guarantees that management level, then what is the problem?

Really, what the issue is is dedicating my department's support with the City of Winnipeg to ensure that everything that can be done will be done to ensure the greenery, the health of our urban forests.

### North American Free Trade Agreement Government Strategy

**Mr. Jerry Storie (Flin Flon):** Mr. Speaker, earlier in Question Period, the First Minister (Mr. Filmon) chastised us for looking in a rearview mirror with respect to the gross domestic product. Statistics of a few months ago show Manitoba is 10 out of 10. We are also looking in a rearview mirror with respect to free trade, and our concern is that we will be looking in a rearview mirror with respect to the North American free trade in a matter of weeks.

My question to the First Minister is: Given the fact that the province has laid out six conditions, can the First Minister indicate today which, if any, of those six conditions are going to be met, given that we may be signing a North American free trade agreement in a matter of weeks?

**Hon. Gary Filmon (Premier):** Mr. Speaker, I am informed by the Minister of Industry, Trade and Tourism (Mr. Stefanson) that in all the discussions that he has had with Canada, the position that they have on the table continues to support the six positions that we have had put forward as part of those negotiations.

**Mr. Storie:** Virtually every group that has commented outside the federal government and its Tory supporters has said that the North American free trade is going to damage our economy,

including members of the government's own caucus. My question is: If the six conditions are not met, what is the First Minister going to do to protect the interests of this province and what remains of our economy?

**Mr. Filmon:** A totally hypothetical question. We want the six conditions to be met, Mr. Speaker.

**Mr. Storie:** It is quite obvious to any objective observer the six conditions are not going to be met. My question is: What is the First Minister going to do? Does he have a plan?

**Mr. Filmon:** The member for Flin Flon does not understand that international trade agreements are the sole prerogative of the Government of Canada. There is absolutely nothing that this government can do other than provide intelligent advice. The intelligent advice that we have provided is that there are six conditions that must be met—must be met—in order for that agreement to be productive and useful to Canada. That is, I might say, the best advice that has been provided by any government in the country to the Government of Canada. Based on that advice, a North American free trade agreement could be and would be productive for Canada to enter into. That is why we say that is the kind of advice that they are looking for, not blind ideology, not knee-jerk reaction from the New Democrats, but constructive advice to say: this is what must be done in order to achieve benefits for Manitoba and Canada.

### Manitoba Housing Authority Employee Status

**Mr. John Plohman (Dauphin):** I want to ask the Minister of Housing (Mr. Ernst), again, as in most departments of this government, there is serious confusion and morale problems in the Department of Housing. Since the minister's precipitous announcement and takeover and firing of the housing authorities over a year ago, employees and contractors have not known where they stand—will they have a future, have they been politically neutral enough for this government? They do not know what the criteria are. One employee, Judy Hyde, just found out yesterday that she does not have a job anymore, in Dauphin.

I want to ask the minister whether he is reviewing the employees and the contractors that have been engaged in the housing authorities and in his department by the Manitoba Housing Authority now,

whether he is reviewing them and what criteria he is using to determine whether they will stay on, because they do not know what their status is.

**Hon. Jim Ernst (Minister of Housing):** Mr. Speaker, all employees of previously existing housing authorities were invited to apply for positions with the new Manitoba Housing Authority. To my knowledge, just to give you a percentage, I think most employees who have applied for a job with the new Manitoba Housing Authority have been able to be employed. All of the interviewing and final selection procedures are not yet complete. We received only final agreement with the labour unions involved at the end of March, and over the last three weeks we have been very intensively working towards staffing the positions available within the Manitoba Housing Authority. So we will, over the next few days, finalize that process.

**Mr. Speaker:** Time for Oral Questions has expired.

#### ORDERS OF THE DAY

**Hon. Clayton Manness (Government House Leader):** Mr. Speaker, will you call the bills in the following order: Second Readings, Bill 73; and then adjourned Debate on Second Readings, Bills 48, 74, 68, followed by Bill 20.

#### SECOND READINGS

##### Bill 73—The Health Care Directives and Consequential Amendments Act

**Hon. James McCrae (Minister of Justice and Attorney General):** Mr. Speaker, I move, seconded by the honourable Minister of Finance (Mr. Manness), that Bill 73, The Health Care Directives and Consequential Amendments Act (Loi sur les directives en matière de soins de santé et apportant des modifications corrélatives à d'autres lois), be now read a second time and be referred to a committee of this House.

##### Motion presented.

**Mr. McCrae:** Our law already recognizes that mentally capable people have the right to consent or refuse to consent to medical treatment, but, as the Manitoba Law Reform Commission in its 1991 report on self-determination and health care, there has not been such recognition of their right to make decisions about their future medical treatment; in other words, to say now how they want to be treated

later on if they lack the capacity to exercise rights sometime in the future.

This is no small matter. Technology and medical science have given us an enormous range of treatment opportunities and choices and the steady increase in the numbers of senior citizens means a larger number of people who may find themselves in the situation of requiring decisions on immediate or longer-range health care. The Law Reform Commission's report has strengthened public support for formal, legal recognition that this right should be respected, even after people are no longer able to exercise it. Consequently, in The Health Care Directives Act we are giving Manitobans who are incapacitated by accident, age or illness clear legal power to control these life or death medical treatment decisions.

This bill will make possible directives, sometimes called "living wills," and the appointment of proxies to make health care decisions for persons who become incompetent to do so for themselves.

(Mrs. Louise Dacquay, Deputy Speaker, in the Chair)

The bill can be divided roughly into four parts. The first part covers the making of treatment decisions in a directive, the second, the naming of proxies in a directive and the third, general provisions arising from directives. The fourth part consists of consequential amendments to The Mental Health Act. These govern and clarify the role of proxies and directives in the treatment of mentally ill persons in psychiatric facilities and in the community. A directive can express the maker's health care decisions, that is, it can outline the type and range of medical treatment a person is willing to accept. The directive can appoint a proxy to make health care decisions on the person's behalf. Finally, it can both express the maker's health care decisions and appoint a proxy.

\* (1110)

The bill requires that a directive be in writing and signed by the maker or someone in the maker's presence. It also contains provisions for revoking directives, and provides that directives made elsewhere that comply with the legislation are valid in Manitoba.

Proxies are required to be at least 18 and mentally competent. They must make decisions in accordance with four principles. These principles concern the presence of health care decisions in a

directive, other wishes expressed by the maker and, if the maker's wishes are unknown, the best interests of the maker.

