



Third Session - Thirty-Seventh Legislature

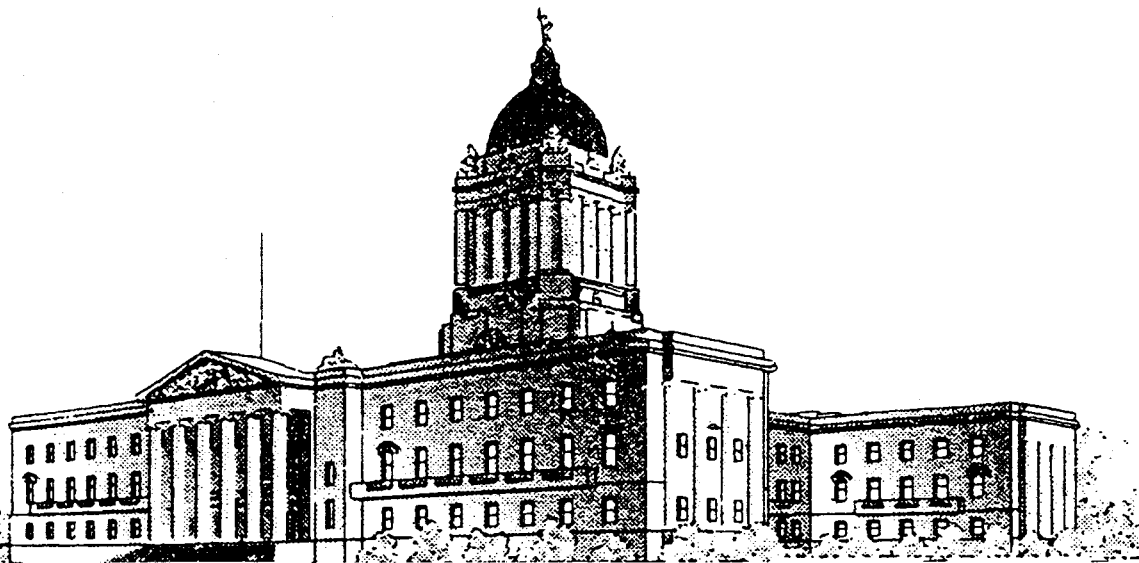
of the

**Legislative Assembly of Manitoba**

**DEBATES  
and  
PROCEEDINGS**

**Official Report  
(Hansard)**

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Speaker*



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**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.
FRIESEN, Jean, Hon.	Wolseley	N.D.P.
GERRARD, Jon, Hon.	River Heights	Lib.
GILLESHAMMER, Harold	Minnedosa	P.C.
HAWRANIK, Gerald	Lac du Bonnet	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.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MIHYCHUK, MaryAnn, Hon.	Minto	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
MURRAY, Stuart	Kirkfield Park	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
PENNER, Jack	Emerson	P.C.
PENNER, Jim	Steinbach	P.C.
PITURA, Frank	Morris	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack	Southdale	P.C.
ROBINSON, Eric, Hon.	Rupertsland	N.D.P.
ROCAN, Denis	Carman	P.C.
RONDEAU, Jim	Assiniboia	N.D.P.
SALE, Tim, Hon.	Fort Rouge	N.D.P.
SANTOS, Conrad	Wellington	N.D.P.
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SCHULER, Ron	Springfield	P.C.
SELINGER, Greg, Hon.	St. Boniface	N.D.P.
SMITH, Joy	Fort Garry	P.C.
SMITH, Scott, Hon.	Brandon West	N.D.P.
STEFANSON, Heather	Tuxedo	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 16, 2002**

**The House met at 10 a.m.**

**PRAYERS**

**ORDERS OF THE DAY**

**GOVERNMENT BUSINESS**

**House Business**

**Hon. Gord Mackintosh (Government House Leader):** I would like to announce that the Standing Committee on Industrial Relations will meet on Wednesday, May 22, at 6:30 p.m., to consider Bill 5, The Workers Compensation Amendment Act.

**Mr. Speaker:** It has been announced that the Standing Committee on Industrial Relations will meet on Wednesday, May 22, 2002, at 6:30 p.m., to consider Bill 5, The Workers Compensation Amendment Act.

**Mr. Mackintosh:** Mr. Speaker, would you please call bills in the following order this morning: first, Bill 6, Bill 14; then to second readings in the bills as they appear, in order; then debate on second reading on Bill 2, The Security Management Act.

**Mr. Speaker:** We will start off with the report stage on Bill 6 and then we will have debate on second reading on Bill 14, and then we will go through second reading all the bills in order, and then we will debate on second reading Bill 2.

**REPORT STAGE**

**Bill 6—The Fortified Buildings Act**

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** Mr. Speaker, I move, seconded by the Minister of Intergovernmental Affairs (Ms. Friesen), that Bill 6, The Fortified Buildings Act, as amended and reported from the Standing Committee on Law Amendments be concurred in.

*Motion agreed to.*

**DEBATE ON SECOND READINGS**

**Bill 14—The Public Schools Modernization Act**

**Mr. Speaker:** Resume debate on Bill 14, The Public Schools Modernization Act, standing in the name of the honourable Member for Minnedosa (Mr. Gilleshammer).

**An Honourable Member:** Stand.

**Mr. Speaker:** Stand. Is it the will of the House for the bill to remain standing in the honourable Member for Minnedosa's name? *[Agreed]*

**Hon. Scott Smith (Minister of Consumer and Corporate Affairs):** Mr. Speaker, I move, seconded by the Minister of Intergovernmental—

**Mr. Speaker:** Order. I was recognizing the honourable member to speak on Bill 14. I thought you were going to speak on it. Anyone wishing to speak on Bill 14.

**An Honourable Member:** None.

**Mr. Speaker:** None. It will remain standing in the honourable Member for Minnedosa's name.

**SECOND READINGS**

**Bill 12—The Consumer Protection  
Amendment Act**

**Hon. Scott Smith (Minister of Consumer and Corporate Affairs):** Mr. Speaker, I move, seconded by the Minister of Intergovernmental Affairs (Ms. Friesen), that Bill 12, The Consumer Protection Amendment Act, be now read a second time and referred to a committee of this House.

*Motion presented.*

**Mr. Smith:** Last year federal, provincial and territorial ministers responsible for consumer affairs committed to harmonize collection

practice prohibitions across the country. Amendments proposed to this bill will fulfil our commitment. There are two major changes to our existing prohibitions. One change that will benefit consumers is a restriction of contacting debtors at their place of employment. Under the proposed amendment, a single contact will be allowed at the place of employment only to confirm the debtor's employment unless the debtor authorizes additional contact.

To balance the restriction on contact at the place of employment, hours during which collectors may contact the debtor at home have been increased to allow calls on Sundays between 1 p.m. and 5 p.m. A number of other prohibition sections are being amended to clarify language.

Amendments to the Internet Agreements' provisions meet other commitments to harmonize. These proposed amendments clarify timing for cancellation of Internet Agreements, return of goods and refunds. One significant change which will benefit consumers is the right to cancel at any time before receiving the prescribed information or within seven days after receiving it, whether or not the goods are delivered.

The bill introduces new protection for consumers from negative-option marketing practices. Under-negative option marketing, the consumer must opt out rather than opt in. Under this bill a consumer is not liable to pay for goods received or services supplied under a negative-option marketing scheme.

Finally, Mr. Speaker, the amendments will increase the penalties for offences under this act. With these comments, I am pleased to recommend this bill for consideration.

\* (10:10)

**Mr. Jim Penner (Steinbach):** Mr. Speaker, I move, seconded by the Member for Lac du Bonnet (Mr. Hawranik), that the debate be adjourned.

*Motion agreed to.*

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

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** Mr. Speaker, I move,

seconded by the Minister of Intergovernmental Affairs (Ms. Friesen), that Bill 15, The Fatal Accidents Amendment Act, be now read a second time and be referred to a committee of this House.

*Motion presented.*

**Mr. Mackintosh:** Mr. Speaker, I am pleased to introduce this bill. It brings levels of compensation for loss of guidance, care and companionship awarded in Manitoba more in line with the compensation awarded in other Canadian provinces.

The current act does not stipulate the amount of compensation that may be awarded to the spouse, parent, child, sibling of a deceased person to compensate for loss of guidance, care and companionship but leaves the assessment of damages to the discretion of the courts. The courts have interpreted the act as calling for standardized and moderate awards and have capped the compensation payable for loss of guidance, care and companionship at \$10,000 for spouses, parents and children and \$2,500 for siblings. The courts have further held that these awards should not be indexed for inflation. These awards were set in the early 1980s and are now among the lowest in Canada.

The level of compensation became a particular concern as a result of a Court of Appeal decision in February 2000 where the court confirmed that the amount of \$10,000 is in effect fossilized and was not even subject to indexing.

Our concern is based on the perspective that when the awards are as low as this they effectively act as a bar to pursuing justice in the courts. It is important that the amount of compensation be sufficient to ensure that families will indeed come out ahead in any court proceeding and there not be a disincentive for a likely result that does not really represent justice.

