



First Session - Thirty-Seventh Legislature

of the

**Legislative Assembly of Manitoba**

**DEBATES  
and  
PROCEEDINGS**

**Official Report  
(Hansard)**

*Published under the  
authority of  
The Honourable George Hickes  
Speaker*



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

<b>Member</b>	<b>Constituency</b>	<b>Political Affiliation</b>
AGLUGUB, Cris	The Maples	N.D.P.
ALLAN, Nancy	St. Vital	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
ASPER, Linda	Riel	N.D.P.
BARRETT, Becky, Hon.	Inkster	N.D.P.
CALDWELL, Drew, Hon.	Brandon East	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
CUMMINGS, Glen	Ste. Rose	P.C.
DACQUAY, Louise	Seine River	P.C.
DERKACH, Leonard	Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary, Hon.	Concordia	N.D.P.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
FILMON, Gary	Tuxedo	P.C.
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GILLESHAMMER, Harold	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
LEMIEUX, Ron, Hon.	La Verendrye	N.D.P.
LOEWEN, John	Fort Whyte	P.C.
MACKINTOSH, Gord, Hon.	St. Johns	N.D.P.
MAGUIRE, Larry	Arthur-Virden	P.C.
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MARTINDALE, Doug	Burrows	N.D.P.
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MIHYCHUK, MaryAnn, Hon.	Minto	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
PENNER, Jack	Emerson	P.C.
PENNER, Jim	Steinbach	P.C.
PITURA, Frank	Morris	P.C.
PRAZNIK, Darren	Lac du Bonnet	P.C.
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SELINGER, Greg, Hon.	St. Boniface	N.D.P.
SMITH, Joy	Fort Garry	P.C.
SMITH, Scott	Brandon West	N.D.P.
STEFANSON, Eric	Kirkfield Park	P.C.
STRUTHERS, Stan	Dauphin-Roblin	N.D.P.
TWEED, Mervin	Turtle Mountain	P.C.
WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

## LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, May 4, 2000

The House met at 10 a.m.

### PRAYERS

#### Introduction of Guests

**Mr. Speaker:** Prior to Orders of the Day, I would like to draw the attention of all honourable members to the gallery where we have with us from Oak Grove School from Fargo, North Dakota, 76 Grades 7 and 8 students under the direction of Ms. Lori Garbe.

Also seated in the gallery from St. George School we have 25 Grade 9 students under the direction of Ms. Nicole Alexander. This school is located in the constituency of the Honourable Member for St. Vital (Ms. Allan).

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

### ORDERS OF THE DAY

**Hon. Gord Mackintosh (Government House Leader):** Mr. Speaker, I would like to proceed with second readings. I will set out the order there and then move to debate on second readings, and then to debate on the government motion introduced by the Minister of Agriculture and Food (Ms. Wowchuk).

In terms of the second readings, Mr. Speaker, would you please call the bills in the following order: Bills 20, 14, 8, 18, 15 and 21.

**Mr. Speaker:** In order, the bills that will be called will be Bills 20, 14, 8, 18, 15 and 21.

### SECOND READINGS

#### Bill 20—The Farm Machinery and Equipment Amendment Act

**Hon. Rosann Wowchuk (Minister of Agriculture and Food):** I move, seconded by the Minister of Labour (Ms. Barrett), that Bill 20, The Farm Machinery and Equipment

Amendment Act (Loi modifiant la Loi sur les machines et le matériel agricoles), be read now a second time and be referred to a committee of this House.

#### *Motion presented.*

**Ms. Wowchuk:** Mr. Speaker, it gives me pleasure this morning to rise to speak about this bill, a bill that has been called for by farm machinery and equipment dealers. The Canadian Equipment Dealers Association and associations like the Manitoba Keystone Agricultural Producers have been asking for this bill basically because they are very concerned about the ability of producers, farmers to purchase repairs and lines of equipment for their operations.

Mr Speaker, the purpose of this act is to provide the producers with warranty and repossession protection on farm machinery and equipment purchased in Manitoba, and there are two amendments in this legislation. The first amendment is preventing the practice of dealer purity by permitting a dealership to carry competing equipment lines and products, as well as defining the conditions by which dealers' agreements can be terminated.

The second issue that is covered in this act is there is an amendment that allows financial institutions to lease farm equipment directly to producers. Under the dealer purity section of the bill, the amendments concerning dealer purity propose to allow manufacturers to terminate a dealership agreement only where there is cause and where there is a court order. Dealers will be able to carry competing lines of farm machinery and equipment without recourse from manufacturers.

The amendments list the conditions whereby manufacturers can terminate a dealership licence, and some of the conditions are: a dealer is in bankruptcy proceedings; a dealer's business is being liquidated; the dealer has faulted under the security agreement with the manufacturer; another condition, Mr. Speaker, is a dealer has

failed to operate on a normal course of business for 14 consecutive days; a dealer has pleaded or been found guilty of an offence that affects his contractual relationship with the manufacturer; and, a dealer has failed to comply with the essential and reasonable requirements of the dealership agreement.

None of the following conditions can be cause to terminate a dealership agreement: should there be a change in management or ownership of a dealership, the dealership agreement cannot be terminated unless the change is detrimental to the reputation of the manufacturer; the dealer's refusal to purchase or accept the delivery of farm machinery, equipment or service from a manufacturer unless it is necessary for the operation of the dealership; the manufacturer's desire for further market share that is not consistent with other similar situated dealers; and, if a dealer carries on business as a dealer for another manufacturer.

I want to tell you, Mr. Speaker, that this legislation was brought forward in Saskatchewan earlier this year, as a result of a situation that had developed, where a dealership was being closed down because of carrying another line of equipment, and the Government of Saskatchewan moved very quickly to address it.

The amendments that are being brought forward to our Farm Machinery Act are very similar to those passed in Saskatchewan. However, there is a major difference between the proposed amendments and the Saskatchewan legislation in the option of a mediator. A dealer or a manufacturer can request the court to appoint a mediator under our legislation. Should there be a request for a mediator, the court has no option but to appoint a mediator. Should there be a mediator requested, the length of the mediation will be determined by the court. Under our legislation, the Minister shall establish and maintain a list of persons who may serve as mediators, and no further court proceedings can take place during the mediation process. Should a mediation process get started, the parties must participate in good faith and the mediator shall file a report in court after the mediation is concluded.

\* (10:10)

Another difference with the proposed legislation and the Saskatchewan legislation is that our amendments apply to mainline and short-line manufacturers.

All major stakeholders have been involved in this consultation process as this legislation was being developed. The Canadian Farm Machinery Equipment Dealers Association has been involved in it; Keystone Agricultural Producers has been involved with it; and there has been interest in the legislation by the manufacturers. We have had discussion with them on the legislation, and we would anticipate that there will be presentations from them.

With respect to the leasing through financial institutes, currently the warranty provisions of the act only apply when a purchaser leases farm equipment and machinery through a licensed dealer. A purchaser who leases through a financial institute is not covered under the warranty provisions of the act because of the definition of a dealer. The proposed amendments will enable a financial institute to lease machinery to a purchaser without having to obtain a dealer's licence.

Mr. Speaker, as I have said, consultations have taken place with the Bankers' Association on this issue. The proposed amendment is a result of that consultation process. We feel that the proposed amendments will provide greater opportunities for purchasers of leased equipment. I look forward to discussions on those.

But I have to say that I feel that this legislation is one of our steps that we are talking to address the situation that farmers are facing. It is the issue of fewer dealers in communities and a greater difficulty for farmers to get their equipment. The dealerships are trying to address the needs of the farmers by carrying other lines of equipment in their establishments, and this legislation will allow them to do it.

The amendments in the leasing policy are also a change that has taken place in the way farmers purchased their equipment and are looking, just as people who buy cars and trucks look, to lease through financial institutes. Farmers are looking for that option to lease through banks. Many times it is a more

reasonable financial arrangement than dealing through the companies.

Given the difficult situation that many farmers are in, given the changing times and the changing structure of rural communities where many times there are not nearly the dealerships that there used to be in place in small communities, we feel that this legislation will help farmers. I know that, talking to machinery dealers, they tell us that this will help them in their business, and it will help farmers in their ability to purchase the equipment that they need. I look forward to having this bill go to committee and hearing from the public. Thank you.