Limitations are placed on the powers of proxies and the Court of Queen's Bench is given supervisory jurisdiction over their actions. Proxies are protected when they act in good faith.

The bill states that it is the responsibility of the maker of a directive to inform others about its existence. No physician or other person is required to ask if a directive exists, and no liability is introduced against someone who acts in good faith in ignorance of the existence of the document. In fact, this bill creates new rights, but does not alter others. It creates a new way of consenting to or refusing medical treatment, but also ensures that other methods now used can continue to be used.

This bill contains a number of consequential amendments to The Mental Health Act that are needed to incorporate proxies into treatment and consent procedures in the mental health system. These changes have been included at the request of the Department of Health. My colleague the honourable Minister of Health (Mr. Orchard) can speak at greater length on the mental health implications of the bill, but I will briefly outline the principles that govern these amendments.

Generally, a proxy will be able to make treatment decisions on behalf of an incompetent patient in psychiatric facilities. A patient's choice of substitute decision maker is respected, and the appointed proxy will take the place of the statutory "nearest relative."

Also, if a mentally ill person living in the community has made a directive, the wishes expressed in the directive will be respected. It should be noted, however, that The Health Care Directives Act will be subject to The Mental Health Act.

We have adopted almost all of the Law Reform Commission's recommendations concerning health care directives and proxies. The commission's examination of self-determinant health care and its widespread consultations with senior citizens, religious groups and the medical and legal communities found almost unanimous support for legislation in the fields covered in this bill.

However, Manitobans will need time to become acquainted with its provisions in order to allow such time the act comes into force on proclamation rather

than on Royal Assent. We think this bill answers a need for new and expanded rights for people to determine their health care, given the great changes in society and life and health expectancy that advances in health care have created.

Thank you, Madam Deputy Speaker.

**Mr. Steve Ashton (Thompson):** I would like to move, seconded by the member for Flin Flon (Mr. Storie), that debate be adjourned.

**Motion agreed to.**

## DEBATE ON SECOND READINGS

### Bill 48—The Personal Property Security Amendment Act

**Madam Deputy Speaker:** To resume debate on second reading of Bill 48 (The Personal Property Security Amendment Act; Loi modifiant la Loi sur les sûretés relatives aux biens personnels), on the proposed motion of the honourable Minister of Justice (Mr. McCrae), standing in the name of the honourable member for Kildonan.

**Mr. Dave Chomiak (Kildonan):** Madam Deputy Speaker, I can indicate for the purposes of the House that I will be the only speaker on this particular amendment by members on this side of the House, and we propose following conclusion of my remarks that the matter will be passed on to committee.

Now to continue with respect to my comments, I can indicate that the bill is relatively short, dealing with only an amendment to effectively one section of The Personal Property Security Amendment Act, an act which I might add is a very complicated and convoluted nature with respect to the provision of registry and rights to debtors and creditors dealing with chattel property.

Madam Deputy Speaker, I can indicate that we, on this side of the House, reviewed the amendment quite seriously insofar as it is in response to a decision of the Court of Appeal, I believe, dealing with error in the spelling of any part of the name of a debtor, et cetera. The minister has introduced this amendment in order to protect the registry and to protect the process, if I read his comments correctly.

We did express a concern when the minister introduced this particular bill with respect to queries and effects of errors registered against this particular act, and the minister was kind enough to

provide me with a response in writing dated April 21 to my query. I do not know if the member of the Liberal Party has had the chance to peruse that. I will provide a copy to him for his own information.

With respect to my concern whether errors made by staff at the personal property registry would be included in this particular amendment, and that apparently according to the correspondence I received from the minister that that is not the case.

Madam Deputy Speaker, the amendment at this point I do not believe we would oppose it outright at any other stage of readings. We have some concerns about the process, because this is really a process that we are talking about. The computer and the registry equipment is not capable or is not set up in order to allow it to deal with the directive of the court which prompted this amendment to come forward. It is a case of technology not being in a situation or a condition to respond to potential problems and real problems that occur on an everyday basis, and problems will occur invariably.

While the amendment allows for a judicial review of the situation, there is no question that at some point some rights that an individual or individuals entered into are some kind of protection that they initially thought that they had will not be available to them as a result of an error in the terms of the registration of the name of the debtor.

The reason cited by the minister for bringing in this amendment is not only, of course, which I have already stated, to deal with the court decision, but is also to deal with the fact that the registry does not have the technology available to do the kind of searches that will be required and, secondly, to prevent compensation claims against the system.

As I say, in principle we are not opposed, we understand the reasons, although it is unfortunate that technology would not be available to search out the various potential misspellings or alternate spellings of a particular name. The consequence will be that some rights will be lost. I would very much like to—and I hope to have the opportunity to query the minister at committee on this—have an opportunity to see the statistical basis the minister indicated in his comments. I believe they are something like 15,000 certificates registered every year. I would like to see the statistics in terms of the number that are—and I obviously probably do not because of the technology, we do not have the capacity—what the statistics say with reference to

the number that are misspelled or that are rejected, et cetera, and perhaps the minister will have that kind of information for us at the committee hearing.

It is difficult when reviewing this legislation to know what criteria a judge would utilize to determine whether or not an error has misled a person with respect to the misspelling of a name and invariably we will see more litigation in this area, but at least there will be a recourse available to an individual or corporation or any other body that feels aggrieved by a decision to reject and not make compensable any damages for a misspelled or inaccurately stated debtor's name in The Personal Property Security Act.

As I indicated, I am also concerned by the retroactivity, the retroactive nature of this particular bill, as we are generally in this Chamber in most situations where a bill is brought before us to apply retroactively. The minister stated in his opening comments that the requirement for retroactivity was necessary because it would increase compensation claims against the system if retroactivity were not applied, and I am very curious as to the number of claims. Does it deal with a specific case that resulted in this amendment being brought forward, or are there other instances of error, of misspelling or other matters related to that that have occurred in the system that would make the system accountable and would result, perhaps, in a libel—not in libel action, but some form of liability applying against the system? I also hope to have the opportunity to query the minister with respect to those specific comments.

\*(1120)

It is a concern on our side whether or not the views expressed by the minister are in fact real or only speculation with respect to whether or not potential claims are out there or whether there is pending claims and the like, because if there are pending claims dealing with this matter, then our concerns are even greater with respect to the system. Clearly there must be at least one case, because there was a ruling that prompted this amendment to come forward in the first place, although I personally have not had an opportunity to review the Court of Appeal decision on its nature, and I hope to do so before the matter proceeds to committee, Madam Deputy Speaker.