We also think it is important that there be meaningful civil remedies and accountability available through the civil courts. As a result of this level of compensation, I asked the Law Reform Commission specifically if they would consider reviewing the whole area and making recommendations to the Government.

I was very pleased that the Law Reform Commission agreed to undertake that study. I think it again speaks highly of the role that the Law Reform Commission of Manitoba can play in this province. They came back with a very thoughtful, insightful report entitled *Assessment of Damages under The Fatal Accidents Act for the Loss of Guidance Care and Companionship*. In that report they review the role of this head of damages, recognizing of course that there are other heads of damages available, in particular the ability to claim amounts for loss of income to a family due to the wrongful death. They also canvassed the other jurisdictions and come up with recommendations which the legislation closely follows.

There are some minor differences, in particular with regard to their recommendation of \$7,500 for each of the siblings of the deceased, but it was important in our view that when it comes to siblings there not be a lower amount as a result of the adjustment in the bill. So we came in with \$10,000 to each family member, which is defined in these amendments as a son or daughter who is 18 years of age or over, a stepson or a stepdaughter or a person to whom the deceased stood in loco parentis, a stepmother or a stepfather or person who stood in loco parentis to the deceased and a brother, sister, grandson, granddaughter, grandfather or grandmother of the deceased. Then we have in the bill set out \$30,000 to each of the husband or wife, common law partner, support recipient of the deceased and to each parent and child over the age of 18 years of the deceased.

The bill provides that claimants do not have to prove their loss of care, guidance and companionship provided by the deceased person. This follows the recommendation of the Law Reform Commission that claimants should not be subjected to the indignity of establishing the quality and intensity of their relationship with the deceased.

Concerns have been raised that with the significant increase in compensation without the need to establish the quality and intensity of the claimant's relationship with the deceased and the broad definition of child and parents in the current act, there would be a large increase in litigation and an overall large increase in damage

awards. Because of these concerns the new definitions of child, parent and family member have been included to focus the amount of compensation to the relationship.

The bill also, importantly in my view, contains a change that would direct the courts to adjust the amounts awarded to take into account the role of inflation. I think what is most important when we look at this whole issue of compensation on a death, we have to recognize, as the Law Reform Commission stated on page 36 of its report, that no amount of money can compensate family members for what they have lost. The guidance, care and companionship of our loved ones are priceless gifts for which there is no monetary measure. An award of money cannot evaluate the worth of a person's life. Such an attempt is futile and profoundly distasteful. No amount of money is likely to appease the understandable anger and bitterness of family members. There is little room for punishment and deterrents when most defendants are insured.

The commission goes on to say: In our view, however, there are two major objectives that an award for damages for the loss of care, guidance and companionship can attain. First, they agree with the Court of Appeal that this award is to some extent appropriately conceived as a compassionate allowance providing in an official manner a public recognition of the loss suffered by the claimants. Secondly, in their view, the award of damages provides some degree of solace for the incalculable loss that has been suffered. Although full reparation is impossible, money may provide some balm for the loss suffered. It may allow the family members to put the money to some useful purpose in memory of the deceased. It may allow them to be involved in activities which strengthen the care and companionship of those who are left behind. It may allow them to purchase goods or services which make life more enjoyable and dull the sharp edge of incalculable sorrow.

Mr. Speaker, I cite those words because I do not think they could ever be better expressed, and again attesting to the excellent work of the Manitoba Law Reform Commission and its members. I also want to, at this time, recognize the great leadership and strength provided by

Professor Cliff Edwards, as the chair of the Law Reform Commission, for his contributions and tireless commitment to law reform in general and to the work of the commission in particular.

Mr. Speaker, I look forward to seeing this bill being considered by members of the House and receiving support for it. Thank you.

**Mrs. Joy Smith (Fort Garry):** I move, seconded by the Member for Steinbach (Mr. Jim Penner), that debate be adjourned.

*Motion agreed to.*

#### **Bill 17—The Cooperatives Amendment Act**

**Hon. Scott Smith (Minister of Consumer and Corporate Affairs):** Mr. Speaker, I move, seconded by the Minister of Industry, Trade and Mines (Ms. Mihychuk), that Bill 17, The Cooperatives Amendment Act, be now read a second time and referred to a committee of this House.

*Motion presented.*

\* (10:20)

**Mr. Smith:** Mr. Speaker, the proposed amendments will resolve a few issues that have arisen from the administration of the act since it was proclaimed on July 1, 1999.

The amendments will clarify access to records of cooperatives; require the filing of financial statements where cooperative members must hold more than \$500 in membership shares or membership loans; clarify quorum requirements for cooperatives and non-resident directors; clarify the process for payment on approval of membership shares; extend the time period for appeals by members of housing cooperatives where membership is terminated; and streamline the process for a housing cooperative to obtain possession of a housing cooperative unit from a former member.

The proposed changes will help cooperatives protect records of commercial value; allow for a more efficient appeal process for members of housing cooperatives; and reduce the time and cost for a housing

cooperative to gain access to a unit of a former member.

Mr. Speaker, with these comments, I am pleased to recommend this bill for consideration.

**Mr. Jim Penner (Steinbach):** Mr. Speaker, I move, seconded by the Member for Fort Garry (Mrs. Smith), that debate be adjourned.

*Motion agreed to.*

#### **Bill 18—The Special Survey Amendment Act**

**Hon. Scott Smith (Minister of Consumer and Corporate Affairs):** Mr. Speaker, I move, seconded by the Minister of Industry, Trade and Mines (Ms. Mihychuk), that Bill 18, The Special Survey Amendment Act, be read a second time and referred to a committee of this House.

*Motion presented.*

**Mr. Smith:** Mr. Speaker, the purpose of The Special Survey Act is to provide a method to correct errors that exist in survey plans. It is necessary to correct these errors in order to resolve conflicts in the location of property boundaries between landowners. It is important to landowners to have these conflicts resolved. This bill amends The Special Survey Act to streamline the process by removing the requirement for the Lieutenant-Governor-in-Council to approve special surveys. The Registrar General will approve the special surveys instead.

Mr. Speaker, this bill will also remove provisions allowing for cost recovery from landowners affected by this special survey. Cost recovery from landowners involved in the special survey was possible, but it was never used. This bill makes clear that landowners will not be subject to potentially large charges for a process that may benefit them but would not have been required at a fault of their own. Mr. Speaker, I am pleased to recommend this bill for consideration.

**Mr. Jim Penner (Steinbach):** I move, seconded by the Member for Springfield (Mr. Schuler), that debate on this bill be adjourned.

*Motion agreed to.*

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

**Hon. MaryAnn Mihychuk (Minister of Industry, Trade and Mines):** I move, seconded by the Minister of Intergovernmental Affairs (Ms. Friesen), that Bill 19, The Mines and Minerals Amendment Act, be now read a second time and be referred to a committee of this House.

**Mr. Speaker:** It has been moved by the honourable Minister of Industry, Trade and Mines, seconded by the honourable Minister of Intergovernmental Affairs, that Bill 19, The Mines and Minerals Amendment Act, be now read a second time and be referred to a committee of this House.

**Ms. Mihychuk:** In November of 1999, a 16-member committee called the Mines Legislation Review Committee was struck to review The Mining Act and accompanying regulations. The committee was co-chaired by one industry member and one government member. The members of the committee represent a variety of views, interests and perspectives on mining and exploration community, and one member representing the Manitoba Assembly of Chiefs. Each member agreed to participate as representatives of their association, organization or group.

Over a period of eight months, the committee met six times to propose amendments to the act and regulation, discuss the proposals and determine which proposals would be pursued and which one should not be acted upon. At the end of the process, 64 proposals for amending the act and regulations were agreed upon by committee members and the working group.

These amendments, the highlights include six definite areas: (1) the replacement of exploration, special exploration permits with a new mineral disposition called the mineral exploration licence; (2) abolishing the airborne survey licence requirements and instituting a notification process; (3) to protect the rights of a holder of a claim who discovers staking irregularities that may result in the cancellation of that claim, the holder will be able to restate

the claim in order to correct the irregularities, and the claim will be protected from being disputed while it is being restaked; (4) remove the size restriction for grouping claims and leases from the act; the size restrictions will be added to the regulations; (5) amend the definition of a quarry mineral to exclude diamonds, rubies, sapphires and emeralds; (6) amend the definition of a mineral to include mine tailings.

Mr. Speaker, in a little bit of detail, the present system of permits is being changed. Presently, there are two types of permits, exploration permits and special exploration permits. These will be renamed mineral exploration licences. The terms and conditions will be set by regulation. There will be two types of licences available, depending where in the province they are situated. Certain areas of the province will be designated zone A or B. These zones will be corresponded to areas where present-day exploration and special exploration permits can be obtained.