**Mr. Mervin Tweed (Turtle Mountain):** I am pleased to put a few words on the record in regard to the bill brought forward by the Minister today. I guess I would like to just suggest I appreciate the fact that the Government moved so quickly on this bill after this side of the House introduced a private member's bill, which was going to do exactly the same thing, although the wording is changed.

We tried to mirror the Saskatchewan legislation just simply because, in discussion with manufacturers, dealers, there was a need for consistency across western Canada so that short-line manufacturers would have the ability to have a market and a marketplace with the dealer network that is already out there. But I will recognize today that the legislation, again, although not the words, but the intentions, is very similar to what was put forward in Saskatchewan.

A lot of the issue around this has been the idea of resolving dealer purity. While I agree that it is one of the aspects that this bill looks after and deals with, there has a long time been an unfairness of the manufacturers to write into their agreements specifics that handcuff dealers' ability to expand their operations within their communities by adding short lines, and the dealer purity in the agreement would not allow for this. But I think there are other people in Manitoba and across western Canada who will benefit from a bill like this. Obviously, the communities of which our farm machinery

dealerships and manufacturers are in will be able to sustain themselves.

I know, talking to one of the manufacturers in Manitoba that one of the biggest concerns he had when he was growing his business was establishing a network across western Canada. With the dealer purity contract, he was shut out of some of the better and more successful dealerships in communities because of the purity reasons, but, in effect, the loser was not only the dealer but it was the community itself through employment and through jobs created by this expansion.

Another part of our community that benefits I think a great deal is our producer. I think we all recognize that consumers want choice, and, in general, consumers are loyal to the communities in which they live. To have a manufacturer that is displaced from the province or in certain cases and in most cases displaced from Canada, dictating what dealerships could and could not sell seemed to be an unfair advantage. Again, this bill, I think, addresses that.

As I said earlier, the short-line manufacturers are always looking to establish networks, and the purity agreement the dealers had to sign to sell main-line franchise equipment just would not allow for that. We have an issue going on in Manitoba right now with the closing of the New Holland plant. We have a local Manitoba company that wants to pursue the buying of that particular company. It is going to create jobs in Manitoba. It is going to create opportunities in rural Manitoba. The purity agreements would actually restrict this person from buying a manufacturing company such as the New Holland plant and having a network out there in rural Manitoba for him to distribute his equipment. So I think that this bill goes a long way to addressing that. Also, it encourages manufacturers to look at Manitoba.

One of the companies that I am familiar with in Saskatchewan, Borgo Manufacturers, [*phonetic*] one of the largest manufacturers in western Canada, were being squeezed out of business by a dealer purity agreement that would not allow the dealers that handled the main-line equipment to sell their product for them. I think we all would agree that made in Manitoba or

made in western Canada supplied to western Canadians by western Canadians is certainly something that we should all stand and support. I would recommend that the government of the day continue to lobby the Province of Alberta for similar legislation so that we can have an even playing field across western Canada, not only for our dealers but for our manufacturers, and in the long term the benefit happens to communities that are able to take advantage of these opportunities.

We had some discussion, Mr. Speaker, with the Minister on this bill prior, and I appreciate the fact that we were allowed to see it and have some input into it. Certainly, the Minister recognizes we had some concerns around the mediation process. Our only concern at that particular time was that it is another step in the process, and mediation in this particular area I believe can be used by either side as a delaying tactic and something that when you are into the decision-making process where you are going to decide between the dealer and the manufacturer, it puts a mediator in an awfully tough position, I think, particularly if he is a Manitoban. I am not wanting to put words in any mediator's mouth, but it would seem hard for me to see that a Manitoban would rule against a national or international company against a local dealer. We accept that it is in there, but I do think that it is something that we want to certainly make sure that the process does not drag out and is seen strictly as a delay tactic for one side or the other.

\*(10:20)

I think the dealers certainly want to get their results and move on, and I think that probably the manufacturers do, too.

One of the issues that comes up, I think, probably from the political side is the fact that is this something that a Progressive Conservative caucus can support. In essence, are we putting limitations and regulations on dealer growth or enhancement or ability to manoeuvre? I would suggest that we are not with this type of bill. I think it is something that is actually going to enhance the opportunities again, particularly of our short-line manufacturers. I do not see that there is a group that can lose with this type of legislation in the sense that communities,

dealers, producers and small manufacturers all benefit. Again, just to touch on the fact of the consultation, I think it exemplifies what can be done when governments of the day go out and consult and listen to the people that they are representing.

I know that we on this side have sometimes recently accused the government of not consulting enough with the people, that they are bringing forward legislation that will affect them. But in this case, I certainly know that the previous government had lots of discussion with the stakeholders. I know that there is broad support out there for this bill, not only from the farm machinery dealers but from producers, from manufacturers and from communities in rural Manitoba that will benefit.

So, with those few comments, Mr. Speaker, I will pass.

**Mr. Jack Penner (Emerson):** Mr. Speaker, I certainly would also like to add a few comments in regard to The Farm Machinery and Equipment Amendment Act that the Minister of Agriculture (Ms. Wowchuk) has put before the House.

I want to commend the Minister for taking this kind of action, and, secondly, I also want to commend the Minister for opening her door to us and consulting with us in regard to this bill to ensure that the bill, in fact, would be compatible and garner support. I think she will find in this House that she will have total support in regard to this bill. I think that is the kind of attitude, I feel, is prevalent in the Minister's office, and I commend her for that because that is truly the way that I think farmers can in the long term be best served, by having that kind of a co-operative spirit in her department.

I also want to commend the former Minister of Industry and Trade, Mr. Tweed, I think when he developed the private member's bill that indicated the need for this kind of a bill. He looked at what Saskatchewan had done previously in legislation, ensuring that there could be that kind of a competitive dealership network that would indeed have the ability to market that kind of equipment that was manufactured in western Canada, maybe,

indeed, even some of it as one kind of operations in all of Canada.

I refer to an industry that is not very well known but does a tremendous amount of manufacturing in the row crop equipment line. I think Elmer's Welding at Altona is probably the only row crop equipment manufacturer indeed in western Canada and might even be in all of Canada. Therefore, his business would have been severely curtailed had this kind of legislation not been put in place.

I want to say to the Minister that small manufacturers like Elmer's Welding, the Loewen group in Altona and many other short-line farm equipment manufacturers all over Manitoba contribute very substantially to employment in our small communities in rural Manitoba and I think have contributed substantially to the bottom line in our export business. Elmer's Welding, for instance, manufactures large numbers of machinery, and most of it is being exported to the United States in the field of row crop management.

I think it is also important to note that the huge diversification that we have seen in the province of Manitoba since the demise of the Crow rate is an indication of what can happen if the rural community is supported properly by legislation such as this. Not only does it support the secondary industry beyond the farm gate, but it allows for the establishment, the creation and the expansion, of short-line, smaller manufacturing firms that will support that diversification.

We have seen the bean industry, for instance, grow from a commodity that produced probably about 10 000 acres of beans in this province some 10 years ago, and this year will probably exceed the 200 000-acre mark as well as many other specialty crops, such as sunflowers, lentils, peas and all those kinds of things. All these crops require special equipment that need special attention and can be done by local manufacturers, and is done.

The sunflower header operation is manufactured in Manitoba. The lentil swather, a swather that was developed in Manitoba that would cut right on the ground, and it is used now. The MacDon swather, is used now in

lentils; it is used in beans; and it is used in many other areas. I think those are the kind of indications that we talk about, and I think those are the kind of manufacturers that need the security of the dealership network, as Mr. Tweed has said, to sustain the industries in this province and secure that they are going to have a distribution network that the farm community can access properly, not only for service but also parts.

So I commend the Minister for bringing this kind of legislation forward. I certainly clearly intend to support this legislation. I think she will see that she will have full support from this side of the House for this kind of legislation.

**Mr. Larry Maguire (Arthur-Virden):** I, too, would like to add my support for this bill, The Farm Machinery and Equipment Amendment Act, that has come forward. Having been at the initial announcement with the Member for Turtle Mountain (Mr. Tweed), when we helped put forward similar legislation to what the Saskatchewan Government had used for the farmers of Saskatchewan as well as making it available for the farmers here in Manitoba, I think it goes a long ways further than just helping the farmers; it also helps the local communities. As has been mentioned by both of my colleagues that spoke before me, it also maintains the community activity, and it is the major enterprise in some of the smaller communities in Manitoba.