The Personal Property Security Act itself, as I understand it, recall from my days in law school,

Manitoba was one the first provinces to employ this particular process and this particular kind of a registry in the country, certainly in the West. Other provinces and other jurisdictions have followed suit. It is a highly complicated and complex system. Heavens knows, perhaps I was a minority, but I certainly found that in my studies of it in law school and in fact this entire course is devoted only to The Personal Property Security Act registries in the various provinces.

So any amendment and any tinkering with the system has to be very, very well thought out and must be dealt with quite scrupulously because the system is complex and has been developed over a fair period of time. Any changes to the registry or to the system could strongly affect the rights of all of those who participate and who have opportunity to both register chattels and the like in the system and those who rely on the system to determine whether or not when they purchase those chattels or those items that they are free from any security interest and/or that bona fide purchasers in good faith are aware of the encumbrances, the credits and all of the other encumbrances that are upon that particular chattel or that property or that item, whatever the case may be, as it applies to the personal property registry.

So in conclusion I would indicate that on this side of the House I will be the only speaker dealing with this particular amendment, and we are prepared to allow the matter to proceed to committee to be dealt with. We may have more questions at the committee stage, but at this point we will be allowing the matter to proceed. Thank you, Madam Deputy Speaker.

**Madam Deputy Speaker:** Is the House ready for the question?

**An Honourable Member:** Question.

**Madam Deputy Speaker:** The question before the House is second reading of Bill 48. Is it the pleasure of the House to adopt the motion? [Agreed]

### **Bill 74—The Law Society Amendment Act**

**Madam Deputy Speaker:** To resume debate on second reading of Bill 74, on the proposed motion of the honourable Minister of Justice (Mr. McCrae), standing in the name of the honourable member for Thompson (Mr. Ashton).

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

**Mr. Jerry Storie (Flin Flon):** I am pleased to be able to rise and add a few comments to the debate on Bill 74, The Law Society Amendment Act. I want to begin by saying I appreciate the comments of the Minister of Justice with respect to this act. I have no qualms whatsoever with the intent of the act, which is to open up the process that is currently in place for reviewing the conduct of individual lawyers. But, Madam Deputy Speaker, I want to put on the record, I guess, a view that says that we should go much beyond what is being proposed in this legislation.

In a time when Canadians and Manitobans are asking for ever-increasing levels of accountability on the part of members of school boards, members of city councils, members of the Legislature and federal members of Parliament, I think it is time that we took a serious look at how professional bills are passed in this House, and took a serious look at the authority that this Legislature has given to professional organizations.

The Manitoba Law Society is a closed society. Many people in this Chamber will recall the debates that have gone on and the confrontation that has occurred in Manitoba as a result of the efforts of individual lawyers to advertise themselves and the services they offer at cut rates. This is a society that in effect controls virtually every aspect of its operation. What the Attorney General is trying to do here, and perhaps through the initiative of the Law Society, is to apparently open up the judicial review process to the public, but it is at best a half-hearted effort.

Madam Deputy Speaker, I just wanted to outline the conditions that are being placed on the Law Society through this amendment. There are two conditions that seem to apply and that is the condition that there be no breach of solicitor-client privilege, something which obviously is important to the operations of individual lawyers. We also have the condition that the interest of the public be considered before any additional information is made public.

You have to ask, Madam Deputy Speaker, who is making the decision? Well, it is the Law Society. What is in the interests of lawyers and the Law Society may in fact not be in the interests of the public. I think it is time that the government

consider—and I know this has been considered in the past—that the time may be appropriate, given the public interest in accountability, to develop a series or develop a framework within which all professional organizations receive authority to govern the activities of their profession.

Madam Deputy Speaker, Manitoba is, to say the least, a hodgepodge of different pieces of legislation affecting different groups in Manitoba. We have a podiatrist act in Manitoba which governs the operations of what are, in essence, foot specialists in the province. We have The Law Society Act. We have an act which governs the operations of the accountants as an organization. We have many different individual acts with differing requirements, differing obligations, differing mechanisms for holding that group accountable not only to its own members but to the public.

Madam Deputy Speaker, quite ironically we have other professions that have no professional charter, no legislative authority to govern their own affairs. For example, teachers in this province, one of the largest professions, have no legislation governing the operations of that society. They have no inherent right to manage the discipline of their own members, as does the Law Society, as does the medical profession.

\* (1130)

Madam Deputy Speaker, some years ago, when the Teachers' Society approached me, as Minister of Education, and had approached previously the Minister of Education for the New Democratic Party government about the merits of introducing a professional bill for teachers, it was my opinion then and it still is that what is required is a single professional bill enacted by the legislator under which all professional organizations or organizations which aspire to professional status would be governed. They would, as a first order of business, require that those, the boards of governors of that organization, include a cross section of people from society, so that no longer could it be argued as it is quite often with the Law Society, how can you get justice when you bring a case before the Law Society when it is lawyers looking after the interests of lawyers.

I think it is time that we had a bill that required every professional organization to have the input of laypeople, to have the input of people from outside the profession, who may be knowledgeable about

the profession. I think it is time that we had people from related disciplines on the governing bodies of our professional associations. Then and only then can we be assured that the decisions they make are in the best interests not only of the professional body, but in the best interests of the public.

Madam Deputy Speaker, it does not seem to me to take much thought to know that if we could form a single body that had criteria that met the public interest as well as the interests of the professional, if we had one single set of criteria, that we would have some consistency and perhaps, only perhaps, that over a period of time the public would again have some confidence that these associations are in fact looking after the public interest.

I want to talk about another group that has the same kind of control over the operations and the discipline and the standards to which its members have to apply, and that is the Medical Association. I do not believe—or I should say I know that many, many Manitobans who have complaints against the activities or the treatment they have received from individual physicians in the province are satisfied that the Manitoba Medical Association is always or has always reviewed those issues in their best interests.

(Mr. Speaker in the Chair)

I think you only have to look to our neighbours to the south for some startling, and I think conclusive evidence that medical associations do not always look after the interests of patients, the interests of consumers. They look after themselves, and no one can fault them for doing that. The legislation that empowered these bodies in the first place, the legislation itself guaranteed them, or authorized them—gave them the authority—to conduct their own affairs internally in a manner which they believed was in the interests of the public, and obviously in their own interests.