Airborne survey licences are being amended as a recommendation of the Mining Association of Manitoba and the Manitoba-Saskatchewan Prospectors and Developers Association who felt that the requirement to obtain an airborne licence and supply a \$20,000 cash deposit and the five-year confidentiality period of the survey results served as a disincentive for exploration in Manitoba. For those reasons the process is being amended. In addition it is worthwhile to note that Manitoba is the only province in Canada to require such a permit.

These issues were considered, and I am pleased to say that we are responding by changing the regulation in the act. A requirement to obtain an airborne survey licence when conducting the survey over unencumbered Crown land will be eliminated. In its place will be a requirement to notify the recorder before starting the survey. The period of confidentiality for airborne surveys, whether it is flown over unencumbered Crown land or property held by the project proponent, will be for five years after the date of the commencement of the survey, with two five-year extensions.

Claim staking can be problematic. We have land that has been staked over and over again.

Sometimes there is a dispute over the actual location of those posts.

The third major portion of this bill states that a claim can be restaked after 180 days. The proposal is presented to protect the interests of a claim holder who buys the claim from a vendor and subsequently finds out that the original staking of the claim is of such poor quality that it may be vulnerable to cancellation as a result of a dispute being filed against it.

In addition there is a major amendment in terms of group sizing. Grouping is an activity that allows claim or lease holders to apply excess work credits required to keep a claim in good standing and to surrounding claims in order to keep them in good standing. Presently the size of a grouping claim in mineral leases is 1600 hectares. The amendment will remove the size restrictions from the act and move them into regulations.

Some of the reasons for increasing the size are it puts the little guy on a level playing field with the large exploration companies. A larger grouping would be held for a shorter period of time. The holder would not have to group every year, thereby reducing paperwork for both the holder and the Government. Thirdly, when a prospector is trying to interest a company in a property the companies like to see large land packages, not small pieces scattered throughout the area.

\* (10:30)

It is important to change some of the definitions of a quarry mineral. In this case we wish to clarify under which type of disposition diamonds fall. The definition of a quarry mineral will be amended to exclude diamonds, rubies, sapphires and emeralds. By excluding these minerals from the definition of a quarry mineral, it is clear that a mining claim gives the holder the exclusive rights to explore for and produce diamonds on that property. This amendment will alleviate concerns that diamond rights may not fall under the jurisdiction of a mining claim.

In 6, mine tailings are also a potential benefit for mining, given mining technology. In the changes that have occurred mine tailings hold many minerals that can now be extracted.

Mine tailings will be added to the definition of a mineral, in order to clarify the ownership of the mine tailings. The mining industry had some concerns about who owned mine tailings. Some of its members wanted to be sure that any tailings produced as a result of a mining operation remained the property of the leaseholder. The solution to the question of ownership is to add mine tailings to the definition of a mineral.

The overall purpose is to make the mining act more readable, more useable, more efficient, and to promote exploration and development of mineral deposits in Manitoba. Thank you, Mr. Speaker.

**Mr. Jim Penner (Steinbach):** Mr. Speaker, I move, seconded by the Member for Seine River (Mrs. Dacquay), that the debate on Bill 19 be adjourned.

*Motion agreed to.*

## DEBATE ON SECOND READINGS

### Bill 2—The Security Management (Various Acts Amended) Act

**Mr. Speaker:** Resumed debate on second reading, Bill 2, standing in the name of the honourable Member for Fort Garry (Mrs. Smith). Is it the will of the House for the bill to remain standing in the name of the honourable Member for Fort Garry? [*Agreed*]

Bill 2, The Security Management (Various Acts Amended) Act, standing in the name of the honourable Member for Lac du Bonnet, who has 25 minutes remaining.

**Mr. Gerald Hawranik (Lac du Bonnet):** Mr. Speaker, I welcome the opportunity to continue debate on Bill 2. Bill 2 is a very important bill in the sense that it makes people feel better about security in their homes and in their communities. It also takes away, though, many of the civil liberties that have been given to us and guaranteed by the Constitution of Canada. I feel that it is for this reason that debate must continue, and we must have full debate of this bill.

I feel also that many amendments are necessary to this bill in order to protect some of



those civil liberties that are taken away. We need to introduce amendments to this bill, I believe, that are necessary and required. I can understand why the Government has in fact introduced Bill 2 in the sense that, first of all, we have gone through the tragedy on September 11 of last year. It was a disaster that was unprecedented. Secondly, of course, I believe that people are feeling vulnerable and threatened in their homes and in their communities.

Obviously, there is a crisis out there and this is the reaction to that crisis. However, I can tell you that the bill, as it stands I cannot support it. I urge members opposite to do the same. There are several reasons for this. I want to outline some of those reasons.

First of all, federal legislation has not been passed yet. The federal government has the primary responsibility over security in this country. Because of that I feel that we ought to wait at least until the federal legislation has been passed.

Federal legislation, as it is going to be passed sometime in the future, may in fact contradict some of the provisions that we are attempting to introduce in this bill. I think we ought to wait until the federal government in fact has passed their legislation first.

Secondly, I cannot support it as it stands because there is a collection of amendments to nine different acts in this bill.

First of all, there are a number of amendments that should be introduced by other ministers, not by the Minister of Justice.

The Dangerous Goods Handling and Transportation Act I believe should be introduced by the Minister of Transportation (Mr. Ashton), who is in the best position to introduce those amendments.

The Pesticides and Fertilizers Control Act, I believe, should be introduced by the Minister of Agriculture (Ms. Wowchuk), who, of course, is in the best position to introduce those amendments.

Thirdly, The Public Health Act is, as I understand it, more than 50 years old, and really it requires an entire review of that act, not just

amendments to the act. I believe the Minister of Health (Mr. Chomiak) should bring that act into the 21st century and revamp the act in totality and not just tinker with the act by reasons of these amendments.

Parts of the bill, though, I can tell you that I do give qualified support to, one of which I believe to be the amendment to The Private Investigators and Security Guards Act, the requirements as to licensing of private investigators and security guards. I believe that is an important provision. That is an important part of this Bill 2. I would support those kinds of initiatives. Amendments to The Proceeds of Crime Registration Act I believe are important amendments that I think I can support. They entitle police forces and other security forces to register security orders in the Personal Property Security Registry against property that was obtained from the proceeds of crime, and I think those kinds of things are important to be introduced. The amendment to The Manitoba Evidence Act I can tell you that I can support as well. And as well, the amendments to The Fires Prevention Act in which the Fire Commissioner becomes the co-ordinator in a disaster, I think that is important as well. I think we only need to be reminded of the train wreck in Firdale, Manitoba, whereby fire departments, emergency response teams and police departments responded to that disaster from all across Manitoba. I think you need a co-ordinator, and as I understand it, the Fire Commissioner was the co-ordinator and the amendments to The Fires Prevention Act in fact establishes that in law. I believe that is important.

There are certain parts of the bill that I cannot support. First of all, Part 1, The Dangerous Goods Handling and Transportation Act amendments. Those amendments give the director the power to order anyone who handles or disposes of dangerous goods or contaminants, and it does say contaminants in there, to develop and to implement security measures. I think the difference in that act that is being proposed is the word "contaminants" and the wide-ranging definition of contaminants in the act. I can tell you that the definition is very wide and is all-encompassing. Contaminants could be almost anything. It could be cream or sugar in your coffee. It could be ethanol blend in gasoline.

Things that we do not expect contaminants to be will be covered in this definition. That is my concern. It is a concern of mine because, by changing the wording of "hazardous waste" to "contaminants" in the act, because it is such a wide definition of contaminants, that eliminates the normal activities that many citizens in this province do on a day-to-day basis. We deal with contaminants all the time, when we are spraying our gardens, when we are fogging for mosquitoes. Even when we are applying mosquito spray, we are dealing with contaminants.

\* (10:40)

I have some serious concerns about the amendments and how they will affect Manitobans. How does this amendment affect farmers, lawn maintenance companies, companies that handle fertilizers and pesticides? Will specialized storage units be required for them? Will they have to go through extra expense? Will farmers be required to have permits to haul fertilizers and pesticides? Who will monitor this and who will pay for all of these added costs? Who will develop the standards that will be applied to affected industries and individuals, and will it mirror our national standards that are going to be proposed? There needs to be a more clear definition of contaminants before I would support this amendment. The amendment itself, with the definition, is very broad, very all-encompassing in the sense that it will affect people even who do weed control and mosquito control and so on.

The amendment requires also that any person handling or disposing of dangerous goods or contaminants must develop and submit to the director a security plan that is acceptable to the director. This may force every farmer, business and individual to develop a security plan. Does this mean that every homeowner, because of the wide-ranging definition of a contaminant in the act, who wishes to spray insecticide on his or her fruit trees or who wishes to spray Raid to kill wasps or flies on their patio, does this require them—of course, by the plain reading of the act, it does require them to develop and to submit to the director a security plan. The director has to approve of it. From the reading of the act, I would say that it does do that, and it is very wide and all-encompassing and that is why that

definition, I believe, has to change. Again, who pays for this? Who monitors this? How can this be controlled?