I think it is a well-known fact that many of the very small machinery companies that have developed throughout western Canada have come from the ingenuity of the farm community and the need to manufacture products that have been needed on the farms themselves. They have, therefore, either outgrown the manufacturing abilities of the individual farm where they began to the smaller communities, and, as has been mentioned, these companies certainly do need the support of a dealer network to get their product out into the marketplace to be profitable. That is going to be, we hope, somewhat more secured by the introduction of this bill and the passing of this legislation, not taking away at all from the fact that the major companies today are going through amalgamations, as in other sectors of our industry, such as the grain sector, the

finance sector and others, and farm inputs. No doubt these companies do have a great dialogue with the dealer networks that they have established and with their dealers on a regular basis. I am well aware and have been at some of those meetings myself, have spoken to the Canadian Farm Implement Dealers Association a time or two and had the opportunity to meet with many of them. Certainly, being a farmer myself, I have had the opportunity to deal with them on a first-hand basis.

\* (10:30)

However, I think this kind of legislation is important, as I said, to somewhat allow the expansion of our smaller machinery lines. As has been raised earlier, the situation that we are faced with here right in Manitoba with the closing—or the repurchasing, if you will—of a plant of the importance of New Holland to the Manitoba economy here in southern Winnipeg is of great concern to all of us. It just happened to be caught up in the legislation passed by our American neighbours in regard to the amalgamation of Case International company with New Holland and that whole purchase mechanism that took place.

We need to make sure that these short lines are protected in that venue and that there is an ample opportunity for the farmers to have the choice, to continue to have the choice of selection of the various competitive lines of short-line machinery, as well as making sure that there is ongoing support for the major companies. Many of our dealers in the mainline industries today, I think we have to remember, in the area of the U.S. Midwest and in the central prairies where we are mainly concerned about—but there are similarities in these smaller communities—are dealers that very much do an excellent job of selling the mainline dealership and the mainline equipment that they are asked to sell, that they have taken on the choice of selling, but are quite prepared to have to have the other major short lines, in order to supply the needs of the customers that they have in their trading area, whether it be in the grain sector or in the livestock sector.

Therefore, Mr. Speaker, I will close by just saying that I support this bill in the form that it

has been presented. I believe it will be a benefit for the farming community, as well as the economy of Manitoba. I would urge other members in the House to consider it in a similar manner and pass this legislation at our earliest convenience. Thank you.

**Mr. Leonard Derkach (Russell):** Mr. Speaker, I am pleased to rise this morning to add my support to this particular bill that is before the House. The area that I represent is a fairly large area, and in my constituency we have certainly agriculture as one of the major economic activities. Indeed, agriculture producers rely very heavily on equipment dealers throughout my region. In the past number of years, we have seen the number of dealers throughout Manitoba decrease because of perhaps the economy and perhaps because of the technologies that are now in place to be able to access information and access equipment much more readily through larger dealers and larger operators.

I first learned about this issue from a friend in Saskatchewan, who was contemplating introducing this as a private member's bill in the Saskatchewan Legislature, because he saw it as a problem in Saskatchewan and a problem in small communities. I think it is no different here in Manitoba. If this bill does not proceed, we will see an impact on communities in a negative way. I think my colleagues have spoken about the importance of the dealership network and the relationships that the small manufacturers have with major dealers in the province to ensure that their products find their way to market. Those products that are produced here in Manitoba, for example, do create significant jobs in our communities, and right here in Winnipeg, I might add, especially with an outlet like the New Holland tractor manufacturing company. Indeed, these are important ways of getting their products into the marketplace.

So, Mr. Speaker, I am certainly pleased that the Minister of Agriculture (Ms. Wowchuk) has worked very co-operatively with our side of the House to bring this legislation forward. Indeed, I intend to support it, because I do believe that it will benefit not only the producers in my part of the province but in all of our province and indeed the communities, because it does give the

dealers an ability to market products that are produced right here in Manitoba as well.

So, Mr. Speaker, I will close with that and just simply indicate that I intend to support this legislation. Thank you.

**Mr. Peter Dyck (Pembina):** Mr. Speaker, I too would like to add my support to Bill 20. Specifically with reference to my constituency, I have a number of dealers in the area who would be impacted by this. Certainly, in my discussions with them, they have added their support to the essence of this bill.

Further to that, we also have businesses within the area that I represent who are manufacturing farm machinery. Again, they would be impacted on it as well. So it is a good bill. My colleagues have made many of the comments, which I certainly support and endorse.

So with those few words, Mr. Speaker, I just want to add my support to this bill. Thank you.

**Mr. Edward Helwer (Gimli):** Mr. Speaker, I would just like a few minutes to add my comments also on The Farm Machinery and Equipment Act.

I commend the Minister for bringing forth this amendment, but I think certainly, especially in my area and the Interlake area, with the changing scene of agriculture, with the way times have changed whereby grain prices have been depressed the last number of years, it does not make sense to grow wheat or barley or oats when the freight is worth more than the product you want to produce. So I think it is important that we make dealers aware that they can sell other short lines. This will make them aware that they can do that.

In Manitoba there are a number of manufacturers of small, short-line equipment for the special crops, whether it be in the forage industry or a lot of the new crops that are being produced in Manitoba such as beans and more corn and special crops. So it is important that we do give dealers this opportunity, especially in light of the smaller communities.

There has been such amalgamation in the large machinery companies. When we talk about Case or New Holland, Case, AGCO, John Deere, they are all expanding and buying up a lot of the short lines, where there are people like Flexi-Coil, Borgo [*phonetic*] and some of the air seeder lines like that have been acquired by the large companies. It makes it very difficult for the dealers to be able to find something so that they can remain in their communities and remain strong and promote their communities.

I think the main thing is, with the changing scene out there in agriculture, with the various crops that are grown, there is so much special equipment being manufactured in the small communities that it is important that we do give these manufacturers an opportunity to market their wares throughout the dealers in Manitoba.

So I commend the Minister for bringing forth this amendment and I will support it. Thank you.

**Mr. Speaker:** Is the House ready for the question? The question before the House is second reading of Bill 20, The Farm Machinery and Equipment Amendment Act (Loi modifiant la Loi sur les machines et le matériel agricoles). Is it the pleasure of the House to adopt the motion? Agreed?

**Some Honourable Members:** Agreed.

**Mr. Speaker:** Agreed and so ordered.

**Hon. Gord Mackintosh (Government House Leader):** Mr. Speaker, I wonder if we can just change the order. The Minister of Government Services and Highways (Mr. Ashton) is out of the House momentarily, if you could move instead to the third place bill, and put Bill 14 to the bottom of the list.

#### **Bill 8—The Enforcement of Judgments Conventions and Consequential Amendments Act**

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** Mr. Speaker, I move, seconded by the Minister of Finance (Mr. Selinger), that Bill 8, The Enforcement of Judgments Conventions and Consequential

Amendments Act; Loi sur les conventions relatives à l'exécution des jugements et modifications corrélatives, be now read a second time and be referred to a committee of this House.

*Motion presented.*

\* (10:40)

**Mr. Mackintosh:** Mr. Speaker, from time to time, the Government of Canada concludes international agreements with other countries. The subject matter of some of these conventions requires the Province to pass implementing legislation to bring their terms into effect. I am pleased to introduce a bill which will enable Manitoba to implement international conventions or agreements regarding the recognition and enforcement of civil judgments including maintenance orders when such conventions are concluded by Canada and another nation.

On June 10, 1996, the Government of Canada and the Republic of France entered into a convention respecting the recognition and enforcement of judgments in civil and commercial matters. It also provides for mutual legal assistance and maintenance matters. The provisions of the Canada-France convention are set out in a schedule to the bill. Although this convention cannot come into force in Manitoba until such time as the federal government takes certain steps to implement the convention, this bill will allow Manitoba to implement the convention in a timely way after the federal role has been completed.

**Mr. Darren Praznik (Lac du Bonnet):** Mr. Speaker, I would move, seconded by the Honourable Member for Portage la Prairie (Mr. Faurichou) that debate be adjourned.

*Motion agreed to.*

**Bill 18—The Labour Relations  
Amendment Act**

**Hon. Becky Barrett (Minister of Labour):** Mr. Speaker, I move, seconded by the Minister of Conservation (Mr. Lathlin) that Bill 18, The Labour Relations Amendment Act (Loi modifiant la Loi sur les relations du travail), be

now read a second time and be referred to a committee of this House.