Mr. Speaker, I want to say that in the last decade in the United States there have been literally hundreds of thousands of malpractice lawsuits, medical malpractice lawsuits in the United States. Millions—no, let me rephrase that—hundreds of millions of dollars in claims have been assigned to victims of medical malpractice.

If you look at the record of the American Medical Association in terms of the number of cases that it has reviewed and declared that particular case, a case of malpractice, medical malpractice, it is

significantly few. Individual professional associations who control their own affairs are loathe to convict, to penalize their own members because, quite rightly, it reflects on members of the association as a whole.

But that should not be the criteria by which these kinds of claims are considered. They have to be considered in light of the public interest. That is what we are trying to protect, not the interests of the association. So if you think the American Medical Association, of course, does review the conduct of its members, of doctors, as does the Manitoba Medical Association from time to time—but if you look in the United States, which is a much more litigious society, you will find that courts, people, juries find evidence of significantly more malpractice than you would believe was happening if you looked at the judicial and disciplinary hearings of the medical association in the United States.

Mr. Speaker, I want to discuss as well an incident which is related to Manitoba recent history. All of us, or most of us, will recall that the CBC recently did an expose on the conduct of home renovation contractors in the province of Manitoba. There was a chilling interview with a senior, who the interviewer believed had been ripped off by a small contractor. The CBC provided an independent contractor to come in and assess what this job should have cost and the conclusion that was drawn was that this individual, this senior, had been ripped off, had been, if not fraudulently treated, then certainly treated in a way that was unbusinesslike and unprofessional. The conclusion was that this individual homeowner had paid some \$2,400 more for work that had been done by this contractor than this individual should have paid—\$2,400.

Only a few weeks later we see on the front page of the Free Press the story of a lawyer who had conducted, I believe, divorce proceedings for an individual client, and thought he had done an excellent job. With no additional work being put into the case, he added some \$14,000 to his bill. Fourteen thousand dollars added to the bill for what? Because the individual lawyer believed he had done a good job.

Mr. Speaker, how can we say that a contractor who had done work and charged \$2,400 extra for that work was being fraudulent when a lawyer can add \$14,000 to a bill and everybody says, oh, those silly lawyers, look what they have done. There is no equity in that situation. I, too, have asked the Law

Society on occasion in my past for redress for what I believed to be an unfair billing practice. I do not believe I got justice from the Law Society. Now, I know that every victim who has ever claimed compensation in one form or another believes that they had just reason for claiming that compensation, but I do not believe the Law Society always acts in the interests of the public. I believe on the contrary that the Law Society almost always acts in the interests of the law profession and individual lawyers.

I want to say that the time has come to change the way professional organizations are governed in the province of Manitoba. I think it is time for a single set of rules and that set of rules, Mr. Speaker, I want to be clear, should cover every aspect of not only professional conduct, but of the education and training and discipline, upgrading, professional development. Professional organizations should be given broad scope to develop the skills of their members, but that should not be done at the sole discretion of the body who has its interest at stake.

In other words, giving lawyers sole discretion over how the profession conducts its affairs, publicly or privately, is not a way to guarantee that the public interest, consumers' interest, is going to be assured.

\* (1140)

Mr. Speaker, again in the province of Manitoba we have a wide variety of professional bills giving authority to different groups. Some groups can define the educational requirements, the curriculum requirements for the profession. Others have no such authority. Others are governed by the degree-granting authority of institutions in the province, whether it is community colleges or our universities.

I believe there has to be some sort of overriding public input into that process, determining what the criteria for granting professional status on an individual basis is going to be. So I think, to start with, when this new approach to professional bills or professional charters is considered, the first thing we should do is decide on the educational requirements, the training. Again, that should be done not just with the profession itself, but with related professions and lay input.

Second, I think when it comes to the obligations, professional conduct, the professional code of conduct, the ingredients which go into that particular document should likewise have public input.

Thirdly, of course, I think perhaps most importantly, there has to be input into the disciplining of professional members. I do not think that it is satisfactory just to have doctors reviewing the practice of doctors, or just lawyers reviewing the conduct of lawyers, or, for that matter, just teachers reviewing the conduct of teachers. I believe that all professions should have their day in court, and I believe, first of all, that it should involve, as I have said, a broad group of citizens reviewing the conduct of the profession.

I am not opposed as well, when we talk about this particular legislation, to the notion that there has to be more public openness with respect to the Manitoba Law Society. I concur 100 percent with the Minister of Justice's suggestion that the openness of these processes have to be assured. This piece of legislation does not do that.

First of all, the conditions which are attached to this legislation make it quite clear I think to an observer, an outsider observer, that the Law Society and its members still control the process, that openness is only guaranteed if the Law Society and the members on the judicial committee, in particular, want the process to be open.

The conditions which would allow the Law Society to close the hearings are much too broad, much too vague, and much too arbitrary. My colleague from Broadway says much too subjective and discretionary.

Mr. Speaker, how are we going to determine when this new public process that we are supposed to have is going to jeopardize information subject to a solicitor-client privilege. I think that if I were going to argue a case on behalf of a lawyer who is going before this judicial committee, virtually everything was solicitor-client privilege, virtually everything that was said. I think that anybody who believes that this particular clause is going to guarantee or even provide with any degree of certainty public openness, I think, they are kidding themselves.

Mr. Speaker, solicitor-client privilege is an old song. Lawyers use it often and other professions as well use it often. It is no guarantee that this legislation is going to do anything to open the process up for public view.

The second condition which is in the legislation which, and I quote: that notwithstanding the desirability of conducting the inquiry in public, if it is in the interests of persons affected by the

information or in the public interest that the information not be disclosed to the public, then the meetings can be held in camera.

Mr. Speaker, here again we are sort of subverting what seems to be the principle of the bill. The principle of the bill is to open up the judicial process, the hearings that are conducted into the conduct of individual lawyers for public view. We are saying, let us open this up. Let us try and give the public some assurance that these hearings actually carry some weight, that they are actually being conducted in the interest of the public.

Mr. Speaker, what they do is say give the Law Society two outs, two escape vehicles, which I believe you could drive a truck through, that any lawyer, any solicitor, any person acting on behalf of a lawyer who is being investigated could very easily have it decided that it was not in the public interest or that it violated solicitor-client privilege and have the hearings held in camera and out and away from the open public airing that the Law Society says it wants to have.