Part 2 of the act, the amendments to The Emergency Measures Act is another part of the bill I believe that I cannot support without amendments. These amendments, under those as proposed in Part 2, establish a process to ensure that all local authorities, local governments have emergency preparedness programs and emergency plans, and that they are kept up to date.

Section 8(8) provides that a local government should review and revise its plans and programs from time to time. I think that is very important. It is important documents by local authorities, and those documents should never be taken lightly. While I can support most of this bill, I am of the view that emergency preparedness programs and emergency plans should be required to be reviewed and filed annually by the local authority. It should not be left up to regulation to determine the interval at which time that those plans have to be filed. I believe that that should be in fact right in the act.

Part 5 is another amendment that is proposed in Bill 2, and that amendment is to The Pesticides and Fertilizers Control Act. The amendments, I believe, are neither realistic nor are they practical. Section 3.2 of that amendment requires a person who sells or leases spraying equipment to provide information to the minister at least 10 days before the sale or lease of spraying equipment. A farmer trying to protect his crop may not be able to wait the prescribed 10 days. How arduous will this process be? This is my question. How arduous will it be?

This provision, in fact, has the potential to drive up the cost of doing business for farmers when they can least afford it. They are not only faced with the U.S. farm bill, in terms of reduction of prices for commodities or the product they produce, they are also faced with this bill. This bill, I believe, has the potential of driving up the cost of doing business, and farmers are in the unique position of not having any control over the price for the product that they are going to sell. They neither have any control over the cost of the input that they are

going to have to put into the ground every year in order to harvest a crop, and they are being squeezed, I believe, from both ends, both from the price of the product that they produce and also the cost of inputs that they have to endure in order to produce that crop. I think this bill, Bill 2, in Part 5, has the potential to increase costs for them.

Section 3.1(4) of the amendment of Part 5, this section requires that no one can provide spraying equipment to another person if it will not be used for the application of a plant nutrient or the management of a pest. The ground-based spraying equipment, under the act, includes equipment for spraying pesticides or fertilizers from the ground. That is essentially what it says. This, in fact, could include fixed or mobile irrigation equipment, in my opinion, including irrigation sprinklers, as they are often used and designed to spray pesticides or fertilizers. Of course, they are also designed to spray water.

Now, because of the definition of ground-based spraying equipment, which also could include sprinklers or irrigation equipment under the section 3.1(4), under that section, it could indicate that no person could provide directly or indirectly sprinklers or irrigation equipment to another person for spraying water and can be penalized for doing so. I do not think this is what the act was contemplating when that act was drafted. This section, I believe, needs to be amended accordingly to exclude sprinkler systems from that definition.

The amendments also require that aerial and ground-based spraying equipment must be disabled when not in use. This will be incredibly, I believe, time consuming to farmers if they are required to disable their equipment on a daily basis or even during the daytime when they are not being used.

There are certain things that farm equipment dealers have expressed concerns about, as I have talked to some of them in the province, and there are many uncertainties, I think, in this bill.

First of all, what are the implications for farmers and fertilizer and pest dealers in terms of providing enhanced storage for pesticides and fertilizers? What type of security plans will they

be required to file and submit? How much documentation is required, and what will be required to enforce it? Will this legislation drive up the cost of doing business for farmers? I think it will. Will Manitoba's laws for aerial sprayers be at odds with federal legislation? We do not know that at this point because federal legislation has not been passed and introduced.

Section 3.3 requires the person who becomes aware of more than a prescribed amount of a controlled missing product, they have to report it to the minister. Why is this reported to the minister? This is a criminal matter and probably should be reported to the police.

I believe that section 3.1(4), in fact, not only affects farmers, Mr. Speaker, it affects municipalities.

We were in committee last week with respect to Bill 10. Under Bill 10, the minister has the power to issue orders to require municipalities to comply with controlling mosquitoes and taking whatever steps are necessary to control mosquitoes. Of course, that bill was introduced to ensure that, in case West Nile virus appeared in Manitoba or western equine encephalitis, should it appear in Manitoba, there are provisions to force municipalities to take action with respect to controlling mosquitoes and, of course, controlling those diseases.

Under the provisions of that bill, the Province has a discretion only to compensate Manitobans for mosquito control. It is not mandatory, and under the provisions of the bill, the Province also has discretion to compensate private property owners for damage that occurs to their property. Of course, again, it was not a mandatory requirement.

This, I believe, is really a downloading of costs onto municipalities, for which the Province is responsible. The Province is responsible for health, not local municipalities. I think this points to a downloading of costs. No wonder this bill, in order to control mosquitoes, municipalities will be required to spray, and even rural municipalities, I believe, will be required under Bill 2 to comply with this part of

the act and will also be required to dismantle the sprayers after spraying. This, of course, adds to their costs.

Part 8 is another amendment. It is an amendment, of course, to The Public Health Act, which I pointed out that The Public Health Act is more than 50 years old and really requires an entire revamping. It should be required to be looked at and redone and not just amendments here and there that sometimes do not make sense. I can point out several of the problems with that amendment.

Under section 19, and if you read section 19, it indicates that, unless one can object on the grounds of religious belief or other belief, an order may require someone to submit to a medical exam or submit to medical treatment or to be vaccinated, inoculated or immunized among other things that are detailed in that section. But I simply point out those three things; submit to a medical examination, to medical treatment or to be vaccinated, inoculated or immunized.

\* (10:50)

The order under that section can detain a person for 90 days for that purpose. Ninety days to submit to a medical exam, 90 days to submit to medical treatment, 90 days to be vaccinated, inoculated or immunized, a 90-day period of detention simply to do any one of those three things. The period of detention though can go for an additional 90 days. A judge can order another 90 days to simply submit to a medical examination, to simply submit to medical treatment, to simply be vaccinated, inoculated or immunized. Again, the act further goes to say that second 90-day period can be extended for a third 90-day period.

So a person can actually, by reason of the order of the Minister of Health (Mr. Chomiak), if they feel that it is necessary they can be detained for three-quarters of a year, up to 270 days to require them to submit to a medical examination, for 270 days to require them to submit to a medical treatment, for 270 days to be required to be vaccinated, inoculated or immunized. The Minister of Health, I believe, by that amendment obviously feels that the state of

health care in Manitoba will deteriorate to such an extent that we may need to detain someone for up to 270 days just to ensure that they are medically examined or that they may submit to medical treatment or that they may be vaccinated, inoculated or immunized.

It appears to be an expectation of the Minister of Health that these minor treatments could take up to 270 days to perform. We are talking about taking up to 270 days of detention in order to perform minor health treatments. This is clearly not acceptable to me. This is clearly an infringement on people's personal civil liberties and I believe should be removed from the act.

Part 9 is another amendment, I believe, under Bill 2 that should be amended. I want to speak to that for a few minutes, but there are a couple of other points I wanted to bring up with respect to part 8. First of all, I have a concern about forcing people to submit to or obtain medical treatment including being vaccinated. No stipulation is made in that provision about the proof of disease being needed. In other words, you can have a person, a chief medical officer of health, making that determination and forcing treatment on someone. A person can object on the grounds of religious or other beliefs, but we do not know what beliefs those are. They are not stipulated in the act. If they refuse, my question is what happens to them? Again, the legislation does not go on to say what happens to someone that refuses to be treated. Does that mean that we continue to detain them for up to 270 days? I do not think that is fair, and I do not think that is warranted.

Another concern with respect to Part 8 is the aspect of force being applied when a medical officer of health, a public health inspector or a public health nurse who is enforcing the act, it is indicated that they may use such force as deemed necessary. This part of the act does not address the degree of force or the aspects of that force or whether the force is against the person or a building, breaking down a door, breaking a window, doing damage within a building. What kind of damage can be levelled against a person and what degree of force can be applied against that person? Can the person be knocked unconscious? What if the person was innocent of what a medical officer of health reasonably

believed and therefore used force on this person? Is the medical officer of health held liable or are they totally exempt if they are wrong? I think those are things that have to be addressed in that provision.

The bill also states that a medical officer of health can detain a person for 72 hours if they believe that a person poses a significant and immediate threat to public health. I believe it should be more definitive as to when that should occur, not just if a medical officer of health reasonably believes that that person should be detained. I believe that it should be very clear when such powers should be invoked. Is it acceptable to Manitobans that one person alone can make this decision with no consultation expected with another, that one person can decide that you will keep this person for 72 hours without any reason? I believe that those amendments should be carefully looked at and amended again and revised to make sure that people's civil liberties are not trampled upon.

Part 9 is another part of this act, the amendments to The Vital Statistics Act that I want to make some comment on. The amendments to The Vital Statistics Act I believe increase a lot of the fines, in fact, that are imposed on people with respect to the act, and I am concerned about those fines in the sense that they go dramatically up. I am concerned about the interpretation that is given to the amendments that are proposed.