*Motion presented.*

**Ms. Barrett:** Mr. Speaker, I am pleased to introduce Bill 18 which proposes to amend The Labour Relations Act. Currently The Labour Relations Act stipulates that where an employer sells, leases, transfers or otherwise disposes of a business or a part of a business, the person acquiring the business, the successor employer, also requires the rights and obligations of the predecessor employer, including any obligations and rights under a collective agreement that was applicable to the predecessor employer and the affected employees.

These rights and obligations are very clear in situations where both the predecessor employer and successor employer are under provincial labour jurisdiction and existing certifications and collective agreements were granted or negotiated under Manitoba law. However, the situation is less clear in cases where the predecessor employer is under federal labour jurisdiction and the successor employer is under Manitoba jurisdiction. As a result, it has generally been necessary to apply to the Manitoba Labour Board to clarify the situation and have necessary determinations made. The Labour Board has broad general powers to make determinations in these matters. The board may determine if a collective agreement is in full force and effect and which parties are bound by the agreement.

The general intent of the proposed amendment is to make it clear and explicit that a successor employer who is under provincial labour jurisdiction acquires the rights and obligations under any collective agreement that was applicable to the predecessor employer who was under federal labour jurisdiction. The amendment would eliminate most uncertainties as to the status of collective agreements in these situations. The change essentially clarifies that the existing successor rights provision of the act will apply in these cases.

The Canadian Labour Code has similar legislation to address situations where a business under provincial labour law becomes subject to

federal labour law as a result of the sale of the business. The provinces of British Columbia and Saskatchewan have legislation very similar to what is being proposed in this bill.

The proposal was reviewed by the Labour Management Review Committee. The Committee unanimously recommended the provision with some minor changes. I thank the LMRC for their efforts and advice in reviewing the proposal.

Before concluding, Mr. Speaker, I would like to say a few words about this Government's approach to labour-management issues and how this legislation reflects our approach. I would like to begin by saying our approach is grounded in the mandate we received from Manitobans. Last fall, Manitobans voted for a party that pledged to foster teamwork and inclusion rather than division and isolation. I can, parenthetically, see no clearer evidence of the reverse of that teamwork and inclusion rather than division and isolation than the comments that were put on the record yesterday in the House during Question Period by the Member for Springfield (Mr. Schuler).

Manitobans voted for secure health care for all. They voted for excellent public schools and accessible colleges and universities. They voted to enhance our public assets rather than sell them. They voted to make our communities better by attacking not just criminals but the root causes of crime like poverty and isolation. They also voted to end the labour strife of the past decade. They voted for a government that would restore sanity to the relations between business and labour.

It is no wonder they voted this way. The former government upset the balance and eroded the co-operative spirit in Manitoba labour relations. At every turn, they attacked unions and continued to do so in the House and sought to drive a wedge between working families and the unions that represent them. Through changes to labour legislation, they made it harder for working people to organize and bargain as a group for their labour, basic rights that are acknowledged throughout the world in democracies. They failed to invest and take seriously the prevention of workplace injuries.

They demonized unions, even when unions were speaking up on important issues like health care and education. I am glad to say that the current Opposition's short-sighted divisiveness helped in their undoing last fall.

Following from our mandate, we are taking a different approach. Instead of division, we are fostering partnership. As our first step towards building a new partnership between labour and business, our Government hosted the Manitoba Century Summit in March of 2000. Just the other day in the House, the report and recommendations from that summit were distributed to all members of the House. I would urge members of the Opposition to read that report, because it includes some very interesting, very doable, very forward-thinking comments by all members who attended that summit, members who were there to forge partnerships, to work together, to improve our Manitoba economy and our Manitoba quality of life. The last time such an event was held in the province of Manitoba was 1986. Parenthetically, and not surprisingly, the NDP was in Government that time as well.

I am happy to say that at that summit in March, participants from business, labour and the community at large warmed at the chance to work co-operatively. It felt like a beginning of a spring thaw after a long, cold winter of isolation and distrust. We intend to build on the summit approach of fostering a new partnership between business and labour in Manitoba. We intend to work together with both sides to find the right balance that serves both the needs of working people and the needs of the business community. I believe and I know we can find that balance. We must find that balance because Manitobans want that, and that is what will position us to best face the challenges ahead.

\* (10:50)

Bill 18, which amends The Labour Relations Act to ensure successor rights for a federal-provincial transfer, is a small but important step in this process. The amendment will provide some security for employees such as those at the Westin shops without forcing undue obligations on the employers. It clarifies and it is fair. That is good labour law. That is the kind of labour law and labour relations climate that we are

going to foster here in the province of Manitoba. It is the kind of balance that Manitobans voted for, and it is the kind of approach we will be taking in our dealings with labour, with the business community, with all Manitobans.

In conclusion, I believe that the amendment will make the law clearer for employers and unions and assist in dealing with these cases where businesses transfer from federal to provincial labour jurisdiction.

Mr. Speaker, I commend the bill for approval by the Assembly.

**Mr. Ron Schuler (Springfield):** Mr. Speaker, I move, seconded by the Member for Turtle Mountain (Mr. Tweed), that the debate on this motion be adjourned.

*Motion agreed to.*

#### **Bill 15—The Water Rights Amendment Act**

**Hon. Oscar Lathlin (Minister of Conservation):** I move, seconded by the Minister of Labour (Ms. Barrett), that Bill 15, The Water Rights Amendment Act (Loi modifiant la Loi sur Les Droits d'utilisation de l'eau), be now read a second time and be referred to a committee of this House.

*Motion presented.*

**Mr. Lathlin:** Mr. Speaker, I just have a few comments to make on this bill, and that is that a recent judgment by the Manitoba Court of Appeal restricts the Province of Manitoba from properly regulating and ensuring the orderly development of drainage in Manitoba. The court decision brings into question whether the Province of Manitoba has jurisdiction over drains and drainage in the province. In considering together The Water Rights Act and The Water Resources Administration Act and The Municipal Act, the court concluded that the provincial government has absolved itself of almost all responsibility for drainage and that this responsibility has been delegated to the municipalities except where a body of water has been declared a provincial waterway.

It was also the view of the court, Mr. Speaker, that the intent of The Water Rights Act

is to regulate the use and diversion of water and that the term "divert" should not be interpreted so broadly so as to include drains and drainage matters.

Mr. Speaker, the court concluded that if it was intended for the provincial government to retain control over drainage, then there should be specific reference to the drainage in The Water Rights Act, and the court determined that there was no such specific reference.

As it now stands, Mr. Speaker, drainage is virtually unregulated as very few municipalities have by-laws providing them with effective authority. Unregulated piecemeal drainage projects can have serious consequences on people, on property and on the infrastructure. In order to ensure such potential damage does not occur, the provincial government must maintain its authority and responsibility for drainage.

I am continuing to hear from stakeholders, Mr. Speaker, that Manitoba's role in drainage is essential and critical. The Association of Manitoba Municipalities has indicated to me that the Province of Manitoba should maintain ultimate jurisdiction and authority over drainage and drainage licensing and remove any ambiguities in existing legislation which have given rise to court challenges.

A land drainage review undertaken in 1997 and '98 heard clearly at public meetings held throughout agri-Manitoba that the provincial role in regulating drainage is needed to protect property, crops, infrastructure, resources and the environment from indiscriminate drainage.

The responsibility of the Province as owner of the water resources means that we cannot abandon even if we wished our role in addressing the overall and potentially widespread impacts of individual water management decisions. The provincial government has responded to this responsibility and to the recommendations of local governments and producers to administer an acceptable licensing and enforcement process for drainage projects. This effort will be undermined very rapidly if we do not act quickly to inform municipal governments and producers of our commitment to ensuring orderly drainage of agricultural land

and to ensuring that the legislation will be revised immediately.

Rather than taking further court action to reverse this latest court decision, it is considered more practical to make changes to the existing Water Rights Act. The amendments that I am proposing clearly establish provincial authority over drainage and other diversion works, as it was determined to be lacking by the court. These amendments are intended to reflect the provincial government's historical practices and intentions on drainage and drainage licensing. Every effort has been taken to ensure that the proposed revisions are minimal, as more comprehensive public review of water rights legislation is planned for later this year.