I guess, while I appreciate that there have to be mechanisms in place in The Law Society Act or any professional disciplinary hearing procedures, to protect innocent victims from disclosure, the fact of the matter is that this particular piece of legislation gives carte blanche to the Law Society, in my opinion, and without wanting to be unkind to the proponents of this legislation, it is intended to be window dressing. It is intended to provide a sense of openness where none actually exists. That is the problem with this legislation.

Mr. Speaker, if the Manitoba Law Society and if the government truly believes in what the Attorney General said in his remarks in introducing this bill for second reading, that openness is required, that the public is demanding openness, then for heaven's sake, let us have a piece of legislation that requires that openness. Let us begin by opening up the Law Society itself. Let us begin by making sure there is a balance on the governing board of the Law Society which reflects the broad interests of the public.

Mr. Speaker, we just went through a horrendous process in the province of Manitoba, which for many people in the Law Society, in police forces across the province, in the public and particularly amongst the aboriginal constituency in the province was gut wrenching. The Aboriginal Justice Inquiry talked about the lack of justice, the unavailability of justice

for aboriginal people. Maybe one of the ways to make sure that lawyers as a profession, the Law Society as a body, the Faculty of Law as part of the institution of the university, understands the problem is to make sure that the Law Society has on its governing board members of the aboriginal community, aboriginal leadership. I think that many other interest groups in our society could argue that they should have representation on that board.

I am not saying that there should not be a preponderance of lawyers, practising lawyers, others operating in the profession. I am simply saying that if we are going to really build confidence in these professional organizations, we need to have that kind of broad input. [interjection] A preponderance, mostly. There is a lot of prepondering going on with lawyers, so you need that preponderance, Mr. Speaker, for the member for Osborne (Mr. Alcock). [interjection] I could say a gaggle of lawyers, but I could probably be sued for libel.

Mr. Speaker, the bottom line in all of this is that this is a very small step. It may even be an insignificant step. Unfortunately, we are not going to know whether it has any significance whatsoever until after this legislation, assuming that it does pass, is passed, and after we see how many conduct hearings actually get held in public. I am simply telling the government there is a better way. There is a better way to deal with this particular amendment. There is a better way to deal with the piecemeal approach with which we have dealt with professional charters.

I think, Mr. Speaker, if memory serves me correctly, we have dealt with at least three professional charters in the last four years. Individual members bring them forward on behalf of their constituents and on behalf of constituent organizations. We are coming to the point, I think quite quickly, where the public is losing confidence in these professional organizations.

\* (1150)

Whether it is the Real Estate Board or the Medical Association or the physiotherapists association, whatever, the fact of the matter is there are abuses going on in these professional organizations in the ways they conduct their affairs. Whether we want to acknowledge it or not, that is a fact. I think that the comments I made earlier about the situation in the medical profession in the United States is

perhaps the best example where the American Medical Association would maintain, oh, there are very, very few examples of misconduct, malpractice amongst doctors. But the litigation that is going on in U.S. courts and has gone on for more than a decade, which is taking doctors, health care institutions to court because of malpractice, because of misconduct, belies that kind of assurance. The American Medical Association is wrong.

Mr. Speaker, I am quite confident the Manitoba Medical Association would give the public the same kinds of assurances. The fact of the matter is that because we are not as litigious, because we do not go to court at the drop of a hat in Manitoba, because the awards, quite frankly, from our courts have not been as generous as they are in the United States, there has not been the same kind of use of the judicial system in Canada—and not in Manitoba—but that does not mean that there are not abuses going on. That does not mean that misconduct is not being overlooked, downplayed, kept in secret, when it should be aired publicly.

I want to add, just before I conclude, that I do not want this to be interpreted by anyone as a witch hunt. I believe that—and I am a member of a profession—the vast, vast majority of professional members, whether they are engineers or physiotherapists or accountants or doctors or lawyers, are hardworking, responsible and competent individuals, but just like in public life and increasingly in private life, in the corporate board rooms of the country, people are demanding accountability. Only a couple of years ago we had our first legal precedent in Canada which said that members of boards of directors are in fact responsible for the conduct of their employees and the conduct of the corporations which they control.

So, Mr. Speaker, it is not just that the public is demanding more accountability from its public officials, from its civil servants, from its municipal councillors, all of which have had conflict-of-interest guidelines imposed on them, all of which are, of course, subject to the kind of public scrutiny for misconduct and malpractice, in a looser sense, over the past few years. I think we legislators and many others who have come under that scrutiny accept the scrutiny. We believe, I certainly believe, that that scrutiny is warranted and justifiable and it ensures, I think, to a much greater extent, that public

conduct and private conduct is appropriate, if there is that possibility of disclosure and public review.

I think it is time to take the next step. I think it is time to consolidate the legislation which gives professional organizations their rights and their authority. I think it is time to make sure that there is consistent practice in our professional organizations. I think it is time that we opened it up to the public. I think it is time that there be representatives from average Manitobans, from related professions and occupations, so that we can genuinely protect both the interests of the profession in the long run, the rights of individuals who have been accused of misconduct or malpractice, but also—and I say also with emphasis—the interests of the public of Manitoba. I am not sure, and I believe there are many, many Manitobans who are unsure or uncertain that professional organizations currently operate always with the best interests of the public at heart, that they also have legitimate concerns, sometimes legitimate concerns, about the image of their profession, the image of the body doing the review, and I do not think that should always be the prime concern, although it certainly may on some occasions be the prime concern.

Mr. Speaker, I think the government is missing an opportunity. I know that the Minister of Justice (Mr. McCrae) is under some pressure to proceed with this. I know that the Law Society views this as a positive public relations exercise. I think they believe that this is going to improve their image and give the appearance at least of a more open process. In fact, some of that may happen. I have no doubt that there will be some more open public inquiries. I predict now that it will only be in cases where there is absolute certainty, absolute certainty about the guilt of individuals who have been charged, that what we are going to see is in the more murky areas that there will be no public process whatsoever.

That, of course, differs quite significantly to what happens to many other professionals. We could talk about police officers as an example. We have seen over the last number of years increasing demands that the conduct of police officers be reviewed in public. We certainly believe that the Law Enforcement Review Agency was a good vehicle to ensure that the review of police conduct was a public matter. We believe that others, including teachers, who are charged with

misconduct, certainly most notably abuse, sexual abuse, are treated in a public fashion long before there is any final determination of guilt or innocence. So, if that kind of conduct can go on with the teaching profession, it seems to me that public review of the conduct of other members of other professions is not going to be so detrimental that it overrides the interest of the public. I think that should be the bottom line.