The amendments create offences for making false statements or having or using false documents. In other words, a person who tries to obtain false identification can be fined up to \$50,000, jailed for a year or both. It also increases the maximum penalties for offences such as a failure to carry out duties. For example, a funeral director or a person who performs a marriage who fails to file information could be fined up to \$10,000. A new section is also added to provide a penalty for providing false information when obtaining certificates from Vital Statistics. A new section is also created to ensure that individuals do not use or possess false documentation regardless of how it was obtained. The amendments allow for information to be shared to prevent the unlawful use of documents. For example, Vital Statistics

may share information with law enforcement agencies.

I have several questions. First of all, how far back can they go to determine if someone has made a false statement or is using false documents? Secondly, what type of security provisions will be enacted regarding the sharing of documents? Can an underage teen face a fine up to \$50,000 or face up to one year in jail for attempting to get into a bar with a fake ID? I think under the reading of the act, that could occur, and I do not think that is what we intend to do. How will this legislation impact on the resources and the budgets of Vital Statistics for investigation and enforcement?

**Mr. Speaker:** Order. The honourable member's time has expired.

Before recognizing the next speaker, I would just like to share some information with all honourable members, *Beauchesne's* Citation 659: In second reading it is the principle of the bill and not to discuss details, the clause by clause of the bill. It is just a friendly reminder to all members.

**Mrs. Joy Smith (Fort Garry):** It is a pleasure to get up today to have opportunities to speak on Bill 2, since September 11 has been on the minds of everybody, and there have been many issues around security. There have been in some cases concerns about a knee-jerk reaction to September 11, and I will note that on several occasions there have been people from different parts of the communities that have said that here in Manitoba, and here in Canada, we in actual fact do not need a security bill. However, I applaud the Government for taking a look at the security issues that are here and trying to put a piece of legislation forward that would protect the citizens of Manitoba. I know that, in the minister's own words, the minister has said: We must put a new lens on what we do as a jurisdiction. He has also said that Manitoba is a low risk in terms of terrorist activity. The minister has also said this legislation clarifies roles and responsibilities and does impose some new requirements on the citizens of Manitoba.

There are many concerns surrounding an omnibus bill when it does go through so many different departments and has so many

ramifications. As this is happening in Manitoba, clearly there are also ramifications at the federal level as well, because the bill at the federal level has now become C-55 and the bill at the federal level is now being debated. It has been almost eight months since September 11. The terrorism bill at the federal level was first introduced as C-42 and then it was split and C-44 was passed, and then the Government reintroduced C-42, then pulled it again, and now introduced, finally, Bill C-55.

\* (11:00)

So, at the federal level, after the September 11 attacks, the U.S. government introduced a comprehensive security bill on September 21. We are talking about U.S., we are talking about the federal component and we are talking about Manitoba. Security is an issue that is all across the North American continent. Having said this, there are considerations that have to be looked at to ensure the bill is strong, to ensure that it does meet the concerns that Manitobans have about the breach of potential Charter of Rights issues, it has to be very careful in terms of putting laws forward, Mr. Speaker, that safeguards and anticipates any attacks on terrorism, or attacks that terrorists might put on the people here in Manitoba.

I think we are at a new point here in North America and on the North American continent where, for the first time we have, at the U.S. level, the U.S. government actually introducing a comprehensive security bill like they did on September 21. As we know from the U.S. level, President Bush signed it, put it into law on November 15 and, Mr. Speaker, that was a move by our neighbours to the south. As I said, at a federal level, C-55 has had some growing pains because of it being first introduced: 42, 44 and then finally as C-55, and we are awaiting the outcomes of what might happen with that federal bill at this time.

Manitoba is now in the session, now in the throes of debate over Bill 2, The Security Management bill. This Bill 2 introduces new things here in the province of Manitoba. It was first introduced, as you know, on November 14, 2001, and this bill amends the following acts to enhance security and improve emergency

planning and response. One act that it has enhanced is The Dangerous Goods Handling and Transportation Act, and the amendments in this bill give the director the power to order anyone who handles or disposes of dangerous goods or contaminants to develop increment security measures. There are issues around this that we need to address on both sides of the House.

There are amendments that need to be talked about and introduced to strengthen the bill. There are issues such as how does this affect farmers, lawn maintenance companies that handle fertilizers and pesticides, because in the minister's own words, and I quote: Manitoba is a low risk in terms of terrorist activity. However, having said that, that members on the opposite side of the House and members on this side of the House also are aware that unforeseen events that can occur, the unthinkable events that can occur have to be guarded against as well.

Having said that, the Charter of Rights is a very important charter in our country. We have to talk about the people who are living day-to-day on their farms, in their homes here in the urban areas and on daily day-to-day business, Mr. Speaker, that is impacted when bills are passed here at the Legislature. So there are some questions we have to explore, there are some ideas we have to bring forward and put strength to a bill that will not compromise the Charter of Rights but also that will put safeguards in place that ensure the security of Manitobans.

The questions like will specialized storage units be required, will farmers be required to have permits to haul fertilizers and pesticides, who will be monitoring this, who will pay the added cost? It is important, Mr. Speaker, that this bill be thought through on a very concise basis and these questions be addressed because it does affect people on a daily basis in their homes and in their working lives.

Things like who will develop the standards that will be applied to affected industries and individuals, will it near national standards? This dialogue has not been put forth. The collaboration has been very limited between the communities out there, between Manitobans and the current Government here, and I have a concern about that. I would encourage the

members opposite to collaborate with the industries, the farmers, collaborate with the people that will be impacted about this bill. The bill does need a clear definition of contaminants as this can be very broad and encompassing.

Very recently, the present Government has put forth a war on mosquitoes, and it makes one wonder with Bill 2 how this affects mosquito control. The people who do weed control, how will those people be affected? That needs to be addressed.

Mr. Speaker, the clear time lines that are not included, like an emergency preparedness program, must be approved by the co-ordinator. These are the kinds of issues where I think we all have some major areas of concern.

The other part of the bill, Mr. Speaker, The Emergency Measures Act, will be impacted. That would be part of the security and emergency planning and response piece. The key amendments that we will be putting forward, and hopefully members opposite establish a process for ensuring that all local authorities have emergency preparedness programs and emergency plans and keep them up to date. I must say, that that bill does address this and has put in some strength in that area.

The Manitoba Evidence Act, Mr. Speaker, which is under the Justice portfolio, the amendments in this bill create a process for objecting to the disclosure of information before a court, administrative tribunal or similar body on the basis that a security interest or public health interest needs to be protected. I think that is a valuable part of the bill. The question would be the specific area the Government is trying to protect. That might be a question that we need to put forward and ask.

Also this bill indicates in section 10.2(15) that any hearing challenging the Government's attempt to keep information secret, any of those hearings are to be done in private. However, in another section, 10.2(16), it allows any person an opportunity to make representation. So the question would be, on both sides of the House, why not limit it to any person involved in that action? It needs to be clarified who the person is who informs any person of the hearings so they can make representation.

Now, Mr. Speaker, another aspect to The Security Management Act is The Fires Prevention Act, The Labour Act. There are some key amendments there that broaden the Fire Commissioner's role in responding to emergencies and require every local authority to file an annual report setting out the emergency response resources available in this area.

I think in this act we have to be very careful that the police force is not undermined. They need to be taken into consideration. There would be a concern about putting the Fire Commissioner in charge as it would actually, in fact, be up to the police to investigate potential criminal activities and not the Fire Commissioner. So that might be one aspect and that is one aspect that we need to look at as well.

Under the The Pesticides and Fertilizers Control Act under Agriculture and Food, the key amendments there in this securities bill relate to crop dusting and other spraying equipment and certain pesticides and fertilizers. Around this area, Mr. Speaker, as members on this side of the House have already stated, there are some issues. Farm equipment dealers have expressed concerns as to a person who sells or leases prescribed aerial or ground-based spraying equipment must provide prescribed information administered in accordance with the regulation at least 10 days before transferring possession of the equipment, but with the minister's written approval, the transfer can be sooner. So having said that, does this make the process cumbersome? Is this something that is realistic, and I think members on both sides of the House have to take a look at this and have to address this issue.

\* (11:10)

Section 8 is amended by adding the following for the requirements for the secure storage of aerial and ground-based spraying equipment and the disabling of them when not in use. The question has to be asked, how necessary, how stringent and costly would this criteria be?

Members on this side of the House, Mr. Speaker, are definitely very supportive of a security bill, because security is something that we have to look at in a new way. We have to make sure that we cover bases that perhaps 10 years ago we were not required to look at.

Having said that, it is necessary that these very important issues be addressed prior to the passing of this bill. That is why I would implore members on the other side to take a close look at the amendments that we on this side of the House have put together to help strengthen the bill in this area.