Mr. Speaker, the amendments that I am proposing are intended to leave intact as much as possible all aspects of the present act that deal with the use of water. As the interpretation of the Manitoba Court of Appeal was that divert only refers to the use of water, it is necessary to introduce a separate class of works, water control works, which would deal with diversions, for example, drains, dikes, blockages, which do not involve the use of water. Changes to the legislation centre on the insertion of this new definition for water control works throughout the act. In addition, minor changes that are required to reference this definition are made throughout the act. The amendments also ensure that works undertaken in the past and those constructed since the Court of Appeal decision are subject to the amended legislation.

Mr. Speaker, in order to clarify the relationship between municipal authority over drainage under The Municipal Act and the provincial authority over drainage under The Water Rights Act, the amended act states that where there is a conflict between this act and The Municipal Act this act will prevail.

So those are my remarks, Mr. Speaker. Thank you.

**Mr. Larry Maguire (Arthur-Virden):** Mr. Speaker, I move, seconded by the Member for Turtle Mountain (Mr. Tweed), that we stand

debate on Bill 15, The Water Rights Amendment Act.

*Motion agreed to.*

### **Bill 21—The Water Resources Administration Amendment Act**

**Hon. Oscar Lathlin (Minister of Conservation):** I move, seconded by the Minister of Labour (Ms. Barrett), that Bill 21, The Water Resources Administration Amendment Act (Loi modifiant la Loi sur l'aménagement hydraulique), be now read a second time and be referred to a committee of this House.

*Motion presented.*

**Mr. Lathlin:** Mr. Speaker, in the spring of 1997, residents of the Red River Valley experienced severe flooding, a flood which came to be known as the Flood of the Century. Many Manitobans had their homes and businesses inundated by the flood waters and suffered severe hardship. Unfortunately, prior to the 1997 flood a number of homes in the Red River Valley were built at elevations lower than those recommended by provincial Water Resources officials. In times of severe flooding such as the one experienced in 1997, it becomes even more difficult to adequately protect structures that are not built to proper elevations.

\* (11:00)

Mr. Speaker, building within the Red River Valley designated flood area is controlled by The Water Resources Administration Act. This act requires that anyone building within the designated flood area obtain a permit and to build in accordance with its requirements. Although the act requires building to certain standards, there is no practical means of enforcement. There is also no means of alerting potential buyers that the structures do not conform to flood-proofing criteria.

In 1988, amendments were made to The Water Resources Administration Act to help ensure that residents of the Red River Valley were protected against severe floods. These amendments provided for greater enforcement to

ensure that buildings were constructed to the flood protection level. For structures not meeting current flood-proofing standards, the amendments provided provisions to alert potential buyers by allowing a caveat to be placed on the land title. The previous amendments to the act have not been proclaimed. Before this is done, a transition clause is needed to provide a bridge between the old act and the unproclaimed amendments to clear up possible confusion over which act should apply. The legislation that I am introducing contains this transition clause and some minor administrative word changes to the previous amendments.

This Government recognizes the hardships that the residents of the Red River Valley experienced as a result of the flood of the century. This legislation will help to ensure that residents of the valley are protected against future floods of the magnitude of 1997. Thank you.

**Mr. Larry Maguire (Arthur-Virden):** Mr. Speaker, I move, seconded by the Member for Gimli (Mr. Helwer), that we stand debate on Bill 21, The Water Resources Administration Amendment Act.

*Motion agreed to.*

**Hon. Gord Mackintosh (Government House Leader):** Mr. Speaker, if we could deal with Bill 14 as a last-move it down after Bill 7. We can return now to debate on second readings.

## DEBATE ON SECOND READINGS

### Bill 5—The Wildlife Amendment Act

**Mr. Speaker:** To resume debate on the proposed motion of the Honourable Minister of Conservation (Mr. Lathlin), Bill 5, The Wildlife Amendment Act (Loi modifiant la Loi sur la conservation de la faune), standing in the name of the Honourable Member for Lakeside (Mr. Enns).

**Some Honourable Members:** Stand.

**Mr. Speaker:** Agreement to stand? [*Agreed*]

### Bill 6—The Water Resources Conservation and Protection and Consequential Amendments Act

**Mr. Speaker:** On the proposed motion of the Honourable Minister of Conservation, Bill 6, The Water Resources Conservation and Protection and Consequential Amendments Act (Loi sur la conservation et la protection des ressources hydriques et modifications corrélatives), which remains open.

**Mr. Larry Maguire (Arthur-Virden):** I move, seconded by the Member for Emerson (Mr. Jack Penner), that we adjourn debate on this bill.

**Mr. Speaker:** I recognize the Honourable Member for Dauphin-Roblin. I would just like to remind all honourable members that when a bill remains open there is no reason to adjourn the debate, because it is open to any member.

**Mr. Stan Struthers (Dauphin-Roblin):** I appreciate the opportunity to speak in the House today about an issue that is very important to not just the constituents that I represent in our part of the province of Manitoba but an issue that has huge implications, huge ramifications for our province in general.

Yesterday we talked a little bit about infrastructure. We talked about different kinds of infrastructure that are important to our province and not just the regular kind of infrastructure that we all think of, railways and highways and bridges and airports and those sorts of things, but yesterday talking about the importance of soil and the infrastructure that was here well before people started building roads and bridges and rail lines and the rest of it.

In that category with soil is water. That category of infrastructure is something that is natural, which is something that has been here a lot longer than any of us. The water question has always been central in the development of our province. We have used water as a resource. Whether it was homesteaders building their farms and building communities in which to raise their families, water dictated where many people lived. Earlier than the farm community in our province, the days when fur trading and hunting and trapping were the main sources of

revenue for people living in Manitoba, the main sources of food, the water routes were absolutely essential. They were central to any of the early economic development activities that Manitobans participated in.

So we have in this province quite a history centred around water and the use of that resource. One only has to think of the Port of Churchill and the fact that it is located on Hudson Bay and the use that that port and the river systems into Hudson Bay have had in the development of our province.

Mr. Speaker, we have gone through in my community of Dauphin quite an extensive discussion about the importance of water over the last several years, especially since our community was put under a boil water order by public health officials. If anybody wanted to know how important and how sometimes emotional a debate can become, then water is the topic that you should take a look at. It was driven home to us in Dauphin how important this resource is for us to maintain good health and to sustain life itself.

Many of our citizens in our community ended up sick because we did not take care of our water. Many of our citizens ended up with the inconvenience of having to boil water before they could drink it. Many citizens took on the added expense with adding filtration devices because the water was infested with giardia bacteria.

\* (11:10)

So, Mr. Speaker, we have to in this Legislature treat water with the utmost of respect, and we have to go to bat when one of our most precious resources is threatened. We must protect our water sources. If we do not do that, if we neglect our duty to protect this valuable resource, then, No. 1, we are limiting our ability for economic development; No. 2, we are giving up control of something that is absolutely necessary for human life; and, No. 3, I would suggest that to future generations, we have, then, let them down if we do not take steps in this House to do in my estimation two things. Number 1, take a strong stand ourselves with legislation, and, No. 2, take a strong and

persistent stand with the federal government because there are international implications when we deal with water. The federal government has a huge role to play in this along with the provinces, and, hopefully, that will be done with those two levels of government in an approach of co-operation.

That is what our Minister is trying to accomplish. We are trying to urge the federal government that they have a tremendous role to play in the protection of our water resources and that we have to keep urging the federal government to take that responsibility seriously. We do not want to get into a situation, I believe, where we just allow the bulk removal of water from our province. A lot of thought has to go into the actions that we take and the actions that we allow to go on.

Now, I have had conversations with some of the Aboriginal people who live in Manitoba. They talked to me about making decisions that have ramifications seven generations down the line, and that has to do with either fishing or water or wildlife or anything in the area of natural resources that we deal with. I think we can learn some valuable lesson if we talk to people who have that kind of forward-thinking attitude. Let us make decisions that are good seven generations into the future. Let us imagine the ramifications of the decisions we make here and understand that they will have huge effects on our province down the line.

Now, selling of water in large amounts, the bulk removal of water from our province, might be tempting from a short-term financial standpoint. It might be tempting to say that, oh, X number of jobs are going to be created if we do that, but it does not fit into the long-term seven-generation thought that I think we should employ as decision makers in this Legislature. It might be good for our generation right now here today, and we might make a little bit of money at it, but in the long term, I believe, we would be giving away the powers and the opportunities for the next six generations.

We have a responsibility to think farther than the end of our noses—[interjection] And the Member for Arthur-Virden (Mr. Maguire) may be right, maybe it is more than six generations.