Mr. Speaker, those are my comments. I guess I will suspend any final decision on how I personally am going to vote on this legislation. As I have said, I think it may in fact be a small step forward, but I certainly believe it is much more of a public relations exercise on the part of the Law Society than it is a real initiative in terms of opening up the Law Society, its practices and, particularly, its judicial review practices.

I argue that we should be opening up all the professions, that in fact we should be considering the public interests. We should no longer be tolerating professions who deal with the public who have sole discretion in how they charge and how they treat the public. I think it is no longer acceptable to give them unilateral preordained authority in the way that we have in the past. I think it is time for significant reform in this area, and I hope the government will take my words seriously and perhaps consider doing something beyond what is in this particular piece of legislation.

### House Business

**Hon. Clayton Manness (Government House Leader):** Mr. Speaker, I would just like to make an announcement to the House on House Business. I would like to announce the Standing Committee on Public Utilities and Natural Resources will meet on Tuesday, May 5 at 8 p.m. to continue to consider the Annual Report of the Crown Corporations Council, and furthermore I would like to announce the sitting of the Public Utilities and Natural Resources Standing Committee scheduled for May 7 to consider the Hazardous Waste Management annual report. I would like to add to that consideration the 1991 report of that Crown corporation.

\* (1200)

**Mr. Speaker:** I would like to thank the honourable government House leader for that information.

\* \* \*

**Mr. Paul Edwards (St. James):** Mr. Speaker, I am pleased to stand today and speak on Bill 74, The Law Society Amendment Act, which is a bill relatively short in length, but I think quite significant in its impact and in what it achieves with respect to the governance of the practice of law in the province of Manitoba.

I was unable to hear all of my friend's comments, the member for Flin Flon (Mr. Storie), but I will certainly peruse them. Those I did hear gave me some considerable amount of concern. The member appears to have bought into the generally accepted view by many in society that lawyers are there to be essentially slandered on a regular basis. The member says that lawyers are really just people who want to protect their own and want to embark on a PR exercise. That was what he said. He thinks this is a public relations exercise, to have judicial hearings in the public venue.

#### Point of Order

**Mr. Dave Chomiak (Kildonan):** On a point of order, Mr. Speaker.

I do not think it is appropriate for the member to attribute the words "essentially slandered" to the comments of the member for Flin Flon (Mr. Storie), and I would ask the member to withdraw that statement.

**Mr. Speaker:** The honourable member does not have a point of order. It is a dispute over the facts.

\* \* \*

**Mr. Edwards:** Mr. Speaker, the member said that this was a public relations exercise. He said the Law Society's recommendation that judicial hearings looking into the discipline of lawyers was a public relations exercise, and that is all. The fact is that you just cannot please the member for Flin Flon (Mr. Storie). If you do things that are positive, you open it up to the public—which he has been advocating for years—you cannot win. He still says it is a game that is being played; they are not serious, they are not credible.

The fact is that there was a significant, lengthy debate within the Law Society. Many felt, for reasons that do not need to be gone into here, too lengthy to go into, that it should be public. Others felt that it should not be. The point is that at the end of the day an agreement was reached, or at least

the Law Society came to a decision that they should ask the minister to bring in this piece of legislation. It was the Law Society which came forward with this request, and let us not forget that.

The fact is that this compromise—and that is what the member calls it—I personally think is legitimate. I am willing to at least give the Law Society the opportunity to make these hearings public in the way that they have requested. The member is right that there is a condition attached which is that the publication not be allowed until after the decision has been made.

I ask the question, Mr. Speaker, what is wrong with that? Would the member for Flin Flon (Mr. Storie) want any professional of whatever profession to be the subject of an allegation unproven and to go through a hearing process in which his or her name would be the subject of public scrutiny without the final decision being known? That is to ignore reality, which is that the day-to-day blows of a trial are spread across front pages. The damage is done, it can never be recouped. The person on trial may be totally innocent.

For the member for Flin Flon not to recognize that as a problem, as a potential abuse of publication prior to knowing whether or not the person actually did anything, is for him to turn a blind eye to fairness itself, which says that teachers—and the member for Flin Flon talks about teachers—says that doctors, any professional, for that matter any person involved in these matters should be held up to public ridicule before it is known whether or not they are guilty. There is no question that at the end of the day the process should be public and the results should be public.

But, Mr. Speaker, to subject someone to public scrutiny and quite possibly public ridicule as the complainant's evidence come forward on a blow-to-blow basis, without necessarily reflecting the full story, the final decision is to do damage that can never be recouped. That is unfair, and I do not just say that for lawyers. I say that for professionals generally. This is a workable alternative, that is, that the public are welcome to attend, including the press. At the end of the day, they can report everything that happened and the result.

Mr. Speaker, far too often, and it is a matter of great regret in the criminal system, people are charged criminal and have the details of allegations against them come forward unmet in the press,

unchallenged, because they have come forward from one side. That is the way it works. You hear the prosecution first, you hear the allegation first. You hear the defence last. When it comes time to the defence, where are the headlines? When it comes time for the result, where are the headlines? If at the end of the day the appeal is won, where are the headlines?

Mr. Speaker, all too often the fact is that our system cost people irreparable damage to reputations, the ability to earn a living without reflecting the full story. What that does is it opens the door to abuse in the hands of those who would lay a complain frivolously. What that means is that you or anyone else, any client, any other lawyer, can go to the Law Society and lay a complaint and do irreparable damage to another person, another professional, and never have to account for the damage that it has done. At the end of the day, will the press report that that will not be in the hands of the Law Society to say, you must report the result, you have reported all the allegations, you have to report the result? That will not be in their hands. This is a workable solution; it is a reasonable compromise. I do not even think it is much of a compromise. The fact is that the proceedings and the results are public. It is only a question of when they can be made public, not if they can be made public. They can; it is guaranteed here. The only question is when, Mr. Speaker.

The member for Flin Flon (Mr. Storie), and I presume he speaks for his party, indulges in what the member for Kildonan (Mr. Chomiak) did some months ago when the provincial judges came to this Legislature with a report in hand asking for an increase in wages. We did not support the increase in wages, neither did the Minister of Justice (Mr. McCrae). We said that at the time. We turned them down. That was a political decision made in this venue. Was that enough for the NDP? No, Mr. Speaker, they had to stand up and kick and kick and kick because they knew the public would buy it.