Another issue under The Pesticides and Fertilizers Control Act, what are the implications for farmers and fertilizer and pesticide dealers in terms of providing enhanced storage of pesticides and fertilizers? This is something that farmers and people who handle fertilizers will want addressed. What type of security plans will they be required to develop and submit and how much documentation will be required and indeed who will enforce it? These are issues that are very new to the farming community. The farming community at this point in time has a lot of challenges addressing them right now. The question needs to be asked, will this legislation drive up the cost of doing business for farmers?

Mr. Speaker, as we know, farmers are under duress. The front page of the *Winnipeg Free Press* stated very recently that there are more farmers moving off the land now than ever before. With the members on this side of the House we want it on record that we do not want to have legislation that drives up the cost of doing business for farmers. It is tough enough on them now. We need to be doing things that enhance the farmers.

Will Manitoba's laws for aerial sprayers be at odds with federal legislation? This is something that we have to look at, because, at the federal level Bill C-55 is still out there and is not passed. This is something that needs to be addressed.

What are the implications for Manitoba aerial sprayers who also conduct business in other provinces like Saskatchewan? Will they have to follow different sets of rules? These are the kinds of guidelines and the kinds of questions that have not been answered at this time.

Also, section 3.3 requires a person who becomes aware of more than a prescribed amount of a controlled product missing to report it to the minister. The question should be, why

would they not report it to the police? This is not a criminal matter. Here again there is a concern.

Another part of the bill, The Private Investigators and Security Guards Act, the amendments strengthen the licensing requirements for security guards. A question there, Mr. Speaker, that has to be addressed, who pays for the additional education for these security guards that goes along with the licensing requirements? Those are issues that need to be addressed.

The Proceeds of Crime Registration Act, consumer and corporate, is part of the bill as well. In this bill the amendments allow a restraint order made under the Criminal Code in respect of property belonging to or controlled by suspected terrorists to be registered in the Personal Property Registry. There are many questions around this in terms of how this can be policed, how this can be identified, and how this can actually be done.

The Public Health Act, which the member from Charleswood will be very pleased to speak on in the near future, the present act gives public health officials additional powers to respond to serious health hazards and dangerous diseases. In this bill these include enhanced powers to make orders to prevent remedy or otherwise deal with serious health hazards, and, if there is a significant and immediate threat to public health, the power to detain and treat persons suffering from dangerous diseases, subject to a court review. The amendments also enhance and clarify the entry and inspection powers of public health officials and enhance the ability to collect and share information relating to public health.

Mr. Speaker, the question here is: Why would there not be a whole review of The Public Health Act? The Public Health Act has many aspects to it that need to be looked at, need to be reviewed. I daresay, at this point, when you look at this omnibus bill, the question can be asked: Why would this bill not be attached, parts of the bill be divided up and attached to the bills that are indeed there and already in place. In doing my homework on this issue, I noticed that a lot of this is already in place in the Province of Manitoba, and there are bills out there in all these areas I have spoken on that actually have very strong components into them. Instead of



having an omnibus security bill, one way of enhancing the security here in Manitoba would be to attach it to the already existing bills.

I think it is very important that we have to be careful not to make issues more cumbersome than they already are. I think that we have to be very mindful of the detail before us and be very mindful that parts of the bill have to be addressed that might cause problems.

In terms of the power the health officials have, I know that is already in place in many respects in the current health bill, but I know that there are other issues that need to be rechecked to assure members on this side of the House that the bill is Charter-compliant.

Under the criminal code, you must have reasonable and probable grounds to search, and it is only for a specific reason. This bill gives powers to individuals that the police do not have, and I think that needs to be addressed. Also, very recently, section 44(2)(iii) allows force to compel a person to be vaccinated. In the real world, the Canadian military could not force Kipling to be vaccinated and eventually dropped their court case against him. That is noted. I think that it is very necessary to understand that the recent court actions have been challenged in a court very recently in terms of this aspect. Section 19(8) may require a person to conduct themselves in a manner so they do not expose themselves to others if they have an infection that is very dangerous. However, the question would be asked: How does this apply to HIV? HIV is something that is certainly out there right now, and HIV is something that we need to be very aware of and need to deal with.

\* (11:20)

The Vital Statistics Act, Consumer and Corporate Affairs part, creates offences for making false statements and having or using false documents. For example, a person who tries to obtain false identification can be fined up to \$50,000, jailed up to a year, or both, yet this is a potential Charter issue in the bill. It can conflict with other legislation as well. For instance, an example of this is the provision that says a certain offence like a summary offence will carry a \$50,000 fine, yet the maximum

amount for a fine under a summary offence is \$2,000 under the Criminal Code. I think that, to strengthen the bill, these aspects have to be looked at to ensure that this bill is on safe ground and will not tie up the courts with challenges that are time consuming, are costly and do not achieve the goals and objectives that are needed to implement the security for Manitobans in a very mindful manner.

Having to enforce some of the provisions of this bill will only serve to further tie up scarce police resources. For instance, the public health legislation in place now will not allow medical records to be accessible to investigating police officers. The police officers need a warrant. Yet, under the new Bill 2, the minister's office will have access to these records. Why should they have access to these records when the police cannot? This is puzzling. This legislation and the part about not having access to medical records limits the police's ability to do their jobs. They cannot effectively write up a report which could potentially affect the decision of a judge who has to choose whether or not bail will be granted to an offender.

This bill could impact on the real world and on the court system in a very major way, and so these are issues that we need to work on both sides of the House to ensure that this kind of thing does not tie up the court system, does not impede the police force from their jobs and does not turn out to be a white elephant piece of legislation instead of a useful piece of legislation.

It should be noted that police are not even allowed to know at the present time whether or not a victim has been stabbed or shot or if he will live or die while he is still in the hospital. With the guaranteeing provisions of Bill 2, there is great potential for abuse of power on a whim. Anyone can be locked up. So much of Bill 2 in this regard could go against the Charter of Rights and Freedoms. This is where I say that we have to be very careful that the Criminal Code is not compromised, be very careful that there will be not numerous challenges under the Charter of Rights on these issues.

In The Vital Statistics Act it increases the maximum penalties for offences such as failure

to carry out duties. For example, a funeral director or a person who performs a marriage who fails to file information can be fined up to \$10,000. Mr. Speaker, under this act a new section is added to provide a penalty for providing false information to obtain certificates from Vital Statistics. This is very important that this is in here, because I know that many people who work on the other side of the law, on the dark side of the law are masters at obtaining certificates from Vital Statistics. It is good to see that this part of the act certainly is there.

A new section is added to provide a penalty for trying to obtain certificates, for example, birth certificates, death certificates, marriages, by providing false information to create a delayed registration. A new section is created to ensure that individuals do not use or possess false documentation regardless of how it was obtained.

Also, under The Vital Statistics Act, the new amendments will allow for information to be shared to prevent the unlawful use of documents. For example, Vital Statistics may share information with law enforcement agencies. Now the issue centred around here that we have to be mindful on both sides of the House for this security legislation to be strong is how far back can they go to determine if someone has made a false statement or is using false documents. The bill is silent on this. What type of security provisions will be enacted, such as the sharing of documents? Can, for instance, an underage teen face a fine up to \$50,000 or one year in jail for attempting to get into a bar with fake ID? Can this legislation be misused? Can this kind of thing be happening? I think there are aspects of this security bill that do need to be tightened up.

Also, how will this legislation impact on the resources of Vital Statistics, for example, investigation and enforcement. It can be noted that on December 5, 2001, this province announced that the Vital Statistics agency was improving security for documents already, such as birth certificates, by using technology resources for verifying birth and death record links. In order to improve the administrative procedures, the province has already stated that it will provide additional staffing resources to perform manual and on-line record searches, and

it will enhance the volume of equipment terminals used to match birth and death records and continue to review its Vital Statistics reporting links as well as its databases. So already we have on hand many safeguards, Mr. Speaker, that would enhance the security of Manitobans here in this province.

Moreover, the Province strengthened its issuing practices by increasing the amount of information required to validate a person's identity when they apply for a vital certificate. The agency also instituted new procedures to verify authenticity of third-party applicants before issuing documents.

Mr. Speaker, as I say, there are many things that are good about Bill 2. There are many dangers there, however, as well, and as I say, especially under the offences, when we know that in the case of a corporation, they could be fined up to \$500,000, when in actual fact the Criminal Code has given the fine a total of \$2,000. That is something that needs to be looked at.

Whenever we are looking at a bill on this side of the House, the intent is not to go into the political realm on this side of the House. The intent is to make sure that security is maintained for Manitobans all across this province, both here in the urban area, Mr. Speaker, and also in rural Manitoba, because we are all one province and this has to be looked at very carefully.

Mr. Speaker, there are some kinds of things that I have talked about in terms of The Evidence Act in terms of one part, the ability of a minister of the Crown under The Evidence Act either in oral or written form, the ability of a minister of the Crown to have information kept secret because they view it to be of a security risk. Although the intent I am sure is to look after the security aspect, there is also the aspect of the risk of this kind of thing being abused. This is a phenomenal new power that goes against the tradition in this Chamber and in this Government and in this province, in this Legislature, to expand the right of the public to have access to public information. So that is part of what we have to look at in Bill 2.