That just increases the importance of our forethought here in the Legislature. It increases the importance that is upon all of us to address this issue with the federal government and also with other levels of government who do have a keen interest in the area of the bulk selling of water.

Now, I am worried that there are NAFTA implications in the decisions that we come up with here in the Legislature. I think we ought to be fully aware of the rules that our federal government, I think unwisely, a number of years ago agreed to in the area of trade and the whole free trade debate which resulted in the NAFTA agreement. I think we have to be aware of those rules. I do not think we should be scared to challenge some of those rules if it means protecting our water future here in Manitoba. If we have decided that water is too important an issue to simply stand down from NAFTA regulations, then I do not think we are making the best decisions on behalf of people who will live in this province well after we have exited.

So, Mr. Speaker, I want to urge all members to stand and take a firm view that we are here to protect our water resource, that we will resolve that we are going to urge the federal Government to do same, to take a strong stand and to protect the water that we have available to us in this province. I think what we want to do, as well, is make sure that everybody understands that the bulk sale of Manitoba water is not in the best interest of our province and that we as a Legislature are not going to allow our water resources to be simply abused for short-term gain.

I want to say to the Minister who has brought this bill forward to continue his work in dealing with the federal government and in dealing with the international implications through NAFTA. I want to say that the public consultations that he has agreed to are a good idea, because I believe the public do want and they do need to be let in on the discussion having to do with water in Manitoba. So I commend him for that approach.

With those few words, Mr. Speaker, I want to say I appreciate the opportunity to speak here this morning. Thank you very much.

**Mr. Larry Maguire (Arthur-Virden):** Mr. Speaker, I move, seconded by the Member for Pembina (Mr. Dyck), that we adjourn debate on Bill 6, The Water Resources Conservation and Protection and Consequential Amendments Act

*Motion agreed to.*

### **Bill 7—The Protection for Persons in Care Act**

**Mr. Speaker:** To resume debate on the proposed motion of the Honourable Minister of Health (Mr. Chomiak), Bill 7, The Protection for Persons in Care Act (Loi sur la protection des personnes recevant des soins), standing in the name of the Honourable Member for St. Norbert (Mr. Laurendeau).

**An Honourable Member:** Stand.

**Mr. Speaker:** Stand? Is there leave for the Honourable Member for Riel (Ms. Asper) to speak to the bill? [*Agreed*]

Before we start, I just want to clarify. I made an error. Leave is required to keep the bill standing in the person's name, but leave is not required to speak to the bill. It is my error. I apologize.

**Ms. Linda Asper (Riel):** I am pleased today to speak in support of Bill 7. The topic of abuse was one of the themes in a powerful play that I saw a few years ago, *The Beauty Queen of Leenane*, in which the relationship of a daughter with her elderly mother was explored. As is the case in theatre and other forms of art, the impact on us remains only to surface when real life situations present themselves.

In education I have had the opportunity to work on the topic of the abuse of teachers in Manitoba, in some depth, through two major studies that I was involved in in the 1990s, as well as to research violence in schools, which includes the abuse of students in some 32 countries in my research in 1995. The matter of the protection of adult patients and residents from abuse in hospitals, personal care homes and other designated health facilities raises the issue of abuse in another phase of life.

I would ask you to all to pay attention in terms of Shakespeare as he describes it in the seven ages of man, and I quote: "Last scene of all, That ends this strange eventful history, Is second childishness, and mere oblivion, sans teeth, sans eye, sans taste, sans everything."

\* (11:20)

The subject of the abuse of seniors strikes a real chord with me because both my parents spent the last years of their lives in two different personal care homes in Winnipeg. I have no reason to suspect that their stays were not positive. The experience, however, of making the decision to place them in personal care homes, of moving them to the homes, of living through the experience of their being in the homes, and finally, their last days before meeting their Maker was a challenge that I put in the same category of worry and stress as raising a teenager.

In my mother's case, the decision to place her in a personal care home was made very quickly as she suffered a series of strokes and was placed immediately upon release from hospital. As a member of the sandwich generation, I soon learned what homes were available, what homes were recommended and the process of panelling. Despite pressure to the contrary, I held out for almost two years until my mother was finally placed in the home that was first choice on my list. I was not going to let her live in the type of home that has resulted in the need for this legislation.

I am reminded of a sign in my cottage that reads: be good to your children, they will choose your nursing home. Well, that was certainly the case with both my parents.

In my father's case, I was dealing with an 89-year-old man who stayed in his apartment as long as he could, despite the fires and the frying pan he tried to hide, the Meals On Wheels food that he fed to the birds and the hearing aid that he stored in his false teeth solution until he really needed it, as he thought. Pop would only go to Deer Lodge, because that was where he thought all World War I veterans would be. He looked forward to spending his last years reliving his experiences in the war with his peers. It did not

occur to him that he was one of a few veterans still alive, and those who were at Deer Lodge would not necessarily feel like listening to his tales of smelling the Germans' bacon in the trenches at Vimy Ridge.

I was relieved that both my parents were in their respective personal care homes. No one seemed concerned that they had been married for almost 50 years however and found themselves at opposite ends of the city. They were settled. Nevertheless, I was always conscious of the vulnerability of my parents in those homes, of all seniors in personal care homes and other facilities.

My point is that I learned from family experience that adult patients in personal care homes through their increasing dependence, are vulnerable. Legislation is needed to protect them.

The definition in the proposed legislation is appropriate in that it defines the term "abuse" as referring to physical or sexual abuse and incorporates "neglect," meaning the failure to provide necessities, and "exploitation," meaning taking financial advantage of a disabled or elderly victim.

The literature indicates that the abuse of seniors is a growing phenomenon. In many cases, the abuser is a family member or a trusted long-term friend. Typically, abusive behaviour occurs in private, and victims may be unable to describe the attacks. When reports are made, they are frequently not believed. Again, the experts note that there are some signs of abuse, neglect or exploitation which might alert family members and others to the possibility of problems.

My husband, for instance, just had a recent experience a few weeks ago when he visited his mother in her nursing home and found that her toes were turning black. That, of course, led to a series of events that caused all of us great stress.

Among the signs, then, to watch for are unexplained bruises or injuries, withdrawal, particularly when the possible victim suddenly expresses a desire not to visit or receive visits

with long-time friends or family, and fearfulness or anxiety on the part of the potential victim.

Nursing home abuse can show itself in many ways, including such physical abuse as burns caused by cigarettes, loss of weight or a caregiver who cannot adequately explain a senior's condition. Emotional abuse manifests itself in emotional upset or agitation—and I am reminded again of our personal experience with my mother-in-law when her wedding rings disappeared after two weeks in the nursing home, the first two weeks—or unusual behaviour such as sucking, biting or rocking. Neglect is evidenced by a soiled bed, urine odour, dehydration, malnutrition or begging for food.

Residents who are regularly visited by vigilant family members and friends are less likely to become victims of elderly abuse.

This bill requires that the operator of a health facility protect patients from abuse and report abuse to the Minister or his/her delegate. Government has a responsibility to protect those responsible for vulnerable citizens, be they children, handicapped, mentally disabled or seniors.

The great majority of reported acts in institutions are physical abuse. Other types of elder abuse that have been reported in institutions include sexual abuse, monetary abuse or acts where an employee performs work routines improperly. This abuse can be subtle or covert, including harassing elderly residents or controlling them with drugs or restraints.

Researchers who have studied elder abuse across cultures identified several factors associated with elder abuse, and I will just mention three of them today. First, within institutions, elderly residents may be powerless and vulnerable, and staff may be underpaid, underqualified and overworked. These factors create a climate which can contribute to elder abuse. Secondly, the burden of responsibility on caregivers which is growing heavier as older people live longer can lead to elder abuse. This is especially true in cases where caregivers have to attend to physical needs such as bathing and toileting. Finally, cultural changes that lower the status of the elderly and lead to less respect from

younger people can increase the likelihood of abuse.

An essential part of Bill 7 is the protection of informants if we realistically expect those closest to the patients or the patients themselves to report abuse. This aspect is consistent with existing Manitoba legislation with respect to the obligation to report suspected child abuse and the protection of individuals who report in good faith.

This bill also provides a vehicle for acting on reports of abuse. The steps within ensure rational process so that frivolous complaints can be shifted out of the system while the serious ones result in effective action. Therefore, I welcome the proposed legislation as providing a greater guarantee that people in these situations have the greatest protection the law may provide.