That is the way they work. They abuse, they ride the political football every chance they get. They did it then and they are doing it now. It is irresponsible, it is shameful, but that is the way that party operates. They are playing to a political agenda which pays no heed to real people in real positions who are doing their best to do their job. They do not care about that. What they care about

is getting the political kick, the political spin of what they know people will buy.

That is the lesson of the NDP. That is the lesson in the last election when they went door to door: hey, we will take your minimum wage to seven bucks. That is what they said at the doors in these constituencies, Mr. Speaker. Totally irresponsible—they led people to believe that if you elected them the next day it would be seven bucks. That is what their Leader said to the people in this province.

The Leader of the NDP said, in the last election, we are going to put a tax freeze on for 10 years. Who believed them? They played to the people in society who would indulge in that type of promise, knowing full well that they would not be elected to ever have to do that. They were the party that had brought in 18 tax increases in their tenure in the last 10 years, personal increases in taxation level, but this is the party that turned around and tells people in an exercise which can only be called an exercise of hypocrisy, that they are not going to raise taxes if they were elected. They said that because they knew they were not going to be elected. They could say anything they felt like because they knew that. They knew they were not going to be elected. They would not have to pay the piper, and that is what they are doing today and that is what they do consistently in this House.

\* (1210)

Mr. Speaker, this is a progressive bill before this House. Is it the end result? Is it the final answer? Perhaps not. I am sure that there will be a regular systematic review of how it works, but for the member for Flin Flon (Mr. Storie) or for the New Democratic Party to start with the assumption that the Law Society is coming to us in bad faith with a PR exercise shows them to be what they are: people who will take a political opportunity every chance they get, no matter what the cost, no matter what the reality.

The Law Society has come to us saying they want public hearings. It is a progressive move; we should do it, and we should hold them to their commitment to make it a public process. If this does not work, we will have to try something else, but let us try it before we jump on the bandwagon, the political bandwagon that the NDP invites us to jump on, to kick and criticize every chance we get. Those are my comments.

**Mr. Speaker:** As previously agreed, this matter will remain standing in the name of the honourable member for Thompson (Mr. Ashton).

**Bill 68—The Public Trustee Amendment, Trustee Amendment and Child and Family Services Amendment Act**

**Mr. Speaker:** On the proposed motion of the honourable Minister of Justice (Mr. McCrae), Bill 68, The Public Trustee Amendment, Trustee Amendment and Child and Family Services Amendment Act; Loi modifiant la Loi sur le curateur public, la Loi sur les fiduciaires et la Loi sur les services à l'enfant à la famille, standing in the name of the honourable member for Kildonan.

**Mr. Dave Chomiak (Kildonan):** Mr. Speaker, I can indicate as I rise to discuss this omnibus bill which has been forwarded to us by the government that I will be the only speaker on our side of the House with respect to this bill, and that we will certainly be voting to have the matter proceed to committee following my comments on the bill this morning.

I am tempted to respond to some of the outrageous and completely inaccurate comments of the member for St. James (Mr. Edwards) with respect to his previous tirade on the record, but I will take that opportunity when I am specifically dealing with that particular bill to deal with his outrageous—and what I would suggest were inappropriate and to a large extent inaccurate—comments as he went off on his tirade.

With respect to Bill 68, my initial concern with respect to this bill is the fact that it is an omnibus bill. It deals with a package of amendments to various acts, specifically The Public Trustee Act, The Trustee Act and The Child and Family Services Act. While I recognize the need in some cases to proceed with omnibus bills as they relate to topics of a similar or like nature respecting amendments of various kinds, with respect to these particular matters, Mr. Speaker, I have a great deal of difficulty because they do deal with disjointed matters.

They are not all entirely related to one package. Perhaps it might be more appropriate to deal with some amendments in the Statute Law Amendment or some other form, although I think these are more extensive than that, but this is an omnibus bill and it deals with divergent matters of—well, all in some instance deals with trustees and the nature of

trusteeship and various forms of it and dealing with accounts relating to trusteeship.

Nonetheless, I think it would have been more appropriate in the context of this particular bill to introduce different amendments to the different acts and not have introduced this particular bill as an omnibus bill. Even in dealing with the principles contained in this bill, there are different principles arising out of the various amendments.

The overall principles contained in these amendments are varying, and it even makes comment on this reading of the bill somewhat difficult to the extent that one does not want to engage in specifics, but at the same time we are dealing with three separate types of amendments within the context of one bill and in a general area of trusteeship. Granted it is in a general area, but nonetheless it creates some problem.

I would urge and suggest to the government that they consider perhaps breaking down these amendments into separate bills when next the occasion arises to deal with matters of this kind. Further, I would recommend to the government, particularly because of the nature by which this bill is brought forward and the various types of amendments contained within, that the government consider—and I have asked the minister previously—providing both opposition critics with a spreadsheet to delineate and illustrate the particular changes and the direction the government is proceeding with. Certainly, it is helpful on all occasions. I find it particularly helpful in statutory matters of a legal nature, because of the significance of some of the changes and the wording, that a spreadsheet be provided, and by all means it would almost to my mind be a mandatory requirement on bills of this kind, that is, those pertaining to an omnibus nature in a largely technical area of the law.

So I would hope that the minister, when he diligently, as I am sure he does, reviews these comments, will take those suggestions to heart, and perhaps when he next introduces a bill of this kind that we do have it contained within a spreadsheet. Specifically, the bill deals with three basic amendments, as I indicated earlier. I do have some concerns and I believe that the member for St. James (Mr. Edwards), when he made his comments with respect to this bill, also noted those concerns.

I do have some concerns with respect to the nature of the amendment to The Public Trustee Act that relates to matters concerning payments to individuals who are governed by The MPIC Act. The Public Trustee Act is amended and the minister has indicated that the changes will be required in The MPIC Act, and we will definitely at committee stage have some questions of the minister with respect to these changes. I note that in The MPIC Act, the payments are permissive and in the Trustee act, Mr. Speaker, the changes are mandatory, and the minister is asking us to allow this to go forward in The MPIC Act which the wordings are permissive in that piece of legislation. I would like an explanation from the minister on that when we reach the committee stage, because I wonder why the change and why it is necessary.