The contaminants area, the dangerous goods, controlled products, these are all issues

that still have questions, questions like: Why does the minister take over the power and not the police when there is a potential criminal offence? Are the police not the proper authority to investigate potential theft? With the needed resources for the police force, there would have to be additional resources out there to address this issue.

\* (11:30)

Under The Pesticides and Fertilizers Control Act, with the concerns that the farm equipment dealers have expressed, this needs to be addressed in such a way that a farmer trying to protect his crop may not be able to wait the prescribed 10 days, Mr. Speaker, that it does take in this section. We have to think about the timeliness of the weather and the crop conditions, and we need to make sure that when time constraints are put into a bill, that these time constraints make sense.

Having said that, Mr. Speaker, there are other parts of the bill also that I think members on both sides of the House have to take serious consideration to, and I have stated some of those already. Again, there are a lot of powers put in the minister's hands. In a time when, as the minister himself has said, we have a low risk of terrorism here in Manitoba, we have to be very cautious that the security actions announced by the present Government since September 11 have not been a little more rigorous than actually what is needed here in Manitoba at this time.

Also, looking at priorities, when we look at Stats Canada 2000 and we see that the homicides, the attempted murders, the sexual assaults, the break and enters, the rise of crime, the advent of gangs really taking on terrific activity here in the city of Winnipeg and the province of Manitoba, we have to make sure that the priorities and the resources are put in the proper place.

I would count on this Government to ensure that, even though it is very popular right now to have legislation to put security acts in, and even though at this point in time the minister is on record as saying this act is the first of its kind in Manitoba; even though that has been said publicly, I feel that the more important issue is not that the act is the first of its kind, but does

the act reach the objectives that are needed to secure and protect the people here in Manitoba and to ensure that the political rigour behind doing something like this might not offset some of the practicalities that I have outlined today. Even, Mr. Speaker, the Justice Minister has been on record as saying even the threat of bioterrorism in Manitoba seems to be very low.

Having said that, still we want to have things in place that would enhance the security here in Manitoba, but we must make sure that the police resources and the resources that are needed are there to implement. It cannot be just smoke and mirrors. It cannot be just a piece of white elephant legislation that cannot have the resources behind it to enact it.

Mr. Speaker, I must say that shortly after this bill was brought into the House on November 14, the day before, in the *Winnipeg Free Press*—I have to talk about Peter St. John, a politics professor at the University of Manitoba. Now, I actually studied under Professor St. John, and he is known as the foremost expert on terrorism on the North American continent. Often when airport hostages are taken or hostages are taken, Professor St. John is the one that is called in by governments, both in the U.S. and here in Canada to defuse hostage takings in this sense. Professor St. John has a lot of experience and a lot of knowledge. He has studied terrorism for more than 15 years. He was motivated to do this after a student of his was killed in a plane hijacking.

He has put a lot of personal effort into this issue and a lot of expertise. Professor St. John has said provincial security is skimpy and that things have to be done to enhance the security because he has stated that none of us in North America is security minded. I know when I was in his classes years ago he was telling me about the profiles of terrorists. Terrorists are thought to be people that perhaps are not well educated, who have gone the wrong way. In actual fact, the profile of a terrorist is one who is indeed very well educated, someone who usually has a cause that they want to protect, a statement that they want to say. Usually they are very well-educated people. You would not recognize a terrorist on the street. The profile of a terrorist is someone who knows the system, who knows a lot of

things, and Professor St. John is quoted here as saying that none of us in North America is security minded. But I think he would also agree with me that since September 11 more people have been more security minded.

Having said that, provincial legislation, putting safeguards in place to protect the security and take security measures that perhaps we would not have looked at five or ten years ago but that now members on both sides of the House have to look at and have to take a clear problem-solving approach to ensure that the legislation put in place will ensure that security is there. I know Professor St. John suggested that making the certificate of photo identification card in two parts like driver's licences or including a fingerprint on the document would be good ways to ensure that the birth certificate is only used by its owners.

Having said that, I take someone's remarks whom I know personally, whom I respect and whom I have studied under with a great deal of close attention because this is one person who is the foremost expert on terrorism in North America.

I would say, Mr. Speaker, that I am very happy today, in conclusion, to have had the opportunity to put on record that members on both sides of the House are very supportive of putting security measures in, in this province that would ensure the security of all Manitobans. I would say that members on the opposite side of the House, I implore them to take a close look at the amendments because we are working with them in the best way possible to ensure that this security bill is one that will not circumvent the Charter of Rights but will enhance and protect the citizens here in Manitoba.

**Mr. Marcel Laurendeau (St. Norbert):** I move, seconded by the honourable Member for Lakeside (Mr. Enns), that debate be adjourned.

*Motion agreed to.*

### **Bill 3—The Highway Traffic Amendment and Summary Convictions Amendment Act**

**Hon. Becky Barrett (Minister of Labour and Immigration):** I move, seconded by the

Minister of Advanced Education (Ms. McGifford), that Bill 3, The Highway Traffic Amendment and Summary Convictions Amendment Act, be now read a third time and passed.

### **House Business**

**Hon. Becky Barrett (Minister of Labour and Immigration):** Mr. Speaker, to revert back to House business, I am wondering if you could call Bill 3 for third reading.

### **THIRD READINGS**

#### **Bill 3—The Highway Traffic Amendment and Summary Convictions Amendment Act**

**Ms. Barrett:** I move, seconded by the Minister of Advanced Education (Ms. McGifford), that Bill 3, The Highway Traffic Amendment and Summary Convictions Amendment Act, be now read a third time and passed.

*Motion presented.*

**Mr. Speaker:** Is it the pleasure of the House to adopt the motion?

**An Honourable Member:** Agreed? Agreed and so ordered.

**Mr. Speaker:** For the information of the House, I should not have put the question, because I did not see the Member for Lac du Bonnet standing to speak.

Right now it stands as moved by the honourable Minister of Labour, and the speaker will be the honourable Member for Lac du Bonnet.

\* (11:40)

**Mr. Gerald Hawranik (Lac du Bonnet):** Mr. Speaker, I take pleasure in speaking to Bill 3 this morning. Bill 3 is a bill that addresses the safety of our roads and I think that is the primary reason for the bill. The bill provides for photo radar. When a speeding vehicle drives past a photo radar machine, a camera takes a picture of that vehicle and the licence plate to ensure that a conviction becomes registered. The registered

owner of the vehicle is ticketed but does not receive, as I understand it, demerit points on the driver's licence since the camera does not take a picture of the driver of the vehicle. I think that is an important provision to note, because in fact there is no identification of the driver.

The bill also provides for red light cameras and other devices which are installed at intersections where there are traffic signals. When a vehicle drives through a red light, the camera takes, as I understand it, two pictures of this vehicle, both of the licence plate and of course records the speed of the vehicle through the intersection. Statistics show that if photo radar is introduced it will minimize traffic deaths, traffic injuries and property damage due to speeding.

During 1999 and the year 2000, 25 percent of fatal crashes in Winnipeg were in fact related to speeding. We heard a lot of those statistics in committee just last week from the police department and I think they are very much in support of this bill.

Bill 3 permits the use of photo radar in school zones, playground zones and construction areas; as well, at intersections with traffic lights, and those are the areas in which the photo radar is going to be employed, as I understand it. Bill 3 also permits installations of red light devices, particularly at intersections and railway crossings. Photo radar works, and one only needs to turn to statistics in other jurisdictions I believe to support this fact.

Photo radar was introduced in Edmonton, Alberta, in 1993, and then Ed Belmore, the Edmonton Police Service's information officer, he indicated at that time that since photo radar was introduced in 1993 the number of people who speed had dropped by 53 percent. British Columbia used photo radar, and there was a report that was issued by the Insurance Corporation of British Columbia which indicated that in one particular year they had kept statistics, 50 lives were saved, 4000 injuries were prevented, and 9000 collisions were prevented solely because of photo radar, because of the fact that photo radar, of course, reduces speeds on highways.

Clearly, photo radar saves lives. Clearly, photo radar saves injuries, and clearly it saves property damage. Clearly, Bill 3 is a safety bill and ought to be supported. My concern is the fact that Bill 3, I do not believe that Bill 3 is wide enough. Photo radar under this bill is only permitted to be used in school zones, playground zones and construction areas, as well as intersections with traffic lights. This bill should permit the use of photo radar in other areas such as on high speed corridors, highways throughout the province and on roads, which a local authority may deem justified to use it to prevent injury or damage to persons or to property.

I think it is important that local authorities be given discretion as to where to employ photo radar, because certainly they know road conditions. They know areas in which traffic accidents occur, and they know the specialized areas which are important to their municipalities, their towns, villages and cities. Certainly speeding occurs at other locations than just school zones, playground zones, construction zones and intersections with traffic lights. Certainly, these are not the only areas where traffic accidents occur.