In conclusion, I would like to stress that, with the aging Manitoba population, problems and demands of the elderly have become more widespread. One unfortunate outcome of this development has been the increased frequency of abuse, neglect and exploitation of vulnerable adults. It is essential that the Government has legislation in place to protect persons in care. So I urge support for the bill as it fills a gap in the legislative protection of our senior citizens. Thank you, Mr. Speaker.

**Mr. Harry Schellenberg (Rossmere):** Mr. Speaker, I rise today to speak to Bill 7. This is necessary legislation to protect Manitobans from abuse in hospitals and personal care homes. Over the last several years, the public has raised concerns about abuse that has taken place in personal care homes, but not all personal care homes have these problems of abuse. Many that I know are well run, and the public is very satisfied with them. However, the problem does exist, and from time to time we must deal with this problem.

I would like to echo what the Minister of Health (Mr. Chomiak) says: 99 percent of the personal care homes are very well run. Therefore, we appreciate this fact.

\* (11:30)

Before I make further comment on this bill, I want to point out that our Government promised to fix health care. The problem of personal care homes was just one of the many problems in health care that was raised at the doorstep. Constituents drew my attention to the shortage of space in personal care homes, hallway medicine, frozen food, shortage of nurses, home care, and, generally, shortage of staff or nurses' assistance at the bedside, and, of course, overworked staff in health care. There is tremendous stress on our health care workers today.

There are other problems that I have not mentioned, but the task for us in the next four years is great. I would like to commend the present Minister of Health for his initiative in many areas in health care. Actually, he had three bills before the House as the critic for health care. This is very much appreciated.

Hallway medicine is something of the past. In a little over six months, this problem of hallway medicine has basically disappeared, and I applaud the initiative of the Minister of Health for this. The shortage of nurses is another problem that is receiving attention and, with time, I am certain this issue will be solved.

I again commend the Minister of Health for bringing Bill 7 before the House to solve the problem of abuse in personal care homes. This bill will help develop an overall strategy or system to deal with abuse. This bill will bring about strategy for communication, for reporting abuse and investigating and giving the Minister power and authority to deal with health facilities where there is abuse. Of course, people can report abuse and not have the fear of losing their job. These are just some of the things that this bill will be doing.

Our Government is prepared to carry out its election commitment of fixing health care and improving the care in personal care homes. Of course, it is one of our commitments.

This bill requires mandatory reporting of abuse by any person who believes abuse has occurred or is likely to occur. This will certainly force the authorities and others to focus on preventing abuse in personal care homes and

more effort and attention be given to patients and residents in care. This bill also gives a broad definition to abuse. "Abuse" means such things as mistreatment, whether physical, mental, emotional or financial, and so on.

Mr. Speaker, this bill forces an inquiry be made into all reports of abuse. The Minister shall inquire into the matter of abuse and shall consider whether a more extensive investigation is warranted. If there are reasonable grounds to believe that a patient is or is likely to be abused, he or she shall appoint an investigator to carry out a more extensive investigation. This bill gives the investigator power and authority to investigate the matter. The investigator may enter a health facility at any reasonable time on presenting identification when requested. The investigator may require any person who is able to give information that the matter be investigated. The operator of the health facility shall give assistance and all information that the investigator requires. After the investigator has completed his or her report, it is given to the Minister. The Minister, after receiving the report, can give directions to the health facility, and the operator must comply.

Another strength of this bill is it protects persons who report abuse. No action may be brought against a person for making a report of abuse under this act in good faith. Employees are one group that have been afraid to report abuse because they fear reprisals from their employers. If the employer takes any action against the employee or patient or family of the patient, legislation is in place to penalize the employer with very stiff fines.

Mr. Speaker, this bill also provides authority for the Cabinet to also make regulations to health facilities to carry out this act. This bill has authority to deal with abuse, as I have indicated in my discussion. I think it will do a lot to clean up the abuse in the personal care homes. The public has raised this matter several times in the last several years. This bill has been referred to as "the Holiday Haven Nursing Home bill" because it was Holiday Haven that brought this matter to the attention of the public. I do not want to describe the Holiday Haven Nursing Home problems in detail because I do not want to repeat what is already well known.

This bill will certainly give stronger enforcement of personal care standards across Manitoba. Let us hope that we do not have abuse in the personal care homes. We must remember we are judged how we treat others and especially the most vulnerable. Thank you.

**Mr. Speaker:** As previously agreed, this matter will remain standing in the name of the Honourable Member for St. Norbert (Mr. Laurendeau).

## SECOND READINGS

### Bill 14—The Provincial Railways Amendment Act

**Hon. Steve Ashton (Minister of Highways and Government Services):** Mr. Speaker, I move, seconded by the Minister of Conservation (Mr. Lathlin) that Bill 14, The Provincial Railways Amendment Act; Loi modifiant la Loi sur les chemins de fer provinciaux, be now read a second time and referred to a committee of the House.

#### *Motion presented.*

**Mr. Ashton:** Mr. Speaker, I am very pleased to introduce this legislation today. It is the first bill of a number of bills that I am looking forward to introducing on behalf of our Government in this session, in fact, the first time I have had the opportunity as a minister to introduce a bill. I think it is appropriate that it is a very important transportation area for this province, and that relates to railways.

We have seen some significant changes to the structure of the rail industry in our country the last number of years. Most significantly, there has been a significant offloading of tracks. In fact, rail line abandonment has been a significant problem in rural Manitoba and in northern Manitoba, and we have seen increasing pressure to try to find other alternatives, in particular short-line operators. I want to note for the record, there have been a number of very successful short-line operations put in place in our own province. The Hudson Bay rail company, OmniTRAX, as it is more widely known, is a classic example of that.

Mr. Speaker, I know you certainly, with your connection with Churchill, would appreciate the importance of maintaining that rail line. That is something OmniTRAX has been very good at doing. It is now very active in promoting the rail line in the port, facilities which it operates in Churchill. That is a very important example of exactly what is involved with setting up short-line operations.

What happens jurisdictionally is that when you have the devolution from a national rail network to a short line, that is within federal jurisdiction. What we are dealing with in this province is items that fall under provincial jurisdiction, which is intraprovincial, within the province of Manitoba, and particularly situations where a rail line may go from one of the mainline companies, the two mainline rail companies in Canada, to a short line, and then dealing with the fact that there are going to be situations of which abandonment is potentially a problem and acquisition of the rail company is a problem.

So this deals with provincial jurisdiction, and it basically brings in some procedures that are similar but not identical to the federal procedures that are in place, and I will explain some of the details. First of all, there is a change to the licensing requirement for operating a short line. This amendment will remove the requirement for a railway operator to prove the economic viability for a proposal before the Motor Transport Board issues a licence. This is important because it is an impediment to market entry and exit.

\* (11:40)

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

The reality is there may be cases where there are rail lines that can, with an investment, be economically viable. This ensures that that kind of flexibility can be adopted. Incidentally, by the way, the repeal of this requirement will also satisfy Manitoba's commitment under internal trade agreements, which members of the House will be aware of, and under the existing legislation this requirement would restrict

licensing of a line that is currently not viable but has a prospect, as I indicated.

It will allow investors to build a profitable, sustainable operation out of short lines that might otherwise be abandoned. That is the bottom line with this legislation, trying to prevent unnecessary abandonment and the particular challenge of dealing with rail lines that have a particular scrap value, making sure that the emphasis is on maintaining them as a rail line and not simply tearing out the track, which has a scrap value for the owner of that track.

The second part of this amendment is for revised process for approval of a short line abandonment. Abandonment of short lines is of significant concern in rural Manitoba, as members of this House will be aware. This has serious financial implications for farmers in many cases, and it weakens the diversification of our rural economy. Railways are an important cultural and historical aspect of many areas of rural Manitoba. Much of the settlement patterns follows the rail line. When one loses the rail lines, it does have a significant impact.

I might add, in my other capacity as Minister of Highways, the abandonment of rail lines is putting a significant pressure on our highway system. With some frustration, I point to the fact that in this province we traditionally—the previous government, this Government and governments of the past—have put what we raise in gas taxes into our road system, and the federal government puts in nothing.

I appreciate this from the Member for Burrows (Mr. Martindale), as an urban member knowing as I know he does a lot about rural Manitoba, knowing that the bottom line is that we are facing significant pressures on our road systems. Just to put this in perspective what is happening with rail line abandonment and other changes to our national rail system, particularly the elimination of the Crow rate and the significant changes that have resulted from that, Mr. Deputy Speaker, is we are seeing a huge pressure on our road system from the high throughput grain elevators. I note, in fact, the Member for Turtle Mountain (Mr. Tweed) can point to communities, such as Killarney, where there are three high throughput grain elevators.