Now, the minister stated in his comments that the change was being entered into because of "legal and administrative purposes." Well, that is fairly broad, Mr. Speaker. Most changes, all changes, could be entered into or brought into effect for legal and administrative purposes, but we will require at the committee stage a fuller explanation, a more detailed explanation as to why this change is being entered into, which would remove the provisions from The Trustee Act and would allow the provisions as contained in The MPIC Act to be, in effect, relating to the litigation surrounding the guardian of an infant.

With respect to the second principles of the act—again, I reiterate that my point is made by virtue of the fact of how I must deal with this particular bills with the varying principles. The second amendment dealing with the Trustee Act is more extensive and deals with the passing of accounts and recognition and notification of the Public Trustee and other agencies of government in the cases of Public Trustee Act.

\* (1220)

The minister indicated in his comments that notification of the Public Trustee and notification of other government agencies with respect to the passing of accounts would no longer be necessary or not appropriate. The reason is if I take the minister's comments directly, the reason given by the minister was that both Public Trustee and the government do not have the resources and/or time to deal with these matters anyway, so it is only pro-form and not a requirement.

I do not think that is a good enough reason, Mr. Speaker. I can accept other reasons as to why it is not necessary, but to say, well, we are not going to give it to the government because the government does not have the resources to do it begs the question as to why this provision was introduced by the Legislature in this bill in the first instance.

In the first instance, it was felt that it was necessary for the Public Trustee—in the first instance, it was felt necessary for other government agencies, and I believe specifically the corporation branch, to have notification of these matters. Now, the minister is saying, we do not require notification because the government does not have the resources to follow up anyway, and that seems to me to be faulty reasoning. I will be looking to the minister to perhaps elaborate on those comments when we do proceed to committee on this matter, because I do not think that is necessarily a good enough reason.

The minister does say that public notification will be entered into in terms of newspapers and other vehicles and other bodies. I am just not certain, Mr. Speaker, and this is speaking somewhat tangentially, I am not certain if that is necessarily the best vehicle in our modern society now for posing and for providing information to the public. I am not certain if the average citizen who is affected by these matters runs to the Saturday or Sunday paper and goes through the legal notice section in order to determine whether or not an action is pending against them.

It is an interesting point to debate whether or not some other form of notification, when we are dealing with matters of public importance or alerting the public to matters of this kind, whether or not the old method of alerting the public is necessarily the privy one. For example, I do not think, indeed, I would suggest that most members of this House, never mind the public, do not regularly read the Manitoba Gazette, for example, which provides legal notification and legal basis for all kinds of decisions made by the government.

I am sure that members do not run home on the weekend and pull out their Gazettes and attempt to read them in order to be certain of all the corporation name changes and individual changes and all the matters relating to the legal Gazette. So just tangentially I raise the point that it is not necessarily the case that notification of the public by notice in the newspapers and usual methods of publication is

necessarily an appropriate one. Therefore, the point I am making by virtue of this is, the minister has said, well, notification of the public will be provided by virtue of publication as opposed to notifying the Public Trustee and as opposed to notifying government agencies.

With respect to the question of the notification, I do not necessarily know whether or not that would be the appropriate response or the appropriate means of notification. So I do want to alert the minister to the fact that we will be raising these matters in committee. [Interjection] We have to vote on this.

Other than that, I will be concluding my comments as I commenced them by advising all members of the House that I will be the only speaker on this side of the House with respect to this bill. We are prepared to pass this matter on to committee.

Thank you very much.

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

**Some Honourable Members:** Agreed.

**Mr. Speaker:** The question before the House is second reading of Bill 68, The Public Trustee Amendment, Trustee Amendment and Child and Family Services Amendment Act; Loi modifiant la Loi sur le curateur public, la Loi sur les fiduciaires et la Loi sur les services à l'enfant à la famille.

Is it the pleasure of the House to adopt the motion? [Agreed]

**An Honourable Member:** 12:30.

**Mr. Speaker:** Is it the will the House call it 12:30? The hour being 12:30, the House is now adjourned and stands adjourned until 1:30 p.m. Monday.

# Legislative Assembly of Manitoba

Friday, May 1, 1992

## CONTENTS

### ROUTINE PROCEEDINGS

#### Reading and Receiving Petitions

Independent Children's Advocate Office  
Carstairs 2841

Selkirk Human Resources  
Opportunity Centre  
Dewar 2841

#### Reading and Receiving Petitions

Independent Children's Advocate Office  
Carstairs 2841

Selkirk Human Resources  
Opportunity Centre  
Dewar 2841

#### Presenting Reports by Standing and Special Committees

Economic Development, 5th Report  
Rose 2842

Public Utilities and Natural Resources,  
2nd Report  
Penner 2842

#### Ministerial Statements and Tabling of Reports

Workers Compensation Board:  
Annual Report; Five Year Operating Plan  
Praznik 2842

Multilateral Meeting on the Constitution  
McCrae 2842  
Doer 2843  
Carstairs 2844

Annual Report, Manitoba Hazardous Waste  
Management Corporation  
Cummings 2846

#### Introduction of Bills

Bill 81, Optometry Amendment Act  
Orchard 2846

Bill 80, Dental Association Amendment Act  
Orchard 2846

### Oral Questions

Economic Growth  
Doer; Filmon; Alcock 2846

Tourism Promotion Campaign  
Alcock; Filmon 2849

Children's Dental Health Program  
Wasylycia-Lels; Orchard 2850

Summer Challenge Program  
Martindale; Gilleshammer 2851

Job Creation Programs  
Martindale; Gilleshammer 2851

Inner-City Recreation Programs  
Martindale; Gilleshammer 2851

Community Colleges  
Carstairs; Vodrey 2851

Dutch Elm Disease Program  
Friesen; Enns 2852

North American Free Trade Agreement  
Storie; Filmon 2853

Manitoba Housing Authority  
Plohman; Ernst 2853

### ORDERS OF THE DAY

#### Second Readings

Bill 73, Health Care Directives and  
Consequential Amendments Act  
McCrae 2854

#### Debate on Second Readings

Bill 48, Personal Property Security  
Amendment Act  
Chomiak 2855

Bill 74, Law Society Amendment Act  
Storie 2857  
Edwards 2863

Bill 68, Public Trustee Amendment, Trustee  
Amendment and Child and Family Services  
Amendment Act  
Chomiak 2865