Photo radar is supposed to stop speeding wherever it may occur and wherever it is dangerous. Why should it not be able to be used in high speed corridors or any other highways or roads in the province, particularly roads and highways in the province that local authorities deem to be unsafe and deem to believe that photo radar will, in fact, improve the safety of those roads and their jurisdictions. Using them in other areas will reduce speeds throughout the province, I believe, and it will save lives, save injuries, and of course save damage to property.

The best way, I believe, of course, to control speeding is to ensure that there is proper police enforcement and ensure that police are on the highways and streets in the province in their patrol cars. That is the best way to control speeding. There is absolutely no doubt. Employing a machine and requiring a machine to control speeding is only the second-best way to control speeding. The best way, of course, is to ensure that police in their patrol cars are in fact on the highways patrolling for speeders.

However, given the limited police resources, I believe that it is not always possible to have proper police enforcement. In this respect, I believe that we do not necessarily need to increase the police complement in order to ensure that more police presence and pressures are felt in traffic enforcement. Instead, I believe we need to hire more and less expensive support personnel, more administrators such as administrative assistants and other administrative personnel to ensure that the paperwork and other administrative work is done by others, so that police, in fact, can do the job that they are hired to do.

Police want to do their job, and on speaking with several police personnel and several police forces over the last few months, I can tell you that there is a sense of frustration in the police forces over the administrative part of their job. Much of the administration can be performed by others which would leave policing to the police, particularly in traffic areas.

I believe in rural areas, most rural detachments have no police on duty between one o'clock and six o'clock in the morning every day of the week, and those who abuse the law know this fact. In many rural communities, councils struggle with the practice of speeding and drag racing between one o'clock in the morning and 6 a.m. In this period of time, there is no active police force patrolling the streets of most rural communities nor is there any highway traffic patrols outside these communities.

Some of the main streets and highways of rural communities and some of the highways just outside the rural communities are turned into drag racing strips or high-speed corridors by misguided youth, and they are not necessarily racing their cars on streets past school zones, past playground zones, past construction zones or intersections with traffic lights. Photo radar should be developed and deployed in rural areas to stop this practice. It could potentially save lives, save injuries and reduce property damage.

An amendment to the bill would allow the deployment of photo radar for these purposes and would be worthwhile to pursue. In fact, during committee last week, our caucus did introduce an amendment which was turned down at that point. I believe that it should still be

pursued, and I believe that it is a worthwhile amendment to make.

Bill 3 also permits the installation of red light cameras at intersections and railway crossings. Red light cameras work to ensure that people adhere to traffic lights, and one only needs to turn to other jurisdictions to prove this. Vancouver uses red light cameras, and according to a report by *The Winnipeg Sun* on June 3 of last year, fatalities in Vancouver, after they introduced red light cameras at intersections, were reduced in 1996 by 25 percent because of the simple deployment of red light cameras at intersections.

\* (11:50)

Red light cameras are also used in London, England, and have been there since 1992. Since 1992, fatalities in London, England, have dropped by an astounding 28 percent. In Australia, according to an article in *The Winnipeg Sun* last year, fatalities dropped by 51 percent in five years after red light cameras were introduced at intersections. These are all statistics that point, of course, to support of this bill, and for that reason, I support the bill. Clearly the evidence is that red light cameras reduce the incidence of people running through red lights and killing people, causing injuries to people and causing property damage to motor vehicles.

The incidents of people running through red lights is very high in Winnipeg. In fact, on my way to and from the Legislature this week, I made a point of counting how many people run red lights. I found that since Monday, nine vehicles ran red lights on my way to the Legislature, just this week alone. Installing red light cameras at intersections or even threatening to install the cameras, will reduce the incidence, I believe.

I would like to relate a story that happened to me 26 years ago which still, in fact, is fresh in my mind. Twenty-six years ago my best friend was involved in a motor vehicle accident at an intersection. He was part of a wedding party for another friend of ours. He was travelling as a passenger in a car driven by the groom in the wedding, in fact a friend of ours. In that car were the bride, one bridesmaid and two groomsmen. I,

too, was in that wedding party. Fortunately, that day, I had brought my own car to the wedding rehearsal. We were all travelling to the wedding rehearsal on the Friday night.

After the wedding rehearsal, we were driving home and two of the bridesmaids were with me in my car. After that rehearsal, the night before the wedding, we were travelling home from church. I was travelling close behind the groom's car, and as it proceeded through a traffic light, which had just turned green, a truck driver driving a semi-trailer broadsided the groom's car right in front of me.

I can tell you, the groom, the bride, my best friend, one of the bridesmaids and two groomsmen were all killed instantly, right in front of me, the day before their wedding, by a truck driver who was in a hurry and who was running the red light. I go over that incident many times in my head every year, thinking why had they not seen that truck enter the intersection? Why could they not have avoided that accident? That day six innocent young people expected to live worthwhile, fulfilling and productive lives died. That day almost the entire wedding party was wiped out.

It is for this reason that I am in favour of this bill. I feel if it were in place 26 years ago, those of my friends and all of those young people may still be alive today.

I can tell you even an incident that happened last week. Six days ago, my wife phoned me to tell me that our daughter, who is 17 years of age, was in a motor vehicle accident. I can tell you that my heart skipped more than a few beats, until she told me she only suffered from neck strain and a minor whiplash. Fortunately, no one had any serious injuries, including the driver of that other vehicle, who happened to run a red light and collided with my daughter's car, causing \$6,500 in damage to her motor vehicle.

It is again for this reason that I am in support of this bill, and I feel that Royal Assent should come quickly. If the bill had been in place, my daughter may have avoided this accident and all the trauma associated with it.

Ten years ago, again, my brother-in-law, who was my wife's brother at the time, was

killed in a traffic accident in Winnipeg. He was killed by somebody who ran a red light. It is again for this reason I am in support of this bill.

I am sure we all have stories to tell, stories we would not need to tell if this bill had been in place and red light cameras and photo radar would have been in use in the province. My only concern is that the use of both red light cameras and photo radar ought to be expanded in other areas, so that more lives can be saved, so that more people would suffer less injuries, and so that property damage can be minimized.

I am pleased, and in fact my colleagues are pleased, that the Minister of Transportation (Mr. Ashton) introduced an amendment to the bill to ensure that excess revenues from the bill be used for safety or policing purposes. I think this amendment, as I understand it, came as a direct response to the comments and recommendations made in this House by the Member for Portage la Prairie (Mr. Faurshou) on December 4, 2001, and I believe for that he should be congratulated.

We need, I believe, more targeting of funds from fines in this province to ensure those who offend pay for the costs of enforcement and pay for the costs of education that is so necessary. Similarly, I understand the Province turns over all of its revenue from gasoline tax toward the maintenance and construction of highways in this province. This has been done so far, I understand, many years, both by the current Government and the previous government. I believe it is commendable for us to do this. The public support for this type of initiative, I believe, is there. I understand, though, that the billions of dollars that is collected by the federal government for gasoline taxes with respect to the gasoline taxes that are collected by the federal government, I understand that less than \$200 million is returned to the province for the maintenance and construction of roads.

I think the federal government needs to be challenged in this respect, and I understand that the previous government and this Government is in fact undergoing an ongoing process with respect to challenging that. I commend both the previous and this Government for doing that. They need to be lobbied to provide more funds for roads. Roads are very important. We do not need a situation where the condition of our roads

causes accidents. One thing is to have red light cameras and photo radar, another thing is to have safe roads. Safe roads, in fact, stop deaths and stop accidents and stop injuries and property damage in many ways as much as photo radar and red light cameras.

In that respect, I can tell you that there are several roads in our constituency that need to be looked at, one of which is Provincial Road 304. I have mentioned that before in this House, and I would hope that the Minister of Transportation (Mr. Ashton) takes notice eventually, at some point in time, that Provincial Road 304 does need some work. It is a road that, in fact, extends from the village of Powerview to the Provincial Trunk Highway 59. Two-thirds of that road was, in fact, reconstructed from Provincial Trunk Highway 59 during the previous administration, and the last one-third of the road as it approaches Powerview needs reconstruction. There is absolutely no doubt, it is a very unsafe highway at this point. I believe it needs reconstruction and it needs reconstruction now, particularly since

communities in Powerview, Pine Falls and St. George, communities that have about 4500 people living in them use that road as a direct route to Winnipeg and to the beaches areas, and to Selkirk. I believe that road needs to be reconstructed.

Compounding the problem with the condition of the road, of course, is all the pulp trucks that supply Tembec with wood in order to carry out its pulp and paper operations in Pine Falls. Couple that with high-traffic volume and it is a recipe for disaster. I think the Minister of Transportation has to take a look at that road eventually and, in fact, ensure that the safety of people are—

**Mr. Speaker:** Order. When this matter is again before the House, the honourable member will have 21 minutes remaining.

The hour being 12 noon, we will recess and reconvene at 1:30 p.m.



# LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, May 16, 2002

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