That puts a significant amount of pressure on our road system and, in particular, not only to maintain but to upgrade the road system in areas where that is necessary.

The more we can maintain our rail system, the more we can keep the pressure off our roads, the more we can prevent the deterioration of our roads and the more we can prevent the financial pressure for the maintenance and construction of our road system for being put on the taxpayers of the province of Manitoba. We know that the federal government is not going to pick up the tab without a significant change in policy, so, Mr. Deputy Speaker, that is one of our own root causes.

Now, during the election we made a commitment to protect the viability of our rural railways, and this amendment will follow through on our commitment. Once again, I think it is something that has become a hallmark of this government. We have done this in the first seven months we have been in office. We campaigned on some very specific commitments. This is one of them. We are putting them in place. As I said this is the first bill that I will be introducing in this Legislature from my department. It lives up to an election commitment.

Currently, the abandonment of a rail line is subject to approval by the Motor Transport Board. The board may approve the discontinuance if it is satisfied that the railway is no longer economically viable. Local communities, the press and other interested parties have expressed concerns that the process is deficient, and it does not prevent a railway from being sold off for salvage values, something I mentioned earlier. We have an interest and a duty in ensuring that the rail line abandonment does not proceed without scope for public interest to be exercised in retention of the infrastructure and service. The current process does not provide adequate opportunity for the line to be purchased by private or public interest for continued freight operation.

This amendment will change that. The current act may potentially result in a situation where a line may be abandoned and salvaged despite the desire of communities or other

interested groups to purchase the line for continued freight purposes. In the amendment to establish a new process for rail operators to apply to the board for approval to abandon a rail line, the operator is first required to offer the line to private investors for continued operation. That is our No. 1 principle, continued operation wherever that is possible.

Failing that, the operator must offer the line for sale for net salvage value to the Government of Manitoba and communities through which the line passes. If there is nobody willing to take it over as an operational rail line on the first round, the key thing is to make sure it will not be sold for salvage without the opportunity for the Province or communities in that area to be involved at that stage. If there are no offers for purchase resulting from the sale offering, the railway can seek board approval to abandon the line. Only at that point, Mr. Deputy Speaker, because this legislation ensures we follow every possible course. We leave no stone unturned to make sure those rail lines are maintained in place.

The amendments balance the need to maximize the opportunity for valuable infrastructure to be retained while at the same time minimizing the interference in a railway's decision to exit the market. We recognize that what is important here is to have a reasonable balance in this particular case. If a rail line simply cannot be operated, the key thing here is to allow for a process that does go through the very steps I outlined but ensures that just as there is some allowance for exit that there is also some focus allowing others to enter the process, that we can remove some of those barriers. That is fairly critical.

Proposed amendments mirror the process for federal railways. However, final approval to abandon a rail line is still rested with the Motor Transport Board to ensure that railways do not circumvent the intent of the process. In other words, despite the detailed process we are going to be bringing in as a result of this legislation, the Motor Transport Board will still have the opportunity to have a final look at the potential abandonment. This will allow Manitoba to have greater control over the abandonment of short-line operations.

I want to just conclude by saying, Mr. Deputy Speaker, we are committed as a government, and I am sure all members of this House are doing what we can, to sustain our rail industry in this province and particularly sustain our rail lines in rural communities. It is not just out of self-interest; I mentioned that earlier. There is certainly a component of that; I mean, an enlightened self-interest if you might call it that, but the bottom line here is this is important to the rural economy.

When one looks at some of the success of short lines where there has been a significant reinvestment—and the Hudson Bay rail line is a classic example of that—where OmniTRAX this year alone will be putting in a significant investment on the line, that shows that short-line operations can succeed. I might add, Mr. Deputy Speaker, we have also spoken publicly on our support for the possibility of a regional rail structure.

We are dealing now in the industry with two major companies, both of which are looking at huge mergers. I see in Burlington, even though it has been delayed for a year, it is going to be a massive operation if that goes ahead, just as we saw with the airline industry, where we saw Air Canada become a dominant player. But with the clear establishment of regional airlines, we are now interested very much in discussing with Ottawa, and we have discussed with our colleagues in Saskatchewan, the need to look at a regional rail concept.

*Mr. Speaker in the Chair*

One of the key components of a regional rail concept is to allow the ability for a regional rail company to be able to purchase lines, to operate short lines, and that is one of the key things we are trying to do here, is to keep our rail lines in place so long as there is any hope of their being viable under whatever structure, whether it be a short-line structure or potentially eventually a regional rail line. *[interjection]* In fact, the Member for Morris (Mr. Pitura) says if we had let CN continue up to Churchill, it would have gone down under, and I certainly agree with him.

CN had no commitment to Churchill. It took a federal-provincial agreement in the early 1980s

to get any upgrade of that particular rail line, and OmniTRAX, I think, has proven in the years it has been in operation that it is a very viable operation. They are moving not just grain. They are moving peas this year. They are looking at setting up a plant to be able to package those peas. They have been very aggressive in seeking other commodities to ship into Manitoba from Churchill.

\* (11:50)

People forget the history of this province—and I know, Mr. Speaker, you would be aware of this—but it was not that long ago we had a line, the Dalgliesh [*phonetic*] lines that operated out of Churchill. Actually, they operated based in Newcastle and it used to come in on a regular basis. I mean, in 1933, just after the port was open, you could take the train to Churchill—I would recommend a book for people to read—and you could take a passenger ship to London through our prairie seaport.

I really believe that what has happened is that the great vision of those early days has too often been lost at the higher levels of government, particularly at the federal government level. What I am very pleased with is the fact that OmniTRAX has been working very closely with people in the community, and it shows what a viable short-line operator can do. I point to the fact that they are involved with joint ventures with a number of First Nations communities, York Factory First Nation, which I represent, being one of them. They are I think very well respected in Churchill, and I certainly want to note that, that we do have some success stories in our own province, and that is very much what this legislation is aimed at.

Mr. Speaker, I want to just add one other thing, and that is the importance of looking at where there is no way of maintaining the rail line as a transportation link—I know my colleague the Minister of Culture, Heritage and recreation and I are looking very much at the Rails to Trails movement that is in place. I think that is very important. There is a tremendous opportunity with the established right of way, the rail bed, that if we cannot operate a rail line, we can use it for trail purposes, recreational purposes, whether

it be snowmobiles, whether it be hiking. We have a lot of movement across the country, of course, the establishment of the Trans-Canada Trail, and we are also going to be working on that as companion legislation.

That is essentially part of a clear policy from this Government. We campaigned in the election on it. It is, first, to maintain the rail lines, if there is any way of doing it, and, second, if there is absolutely no way of doing that, to look at other uses and not see the rails ripped up for salvage, the rail beds torn up for their aggregate base and not see a hundred years of Manitoba history lost in a very short period of time, because part of this is our legacy, Mr. Speaker.

Rail lines like the Hudson Bay rail line and many of the rail lines of rural Manitoba were constructed at a huge cost, were the result of decades of effort by Manitobans, particularly farmers, and also other provinces. There were hundreds of people who died in the construction of those rail lines, and I think it would be extremely short-sighted if we as a Province and the federal government did not do whatever we can to maintain those rail lines. They are part of our history.

I also believe the example of OmniTRAX proves that even a line that the people have questioned the viability of—and I know ever since I have been in this Legislature, there have been the Churchill skeptics, for example.

You know what? Churchill, it must have nine lives, Mr. Speaker. That rail line must have nine lives, because what I have seen there is a clear beacon that even a rail line that is subject to that kind of pressure can rise again. I am an absolute optimist when it comes to the future of the rail line and the future of the Port of Churchill and the future ability with many of our short lines in this province, that we can maintain them and that we can, in fact, I think, expand from the original focus of many of these lines on agriculture into other commodities, all part of our commitment as a government to rural and northern economic development and diversification.

We campaigned on it. We are going to do it, and I urge members opposite to support this

legislation. It is very important for rural Manitoba. Thank you.

**Mr. Denis Rocan (Carman):** I move, seconded by the Honourable Member for Emerson (Mr. Jack Penner), that debate be adjourned.

*Motion agreed to.*

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

# LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, May 4, 2000

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